

**South Dakota Department of Labor and Regulation
Unemployment Insurance Advisory Council
2012 Annual Report**

This document serves as the report of meetings, discussions, and recommendations of the Unemployment Insurance (UI) Advisory Council, pursuant to SDCL 61-2-7.1. Council members appointed by Governor Daugaard include Secretary of Labor and Regulation (DLR) Pam Roberts (chair), Robert Anderson, Paul Aylward, Tim Fitzgerald, Carol Hinderaker, Don Kattke, Shawn Lyons, and David Owen. The report is available to any interested person or groups and can be found on the DLR website at dlr.sd.gov.

Council action for 2012 began with a meeting on January 12, 2012. The Council received financial projections indicating a continued increase of the State UI Trust Fund. Information was also presented to the Council on the provisions of the Unemployment Compensation Integrity Act. These provisions were incorporated in the Trade Adjustment Assistance Extension Act of 2011 (TAAEA) signed by the President late 2011.

The Integrity Act provisions require states to incorporate several provisions to combat improper payments and improve the integrity of the UI program. The program integrity provisions are as follows:

- Require states to impose a monetary penalty on claimants committing fraud of no less than 15 percent of the overpayment.
- Prohibit states from providing relief from charges to an employer's account when the actions of the employer have led to an improper payment.
- Require employers to report rehired employees who have separated for at least 60 days to the State Directory of New Hires.

For the last several years, the U.S. Department of Labor has been taking significant steps to reduce improper payments and eliminate fraud within the UI program. The Integrity Act provisions were one of several strategies designed to reduce improper payment in the UI program.

At the April 30, 2012, meeting, the Council received updated Trust Fund financial projections. The projections are consistent with earlier estimates the Trust Fund is continuing to grow (Attachment A). The Council reaffirmed their decision to keep the U.S. Department of Labor's recommendation of maintaining a \$76 million Trust Fund balance. The Council recognizes the Trust Fund will continue to increase revenue as a result of the 2009 legislative changes and will continue to monitor the balance in the coming year.

The Council reviewed the current UI financial projections (Attachment B) at their August 28, 2012, meeting. The Council also heard testimony from the public regarding the mandatory penalty assessment on fraudulent claims and the prohibiting of non-charging due to employer fault.

The Council discussed the federal law change mandating States impose a minimum 15 percent penalty assessment on fraud overpayments and a non-charging provision for employers. The Department recommended to assess a 50 percent penalty. After further discussion, Shawn Lyons made a motion to impose a 50 percent penalty for the first time offense and a 100 percent penalty for subsequent offenses. Don Kattke seconded the motion. The motion passed 7-0-1.

The Council recommends to the Governor and the 2013 Legislature that legislation be passed to adopt a tiered monetary penalty assessment on all fraudulent claims: 50 percent for the first offense and 100 percent on all subsequent offenses. Additionally, consensus of the Council supports legislation to prohibit the relieving of charges relating to a payment if the payment was made because the employer was at fault for failing to respond timely or adequately to a request for information regarding a UI claim.

Respectfully submitted on September 27, 2012, by the Unemployment Insurance Advisory Council.

Attachment A – Projections for the April 30, 2012, Council Meeting

UI Financial Projections - Quarterly Summary
(in Millions)

	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Total
2012					
Contributions/Interest In	\$5.2	\$25.7	\$13.1	\$8.0	\$52.0
Benefits Out	\$14.7	\$9.0	\$5.4	\$6.2	\$35.4
Trust Fund	\$27.9	\$42.4	\$49.6	\$52.0	\$52.0
2013					
Contributions/Interest In	\$5.4	\$26.5	\$13.4	\$8.5	\$53.8
Benefits Out	\$13.7	\$8.4	\$4.9	\$5.5	\$32.6
Trust Fund	\$44.8	\$60.1	\$67.9	\$71.9	\$71.9

Attachment B – Projections for the August 28, 2012, Council Meeting

UI Financial Projections - Quarterly Summary
(in Millions)

	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Total
2012					
Contributions/Interest In	\$5.2	\$21.3	\$13.0	\$7.9	\$47.5
Benefits Out	\$14.1	\$7.8	\$5.4	\$6.2	\$33.5
Trust Fund	\$27.9	\$41.7	\$48.9	\$51.2	\$51.2

UI Financial Projections - Quarterly Summary
(in Millions)

	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Total
2013					
Contributions/Interest In	\$5.4	\$24.3	\$13.5	\$8.6	\$51.8
Benefits Out	\$13.3	\$7.8	\$4.9	\$5.5	\$31.5
Trust Fund	\$44.4	\$58.2	\$66.1	\$70.1	\$70.1