



March 2012

## **A MANAGEMENT REVIEW OF THE DEPARTMENT OF EMPLOYMENT AND WORKFORCE**

In this report, we found that:

- DEW is implementing a plan to return the Unemployment Insurance (UI) Trust Fund to solvency by 2015.
- DEW is making the required reports regarding UI trust fund solvency to the General Assembly. However, the notification process could be streamlined and reports improved to provide the General Assembly with additional information regarding the UI program in South Carolina.
- Increasing the taxable wage base has resulted in a \$2.7 million increase in administrative funding for DEW by increasing contingency assessment taxes paid by employers. The General Assembly should examine the need for the contingency assessment and the method of funding the assessment.
- DEW is not conducting claimant eligibility reviews at required intervals and does not verify claimants' job search efforts.
- The effectiveness of DEW's reemployment services is questionable and DEW is not properly recording and documenting these services.
- DEW's quarterly wage cross match, which is used to detect fraud and overpayments of UI benefits, was not operating properly.
- Some employers are not reporting new hires to the State Directory of New Hires as required by law. The Department of Social Services, which administers the directory, needs to improve its efforts to notify employers of their responsibilities under the law.
- DEW's website did not contain basic information about eligibility requirements and duration of benefits, and we had difficulty reaching DEW staff by telephone.

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In honor of his service and dedication to the State of South Carolina,  
the Legislative Audit Council remembers Tom Bardin, our director,  
who died on August 27, 2011.



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**A MANAGEMENT REVIEW  
OF THE DEPARTMENT OF  
EMPLOYMENT AND WORKFORCE**

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# Introduction

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## Audit Objectives

Section 112 of Act 146 of 2010 requires the Legislative Audit Council to conduct periodic management audits of the Department of Employment and Workforce's (DEW) finances and operations. The audits are to include, at a minimum, the following objectives:

- Provide a detailed accounting of the revenues and expenditures from the Unemployment Insurance Trust Fund since 2000.
- Determine the adequacy of the process for notifying state officials of the financial status of the Unemployment Insurance Trust Fund.
- Assess alternatives for maintaining the solvency of the Unemployment Insurance Trust Fund.
- Examine the unemployment eligibility benefit process for efficiency and compliance with law and agency policy.
- Evaluate the effectiveness of the Department of Employment and Workforce's programs for assisting claimants in returning to work.

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## Scope and Methodology

The period of this review was generally 2010 through 2011 with consideration of earlier or later periods when relevant. Information used in this report was obtained from a variety of sources including:

- Interviews with DEW staff.
- DEW financial records and audited financial statements.
- State laws.
- Unemployment Insurance Trust Fund Annual Assessment reports.
- U.S. Department of Labor publications.
- Claimant records.

Criteria used to measure performance included state laws, agency policies, United States Department of Labor guidance, and practices in other states. We used several nonstatistical samples, the results of which cannot be applied to the whole population. These samples are described in the audit report. We reviewed agency internal controls in the area of overpayments and claimant fraud. Our findings are detailed in the report.

When addressing some of our objectives, we relied on computer-generated data maintained by DEW. Where possible, we compared this data to other agency records, including audited financial statements, to determine its validity. When viewed in relation to other evidence, we believe the data used in this report is reliable.

We conducted this performance audit in accordance with generally accepted government auditing standards with the exception of the general standard concerning quality control. Due to LAC budget reductions, funding was not available for a timely external quality control review. In our opinion, this omission had no effect on the result of this audit. Those generally accepted government auditing standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## Background

The South Carolina Department of Employment and Workforce (formerly the Employment Security Commission) was established in 1936. DEW is responsible for paying unemployment insurance (UI) benefits, collecting unemployment taxes, assisting individuals in finding employment, finding employees for companies, and collecting and disseminating state and federal employment statistics. As of June 30, 2011, DEW had 1,203 employees, including 308 temporary employees. There are 56 SC Works Centers in the state. DEW has an annual operating budget of approximately \$130 million.

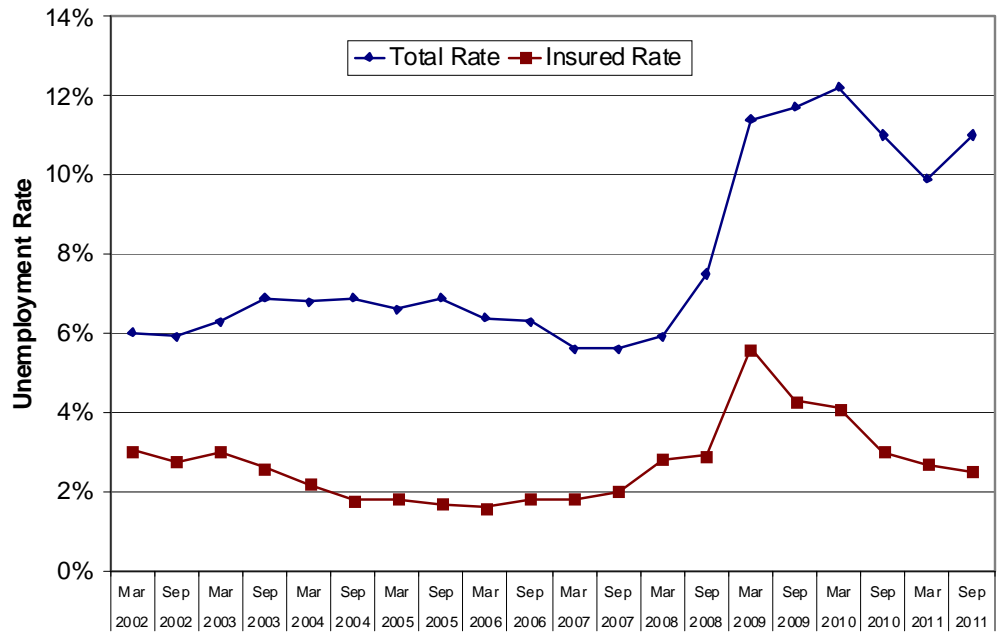
Effective July 1, 2011, DEW ceased to be the operator of South Carolina's workforce centers. Prior to 2011, DEW operated workforce centers in 9 of South Carolina's 12 workforce areas. DEW determined that, because the Governor and Department of Employment and Workforce oversee the local workforce investment boards, DEW had an advantage when local workforce investment boards chose SC Works Centers operators. Local workforce boards now select SC Works Center operators through a competitive process or through a non-competitive process, if the operator is a consortium of three or more SC Works Centers' partners, and DEW will no longer be an operator option. However, DEW will still have Workforce Investment Act (WIA), Wagner-Peyser, and unemployment insurance staff working at the SC Works Centers.

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## Unemployment Rates

DEW measures the state's unemployment rate in two ways — the total unemployment rate, and the insured unemployment rate as shown in Chart 1.1 from March 2002 through September 2011. The insured rate is the number of South Carolinians receiving unemployment benefits divided by the number of employees in South Carolina covered by unemployment insurance. The total unemployment rate is the number of South Carolinians out of work divided by the total civilian workforce.

**Chart 1.1: Insured and Total Unemployment Rates  
March 2002 – September 2011**



Source: DEW

### Average Weeks and Benefit Amounts

The average number of weeks claimants spent on unemployment and their average weekly benefit amounts for the last three fiscal years are shown in Table 1.2. For FY 10-11, the average weekly benefit amount was slightly less than in FY 08-09, while the average number of weeks claimants received benefits increased from 13.5 in FY 08-09 to 17.0 in FY 10-11.

**Table 1.2: Average Number of Weeks and Average Weekly Benefit Amounts for Claimants**

FY 08-09	FY 09-10	FY 10-11
13.5	17.3	17.0
\$241.20	\$242.75	\$235.05

Source: DEW

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## Unemployment Benefits

The maximum weekly benefit amount that claimants may collect in South Carolina is currently \$326. In 2011, the S.C. General Assembly passed a law to reduce regular benefits from 26 weeks to 20 weeks. This also impacted the federal unemployment extensions reducing the total number of weeks of unemployment for which a person may be eligible from 99 to 78 for South Carolina workers filing for benefits after June 14, 2011 (see p. 18). The 78 weeks are broken down in the following manner:

- 20 weeks of benefits paid by the state of South Carolina.
- 42 weeks of benefits under 4 different tiers of Emergency Unemployment Compensation (EUC).
- 16 weeks under the Extended Benefits (EB) program.

The first 20 weeks of unemployment benefits are paid by unemployment taxes charged to South Carolina employers. All of the emergency unemployment compensation programs are currently 100% federally funded. Additionally, the cost of extended benefits, which is normally split between the state and federal government, is currently being funded entirely by the federal government.

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## Eligibility for Unemployment Insurance Benefits

S.C. Code §41-35-110 states that in order for claimants to qualify for unemployment compensation, they must be registered for work, be able and available for work, and have been unemployed for a waiting period of one week. They also must be separated from their most recent employers through no fault of their own, and participate in reemployment services, if they have been determined to likely exhaust their benefits. Most claimants make their initial claims for unemployment benefits at a SC Works Center or online.

DEW first reviews the claim to determine if the applicant qualifies monetarily. Claimants qualify monetarily by having unemployment taxes paid on their behalf in four out of the last five yearly quarters. State law was amended in 2010 to increase the minimum amount of earnings needed to qualify for benefits (see p. 18). In addition, state law was amended to adopt the alternate base period, which counts the most current four quarters of wages, including the most current quarter for those who did not qualify for benefits under the last four completed quarters prior to the most current quarter (see p. 18).

After a claimant has been determined monetarily eligible, DEW determines if the individual meets other eligibility criteria needed to qualify for unemployment benefits. This consists primarily of ensuring that the worker

has lost his job through no fault of his own. After the initial claim is filed, the employer is notified. Statements are taken from the applicant and the employer as to the reason for separation and DEW issues an eligibility determination. Either party who disagrees with the determination may initiate an appeal.

### **Continuing Eligibility**

In order to continue receiving unemployment benefits, a claimant must contact DEW weekly by telephone or use DEW's online claim system and answer three questions:

- Did you work?
- Did you quit a job or were you dismissed from a job since you filed your claim?
- Were you able to work, available for work, and looking for work as instructed by the claims office?

State law requires claimants to actively seek work. The minimum requirement for job contacts was at least one per week. However, in 2011, DEW increased the minimum number of contacts to four per week for claimants not on extended benefits (see p. 34).

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## **Reemployment Services**

DEW's Workforce Investment Act/Wagner-Peyser Act State Plan for 2011 notes that reemployment is fundamental to moving South Carolina forward and that reemployment is always the goal of DEW. DEW offers a number of different services to both job seekers and employers to assist individuals in finding employment. The agency's employment and training division is responsible for administering and managing several federal workforce programs and services including Wagner-Peyser, Workforce Investment Act (WIA), and Veterans Services. The Wagner-Peyser program offers job seekers assistance with finding employment, while the WIA program provides training assistance and supportive services.

Job seekers can receive services through SC Works Centers and access services virtually with SC Works Online Services (SCWOS), which was formerly the Virtual OneStop system. Using SCWOS, job seekers can build a resume, search a statewide jobs database, research labor market information, and find career information and guidance. SCWOS also matches job seekers with current job openings based on skills and qualifications and can refer qualified individuals to an employer for interviewing. Each SC Works center is equipped with a resource area designed to give customers self-service access to the latest technology for internet job searches, resources for

producing professional resumes, tools to evaluate their work skills, and access to employer information. Information is available regarding training services as well as referrals to other agencies and services designed to help individuals who are returning to or entering the workforce.

### **The Four R System**

The South Carolina Department of Employment and Workforce is in the process of implementing a system known as the “Four R” pre-assessment system. The goal of the system is to get claimants back to work as quickly as possible. The Four R system is named for the four categories (Refer, Refresh, Retrain, and Remediate) into which UI claimants are to be classified for reemployment plans. These categories have been developed to help identify the most effective mix of interventions and services for UI claimants. This program was implemented in 2011 and will change the method by which UI claimants receive job search services.

### **Employer Services**

Employers have access to a full array of services to assist them with their workforce needs. These include:

- Labor Exchange Services — provide businesses with customized recruiting services to find the most qualified candidates for their labor needs.
- SC Works Online Services — provide online access to DEW’s statewide database, where businesses can post job opportunities, search for qualified candidates, and research labor market information.
- Rapid Response — provides businesses and impacted workers with short-term, early intervention, and immediate assistance with layoffs and/or closures affecting ten or more workers.

# Revenues and Expenditures, Solvency, and Notification Process

In this chapter, we discuss the revenues and expenditures of the Unemployment Insurance (UI) Trust Fund, assess alternatives for maintaining the solvency of the trust fund, and describe the process for notifying state officials of the status of the trust fund.

## Trust Fund Revenues and Expenditures Since 2000

Section 112 of Act 146 of 2010 requires that we provide a detailed accounting of the revenues and expenditures of the South Carolina Unemployment Insurance Trust Fund since 2000. Table 2.1 shows the ten-year history of the trust fund from FY 01-02 through FY 10-11, based on the audited financial statements of DEW for FY 01-02 through FY 10-11. This table shows all revenue and expenditures for the trust fund, including revenues and expenditures not funded through state taxes.

**Table 2.1: Ten-Year History of the Trust Fund**

FISCAL YEAR	CONTRIBUTIONS/REVENUE	INTEREST EARNED	ADJUSTMENTS*	LESS: BENEFITS	BALANCE**	LOANS ***
00-01					\$ 783,127,019	
01-02	\$ 375,147,580	\$ 42,285,263	\$(7,646,875)	\$ 526,885,659	\$ 666,027,328	
02-03	\$ 371,048,320	\$ 33,361,075	\$ 30,302	\$ 546,319,189	\$ 524,147,836	
03-04	\$ 366,629,987	\$ 23,411,433	\$ 40,404	\$ 493,549,031	\$ 420,680,629	
04-05	\$ 313,147,518	\$ 13,465,859	\$ 4,303,918	\$ 366,581,162	\$ 385,016,762	
05-06	\$ 332,208,460	\$ 13,718,890	\$ 0	\$ 364,828,359	\$ 366,115,753	
06-07	\$ 338,470,410	\$ 12,621,783	\$ (604,927)	\$ 389,823,906	\$ 326,779,113	
07-08	\$ 341,698,171	\$ 10,040,353	\$ 0	\$ 449,511,155	\$ 229,006,482	
08-09	\$ 783,340,333	\$ 2,326,473	\$ 386,917	\$1,332,327,180	\$(317,266,975)	\$344,881,505
09-10	\$1,583,830,508	\$ 0	\$ 0	\$2,027,711,376	\$(761,147,843)	\$541,780,847
10-11	\$2,344,115,627	\$ 0	\$ 0	\$2,171,063,209	\$(588,095,425)	\$115,174,767

\* Between year adjustments consist of corrected balance forwards, immaterial transfers from the general fund, and a transfer of Reed Act money to operations (appropriated by the General Assembly).

\*\* The balance of the fund reflects the activity of the contributory tax portion of the fund as the other revenues from sources other than the state contributory tax system are "pass thru" payments for benefits paid by reimbursable employers, such as local governments and nonprofits. For the most part, these revenues and expenses are neutral – the revenue covers the benefits paid. The losses reflected in the fund balance have occurred in the contributory tax system.

\*\*\* Loans are obtained from the federal government to pay state-funded unemployment benefits.

Source: Audited financial statements for UI Trust Fund

For FY 09-10, approximately \$788 million (39%) of the approximately \$2.02 billion in total benefit payments were for regular state-funded benefits. This total includes not only regular UI benefits, which are paid from taxes on employers in the state, but also benefits paid to claimants as a result of federal extensions, which are funded entirely by the federal government. The balance in the trust fund reflects funds remaining, or the deficit, for the portion of the trust fund that is funded by employers in the state. The trust fund's balance went from having nearly \$800 million in reserves in 2000 to the trust fund having outstanding loans of just over \$851 million at the end of October 2011.

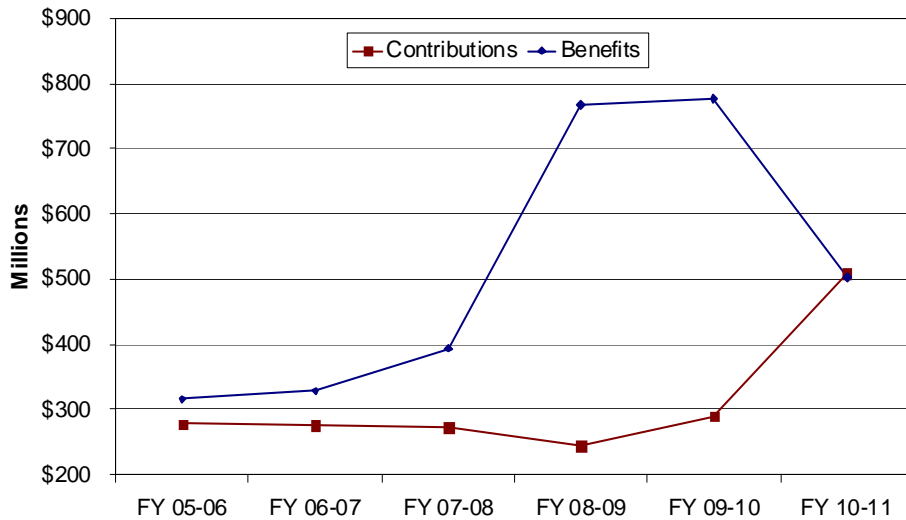
### Revenue

Revenue for the trust fund during the ten-year period since 2000 is comprised of a number of different components.

Tax revenue from contributory employers.

This is the primary source of funds for the payment of state-funded benefits. Since 2000, there has been a significant difference between the amount of taxes collected from contributory employers and the amount of benefits paid, resulting in the state borrowing money from the federal government in order to pay state benefits. However, as of January 1, 2011, the tax system was changed (see p. 13) and designed to have tax collections equal benefit payments (see Chart 2.2).

Chart 2.2: Unemployment Tax Collections and UI Benefits Paid FY 05-06 – FY 10-11



Source: DEW



Revenue from reimbursable employers.

Governments and non-profit organizations can choose to reimburse the UI trust fund for the actual cost of benefits paid to their employees.

Federal Reed Act funds and UI Modernization funds.

In 2002, the state received \$109 million in federal Reed Act funds which were used primarily to pay for state UI benefits. In 2010, the state received a \$97 million one-time grant in federal UI modernization money which was also used to pay state benefits.

Interest income.

Interest earned on money in the trust fund is posted by the federal treasury to the state's trust fund. No interest is earned while the program is in loan status, while the state is indebted to the federal government.

Recovery of fraud and overpayments.

DEW has a Benefit Payment Control Unit charged with recovering UI funds paid to claimants in error, either due to fraud or other causes.

Federal Unemployment Tax Act (FUTA) tax revenue.

Because the state was unable to repay all of its federal loans, the state lost a portion of the FUTA tax credit in 2010. This caused the federal UI tax on employers to be increased from 0.8% to 1.1% and resulted in \$35 million in 2011 in additional revenue, which was used to pay down the federal loans for FY 10-11.

Appropriated revenue.

For FY 11-12, the General Assembly appropriated \$146 million in state nonrecurring revenue to help reduce the taxes on contributory employers. This will result in an approximate 23% reduction in the taxes paid by contributory employers.

Other states.

South Carolina is reimbursed a portion of the costs for claimants who file combined wage claims (see p. 21). These are claims that combine the wages earned in at least two states when determining the UI benefit. The state where wages were earned is billed for its pro-rata share of the unemployment benefits paid by the filing state.

Federal loans.

These are funds the state has borrowed from the federal government in order to pay for state UI benefits. The state has been forced to borrow funds because taxes on contributory employers have been insufficient to cover the cost of state UI benefits paid to claimants.

## Expenditures

Expenditures from the trust fund are comprised entirely of UI benefits paid to claimants. These benefits consist of:

### Regular UI benefits.

This consists of the first 20 weeks (prior to 2011, 26 weeks) of UI benefits, and these benefits are paid for entirely by the state.

### Federal extensions of UI benefits.

The federal government has provided additional UI benefits to claimants who have exhausted the first 26 weeks of benefits. These benefits are paid for entirely by federal funds and have no impact on the balance of the trust fund.

### Federal benefits for other types of claimants.

Federal funds are also used to pay 100% of benefits for certain claimants, such as ex-federal employees, ex-servicemen, and workers who have lost their jobs due to disaster or foreign trade.

### Extended benefits.

These are additional benefits for claimants who have exhausted both regular UI benefits and benefits from federal extensions. The federal government generally pays one-half of the cost and the state is responsible for the other half. However, in March 2009, the federal government assumed this liability and funded the state portion through the American Recovery and Reinvestment Act (ARRA).

### Federal supplement to weekly benefit.

UI claimants were provided an additional \$25 per week in their weekly benefit amounts under federal stimulus legislation. This increase was funded entirely by the federal government using stimulus funds. This \$25 increase in the weekly benefit amount ended on June 2, 2010.

Table 2.3 is a breakdown of the revenues and expenditures for the trust fund for FY 09-10. This table shows that over half of the revenues and expenditures in the trust fund are essentially pass thru funds. Examples of these pass through funds include federal extensions, UI benefits paid by reimbursable employers, and the \$25 increase in the weekly benefit amount. These have no impact on the solvency of the fund because they either are paid for entirely by the federal government or are a reimbursement for actual costs incurred. As Chart 2.2 shows, the primary cause of insolvency is the imbalance between taxes paid by contributory employers and state UI benefits paid to the unemployed workers of contributory employers.

**Table 2.3: Unemployment Insurance Trust Fund Detailed Revenues and Expenditures for the Year-Ended June 30, 2010**

OPERATING REVENUES	
Taxes – Contributory Employers	\$282,915,570
Reimbursement from Non-Profit Entities	6,396,890
Benefit Overpayment Recoveries	13,449,679
Intergovernmental	
Federal	1,235,188,534
State Agencies	9,510,740
Other States	16,994,946
Local Governments	19,374,149
<b>TOTAL Operating Revenues</b>	<b><u>\$1,583,830,508</u></b>
OPERATING EXPENDITURES	
State UI Benefits	<u>\$788,647,536</u>
Non-ARRA* Federal Benefits	
Ex-federal employees (UCFE)	\$2,017,819
Ex-servicemen (UCX)	9,265,472
Job lost due to foreign trade (TRA)	1,057,709
Emergency benefits (EUC)	244,726,224
Alternative Trade Adjustment Assistance (ATAA)	425,795
Reemployment Trade Adjustment Assistance (RTAA)	122,134
Extended Benefits (EB)	58,580,135
<b>TOTAL Non-ARRA Federal Benefits</b>	<b><u>\$316,195,288</u></b>
ARRA Federal Benefits	
Federal Additional Compensation (FAC)	\$196,471,760
EUC – Emergency - ARRA-funded portion	681,531,965
EB – ARRA – funded portion	44,864,827
<b>TOTAL ARRA Federal Benefits</b>	<b><u>\$922,868,552</u></b>
<b>TOTAL Operating Expenditures</b>	<b><u>\$2,027,711,376</u></b>
Operating Loss	<b><u>\$(443,880,868)</u></b>

\* American Recovery and Reinvestment Act (stimulus) funded.

Source: UI Trust Fund audited financial statements and DEW

Although benefits paid out in FY 09-10 were just over \$2 billion, \$788 million of that was paid from the state portion of the trust fund for 2010, about 39% (see Table 2.3). The rest of the benefits were federally funded to pay for various federal extensions of unemployment for state workers who exhausted their 26 weeks of state benefits, as well as benefits for specific groups, such as federal unemployed workers.

Since the cost of the Extended Benefits (EB) program is generally shared by the federal government and the state for 13 weeks of benefits, it poses a risk to the South Carolina contributory system. For this reason, DEW needs to consider the potential cost when projecting benefits. EB is triggered by a predetermined level of the state uninsured unemployment rate and stops when the level drops below the predetermined level. The other federal programs are triggered based on criteria determined by the federal government and are federally funded; therefore, the trust fund solvency is unaffected by those events.

Table 2.3 lists the detailed breakout of all the components of the trust fund in an income statement format for FY 09-10. This example serves to illustrate the makeup of the total benefits paid, as well as put in perspective the amount of benefits federally funded (\$1.2 billion) and the amount funded by South Carolina employers (\$788 million). Of the \$788 million, \$757 million is related to the contributory employers, while the remainder is for benefits paid for employees separated from reimbursable employers.

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## Trust Fund Solvency

Section 112 of Act 146 of 2010 requires that we assess alternatives for maintaining the solvency of the South Carolina Unemployment Insurance Trust Fund. The primary methods used to affect trust fund solvency consist of raising UI taxes, decreasing UI benefits, or some combination of these two methods.

Currently, the trust fund is insolvent, and as of December 12, 2011, the state of South Carolina owed the federal government \$782 million in loans used to pay unemployment benefits. This balance takes into account a September 2011 repayment of \$115.2 million and another repayment of \$68.7 million made in November 2011. In order to achieve solvency, the fund must collect enough revenue to pay current benefits, pay off the federal loans (including any interest), and accumulate a statutorily-mandated reserve which would provide sufficient funds to weather a “moderate” recession. DEW has developed a plan that would allow it to pay current benefits and pay off the federal loans by 2015. The state would then begin to accumulate a reserve fund in 2016 in order to be ready for the next recession.

The General Assembly has enacted a number of changes in law, affecting both taxes and benefits, which should enable the trust fund to achieve solvency.

### **Taxes**

The most significant change in taxes was the General Assembly's enactment of legislation significantly altering the contributory unemployment insurance tax system. The new tax structure is a tax array method of taxation in which employers are ranked according to their benefit ratio, rather than the reserve ratio that was formerly used as a basis of experience-rated taxation. Benefit ratios are used to classify each employer into 1 of 20 rate classes based upon benefits paid to former employees divided by the employer's total taxable wage base. The placement in the classes based on the employer ranking ultimately determines the amount of tax the employer pays for projected benefits, loans, and related interest due the federal government. Each class must contain approximately 5% of the total taxable wages, except for new employers with less than 12 months of accomplished liability, delinquent employers, and reimbursable employers. Each employer must be placed in the class that corresponds with the employer's benefit ratio.

The main benefit of the new tax system is that the tax rates are reset each year and are designed to cover the funding needs of the trust fund. Currently, the tax rates are set to generate enough revenue to cover the cost of UI benefits, which prevents the state from having to borrow federal funds. In addition, the rates raise sufficient revenue to pay enough on the loan to avoid a loss of the FUTA credit (a federal UI tax assessed on employers) and pay incurred interest expense for the loans. Another major benefit of the system is that it allows DEW to set rates for employers that more accurately reflect the risk they pose to the trust fund.

Once the trust fund returns to solvency, DEW is required by §41-31-45(C) of the S.C. Code of Laws to promulgate regulations concerning the revenue needed to pay benefits every year and return the fund to an adequate level of reserve — defined as an average high cost multiple (AHCM) of 1.0.

A second major change has been an increase in the taxable wage base set by South Carolina law, which subjects employers to a tax on the first \$7,000 of taxable wages of each employee. As of 2010, only four other states besides South Carolina had this taxable wage base, the lowest allowed by federal law. A change in South Carolina's law increased this taxable wage base for 2011 to \$10,000 and requires an increase to \$12,000 for calendar years 2012 through 2014, and \$14,000 beginning in 2015.

In addition to paying the cost of benefits, the current tax rate has two additional components. First, there is a surcharge to collect funds to repay the federal loans and, once repaid, to create a reserve fund. This surcharge follows the same experience rating process as that of regular contributions and will continue to be assessed until an adequate reserve level has been reached.

Second, there is a surcharge to pay the interest cost on the federal loans. As required by state law, the interest surcharge is separately assessed and not commingled with other funds. Federal law prohibits interest payments on loans to states from being made from the state's unemployment fund. Once the loans have been paid off, the interest surcharge will be discontinued.

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## FUTA Credit

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In addition to state UI taxes, the federal government also imposes a federal unemployment tax, known as FUTA. All employers are subject to a federal tax that is currently 6.0% on the first \$7,000 of taxable wages. States in which employers pay their state unemployment taxes timely receive a 5.4% credit on the FUTA tax, making the effective rate 0.6%. However, when a state borrows federal funds and has an outstanding balance on January 1 for two consecutive years, and the borrowed funds are not repaid by November 10 of the second year, contributory employers lose 0.3% of their Federal Unemployment Tax Act tax credit each year the loan minimum amount remains unpaid.

South Carolina lost a 0.3% FUTA tax credit in 2010, and that tax was collected from South Carolina employers in January 2011 to be used to reduce the outstanding federal loans. South Carolina would have incurred another 0.3% loss of FUTA credit had it been unable to pay the \$68.7 million plus the loans already obtained in 2011. To avoid the loss of the FUTA credit, DEW will pay what would have been raised from a FUTA tax credit loss of 0.6%, which is approximately \$68.7 million plus any amounts borrowed between January 1, 2011, and September 30, 2011, which totaled \$115,174,767. DEW met the deadline for paying \$183.9 million to avoid additional FUTA tax credit loss, which would have occurred on November 10, 2011.

Table 2.4 illustrates the amount of taxes an employer would pay in the lowest tax class or in the highest tax class. Rates are also compared to the prior year to demonstrate the change in taxes employers faced in 2011 (see Table 2.5).

**Table 2.4: 2011 High and Low Tax Rates**

TAX	TAX RATE PER EMPLOYEE	
	LOWEST	HIGHEST
Federal Tax of 0.6%*	\$42.00	\$ 42.00
State Tax (0.0% to 10.67%)	0.00	1,067.00
Interest Surcharge (0.043% to 0.549%)	4.30	54.90
Contingency Assessment (0.06%)	6.00	**6.00
<b>TOTAL Tax</b>	<b>\$52.30</b>	<b>\$1,169.90</b>
Total Tax Rate	0.523%	11.699%

\* Effective July 1, 2011, the federal tax rate was changed from 0.8% to 0.6%.

\*\* Prior to 2011, state law exempted employers with the highest tax rate from the contingency assessment.

Source: S.C. Code of Laws and U.S. Code

**Table 2.5: 2000–2010 High and Low Tax Rates**

TAX	TAX RATE PER EMPLOYEE	
	LOWEST	HIGHEST
Federal Tax of 0.8%	\$ 56.00	\$ 56.00
State Tax (0.54% to 5.4%)	37.80	378.00
Surcharge 0.7% (highest in law) *	49.00	49.00
Contingency Assessment (0.06%) **	4.20	0.00
<b>TOTAL Tax</b>	<b>\$147.00</b>	<b>\$483.00</b>
Total Tax Rate	2.10%	6.96%

\* Funds collected can only be used to pay unemployment benefits.

\*\* Contingency assessment not collected on employers at the highest tax rate.

Source: S.C. Code of Laws and U.S. Code

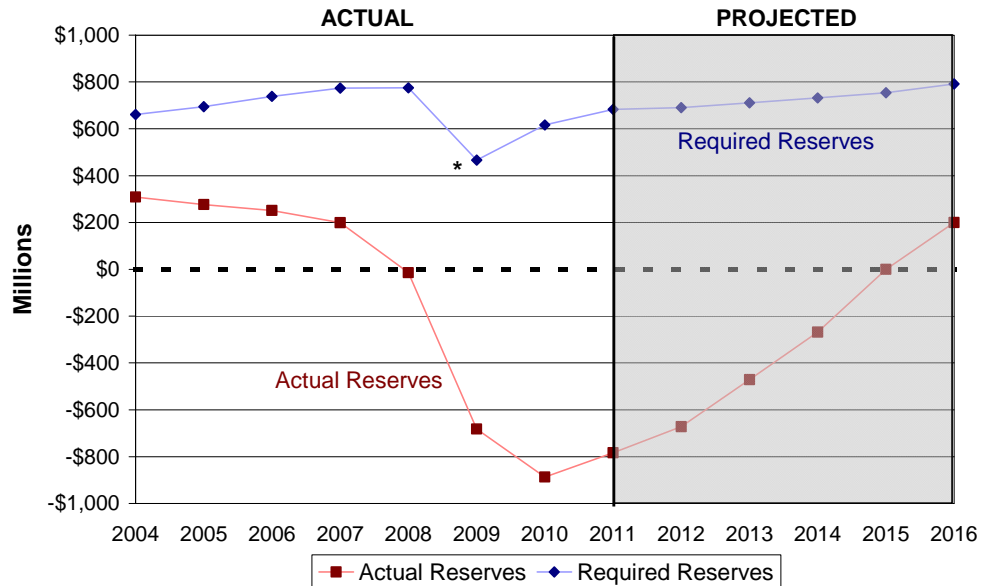
## State General Fund Appropriation

In June 2011, the General Assembly appropriated \$146 million from state nonrecurring revenue in order to reduce the impact of the increase in unemployment taxes employers faced in 2011. A review of the official DEW tax records indicates this will reduce state unemployment taxes by approximately 23% for most employers for 2011.

## Solvency Plan

DEW has developed a solvency plan which considers projected benefits, loan repayments and related interest payments, Congressional Budget Office unemployment rate projections, adjustments for particular South Carolina unemployment rate correlations with national predictions, and solvency rebuilding needs of the trust fund. The culmination of these variables is projected in Chart 2.6. As indicated earlier, by state law, after the trust fund returns to solvency, DEW must promulgate regulations concerning the income needed to pay benefits in each year and return the fund to an adequate level of reserve.

Chart 2.6: Solvency Projections



\* Influence of the 1982 recession phases out of the calculation of reserves required. The selected solvency target formula considers the last 20 years or 3 recessions, if longer. There have been 3 recessions since the 1982 recession.

Source: DEW's 2011 Assessment Report



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## Alternatives for Achieving and Maintaining Solvency

### Taxes

As discussed above, there are two main components affecting solvency of the trust fund — taxes and benefits. In 2011, only Colorado, Rhode Island, and South Carolina enacted legislation seeking to restore long-term trust fund solvency by addressing underlying program financing. Still, there are some other options for consideration that may assist in restoring the trust fund to solvency and attain the solvency target. Further, by law, DEW must take steps to create a reserve sufficient enough to survive a moderate recession.

#### **Indexing the Taxable Wage Base**

States can index their taxable wage base by tying the amount of the taxable wages to the level of wages. As wages rise, the weekly benefit amount also rises. Indexing the taxable wage base allows taxes to keep pace with rising wages and weekly benefit costs.

#### **Zero Tax Rate**

We identified 20 states that have a zero tax rate when the trust fund is favorably funded. When balances are low, only ten states have a zero tax rate. Allowing certain employers to pay a zero tax rate, particularly during times when the trust fund is insolvent, is not in keeping with the insurance concept behind the UI program.

#### **Employee Taxes**

We identified three states where employees also pay UI taxes in addition to employers. The states are Alaska, New Jersey, and Pennsylvania.

#### **Bonds**

Three states (Idaho, Texas, and Illinois) have opted to issue bonds to pay back federal loans. Illinois cited expected savings in the millions to the state and businesses due to a bond interest rate lower than the federal loan interest rate. South Carolina considered a similar course of action; however, the General Assembly did not authorize the bond. DEW noted the uncertainty in unemployment and other potential operational problems should a bond be issued. The State Treasurer's Office cited legislative and constitutional conflicts, and concluded that the action would not be a prudent use of state debt capacity.

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## Alternatives for Achieving and Maintaining Solvency

### *Benefits*

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In 2010 and 2011, the S.C. General Assembly implemented a number of changes that impacted the benefits available to unemployed workers.

#### **Gross Misconduct**

In 2010, the S.C. General Assembly defined gross misconduct to include such employee actions as willful damage to property, consumption of alcohol or being under the influence of alcohol on employer property, committing criminal assault or battery of another employee or customer, and other egregious acts, which result in insured workers being fully ineligible for benefits. Previously, the penalty for acts such as these could be a reduction in the benefit payment period by as little as 5 weeks and as much as 26 weeks, at the discretion of DEW. From FY 06-07 through FY 08-09, about \$171 million in benefits was paid to employees terminated for cause. DEW estimates the new law regarding dismissal for gross misconduct and harsher penalties for simple misconduct will have saved the state and the trust fund approximately \$22.6 million for the period between April 1, 2010, and May 15, 2011.

Changes in the law also added discharge for illegal drug use to the fully ineligible list. Under this new law, a worker discharged for illegal drug use is ineligible for benefits, and must return to work and earn wages equal to at least eight times the weekly benefit amount before becoming eligible.

#### **Reduction in Benefit Weeks from 26 to 20**

In 2011, the S.C. General Assembly passed a law reducing the maximum payment period for regular UI benefits from 26 weeks to 20 weeks. This should result in a significant reduction in state-funded UI benefits and, consequently, in the amount of taxes employers pay to fund these benefits. The change also impacts the federal unemployment extensions, reducing the total number of weeks of unemployment benefits a person may be eligible for from 99 to 78 for South Carolina workers filing for benefits after June 14, 2011.

#### **Minimum Earnings for Eligibility**

The S.C. General Assembly increased the minimum amount of wages that must be earned in a claimant's base period in order to qualify for benefits. Previously, claimants had to earn at least \$900 in the base period for insured work and \$540 in that quarter of the base period in which such wages were highest. Effective January 1, 2011, a claimant must have earned \$4,455 in the base period and \$1,092 in that quarter of the base period in which such wages were highest. This may reduce the number of employees eligible for UI, and thus, lower benefit costs.

### **Seasonal Workers**

The General Assembly passed legislation in 2011 confining unemployment eligibility for seasonal workers to separation from employment during the normal seasonal employment time period of that particular industry. Previously, seasonal workers who worked the entire season in their defined seasonal employment could claim unemployment benefits for the rest of the year — time periods that were out of season.

However, the legislation was determined by the United States Department of Labor (USDOL) to be out of compliance with federal law, and has not been implemented by DEW. Currently, 15 states have seasonal restrictions to benefits in place. DEW provided an estimate of 3% of current benefits as potential savings should the General Assembly amend state law to be in compliance with federal law. Based on benefits paid of just over \$502 million in FY 10-11, savings of nearly \$15.1 million could be attained.

### **UI Modernization Funds**

The \$97 million in UI modernization funds available to South Carolina, and received in August 2010, prevented the state from having to borrow an additional \$97 million from the federal government. However, accepting the funds required that the state adopt certain changes to its UI program. The state decided to:

- Allow part-time workers to receive benefits even if only looking for part-time work.
- Make benefits available to those who quit work for compelling family reasons.
- Adopt the alternate base period, which counts the most current four quarters of wages, including the most current quarter for those who did not qualify for benefits under the last four completed quarters, prior to the most current quarter.

According to DEW, the adoption of two of the three changes should have only a minimal impact on overall benefit costs, although the impact of adopting the alternative base period is unknown. DEW estimates the cost of adopting the compelling family reason provision to be approximately \$625,000 per year. DEW is revising its computer system to track the impact of the alternate base period change.

In addition to the changes discussed above, there are other options the state could consider to limit benefits that could improve the solvency of the trust fund.

### **Minimum Disqualification Period**

Section 41-35-120(2) of the S.C. Code of Laws states that a person who is found ineligible for benefits must be disqualified for a minimum of five weeks. DEW has developed internal guidelines setting the minimum disqualification for most terminations for cause at ten weeks. These include infractions such as fighting on the job (16 weeks), sleeping on the job (10 weeks), and violation of company policy (10 weeks). However, the guidelines do not contain specific instructions for how they are to be used. In addition, we found that DEW was not adhering to the guidelines in all cases.

We obtained information on the number of claimants who received fewer than ten reduction weeks for the period May 1, 2010, to April 30, 2011. We found instances where claimants who were terminated for cause were not disqualified for the minimum ten weeks, as set forth in agency guidelines. For example, we found 35 claimants who had been disqualified for excessive absenteeism and tardiness from work and did not receive the minimum 10-week disqualification. Also, 90 claimants who had been disqualified for being absent from work did not receive the minimum 10-week disqualification. Increasing the disqualification period reduces the benefits paid from the trust fund and ultimately can improve the solvency of the trust fund.

### **Severance Pay**

South Carolina does not currently take severance pay into consideration when determining weekly benefit payments for unemployment. Eleven states hold claimants ineligible for weeks while receiving severance. Twenty-four states reduce benefits to some degree due to the claimant receiving severance pay.

### **Social Security Offset**

South Carolina does not currently use a Social Security offset when calculating benefits. This is a reduction in the weekly benefit amount due to the claimant receiving social security payments. Four states have used this to limit benefits to those who truly have no other means of support.

### **Drug Testing**

Legislation has been proposed that would require drug testing for claimants under various conditions. One bill would require testing for all claimants (paid for by the claimants), and another bill would provide for screenings of all claimants with possible drug tests for claimants if there is probable cause to believe they are taking drugs illegally.

We requested information from DEW regarding the potential impact of drug testing for claimants. According to a DEW official, DEW does not have an accurate data source on how much money could be saved from benefits not paid to individuals failing a drug test. There have been no official reports presented internally or externally on costs or savings from drug testing. The only states that currently have drug testing provisions are Florida, Indiana, and Virginia. However, each of these states denies benefits due to “failure to accept suitable work” because the individual was offered a job and failed a drug test. According to a DEW official, based on conversations with individuals familiar with those state laws, there have been very few cases of benefit denial resulting from them. In Virginia, there have been fewer than 5 cases in 15 years.

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## Recommendations

1. The General Assembly should amend state law relating to benefits for seasonal workers to bring it into conformance with federal requirements.
2. The Department of Employment and Workforce should implement a written policy regarding the disqualification periods for terminations for cause not involving gross misconduct. The department should also develop procedures to monitor to ensure compliance with the policy.

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## Combined Wage Claims

South Carolina participates in the Interstate Benefit Payment Plan, which is an interstate agreement that allows claimants to file for unemployment in a different state from where wages are primarily earned. These claims are known as combined wage claims (CWCs) because the claim combines the wages earned in at least two states when determining the UI benefit. The state where wages are earned is billed for its pro-rata share of the unemployment benefits paid by the filing state.

We found that DEW is not charging contributory employers the South Carolina portion of the cost of combined wage claims. Instead, the costs are borne by all employers. In FY 09-10, CWCs accounted for approximately \$22.5 million in benefit payments. However, not all of this amount would have been charged back to a specific employer. If an employee had been discharged for cause or voluntarily quit, his benefit costs would not be charged back to the employer. DEW does not track the separation reason and, therefore, it is not possible to determine how much of the cost of CWCs would have been charged back to employers.

We contacted an official with the U.S. Department of Labor (USDOL) who provided us with a field memorandum issued in 1972 stating that, except under limited circumstances, CWCs should be charged back to the specific employer and not be a shared cost. DEW disagreed with this conclusion, noting that many states have changed their charging systems since 1972 and that other states, including Georgia, were not charging back CWCs to specific employers.

USDOL, in conjunction with the National Association of State Workforce Agencies, is sending a questionnaire to all states to find out the extent of states not charging contributory employers with out-of-state transfer of wages. The agency's initial polling indicated that other states are handling CWCs similar to S.C. USDOL noted that, currently, detailed information is not provided from the paying state on which employer was considered the last employer. When the polling is completed, the USDOL plans to review its current policy. No specific timeframe was given for when USDOL would issue a new policy.

The approximately \$22.5 million in CWCs not charged back to South Carolina employers would represent approximately 4% of the total benefits paid, using our state's current benefit payout of about \$500 million projected for 2011. Failure to recoup the cost of interstate claims from the appropriate South Carolina employers reduces the size of the trust fund and may result in higher rates being charged to all other South Carolina employers to recoup the costs of these claims. In addition, DEW may not be charging all employers in a manner consistent with federal requirements or state law.

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## Recommendation

3. The Department of Employment and Workforce should monitor the U.S. Department of Labor's study of combined wage claims and revise its policies for charging employers for combined wage claims to ensure they are in accordance with federal requirements and state law.

## Contingency Assessment Funding

In 2010, the S.C. General Assembly amended state law to increase the taxable wage base. This change also resulted in increased administrative funding of approximately \$2.7 million for DEW because it increased the amount of contingency assessment funds DEW receives. The assessment is a tax paid by employers which state law allows DEW to use to fund agency operations.

It is not clear that the General Assembly intended for DEW to receive this increase in funding. Also, we found that, while DEW intends to use these funds for reemployment activities, no system is currently in place to measure the effectiveness of the use of these funds.

Section 41-27-410 of the S.C. Code of Laws created an administrative contingency assessment of 0.06% on the taxable wages of employers. The assessment has been in existence since 1986 and, according to DEW officials, was implemented to offset cuts in federal funds for DEW. Section 41-33-710(B) of the S.C. Code of Laws specifies how the funds are to be used. The funds must be expended to:

- Assist with the reemployment of unemployed workers.
- Undertake a program or activity that furthers the goal of the department.
- Supplement basic employment security services with special job search and claimant placement assistance.
- Provide employment services, such as recruitment, screening, and referrals.
- Provide otherwise unobtainable information and analysis to the legislature and program managers about issues related to employment and unemployment.

Until January 2011, the taxable wage base in South Carolina had been set at \$7,000. However, in order to increase tax collections to improve the solvency of the trust fund, the General Assembly amended state law to raise the taxable wage based in incremental steps from \$7,000 to \$14,000 (see Table 2.7).

**Table 2.7: Scheduled Increases in Taxable Wage Base and Effective Date**

NEW TAXABLE WAGE BASE	EFFECTIVE DATE
\$10,000	January 1, 2011
\$12,000	January 1, 2012
\$14,000	January 1, 2015

Source: S.C. Code §41-27-380(B)

In FY 09-10, DEW collected approximately \$6.1 million in contingency assessment funds at the taxable wage base of \$7,000. This cost employers approximately \$4.20 per employee. For 2011, we estimate that DEW will see an increase of \$2.7 million (44%) in contingency assessment funds as a result of increasing the taxable wage base to \$10,000. This will result in employers paying approximately \$1.80 more per employee for those employees who make over \$10,000 a year. As the taxable wage base increases, the amount of contingency assessment funds DEW collects and the amount employers pay per employee will increase, effectively doubling in 2015 from 2010 levels.

Employers in the highest tax class in 2011 will not only experience increased taxes because of the increase in the taxable wage base, but also because there is no longer an exemption for employers with the highest tax rate. Prior to 2011, employers with the highest tax rate (5.4%) were exempt from the contingency assessment.

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## Use of Funds

Of the funds collected, DEW estimates that it costs the agency approximately \$1.7 million, approximately 28% of total revenue, to collect the tax. Approximately \$3.4 million is spent on salaries and benefits, with the remainder spent on rent and operating expenses. DEW reports that the equivalent of approximately 54 full-time employees are paid with contingency funds. However, DEW does not have a system in place to monitor how effective these employees are in putting claimants back to work.

We also requested information on how DEW planned to use the additional contingency funds and DEW indicated they would be used to offset cuts in federal funding to other employment services. DEW officials cited three funding reductions. First, 10% of DEW's federal funds used for employment services will be reallocated by the Governor to fund the Governor's WorkReady Communities Initiative, amounting to a \$1 million shortfall. Second, the federal government reduced Workforce Investment Act (WIA) formula funding from 15% to 5%, resulting in a loss of these funds previously available to the Governor's State Workforce Investment Board (SWIB) and that it was likely that new SWIB initiatives will require supplemental funding. The SWIB is being restructured and will have a focus on boosting "job creation at the state level." And third, DEW has increased the number of employment services staff in local areas in order to better serve the agency's mission, and provide more timely and effective customer service, resulting in a projected budget shortfall of over \$400,000.



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## Conclusion

The General Assembly may not have been aware of the effect that increasing the taxable wage base would have on the contingency assessment. As a result of increasing the taxable wage base, employers must not only pay increased taxes to replenish the trust fund, but also must pay additional taxes to fund DEW's administrative operations.

Also, it is questionable whether there is a need for the assessment. We found that 20 states do not have a contingency assessment. In addition, a significant portion of the tax is used to cover the cost of collecting the tax, leaving less funding for actual services to claimants. Finally, DEW does not have a system in place for measuring the effectiveness of the additional funds it will receive as a result of the increase in the taxable wage base.

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## Recommendations

4. The General Assembly should examine the contingency assessment to determine if it is still needed.
5. The General Assembly should examine the method used to fund the contingency assessment to determine if the assessment should be linked to the taxable wage base or funded in some other manner.
6. The Department of Employment and Workforce should establish a system for monitoring the effectiveness of services paid by the contingency assessment funds and include a review to determine if the cost to collect the tax can be lowered so that more funds can be used for services to claimants.

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## Process for Notifying State Officials

Section 112 of Act 146 of 2010 requires that we "...determine the adequacy of the process for notifying state officials of the financial status of the Unemployment Insurance Trust Fund." We reviewed the notification process and found that DEW is making the required reports to the General Assembly and that these reports contain the information required by law. However, the notification process could be streamlined and improvements could be made to the reports which would provide the General Assembly with additional information to make more informed decisions concerning the UI program in South Carolina.

DEW makes various reports to the General Assembly concerning the status of the trust fund. Section 41-33-45 of the S.C. Code of Laws requires that DEW provide an annual trust fund assessment report to the General Assembly by October 1 of each year. The report must include:

- A trend chart concerning the trust fund's annual balance each year for at least the previous five years. The chart must compare the ending balance for each year with the minimum reserves needed to withstand an average recession and a severe recession.
- An analysis of the cost paid to beneficiaries and cost shifting, if any, from companies without a negative balance in their account funds to companies with a negative balance in their fund accounts.

We reviewed the assessment reports for 2010 and 2011 and found that DEW had complied with the requirement to provide a trend chart on the trust fund balance and reserves needed to survive a moderate recession. In 2010, state law was amended to create a new tax structure based on a benefit ratio system rather than the previous reserve ratio system. This change eliminates the need to conduct a cost-shifting analysis.

Section 41-29-280 of the S.C. Code of Laws requires that DEW deliver a report no later than January 15 of each year to the Governor and the General Assembly covering the administration and operation of South Carolina's unemployment insurance program. The report is to include:

- DEW's recommendations for amending state law to improve the UI program.
- A balance sheet of the money in the fund which is to include, if possible, the reserves needed to fund future liabilities.

We reviewed the January 2011 report and found that it contains information similar to that contained in DEW's assessment reports. All three reports contain charts showing the trust fund balance and recommended reserves. Both the 2010 assessment report and the January 2011 report contain the same recommendations. These recommendations were to allow the new tax rates to take effect and to seek an extension from the federal government on the interest waiver for federal loans. The October 2011 assessment report also contains recommendations to allow the new tax rates to take effect, for increasing fraud penalties, and for requiring the date of hire on employers' new hire reporting (see p. 50).

DEW stated that once the effect of the new tax structure was known and there was more information on how the economy was recovering, the agency would be in a better position to offer additional recommendations. However, none of the reports presented detailed options for improving the solvency of the trust fund.

DEW could have included a discussion of various options, covering both benefits and taxes, which could assist the General Assembly in making decisions about the UI program. On pages 17–21, we list a number of options which the General Assembly could consider when addressing the solvency of the UI trust fund. DEW also made a presentation to the Senate Labor, Commerce, and Industry (LCI) committee in October 2011, in which it discussed possible options for addressing the solvency of the trust fund. For example, DEW discussed the effect of changes to UI benefits for seasonal workers.

We found that both North Carolina and Tennessee are required by statute to report to their legislatures concerning the status of the UI trust funds. North Carolina's Employment Security Commission is required to report biennially in November on the trust fund and to make recommendations as needed. These reports are published on the North Carolina Employment Security Commission's website. Also, North Carolina is required to make recommendations to the Governor and legislature on needed contribution or benefit rate changes in order to protect the solvency of the trust fund. Among the recommendations in North Carolina's March 2011 presentation to lawmakers are increasing the taxable wage base, raising the new employer tax rate, and eliminating the 0% tax rate. Tennessee's Division of Employment Security reports three times per year, in January, February, and July, on the condition of the trust fund.

Neither the October assessment report nor the January management and trust fund review is published on DEW's website. DEW also has a financial audit of the UI trust fund done each year, which is published on the State Auditor's website.

Section 41-29-120 of the S.C. Code of Laws required DEW to report monthly to the chairmen of the House Ways and Means and Senate LCI Committees until June 2011. These reports covered a variety of topics including DEW's efforts to:

- Increase the frequency of eligibility reviews and enforcement of appropriate disqualifications.
- Increase fraud investigations.
- Maintain voting, attendance, and expense records for DEW's appellate panel.
- Increase the quality of job referrals and enforce penalties for job offer refusals.

We reviewed these reports and found that DEW had incorrectly reported that the interval between eligibility reviews for UI claimants had been reduced from 12 weeks to 6 to 8 weeks. During our audit, we determined that the intervals had not been reduced (see p. 31) and informed DEW management, and the agency notified the LCI Committee of the error in August 2011. In that notification, DEW management stated that it intended to return the eligibility review interval to 6 to 8 weeks once workload for extended benefits and federal extensions declined, which DEW projected would be in December 2011. DEW also had previously informed the LAC that it had not revised its claimstaking manual to reflect the increased intervals because it considered this to be a temporary change. However, in August 2011, DEW revised its claimstaking manual to change the initial eligibility review interval from 6 weeks to 12 weeks, indicating a more permanent change in policy.

In addition to the reports prepared by DEW, other entities are also charged with reviewing the trust fund and DEW's operations. Section 41-27-700 of the S.C. Code of Laws created the Department of Employment and Workforce Review Committee. Among its responsibilities are to annually evaluate DEW's performance and report the results to the Governor and General Assembly. As of October 2011, no evaluation of DEW's performance had been completed, but plans were in place to have an evaluation completed before the end of 2011.

Section 113 of Act 146 of 2010 created the Workforce Initiative/Economic Development Research Committee. This committee was responsible for examining the state's economy and making recommendations for improvement. In particular, the committee was to develop an inventory of workforce training and recruitment programs and their adequacy in meeting the needs of South Carolina's businesses. In addition, the committee was to emphasize finding ways to match unemployed citizens with jobs. Committee members included the executive director of the DEW, along with numerous others. The committee was to make a report by January 1, 2011, and then be abolished. However, according to a DEW official, the committee never met and no report was made.

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## Recommendations

7. The General Assembly should amend S.C. Code §41-33-45 to remove the requirement for the Department of Employment and Workforce to report on cost shifting of unemployment benefits among employers in the agency's trust fund assessment report.
8. The General Assembly should amend state law to require only one trust fund report from the Department of Employment and Workforce each year.
9. The Department of Employment and Workforce should publish the agency's annual trust fund report on the agency's website.
10. The Department of Employment and Workforce's annual trust fund report should include analyses and recommendations discussing various options for improving the solvency of the trust fund, addressing both benefits and taxes.
11. The General Assembly should examine whether the Workforce Initiative/Economic Development Research Committee is beneficial to the state, and if so, reconstitute the committee.

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**Chapter 2**  
**Revenues and Expenditures, Solvency, and Notification Process**

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# Eligibility and Reemployment Services

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In this chapter, we discuss the eligibility process for unemployment insurance benefits and the reemployment services that the Department of Employment and Workforce (DEW) provides. We found that DEW needs to improve its eligibility review process. In particular, DEW has not been conducting eligibility reviews at the required intervals and is not verifying claimants' job search activities. In addition, DEW is not adequately measuring the effectiveness of its services and the effectiveness of DEW services is questionable. We also found that DEW staff may not be recording services provided to claimants in DEW's SC Works Online Services system.

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## Eligibility Reviews

Section 112 of Act 146 of 2010 requires that we examine the unemployment eligibility benefit process for efficiency and compliance with law and agency policy. In order to continue to receive UI benefits, claimants are required to be able and available to work, and to actively seek work. DEW conducts periodic eligibility reviews (ER) with claimants in order to ensure that claimants comply with these requirements and to provide reemployment services. We reviewed the ER process and found that DEW is not conducting ERs in accordance with agency policy. In addition, the overall effectiveness of ERs is questionable.

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## Eligibility Review Intervals

Eligibility reviews are not being conducted at the required intervals. Prior to an increase in workload, DEW's policy required eligibility reviews at intervals of up to six weeks. As a result of the workload increase and federal extensions of UI benefits, DEW revised its ER interval to 12 weeks. However, claimants on extended benefits are required to report for their ERs after each four-week filing period.

Prior to August 2011, DEW's policy required that an initial ER be conducted six weeks after the opening of a new claim. Additional ERs are established by local office staff at variable intervals that cannot exceed 12 weeks. When a claimant reports to DEW for an ER, the date the ER was conducted is entered in DEW's computer system. The next ER is then scheduled in the system.

We reviewed a nonstatistical sample of ERs for 15 claimants with claims between July 2010 and August 2011. In all 15 cases, we found that the claimants had at least 1 ER interval longer than 12 weeks. We attempted to determine the cause of the longer ER intervals and found several reasons. One was that DEW's computer system was resetting claimants ER intervals each time they changed benefit tiers. Prior to 2011, claimants could receive

up to 26 weeks of state UI and then qualify for 4 federal extensions and extended benefits. This resulted in a maximum of 99 total weeks of benefits for eligible claimants. Each time a claimant started a new benefit tier, the ER interval would start over, often resulting in significantly longer periods between ERs. For example, we found that one claimant in our sample had an ER in March 2010 and did not have another until November 2010, which was over 30 weeks later.

### **ERs for Claimants on Extended Benefits**

DEW's claimstaking manual states that claimants on extended benefits are required to report for eligibility reviews at least every four weeks. We found that some DEW local office staff had been entering longer ER intervals for EB (extended benefits) claimants in violation of policy. Reports run by DEW for the period July 4, 2010, through August 30, 2011, showed that 9,161 (25%) of the 36,798 claimants receiving extended benefits had ERs more than 4 weeks apart. In addition, the DEW reports showed that 165 (9%) of the 1,801 interstate EB claimants had ERs more than 4 weeks apart.

DEW sent an e-mail to its staff in September 2011 reminding local office staff that the time between ERs for claimants receiving extended benefits should not exceed four weeks. According to a DEW official, DEW's computer system has been modified to better monitor ER intervals. DEW attributes the ER interval problems to the federal extensions of UI benefits and believes that once the extensions end, these issues will no longer exist.

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## **Effectiveness of Eligibility Reviews**

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We found that the eligibility review process varied among local offices and its effectiveness is questionable. According to DEW policy, an eligibility review should consist of a seated meeting with the claimant. However, we found that, for some ERs, DEW officials simply collected the claimants' required paperwork and asked a few questions in the office lobby; this does not meet DEW's standard for ERs. We also found that some ERs were conducted in groups; while this is not inconsistent with DEW written policy, DEW officials have indicated that ERs are intended to be held on an individual basis.

In addition, in determining continuing eligibility, DEW often relies on information provided by the claimant without any independent verification of the information. For example, DEW staff has access to quarterly wage information which could be used to verify whether a claimant has earned wages while also receiving UI benefits. According to DEW staff, there is no policy requiring verification of wage information. However, while not required by policy, DEW staff stated that local office staff is instructed to



check the quarterly wage database. Having staff verify wage information during the ER could serve as a means of ensuring that the wage cross match system used by DEW to detect fraud and overpayments is working correctly (see p. 47). In addition, there is no regular verification of weekly job contacts (see p. 34).

According to a DEW official, an analysis done several years ago comparing claimants who had ERs versus claimants who did not found no difference in the duration of UI benefits between the two groups.

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## Conclusion

Because of an increase in the number of UI claims, DEW has held ERs less frequently. Its current standard is to hold an ER at least every 12 weeks for each claimant receiving regular UI benefits, and at least 1 ER every 4 weeks for each claimant receiving extended benefits. Eligibility reviews, when done properly, give DEW staff an opportunity to identify fraud and overpayments. In addition, they can provide claimants with valuable job search assistance. However, ERs can also be time consuming and require significant resources. If ERs are not done consistently or if information obtained during ERs is not verified, the effectiveness of ERs becomes questionable and resources spent on ERs may be better spent on other activities.

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## Recommendations

12. The Department of Employment and Workforce should monitor to ensure that eligibility reviews are being conducted at the intervals required by policy.
13. The Department of Employment and Workforce should implement a policy to periodically verify wage information during eligibility reviews.
14. The Department of Employment and Workforce should analyze the eligibility review process to determine how the effectiveness of eligibility reviews can be improved.

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## Weekly Job Contacts

In order to continue receiving UI benefits, claimants must be actively seeking work. We reviewed DEW's system for ensuring that claimants are meeting job search requirements. We found that DEW does not verify job contacts listed on forms provided by claimants. Also, information on the number of contacts required has not been communicated clearly to claimants. Further, DEW's method for determining the number of required weekly job contacts needs improvement.

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## Verification of Job Contacts

Section 41-35-110(3) of the S.C. Code of Laws requires that individuals receiving unemployment benefits actively seek work. DEW determines the number of weekly job contacts required to comply with the law. Until 2011, DEW required that claimants make at least one job contact each week. Beginning in 2011, DEW increased the minimum number of job contacts to four per week. Also, claimants on extended benefits have more stringent job search requirements than those on regular benefits. Extended benefits (EB) are available to aid claimants who have no further benefits available from other types of unemployment claims during times of high unemployment. Claimants on EB must make at least five job contacts per week, and these contacts cannot all be made on the same day.

Claimants must list their job search contacts on work search forms provided by DEW and bring these forms with them to their eligibility reviews. DEW uses two different work search forms. For claimants on regular benefits, the form requires that the claimant list the name of the employer contacted, but other information concerning the employer is not required. Claimants on EB must list the name and address of the employer contacted, the date of contact, and the person contacted. Without detailed information on all work search forms, DEW cannot verify that claimants are actively seeking work, as required by state law. We found several examples of other states that require claimants to list the address, phone number, and date of their job contacts.

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## Information Required on DEW's Work Search Form for Regular Benefits

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Name:		SS No:	
Employer Contacted	Type of Work Sought (Be Specific)	Type of Contact (ex. telephone, in-person, resume, want ads, family)	Results (ex. interview, application taken)

**Information Required on DEW's Form for Extended Benefits**

Name: \_\_\_\_\_ SS No: \_\_\_\_\_

Date of Contact	Employer Contacted Name & Address	Person Contacted	Type of Work Sought (Be Specific)	Type of Contact (ex. telephone, in-person, resume)	Results (ex. interview, application taken)

**Missouri Work Search Form**

Date of Contact	Employer's Name Address and Phone Number	Method of Contact*	Name/Title of Person Contacted	Position Applied For	Was Application Taken?	Result of Contact
12-2-08	ABC Company – 829 Juniper Kansas City, MO 64111 816-555-1221	I	Eric Dean, Manager	Warehouse	Yes	Check back In Jan.

DEW does not have a system in place to verify claimants' job contacts. According to a DEW official, the department used to have a system in which employers were contacted to ensure that claimants' job contact listings were valid, but complaints from employers prompted DEW to cease verifying work search forms through regular employer contacts. DEW's Benefit Accuracy Measurement (BAM) unit conducts limited work search verification. The BAM unit reviews a random sample of files for claimants receiving regular unemployment benefits and interviews the sampled claimants about their benefits. Claimants in the sample are required to sign legally-binding affidavits attesting that their records of work search are accurate. According to a DEW official, when a claimant notes the date of his contact on his work search form, the BAM investigator will always contact the employer. This rarely occurs, however, because the form for regular UI benefits does not require date of contact.

We found that other states conduct verification of job search requirements. For example, Colorado, Florida, Idaho, and New Mexico all verify job contacts. According to Florida's UI agency, random work search verification began in March 2011, and, as of June 24, 2011, a total of 215,141 claimants and 87,464 employers had been contacted. Of the work search verification forms completed, there were 36,726 claimants held ineligible because of insufficient work search contacts at an estimated amount of \$12.7 million.

A 1997 study by Maryland's Office of Unemployment Insurance found that telling claimants that their work search was subject to employer verification had an impact on the duration of their claim. Missouri's work search form informs claimants that the job contacts listed are subject to verification.

In an October 2011 presentation to the Senate Labor, Commerce and Industry Committee, a DEW official noted that it is difficult to verify claimant work search efforts due to a lack of employer record-keeping and resource limitations. However, DEW has proposed requiring that one of the four job contacts per week be conducted through SC Works Online Services, the system where jobs are posted, so it can be electronically verified. The agency also proposes informing claimants that job contacts are subject to random verification.

DEW does not have data on the number of claimants who have had their unemployment benefits terminated for failure to meet job search requirements. According to a DEW official, DEW does not have a specific disqualification code for this violation. Once a verification policy is implemented, DEW should implement a system for tracking the number of disqualifications so it can determine the effectiveness of the policy.

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## Communication and Development of Job Contact Requirements

DEW's methods for informing claimants about the required number of job contacts needs improvement. We found that instructions given to claimants on the required number of job contacts differed. For example, we found that SC Works Centers were showing claimants an outdated video incorrectly informing claimants that only one job contact a week, instead of four, was required. After we informed DEW about the outdated video, the agency sent out a memorandum to all SC Works Centers which directed the centers to stop showing claimants the video. We also found that the notices included in the information packets given new claimants describing the new job contact requirements varied among centers.

Also, over the course of our audit, there were differences in what one center counted as a job contact versus what another counted. For example, different county officials we spoke with indicated that they accepted applications for different positions within the same company as different job contacts whether they were completed the same week or in a different week. Officials in other counties indicated they only counted these as different job contacts if they occurred in different weeks. After we informed DEW about the differences, the agency clarified its written policy to allow job contacts to be counted for different positions at the same company during the same week if a different application was completed for each position.

According to agency officials, in determining the number of job contacts, DEW did not use any labor market statistics or survey any of the SC Works Centers. By not using labor market statistics or surveying the centers, DEW may be placing a hardship on rural claimants who may not have access to as many employers as claimants in other parts of the state.

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## Recommendations

15. The Department of Employment and Workforce should implement a system to verify a random sample of claimants' job contacts.
16. The Department of Employment and Workforce should revise its work search form to require sufficient information to allow DEW to verify the claimant's job search effort and inform claimants that job contacts are subject to random verification.
17. The Department of Employment and Workforce should establish a mechanism for tracking how often claimants' benefits are stopped for failure to meet job contact requirements.
18. The Department of Employment and Workforce should use labor market statistics, surveys of SC Works Centers, and other data when deciding the appropriate number of job contacts required.
19. The Department of Employment and Workforce should ensure that all communication with claimants regarding the number of required weekly job contacts is accurate and consistent.

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## Reemployment Services

Section 112 of Act 146 of 2010 requires that we evaluate the effectiveness of the Department of Employment and Workforce's programs for assisting claimants in returning to work. We found that DEW is not adequately measuring the effectiveness of its services and that the effectiveness of DEW's services is questionable. We also found that DEW staff may not be providing reemployment services or properly recording services to claimants in DEW's SC Works Online Services system, and that services are not being documented. This can result in inaccurate performance data and also limit job referrals for claimants.

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## Federal Common Measures

DEW provides various reemployment services to claimants. These include providing labor market information, job finding clubs, career guidance, referrals to training programs, individual employment plans, and job referrals. As long as an individual receives a reemployment service at least once every 90 days, he is considered to be participating in the reemployment program. If no service is received for 90 days, then the individual exits the program and is included in DEW's performance measures.

Currently, DEW's performance measures for reemployment programs consist solely of the USDOL's common measures. The common measures are:

- Entered Employment.
- Employment Retention.
- Average Earnings.

In 2010, DEW's goal for the entered employment rate was to have 60% of participants who had exited the program be employed in the first quarter after exiting. DEW's actual rate for 2010 was 48%. However, federal standards consider meeting 80% of the goal to be sufficient performance. The employment retention rate measures how many of the participants continue to be employed. The average earnings measures the earnings of those participants.

The common performance measures used by DEW have limitations in measuring the effectiveness of DEW's reemployment programs. The federal Government Accountability Office (GAO) has found that the common measures cannot measure whether outcomes are a direct result of the program. The measures do not show the impact of DEW's reemployment programs on the entered employment, average earnings, and retained employment. Factors beyond the control of DEW's reemployment programs, such as the state of the overall economy and the attributes of individual claimants, impact the common measures.

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## Effectiveness of Services

One potential way for the Department of Employment and Workforce to measure the effectiveness of its reemployment programs is to conduct impact studies. An impact study would compare the reemployment outcomes of claimants who received specific reemployment services versus the reemployment outcomes of claimants who choose not to receive specific services. The GAO has reported that little is known about the impact of federally-funded employment and training programs because of the lack of

impact studies, which many researchers consider to be the best method for determining the extent to which a program is causing participant outcomes.

The Department of Employment and Workforce has a program called Reemployment Services (RES). In this program, certain claimants are selected for intensive reemployment services. We reviewed a sample of claimants for one month from one county. One group of claimants received the RES services and the other group did not. For that sample, the claimants receiving services had an average unemployment insurance duration of 26.5 weeks, while the claimants who did not receive RES services had a duration of 22.3 weeks.

We asked DEW officials why the group receiving RES services had a longer benefit duration than those who did not. The officials did not know why the duration for claimants who received RES services was greater. The officials speculated that training received by certain RES claimants might have extended their benefit duration and thus increased the average benefit duration for the entire sample. Also, the officials noted that jobs received by those who received training could be better than the jobs they would have received otherwise, which could save the trust fund money in the future.

The USDOL implemented the Reemployment and Eligibility Assessment (REA) program in 2005 to help enhance the rapid reemployment of UI claimants. The REA program was created because a number of studies found that attention to UI beneficiaries' efforts to find new jobs and attention to their reemployment service needs resulted in shorter claim durations and fewer erroneous payments. The REA initiative provided funds for states to focus their efforts by bringing claimants into the SC Works Centers to provide in-person assessments and referrals to reemployment services, as appropriate.

DEW files a quarterly report with the USDOL on the duration of benefits for claimants receiving REA services versus those who do not. In DEW's initial REA report for individuals filing claims in the first quarter of 2010, the duration of UI benefits in the control group was 17 weeks compared to 18 weeks for the REA group. DEW investigated this with USDOL to determine the cause for the longer duration for those claimants receiving REA services. A DEW official informed us that the investigation revealed that the original report contained data errors. A revised report shows that claimants who received at least one REA service during the benefit year had an average of 20.9 weeks to their dates of reemployment, compared to 21.7 weeks for those who did not receive a REA service.

We found that Nevada has a program for measuring the effectiveness of both its RES and REA programs. The state has developed a UI duration report which compares claimants receiving services from both the REA and RES programs to groups that do not. The state then estimates the savings from providing these services by subtracting the average UI duration for claimants receiving services from the average duration for those not receiving services and multiplying this by the average weekly benefit amount. Nevada estimated that, in 2010, RES claimants had an average UI duration of 18.31 weeks compared to a UI duration of 19.28 weeks for claimants who did not receive services. This resulted in an estimated savings to the trust fund of almost \$3.3 million. Nevada also estimated that, in 2010, REA claimants had a UI duration of 18.5 weeks compared to a UI duration of 19.6 weeks for REA claimants who did not receive services. This resulted in an estimated savings to the trust fund of over \$3.5 million.

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## Delivery and Recording of Services

We reviewed examples of claimants who had exhausted their unemployment insurance benefits and found claimants who had gaps of over 90 days between reemployment services. According to DEW officials, these gaps could be accounted for in two ways. First, they could be the result of DEW's staff failing to enter services into the SC Works Online Services (SCWOS) system or the result of no services actually being provided. Not entering services that have been provided in SCWOS can result in an adverse impact on DEW's performance measures. In addition, it can reduce the number of job referrals claimants receive.

As noted above, after 90 days without a service, a claimant exits the program and is counted in federal performance measures. We found examples where claimants had multiple gaps of more than 90 days. For example, one claimant had a six-month gap in services from September 2009 to March 2010, and another had a four-month gap from March 2010 to July 2010. Another claimant had no services recorded from February 2009 to August 2009, and again from August 2009 to May 2010.

The program participant's exit date serves as a trigger for all Wagner-Peyser performance measures, and participants have 90 days after they exit the program to find work. If the claimant finds work after 90 days, the participant is deemed to have entered employment and will be deemed a success in the performance measures. If no wage information is found for the quarter after the exit, the claimant will be counted negatively in the performance measures. Additionally, a claimant may exit and re-enter the Wagner-Peyser program multiple times in a program year, which could result in multiple negative performance measure outcomes if services were not



properly entered. In addition, when a claimant exits the Wagner-Peyser system, his name is no longer displayed when the SCWOS job matching services are conducted for individuals currently enrolled. This reduces the chances of that individual receiving job referrals from DEW.

DEW does not have a written policy addressing how often claimants should receive services. In addition, DEW is not monitoring to determine if claimants are going over 90 days without a service. In response to our review, DEW officials stated that they believe the gaps in service are the result of claimants not receiving services. DEW states it has developed a report that shows claimants for whom 45 or more days have lapsed between services. In addition, DEW noted that SCWOS generates a weekly list of claimants and the services that have been delivered over the previous six months. This is another means of identifying claimants who are not engaged with the workforce system. A DEW official also stated that DEW is developing training for field staff in order to ensure the accurate recording of services.

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## Documentation of Services

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The Department of Employment and Workforce has certain guidelines for inputting services onto the SCWOS system. For example, if a workforce center employee assists a job seeker in the development of an individual employment plan, case notes should be recorded on SCWOS that document the plan, including steps and time tables to achieve employment. We examined a sample of claimants whom SCWOS listed as receiving services that require case notes in SCWOS. In our sample, we did not find examples of case notes outlining the plan. A DEW official confirmed that some DEW employees have not been entering case notes for certain services pursuant to DEW policy. The DEW official believes that this is a training issue and provided us with the dates of training sessions to address this issue.

Case notes for certain services should be documented in SCWOS pursuant to DEW policy. Documenting the case notes will allow DEW staff to better monitor claimants' paths to reemployment. Additionally, documented individual employment plans provide evidence that the plans are being developed.

### Assessment Tests

Job seekers can take tests administered at SC Works Centers. Such tests include typing exams, WorkKeys certifications, and general assessment tests. DEW has guidelines for recording these tests that require that the scores of the tests be recorded in the “assessment” tab of the SCWOS. We sampled individuals who were listed as having been administered a test. Approximately 38% of the individuals did not have their test scores or documentation of their tests recorded in SCWOS.

Test scores for individuals should be properly recorded in SCWOS. Recording the scores provides documentation that they have been administered.

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## Recommendations

20. The Department of Employment and Workforce should conduct impact studies on specific reemployment services in order to determine their effectiveness in assisting claimants. These studies should include comparing the outcomes of claimants who receive reemployment services with similarly-situated claimants who did not receive services in order to determine the effectiveness of the services.
21. The Department of Employment and Workforce should ensure that services provided to claimants are accurately recorded.

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## SC Works Online Services

In August 2010, DEW launched an online, multi-functional system called the Virtual OneStop, which has since been renamed SC Works Online Services (SCWOS). Among its functions, SCWOS is used as DEW’s primary labor exchange system. In addition, SCWOS is used by DEW for the management of data for three federal workforce programs — Wagner-Peyser, the Workforce Investment Act, and Trade Adjustment Assistance. DEW’s monthly, quarterly, and annual participant and service-related reports for those programs are generated from data stored in SCWOS.

SCWOS provides numerous services for job seekers, and one does not have to be a UI claimant in order to use SCWOS to search and apply for jobs. For job seekers, SCWOS can be used to build a resume, search for jobs, research labor market information, and find career information and guidance. SCWOS can also match job seekers with job openings based on skills and qualifications and can refer qualified individuals to employers for interviews, among other functions.

The SCWOS provides job seekers with the ability to search for jobs that have been posted to SCWOS directly, as well as jobs that have been posted onto external job search sites (e.g. Monster.com and Snagajob.com). Through the SCWOS job search, job seekers can specify the type of job they are searching for, as well as the desired geographic location of the job. Job seekers can also specify the education level required for a potential job and skills needed for the job as well as other job search customizations. Job seekers can apply for the jobs that come up in their SCWOS searches.

For employers, SCWOS can be used to post job openings, review resumes of job seekers, and track the number of applicants who apply for their openings. Employers can use SCWOS to find candidates who fit their specifications. For example, employers can search for job candidates based on occupational experience, minimum starting salary, and education level, among other factors.

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## User Friendliness of SC Works Online Services

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DEW local office staff and other professionals who assist job seekers have noted that SCWOS poses user accessibility challenges. DEW staff noted that assisting job seekers in using the SCWOS can take significant amounts of time. Potential improvements could improve the user-friendliness of SCWOS and give DEW staff the ability to concentrate on other job assistance activity.

The front page of the SCWOS website provides links for job seeker and employer services. Also on the main page is a link for claimants and employers to contact DEW. Clicking that link gives claimants and employers an online question form. However, none of the web pages of SCWOS provide an obvious link to an online tutorial. The web pages give users the option to enter SCWOS to begin a job search or candidate search activity, but does not provide the option of taking a tour of SCWOS or of viewing a tutorial.

Users entering SCWOS can access dozens of services. Several video tutorials to assist employers and job seekers in using various features of SCWOS are available in a section of SCWOS called “Learning Center.” However, auditors, as well as workforce professionals, have found the Learning Center to be confusingly labeled. Also, the learning center does not have printable guidelines for using SCWOS. A section of SCWOS called “Assistance Center” provides links for contacting staff with questions, but does not provide a tutorial. It should be noted that help options are available in several service areas of the SCWOS. However, these options are not located on the front page of SCWOS for potential new users to easily find.

A prominently displayed tutorial on the front page of SCWOS could provide job seekers and employers with a tool that would allow them to more effectively use SCWOS. Such a tutorial could educate claimants better on how to use SCWOS and would help answer claimant questions that may otherwise go unanswered or be answered by DEW staff. The North Carolina Employment Security Commission's job matching website provides an easily accessible online, printable tutorial that gives job seekers the ability to review how to search for jobs. It also provides a tutorial for employers interested in posting job orders. The employer tutorial also instructs employers on legal requirements.

The large number of services available on SCWOS and the number of customization options for SCWOS job search and candidate search functions can make SCWOS a complicated system to navigate, and an accessible, user-friendly tutorial is necessary on SCWOS's web pages to assist SCWOS users and potential users.

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## Customer Satisfaction

DEW should assess customer satisfaction with SCWOS. The SCWOS has a customer satisfaction survey that users can choose to take. According to a DEW official, the number of people who took this survey varied greatly from month to month, with less than ten claimants taking it for several months, followed by a sudden spike in another month. The survey results for the SCWOS have shown generally positive feedback on SCWOS.

Although the online survey is a potentially helpful tool for making SCWOS more effective, it has limitations. Since users have a choice of whether or not to take the survey, survey results could be skewed. Also, the wide variation in survey participation suggests potentially unreliable results. Additionally, the survey can only be taken by people who know how to access SCWOS, which prevents feedback from users who unsuccessfully tried to use SCWOS.

DEW should consider alternative methods to more accurately measure customer satisfaction with SCWOS. DEW has already commissioned a consulting group to administer a customer satisfaction survey for employers regarding DEW's overall operations. Also, in September 2011, DEW implemented a Business Satisfaction Survey Process to seek feedback from the businesses served each month.

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## Online Identification of the SCWOS

The SCWOS does not adequately identify itself as a service of DEW. The web pages of SCWOS do not identify themselves as a DEW website, though they do provide a link to the main DEW website. The SCWOS web pages do not have a link to an identifier page, such as an “about us” link. SCWOS is referred to as a DEW website in its privacy information section.

The absence of sufficient information on SCWOS regarding the identity of its operator may cause job seekers and employers to be hesitant to share sensitive, personally-identifying information with SCWOS. Clear labeling of SCWOS as a DEW service would give assurance to job seekers and employers that the website is a legitimate portal for job-related information and services.

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## Job Orders

Many of the SC Works Centers in South Carolina have staff who assist employers in posting job orders on the SCWOS. During the course of the audit, we contacted all of the SC Works Centers in South Carolina to determine the responsiveness of their job order services. Forty-three of the SC Works Centers contacted confirmed that they take job orders or referred us to another SC Works Center that takes job orders.

Four of the centers contacted either did not have an employee answer the phone or a recording informed the caller that its employees were busy and could not assist. An auditor left messages at four other SC Works Centers relating to job orders that were not returned.

A customer service survey conducted by a consulting group also had responses by some employers that noted difficulty in contacting employees at SC Works Centers.

Assisting with employers’ job orders is a duty of several SC Works Center employees across the state, and an employer’s inability to contact SC Works Center staff about job orders hinders DEW’s mission to connect job seekers with employers.

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## Recommendations

22. The Department of Employment and Workforce should continuously work to make the SCWOS more user friendly and should add on its web pages a prominent, user-friendly tutorial to assist users.
23. The Department of Employment and Workforce should monitor customer satisfaction with the SCWOS.
24. The Department of Employment and Workforce should clearly label the SCWOS as a service of DEW.
25. The Department of Employment and Workforce should ensure that its SC Works Center staff who assist employers with job orders promptly respond to employers' requests for assistance.

# Fraud and Overpayments

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In this chapter, we discuss DEW's system for detecting fraud and overpayments. We found that the wage cross match system which DEW used to identify claimants who are working and collecting unemployment had not been operating properly for at least six years. DEW replaced this system in December 2011 with the Benefit Audit, Reporting, and Tracking System (BARTS). We also found that the State Directory of New Hires, which is housed at the Department of Social Services, needs to be improved. Also, DEW has made duplicate payments to claimants who have multiple benefit years. Finally, DEW has entered into an agreement with the Attorney General's Office to prosecute cases of UI fraud.

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## Wage Cross Match

We reviewed DEW's system for detecting overpayments of UI benefits and found that the quarterly wage cross match, which DEW runs to detect overpayments of UI benefits, did not operate properly for at least the 2005 through 2011 time period, allowing some claimants to continue to receive unemployment checks after finding full-time employment. In addition, there was a delay in running the wage cross matches in 2009 and 2010.

DEW has a Benefit Payment Control (BPC) unit that identifies and collects overpayments. One way DEW identifies overpayments is by cross matching applicant information with various databases maintained by different agencies and departments, both external and internal to DEW. The external cross-matched databases include the Social Security Administration and the National and State New Hire Directories (see p. 50), which is managed by the Department of Social Services. The primary internal database is the quarterly wage cross match.

The wage cross match compares the weekly unemployment payments to claimants with a database of quarterly wage payments reported by employers. When claimants are identified with both UI payments and wage payments within the same quarter, a probability index score is assigned to indicate the likelihood of overpayments. The score varies based on the number of weeks in a quarter an individual is paid UI benefits. A claimant who received benefits in all 13 weeks in a quarter would have a higher score than a claimant who was only paid benefits for 7 weeks in a quarter. DEW then reviews the claims with the highest scores, usually 3,000 to 5,000 per quarter. This is done by mailing wage request forms to employers to obtain weekly wage data for comparison to the weekly UI benefits paid to the claimant.

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## Deficiency in the Wage Cross Match System

During the course of our review, we discovered a significant deficiency in the wage cross match system. The cross match is designed to be run against the entire UI claimant database. However, during this review, it was revealed that the wage cross match had only been run against approximately 20% of the database. This resulted in claimants with a high probability of overpayment not being identified through the cross match.

During our review, we were informed that an individual working at a state technical college was also claiming UI benefits. This person collected over \$13,000 in UI benefits between August 2010 and July 2011, while being paid by the college at the same time. We asked DEW why the individual had not been identified through the wage cross match. Initially, we were informed that the claimant's probability score was not high enough to result in a review. However, after we requested information on the specific probability score assigned to this claim, DEW determined that the wage cross match system was not operating properly. We attempted to determine how long the system had been operating improperly. We requested information from DEW, but a definitive time period could not be established. However, DEW provided documentation showing that the system was last modified in 2005, indicating that the system had been operating improperly for at least six years.

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## Delay in Performing Cross Matches

We found during our review that during 2009 and 2010 there were delays in performing quarterly wage cross matches. The delays were caused by restructuring and staff turnover. DEW staff did not notice the cross matches were not being run even though it was filing reports with the United States Department of Labor (USDOL) showing a significant decline in the number of claims investigated.

The quarterly wage cross match is designed such that no quarter can be skipped. Thus, if the report is not run for the current quarter, the cross match cannot be run on any subsequent quarters until after the current quarter has been run. For example, according to DEW, the cross match for the fourth quarter of 2009 was not run until January of 2011. The cross match for the first of quarter of 2010 was then run in February 2011.

As part of its reporting to USDOL, DEW files an Overpayment Detection and Recovery Activity Report, which it uses to monitor the integrity of a state's benefit payment process. Included in the report is a section detailing how overpayments were detected as well as the manner of detection. For example, the report includes figures on the number of overpayments detected



by means of the wage cross match. Since the wage cross matches were not being performed, the number of claims with overpayments detected dropped significantly.

According to DEW staff, this was an oversight due to a restructuring of the BPC unit and the loss of experience resulting from staff turnover. Upon discovering that the cross match had not been performed, DEW performed the cross matches between January and June of 2011. Because of the oversight, only 2,000 claims with the highest probability scores were reviewed for each quarter of 2010 rather than the normal 3,000 to 5,000.

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## BARTS

DEW has purchased new computer software to replace the existing wage cross match software. The Benefit Audit, Reporting, and Tracking System (BARTS) is expected to allow DEW to significantly increase the number of claims reviewed and should allow for significant improvement in the detection of overpayments. However, the system will still need to be monitored to ensure it is operating correctly. In 2009 and 2010, the N.C. State Auditor found that its BARTS was not operating in accordance with agency policy and considered this a significant deficiency in the agency's internal controls.

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## Conclusion

According to USDOL, the leading cause of overpayment of UI benefits is claiming benefits after returning to work. It is estimated that during the three-year period from 2008 to 2011, South Carolina overpaid more than \$360 million in UI benefits. South Carolina's error rate for percentage of benefits paid in error for FY 10-11 is the ninth highest in the nation at 18.01%. The fraud rate for the same period is 6.94%, which was the second highest in the nation.

Two important methods for detecting overpayments are the wage cross match and the new hire database cross match (see p. 50). When these systems are not working properly, overpayments and fraud can go undetected. DEW should monitor these systems to ensure they are working as designed and identify trends or patterns that could make the systems more efficient.

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## Recommendation

26. The Department of Employment and Workforce should regularly evaluate the systems it uses to identify fraud and overpayments to ensure they are operating correctly.

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## Directory of New Hires

Some employers are not reporting new hires to the State Directory of New Hires (SDNH) as required by law. Employers are not being penalized for their failure to report. DSS has not conducted outreach efforts to inform employers of their responsibilities under the law since 2002.

The federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (federal welfare reform) required all states to establish a state directory of new hires. In South Carolina, the SDNH is maintained by the Department of Social Services (DSS), as required by S.C. Code §43-5-598. Employers are required to submit information on each newly-hired employee within 20 days of the employee's first day on the job. Independent contractors (individuals who have a 1099) are not required to be listed in the SDNH.

In addition to each state maintaining its own database, the federal Department of Health and Human Services (HHS) maintains a national database of new hires. This database includes all information from each individual state's database and also includes federal employees and employees of companies that operate in multiple states. For example, companies, such as Walmart, that operate in more than one state, are allowed to enter all of their new hires through a single state of the company's choosing.

The state and national directory is used by DSS for child support enforcement and to detect welfare and food stamps fraud. The Department of Employment and Workforce (DEW) also uses the state and national directories of new hires to detect fraud and overpayments of UI benefits. DEW runs a cross match of individuals in the new hire directories against its UI database to determine if individuals collecting UI benefits are also working and earning wages at the same time. The new hire cross match is more beneficial than DEW's wage cross match (see p. 47) because it allows DEW to identify fraud and overpayments much sooner than the wage cross match.

We found that a significant number of employers do not appear to be reporting new hires to the state directory. We reviewed a nonstatistical sample of UI claimants on extended benefits. These are claimants who have generally been unemployed and receiving UI for at least 78 weeks. We then checked DEW's quarterly wage database to determine if these claimants had been paid wages by a new employer during 2010 or 2011. If so, these individuals should have been reported by the new employer to the SDNH. We found a number of instances where individuals should have been entered into the new hire directory by the employer, but were not.

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## Outreach and Enforcement Efforts

There have been limited efforts to inform employers of their responsibilities to report new hires. In 2001 and 2002, DSS used a federal exception report that the agency receives from the federal HHS (see below) to contact employers that were not reporting to the SDNH and inform them of the requirement to report. DSS has not conducted any further outreach since 2002.

While the federal exception reports are not definitive proof of non-compliance, these reports could prove useful in identifying employers that are failing to report new hires. According to a DSS official, DSS has begun contacting approximately 12,000 employers (out of a total of approximately 74,000) that did not report any new hires in the first quarter of 2011, but appeared on the federal exception report as having new hires.

During the course of our audit, we also spoke with agency officials at the Department of Revenue (DOR) regarding the SDNH. DOR maintains information about the new hire directory on its SC Business One Stop website. A DOR official stated that the agency would be willing to put a tutorial about the new hire directory on the agency's website, including information in the agency's electronic newsletter, and also e-mail businesses regarding the directory. However, the electronic newsletter and e-mails would only reach businesses in the state that have signed up to receive e-mails from DOR. According to another DOR official, the agency will also begin discussing the SDNH requirement when it performs training for new employers. Finally, DEW has begun to make outreach efforts to employers to inform them of the requirement to report new hires.

Finally, state law allows DSS to penalize employers who do not report new hires. For the second offense and any offense thereafter, employers can be fined \$25 per occurrence. In addition, employers can be fined \$500 for each offense if the failure to report a newly-hired employee is the result of a conspiracy between the employer and employee to not submit the information. According to DSS officials, no employer has ever been fined in the approximately 15 years that the SDNH has been in existence. DSS officials stated that one reason employers have not been fined is that the mechanism in state law for fining employers is vague and could make enforcement difficult.

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## Accuracy of Exception Reports

It is difficult to determine how many employers are not reporting new hires as required by law. Each quarter, the federal HHS runs a cross match of the new hire directory against a quarterly wage database and generates an exception report for each state showing employers who did not report all their new hires. For the first quarter of 2011, the report showed 27,777 employers who did not report at least 50% of their new hires, and a total of 151,373 employees who did not appear in the new hire directory, but who had quarterly wages with a new employer.

These numbers are misleading. For example, the report showed that the state of South Carolina failed to report 9,154 new hires during the first quarter of 2011. However, the exception report uses a combination of a company's federal employer identification number (FEIN) and the employee's social security number (SSN) when running the cross match. We found that individual state agencies enter new hires using the agency's own FEIN, but that the quarterly wages are reported using the Comptroller General's FEIN for 141 state agencies. Even though the new hires are being entered, because the FEIN used to report new hires is different from the FEIN associated with the quarterly wages, an exception is created. This creates a false positive by showing that the employee had not been reported to the SDNH when, in fact, the employee had been, but under a different FEIN than the one used to report the employee's quarterly wages.

The use of multiple FEINs does not appear to be limited to state government. According to a DSS employee, during a recent teleconference on the usefulness of exception reports, the use of multiple FEINs by employers when reporting new hires was cited as the most significant problem with the use of the reports. Another issue raised by states was the creation of false positives when companies either merge or are taken over by another company. This can create false positives because quarterly wages are reported for employees using the new company's FEIN, even though the employees are not technically new hires.

Finally, a DSS official reported that a check of its own employees found that two employees who had worked for the agency for over 20 years appeared on a federal exception report for the third quarter of 2010. These officials could not explain how this occurred.

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## Purging Data

DSS has a policy to purge information from the SDNH every six months. This can make verifying whether an individual was properly reported difficult, and also makes it difficult to determine how long companies have failed to report new hires. According to a DSS official, the federal HHS purges data from the national directory every two years.

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## Date of Hire

Currently a date of hire is not required by law to be submitted by the employer, although most employers submit this information anyway. Starting in 2012, federal law will require all employers to submit the date an employee was hired when they submit newly-hired employee information. Both DEW and DSS recommend that the General Assembly amend §43-5-598 of the S.C. Code of Laws to require that the date of hire be submitted for new hires.

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## Recommendations

27. The Department of Social Services should work with the Department of Revenue and the Department of Employment and Workforce to develop an outreach program to inform employers in the state about the State Directory of New Hires' requirement.
28. The Department of Social Services should implement the enforcement methods specified in state law to compel employers to report new hires.
29. The Department of Social Services should improve the accuracy of the State Directory of New Hires.
30. The Department of Social Services should revise the agency's policy of data purging to match the two-year requirement of the National Directory of New Hires.
31. The General Assembly should amend §43-5-598 of the S.C. Code of Laws to require all employers to submit the date of hire with other required State Directory of New Hires information.

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## Duplicate Payments Over Multiple Benefit Years

When an individual files a claim for UI benefits, it begins his benefit year. A benefit year is the one-year period after filing a claim in which the claimant can receive unemployment benefits. Claimants typically can receive up to 26 weeks (20 weeks as of 2011) of regular UI benefits during the benefit year. At the end of the benefit year, the claim is rechecked to determine if the individual has another valid claim for benefits, and, if so, the individual will begin receiving benefits and start a new benefit year.

In July 2008, the federal government began granting unemployment extensions that have allowed claimants to receive up to 99 weeks of benefits. This has resulted in some claimants being paid twice for the same week or being paid for their waiting week because they were paid for a claim on a new benefit year even though they were still receiving benefits on a claim from a prior benefit year. For example, one claimant was overpaid \$633. The claimant was paid twice for claim weeks ending August 21 and 28 — once for a claim with a benefit year ending March 28, 2010, and a second time for a claim with a benefit year ending March 28, 2011. In another case, a claimant was overpaid \$303 for the claim week ending October 10, 2009. The benefits were paid for a claim with benefit year ending April 8, 2008, but the week also served as the claimant's waiting week for a claim with benefit year ending October 3, 2010.

DEW recognized the potential for duplicate payments and had an edit installed on its computer system to try to prevent these payments from occurring. However, the initial edit did not address all of the federal unemployment extensions. In February 2011, DEW UI tech staff submitted a data processing request to add another edit to the system to address this issue. According to a DEW official, IT staff has completed the programming, but overall full testing has not been completed on the request.

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## Recommendation

32. The Department of Employment and Workforce should take steps to ensure that claimants are not overpaid on claims involving multiple benefit years.

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## Claimant Fraud

In 2008, DEW stopped referring claimants, who fraudulently obtained unemployment benefits, for criminal prosecution. In our January 2010 report, we recommended that DEW resume fraud prosecutions. We also recommended that:

- Fraud cases be referred to the Attorney General's (AG) office to determine if criminal charges are warranted.
- DEW consult with the AG about an agreement on referring cases for possible prosecution.
- Criminal prosecution of fraud should be pursued prior to write-off.

DEW established an agreement with the AG whereby an attorney assigned to handle DEW cases was made a Special Assistant Attorney General and empowered to prosecute fraud cases on behalf of the Attorney General. The initial goal was to select 80 cases with potentially fraudulent amounts of over \$10,000 per case.

Prior to ceasing claimant fraud prosecutions, from FY 06-07 through February 2008, 45 cases were sent for prosecution totaling approximately \$98,000 (\$2,177 per case average). Under the agreement between DEW and the AG, the initial 80 cases selected in 2011 totaled \$1,048,991. An additional 115 cases that met the same criteria have also been identified, totaling an additional \$1,607,957. In all, the fraud cases over \$10,000 each total \$2,656,948. Since the inception of this agreement, 1,844 cases of fraud have been identified, totaling over \$9.6 million.

Due to the number of cases, as well as the total amount of fraud, DEW's collections department, together with the AG, established a three-pronged approach to the fraud prosecutions. This approach allows for plea bargains that should allow for the repayment and reallocation of the misused unemployment insurance funds.

The three options are:

*Option 1*

Claimants will sign a plea agreement and repay all fraudulently received funds within six months. Individuals satisfying this requirement will not be convicted and will not face court action.

*Option 2*

Claimants will sign a plea agreement and repay all fraudulently received funds, plus an additional \$1,500 civil penalty fee, but will have longer than six months to repay. Individuals accepting this plea will be required to repay 10% of the restitution amount initially. The charge will be reduced from a felony to a misdemeanor, and the individual will be placed on probation for a period determined by the judge. Probation is directly tied to the receipt of the final restitution payment.

*Option 3*

Claimants that do not choose Option 1 or 2 will be prosecuted for felony fraud.

Of the original 80 cases, 15 plea agreements and statements have been signed by claimants, as of September 21, 2011.

- Three claimants chose Option 1. One claimant paid restitution immediately, while the other two claimants were scheduled to pay restitution within six months.
- Eleven claimants chose Option 2 with the reduced charges and longer payback times.
- One individual verbally committed to Option 1, but had not signed the paperwork.
- The Attorney General's office is working with various grand juries to obtain indictments for the remaining claimants.



# Communication and Follow-Up

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In this chapter, we discuss DEW's communication with claimants and the public, and report on DEW's efforts to implement the recommendations from our January 2010 audit.

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## Communication

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DEW needs to improve its communication with claimants and the public. We found that DEW's website did not contain basic information about eligibility requirements and duration of benefits. Printed materials provided to claimants varied by SC Works Centers. We found two centers that showed claimants an outdated video that included incorrect information. Also, we had difficulty reaching DEW offices by telephone. After we informed DEW of these communication issues, the agency took steps to address some of them.

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### DEW's Website

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We reviewed DEW's website and found that it did not include basic information on eligibility and benefits that would be useful for claimants and the general public. For example:

- The site did not include information on the minimum number of weekly job contacts (five for claimants receiving extended benefits, four for all other claimants) required to maintain eligibility.
- The site was not updated to reflect legislative changes made in June 2010 that reduced the maximum number of weeks from 26 to 20 for which regular UI benefits claimants may be eligible.
- The site did not include a complete list of all SC Works Centers. Some counties with SC Works Centers were listed as not having one. Also, incorrect hours of operation were shown for some centers.
- The site had an events calendar page that included only three job fair listings. For the 20 months we examined, the calendar had no listings for workshops or other information for claimants. We did not find any other information for job seekers or employers on the calendar. The majority of items on the calendar were notices of closings of DEW offices and meetings for a few DEW officials.
- The MyBenefits portal had been active since summer 2011, but claimants were still given instructions on DEW's site for using the old online system.

- The site contained incomplete information that could confuse claimants. For example, a section of the “Understanding Claims Processes” page for claimants told claimants that once DEW mailed them a Pay Order Card (POC), they could then file weekly claims online. It gave no other information about these cards, such as which claimants would need to use the cards and why. We were informed by a DEW official that only claimants in their second benefit year use POCs; however, this was not explained on the DEW website. The way this information was presented on DEW’s website could lead other claimants to mistakenly believe that they would be required to use a POC or would be unable to file weekly claims without one.
- There were multiple DEW websites — dew.sc.gov and scworks.org, for example. The SC Works site did not identify that it was a DEW site, or to whom claimants, job seekers, and employers would be supplying information.
- The site directed claimants to USDOL for basic information on South Carolina’s UI program. The USDOL site then directed claimants back to the old ESC website, which no longer exists.

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## Telephone Contacts

We attempted to contact all 56 of the SC Works Centers. We called the main number, and then, if presented with a menu option, selected the UI division. Of the 56 centers contacted, we were unable to get in touch with a person in 14 cases (25%). In these cases, either no one answered the phone, it was busy, or the call went to voicemail. Of the eight that went to voicemail, six stated that the mailbox was full. For one of these centers, there was no option to leave a message; the voicemail stated that all employees were busy and instructed the caller to call back later.

We also called all the local SC Works Centers to inquire about the process of placing a job order. Of the 56 SC Works Centers contacted, there were 8 (14%) for which we either were unable to leave a message or we left a message that was not returned.

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## Printed Materials

After each claimant files his or her initial claim, the SC Works Center mails an information packet to the claimant. DEW sends this packet to provide information that claimants new to UI and DEW would need, including information necessary to fulfill requirements to establish and maintain UI eligibility.

We reviewed the contents of these packets sent by four SC Works Centers and found that they varied from center to center and by date sent. In addition, the packets contained inadequate and incorrect information. For example, although the contents of the packets received in July 2011 from the Clinton, Lexington, Newberry, and Richland centers differed, they all informed claimants of the minimum requirement of four weekly work contacts implemented in February 2011 for non-EB claimants. The packet received from the Lexington center in February 2011 did not mention this requirement. Some packets instructed claimants to communicate with ESC offices that no longer existed, provided them with outdated ESC contact information, or encouraged them to participate in DEW workshops that had already occurred.

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## Video

Some DEW SC Works Centers showed claimants an outdated benefit rights information video that contained incorrect information. This video was originally sent to all SC Works Centers statewide to use. Two SC Works Centers we visited showed the outdated video on the centers' computers for claimants to view, which gave claimants incorrect information. For example, the video informed claimants that they were required to make a minimum of one job contact a week, when DEW policy required a typical claimant to make a minimum of four job contacts a week.

During one of the eligibility reviews we observed, when a claimant asked about the number of job contacts he was required to make each week, a DEW worker informed him of the correct number of contacts but also recommended that he view the outdated benefits rights information video. This would have misled the claimant by stating that only one job contact was required per week, and he may not have been considered at his next eligibility review as having fulfilled his eligibility requirements. After we informed DEW about the outdated video, DEW sent a memo to all the SC Works Centers to stop using the video.

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## Conclusion

We informed DEW of our findings relating to incorrect or incomplete information on DEW's website, the outdated video, and our SC Works Centers telephone contacts. In response, DEW took steps to address some of these issues. DEW revised some information on its website concerning the number of weekly job contacts and the duration of benefits. In August 2011, the centers were instructed to discontinue use of the video. Also in August 2011, an e-mail was sent to all the centers encouraging them to answer calls in a more timely manner and respond to voicemail messages on a daily basis.

DEW needs to ensure that it communicates accurate, complete, and up-to-date information to claimants, employers, and the general public. Claimants, in particular, may be relying on information about eligibility provided on DEW's website or through printed materials, and misinformation could result in claimants' UI benefits being stopped for failure to meet the requirements.

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## Recommendations

33. The Department of Employment and Workforce should ensure that information it presents through any type of media is up-to-date, accurate, and complete to meet the needs of unemployment insurance claimants, job seekers, employers, and other affected individuals or entities.
34. The Department of Employment and Workforce should ensure that its SC Works Centers provide a reliable means of contact by telephone including a functioning voicemail system.

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## Administrative Oversight of Appellate Panel

South Carolina Code §41-29-300 created the Department of Employment and Workforce Appellate Panel, which is separate and distinct from DEW's divisions. Its sole purpose is to hear and decide appeals from decisions of DEW's divisions. Members of the appellate panel are elected by the General Assembly to four-year terms. Panelists are bound by the Code of Judicial Conduct, as contained in Rule 501 of the South Carolina Appellate Court Rules.

During the course of our audit, a DEW official expressed concern about the oversight of the panel for administrative issues such as leave, required work hours, and workplace location. Questions have arisen as to whether members of the panel are subject to the administrative oversight of the executive director of DEW or the assistant executive director for appeals. Concerns were raised about the amount of time panel members work each week and

whether panel members should be allowed to work from home. Panel members are paid using federal funds and their costs are allocated among various cost categories. These funds could be called into question if not properly documented.

A lack of oversight for administrative issues such as leave, required work hours, and workplace location could result in abuses. Section 41-29-300 of the S.C. Code of Laws created the appellate panel within DEW and §41-29-110 gives DEW the authority to administer its duties within chapters 27-41 of title 41. However, clarification of DEW's authority over the appellate panel could assist DEW in fulfilling its duties and ensure that the panel operates appropriately and in compliance with state and federal administrative requirements.

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## Recommendation

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35. The General Assembly should amend §41-29-300 of the S.C. Code of Laws to clarify the Department of Employment and Workforce's oversight role concerning the Workforce Appellate Panel.
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## Follow-Up

The Legislative Audit Council released *A Management Review of the South Carolina Employment Security Commission* in January 2010, which included 26 recommendations. Since the publication of the report, the Employment Security Commission has been reorganized into the Department of Employment and Workforce, and numerous policy and administrative changes have occurred.

### UI Trust Fund

In the 2010 report, we examined how the Unemployment Insurance Trust Fund became insolvent. We found that, in 2002, data showed that the financial reserves of the trust fund were shrinking to dangerously low levels and that there was not an adequate response from ESC. Additionally, ESC did not issue clear warnings or recommendations to the Governor or General Assembly until shortly before the trust fund went bankrupt.

Since our 2010 report, DEW has issued two trust fund assessment reports. These reports include a five-year trend chart and also contain recommendations to improve the solvency of the trust fund. The agency also recommends allowing the 2010 tax changes to take effect, and then re-evaluating the status of the trust fund once the contributions and benefits for 2011 are known. DEW also recommended seeking an extension of the interest waiver. However, DEW's reports have not contained detailed options for improving the solvency of the trust fund. We also reviewed the FY 09-10 Management and Trust Fund Review of DEW. This report also had trust fund projections, but did not provide detailed options for improving the solvency of the trust fund.

In our report, we also recommended that the UI tax system be reviewed by professional actuaries. In 2010, the General Assembly made significant changes to the UI tax system. This included raising the taxable wage base and changing the tax structure to a tax array method of taxation, in which employers are ranked according to their benefit ratio rather than the reserve ratio that was formerly used as a basis of experience-rated taxation (see p. 13).

In 2011, legislation addressing UI benefits for seasonal workers was enacted. However, this legislation is not in conformance with federal requirements (see p. 19).

In our 2010 report, we found that ESC paid benefits to some employees terminated for cause. Since the report, the General Assembly has enacted legislation that makes claimants terminated for gross misconduct ineligible to receive benefits. Additionally, DEW has developed internal policies that have increased penalties for claimants terminated for simple misconduct.

We also found that South Carolina was one of only seven states that allow the filing of job-attached claims by workers who had jobs but were temporarily separated. DEW has placed a six-week limit on job-attached claims and conducted an analysis on the financial impact of limiting job-attached claims. DEW's analysis showed that no significant savings were achieved when the number of job-attached claims was reduced from 13 to 6 weeks, and that reducing the number of weeks below 6 was unlikely to produce significant additional savings.

### **Fraudulent Overpayments**

In our 2010 report, we found that ESC had stopped prosecuting claimants who received fraudulent overpayments, and that ESC did not refer employers who evade paying unemployment taxes on their employees for prosecution. We found that ESC wrote off overpayments if ESC had not been able to

collect the overpayment within five years, even if the overpayment was fraudulent.

Since our audit, DEW has entered into an agreement with the Office of the Attorney General (AG), whereby an attorney assigned to handle DEW cases was made a Special Assistant Attorney General and empowered to prosecute fraud cases on behalf of the Attorney General (see p. 55). The AG has also agreed to take cases of fraudulent overpayments involving at least \$2,000.

DEW has also implemented a new overpayment tracking system, the Benefit Audit, Reporting, and Tracking System (BARTS). DEW states that BARTS will increase its ability to conduct audits of overpayments (see p. 49).

Since our 2010 audit, state law has been amended. Section 41-41-40(A)(5) of the S.C. Code of Laws states:

Notwithstanding any other provision of this section, no action to enforce recovery or recoupment of any overpayment may begin after five years from the date of the final determination for nonfraudulent overpayments nor after eight years from the date of the final determination for fraudulent overpayments.

Previously, the action to recover fraudulent overpayments could not begin after five years from the date of the final determination.

### **Job Referrals/Placement**

In our 2010 report, we examined ESC's efforts to return claimants to work. In its job matching of employers with job referrals, we found that ESC did not have a written policy for screening referrals. We also found that ESC did not penalize claimants who do not follow up on individual job referrals. Additionally, ESC did not give claimants priority in job referrals. We found that less than half of job vacancies in South Carolina were listed with ESC. We also found that ESC needed to improve the recording of services provided to claimants. We also recommended that DEW should report separately the job placements associated with the Migrant Seasonal Farm Workers' program.

We received a copy of a DEW memorandum from June 2010, addressed to all area directors and field supervisors, that instructed the centers to follow the specific job criteria provided by employers when screening job seekers for referrals. We also received a copy of a DEW policy that gives claimants preference in job referrals.

Regarding DEW's placement goals, DEW has stated that, as of November 2010, it does not focus on placement as a performance measure and has ceased to track that metric. DEW no longer factors in direct placements in measuring SC Works Centers or Wagner-Peyser performance measures. Instead, the centers and overall program performance will be measured on the numbers served who become re-employed, whether they stay employed, and their average wages. DEW also has plans to require claimants to register in the SC Works Online System in order to receive benefits. DEW is still not reporting job placements for the Migrant Seasonal Farm Workers' program separately in its accountability report.

### **Agency Organization**

We examined the ESC's management processes. We found that, unlike most other Southeastern states, the Governor had little authority over ESC. We outlined several potential options for agency reform. In addition, we recommended that DEW revise its notification process and provide the General Assembly with an annual legislative package.

Unlike ESC, DEW is a cabinet agency whose director is appointed by the Governor. DEW also has an appellate panel consisting of three individuals appointed by the General Assembly which hears appeals of benefit determinations. In addition to overseeing the unemployment insurance and reemployment functions of the former ESC, DEW also administers the Workforce Investment Act, which was formerly housed at the Department of Commerce. DEW has revised its annual assessment reports and has stated that it will continue to provide the General Assembly information on its legislative needs.

### **Internal Audit Duties**

In our 2010 audit, we found that ESC did not properly investigate allegations of mismanagement and that ESC's internal auditor had little role in monitoring the trust fund. We also found that ESC did not have qualified staff to perform all necessary accounting functions of the agency. Finally, we recommended that ESC revise its commuting policy.

DEW's internal audit department has been re-organized and is conducting an agency-wide risk assessment to assist in identifying areas to be included in the annual audit plan. As of December 2011, this department has conducted seven internal investigations relating to allegations of mismanagement. DEW stated it has hired a certified public accountant (CPA) for UI accounting, and the UI division currently has three CPAs. DEW has also revised its commuting policy.



### **Information Technology**

In our 2010 report, we found numerous issues regarding ESC's information technology, including a lack of an agency-wide information technology plan and the issuance of duplicate benefit checks. We recommended that DEW conduct a study of its information technology capabilities and consider developing a multi-year, agency-wide plan. Since our 2010 report, DEW commissioned an external group to write an information technology strategic plan that was published in October 2010. DEW's Division of Information Technology is currently working on information technology issues at DEW. DEW is also a member of the Southeastern Consortium, a group of four states that includes Georgia, North Carolina, and Tennessee. The Southeastern Consortium is working to develop a core benefit system to accommodate states' individual needs.

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### **Review of Management Processes**

In our 2010 report, we noted that the agency was in the process of recruiting a new director. We stated that, once new management was in place, DEW should conduct a thorough review of the agency's mission, how business practices support the agency's mission, and how to ensure public confidence in the agency's ability to serve employees and businesses. DEW's new director began serving on September 1, 2011. Based on the issues identified in our current review, we believe a thorough review of agency processes is still warranted. As noted above, DEW's internal audit department is conducting an agency-wide risk assessment to assist in identifying areas to be included in the annual audit plan which should help assist agency management in a review of agency processes. However, agency management also needs to monitor agency operations to ensure that the processes are effective and operating in accordance with law and policy.

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### **Recommendation**

36. The Department of Employment and Workforce should review all agency processes for effectiveness and compliance with law and policy.

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**Chapter 5**  
**Communication and Follow-Up**

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# Agency Comments

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**Nikki R. Haley**  
Governor

**Abraham J. Turner**  
Executive Director

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March 6, 2012

Perry K. Simpson, Director  
South Carolina Legislative Audit Council  
1331 Elmwood Avenue, Suite 315  
Columbia, South Carolina 29201

Dear Mr. Simpson:

The SC Department of Employment and Workforce (DEW) is pleased to provide the attached responses to the Legislative Audit Council's (LAC) February 2012 report, *A Management Review of the Department of Employment and Workforce*. We appreciate the time and effort by the LAC and welcome the feedback given by the council in the report. The Department will use this information to further enhance the services we provide to the citizens of South Carolina.

While the report does offer recommendations for improvements, it also identifies many of the positive initiatives the department has taken over the past two years. These measures have transformed our agency into a more effective, progressive organization with a keen focus on our strategic objective of putting South Carolinians back to work. I would also like to highlight some other initiatives and progressive measures we have undertaken in recent months.

As you are aware, once last year's legislative session ended, we began issuing both refunds and credits to businesses in the state as a result of the \$146 million appropriations earmarked to help repay our federal debt and lower taxes. Since that time, I am proud to say that all businesses that were due these refunds and credits did, in fact, receive them.

Since assuming duties as the Executive Director, the department has made two loan repayments to the federal government totaling \$183.8 million. Plans are underway to have all loans repaid by 2015. We were also able to receive the full 5.4 percent credit on business federal unemployment taxes (FUTA) for 2011. This means that for wages paid (up to the first \$7,000) between January 1, 2011 and June 30, 2011 the effective tax will be 0.8 percent (6.2 -5.4 percent credit) while the tax rate for wages paid between July 1, 2011 and December 31, 2011 will be 0.6 percent (6.0-5.4 percent credit). The increased solvency and repayments made it possible to avoid any federal tax penalties for 2011. I anticipate that the state will continue to avoid these federal penalties each year as we continue to pay down the loans.

Recently, we have developed a technical training program. Every DEW employee will receive mandatory technical training. With this training, employees will be able to provide more efficient and high-quality customer service using the most recent information and resources available to them. This will be standardized training that will form the base line for all of our

*"Putting South Carolinians Back to Work"*

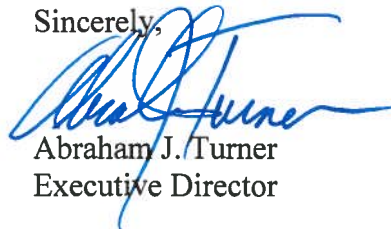
Perry K. Simpson  
March 6, 2012  
Page 2

employees. Quite frankly, this has not existed; and, what I saw in my visits across the state to the SC Works Centers is that we were inconsistent in our service and responses to citizens seeking help. The culmination of this training will result in a certification for each of our employees as we are working with nationally certified instructors to establish the criteria. This is exciting because we are the only state in the nation to be developing this type of dedicated training.

Finally, we have established a partnership with the U.S. Department of Labor, Office of Inspector General in an effort to combat unemployment insurance fraud. This partnership and cooperation of state and federal resources will lead to the investigation and prosecution of more unemployment insurance overpayment cases in both state and federal court. The joined efforts will also increase efficiency through the limitation of duplicate state and federal efforts.

In conclusion, I am proud to state that the culture at the SCDEW is shifting from one of complacency to a forward thinking positive approach so that every employee is constantly exploring ways to better serve the residents, employers and other stakeholders of our great state. I see that in my visits across the state to each of our SC Works Centers. I want to thank the Legislative Audit Council for this detailed report and I want to inform the council that we have already established policies and processes to address many of these recommendations. SCDEW is a proud organization that continues to work hard in becoming the *best* state employment agency in the nation - - the great citizens of the State of South Carolina deserve nothing less.

Sincerely,



Abraham J. Turner  
Executive Director

AJT:bs

Attachment

## SCDEW Responses to LAC Audit Recommendations

**#1: The General Assembly should amend state law relating to benefits for seasonal workers to bring it into conformance with federal requirements.**

**DEW response:** The South Carolina State Senate Labor, Commerce and Industry (“LCI”) committee has filed a bill (S.1069) in an effort to replace the current seasonal legislation that does not conform to federal law. DEW has provided feedback from the United States Department of Labor (“DOL”) to the LCI committee concerning certain portions of the proposed legislation. DEW is also conducting a cost-benefit analysis of that bill.

**#2: The Department of Employment and Workforce should implement a written policy regarding the disqualification periods for terminations for cause not involving gross misconduct. The department should also develop procedures to monitor to ensure compliance with the policy.**

**DEW response:** DEW will develop and implement a written policy covering the disqualification periods for terminations for cause. The Department provides continuing training on the disqualification parameters to maintain consistency in decisions, and will incorporate the new policy into its staff training program.

**#3: The Department of Employment and Workforce should monitor the United States Department of Labor’s study of combined wage claims and revise its policies for charging employers for combined wage claims to ensure they are in compliance with federal requirements and state law.**

**DEW response:** DEW is monitoring DOL’s study of combined wage claims; however, DOL has not completed its study or issued a new policy. DEW will continue to monitor the situation.

**#4: The General Assembly should examine the contingency assessment to determine if it is still needed.**

**DEW response:** The contingency assessment has, and continues to fund between 50 and 70 full-time positions in the Employment and Training Division. In addition, the funds are used to pay for preventative maintenance, non-recurring capital costs, and other costs unallowable under various federal grants that are reasonable and necessary to ensure SCDEW’s reemployment efforts are supported by adequately staffed and well-maintained facilities in both the central office and local offices.

While SCDEW welcomes any legislative inquiry into the agency’s use of, and need to collect the UI contingency assessment, the agency strongly disagrees with any recommendation to eliminate the contingency assessment, or to alter the assessment methodology in any manner that results in a reduction of current and/or future revenues. A major state-wide initiative related to re-employment and job certification will require re-allocation of significant federal grant funds. These funds, historically used to fund employment services (ES) staff, must be replaced with contingency funds. This re-allocation, along with other critical funding changes described below, will require the use of increased contingency collections associated with adjusted taxable wage bases and other law changes put into effect by the state legislature for 2011 and future tax years.

As stated in this report, 10% of the state’s Wagner-Peyser allocation previously used for employment services staff and operating costs, will now be reallocated to partially fund the Governor’s WorkReady Communities initiative. On average, this amounts to approximately \$1 million per program-year in additional funding needed to maintain current ES staffing that has not been required in prior periods. This 10% portion is designated as being reserved for use by the Governor in accordance with Sec. 7 (b) of the

## SCDEW Responses to LAC Audit Recommendations

Wagner-Peyser Act of 1933, as amended by the Workforce Investment Act of 1998. In prior years, the 10% funds were allocated to SCDEW to fund ES services and staff.

In addition, SCDEW has increased the number of ES staff in local areas in order to better serve the agency's mission, and provide more timely and effective customer service. The increased level of ES staff funded by the remaining 90% Wagner-Peyser funding, leaves a projected net shortfall of approximately \$400,000 for the program year 2011 (PY 11) for the period from July 1, 2011 to June 30, 2012. While actual results could vary from this projection (calculated as of December 31, 2011), additional contingency collections as a result of the increased taxable wage base were estimated and considered available to SCDEW prior to making hiring decisions, and will be needed to ensure adequate ES staffing levels are maintained and to avoid significant staff layoffs.

The federal government has also reduced the state set-aside for Workforce Investment Act (WIA) formula funding from 15% to 5%. This results in a significant reduction of WIA funding previously available to the Governor's State Workforce Investment Board (SWIB). As the board continues its statewide operations in conjunction with SCDEW, it is likely that new SWIB initiatives will require supplemental funding that might be provided through the use of contingency funds, as allowable under law.

SCDEW is also closely monitoring federal budget cuts to workforce programs for future years. More specifically, federal funding to all programs may be subject to constitutionally mandated sequestering, triggered by the failure of the federal deficit reduction panel. Unless repealed, automatic cuts to federal programs totaling \$97 billion would take effect in January 2013. This would have a direct and negative financial impact on SCDEW's ability to sustain required staffing levels to provide reemployment services to customers. With federal spending cuts on the horizon, the increased contingency fund collections will be needed to provide critical supplemental funding for the agency.

**#5: The General Assembly should examine the method used to fund the contingency assessment to determine if the assessment should be linked to the taxable wage base or funded in some other manner.**

**DEW response:** 30 states, including South Carolina, currently collect certain taxes for Unemployment Insurance (UI) Administration, job training, employment services, or special technology improvements. According to a recent survey published by the United States Department of Labor (USDOL), which SCDEW has provided to the LAC, South Carolina's assessment percentage of 0.06% on taxable wages represents one of the lower assessment rates of all 30 states that collect this type of surtax. This is especially important when considering that South Carolina's taxable wage base remains 26% below the national average, even after the increase for 2012 to \$12,000 per worker. It is further expected that, even when the taxable wage bases reaches its statutory ceiling of \$14,000 effective January 1, 2015, it will continue to fall below the national average, currently calculated at approximately \$16,000 per worker.

The Contingency Assessment fund is required by state law to be used for reemployment services and other initiatives designed to return unemployed or underemployed South Carolinians to work as quickly as possible. With the continued budget cuts at the federal level for job placement and training programs such as Wagner-Peyser and the Workforce Investment Act, this fund provides much needed revenue to continue the reemployment services offered by the state. For a very low cost (maximum of \$7.20 per current employee), the state's businesses are contributing to the much needed effort to improve the skill sets of South Carolina's unemployed as well as helping to better match those with the necessary skills to open positions throughout the state. These funds are likely to have a net positive economic impact on the



## SCDEW Responses to LAC Audit Recommendations

state as individuals are better matched with available jobs and also have the chance to improve both their soft and technical skills through opportunities afforded to them by this funding mechanism.

**#6: The Department of Employment and Workforce should establish a system for monitoring the effectiveness of services paid by the contingency assessment funds and include a review to determine if the cost to collect the tax can be lowered so that more funds can be used for services to claimants.**

**DEW response:** SCDEW currently has such a system in place. Please refer to the responses to recommendations numbers 21 and 22. Since employment services (ES) staff are funded both with Wagner-Peyser and contingency assessment funds, there exists no difference between the services provided. Therefore, the system used to monitor the effectiveness of services paid by the contingency assessment fund is not separable from the system used to monitor the same measures from federally funded ES staff.

Since Federal grants for the administration of the UI program may not be used to collect non-UI taxes, such as the contingency assessment, federal legislation establishing non-UI taxes provides that a portion of the revenues generated will be used to offset the cost of collecting the tax. Our approved cost allocation plan submitted to the United States Department of Labor (DOL) Office of Cost Determination (OCD) requires quarterly reimbursement of contingency fund collection costs to the UI program based on the proportionate share of employer master-file data used by the contingency fund. This plan has been approved by the OCD for use by many states to allow for proper reimbursement of non-UI tax collection costs.

**#7: The General Assembly should amend S.C. Code §41-33-45 to remove the requirement for the Department of Employment and Workforce to report on cost shifting of unemployment benefits among employers in the agency's trust fund assessment report.**

**DEW response:** DEW concurs with the recommendation made by the Legislative Audit Council that the General Assembly should remove the statutory requirement to report on the cost shifting of unemployment benefits because that analysis was used under the department's prior trust funding financing model, and is no longer applicable for the current financing model.

**#8: The General Assembly should amend state law to require only one trust fund report from the Department of Employment and Workforce each year.**

**DEW response:** DEW concurs with the Legislative Audit Council's recommendation to require only one trust fund report each year. Further, DEW recommends that it be allowed to furnish the trust fund report sixty (60) days after the external audit of the trust fund is completed each year.

**#9: The Department of Employment and Workforce should publish the agency's annual trust fund report on the agency's website.**

**DEW response:** DEW will publish future annual trust fund reports on the agency's website.

**#10: The Department of Employment and Workforce's annual trust fund report should include analyses and recommendations discussing various options for improving the solvency of the trust fund, addressing both benefits and taxes.**

## SCDEW Responses to LAC Audit Recommendations

**DEW response:** DEW concurs with the Legislative Audit Council's recommendation that the department's annual trust fund report include analysis and recommendations to improve the solvency of the trust fund, addressing both benefits and taxes. DEW believes its reports include that information.

**#11: The General Assembly should examine whether the Workforce Initiative/Economic Development Research Committee is beneficial to the state, and if so, reconstitute the committee.**

**DEW response:**

DEW will comply with the directives of the General Assembly.

**#12: The Department of Employment and Workforce should monitor to ensure that eligibility reviews are being conducted at the intervals required by policy.**

**DEW response:** DEW reiterates in its staff training sessions the agency requirement that eligibility reviews must be conducted at intervals no longer than twelve weeks. To the extent local offices can conduct the reviews sooner than 12 weeks, they do. DEW will monitor to ensure that staff are following this requirement.

**#13: The Department of Employment and Workforce should implement a policy to periodically verify wage information during all eligibility reviews.**

**DEW response:** DEW implemented the BARTS system in December 2011. This system verifies that claimants are not in fact receiving wages while claiming unemployment benefits and we believe this to be a more efficient and effective way to verify wage information than to do so during eligibility reviews.

**#14: The Department of Employment and Workforce should analyze the eligibility review process to determine how the effectiveness of eligibility reviews can be improved.**

**DEW response:** DEW is in the process of analyzing different methods for conducting eligibility reviews. Specifically, DEW is considering automating the eligibility review form and having claimants complete that form on-line (for those without access to computers, they would mail their forms), and then DEW would select a random sample of claimants from each local center to come in for one-on-one, in-person eligibility reviews. DEW plans to implement this new methodology within the next six months.

**#15: The Department of Employment and Workforce should implement a system to verify a random sample of claimants' job contacts.**

**DEW response:** DEW is implementing a policy change to require one of the four mandatory work searches per week to be performed through SCWOS. DEW is programming its computer systems to capture that search information so that it will be able to verify that the claimant did in fact contact at least one employer that week. The time estimate for completing the program changes is 3 months from the time the project is started; this will be completed by April 2012.

**#16: The Department of Employment and Workforce should revise its work search form to require sufficient information to allow DEW to verify the claimants' job search effort and inform claimants that job contacts are subject to random verification.**

**DEW response:** DEW will revise its form to require more detailed information from claimants. DEW will also conduct random work search verifications, and will inform claimants that the job contacts they list are subject to random verification. DEW will institute these changes upon completion of the system work.

## SCDEW Responses to LAC Audit Recommendations

**#17: The Department of Employment and Workforce should establish a mechanism for tracking how often claimants' benefits are stopped for failure to meet job contact requirements.**

**DEW response:** The new programming which will verify if claimants actually contacted an employer each week through SCWOS will allow DEW to track how often benefits are stopped to claimants who have failed to comply with that requirement.

**#18: The Department of Employment and Workforce should use labor market statistics, surveys of SC Works Centers, and other data when deciding the appropriate number of job contacts required.**

**DEW response:** DEW considered all relevant data points in its decision to require claimants to make four job contacts during each week that they are receiving unemployment compensation. We will continue to monitor available data to ensure that the required number of job contacts is fair and equitable.

**#19: The Department of Employment and Workforce should ensure that all communication with claimants regarding the number of required weekly job contacts is accurate and consistent.**

**DEW response:** DEW will communicate with all of the local offices to ensure that accurate and consistent information is shared with claimants about what is required of them. DEW will also incorporate specific training when the new policy and procedures are in place. DEW will implement controls to ensure that printed and audio-visual media available to customers is accurate, current and consistent.

**#20: The Department of Employment and Workforce should conduct impact studies on specific reemployment services in order to determine their effectiveness in assisting claimants. These studies should include comparing the outcomes of claimants who receive reemployment services with similarly-situated claimants who did not receive services in order to determine the effectiveness of the services.**

**DEW response:** SCDEW will identify ways to improve the outcomes of claimants who receive reemployment services by increasing their connection to the SC Works Center. The reemployment services that appear most likely to contribute to positive outcomes are assessment, the provision of labor market information, resume preparation assistance, job search support and job referral.

Claimants will be tracked according to their Reemployment Services (RES) program enrollment status and receipt or non-receipt of reemployment services. The Automated Benefit Payment System and SC Works Online Services will provide the data needed. Programming will be necessary to coordinate these two systems in a manner to create the reporting cohorts. These groups will then be monitored to determine the effects of reemployment services on the duration of the claims.

**#21: The Department of Employment and Workforce should ensure that services provided to claimants are accurately recorded.**

**DEW response:** Training sessions that began in December, 2011, and will continue on an ongoing basis, include hands-on instruction in the recording of services in SC Works Online Services (SCWOS). Also included in the training is a review of Wagner-Peyser service codes and descriptions, and emphasis on the requirement of case notes for applicable services.

## SCDEW Responses to LAC Audit Recommendations

DEW has developed a report that demonstrates, by office, all Wagner Peyser customers for whom 45 or more days have lapsed between services. The report provides staff with customer contact information, as well as various employment indicators, in order that staff may proactively reach out to customers who appear to remain unemployed, prior to their exit from the program and inclusion in federal performance measures.

Additionally, SC Works Online Services generates a weekly list of all Wagner-Peyser customers and their respective services delivered over the past six months. The file is currently used to ensure that claimants have registered for work within two weeks of filing for a UI benefit. However, the file could be used in the future to identify claimants who are not engaged with the workforce system.

**#22: The Department of Employment and Workforce should continuously work to make the SCWOS more user-friendly and should add on its web pages a prominent, user-friendly tutorial to assist users.**

**DEW response:** DEW works continuously to improve upon customer friendliness of SCWOS. During calendar year 2011, DEW submitted 36 enhancement requests to the developers of SCWOS, in order to make the system more user-friendly. 17 of those requests are either implemented or are in some stage of implementation. The remaining are either on hold, or under requirements review by the developer.

In response to the LAC's recommendation, DEW has added a "How to Use This Site" link to the SCWOS homepage, making the Job Seeker and Employer tutorials even more accessible to users. We will continue to add training resources, including the site's existing video tutorials, to this location.

**#23: The Department of Employment and Workforce should monitor customer satisfaction with the SCWOS.**

**DEW response:** The six-question customer satisfaction survey within SCWOS continues to have a high response rate with generally positive results. In September 2011, customers began responding to this survey at a much higher rate than previously, due to an automated invitation that SCWOS began to send to recent registrants, soliciting their feedback.

A review of December's survey report demonstrates the overall positive feedback we are receiving through this survey. For example, the final question (1850 responses) is a summary of the user's experience:

- Overall, how would you rate your visit to SC Works Online Services?
  - Excellent 21.80%
  - Good 46.60%
  - Fair 17.90%
  - Poor 3.40%
  - No Opinion 10.30%

Additionally, DEW has loaded a separate Jobseeker Satisfaction Survey into all SC Works Center resource room computers, throughout South Carolina. This survey includes two questions about SCWOS, and cumulative responses (since July 2011) are included below:

## SCDEW Responses to LAC Audit Recommendations

- The following services or resources were helpful to me:
  - Computer assisted job search (including use of SC Works Online Services [SCWOS])
    - Strongly Agree 55.09%
    - Agree 26.53%
    - Neutral 7.51%
    - Disagree 1.27%
    - Strongly Disagree 1.53%
    - Did Not Use 8.08%
    - (Total Responses = 1572)
- While at the one-stop, I found the following resources easy to use and understand:
  - Computer assisted job search (including use of SC Works Online Services [SCWOS])
    - Strongly Agree 52.54%
    - Agree 27.99%
    - Neutral 7.44%
    - Disagree 1.59%
    - Strongly Disagree 1.84%
    - Did Not Use 8.59%
    - (Total Responses = 1572)

**#24: The Department of Employment and Workforce should clearly label the SCWOS as a service of DEW.**

**DEW response:** DEW will add verbiage to the front page of SCWOS that clearly associates SCWOS with the public workforce system. The State of Florida's statement from its EmployFlorida.com site is a good model for South Carolina. Suggested verbiage (pending internal approval) is:

"SC Works Online Services links all of South Carolina's state and local workforce services and resources. The partners are the SC Department of Employment and Workforce and South Carolina's 12 Workforce Investment Boards, which administer SC Works Centers throughout the State of South Carolina."

**#25: The Department of Employment and Workforce should ensure that its SC Works Center staff who assist employers with job orders promptly respond to employers' requests for assistance.**

**DEW response:** SCDEW plans to install a dedicated telephone line for incoming calls from employers where this is not in place in the SC Works Centers. This dedicated line will have a separate stand-alone telephone number to the SC Works Center, and will ring only on specific phones.

**#26: The Department of Employment and Workforce should regularly evaluate the systems it uses to identify fraud and overpayments to ensure they are operating correctly.**

**DEW response:** While DEW acknowledges that the Pendex scoring system was not running against the entire universe of claimants from 2005 – 2011, other methods of detecting potential overpayments (i.e., compensating controls) were utilized during that time frame. Specifically, DEW was running cross-matches with both the State and National Directories of New Hire, and was also pursuing tips received through the agency's Fraud Tip & Leads program.

## SCDEW Responses to LAC Audit Recommendations

The Pendex system of scoring claims that was previously utilized to identify claims with wages and weeks claimed conflicts has now been replaced by the BARTS Program Fraud X Scoring algorithm and as of October 2011, DEW has been utilizing this scoring methodology to target individuals who have the potential for wages and weeks claimed conflicts. To ensure the longitudinal accuracy of the Fraud X Scoring employed by the BARTS Program, DEW staff will meet with the vendor to ensure the system's accuracy and to ensure that future audits pulled will include the entire universe of claimants.

BARTS is expected to produce 20,000 or more audits per quarter compared to approximately 2,500 per quarter that the old software and manual processes produced. In the first run of BARTS, it produced 12,500 audits. DEW expects significant improvement in its fraud and overpayment detection efforts because of this new software. DEW has, and will continue to, conduct training of staff on how to maximize the efficiency of the BARTS software. DEW also has a cross-functional team (UI and IT) to monitor the operational aspects of the BARTS program.

**#27: The Department of Social Services should work with the Department of Revenue and the Department of Employment and Workforce to develop an outreach program to inform employers in the state about the State Directory of New Hires' requirement.**

**DEW response:** DEW will continue to work with DSS and DOR on developing an outreach program to inform employers of their responsibility to report new hires to SDNH. In the meantime, DEW has undertaken its own initiative to educate employers. DEW applied for and received funding from DOL through its Integrity Initiative to identify employers in South Carolina who do not participate in SDNH by cross-matching employer-reported wages against the SDNH database. Those employers identified as not being compliant will be identified by DEW and submitted to DSS for appropriate action.

Additionally, DEW is currently working with DOR to promote its services to employers. As part of the newest joint outreach project with DOR, DEW will participate in five (5) webinars with the state's principal tax regulatory agencies to promote compliance and to communicate integrity initiatives that benefit the employer community. DEW actively promotes the use of the SCNEWHIRE program in its workshops and employer presentations. The SCNEWHIRE program is communicated as a statutory requirement and as a measure to promote integrity for the unemployment insurance programs by identifying individuals who have returned to work while receiving benefits.

DEW believes that promoting the SCNEWHIRE program in all of its outreach programs will have a strong, positive impact on reducing unemployment compensation fraud. DEW has also added a link to SDNH on its website under the "Employers" heading under "Online Services."

**#28: The Department of Social Services should implement the enforcement methods specified in state law to compel employers to report new hires.**

No response required from DEW

**#29: The Department of Social Services should improve the accuracy of the State Directory of New Hires.**

No response required from DEW

**#30: The Department of Social Services should revise the agency's policy of data purging to match the two-year requirement of the National Directory of New Hires.**

No response required from DEW

## SCDEW Responses to LAC Audit Recommendations

**#31: The General Assembly should amend §43-5-598 of the S.C. Code of Laws to require all employers to submit the date of hire with other required State Directory of New Hires information.**

**DEW response:** DEW concurs with the recommendation made by the Legislative Audit Council that the General Assembly should amend the law to require employers to submit date of hire information.

**#32: The Department of Employment and Workforce should take steps to ensure that claimants are not overpaid on claims involving multiple benefit years.**

**DEW response:** DEW concurs with the recommendation. Testing is complete and DEW has implemented the programming change to ensure claimants are not overpaid on claims involving multiple benefit years.

**#33: The Department of Employment and Workforce should ensure that information it presents through any type of media is up-to-date, accurate, and complete to meet the needs of unemployment insurance claimants, job seekers, employers, and other affected individuals or entities.**

**DEW response:** SCDEW is working to update all information available to the public. SC Works Center contact information at [www.dew.sc.gov](http://www.dew.sc.gov) is being continuously updated, along with all other information on the website. The outdated videos have been removed from the SC Works Centers, and new instructional videos are being added to the DEW website. Printed materials will be monitored to ensure the information contained on them is accurate, consistent and up-to-date.

**#34: The Department of Employment and Workforce should ensure that its SC Works Centers provide a reliable means of contact by telephone including a functioning voicemail system.**

**DEW response:** Enhancements have been made at the SCDEW Headquarters location to provide callers with better choices on getting to the correct department/unit. An auto attendant has been added that includes unified communication at each department/unit and reports on call volumes.

DEW is also enhancing the capabilities of telephone systems at many of the SC Works Centers across the state. VoIP lines have been installed at 26 of the 56 centers, and DEW is making changes at each of these locations. The changes will enhance overall call flow, adding weekly call volume reporting and the addition of unified/group unified communications (i.e., voice mails delivered to email boxes for easier review and quicker response). Of the 26 locations that have VoIP service, these enhancements have been completed at 18 of the 26 centers (70%). Enhancements of the remaining 8 locations are in the project planning phase.

The remaining 30 centers have other telephone vendors (Fortran); the operators of those centers opted not to deploy VoIP to their locations. The IT group has offered to identify what enhancements/features we can add to these other locations. The response that has been received in many cases has been that their budget constraints will not allow for enhancements or technology changes. In some locations, the Fortran system does not allow for basic voicemail. We are researching with Fortran to see if we can offer any additional/affordable feature functionality. In addition, we are researching the redeployment of some Fortran systems to other DEW sites made available when they upgraded to VOIP if it enhances their telephone offerings.

SCDEW staff in SC Works Centers have been apprised of the problem and have received instructions to answer calls immediately whenever possible. When all lines are busy and calls are routed to voice mail,

## SCDEW Responses to LAC Audit Recommendations

SCDEW staff will make every effort to return the call that day and absolutely no later than twenty-four hours from the receipt of the call.

**#35: The General Assembly should amend §41-29-300 of the S.C. Code of Laws to clarify the Department of Employment and Workforce's oversight role concerning the Workforce Appellate Panel.**

**DEW response:** DEW disagrees with this recommendation. DEW does not see any need to alter the current legislation under § 41-29-300. Despite the concerns expressed by one official about the oversight of the panel for administrative issues such as leave, required work hours, and workplace location, the current DEW leadership (Executive Director and Assistant Executive Director for Appeals) is confident that the existing oversight will not result in any abuse. The Appellate Panel has successfully increased efficiency, productivity, and since early June 2011, has exceeded US Department of Labor required performance standards.

**#36: The Department of Employment and Workforce should review all agency processes for effectiveness and compliance with law and policy.**

**DEW response:** The Internal Audit department performs operational audits of agency functional areas and processes, and reports the results directly to the DEW Executive Director. The department recently completed a comprehensive review of UI processes in place at the SC Works Centers; management is implementing many of the recommendations from that audit report.

The DEW management team uses feedback from Internal Audit and Quality Assurance, as well as a variety of other sources (such as performance-related reports, Executive Staff weekly meetings and weekly in-person visits by the Executive Director to SC Works Centers), to continually evaluate and improve the operations of DEW in order to best serve our customers. DEW also conducts federally mandated quality assurance measurements of its UI benefits and tax programs, and reviews the State Migrant and Seasonal Farm Worker (MSFW) program. Finally, all operational processes with potential legal ramifications are reviewed by DEW's Office of General Counsel.



# DSS

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*Serving Children and Families*

LILLIAN B. KOLLER, J.D.  
STATE DIRECTOR

NIKKI R. HALEY  
GOVERNOR

March 6, 2012

Mr. Perry K. Simpson, Director  
Legislative Audit Council  
1331 Elmwood Avenue  
Suite 315  
Columbia, South Carolina 29201

Dear Mr. Simpson:

Thank you for the opportunity to review the final draft of the Legislative Audit Council's (LAC) finding "Directory of New Hires" from "A Management Review of the Department of Employment and Workforce." We appreciate the incorporation of two of our initial draft comments into this final draft.

For purposes of the final draft, we request the enclosed DSS comments be published in the appendix of the final draft as provided for in your transmittal letter.

Please contact Mr. Larry McKeown at 898-9337 if you have any questions.

Thank you for your cooperation.

Sincerely,



Lillian B. Koller, J.D.  
State Director

LBK:mm

Enclosures

Legislative Audit Council's Audit draft regarding the State Directory of New Hires  
Department of Social Services (DSS) Response

**Final Draft Report, Page 50, Paragraph 4:**

Agency Comment: The Department of Employment and Workforce (DEW) has the capability to cross match with the National Directory of New Hires (NDNH) in addition to the SDNH.

**Final Draft Report, Page 51, Paragraph 1:**

Agency Comment: In 2001 and 2002, the general outreach efforts were cumbersome and relied heavily on manual processes such as attaching labels to fliers. Now with improved technology and automated processes, outreach efforts are more feasible. While state law imposes no requirements regarding employer outreach by DSS, DEW or DOR, DSS agrees that there is value in doing outreach. DSS resumed outreach efforts in November 2011 and will continue ongoing outreach efforts.

**Final Draft Report, Page 52, Paragraph 4:**

Agency Comment: This is indicative of the systemic flaws in the NDNH non-compliance report which makes it very difficult to accurately identify non-compliant employers. Therefore, enforcement is difficult for all states.

**LAC Recommendation 27:**

*"The Department of Social Services should work with the Department of Revenue and the Department of Employment and Workforce to develop an outreach program to inform employers in the state about the State Directory of New Hires' requirement."*

Agency Response: Agency agrees with the recommendation. DOR has contacted DSS regarding employer outreach and DSS will provide DOR with SDNH information to give South Carolina employers in their Employer Withholding Tax Workshop which is a joint venture with DSS, DEW, and the IRS. Additionally, while state law imposes no requirements regarding employer outreach by DSS, DEW or DOR, DSS agrees that there is value in doing outreach. Now with improved technology and automated processes, outreach efforts are more feasible; DSS has resumed employer outreach efforts in November 2011 and will continue ongoing outreach efforts.

**LAC Recommendation 28:**

*“The Department of Social Services should implement the enforcement methods specified in state law to compel employers to report new hires.”*

Agency Comment:

DSS recommends repeal of this code section. For the following reasons, DSS believes that a robust and continuing outreach to the employer community will be more productive and achieve the desired outcome.

DSS has contacted the NDNH to determine what other states are doing relative to enforcement. At this point, they are aware of only two states that may impose fines, Utah and North Dakota.

The accuracy of the new hire data and matching processes used to detect failure to report new hires is an ongoing national discussion. The NDNH acknowledges that enforcement is difficult because there are no quantitatively reliable methods for identifying non-compliant employers. The NDNH is aware of the accuracy issues and discussed the issues with states in a recent conference call in November 2011. During the call, they invited ideas and solutions from the states.

Enforcement efforts in South Carolina, as the statute is currently constructed, would be complicated and cumbersome. The need for outreach and the issues of multi-state employers and employers using multiple FEINs to report on the same employee(s) for New Hires and Quarterly Wages create uncertainty in identifying non-compliant employers (see attached responses from employers to our most recent outreach efforts). Under South Carolina’s code section, even if an offending employer is identified, DSS is required to issue warnings and identify each employee whom the employer failed to report to the SDNH. Then, with the burden of proof on DSS, all evidence must be presented by DSS to a family court judge who would determine if a fine is appropriate.

Once a fine is imposed and collected, 66% of the amount collected must be forwarded to the Federal government and the remaining 34% would be retained by DSS. Therefore, the time and effort needed to enforce compliance through fines is not economically efficient. The cost overwhelmingly outweighs the return.

**LAC Recommendation 29:**

*“The Department of Social Services should improve the accuracy of the State Directory of New Hires.”*

Agency Comment: DSS assumes that the word “accuracy” in this sentence refers to the cross-matching process. DSS agrees that an accurate SDNH is very desirable. DSS hopes to improve accuracy through employer outreach. The process of detecting non-compliance is fraught with imperfections (e.g., multiple FEINs, multi-state employers, and data unreliability) that are outside the control of DSS. The NDNH is aware of the issue of accuracy and addressed it in a conference call with the states as recently as November 2011, asking the states for suggestions relative to solutions. The “accuracy” of the new hire data and matching processes is an ongoing national discussion.

**LAC Recommendation 30:**

*“The Department of Social Services should revise the agency’s policy of data purging to match the two-year requirement of the National Directory of New Hires.”*

Agency Comment: The two-year retention by the NDNH is a federal policy and not a requirement imposed on the states for the SDNHs. DEW is not prejudiced by the DSS policy because DEW has access to the records retained by the NDNH for the two-year period. DSS retains records for six months by policy to meet agency needs. After six months of storage, DSS accesses the quarterly wage data from DEW. DEW can retain the new hire data that it receives from the SDNH for any length of time it deems necessary for its purposes.

**LAC Recommendation 31:**

*“The General Assembly should amend §43-5-598 of the S.C. Code of Laws to require all employers to submit the date of hire with other required State Directory of New Hires information.”*

Agency Response: Agency agrees with the recommendation. DSS’s reporting form and databases have the Date of Hire (DOH) as an optional field in accordance with current state statute. The federal requirement making the DOH a mandatory element for employers to report will be a seamless transition for DSS. Many employers already report the DOH with their submittals.

**Happy Camper**  
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(803) 951-7441

2705 Highway 378  
Gilbert, SC 29054  
(803) 892-6863

November 11, 2011

SC Department of Social Services

I sincerely apologize for not knowing or filing with your department with this new hires law. The following four employees have been hired from January thru current of 2011. Please except these W-4's forms with the needed information as required. If there are additional forms please mail them to me. Thank you for your help in this matter.

Sincerely,

*Barbara Blymyer*

Barbara Blymyer-coordinator

Rabon's Superette, Inc  
2350 Peach Orchard Rd  
Spartanburg, SC 29154

Sorry, was not aware of the new hire  
regulations - this is the only new  
employee we have as of Jan 1, 2011

Debra R. Rabon  
President

2 pages total sent



**SPECIAL CARE MEDICAL**

3465 LEAPHART ROAD  
 WEST COLUMBIA, SC 29169  
 803-926-0161 ph. 803-926-0345 fax

**Fax**

To: SC DEPT. SOCIAL SERVICES From: Nick McLendon

FAX: 803-898-9100 Pages: 7 w/ cover

PHONE: 888-454-5294 Date: 11/11/2011

Re: New Hires in 2011

File:

Urgent  For Review  Please Comment Please Reply  Please Recycle

I have attached a copy of our new employee's W-4 for 2011. I have just become aware of the new law to report to your agency with-in 20 days of hire. I will follow this policy in the future. Please let me know if you need any more information. The date of hire for these employees is listed below:

Special Care Medical 3465 Leaphart Rd West Columbia, SC 29169

[REDACTED]

[REDACTED] DOH- 7/8/11

[REDACTED] DOH- 5/31/11

[REDACTED] DOH- 6/21/11

[REDACTED] DOH- 4/13/11

[REDACTED] DOH- 6/30/11

[REDACTED] DOH- 6/6/11

Thanks,

Nick McLendon

November 03, 2011

Subject: New Hire Reporting Requirements

From: SC Department of Social Services  
Child Support Enforcement Division  
State Directory of New Hires  
P.O. Box 1469  
Columbia, SC 29202-1469.

Web site: [www.scnewhire.com](http://www.scnewhire.com)

Phone: (803)898-9235 OR 1-888-454-5294  
FAX: (803)898-9100

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[www.scnewhire.com](http://www.scnewhire.com)

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According to a report we received from the National Directory of New Hires (NDNH), you may have hired new employees during the 1st Quarter of 2011 but did not report these employees to the State Directory of New Hires (SDNH). If you began reporting your new hires after the 1st Quarter of 2011, please disregard this notice and continue reporting.

This a reminder that ALL EMPLOYERS operating in the State of South Carolina are required to report certain information about all newly hired or rehired employees to the SDNH within twenty (20) days of the date of hire. This requirement is in accordance with Section 43-5-598 of the South Carolina Code of Laws and 42 USC Sec. 653a.

For each newly hired or rehired employee, all employers are required to report the Federal Employer Identification Number (FEIN), employer's name and address, the employee's Social Security Number, full name, address, and date of hire. Additionally, employers may provide the employer's phone number and the employee's date of birth.

We provide a number of ways for you to report your new hires. To ensure that your new hire information is submitted in the most accurate and timely manner possible, we encourage you to utilize our web site at [WWW.SCNEWHIRE.COM](http://WWW.SCNEWHIRE.COM). If you do not have internet access, you may report your new hire information by sending a copy of the employee's W-4 Form or any equivalent form containing the data elements described above to the address or fax number at the top of this notice.

This letter does not serve, nor is it intended to serve, as an official notice of noncompliance. If you need more information regarding your new hire reporting requirements including penalties, forms, reporting options and use of the information, visit our web site at [WWW.SCNEWHIRE.COM](http://WWW.SCNEWHIRE.COM) or you may call us at the numbers above.

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[www.scnewhire.com](http://www.scnewhire.com)

=====

we have not  
hired a new  
employee for over  
3 years!!

ID: 870655

Dr. James Cahill  
689 N. Guignard  
Sumter SC  
29150.



November 03, 2011

Subject: New Hire Reporting Requirements  
From: SC Department of Social Services  
Child Support Enforcement Division  
State Directory of New Hires  
P.O. Box 1469  
Columbia, SC 29202-1469.

PLEASE SEE  
ATTACHED.

SORRY, I THOUGHT  
OUR ACCOUNTANT  
FILED THIS.

*Deat Vaughn*

Web site: [www.scnewhire.com](http://www.scnewhire.com)  
Phone: (803)898-9235 OR 1-888-454-5294  
FAX: (803)898-9100

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=====  
[www.scnewhire.com](http://www.scnewhire.com)  
=====

5205 N. TRENHOLM ROAD  
FOREST ACRES, SC 29206

Phone: 803-782-8475  
Fax: 803-782-3183



# Fax

To: SC DEPARTMENT OF SOCIAL SERVICES From: ROBERT P. MASSA, Finance Director  
 Fax: 9-1-803-898-900 Date: 11/9/2011  
 Phone: \_\_\_\_\_ Pages: 12  
 Re: COMPLIANCE NOTICE CC: \_\_\_\_\_

Urgent     For Review     Please Comment     Please Reply     Please Recycle

•Comments:

ENCLOSED ARE THE NEW HIRE REPORTS FOR ALL EMPLOYEES HIRED THIS YEAR. YOU WILL NOTE NONE WERE IN THE 1<sup>ST</sup> QUARTER OF THIS YEAR. AS A RESULT EITHER SC OR THE NATIONAL DIRECTORY OF NEW HIRES HAS A FAULT IN THEIR PROCESS SINCE WE DO AND HAVE BEEN REPORTING ALL NEW HIRES WITHIN THE TIME FRAME REQUIRED.

YOU CAN SAVE SC TAXPAYERS SIGNIFICANT SUMS OF MONEY IF YOU WOULD VERIFY THE ACCURACY OF RECEIVED REPORTS PRIOR TO HAVING THE COMPUTER GENERATE A LETTER ADMONISHING SOMEONE FOR NON-COMPLIANCE.

WE HAVE AND WILL CONTINUE TO FOLLOW THE LAW.

*Rob Massa*

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