South Dakota Department of Labor and Regulation
Unemployment Insurance Advisory Council
2014 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) Marcia Hultman (chair), Robert Anderson, Tim Fitzgerald, Carol Hinderaker, Don Kattke, Shawn Lyons, David Owen, and Shannon Stucker. The report is available to any interested person or groups and can be found on the DLR website at dlr.sd.gov.

The 2014 legislature passed three bills, which affected unemployment insurance. HB 1045 revised the unemployment insurance contribution rate structure to reduce revenue from employer contributions. The new contribution rate/reserve ratio table becomes effective January 1, 2015. HB 1143 repeals the 26-week extended approved training benefit. The repeal becomes effective February 1, 2015. SB 69 revised the provisions regarding good cause for voluntarily leaving employment. Corporate officers who exercise substantial control in decisions on behalf of a corporation who have no other alternative than to leave employment are considered to have left employment with good cause and therefore, entitled to benefits.

Council action for 2014 began with a meeting on June 9 to discuss two items that were introduced during the 2014 legislative session.

Short-time Compensation

Short-time compensation is a US Department of Labor approved program that allows employers to maintain their workforce during times of recession. This program would allow employers to reduce the hours worked rather than lay off workers. Employers wishing to participate in the program must submit a plan to DLR for approval. The plan must reduce the number of hours worked by at least 10 percent and by no more than 60 percent. It cannot reduce health or retirement benefits for participating employees. If approved, affected workers would receive a portion of a weekly benefit payment in proportion to the hours lost. One day off in a five-day workweek would yield a UI benefit payment equal to one-fifth of their weekly benefit amount.

Common Paymaster

Common paymaster is an arrangement authorized by the Internal Revenue Service. This arrangement allows related corporations or companies to report payroll under one account for tax purposes. Under the common paymaster rule, the common paymaster acts like an employer, providing compensation for hours worked, making appropriate deductions, filing payroll taxes, and calculating unemployment insurance tax for eligible employees as a single employing unit.

In general, when two employers simultaneously employ an individual, the employee receives two paychecks and two W-2s, one from each employer. Both employers are liable for taxes on wages paid. Under the common paymaster arrangement, employees who work for both corporations would receive just one paycheck and W-2 because the related corporations are treated as one employer. Thus, only one employer would pay on the taxable wage base.

At the August 29, 2014, meeting, the Council started the meeting with an update on the condition of the trust fund. The trust fund financial projections (Attachment A) are based on the most recent benefit payment and revenue information and are consistent with earlier estimates. The fund is expected to continue to grow and reach the target balance of $76 million by the end of 2014.

Discussion by the Council continued on the two topics introduced at the June 9 meeting. Public comments were also received. Deb Mortenson with Associated General Contractors (AGC) stated the AGC opposes the short-time compensation program because it would be detrimental and costly to employers. Employers would pay unemployment insurance benefits and short-time compensation. The program would not aid in re-hiring laid-off workers. Members of the AGC have no difficulty in recalling workers.

Deb Mortensen also stated the AGC is concerned about the potential impact common paymaster agreements would have on the state's unemployment trust fund. AGC will remain neutral on this topic until impact questions can be addressed.

Representative Ray Ring, who introduced the work-share program proposal at the 2014 legislative session, stated he continues to support the concept. The short-time compensation program offers employers flexibility. The program creates an option for employers and is not an obligation.

Mark Anderson, with South Dakota State Federation of Labor, presented statistics estimating a number of jobs would have been saved had the workshare program been an option in 2009 during the recession.

As a result of this meeting, the Council had no recommendations for change to the Governor or Legislature. However, the consensus of the Council was to continue evaluating the effect a short-time compensation program and common paymaster arrangements would have on the UI Trust Fund at upcoming meetings.

Attachment A – Trust Fund Projections as of August 21, 2014

UI Financial Projections - Quarterly Summary

(in Millions)

	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Total
2014					
Contributions/Interest In	$4.9	$19.2	$12.3	$7.7	$44.0
Benefits Out	$12.1	$5.7	$5.1	$7.9	$30.7
Trust Fund	$58.7	$72.6	$77.1	$76.9	$76.9
2015					
Contributions/Interest In	$3.9	$15.2	$9.5	$6.2	$34.8
Benefits Out	$13.1	$6.5	$5.2	$7.2	$32.0
Trust Fund	$67.7	$76.4	$80.6	$79.7	$79.7