

South Dakota Department of Labor and Regulation Unemployment Insurance Advisory Council 2015 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.

Council action for 2015 began with a meeting on January 7, 2015, to continue the discussion of two concepts 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. 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. Under the common paymaster arrangement, employees who work simultaneously for related 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.

The Council tabled both concepts due to the lack of expressed support on these concepts. No further action will be taken until the employer community expresses interest on either topic.

The Council also received a presentation on two administrative rule changes affecting the unemployment insurance program in 2015.

Treasury Offset Program (TOP)

TOP is a federal program used to collect delinquent debts by intercepting federal tax refunds. Federal law was amended in 2013 requiring all states to use the TOP program to recover covered unemployment compensation debt that remains uncollected after the debt is determined due. Covered debt includes past-due employer contributions, benefit overpayments due to fraud or failure to report earnings and any penalties and interest assessed on such debt. The authority to recovery employer debt through TOP became effective August 11, 2015.

Domestic employers

Employers of domestic workers become liable to pay unemployment insurance tax when gross wages of \$1,000 or more in a calendar quarter are paid for domestic service. The Internal Revenue Service allows domestic employers to file their federal unemployment tax (FUTA) annually in lieu of quarterly payments. The administrative rule process has been started on a set of proposed rule changes that would allow domestic employers the option of filing their state UI tax annually in South Dakota.

At the May 4, 2015, meeting, Council started the meeting with an update on the condition of the Trust Fund. The Trust Fund is continuing to increase at a solid pace. The Council reviewed the current UI financial projections again (Attachment A) at the September 11, 2015, meeting.

Legislative action in 2014 revised the contribution rate structure reducing revenue from employer contributions effective January 1, 2015. In 2014, trust fund income totaled \$44.3 million. (Attachment B). Based on the latest projection, Trust Fund income for 2015 is estimated to be \$7 million lower than in 2014. Monitoring of the Trust Fund will continue to analyze the full effect of the 2014 legislative bill.

The Council was also presented with information at the September 11, 2015, meeting on trust fund and benefit adequacy and allowing employers' tax rates to automatically fluctuate with the health of Trust Fund. South Dakota's taxation system currently uses a single set of tax rates and specific action is needed by the Legislature to change rates. Discussion was held on defining trust fund adequacy and the concept of adjusting rates based on the strength of the Trust Fund.

The Council had no recommendations for change to the Governor or the Legislature at the final 2015 Council meeting. However, the Council voted to begin the process of defining Trust Fund adequacy in conjunction with tax rate determination.

Respectfully submitted on October 19, 2015, by the Unemployment Insurance Advisory Council.

Attachment A – Trust Fund Projections as of August 28, 2015

Projected UI Financials - Quarterly Summary

(in Millions)

2015	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Total
Contributions/Interest In	\$5.5	\$15.4	\$10.4	\$6.1	\$37.4
Benefits Out	\$11.2	\$5.0	\$3.8	\$6.1	\$26.1
Trust Fund	\$78.9	\$89.5	\$94.4	\$94.5	\$94.5

2016	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Total
Contributions/Interest In	\$4.6	\$14.9	\$9.9	\$6.0	\$35.4
Benefits Out	\$13.8	\$6.2	\$4.7	\$7.3	\$32.0
Trust Fund	\$85.3	\$94.0	\$99.2	\$97.9	\$97.9

Attachment B – Trust Fund – 2014 Totals

UI Financials - Quarterly Summary

(in Millions)

2014	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Total
Contributions/Interest In	\$4.9	\$19.2	\$12.3	\$7.8	\$44.3
Benefits Out	\$12.1	\$5.7	\$3.5	\$5.2	\$26.5
Trust Fund	\$58.7	\$72.6	\$81.4	\$84.8	\$84.8