



North Carolina Enacts Bold UI Solvency Legislation

On February 19th Governor Pat McCrory (R-NC) signed into law a comprehensive UI reform and solvency bill (HR 4) taking dramatic steps to eliminate the \$2.5 billion Title XII Loan balance, align benefit payout with UI Tax revenue, make adjustments in the UI tax rate schedule and focus more on reemployment and integrity in the administration of the state UI law. The bill can be found at <http://mobile.ncleg.net/Sessions/2013/Bills/House/PDF/H4v5.pdf>

The comprehensive change was based in large part on a study for the North Carolina Chamber of Commerce Foundation (attached) coordinated by Tony Fiore, Attorney with the firm of Kegler Brown Hill and Ritter with subject matter expertise provided through UWC's National Foundation for Unemployment Compensation and Workers' Compensation.

The bill signed into law includes a number of significant changes, including:

- Reduces the Maximum Weekly Benefit Amount from over \$500 to \$350
- Reduces the number of maximum weeks of state UI benefits to a range of 12 -20, depending on unemployment rates reviewed twice a year.
- Changes the calculation of the weekly benefit amount from an amount based only on the high quarter to an amount based on the two most recent quarters
- Changes the earnings disregard from a 10% of wages to 20% of the weekly benefit amount
- Increases the minimum and maximum UI tax rates
- Changes the rate schedule
- Adopts a long list of integrity measures
- Focuses attention on reemployment

North Carolina took the bold step of changing the calculation of the weekly benefit amount to reduce the average weekly benefit amount effective July 1st, raising an issue with the US Department of Labor as to whether the new law would result in the loss of Federal reimbursement of weeks of Emergency Unemployment Compensation (EUC) benefits. Despite the likely loss of funding for weeks of EUC benefits, the North Carolina legislature and the Governor took the position that addressing the solvency of the state UI trust fund was needed for the state to move forward in attracting new business and job creation.

Consistent with the point that states should not be prohibited from taking measures to address solvency, North Carolina, is now also seeking amendment to the "no-reduction" provision connected to EUC funding.



North Carolina UI Solvency Study Observations and Recommendations

MAY 18, 2012

Commissioned by:



EMPLOYERS COALITION OF NORTH CAROLINA



Prepared for North Carolina Chamber Foundation and ECNC by:



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I. Biographical Information on Authors

Antonio C. Fiore, Attorney – Of Counsel **Kegler, Brown, Hill & Ritter, LPA**



Antonio C. Fiore, Esq. serves as Of Counsel for Kegler, Brown, Hill & Ritter. Mr. Fiore previously served as the Director of Labor and Human Resources Policy for the Ohio Chamber of Commerce for 10 years as the lead lobbyist for all labor and employment issues, including unemployment compensation. During his tenure, Mr. Fiore worked with state UI agency officials and lawmakers to simplify Ohio's unemployment compensation laws and help advocate for increased support for the state's workforce development and reemployment services. In this capacity, Mr. Fiore testified in the Ohio House of Representatives Commerce & Labor Committee as well as the Ohio Senate Insurance, Commerce & Labor Committee. He also served as the Ohio Chamber's liaison to the U.S. Chamber of Commerce's Labor Relations Committee. Mr. Fiore also served as the Chamber's lead spokesperson for print, radio and television media inquiries for labor and human resource issues.

He has been actively engaged in unemployment and employment security issues for over a decade focusing most of his work in the last four years on state-by-state tracking of legislative changes related to the American Recovery and Reinvestment Act of 2009 and state UI trust fund solvency. Mr. Fiore has tracked and reported on UI legislation as well as significant law changes in all 50 states for the Washington, D.C. based organization UWC since 2008. Mr. Fiore is a 1998 graduate of the Max M. Fisher College of Business with a Bachelor of Science in Business Administration majoring in International Business. He also received his Juris Doctorate from Capital University Law School in 2004.

Douglas J. Holmes, President **UWC Strategy, Inc. – Strategic Services on Unemployment & Workers' Compensation**



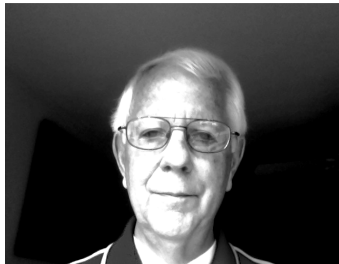
Douglas J. Holmes began as President of UWC in November, 2006. In his position as President of UWC, Doug serves as the primary UI legislative and policy resource for business, counting as members an array of national and state business trade associations, Fortune 500 companies and third party administrators. He also serves as President of the National Foundation for Unemployment Compensation & Workers' Compensation, which produces regular comparisons of state UI law and hosts the annual national unemployment insurance issues conference. Doug joined UWC after more than 22 years in positions in the public sector in which he developed policy and administered the federal/state unemployment insurance system.

During his tenure in state government, Mr. Holmes served as Deputy Administrator of the Ohio Bureau of Employment Services, Deputy Director of the Ohio Department of Job and Family Services, Ohio Unemployment Insurance Director, Chief Counsel for Unemployment Insurance, and Secretary of the Ohio Unemployment Compensation Advisory Council appointed by the Governor.

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In addition to his work in Ohio, Mr. Holmes served as Chairman of the UI/ES Reform Workgroup for the National Governors' Association, coordinator of the Coalition for Employment Security Financing Reform, and a member of the US Department of Labor UI Reform Workgroup. He has been a frequent speaker on the topic of the unemployment insurance system before Congress, state legislatures, state and national business organizations, state agencies, and labor organizations. UWC has served as the coordinator of a broad based UI business coalition seeking relief from federal unemployment taxes and advocating for improved integrity of the UI system. Mr. Holmes is an Attorney, and graduate of the Ohio State University and the University of Toledo College Of Law.

Jim Hemmerly **Consultant**



Mr. Hemmerly has a long and distinguished career in the Ohio agency with oversight of the state's unemployment system. He dedicated most of his career at the Ohio Bureau of Employment Services from 1970 to 1998. During that time he worked within the Labor Market Information Division from 1970 to 1990, and was the Assistant Director from 1983 to 1990. He continued his state service as the UC Advisory Council Secretary within the UC Special Programs Department from 1990 to 1998. He retired from state service in October 1998.

Since then Mr. Hemmerly has continued his public service at the Washington-Centerville Public Library from 1999 to 2007 where he served in various roles. He retired March 2007. He began his public service career in the US Army from 1968 to 1970 and was honorably discharged as SP5E5 August 1968. Mr. Hemmerly received his Bachelor of Science in Economics from The Ohio State University (OSU) in 1968. He also received his Master's in Business Administration from OSU in 1976. He also completed a substantial amount of work toward a Doctorate of Philosophy in Labor and Human Resources at OSU.

Tom Whitaker **Attorney and Consultant**



Thomas Whitaker is an Attorney and Consultant in Raleigh, N.C. Previously, he worked for the N.C. Employment Security Commission (ESC) in legal, legislative and managerial positions and was named Acting Chairman in 2000. He retired in 2010 after serving for 4 years as Deputy Chairman and General Counsel. During his 36 years with the ESC, he frequently testified before the N.C. House and Senate Committees concerning unemployment insurance legislative and trust fund issues. Mr. Whitaker represented the ESC before Federal and N.C. Courts and appeared before the N.C. Supreme Court in unemployment insurance and employment cases.

In 2000, Mr. Whitaker was named the "2000 State Administrator of the Year" by the National Association of Workplace Professionals and in 2003 he chaired a five year review of the unemployment insurance benefits systems for all states. Mr. Whitaker served as President of the National Association of State Workplace Agencies (NASWA) in 2008 and in that capacity testified before a Congressional House sub-committee and the Senate Finance Committee concerning unemployment insurance and workforce issues. He served as Chair of the NASWA Unemployment Insurance Committee in 1999 and 2003. Mr. Whitaker received his Juris Doctorate from Wake Forest University in 1974 and attended the National Judicial College.

II. Executive Summary

The purpose of this comprehensive solvency study is to recommend ways to help return North Carolina's unemployment insurance (UI) Trust Fund to a position of solvency now and assure continued solvency into the future. A solvent UI trust fund serves to strengthen the state's position in an increasingly competitive global marketplace. The study describes a balanced approach, with shared sacrifice and opportunity for unemployed workers and for employers seeking to not only survive, but to thrive. The study describes ways in which the state may encourage faster reemployment and allow for a common sense administrative structure which promotes continuous improvement in returning UI claimants to work more effectively while also improving the supply of qualified applicants referred to fill the needs of North Carolina employers.

The study includes a review of North Carolina's current state of UI solvency and a comparison to other states with respect to the benefits paid to claimants, taxes paid by employers, integrity measures, and general delivery system. We found that benefit levels and unemployment taxes were higher than in surrounding states, the outstanding federal debt was among the highest in the country, many of the best practices in integrity measures had not yet been implemented, and there was a need to address systems development and integration between local offices, call centers and one-stops to improve UI adjudication and to assist unemployed workers with reemployment and employers in finding the skilled workers that are needed. We developed recommendations with respect to improved administration, legislation and policy in each of these areas.

It is important to note that none of the changes contained in this study affect existing benefits being paid to unemployed individuals. It should also be noted that no change will interrupt the payment of unemployment benefits to eligible UI claimants. Timing is of critical importance in reviewing the changes recommended in this document. Particular attention should be given to the additional costs that will be levied on North Carolina employers if steps are not taken in 2012 to address the issues facing the UI system. Finally, by far the most critical observation of this study is that anything less than making the comprehensive reforms will only produce marginal results and likely lead to a series of ongoing reforms or "Band-Aids" in attempt to fix the current UI system. This document is largely based off the premise that asking employers to continuously pay more for a system that they fully fund without greater oversight and continuous improvement is simply unsustainable.

Solvency and UI Debt

North Carolina's unemployment insurance system is running an annual deficit of approximately \$470 million (see page 11 for analysis). This deficit has led to the current UI debt to the federal government of \$2.4 Billion placing it 4th highest in the country. The state would significantly improve its solvency position by repayment of the debt quickly to avoid future FUTA tax increases on employers, and additional interest payments. Taking no action will result in a series of increases in the rates to be paid by employers under the Federal Unemployment Tax Act (FUTA). The FUTA tax increases triggered under federal law will increase as long as the state continues to have outstanding debt until reaching \$420 per employee instead of the \$42 per employee due under the base FUTA rates. Increases will be greater on a percentage basis for employers with the lowest state UI experience rates. In addition to automatically increasing FUTA taxes, federal law requires that states pay interest on outstanding loans and repayment of interest must be made from sources other than the state UI tax. The costs of failing to immediately address UI Solvency are significant in the

form of increased federal unemployment taxes that increase each year that the outstanding loan is not repaid and interest charges to be paid by the state. A range of recommendations, including state UI tax increases; unemployment benefit cuts and refinancing the debt are recommended. Adding a bond package to eliminate the outstanding debt would move NC from a deficit state to a state without debt with a balanced fund and slowly building a positive balance and a reserve. The UI Trust fund should be restored to a healthy and solvent position for long-term sustainability and to be prepared for future economic downturns.

Re-Employment and Workforce Training/Education

States across the country have begun to turn the focus of UI systems to reemployment, and North Carolina is in a position to adopt the best practices from other states in the development of a set of performance measures and a delivery system that may serve as a model. There is currently \$1.4 Billion budgeted for workforce development programs throughout the state. Improvements and integration of systems are needed to focus on reemployment through performance based standards. Such measures should focus on individuals actually getting jobs rather than the completion of a program by the individual. Employment should be given greater weight when determining the success of workforce development and adult education and training programs whether funded by the federal, state or local government. Employment should not be the only metric used to determine if publicly funded resources are being utilized in the most effective manner. Retention rates are also critically important in determining if education and training programs are meeting the needs of North Carolina employers as well as jobseekers. Employing UI claimants, whether in permanent full-time jobs or part-time jobs while they complete an education or training program, helps replenish the UI Trust Fund by reducing benefit pay-out and increasing unemployment tax revenue. In addition to UI tax revenue, employment saves the state in reduced payout for public assistance and support payments while increasing state income tax revenue and increasing spendable cash to bolster the local economy.

Integrity

North Carolina and many other states during and after the 2008-2009 recession opted to dedicate limited administrative resources to the payment of benefits to the exploding number of unemployed workers. One result has been an increase in the number of overpayments and a lesser emphasis on integrity in benefit determinations, identification of fraud and overpayments, and the collection of overpayment amounts. Improvements must be made to the system in assuring that claimants are in fact qualified and eligible to be paid benefits and returning the focus of the program to assisting unemployed workers in their efforts to get back to work. Establishing and enforcing new requirements for claimants to be able, available and actively seeking work should be a focal point in reforms to the system. In North Carolina, UI claimants are only required to make two employer contacts per week as a requirement to continue to receive benefits. The documentation and verification of work search requirements have been de-emphasized in many states in recent years with the advent of internet claims, increases in claims load, and the priority placed by USDOL on making UI benefit payments quickly. Best practice states have implemented required registration for work and the required development by claimants of work search plans as conditions of eligibility for payment. Increased requirements in these areas will not only result in reductions in benefit overpayments, but will also reduce the duration of claims and send the signal to claimants that they are expected to be actively seeking work. In addition, improved staff training on rules, regulations and laws, is needed to bring objectivity to the system and improve consistency statewide in decision making.

Affordability/Benefits

Benefit payout has outstripped the ability to pay for the UI program. The benefit payout overhang in many states has continued longer than previous recessions due to the lack of significant job growth and the continuation of benefit payment provisions. A number of states across the country have taken action to reduce benefit payout through the reduction of the potential number of weeks of benefits, changes in the determination of the weekly benefit amount, and requiring a waiting week. Unemployment Compensation payments in North Carolina have exceeded unemployment tax revenue due to a number of factors, including: (1) the weekly benefit amount formula used to determine the amount to be paid results in amounts that are close to the national average, but significantly higher than the weekly benefit amounts in the region; (2) the maximum weekly benefit amount is significantly higher than maximum weekly benefit amounts in the region; and (3) wage replacement rates are higher than the national average and significantly higher than wage replacement rates in the region. Significant reductions in benefit amount and/or duration will be needed to eliminate the annual deficit in benefit payments compared to contributions and to reduce the current UI trust fund deficit. In addition, ensuring the benefit structure is competitive with other states and provides the right incentives for returning people to work is of critical importance. A conservative estimate of the impact of the recommended changes to the North Carolina UI system is projected to be an annual savings of over \$400 million.

Taxes

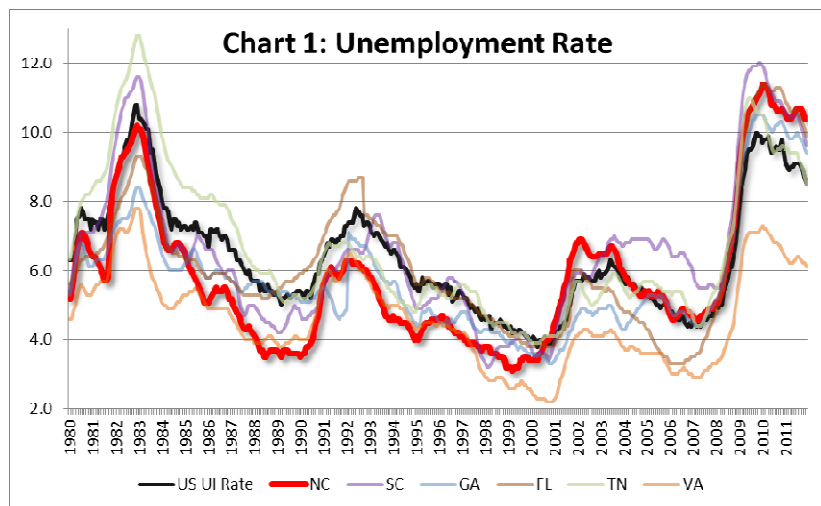
North Carolina employers *fully fund* the state's unemployment insurance program and pay over \$1.1 Billion in annual state UI tax. Employees make no contribution into the unemployment trust fund. The average per employee state UI taxes paid by employers in North Carolina is higher than other states in the region, however, the current tax rates do not generate sufficient revenue to cover benefits on an annual basis or to build solvency in the UI trust fund. Amendments to the current tax rates are needed to assure that the state UI tax structure is responsive to changes in the economy and capable of providing adequate funds to pay state UI benefit amounts over a reasonable time period as needed without borrowing from federal accounts. Tax rate schedules should provide improved experience rating as the basis for rates with reduced rates for low unemployment experience employers in North Carolina. UI Tax rates should be set so as to enable North Carolina employers to compete with employers in other states and in the global marketplace. Tax rates that result in increases in costs discourage job creation and result in a shrinking tax base. Recommendations in this study proscribe a balanced approach to address UI solvency and encourage job creation in North Carolina, and changing the minimum tax rates to distribute the cost of the UI system more completely across the full range of unemployment experience.

A piecemeal approach to addressing the needs of North Carolina employers, UI claimants and jobseekers will not produce as successful a result as implementing the complete package of reforms. The primary stakeholders in the UI system, legislative leadership in both houses and the Governor's office should be continually updated with respect to UI trust fund solvency to enable the state to take action in a timely manner.

III. Background on Economy and Impact on UI System

With the advent of the great recession of 2008-2009 state unemployment benefit accounts across the country were strained to the point of breaking, with a majority of the states being forced to borrow funds from the Federal government to meet their unemployment payment obligations. The size and the length of the recession were greater than any recession since the great depression of the 1930s.

State officials and policy makers, with few exceptions, were caught off guard. Many states had planned to respond to a mild recession similar to the recession of the early 2000s with trust balances and/or timely solvency triggers designed to quickly make up for deficits. The unemployment rate during the most recent recession was much greater than what most Southeastern states and the United States on average experienced since the early 1980s. (Chart 1)



Source: U.S. Bureau of Labor Statistics

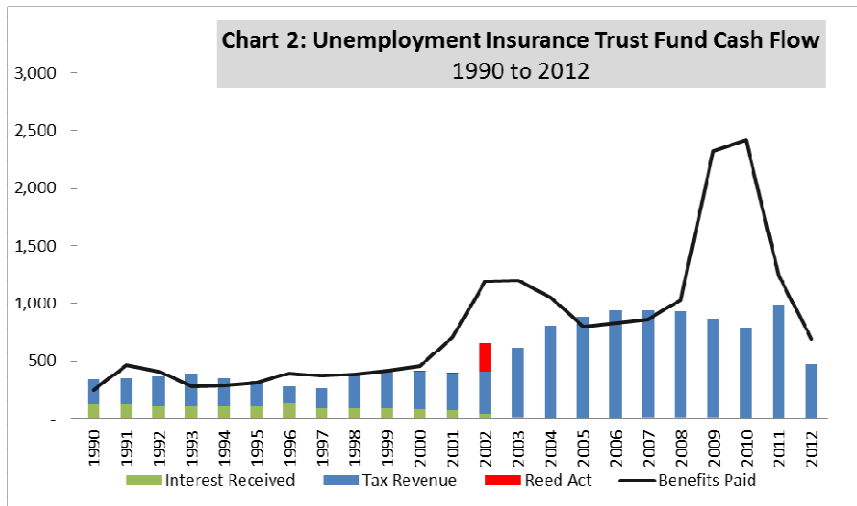
To add to the severity of the recession, the timing of the dramatic increases in state UI benefit payout worked against state ability to respond. Because the increases began after the computation date for state UI tax rates for 2009, tax rate increases for 2009 did not reflect the increased costs, resulting in a continued mismatch between tax revenue for 2009 and benefit payout.

Employers struggling to stay in business were not in a position to take on increasing payroll tax burden, and even as state UI tax revenue began to increase from 2009 to 2010 the length of the duration of unemployment claims continued to increase not only due to the lack of job creation, but also due in part to special federal extended and emergency unemployment compensation which provided up to 99 weeks of combined state and federal unemployment compensation, providing a disincentive for unemployed workers to accept employment that may not have matched their highest skill and compensation expectations but was available in the marketplace.

The overall result was lack of new job creation at the same time that jobs requiring specialized skills did not have applicants. Duration and exhaustion rates increased, adding to the deficits in unemployment accounts at the state and federal level.

IV. Overview of the North Carolina UI System

The North Carolina experience was similar to other large states with urban centers, suffering particularly in job losses in manufacturing, housing, hospitality and textiles. Unemployment compensation benefits increased dramatically in North Carolina because of 1) lack of jobs, 2) increases in benefits available for unemployed workers, and 3) mismatches between jobs in demand and the workers available to accept work at the wage rates that were supportable in the marketplace.



Source: North Carolina Department of Employment Security

North Carolina’s UI system was not able to respond quickly enough to reduce benefits and/or increase state UI tax revenue to avoid insolvency. Even before the recession the state’s trust fund had been depleted due to benefit amounts and duration that were high and tax effort that did not keep up with benefit pay-out. During this time period additional state revenues were supplemented with interest

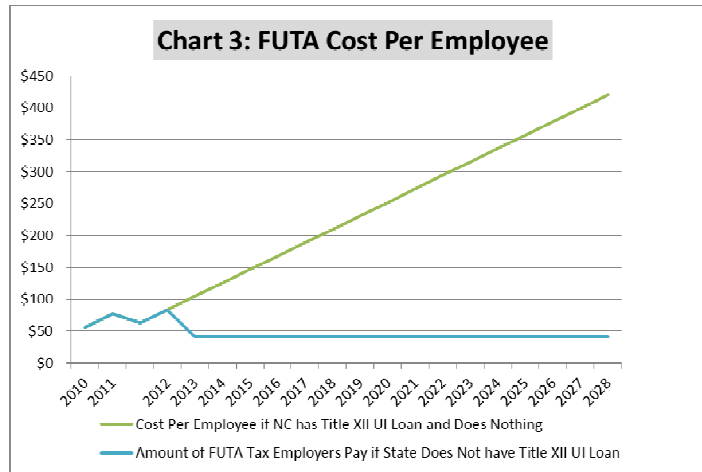
from a diminishing trust fund balance as well as a limited amount returned to the state through Reed Act distributions. (Chart 2 – only initial projections used for 2012)

As a result of insolvency, North Carolina was obligated as of September 30, 2011 to pay over \$78 million in interest on loans from the federal government, and based on continued negative balances in the state UI trust fund as of November 10, 2011, employers in North Carolina were subject to the loss of FUTA offset credit of 0.3, increasing the net Federal Unemployment Tax rate to be paid in January of 2012 for calendar year 2011 by approximately \$21 per employee.

In 1937, the Federal Unemployment Tax Act tax was 1.0% (0.1% effective tax) of the total wages of a worker. By 1940, it had increased to 3.0% (0.3% effective tax) on wages up to \$3,000. Since then, the rate has increased a number of times, occasionally, on a temporary basis. The taxable wage base increased to \$4,200 in 1972; \$6,000 in 1978; and \$7,000 in 1983. In 1985, the Federal tax reached its current level of 6.2% (0.8% effective tax) on taxable wages. In 2011, a 0.2% “temporary” surcharge was removed moving the current tax rate to 6.0% (5.4% with full offset for a net 0.6% effective tax) on taxable wages.

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Continuation of insolvency in the state UI trust fund will result in interest payment each year and an escalating offset credit reduction. The credit reduction is initially 0.3% and increases by 0.3% for each year there is an outstanding loan. For example, the first year credit reduction results in the net federal tax rate increasing from 0.8% to 1.1% (0.6% to 0.9% after June 30, 2011). Reducing the FUTA offset credit increases the FUTA tax to be paid by employers by additional increments of \$21 per employee (\$42 per employer for 2012, \$63 per employer for 2013 and continuing to increase). (Chart 3)



Although the revenue from this additional federal penalty increase is deposited in the state's unemployment trust fund and will reduce the federal debt, the amount of the revenue is not sufficient to address solvency needs and the FUTA tax rate, without specifically addressing state solvency, will escalate over time up to the full \$420 per employee per year in addition to the already increasing state unemployment taxes that increase based on claims experience.

Year	FUTA Offset Credit Reduction	Cost Per Employee	FUTA Offset Credit if State Does Not have Title XII UI Loan in 2013	Amount of FUTA Tax Employers Pay if State Does Not have Title XII UI Loan in 2013
2010	0.8%	\$56	0.8%	\$56
2011	[1/1 - 6/30=1.10%] [7/1 - 12/31=0.9%]	[\$77] [\$63]	[1/1 - 6/30=1.10%] [7/1 - 12/31=0.9%]	\$77 \$63
2012	1.20%	\$84	1.20%	\$84
2013	1.50%	\$105	0.6%	\$42
2014	1.80%	\$126	0.6%	\$42
2015	2.10%	\$147	0.6%	\$42
2016	2.40%	\$168	0.6%	\$42
2017	2.70%	\$189	0.6%	\$42
2018	3.00%	\$210	0.6%	\$42
2019	3.30%	\$231	0.6%	\$42
2020	3.60%	\$252	0.6%	\$42
2021	3.90%	\$273	0.6%	\$42
2022	4.20%	\$294	0.6%	\$42
2023	4.50%	\$315	0.6%	\$42
2024	4.80%	\$336	0.6%	\$42
2025	5.10%	\$357	0.6%	\$42
2026	5.40%	\$378	0.6%	\$42
2027	5.70%	\$399	0.6%	\$42
2028	5.80%	\$420	0.6%	\$42

*Assumes no additional increase from a Benefit Cost Reduction (BCR) after year 3 and year 5 of the loan.

The North Carolina business community and business associations across the country advocated in 2009, 2010 and 2011 for relief from federal FUTA offset credit penalties, arguing that now was not the time to increase payroll taxes. Increased payroll taxes discourage job creation. Although federal law provided for a waiver of the interest on federal loans through 2010, the waiver was not continued for 2011 due in large part to concerns at the federal level about the federal deficit that was already growing.

With no relief likely from Congress, an annual deficit in benefit pay-out compared to tax revenue, and an outstanding federal loan debt as of April of 2012, it is prudent to take legislative and policy steps to first eliminate the annual deficit and then to address the large outstanding debt to minimize the impact on job creation and build a solvent fund for the future.

North Carolina Solvency Measures

A number of steps can be taken to immediately improve solvency, to position North Carolina to take advantage of tax and penalty relief provisions in federal law, and to address the long term debt issue. The size of the debt calls for concerted effort over a period of at least the next decade, with active participation by the business community, legislature and the Governor in developing and implementing solutions.

This report provides an outline of steps to be taken immediately and in the long term that can assist in enabling the state to be a model of solvency and improved administration.

Immediate steps

1. Compare North Carolina to other states across the country
2. Identify areas to reduce benefit payout
3. Identify options available to eliminate and/or reduce tax obligations under federal law
4. Review options for reform of the North Carolina system to assure that measures are in place to assure that UI tax revenue is generated to meet benefit payment obligations, state tax rates are competitive, benefit levels provide appropriate temporary wage replacement, and improved integrity, work search and reemployment measures are implemented to reduce the average duration of unemployment compensation and increase the reemployment rate for UI claimants.

V. North Carolina Solvency and UI Debt Review

The size of the current Title XII outstanding loan balance of approximately \$2.4 billion is larger in comparison to the size of outstanding loans in other states and too large to eliminate in a short period of time.

According to the U.S. Department of Labor (USDOL), the trust balances as of May 15, 2012 showed that North Carolina's outstanding Title XII debt exceeded the outstanding debt in a number of larger states. Larger states with smaller outstanding debts included Ohio (\$2.2 billion), Florida (\$588 million), and Illinois (\$964 million). Florida has already acted to address solvency issues and Illinois has enacted legislation to authorize the sale of bonds to pay off the outstanding Title XII debt in 2012.

California	\$8,386,716,023	Georgia	\$760,781,100
Pennsylvania	\$3,874,720,165	Nevada	\$683,525,170
New York	\$2,508,175,516	Florida	\$588,677,400
North Carolina	\$2,431,563,462	Missouri	\$574,518,700
Ohio	\$2,282,770,338	Colorado	\$435,207,615
Indiana	\$1,679,358,475	Arkansas	\$317,049,780
Illinois	\$964,820,908	Rhode Island	\$200,062,195
Kentucky	\$961,179,155	Arizona	\$196,164,136
Wisconsin	\$870,487,211	Vermont	\$77,731,860
New Jersey	\$827,216,586	Delaware	\$76,412,258
Connecticut	\$810,380,845	Virgin Islands	\$34,659,393
South Carolina	\$782,283,236	Total	\$30,324,461,539

The chart above is a snapshot of the outstanding loans from the Federal Unemployment Account (FUA). North Carolina is among 23 states (including the Virgin Islands) that are currently borrowing from the FUA in order to pay UI benefits (as of May 15, 2012).

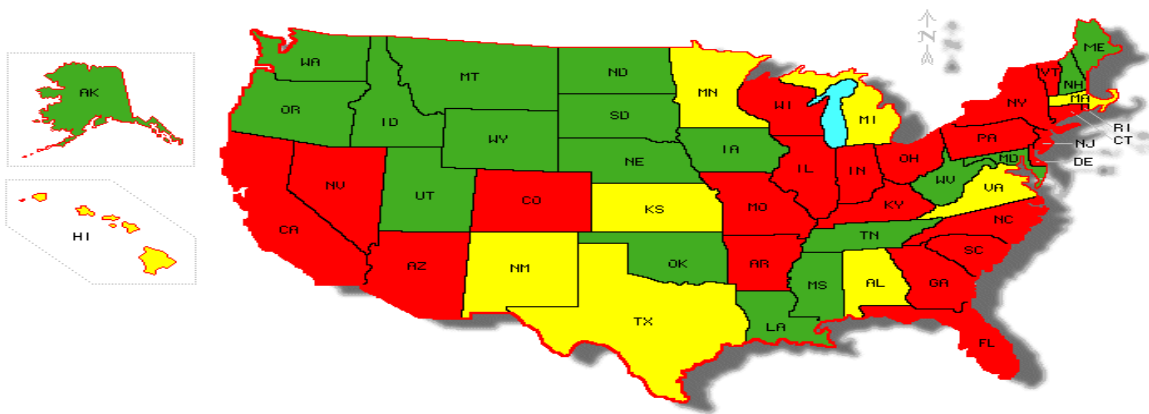
	2004	2005	2006	2007	2008	2009	2010	2011
Benefits (millions)	\$909.1	\$817.2	\$836.7	\$903.6	\$1,289.1	\$2,757.9	\$1,981.9	\$1,406.9
Tax Revenue (millions)	\$1,063	\$928.8	\$961.2	\$927.7	\$907.4	\$803.4	\$824.4	\$937.1
Annual Cash Flow	(\$153.9)	\$111.6	\$124.5	\$24.1	(\$381.7)	(\$1,954.5)	(\$1,157.5)	(\$469.8)
UI Rate	5.4%	4.9%	4.7%	5.0%	8.4%	11.3%	9.8%	10%

Source: U.S. Department of Labor, 4th Quarter Data Used Each Year

According to the US Department of Labor, for the twelve months ending December 31, 2011, North Carolina paid \$1,406,958,000 in state UI benefits and the state UI tax revenue was \$937,127,000. This suggests that there is an annual deficit of approximately \$470 million per year to overcome before the fund could begin to reduce the outstanding loan balance. An earlier historical review by the North Carolina Department of Employment Security underscores the imbalance has been in place since 2008.

Therefore, a solution is needed not only to erase the annual funding deficit, but also pay off the \$2.8 billion debt.

a. National Unemployment Trust Fund Solvency Map



Source: US Department of Labor charts for 4th QU 2011 UI data quarterly summary and monthly UWC State Unemployment Compensation Advisory Program (SUCAP) Reports

The U.S. Map above depicts the status of state trust fund solvency as of May 15, 2012.

- **RED** states are those that were borrowing as of May 15, 2012 (including the Virgin Islands)
- **YELLOW** states are those with positive balances of less than six months of benefits in the state trust fund
- **GREEN** states are those with more than six months of benefits in the state trust fund (including Puerto Rico)

A review of federal law is needed in determining solvency options

Taking no action will result in a series of flat increases in FUTA tax that significantly increase the taxes to be paid by employers with the lowest experience rates and the imposition of interest charges that must be paid from sources other than the state UI tax.

There are a number of key dates that determine whether the state and/or employers in the state will be charged interest and/or have an automatic FUTA offset credit penalty imposed. The key dates in the next two years are:

- September 30, 2012 and 2013
- November 9, 2012 and 2013
- January 1, 2013 and 2014

If a state can avoid having an outstanding loan balance as of January 1st of a calendar year it can avoid having an automatic FUTA offset credit penalty for the following year. If a state can pay off the principal of amounts loaned by November 9th of a year, it can avoid being subject to a FUTA offset credit penalty for that year.

If a state is able to repay the principal of loans taken after January 1st and before September 30th of a year and not borrow for the balance of the calendar year it can avoid paying interest on the amounts loaned during the year.¹ Note: however, beginning in 2014 this relief is available only to states that also meet specified solvency standards that will be difficult for North Carolina to meet.

¹ 20 CFR §606.32(b)(i) (2011).

North Carolina UI Solvency Study Observations & Recommendations

Federal statutory provisions in Title III², IX³ and XII⁴ of the Social Security Act and the Federal Unemployment Tax Act⁵, along with regulations interpreting these provisions should be reviewed as part of the analysis of options available.

All states pay state unemployment insurance (UI) benefits and interest on any loans taken to pay such benefits as a condition of conforming to federal requirements. If a state falls out of conformity by failing to pay the required interest, employers are subject to a net tax of 6.0% on the FUTA \$7,000 tax base rather than 0.6% with a 5.4 % offset credit. A state may obtain an interest free loan from the Federal Unemployment Account to make payments from January through September so long as the loan is repaid in full by September 30th and the state avoids borrowing for the balance of the calendar year.

Credit Reduction Avoidance⁶ – The easiest way for many states to avoid a credit reduction is to repay all loans for the most recent year ending November 9th in addition to the additional taxes that would have been imposed that year, (2) have enough funds in the UTF to pay all compensation for the last calendar quarter of the year without borrowing additional funds from the FUA; and (3) have altered its state law to increase the net solvency of its state UTF account. If the state complies with these requirements the credit reduction (automatic net FUTA tax increase) for the year may be avoided. South Carolina was approved for avoidance for 2011 under this provision.

Credit Reduction Cap⁷ – Most states with outstanding loans are projected to incur a credit reduction in 2012. A state may apply to have the credit reductions capped if it meets four criteria: (1) there is no state legislative or administrative action to decrease the state unemployment tax effort in the preceding 12 months from September 30; (2) there is no state legislative or administrative action to decrease the state UTF’s net solvency; (3) the average state UI tax rate on total wages must exceed the five-year average benefit cost rate on total wages; and (4) the loan balance on September 30 must not exceed the balance three years before.

As the chart depicts below, the federal loan rate has been significantly reduced over the last decade from a high rate in 2000 of 6.4547% to the current rate for calendar year 2012 of 2.9430%. In comparison, while the current U.S. Treasury notes on a 10 year loan is approximately 2.03% the Congressional Budget Office (CBO) expects average rates to climb to 3.8%.⁸

Federal Loan Rate

Calendar Year	2012	2011	2010	2009	2008	2007	2006	2005	2004	2003	2002	2001	2000
Federal Loan Rate (%)	2.943	4.086	4.364	4.637	4.807	4.643	4.625	5.400	5.984	6.075	6.271	6.416	6.454
5-Year Average	4.168		10-Year Average	4.756		Since 2000	5.131						

Source: U.S. Department of the Treasury

² Title III appears in the United States Code as 42 U.S.C. §§501-504 (2010). Regulations of the Secretary of Labor relating to Title III are contained in 20 CFR §§601-671 (2011) and 29 CFR §§0-99 (2011). Regulations of the Secretary of Health and Human Services relating to Title III are contained in 45 CFR §§1-199 (2011).

³ Title IX appears in the United States Code as 42 U.S.C. §§1101-1110 (2010). Regulations of the Secretary of Labor relating to Title IX are contained in 20 CFR §§601-671 (2011).

⁴ Title XII appears in the United States Code as 42 U.S.C. §§1321-1324 (2010). Regulations of the Secretary of Labor relating to Title XII are contained in 20 CFR §§601-671 (2011).

⁵ 26 U.S.C. §§3301-3311 (2010).

⁶ 20 CFR §§606.23-606.24 (2011).

⁷ 20 CFR §§606.20-606.22 (2011).

⁸ “Uncle Sam’s Teaser Rate” The Wall Street Journal, March 12, 2012.

b. UI DEBT REPAYMENT RECOMMENDATIONS

1. Options should be evaluated with careful economic projections and realistic cost analyses

Options should include reductions in benefits, changes in state UI tax, active cash flow management, bonds, and one-time use of unobligated state funds. A number of states have used bonds to eliminate large outstanding debts to avoid interest and FUTA penalty rate increases and been able to show savings in interest rate as well as providing flexibility in determining the period during which debt service is to be paid. A close examination of the cost of bonds as compared to the automatically imposed federal penalties should be part of an effort to address solvency.

It should be noted that the cost of bond issuance and administration required for bonds will not be credited to employer accounts in calculating the state UI contribution rate; however, repayment of the principle amount may be credited in their state UI experience rate calculations. In recent years the assessments necessary to cover debt service have been significantly below the rate to be paid in Title XII interest, making bonds more attractive as an alternative. Texas and Idaho have recently used bonds.

As part of the bond analysis states should also examine their state constitutions to determine if the use of bonds for this purpose would be deemed to be an increase in state obligations that would be restricted by the state constitution.

Some states have enacted significant reductions in benefit provisions to better align benefit pay-out with revenue. Increases in tax base and rate schedule modifications have also been included by a number of states.

Because the deficit is so large, it may be difficult to eliminate it before the next recession. To properly track the status of the fund and evaluate options available the state should establish the administrative support for ongoing evaluation of the solvency of the fund and options to address solvency before changes in the economy overtake the state's ability to pay. In addition, a process is needed by which primary stakeholders in the UI system, legislative leadership in both houses and the Governor's office are continually updated to enable the state to take action in a timely way.

c. BOND RECOMMENDATIONS

- 1. Enact legislation to provide permanent bond authority of an amount to cover the likely outstanding balance in the Title XII loan (approximately \$2.4 billion) plus accrued interest as of September 30th and any additional amounts projected to be needed to avoid borrowing again through January 1, 2013;**
- 2. Debt service for the bonds to be paid as a specific additional amount in state assessment along with the state UI tax;**

A few examples of how the bond recommendations will be repaid and the impact on North Carolina employers are in the charts below. The assumption made is a bond principal loan amount of \$2.8 billion. In addition, assessing the rate other states have been able to achieve in recent years a bond rate of 2.0% and 2.25% are used to illustrate interest due in addition to the principal borrowed. These charts also assume the total number of covered employees at 3,000,000, which is closer to the average over the last 12 months and lower than the current number of covered employees and does not include employees of reimbursable employers. Both charts assume an additional voluntary payment of \$28 million in 2020 to eliminate the additional FUTA tax credit loss of 3.0% by 2021. For interest payments due 9/30 each

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calendar year, prior year interest rate applies to balances between 9/30 and 12/31 of the prior year and current year interest rate applies to balance between 1/1 and 9/30.

Chart 1: Fixed Bond Rate 2.0%, Federal Loan Rate 4.0% - Net Savings to Employers = \$213,869,000

Year	Annual Bond Cost (000)	Per EE Fixed Cost	Total FUTA Tax	Base FUTA Tax	FUTA Tax Credit Loss due to Loan at End of Prior Year	Repayment Principal Title XII Loan from FUTA Tax Credit Loss (000)	Average Daily Balance for Interest Calculation (000)	Average Federal Loan Interest Rate	Interest Payable to Federal Govt. (000)	Annual Repayment of UI Loan + Interest (000)	Per Employee Escalating FUTA Cost with Title XII Loan	Base FUTA without Title XII Loan	Net FUTA Cost from Title XII Loan
2013	345,388	115.13	1.20%	0.60%	0.60%	126,000	2,705,500	3.72%	100,821	226,821	117.61	42.00	75.61
2014	345,388	115.13	1.50%	0.60%	0.90%	189,000	2,532,250	4.00%	101,290	290,290	138.76	42.00	96.76
2015	345,388	115.13	1.80%	0.60%	1.20%	252,000	2,296,000	4.00%	91,840	343,840	156.61	42.00	114.61
2016	345,388	115.13	2.10%	0.60%	1.50%	315,000	1,996,750	4.00%	79,870	394,870	173.62	42.00	131.62
2017	345,388	115.13	2.40%	0.60%	1.80%	378,000	1,634,500	4.00%	65,380	443,380	189.79	42.00	147.79
2018	345,388	115.13	2.70%	0.60%	2.10%	441,000	1,209,250	4.00%	48,370	489,370	205.12	42.00	163.12
2019	345,388	115.13	3.00%	0.60%	2.40%	504,000	721,000	4.00%	28,840	532,840	219.61	42.00	177.61
2020	345,388	115.13	3.30%	0.60%	2.70%	567,000	169,750	4.00%	6,790	573,790	233.26	42.00	200.32
2021	345,388	115.13	0.60%	0.60%	0.00%	-	0	0.00%	0	0	0	42.00	0.00
Total	3,108,492	1,036				2,800,000			523,481	3,323,481			1,107.45

Chart 2: Fixed Bond Rate 2.25%, Federal Loan Rate Escalating to 4.0% - Net Savings to Employers = \$163,203,000

Year	Annual Bond Cost (000)	Per EE Fixed Cost	Total FUTA Tax	Base FUTA Tax	FUTA Tax Credit Loss due to Loan at End of Prior Year	Repayment Principal Title XII Loan from FUTA Tax Credit Loss (000)	Average Daily Balance for Interest Calculation (000)	Average Federal Loan Interest Rate	Interest Payable to Federal Govt. (000)	Annual Repayment of UI Loan + Interest (000)	Per Employee Escalating FUTA Cost with Title XII Loan	Base FUTA without Title XII Loan	Net FUTA Cost from Title XII Loan
2013	349,428	116.48	1.20%	0.60%	0.60%	126,000	2,705,500	3.35%	90,793	216,793	114.26	42.00	72.26
2014	349,428	116.48	1.50%	0.60%	0.90%	189,000	2,532,250	3.86%	97,947	286,947	137.65	42.00	95.65
2015	349,428	116.48	1.80%	0.60%	1.20%	252,000	2,296,000	4.00%	91,840	343,840	156.61	42.00	114.61
2016	349,428	116.48	2.10%	0.60%	1.50%	315,000	1,996,750	4.00%	79,870	394,870	173.62	42.00	131.62
2017	349,428	116.48	2.40%	0.60%	1.80%	378,000	1,634,500	4.00%	65,380	443,380	189.79	42.00	147.79
2018	349,428	116.48	2.70%	0.60%	2.10%	441,000	1,209,250	4.00%	48,370	489,370	205.12	42.00	163.12
2019	349,428	116.48	3.00%	0.60%	2.40%	504,000	721,000	4.00%	28,840	532,840	219.61	42.00	177.61
2020	349,428	116.48	3.30%	0.60%	2.70%	567,000	169,750	4.00%	6,790	573,790	233.26	42.00	191.26
2021	349,428	116.48	0.60%	0.60%	0.00%	0	0	0.00%	0	0	0	42.00	0.00
Total	3,144,852	1,048				2,800,000			510,111	3,310,111			1,093

3. Model legislation in prior states (Texas, Idaho, Illinois and Michigan) should be reviewed in order to avoid any federal issues; bonds should include the option to pay-off the outstanding debt early if the economy improves more quickly than expected;
4. The proceeds of the bond should be available to pay off the full \$2.8 billion plus any accrued interest due before September 30, 2012 and to avoid having to use the benefit reserve fund to make the interest payment.

Assuming the balance is repaid and no additional borrowing is needed through January 1st, the state will not only avoid the FUTA offset credit penalty increase of 0.3 (\$21 per employee) that would otherwise be imposed for 2012, but will also avoid being subject to the FUTA offset credit penalty for 2013 and 2014. Assuming that long term changes are made in state UI taxes and benefits to assure that additional borrowing is not needed, the FUTA tax increases that would otherwise be imposed as well as interest repayments will be avoided for the foreseeable future

To the extent possible under federal law and without increasing the assessment to be paid for the bond, the debt service payment rates should be experience rated to the same extent as the regular state UI tax rate (e.g. increase the state UI tax rate by a percentage to be paid in addition to the state UI tax). Recent discussions with US DOL indicated that debt service payments that are specifically related to repayment of Title XII loan principal may be treated as contributions for purposes of experience rating. This should

be reviewed with US DOL to assure that it does not raise a federal issue. The “experience rated” bond provision in Michigan was reviewed with US DOL and no issue was raised.

A comparison of the cost of choosing bonds over even greater cuts in benefits and/or increases in state and federal UI taxes and interest payments should be made assuming the most recent projections of Title XII interest rates and economic projections.

5. Issue and administration of the bonds should be through an existing authority to minimize costs and enable the issuance to meet the short time frame.

Because the Benefit Reserve Fund will no longer be needed to pay Title XII interest on September 30, 2012 or thereafter and there is a need to focus on UI trust fund solvency first, it is recommended that the 20% Benefit Reserve Fund tax be discontinued until UI trust fund solvency is reached. It should be noted that if the Benefit Reserve Fund Tax is discontinued there is \$85.5 million remaining in the Benefit Reserve Fund account according to the NC Department of Commerce Workforce Monthly Activity Report as of March 2012. This amount can be deposited into the UI Trust Fund to improve solvency, applied to the outstanding UI loan balance or dedicated, with the appropriate controls and performance metrics, to reemployment or integrity recommendations contained in this study. Discontinuing the Benefit Reserve Fund tax will minimize the increase in overall tax obligation for North Carolina employers while taxes dedicated to UI trust fund solvency are increased.

All of the recommendations in the remainder of this study have been categorized in order of importance as follows: the items that have quantifiable savings/revenue are noted first followed by those that are likely to have monetary impact, and then administrative measures and best practices that will have some impact on integrity or benefit pay-out but difficult to estimate the bottom line impact.

VI. REEMPLOYMENT AND WORKFORCE TRAINING/EDUCATION

Improved alignment of workforce training and education programs with incentives based on reemployment and retention.

“And I want to cut through the maze of confusing training programs, so that from now on, people [] have one program, one website, and one place to go for all the information and help that they need. It is time to turn our unemployment system into a reemployment system that puts people to work.”⁹
2012 State of the Union Speech, President Barak Obama

In 1937, the Social Security Board stated, that no one will deny that the prevention of unemployment must always be our first goal; it is in recognition of this need that all unemployment compensation systems provide that benefits be paid through public employment offices, so that the receipt of benefits will be secondary to the primary and more important task of obtaining employment.¹⁰ The problem is that during the last four decades the UI system has primarily focused on metrics that ensure an eligible claimant receives the benefit rather than a job.

Turning North Carolina’s unemployment system into a reemployment system will require the primary stakeholders of the system, employers and jobseekers, to work toward a common goal: employment. In addition, lawmakers and the Governor must be willing to take bold steps to address the issues contained in this document to design a UI system that focuses on outcomes related to jobseeker employment or reemployment as well as employer satisfaction of the pool of qualified candidates within the system. Finally, state and local agency officials must be willing to implement the changes in this document seamlessly whereby UI claimants and jobseekers know where to go to find the help they need to find a job or additional training and the applicant pool of qualified candidates meets employer needs with a reduced lag time between an employer posting a job and filling it with the right individual.

A Snapshot of North Carolina’s Workforce

North Carolina currently ranks as the 10th largest state in the country with a population of 9,535,483 according to the 2010 U.S. Census.¹¹ As of January 2012, the total labor force was 4,683,481 of which 4,207,205 were employed and 476,276 were unemployed.¹² The onset of the most recent recession directed a substantial amount of time and resources by state staff within the Department of Employment Security and local staff among the 90 locations around the state to timely process unemployment claims. Each UI claimant brings a unique set of skills and level of education that requires varying levels of time and attention from DES staff around the state. The UI system is not capable of providing the full level of service to every individual that files an unemployment claim, especially during the high claims period the state is currently in. Claimants must be expected to access systems and engage in self-assistance through systems such as JobLink, to provide the UI claimant tools to find the right job that matches their unique skills, education and experience to available job openings. Enhancements to online self-assistance tools will be a critical part of helping North Carolina UI claimants returning more quickly to the workforce.

⁹ Remarks by the President in the State of the Union Address, President Barak Obama, The White House, Office of the Press Secretary, January 24, 2012. <http://www.whitehouse.gov/the-press-office/2012/01/24/remarks-president-state-union-address>

¹⁰ “Unemployment Compensation: What and Why?” Social Security Board, United States Government Printing, Publication No. 14, March 1937.

¹¹ “A Summary of North Carolina’s Economic Strengths, Challenges and Opportunities,” 2011 North Carolina Economic Index, North Carolina Department of Commerce, Policy & Research Strategic Planning, June 2011, pg. 1.

¹² Most recent data available by the U.S. Bureau of Labor Statistics, Local Area Unemployment Statistics (LAUS) www.bls.gov (last visited April 2, 2012)

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North Carolina's economy is transitioning from traditional labor-intensive industries, such as textiles, furniture and manufacturing, to knowledge-based or service related industries.¹³ Manufacturing will remain a critical part of North Carolina's economy and companies will continue to need a skilled labor pool from which to select qualified candidates. UI claimants from labor-intensive industries may need additional training or education to qualify for existing or future jobs throughout the state.

North Carolina's Workforce Development System

As of January 2012, the North Carolina state agencies involved in workforce development in FY 2010-2011 include: (1) Department of Administration (DOA); (2) Department of Commerce; (3) NC Community College System (NCCCS); (4) Employment Security Commission (ESC) (under Department of Commerce, renamed Division of Employment Security on 11/1/2011); (5) Department of Health and Human Services (DHHS); (6) Department of Labor; and (7) Department of Public Instruction.¹⁴ The NC workforce development inventory is focused on education, employment, and job training efforts primarily designed to help employers obtain a skilled workforce as well as help individuals succeed in the workplace.¹⁵

As noted by the North Carolina Development Inventory, "while these agencies collaborate in many instances, they do not collectively function as a single workforce development system." A total of \$1.4 Billion is budgeted for workforce development programs in FY 2011-12.¹⁶ The State General Fund provides 54 percent of the total funding with 97 percent appropriated in public schools and community colleges. Federal funds provide 25 percent of the total funding with over 80 percent of these funds supporting activities provided by State agencies outside of education. Local and other funding provides 20 percent of total funding with nearly 90 percent of this funding going toward student tuition and fee receipts for community college continuing education and vocational/technical education programs.¹⁷

Employment of job seekers in North Carolina should be given greater weight when determining the success of workforce development and adult training and education programs whether funded by the federal, state or local government. Employment should not be the only metric used to determine if publicly funded resources are being utilized in the most effective manner. Retention rates in a job are also critically important to determining if education and training programs are meeting the needs of North Carolina employers as well as jobseekers. The bottom line is that employing UI claimants, whether in permanent full-time jobs or part-time jobs while they complete a training or education program, helps replenish the UI Trust Fund.

North Carolina is no different in many ways than most states where publically funded programs operate within silos and compete for the same limited resources when trying to serve individuals that need assistance. Some states, such as Indiana, consolidated all of its workforce training resources into one state agency in order to align services for both employed and unemployed individuals. Other states, such as Ohio, are currently taking steps to coordinate workforce development programs and funding sources.

One initiative that North Carolina is already undertaking provides information on the educational and employment outcomes of participants in publically supported educational, employment and training

¹³ "A Summary of North Carolina's Economic Strengths, Challenges and Opportunities," 2011 North Carolina Economic Index, North Carolina Department of Commerce, Policy & Research Strategic Planning, June 2011, pg. 1.

¹⁴ "North Carolina Workforce Development Inventory", Fiscal Research Division (a staff agency of the North Carolina General Assembly), January, 2012, p.5.

¹⁵ "North Carolina Workforce Development Inventory", Fiscal Research Division (a staff agency of the North Carolina General Assembly), January, 2012, pg. 1.

¹⁶ "North Carolina Workforce Development Inventory", Fiscal Research Division (a staff agency of the North Carolina General Assembly), January, 2012, pg. 6. The study noted that this figure excludes the Work First County Block Grants, because the program does not have a specific budget for workforce development activities.

¹⁷ "North Carolina Workforce Development Inventory", Fiscal Research Division (a staff agency of the North Carolina General Assembly), January, 2012, pg. 6.

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programs. The Common Follow-up System (CFS) has been around since 1992 under the auspices of the North Carolina State Occupational Information Coordinating Committee (NCSOICC).¹⁸

The participating agencies¹⁹ chose ESC as the system operator since the agency already had substantial expertise with large data sets and responsibility for the Unemployment Insurance wage file.

In 1995, the North Carolina General Assembly codified the CFS in Chapter 96, Article 4 Section 32 of the North Carolina General Statutes. The statute requires ESC to develop, implement, and maintain a common follow-up information management system for tracking the employment status of current and former participants in State job training, education, and placement programs.²⁰ In addition, based on data collection under the CFS, the ESC shall evaluate the effectiveness of job training, education, and placement programs to determine if specific program goals and objectives are attained, to determine placement and completion rates for each program, and to make recommendations regarding the continuation of State funding for programs evaluated.²¹

In May 2011, ESC released the annual report on the Operations of the North Carolina Common Follow-up System (CFS). The report is very thorough in identifying the number of participants that received services from each participating entity. It also acknowledged that individuals can receive education, employment and training services through multiple entities, thus simply summing the number of individuals across entities would provide a duplicate count.²² Therefore, an analysis was conducted to determine the number of unique individuals who were provided services across entities for a more accurate count of those who received services.

The CFS Report notes the limitation on the data collected from each of the participating agencies.²³ Such limitations include wage information not being available for individuals who work outside of North Carolina, or are employed in North Carolina, but not covered by unemployment insurance (e.g. the self-employed, church and religious organization employees, summer camp employees, and other non-covered workers).²⁴ In addition, employment related data which cannot be determined includes: (1) the entry-on-duty date of employment for the individual; (2) the employment type (i.e. permanent, temporary, part- or full-time); (3) whether the person worked at all during the quarter; and (4) the number of hours worked for the quarter.²⁵

As noted, a significant piece of information that is necessary to assess the success of all education, employment and training programs, particularly for those unemployed receiving such services, is the

¹⁸ “A Report of the Operations of the North Carolina Common Follow-up System (CFS)”, Employment Security Commission of North Carolina, May 2011, pg. 1.

¹⁹ “A Report of the Operations of the North Carolina Common Follow-up System (CFS)”, Employment Security Commission of North Carolina, May 2011, pg. 8. The eleven (11) participating North Carolina agencies include: (1) The Department of Correction (DOC); (2) the Department of Labor; (3) the North Carolina Department of Public Instruction (DPI); (4) the Department of Commerce’s Division of Workforce Development (DWD); (5) the Department of Health and Human Services Division of Services for the Blind (DSB); (6) the Department of Health and Human Services Division of Social Services (DSS); (7) the Department of Health and Human Services Division of Vocational Rehabilitation Services (DVR); (8) the Employment Security Commission (ESC) of North Carolina; (9) the North Carolina Community College System (NCCCS); (10) the University of North Carolina (UNC); and The JobLink Career Center System (JBL).

²⁰ N.C.G.S. §96-32(a).

²¹ N.C.G.S. §96-32(c).

²² “A Report of the Operations of the North Carolina Common Follow-up System (CFS)”, Employment Security Commission of North Carolina, May 2011, pg. 14.

²³ “A Report of the Operations of the North Carolina Common Follow-up System (CFS)”, Employment Security Commission of North Carolina, May 2011, pg. 7.

²⁴ “A Report of the Operations of the North Carolina Common Follow-up System (CFS)”, Employment Security Commission of North Carolina, May 2011, pg. 7.

²⁵ “A Report of the Operations of the North Carolina Common Follow-up System (CFS)”, Employment Security Commission of North Carolina, May 2011, pg. 7.

employment or reemployment of each program participant. In addition, this information is not limited to employment or reemployment of program participants with a North Carolina employer considering an individual's commuting pattern may be outside the state to find sustainable employment.

A recent report by the Joint Legislative Program Evaluation Oversight Committee made several good recommendations to consider including: (1) streamlining the workforce development system; (2) enhance accountability; (3) strengthen the JobLink Career Centers; (4) increase the use of technology; and (5) create a legislative oversight committee.²⁶

A. REEMPLOYMENT AND WORKFORCE TRAINING/EDUCATION RECOMMENDATIONS

Consideration should be targeted to statewide performance metrics that determine the successful employment or reemployment and retention in a job for workforce development funding. Such metrics should be focused on the two primary customers of the State of North Carolina: employers and jobseekers.

1. Integrated Claim Filing and Job Matching

Through our research and discussions with DES staff, we estimate that 80 percent of the new applications for UI benefits are taken by internet or telephone and nearly 100 percent of continued weekly claims are processed in this manner. Whether filing a UI claim online, by phone or in person at a local office, an initial assessment should be made to determine the skills, experience and education of the claimant with an immediate job match list of employers hiring such individuals. While this would require enhancements and integration of state systems it also requires greater responsibility on the UI claimant to pursue existing job opportunities much faster and to update work search efforts timely to continue to be eligible to receive UI benefits. The state could integrate such an approach with a current initiative being undertaken referred to as the Southeastern Consortium of Unemployment Benefits Integration (SCUBI).

2. Improved work search requirements

Over the last 30 years a claimants' search for work has become much easier. A claimant can search for work on several online job matching search engines, find the one that is right for the claimant, fill out the necessary application, upload a resume and click "send", all in a matter of minutes. In addition, the new federal requirements under [HR 3630](#), signed by President Obama on February 22, 2012, requires that individuals applying for emergency unemployment compensation (EUC) be *able to work, available to work and actively seeking work* as a condition of being paid EUC. Actively seeking work means for EUC applicants that such individuals be 1) registered for employment services in such a manner and to such extent as prescribed by the agency, 2) have engaged in an active search for employment that is appropriate in light of the employment available in the labor market, the individual's skills and capabilities, and includes the number of employer contacts that is consistent with the standards communicated to the individual by the state; 3) has maintained a record of such work search, including employers contacted, method of contact, and date contacted; and 4) when requested, has provided such work search record to the state agency. At a minimum the standards currently being used with EUC claimants should be implemented for individuals applying for regular state UI benefits in order for the claimant to qualify for benefits.

²⁶ "State and Local Improvements Needed for Workforce Development System Integration and Accountability", Final Report to the Joint Legislative Program Evaluation Oversight Committee, Report #2012-04, March 28, 2012.

3. Repeal agency authorization to excuse the able to work and availability to work requirements.

Section 96-13 (a) (3)²⁷ provides authority for the agency to “excuse” under division rules the requirement that claimants be able to work and available for work. This authority is inconsistent with federal law that requires that claimants be able to work, available to work and actively seeking work as a condition of being paid unemployment compensation.

Regulation No. 10 should be repealed and a new regulation developed to detail how claimants must be able to work, available to work and actively seeking work to meet the federal and new state requirements.

4. Real-time Information for the Common Follow-Up System

Consideration should be given to enhance the Common Follow-Up System, or similar reporting mechanism, in real-time through one-online portal through which all programs are linked. The annual report currently does not provide timely information for decision-makers within each participating agency, legislative leaders and the Governor to determine what is working and what improvements need to be made to help all program participants. Therefore, a real-time reporting system that can produce performance results at least quarterly would provide a more timely review of programs.

5. Assure integration of agency job match systems with the UI system so that the agency can verify work search activity and raise eligibility issues for UI adjudication

In order to assure proper job matching, all claimants should be required to register for work through the system designated by the agency to enable the claimants to access jobs information and to be matched with employer needs. Registration to enable effective job search and job matching should be a requirement of being paid unemployment compensation. As most applications are now being filed on line or by telephone, registration should be made over the phone or through required data elements included in internet applications. At one time, job matches were provided to each claimant with each new weekly telephone and internet claim. Other states follow this process and North Carolina once received an award from the USDOL for this service.

The distribution of responsibilities between local offices, call centers and one stop offices should be reviewed to determine the most efficient use of resource to properly adjudicate UI claims and appeals as well as providing employment services for UI claimants. Automated systems should be developed with appropriate access to UI claims and reemployment information for staff administering claims and employment services.

As much flexibility as possible for implementation should be afforded to all state agency programs that focus on reemployment results to develop coordinated service delivery rather than only setting program performance measures of process or number of participants in any given program. Effective coordination should include utilizing private sector placement services for UI claimants.

6. Expanded uses of Reemployment Eligibility Assessments (REAs)

The Reemployment & Eligibility Assessment (REA) program includes eligibility reviews as part of the program to assure that individuals are able to work, available to work and actively seeking work as part of case management. This program should be continued and expanded to more claimants who are not job attached or in approved training.

²⁷ N.C.G.S. §96-13(a)(3) (2011) Regulation No. 10 of the N.C. Employment Security Commission (now known as the Division of Employment Security)

REAs were first used by the Department of Employment Security (DES) in July 2010. Through interviews with the staff, DES was on target to serve 22,500 individuals under this program. While face-to-face employment services will remain important for some individuals, it is our observation that a target of 22,500 individuals out of 476,276 unemployed is serving a small percentage of the unemployed. More of this type of service will need to be provided by telephone or internet applications to be effective and reach a higher number of unemployed. Job matching can be provided to each claimant when filing a weekly claim by telephone and internet.

While funding is uncertain for this program, tools developed by this program include (1) self-assessment, (2) career assessment, and (3) an online REA toolkit that helps identify transferability of skills. Reemployment services and reemployment and eligibility assessment activities to be provided should include a) the provision of labor market information, b) an assessment of the skills of the individual, c) orientation to the services available through the one-stop centers; d) review of the eligibility relating to job search activities; and may include i) comprehensive and specialized assessments; ii) individual and group career counseling, training services, additional reemployment services; and iii) job search counseling and the development of an individual reemployment plan.

7. Opportunity North Carolina (ONC) Performance Metrics

In testimony²⁸ provided by Assistant Secretary, Lynn Holmes, to the North Carolina Revenue Laws Committee on January 4, 2012, Assistant Secretary Holmes stated that the North Carolina General Assembly approved an appropriation of \$1 million to fund the ONC during fiscal year 2011-12. The ONC was piloted in six DES offices, but the agency plans include expansion to other local offices. The program provides individuals up to 24 hours of on-the-job training for up to 6 weeks. Employers have no costs, including workers' compensation paid by ONC, except the time spent training a UI recipient. As reported, 49 employers have volunteered for the program, 73 recipients have had at least one-week of training and 37 have been employed after participation. There are better ways to utilize the limited resources available and to ensure that there is an appropriate return on investment. Programs, such as the Texas Back-To-Work (TBTW) program have implemented metrics focused on the return-on-investment (ROI) of the program. Further review of this program for best practices should be considered when evaluating the performance metrics that should be used for ONC.

8. Implement a Back to Work program that provides wage subsidies to employers that hire UI claimants

The state should consider implementing a Back to Work program similar to the one implemented in December 2009 by the Texas Workforce Commission (TWC). Upon completion of the Texas Back to Work Program (TBTW), the employer is eligible to receive a wage and training subsidy based on the total amount of time the qualified individual remained actively employed. The total amount for which the Employer is eligible per qualified individual is \$2,000. However, if the employee is terminated prior to reaching the 120-day benchmark, the Employer may be eligible to receive the amount that corresponds to the benchmark that was completed (30, 60, or 90 days, defined as consecutive 24-hour periods based on the calendar). The retention periods and corresponding total subsidy amounts are as follows: between 30–59 days—\$800; between 60–89 days—\$1,400; between 90–119 days—\$1,800; and for 120 or more days—\$2,000.

The TWC uses metrics focused on the return-on-investment (ROI) of the program. The program's goal in evaluating the TBTW is twofold: (1) to determine the savings it produces for the state and the taxpayer,

²⁸ DES Presentation Before the Revenue Laws Study Commission, 2011-12 session (NC 2012)(testimony of Lynn R. Holmes, Assistant Secretary, North Carolina Department of Commerce, Division of Employment Security)

and (2) to determine its benefit to the claimant in terms of returning to work sooner than they otherwise would have without being in the program. The Texas Workforce Commission measured the amount of benefits claimants received, as well as the number of weeks during which they received unemployment, within a specified study period.

What impact does faster reemployment have on the UI system?

Reducing the time a UI claimant receives benefits (duration) and increasing the total number of covered employees employers pay taxes on is the foundation of returning North Carolina's UI system to a position of solvency and competitiveness. The following example using 2011 data, is overly simplistic, but is the best way we have determined to demonstrate the additional savings and tax revenues from earlier return to work.

Benefit savings - Taking the total benefits paid = \$1,406,958,000 and dividing by average duration of 16.3 weeks = \$86,316,441 per week. In round numbers, each week of duration reduced for all UI claimants = **\$86 million saved** in benefit payout for the trust fund.

Increased tax revenue – Taking the total contributions received = \$937,127,000 and dividing by average covered employment of 3,743,000 = \$250.37 per employee. In round numbers, each employee put back to work would generate an additional \$250 to the trust fund. Therefore, the additional tax revenue would be \$25,000 for every 100 workers reemployed, \$250,000 for every 1000 workers, \$2,500,000 for every 10,000 workers, \$12,500,000 for every 50,000, and so on. This is a conservative estimate since the minimum amount of revenue under our recommendations would be \$122.40 per employee (0.6%), a maximum of \$1,395.36 per employee (6.84%) and the current average tax per employee is \$336.

A piecemeal approach to addressing the needs of North Carolina employers, UI claimants and jobseekers will not produce as successful results as implementing a package of reforms mentioned throughout this study and a commitment to ensuring seamless implementation. Reemployment should be at the core of such efforts. Administrative programs must be further integrated to accomplish such a reemployment system and the proper metrics should be in place to monitor progress. A change in administrative funding could also be used as an incentive for transition.

VII. Integrity of the UI System

UI erroneous payments and overpayment amounts have increased across the country due to the increased volume of claims, lack of dedicated resources to identify and collect overpayments, the ease with which claimants may now apply for and collect unemployment compensation on line, and the lack of emphasis on integrity.

There is a long list of methods to effectively avoid overpayments on the front end and to identify and collect overpayments, including 1) effective use of the National New Hire Data base to identify individuals who are being paid unemployment compensation while working, 2) the IRS program that matches overpaid claimants with federal tax refunds and deducts amounts owing, 3) state wage information cross-matches, 4) collection through offset against state income tax refunds, 5) holding up licenses (fishing, hunting, drivers) until repayment is received, 6) matching against prison records, hospital records, death certificates and other data bases of individuals who are clearly not able or available to work but are receiving checks.

To be effective, these measures require dedicated systems and staff to not only identify overpayments but to follow-up with collection. USDOL recently released some funding to be used for this purpose, and to the extent that state law needs to be amended to enable more effective measures, such amendments should be included as part of the solvency package.

According to the methodology used by the USDOL, North Carolina experienced an improper payment rate of 8.86% totaling over \$555 million in improper payments between July 1, 2008 and June 30, 2011. The total amount of overpayments from July 1, 2010 through June 30, 2011 was \$163 million. Therefore, a reduction in the overpayment rate from 8.86% to 7.86% would have saved about \$62.5 million that was improperly paid for the same 3 year period or about \$20.8 million annually. The total amount of improper payments may be undervalued, in which case the savings from improved integrity measures could yield even greater savings. If implemented, the integrity recommendations listed below should provide a more accurate estimate of total overpayments and provide better identification and controls to prevent overpayments as well as increase collection rates.

a. INTEGRITY RECOMMENDATIONS

1. Establish and enforce new Able, Available and Actively Seeking Work Requirements

The Middle Class Tax Relief and Job Creation Act of 2012, enacted by Congress and signed by President Obama on February 12th requires that claimant must be able to work, available to work, and actively seeking work to be eligible to be paid unemployment compensation. This new requirement increases focus on the integrity of the system to meaningfully address these requirements with no additional dedicated administrative funding. As a result, states must rely increasingly on electronic exchange of information and automated systems that are most efficient in identifying issues and addressing them administratively.

Due to limited administrative funding and significant workload, North Carolina should rely increasingly on call centers and electronic interaction with claimants while reducing the costs of staffing in local offices.

In the design of SCUBI and the business rules associated with determinations with respect to whether claimants are able to work, available to work and actively seeking work, there should be systems integration to enable local offices, claims offices and/or one-stops to be able to access information and assure that these requirements are met. If an issue with respect to these requirements is identified it should be effectively referred to staff responsible for UI adjudication.

2. Repeal the regulation permitting local offices to extend the period during which a claimant may be permitted to claim unemployment compensation without registering for work

Regulation 10.16 sets forth circumstances in which registration may be delayed. The regulation should be repealed and replaced with a new regulation that reflects new statutory registration requirements.

3. Implement electronic exchange of claims and wage verification with employers to verify overpayment and fraud

The system used in requesting information from employers to verify wages and weeks for purposes of determining overpayments and fraud is currently largely a paper process that should be converted to an electronic exchange to enable speedy determination and efficient recovery of benefits and provide the information needed for fraud prosecution.

4. Use cross-matches and the array of tools to identify overpayments when individuals claim and are paid unemployment compensation when they are not eligible, not able to work, not available for work, not actively seeking work or refusing offers of work.

Identification of issues is the first step, but administrative methods should be designed to effectively target efforts to collect overpayment amounts with high dollar value to maximize recovery. Claims in which it appears that there has been fraud should also be prioritized to send a message to future claimants about the integrity of the system.

5. Monthly statement of charges to employer accounts

The current law in North Carolina calls for only an annual reconciliation of charges to employer accounts. Very few states limit the reconciliation annually and most provide for a weekly, monthly or quarterly statement of charges. A regular monthly statement of charges is consistent with good business practice and enables employers to identify errors in a timely way and bring them to the attention of the agency.

6. Extend authority to establish overpayments

Information may arise at any time which indicates that a determination was erroneously made due to facts that were not considered in the initial determination. In such cases, the agency should have authority to render a redetermination in light of new facts, giving the parties to the original determination the right to appeal the redetermination. This administrative authority should be provided until the end of the benefit year or as long as the overpayment remains on appeal, whichever is later.

7. Change definition of "work" that is extremely convoluted.

Section 96-8²⁹ includes as the definition of “work” for purposes of the chapter that it “means any permanent employment the acceptance of which would not result in undue family hardship”. The definition goes further to provide that “bona fide permanent employment” is presumed to include only those employments of greater than 30 consecutive calendar days duration (regardless of whether work is performed on all those days) provided: (a) the presumption that an employment lasting 30 days or less is not bona fide permanent employment may be rebutted by a finding by the Division, either on its own motion or upon a clear and convincing showing by an interested party that the application of the presumption would work a substantial injustice in view of the intent of this Chapter; (b) Any decision of the Division on the question of bona fide employment may be disturbed on judicial review only upon a finding of plain error.

²⁹ N.C.G.S. §96-8(24)

This definition is extremely convoluted. As a practical matter employers tend not to guarantee that an employee will be employed for more than 30 consecutive days because employees may be hired at will or with a probationary period during which the employer may choose to fire them.

Section 96-8 should be amended to read that "work" means any bona fide permanent employment and "bona fide permanent employment" be defined to include only those employments of greater than 30 consecutive calendar days. All exceptions for undue family hardships and substantial injustice should be removed.

See also Regulation 2.38 which should also be repealed and a new definition provided.

8. Implement the State Information Data Exchange System (SIDES)

The SIDES system should be adopted as a vehicle to use for efficient electronic exchange of information between employers and agency staff. SIDES should not be mandated but made available to employers with the capability to use it. Other web based systems and electronic exchanges of information should be developed, particularly with smaller employers to reduce the cost of compliance and improve issue identification early in the claims determination process.

- 9. Implement cross-matches, including 1) the state and national new hire data bases, 2) the state and interstate wage cross-match, 3) the BARTS tool, 4) workers' compensation awards, 5) social security and social security disability, 6) IRS Treasury Offset Program (TOP) program, 7) Jail and Corrections, 8) lists of the deceased, 9) state employee payroll, 10) mailing address to check for multiple claims to same address, 11) phone match to check for multiple claims to same phone number, 10) foreign IP to check for claims filed outside of US or Canada, 12) match ACH transactions against claimant direct deposit and debit card transactions 13) food stamps, TANF and other programs providing cash payments that may be attributable to weeks.**

The state currently uses some cross-match systems in identifying claimants who are claiming work while being paid wages. The review should be expanded to also identify claimants who are claiming while they are not able to work, available for work or actively seeking work. The agency should also examine and implement ways to identify and prosecute the fraudulent use of the internet in filing applications for benefits and work with the Inspector General and the Postal Service as necessary to identify and prosecute individuals using the US mail.

- 10. Repeal Regulation 10.22 that broadly defines when there is good cause for an individual to fail to report timely and develop a new recommendation with more specific limits**

- 11. Require the proration to weeks of lump sum payments of retirement benefits, back pay awards, bonuses, vacation pay, separation pay, remuneration in lieu of notice and remuneration in determining whether to pay a week of benefits**

Section 96-8 (10) (c)³⁰ provides that no individual shall be considered unemployed if, with respect to the entire calendar week, the individual is receiving, has received, or will receive as a result of the individual's separation from employment, remuneration in the form of wages in lieu of notice, accrued vacation pay, terminal leave pay, severance pay, separation pay, or dismissal payments or wages by whatever name. However, it does not address the treatment of lump sum payments allocated to a specific day or portion of a week. An amendment should be considered to require that lump sum payments of wages or remuneration in any form if not allocated by the employer shall be allocated to weeks claimed

³⁰ N.C.G.S. §96-8(10)(c)

and result in denial or reduction of unemployment compensation with respect to such weeks. The allocation, denial and/or reduction should be imposed whether the individuals are payroll attached or separated from employment.

12. Increase the penalty for claims fraud from a Class 1 misdemeanor to a felony

Most states consider UI fraud as a felony under the state criminal code. Setting a substantial penalty deters fraudulent claims. See Section 96-18 (a)³¹

13. Require the agency to collect overpayments by offset against future claims and to increase the offset percentage for non-fraud overpayment withholding to 100% from 50%

Very few states only withhold 50% of non-fraud overpayments. Withholding of future benefits is the primary method by which all states collect overpayments. Increasing the withholding to 100% is not only consistent with best practice across the country, but will increase recovery and reduce the state unemployment trust fund deficit. See Section 96-18 (g) (3)³²

According to USDOL, 25 states have a straight 100%, 8 states have a straight 50%, 4 have 25%, and the rest have combinations depending on the size of the overpayment, whether it was administrative error, the ability of the claimant to pay, or a judgment about relative fault of the claimant. Almost all states are at 100% for fraud overpayments.

Regionally for non-fraud collection of overpayments:

TN –	100%
SC –	100%
GA –	50%
VA –	100%, but 50% if administrative error
FL –	100%

14. Eliminate the limitation on the number of years during which an overpayment may be collected and the limitation on the number of years that a claims payment may be offset to collect an overpayment and consider the use of recovery contractors to supplement agency collection efforts.

The current limitation of three years during which an overpayment may be collected is a minimum period. Most states have longer periods during which collection remains active and a number of states have no limit. The limit should be removed and the agency should adopt good business practices in collection of overpayments. To the extent permitted under federal law, contracting out overpayment recovery should be considered. Many states rely on recovery contractors for certain cases or collection activity after initial collection activity by the agency.

15. Use adjudication software and improved training of staff to reduce overpayments, improve efficiency and reduce reversals.

Improved training and the use of expert adjudication software that is available to UI agencies will assist the agency in training new staff (particularly those that are hired in a rush during periods of increased claims activity), and will avoid unnecessary overpayments on the front end. In the long term, improved UI adjudication training will improve program integrity.

³¹ See N.C.G.S. §96-18(a)

³² See N.C.G.S. §96-18(g)(3)(d) and (e)

16. Repeal provisions permitting the work search requirement to be met when limiting work search to only part-time work

Section 96-8³³ includes a definition of seeking only part-time work that should be repealed in order to comply with the general requirement that claimants be available to work as a condition of being paid unemployment compensation for a full week of unemployment. Unemployment compensation for a full week should require that the individual is available for work throughout the week. By providing for work search limited to a number of hours per week that are comparable to the individual's part-time work experience in his or her base period the availability is not met because the individual is not available for full time work.

Section 96-13 (a)(6) likewise should be repealed as it provides “Notwithstanding any other provisions of this Chapter, an unemployed individual shall not be ineligible for unemployment compensation benefits under any provision of the Employment Security Law relating to availability for work, active search for work, or refusal to accept work solely because the individual is seeking only part-time work as defined in Section 96-8 (29), provided that a majority of weeks of work in the individual's base period include part-time work.

These provisions were inserted in order to qualify for “UI Modernization” funds which have been received and they may now be repealed.

17. Eliminate Regulation No. 20A providing for a special Waiver of Overpayment appeal procedure in addition to the regular overpayment appeals procedure

Regulation No. 20A provides for a waiver of overpayment procedure that is independent from the normal appeals procedure. Such a formal alternative procedure creates confusion and is not necessary for proper administration of the UI law. The Regulation should be repealed.

18. Change the current regulation to a new rule that filing of an unemployment compensation claim is a “constructive” registration for work to provide that the application include information sufficient to effectively register the individual for work.

Regulation 10.15 provides that the filing of a claim shall constitute a constructive registration for work. This regulation should be amended to reflect new registration requirements.

19. Change the non-charging provisions in rules to remove unnecessary restrictions on the agency in providing relief to employer accounts when individuals become unemployed for disqualifying reasons

Regulation 7.10 permits the non-charging of employer accounts to extremely limited circumstances. The limitations should be deleted and the regulation revised to permit non-charging to employer accounts when the claimant was discharged for cause or quit with good cause.

³³ N.C.G.S. §96-8(29)

- 20. Eliminate overly legalistic requirements of hearings, clearly permit non-attorneys to represent employers and claimants in administrative hearings and administrative appeals and adopt rules similar to those used in arbitration disputes that do not require the use of the formal rules of evidence.**

Although Section 96-15³⁴ appears by its terms to provide for appeals hearings that are informal and not bound by the rules of evidence, court decisions have been interpreted to restrict the informal nature of UI hearings. The agency should develop rules and or statutory provisions to address this issue.

- 21. Collect overpayments of deceased claimants if claimed for the week in which the claimant became deceased or weeks thereafter.**

A review of current statutory authority and practice is needed to assure that UI trust fund money is recovered if it was paid to a claimant who is deceased and was not able to work, available to work or actively seeking work with respect to a week for which a payment was made. See Section 96-18 (f)³⁵

³⁴ Although N.C.G.S. §96-15

³⁵ See N.C.G.S. §96-18(g)(3)(f)

VIII. Affordability/Benefits

*“Unemployment compensation is a method of safeguarding individuals against distress for a short period of time after they become unemployed.”*³⁶ Social Security Board in 1937

Benefit payout has outstripped ability to pay for the program

North Carolina is not alone as a state that did not anticipate the size and length of the great recession of 2009. As of April 30, 2012, 26 states and the Virgin Islands had outstanding loans from the federal government in excess of \$40 billion. Other southeastern states have outstanding loans, including Virginia (\$350 million), South Carolina (\$782 million), Georgia (\$760 million), and Florida (\$1.8 billion). South Carolina recently enacted legislation that significantly increased state UI taxes and Florida recently enacted legislation to significantly reduce benefit payout.

The benefit payout overhang in many states has continued longer than previous recessions due to the lack of significant job growth and the continuation of benefit payment provisions that have not addressed the need for solvency of the fund.

A number of states across the country have taken action to reduce benefit payout through the reduction of the potential number of weeks of benefits, changes in the determination of the weekly benefit amount, requiring a waiting week, increasing work search requirements, and integrity measures designed to avoid overpayments on the front end, identify fraud and overpayments and enhance collection efforts. States to review include Florida, Michigan, Missouri, Arkansas and Indiana.

A number of states have also increased state UI taxes as a significant part of addressing solvency. South Dakota, Vermont, and South Carolina are states that should be reviewed.

In 2010, all states, with the exception of Massachusetts (30) and Montana (28) had a potential maximum number of 26 weeks. This 26 week maximum was generally assumed in press reports about UI referring to the up to 99 weeks of unemployment. The 99 weeks was actually composed of 26 state, 53 federal emergency unemployment compensation, and 20 regular extended benefits. It should be noted that reductions in the number of state weeks does have an impact on the number of federal EUC and EB weeks because of federal law that ties the number of federal weeks to a specified number, or 50% of the state UI weeks, whichever is less.

A review of the history of the number of weeks shows that at the beginning of the UI program the number of weeks was less than 26 weeks because states expected that UI tax funds could not support that level of benefit payment over time. According to a review of state UI laws performed by Mathematica Policy Research, Inc., in the 1930s the average potential duration under state UI laws was 13 to 16 weeks. There was no federal extended benefit program.

The historically large number of weeks of federal unemployment compensation in recent years has had the effect of increasing how long individuals continue to claim state UI benefits. The Congressional Budget Office recognizes this affect and assumes that for every 13 weeks of Federal extended benefits there will be up to 2.1 weeks of increase on average in the duration of state unemployment insurance benefits claimed.

³⁶ “Unemployment Compensation: What and Why?” Social Security Board, United States Government Printing, Publication No. 14, March 1937.

North Carolina UI Solvency Study Observations & Recommendations

Given the current imbalance between benefit payout and tax revenue, a number of measures should be considered to align North Carolina with best administrative practices and reduce payout consistent with the trend in other states addressing solvency.

State UI benefits paid to unemployed claimants in North Carolina are more generous than the national average and above the surrounding states.

Unemployment Compensation payments in North Carolina have exceeded unemployment tax revenue due to a number of factors, including:

1. The weekly benefit amount formula used to determine the amount to be paid results in amounts that are close to the national average but significantly higher than the weekly benefit amounts in the region;
2. The maximum weekly benefit amount is significantly higher than maximum weekly benefit amounts in the region;
3. Wage replacement rates are higher than the national average and significantly higher than wage replacement rates in the region.

Significant reductions in benefit amount and/or duration will be needed to eliminate the annual deficit in benefit payments compared to contributions and to reduce the current UI trust fund deficit.

Average Wage Replacement Rate

US Average	46.2%
North Carolina	51.9%
Georgia	45.7%
South Carolina	46.5%
Tennessee	41.3%
Virginia	45.2%
Florida	41.0%

a. AFFORDABILITY/BENEFIT RECOMMENDATIONS

In comparison to other states in the region, the maximum weekly benefit amount of unemployment compensation paid to claimants is the highest, the average weekly benefit amount is the highest in the region, the wage replacement on average is higher than the national average and higher than other states in the region, and the maximum number of weeks potentially to be paid (26) is higher than Florida, South Carolina and Georgia.

Although benefit levels are significantly higher in North Carolina, the tax burden for North Carolina employers is about average for the country and higher than states in the southeast. This fact, along with the observation that the amount being paid on an annual basis is \$470 million more than the state annual unemployment tax revenue, leads to the conclusion that significant benefit reform is needed to align benefit payment with state UI tax revenue.

The following reform recommendations are designed to align benefits with tax revenue and to bring benefit benefits in line with other states in the Southeast to attract business to the state. These reforms are also consistent with the goal of reemployment of UI claimants.

North Carolina UI Solvency Study Observations & Recommendations

1. Reduce the number of potential weeks from 26 to 20

The trend among states that have recently enacted legislation to improve the solvency of the state UI trust funds has been to reduce the number of potential weeks of benefits from 26 to a lower number (Michigan 26 to 20; Missouri 26 to 20; South Carolina 26 to 20; Florida 26 to 12-23 depending on state unemployment rate; Georgia 14-20 depending on the state unemployment rate. The current provision may be found in **Section 96-12 (d)**³⁷.

Maximum Number of Weeks of Benefits

US Average	N/A
North Carolina	26
Georgia	14-20
South Carolina	20
Tennessee	26
Virginia	26
Florida	12-23

The ETA-218 quarterly report from NC to USDOL shows both number of potential claimants (benefit years established) and the number of benefit exhaustees (those that received their maximum number of benefit weeks) categorized by amount of weeks (10-14, 15-19, 20-21, 22-23, 24-25, 26 or more).

For actual exhaustees:

2011 total exhaustees = 172,412

20-21 wks.	10,319 exhaustees	times average reduction of .5 wks.	= 5,160 wks.
22-23 wks.	11,441 exhaustees	times average reduction of 2.5 wks.	= 28,603 wks.
24-25 wks.	11,176 exhaustees	times average reduction of 4.5 wks.	= 50,292 wks.
26 wks.	76,527 exhaustees	times average reduction of 6 wks.	= 459,162 wks.

Total = 543,217 wks. times \$291.39 avg. WBA = **\$160 million**

For potential exhaustees (benefit years established - BYE):

2011 BYEs = 452,908

20-21 wks.	24,629 BYEs	times average reduction of .5 wks.	= 12,315
22-23 wks.	27,110 BYEs	times average reduction of 2.5 wks.	= 67,775
24-25 wks.	31,815 BYEs	times average reduction of 4.5 wks.	= 143,168
26 wks.	210,923 BYEs	times average reduction of 6 wks.	= 1,265,538

Thus, the Total = 1,488,796 weeks times \$291.39 = \$434 million, and adjusting for exhaustees already included above (308,535 first payments minus 172,412 exhaustees = 136,123 non-exhaustee payees divided by total BYEs of 452,908 = 30%

Total for BYEs = \$434 million times 30% = **\$130 million**

TOTAL SAVINGS BY REDUCING TO 20 WEEKS = \$160 million + \$130 million = **\$290 million**.

³⁷ N.C.G.S. §96-12(d)

North Carolina UI Solvency Study Observations & Recommendations

2. Changing Maximum Weekly Benefit Amounts from 66 2/3% of statewide average weekly wage (SAWW) to a constant \$350 is the average maximum of all the surrounding states, including NC (effective the first week of January of 2013)

North Carolina's maximum WBA is higher than states in the Southeast, is indexed to automatically increase each year, and is higher than the national average.

Maximum Weekly Benefit Amount

US Average	N/A
North Carolina	506
Georgia	330
South Carolina	326
Tennessee	275
Virginia	378
Florida	275

Source: National Foundation for Unemployment Compensation and Workers' Compensation (UWC), Highlights of State Unemployment Compensation Laws, 2011

The state should reduce the maximum WBA to be consistent with surrounding states. The current provision may be found at **Section 96-12 (b) (2)**³⁸.

In addition, the state should eliminate the automatic trigger provision. None of the states in the region have an automatic trigger provision in state law. This trigger in North Carolina law has unnecessarily increased the maximum WBA each year leading to the significantly higher amount than other states in the region. Any proposed increase in the maximum WBA should be proposed to the Governor and legislative leaders for approval with the rationale for making such a change.

Output Table No. 1: This table is a run sent by USDOL showing a PRMF=0 and PP=1. It shows the baseline assuming no law changes of total benefits paid from 2013 - 2020 at **66 2/3 SAWW** yielded an average of **\$687 million** per year.

SUMMARY OF EARNED INTEREST, FUND BALANCES, BENEFITS, CONTRIBUTIONS AND PAYROLL BY CALENDAR YEAR												
CAL. YEAR	TOTAL		ENDING		TOTAL		BENEFITS		CONTRIBUTIONS		AGGREGATE PAYROLL	
	INTEREST EARNED	TRUST FUND BALANCE	REGULAR	DEPENDENT (STATE SHARE)	REGULAR	EXTENDED	REGULAR	SOCIAL	TOTAL	TAXABLE	TOTAL	
	(IN THOUSANDS EXCEPT PAYROLL)										(FIGURES IN MILLIONS)	
2011	0	-3,108,459	1,696,673	0	0	1,696,673	1,096,818	0	1,096,818	53,048	120,797	
2012	0	-2,927,551	1,062,693	0	0	1,062,693	1,108,016	0	1,108,016	53,029	121,451	
2013	0	-2,508,199	906,048	0	0	906,048	1,051,571	0	1,051,571	53,614	124,003	
2014	0	-1,824,441	725,129	0	0	725,129	991,426	0	991,426	54,494	126,877	
2015	0	-1,078,454	759,281	0	0	759,281	936,575	0	936,575	55,490	130,434	
2016	0	-198,702	757,799	0	0	757,799	908,535	0	908,535	56,764	134,601	
2017	30,213	976,610	622,263	0	0	622,263	871,622	0	871,622	57,995	139,176	
2018	55,586	1,332,196	531,838	0	0	531,838	831,838	0	831,838	59,168	143,962	
2019	74,181	1,689,387	505,854	0	0	505,854	788,864	0	788,864	60,267	148,540	
2020	89,554	1,846,079	693,863	0	0	693,863	761,001	0	761,001	61,263	152,567	

NOTE * - CALCULATE ON WAGES OF PREVIOUS YEAR

³⁸ N.C.G.S. §96-12(b)(2)

North Carolina UI Solvency Study Observations & Recommendations

Output Table No. 2: This table is a run sent by USDOL showing a PRMF=0 and PP=4. It shows total benefits paid from 2013 - 2020 at **\$350** yielded an average of **\$582 million** per year.

SUMMARY OF EARNED INTEREST, FUND BALANCES, BENEFITS, CONTRIBUTIONS AND PAYROLL BY CALENDAR YEAR											
CAL. YEAR	TOTAL INTEREST EARNED		ENDING TRUST FUND BALANCE		TOTAL BENEFITS		CONTRIBUTIONS			--AGGREGATE PAYROLL--	
	(IN THOUSANDS)	(EXCEPT PAYROLL)	REGULAR	DEPENDENT (STATE SHARE)	EXTENDED	TOTAL	REGULAR	SOCIAL	TOTAL	TAXABLE	TOTAL
2011	0	-3,104,599	1,691,195	0	0	1,691,195	1,095,201	0	1,095,201	53,045	120,796
2012	0	-2,912,249	1,036,765	0	0	1,036,765	1,093,528	0	1,093,528	52,685	121,447
2013	0	-2,405,060	812,630	0	0	812,630	1,045,990	0	1,045,990	53,216	124,003
2014	0	-1,660,550	640,483	0	0	640,483	967,531	0	967,531	53,995	126,877
2015	0	-852,303	664,841	0	0	664,841	904,394	0	904,394	54,897	130,435
2016	506	76,825	656,695	0	0	656,695	856,299	0	856,299	55,944	134,601
2017	7,685	378,102	522,735	0	0	522,735	816,327	0	816,327	56,916	139,176
2018	24,754	740,998	428,488	0	0	428,488	766,629	0	766,629	57,861	143,963
2019	43,878	1,112,344	393,059	0	0	393,059	720,527	0	720,527	58,728	148,541
2020	60,344	1,311,324	542,482	0	0	542,482	681,118	0	681,118	59,544	152,568

NOTE * - CALCULATE ON WAGES OF PREVIOUS YEAR

Thus, the savings to the Trust Fund per year equaled **\$105 million**, or a 15% reduction in benefits paid.

- Add a provision requiring that a waiting week be served not only with respect to the first week after a benefit year is established but also after the filing of an additional claim during a benefit year.**

The addition of a waiting week after additional claims will reduce the deficit without impairing the ability of the UI system to provide unemployment compensation after subsequent employment within an existing benefit year. By adding this provision, based on 2010 data, North Carolina would save as much as \$17 million per year in benefit payout.

NC Report online: Significant Activity Measures in December 2010 (latest available) shows:

Taking 340,113 additional claims minus 283,304 exhaustions = 56,809 weeks saved times \$298.46 avg. WBA + **\$17 million**, or 1% of total benefits paid in 2010.

- Reduce the WBA – change the formula to percent of base period wages (effective in January of 2013). Set WBA at base period wages divided by 104. (See Section 96-12(b)(1)³⁹)**

This change would have the effect of setting the state weekly benefit at an amount that represents a percentage (up to 50%) of the average weekly wage that the individual was being paid during the base period. Current law sets the weekly benefit amount as a percentage of only the highest quarter in the base period. This increases the weekly benefit amount so as not to be representative of the base period as a whole and the higher amount serves to discourage unemployed workers from searching for work or accepting work that is available in the labor market.

For example, under current law a worker earning \$26,000 per year, with \$13,000 of earnings in the highest quarter of the base period would receive a weekly benefit amount (WBA) of \$500 per week. If the weekly benefit amount is based on the entire base period the WBA would be \$250 per week. Current law artificially inflates the weekly benefit amount. Indiana recently recognized this issue and changed its formula for determination of the weekly benefit amount, noting that it treats all workers equally in determining the weekly benefit amount. All workers being paid \$26,000 a year should receive the same weekly benefit amount.

³⁹ See N.C.G.S. §96-12(b)(1)

Average Weekly Benefit Amount

US Average	\$ 296.56
North Carolina	\$ 291.37
Georgia	\$ 268.10
South Carolina	\$ 237.88
Tennessee	\$ 237.95
Virginia	\$ 287.64
Florida	\$ 231.58

Source: United States Department of Labor Data Summary for the 4th quarter of 2011

The effective date of the this provision should be for applications to establish unemployment benefit rights filed with respect to the week beginning on and after January 6, 2013 so as not to conflict with the provisions of Section 2122 of the Unemployment Benefits Extension Act of 2012.

A condition of federal reimbursement to states of emergency unemployment compensation is that a change in state UI law not be made so as to reduce the average weekly benefit amount from the amount that would have been determined under North Carolina law in effect as of June 2, 2010. The restriction has been extended along with the extension of the EUC program through January 2, 2013.

5. Deny benefits to claimants for weeks claimed for which the claimants are also eligible to receive or do receive vacation pay, separation pay and other forms of such payments whether the individuals are payroll attached or separated from employment.

Section 96-8⁴⁰ currently provides for such denial only when individuals are separated from employment, but the denial should also apply to individuals who are payroll attached but seeking to be paid unemployment compensation.

This will reduce the deficit in the trust fund by denying the double dip of UI benefits and vacation pay for the same period of time.

6. Modify partial WBA calculation

The current provision at **Section 96-12(c)**⁴¹ ties the partial weekly benefit amount to the calculation based on the high quarter, and should be amended to provide for a benefit disregard of 20% of the claimant's WBA instead of 10% of the individual's average weekly wage in the high quarter. The 20% of WBA disregard is roughly equivalent to the 10% of base period average weekly wage but is specific to the individual's WBA so as to avoid high benefit disregard amounts that may discourage claimants from higher base period wages from seeking employment.

7. Change the provision under which a claimant may have good cause to quit based on reduction in work hours from 20% to 50%

Most states do not have a specific statutory provision that addresses a specific percentage and informal conversations with other state agency staff the 20% reduction provision is lower than administrative practice in determining when an individual may have good cause to quit. A reduction in hours may be temporary, of uncertain duration, or permanent, and in most cases employees receive a package of employee benefits which continues despite a reduction in hours. A reasonable person, given the alternative of unemployment would not quit employment based on a 20% reduction in hours.

A more reasonable bright line would be a reduction of 50%. Such a reduction is more clearly likely to be good cause to quit. A reduction of 50% is a fairly good indication that the employer is no longer able or

⁴⁰ N.C.G.S. §96-8

⁴¹ N.C.G.S. §96-12(c)

willing to continue the employment relationship at a level that would be satisfactory to an employee who is interested in continued work with more hours a week. Since unemployment compensation pays approximately 50% of the individual's average weekly wage, an individual could more reasonably choose to discontinue employment and become unemployed while looking for another job due to a 50% reduction in hours.

Section 96-14 (1) (b)⁴² provides that when an individual leaves work due to a reduction in work hours of 20% or more such separation from unemployment shall be non-disqualifying for unemployment compensation.

As a practical matter due to fluctuation in the marketplace employers may need to reduce hours worked. A reduction of 20% is not unusual and not such a reduction that would be cause for a worker to quit. A reduction of 50% is a clearer threshold at which individuals might be expected to leave work without being disqualified.

8. Change the provision under which a claimant may have good cause to quit based on reduction in rate of pay from 15% to 50%

Most states do not have a specific statutory provision that addresses a specific percentage and informal conversations with other state agency staff indicate that the 15% reduction provision is lower than administrative practice in determining when an individual may have good cause to quit. A reduction in wages may be temporary, of uncertain duration, or permanent, and in most cases employees receive a package of employee benefits which continues despite a reduction in rate of pay. A reasonable person, given the alternative of unemployment would not quit employment based on a 15% reduction in rate of pay.

A more reasonable bright line would be a reduction of 50%. Such a reduction is more clearly likely to be good cause to quit. A reduction of 50% is a fairly good indication that the employer is no longer able or willing to continue the employment relationship at a level that would be satisfactory to an employee who is interested in continued work at consistent pay. Since unemployment compensation pays approximately 50% of the individual's average weekly wage, an individual could more reasonably choose to discontinue employment and become unemployed while looking for another job if his or her pay were reduced by 50%.

Section 96-14 (1) (c)⁴³ provides that when an individual leaves work due to a reduction in rate of pay of more than 15% that the individual shall not be disqualified from unemployment compensation. This 15% provision is too low as indicative of a reason to leave work, and should be increased to 50%.

9. Repeal provisions permitting the agency to reduce the period of disqualification of claimants and the automatic termination of disqualification after two years.

Section 96-14 (10)⁴⁴ permits the agency in its discretion to reduce a disqualification period to a time certain. Such a provision is not required by federal law, unusual among states and adds significant discretion to reduce a penalty without a specific standard to be followed upon which to base the reduction other than a general "good cause" provision.

The section also automatically terminates disqualifications two years after the effective date of the beginning of the disqualification. This results in increased benefit payout and cyclically unemployed claimants waiting out the disqualification.

⁴² N.C.G.S. §96-14(1b)

⁴³ N.C.G.S. §96-14(1c)

⁴⁴ N.C.G.S. §96-14(10)

10. Eliminate optional Extended Benefit trigger provisions

The optional trigger for federal extended benefits enables an electing state to have a trigger with an insured unemployment rate of 6.0% without the additional requirement that the rate equaled or exceeded 120% of the average for the week and the immediately preceding 12 weeks. Very few states trigger on under this provision, it is not needed, but potentially could result in North Carolina remaining on federal extended benefits with only a 50% federal reimbursement to the state UI trust fund at a time when the unemployment rate is already going down. (See Section 96-12.01(a)(4)⁴⁵)

The optional triggers with respect to the total unemployment rate and look back provisions should also be repealed because they are not required by federal law and may result in increased pay-out from the state unemployment trust fund without federal reimbursement. Even under current federal law there is no federal reimbursement for extended benefits paid to claimants who become unemployed from Indian tribes and political subdivisions of the state. Enabling an earlier triggering on of extended benefits results in increased pay out from the state UI trust fund without federal reimbursement (See Section 96-12.01 (c) and (d) and (e).

11. Repeal extended base period provision in Section 96-12.1⁴⁶

The optional base period provision requires the agency to use an extended benefit period to enable an individual to qualify for unemployment compensation when the individual has insufficient base period wages to qualify using the normal base period. This is not required by federal law and increases state UI benefit pay-out. Similar provisions are rare across the country. This provision creates unnecessary administrative burden for the state agency, no federal funding is provided to cover this additional administrative cost, and it results in increased UI appeals in determining whether the provision should apply. Furthermore, because the provision “non-charges” base period employer accounts it reduces the experience rating features of North Carolina law and increases the overall deficit in the state UI trust fund imposing increased costs on all employers.

12. Repeal provisions defining “suitable work” for purposes of denying benefits differently than the minimum definition required under federal law

Section 96-14 (3)⁴⁷ includes a list of items to be considered in determining whether work is “suitable” that goes beyond the federally defined minimum. This language should be amended to track with the federal requirements.

A new definition of “suitable work” should be developed by the agency that provides that all work is suitable after the tenth week of benefits as long as the claimant is able to perform the work. This stair stepped approach has long been accepted by states and the US Department of Labor as an appropriate way to connect work search measures with the claimant based on the local labor market. After a period in which an individual actively seeks work with some limitation to the type of work that he or she may have been performing during the base period, if such work is not available to the individual in the local labor market, then the claimant should expand his or her search to more work that may be suitable given the circumstances.

⁴⁵ See N.C.G.S. §96-12.01(a1)(4), §96-12.01(c), (d) and (e)

⁴⁶ N.C.G.S. §96-12.1

⁴⁷ N.C.G.S. §96-14(3)

13. Repeal the authority to the agency to disregard eligibility issues in order to make payment of benefits “promptly”.

Section 96-15 (k)⁴⁸ provides “Irrespective of any other provision of this Chapter, the Division may adopt minimum regulations necessary to provide for the payment of benefits to individuals promptly when due as required by section 303(a)(1) of the Social Security Act. This section goes well beyond normal statutory delegation of authority to an administrative agency. Although it was likely intended as a way for the state to make changes to conform to federal due process requirements under the Social Security Act, it goes beyond that which is necessary and arguably empowers the agency to adopt “minimum regulations” that are inconsistent with statute. This provision should be deleted.

14. Specify able, available and actively seeking work requirements as a condition of eligibility to be paid unemployment compensation

Federal law was recently enacted requiring state UI law to assure that individuals must be able to work, available to work, and actively seeking work as a condition of being paid unemployment compensation for a week or weeks. There are a number of current provisions addressing circumstances in which these requirements are effectively waived.

New language should be inserted in **Section 96-14**⁴⁹ setting forth the new federal requirement, repealing inconsistent provisions currently in effect and, providing appropriate definitions of how claimants are required to meet them. In order to be consistent with federal law, this provision should be effective with the weeks beginning after the end of the first session of the state legislature which begins after February 22, 2012 (the date of Federal enactment).

The new requirement in state law, consistent with Section 2101 of the Extended Benefits, Reemployment, and Program Integrity Improvement Act should provide that “as a condition of eligibility for regular compensation for any week, a claimant must be able to work, available to work, and actively seeking work”. Model language for guidance is provided below based on an early version of [HR 3630](#) as it passed the US House of Representatives⁵⁰.

REFORMS OF UNEMPLOYMENT COMPENSATION TO PROMOTE WORK AND JOB CREATION CONSISTENT JOB SEARCH REQUIREMENTS.

(I) IN GENERAL.—:

(A) A requirement that, as a condition of eligibility for regular compensation for any week, a claimant must be able to work, available to work, and actively seeking work.

(B) For purposes of this paragraph, the term ‘actively seeking work’ means, with respect to an individual, that such individual is actively engaged in a systematic and sustained effort to obtain work, as determined based on evidence (whether in electronic format or otherwise) satisfactory to the State agency charged with the administration of the State law.

(C) The specific requirements that must be met in order to satisfy this paragraph shall be established by the State agency, and shall include at least the following:

(i) Registration for employment services as a condition of establishing eligibility for unemployment compensation;

(ii) Posting a resume, record, or other application for employment on such database as the State agency may require; and

(iii) Applying for work in such manner as the State agency may require.

⁴⁸ N.C.G.S. §96-15(k)

⁴⁹ N.C.G.S. §96-14

⁵⁰ H.R. 3630, 112th Cong. (as passed by House of Representatives, Dec. 13, 2011).

It is important to note that the immediate registration requirement is provided to enable the state agency to consider the registration issue before determining whether the individual may qualify to establish benefit rights or be paid unemployment compensation with respect to a week. The underlying system was designed to compensate only employable persons who are able and willing to work and who are unemployed through no fault of their own.⁵¹

15. Repeal provisions permitting claimants to be paid when leaving work due to disability or illness

Section 96-14 (1)⁵² provides that when an individual is discharged or leaves work due solely to a disability incurred or health condition, whether or not related to work, he shall not be disqualified under certain circumstances.

This provision is inconsistent with the basic tenet of the UI program that an individual to be eligible must become unemployed through no fault of his or her own in connection with the work and be able to work as a condition of being paid unemployment compensation. The program is not designed to pay compensation to individuals who become disabled or are ill for reasons not connected to work. Benefits, if any, in such circumstances may be available to such individuals through health insurance, short term disability, Medicare or other programs designed to address these situations.

16. Repeal provisions limiting the agency in determining not to pay claimants who refuse work

Section 96-13 (g) (1)⁵³ prohibits the agency from imposing a determination of ineligibility in cases where individuals are on disciplinary suspension for weeks beginning after the tenth consecutive calendar day after suspension. This has the effect of paying unemployment compensation to individuals who are still job attached to an employer but have become temporarily unemployed due to fault in connection with the work. This increases pay out from the unemployment trust fund and results in the payment of compensation to individuals who should not be paid. The prohibition should be repealed.

17. Specify registration requirement with greater detail and enforce it

Based on interviews with agency staff, we have learned that current rules effectively deem claimants to be “registered” to participate in the labor exchange by simply filing applications for unemployment compensation. This administrative policy was made in order to shift staff and resources to address meeting the US Department of Labor performance measure that a very high percentage of claimants be paid benefits within 14 days after the first week with respect to which they may be compensated.

This administrative rule results in reduced effort on the part of individuals to seek and accept employment and it reduces the pool of unemployed workers available to fill employer staffing needs as the state recovers from the recession.

Current law in **Section 96-13 (a)(1)**⁵⁴ requires that a claimant be registered for work at and thereafter has continued to report to an employment office as directed by the Division pursuant to rules adopted by the Division.

In discussions with staff responsible for the UI program as well as for administration of UI able and available issues in local offices, it is evident that there should be improved coordination of this function

⁵¹ “Unemployment Compensation: What and Why?” Social Security Board, United States Government Printing, Publication No. 14, March 1937.

⁵² N.C.G.S. §96-14(1)(b)

⁵³ N.C.G.S. §96-13(g)(2)

⁵⁴ N.C.G.S. §96-13(a)(1)

with respect to systems integration to capture weekly benefit claims issues and adjudication issues as well as systems developed to better enable claimants to take the initiative to actively search for work through employment systems such as the Direct Employers system and other web based systems.

Design and implementation of the Southeastern Consortium for Unemployment Insurance Integration (SCUBI) system should also address the coordination of these issues with local offices, call centers, one-stops and internet applications.

Appropriate targeting of resources in the current electronic and internet environment should be developed. Increased requirements on the part of claimants to physically visit local offices and the enhanced use of call centers to assure that individuals are able to work, available to work, actively seeking work, and effectively registered for work throughout their claims series should be adopted.

A new “registration” requirement such as the one detailed earlier in this report and based on best practices in other states should be added to the statute and administrative rules amended consistent with required registration for work as a condition of receiving unemployment compensation.

This new requirement also serves an important purpose of focusing on earlier reemployment efforts to reduce the duration a claimant received UI benefits. The faster an individual finds employment the lower the duration and the lesser amount of benefits being paid out of the UI Trust Fund.

Average Duration of Benefits

US Average	17.5 weeks
North Carolina	16.3
Georgia	13.3
South Carolina	15.2
Tennessee	15.3
Virginia	16.8
Florida	18.7

Source: United States Department of Labor Data Summary for the 4th Quarter of 2011.

18. Repeal provisions waiving the waiting week during disasters

Section 96-13(c)⁵⁵ includes an exception to the general requirement that an individual serve a waiting week when benefits are to be paid for unemployment due directly to major natural disaster. This is not required by federal law and increases benefit payout as well as administrative expense.

As a practical matter, in the case of most major disasters the President declares that there was a disaster and individuals may be eligible to be paid Disaster Unemployment Assistance (DUA). DUA is paid from federal funds that are not charged to the state Unemployment Insurance account and not to other employer financed accounts. The current provision should be repealed.

Waiting Week

US Review	N/A
North Carolina	1 (Except in cases of natural disaster)
Georgia	0
South Carolina	1
Tennessee	1 (After 3 wks. of benefit eligibility)
Virginia	1 (waiver permitted)
Florida	1

Source: National Foundation for Unemployment Compensation and Workers' Compensation, Highlights of State Unemployment Compensation Laws, 2011

⁵⁵ N.C.G.S. §96-13(c)(1)

19. Amend provisions permitting individuals to be paid unemployment compensation for weeks with respect to which they are determined to have been disabled from working

Section 96-13 (a) (4)⁵⁶ provides that no individual shall be deemed able to work under this subsection during any week for which that person is receiving or is applying for benefits under any other State or federal law based on his temporary total or permanent total disability, *provided that if compensation is denied to any individual for any week under the foregoing sentence and such individual is later determined not to be totally disabled, such individual shall be entitled to a retroactive payment of the compensation for each week for which the individual filed a timely claim for compensation and for which the compensation was denied solely by reason of the foregoing sentence.*

This provision is not required by federal law, no additional federal funds are provided for administration of the provision, it reduces UI solvency, results in payments being made despite the UI appeal determination that is final on the issue of ability to work. As an example, Social Security Disability Insurance applications in some cases take years to litigate. The standard for total disability under SSDI is not the same as the ability standard for unemployment or the same as state workers' compensation standard for total disability. In some cases an individual may be eligible for both workers' compensation and SSDI and the provision does not address whether the disability is temporary or permanent total disability.

The determination that an individual is disabled so as to not be eligible for state unemployment compensation should be made based on the information available at the time of the determination and appeal of the determination should be through the UI system and not pre-empted by a subsequent determination of another agency construing a different standard.

The proviso language in Section 96-13 (a) (4) should be deleted.

20. Repeal provisions permitting claimants to be paid benefits if they leave work due to factors not in connection with work.

“Unemployment compensation is a method of safeguarding individuals against distress for a short period of time after they become unemployed. It is designed to compensate only employable persons who are able and willing to work and who are unemployed through no fault of their own.”⁵⁷ Since 1937 when the Social Security Board stated the above purpose of unemployment compensation the federal government has attached incentive payments to states implementing a number of conditions for individuals to become eligible for unemployment benefits for non-work related issues. The most recent examples of such conditions were included in the American Reinvestment and Recovery Act (ARRA) of 2009 and subsequent federal legislation. These provisions were published without consideration or ongoing analysis of what such expansions would add to the cost of providing such benefits long-term well after the initial federal incentive funds had been depleted.

There may be good reasons to address these issues to provide support for individuals in such circumstances, but the appropriate response should not be through the state UI program if there is no connection to work. Paying compensation from the UI trust fund in these circumstance is not required by federal law, to the contrary it results in paying unemployment compensation to individuals who are not available for work for reasons unconnected with work and increases the deficit in the state's unemployment trust fund.

⁵⁶ N.C.G.S. §96-13(a)(4)

⁵⁷ “Unemployment Compensation: What and Why?” Social Security Board, United States Government Printing, Publication No. 14, March 1937.

21. Increase and provide certainty in the penalty period for individuals discharged for fault connected to work

Current law at Section 96-14 (2) (a)⁵⁸ provides for a disqualification of a range of 4-13 weeks if an individual is discharged for “substantial fault”. The statute provides, however, for a presumption of a disqualification of 9 weeks. By setting a range of disqualification this provision increases administrative complexity and may result in inconsistency in application. A set 9 week disqualification would be easier to administer and provide consistency.

A review of other state laws as reported to the US Department of Labor and the National Foundation for Unemployment Compensation and Workers’ Compensation does not show the distinction in other states between “substantial fault” and “misconduct” in determining the penalty for the claimant. In the vast majority of states there is no difference and the penalty in 45 states for discharge for misconduct is permanent disqualification until the claimant removes the disqualification with subsequent work and a non-disqualifying separation. North Carolina’s penalty for “misconduct” is a duration suspension until the claimant earns 10 times his weekly benefit amount in at least 5 weeks. This penalty for misconduct is within the normal range of penalties for misconduct.

Increasing the penalty for discharge due to “fault” to be the same as “misconduct” would be consistent with other states, and reduce benefit payout to some degree, however it would also be a policy shift in identifying a lesser penalty for instances that are deemed not to rise to “misconduct” under the statute.

22. Delete the provision prohibiting the denial of benefits to claimants who leave work solely as a result of lack of work caused by the bankruptcy of the employer

Section 96-14 (12)⁵⁹ prohibits the agency from denying benefits to claimants who “left work” solely as a result of a lack of work caused by the bankruptcy of the claimant’s employer. The language suggests that it may permit individuals to leave work when an employer files for bankruptcy and not be disqualified from unemployment compensation. The fact that an employer files or does not file for bankruptcy should have no relationship with the benefit eligibility of an individual claimant. If a claimant is clearly laid off due to lack of work and otherwise eligible to be paid a week of benefits, the claimant should be paid. However, if a claimant leaves work without good cause in connection with work the burden is on the claimant to demonstrate good cause. The filing for bankruptcy by an employer should not be good cause for a claimant to leave work. This provision should be deleted.

23. Change standard for discharge from “substantial fault” to “fault”

There is no federal requirement to distinguish between “substantial fault” and “fault”. The issue for administration should be whether the individual was discharged due to fault in connection with his or her work.

24. Repeal provisions prohibiting denial of benefits when individuals in training refuse offers of work

In many circumstances an individual may be offered work while in approved training. The fact that an individual is in approved training may reasonably be a reason not to require that the individual search for work while in training but should not remove the obligation to accept work if it is offered to the individual. Section 96-14 (3)⁶⁰ should be amended.

⁵⁸ N.C.G.S. §96-14(2a)

⁵⁹ N.C.G.S. §96-14(12)

⁶⁰ N.C.G.S. §96-14(3)

25. Amend provision that limits the agency in determining not to pay aliens

Section 96-13 (f)⁶¹ includes a provision that “In the case of an individual whose application for benefits would otherwise be approved, no determination that compensation to such individual is not payable because of his alien status shall be made except upon a preponderance of the evidence”.

This language is not required by federal law; increases administrative expense and may result in payment of unemployment compensation to aliens who would otherwise not be eligible to be paid unemployment compensation.

As a general matter of federal law and state law conforming to federal law, individuals may not be eligible for unemployment compensation if they are not US citizens or in the country with a valid work permit. There is no weighing of evidence standard. UI agencies use the Systematic Alien Verification System to verify based on social security number whether an individual is an alien that may be permitted to establish eligibility for unemployment compensation. In recent years, a number of states have identified fraud on the part of claimants who may “share” names and social security numbers to file fraudulent claims and be paid unemployment compensation.

This specification that a determination not to pay unemployment compensation to an alien must be based upon a preponderance of evidence introduces an evidentiary standard into a determination that is not necessary and adds confusion. It should be deleted.

26. Clarify the provision prohibiting the agency from raising eligibility issues after 45 days from the first day of the first week after the question or issue occurs

Section 96-15 (b)(2)⁶² provides that no question or issue may be raised or presented as to eligibility or disqualification of a claimant after 45 days from the first day of the first week after the question or issue occurs with respect to which week an individual filed a claim for benefits. Language is needed to clarify that the 45 days in which the agency may act to address the questions or issues runs from the point that the agency becomes aware of the questions or issues and not from the week claimed with respect to which the questions or issues arise.

27. Repeal statutory provisions requiring that overpaid amounts be deducted from back pay awards and paid directly by employers to the agency.

Section 96-14 (8)⁶³ requires that benefits previously paid for weeks of unemployment with respect to back pay awards or other such compensation shall constitute overpayments of benefits and such amounts shall be deducted from the award by the employer prior to payment and transmitted to the agency to be applied against the overpayment. This requirement imposes an unnecessary burden on employers and may result in an inconsistency between the terms of the back pay award and the statutory provision. The agency should review these provisions with employer representatives to determine whether statutory provisions are needed and/or whether greater flexibility is needed.

28. Repeal specific statutory requirement that employers post notices and that the agency must provide printed notices for employers to post

This provision in Section 96-15 (a)⁶⁴ is a throwback to the days when workers were unaware of the UI program and relied on physical postings of information by employers as a primary source of information. Such a provision is no longer needed in statute. If the agency is actually still requiring this it can save the cost of printing and employers can save the cost of posting by repealing this requirement.

⁶¹ N.C.G.S. §96-13(f)(1)

⁶² N.C.G.S. §96-15(b)(2)

⁶³ N.C.G.S. §96-14(8)

⁶⁴ N.C.G.S. §96-15(a)

IX. TAXES

While options are debated among the state UI agency, legislative leaders, the business community and other system stakeholders on how to address the UI tax structure in North Carolina, consideration should be given to the history of how employers have been impacted for over a decade. The chart below shows the continuous increase of the taxable wage base in North Carolina and what the per employee cost means to job providers in the state.

Impact of Yearly Taxable Wage Base Increases on Employers

<u>Year</u>	<u>Tax Base</u>	<u>Selected tax rate</u>	<u>Tax/employee</u>
1998	\$12,600	2.0%	\$ 252
1999	13,200	2.0	264
2000	13,900	2.0	278
2001	14,700	2.0	294
2002	15,500	2.0	310
2003	15,900	2.0	318
2004	16,200	2.0	324
2005	16,700	2.0	334
2006	17,300	2.0	346
2007	17,800	2.0	356
2008	18,600	2.0	372
2009	19,300	2.0	386
2010	19,700	2.0	394
2011	19,700	2.0	394
2012	20,400	2.0	408

This chart shows that employers in this rate class alone have experienced an over 60 percent increase in the per employee cost of unemployment compensation over a 14 year period. This excludes additional costs, such as the 20 percent surtax and yearly FUTA offset credit reductions that increase the per employee cost by \$21 each year the state carries a UI loan balance.

The current UI tax provisions are not sufficient to assure trust fund solvency

In conjunction with adjustments in benefit provisions to reduce benefit pay-out, tax measures are needed to assure that the state UI tax structure is responsive to changes in the economy and capable over a reasonable time period of providing adequate funds to pay state UI benefit amounts that are needed without borrowing from federal accounts. Tax rate schedules and the state tax base should respond to reduce employer tax rates based on the experience of individual employers with respect to unemployment claims and recognize that employers in North Carolina compete with employers located in other states and in the global marketplace. Tax rates that result in increases in costs for employers in North Carolina in comparison to other states serve to reduce job creation and result in a shrinking tax base and higher state UI taxes for all employers in North Carolina.

Tax measures must take into consideration federal law which imposes interest on loans to pay benefits and increases the Federal unemployment tax to be paid by employers after two years of continued outstanding loan balances.

How does NC compare to other states under the UI system?

Employers in North Carolina pay state unemployment taxes at about the national average but above surrounding states.

North Carolina UI Solvency Study Observations & Recommendations

USDOL Comparison

According to the US DOL publication, “Significant Measures of State Unemployment Insurance Tax Systems” published in September of 2011, the average per employee state UI taxes paid by employers in North Carolina compares as follows:

US Average	N/A
North Carolina	\$336
Georgia	\$241
South Carolina	\$297
Tennessee	\$333
Virginia	\$177
Florida	\$286

Since the USDOL publication was prepared, South Carolina and Florida have addressed UI solvency with some increases in state unemployment tax which is not fully reflected in this comparison. However, the conclusion from reviewing other state UI tax burdens is that the state UI tax paid by employers in North Carolina is 29th in the country and above comparison states in the Southeast.

Average UI Tax as a Percent of Total Wages

US Average	0.91%
North Carolina	0.92
Georgia	0.55
South Carolina	0.92
Tennessee	0.83
Virginia	0.48
Florida	0.68

Source: US Department of Labor Data Summary for the 4th Quarter of 2011 with reference to data through the 2nd quarter of 2011

North Carolina is among six states with a 0.0% minimum tax rate in 2011.⁶⁵ There are currently over 25,000 employers in North Carolina that pay no unemployment tax at the 0.0% rate. By way of comparison there are twenty-six states with a minimum tax rate between 0.01 and 1.0 in 2011.⁶⁶

a. TAX RECOMMENDATIONS

The cost estimates were generated using the U.S. Department of Labor's (USDOL) Benefit Financing Model. After discussions with the principals at USDOL, a ten year Total Unemployment Rate projection for the years 2013-2022 was inserted replicating North Carolina's 1990s economic experience for the years of 1993 through 2002. In other words, 1993's rate was used for 2013, 1994's rate for 2014, and so forth.

The model contained 2010 base year North Carolina state data and law and is shown in the output for Table No. 1. This table assumes no law changes over the forecast period.

⁶⁵ The other five states include: Iowa, Missouri, Nebraska, South Dakota, and Washington.

⁶⁶ States with a minimum tax rate between 0.01% and 1.0% include: AZ (0.02), DE (0.30), GA (0.03), ID (0.96), IL (0.70), IN (0.70), KS (0.11), LA (0.11), ME (0.86), MI (0.06), MN (0.50), MS (0.70), MT (0.13), NV (0.30), NJ (0.30), NM (0.05), ND (0.20), OH (0.70), OK (0.10), SC (0.103), TX (0.78), UT (0.40), VA (0.58), VI ((0.10), WI (0.27), and WY (0.67).

North Carolina UI Solvency Study Observations & Recommendations

1. Eliminate the distinction between the years when there is a 20 percent training and reemployment contribution and use a schedule that sets rates in regular intervals

This recommendation would repeal the Employment Security Reserve Fund Tax (20%) but collect the 20% as part of the experience rate state UI tax. The Reserve Fund was intended to be a backup fund. It was intended to provide for a reserve or back up for specific purposes. The fund has not been used for such purposes and it should not have been collected in any year in which NC was borrowing to pay UI loans. All employers would continue to pay a little more, although they are already paying more than other employers in Southeastern states. This strikes a balance to the recommendations for benefit cuts and modest tax increases rather than a recommendation that each employer will be paying significantly more. For example, an employer with a $2.25\% \times 20\% = 2.7\%$ rate. Repealing the 20% surtax and leaving the rate at 2.7% would add the 20% to the Trust Fund and will return it to a position of strength and long-term solvency faster. The recommendations above regarding automatic reductions or reevaluation once the Trust Fund reaches a position of strength will provide relief to employers as quickly as possible.

Using latest UI State Comparison table 2-10 and CYQ 2011.4 Wage and Tax Rate Information from USDOL:

State	Max Rate	x	Taxable Wage Base	=	Per Employee
NC	.0684		\$20,400		\$1,395.36
GA	.0729		8,500		620
SC	.08686		12,000		1,042.32
TN	.1060		9,000		954
VA	.0693		8,000		554.40
FL	.054		7,000		378
Highest - UT	.094		29,500		2,773
Lowest - PR, FL	.054		7,000		378

2. Maintain the 0.00% rate until after bonds are issued and assessments determined.

The current 0.00% rate provided on the rate schedule recognizes that some employers, by virtue of high positive balances in their experience rate accounts, should not be required to further contribute to the state's unemployment trust fund. However, the high deficit in the unemployment trust fund and the significant amount of ineffective charging under the current law has created a significant amount of socialized costs that need to be accounted for through rates. If solvency efforts were to be addressed solely through increases in unemployment tax rates, an increase in the minimum contribution rate would be justified. However, if the state elects to repay the outstanding debt through the use of bonds, employers currently paying at the 0.0% rate will realize a significant increase in tax/assessment obligation. In light of this we are not at this time recommending an increase in the minimum contribution rate.

As the outstanding Title XII debt is retired and after the complete package of recommendations begin to impact the solvency of the fund, the state should review the minimum contribution rates in comparison to minimum rates in surrounding states in the Southeast.

North Carolina UI Solvency Study Observations & Recommendations

Also for comparison to surrounding states:

State	Minimum Tax Rate	x	Taxable Wage Base	=	Per Employee
NC	0.00% proposed		\$20,400		\$0.00
GA	0.03%		8,500		2.55
SC	0.98%		12,000		117.60
TN	1.10%		9,000		99.00
VA	0.83%		8,000		66.40
FL	0.54%		8,500		45.90

3. Establish a target trust fund balance and necessary trigger provisions designed to assure sufficient funds to pay unemployment benefits during a reasonably foreseeable downturn in the state economy and meet USDOL requirements to qualify for federal tax relief in the future.

a. Repeal the automatic reduction provisions if the trust fund balance gets to 1.95% of gross taxable wages and replace it with 1.0 Average High Cost Multiple (AHCM)

One of the significant benefits of implementing this recommendation is that the state will be able to qualify for interest free loans, if needed, in the future.

The chart below is the table DOL provided to us for our analysis that shows the Trust Fund balance needed for 1.0 Average High Cost Multiple and the calculation.

(1.56% of total wages) = \$1,867,950,548

Avg. High Cost Rate	Total wages	Trust Fund balance Needed for 1.0 AHCM	Current Trust Fund	Tax. Wages	Solvency Amount % of Tax Wages
1.56%	119,740,419,739	1,867,950,548	-2,282,946,139	51,835,572,000	1.60%

b. Eliminate all the other rate schedules and keep the new rate schedule in place until the UI Trust Fund balance reaches the 1.0 AHCM

4. Provide for automatic reductions in tax rates upon reaching the state solvency target

North Carolina Employers fully fund the state unemployment insurance system through employer taxes. UI taxes are only one of many costs of doing business in the state. Employers want to know that the government agencies entrusted to oversee the program are only going to collect as much in taxes as necessary to provide a solvent and adequate reserve to provide rate stability. Therefore, when the fund reaches the targeted trust fund balance employers should experience automatic reductions in tax rates upon reaching the state solvency target.

a. If the state exceeds the 1.0 AHCM by 10%, then reduce all rates by 5%

5. Extend the period during which an employer may make a voluntary contribution to December 31st of the year prior to the year to which the contribution rate is to apply.

Section 96-9 (b) (3)(f)⁶⁷ currently permits voluntary contributions to be made within 30 days of mailing of the contribution rate notices, however, the voluntary contributions made after July 31st are not credited in determining the final rates for the following year. This limitation should be amended to permit voluntary contributions to be made at any time after the rate notices are provided to employers until December 31st to be applied in determining the final contribution rate for the following year.

⁶⁷ N.C.G.S. §96-9(b)(3)(g)

X. ADMINISTRATIVE RECOMMENDATIONS

The Department of Commerce (Commerce) and the former Employment Security Commission (ESC), now the Division of Employment Security (DES), have gone through significant changes with the legislative changes made effective November 1, 2011. Commerce has begun integration of DES with some of the requirements. For example, before November 1, 2011, North Carolina had separate Employment Security and Labor Market Information (LMI) units in both state agencies. ESC had separate support units such as personnel, finance, budget, PIO, legal services, print shop and real estate management. ESC supervised more than 90 local offices, some in competition with job service offices operated by local workforce boards.

Commerce has already transferred the DES oversight of the 90 local offices to the Commerce workforce unit. This integration will lead to better use of funds, reduce cost, reduce duplication of services in competing local offices, better customer service, reduce silos and improve coordination with local workforce boards. In addition, Commerce's integration of the LMI Division will result in better utilization of funds and better customer service and reduce duplication of services.

However, some requirements, such as an Advisory Council and Board of Review, have not been implemented. When appointed they could make a significant difference in assisting some of the management and other administrative issues. One area that may benefit would be the ongoing need to address the issues of IT changes, performance metrics and easily understood reporting employers, unemployed workers, lawmakers and the general public.

In addition, there should be some consideration given to meaningful penalties if the administration fails to make IT changes recommended by the state auditor, fails to keep the General Assembly informed, fails to implement or administer law, such as required Commission meetings, fails to use existing tools for fraud and other overpayments, or fails to file regular reports to the General Assembly and Governor.

We recommend that Commerce proceed with other changes which will produce more savings and improved customer service. Reduced duplication of the separate personnel, legal, finance, budget, print shop and real estate management will help allocate more resources toward reemployment efforts of unemployed workers.

North Carolina UI Solvency Study Observations & Recommendations

XI. OVERALL IMPACT OF RECOMMENDATIONS

Opportunity Costs of Doing Nothing In 2012		
• Before Sept. 30, 2012, Interest Savings to Employers (\$2.8 Billion x 0.02843)		\$80 million
• 3,000,000 covered employees x 0.6% Additional FUTA tax (with loan on 11/10/12 & 1/1/13)		\$126 million
• 3,000,000 covered employees x 0.9% Additional FUTA tax in 2013		\$189 million
Total Cost of Doing Nothing in 2012		\$395 million
Bond Recommendations		
• Before Sept. 30, 2012, Interest Savings to Employers		\$80 million
• 9 year Savings to Employers by Bonding UI Debt		\$163-\$213 million
• Benefit Reserve Fund (Use for solvency, debt or reemployment)		\$85.5 million
• UI Debt Repaid Before Nov. 10, 2012 and Jan. 1, 2013		Reduces FUTA to \$42/employee
• Fixed Per Employee Repayment with Bond Repayment		Bond=\$115/\$116, FUTA=up to \$200
Reemployment Recommendations		
• Benefit Savings for Each Week of Reduced Duration		\$86 million
• Average Increased Tax Revenue Per Employee		\$250
▪ Reemploying 100 UI Claimants		\$25,000
▪ Reemploying 1,000 UI Claimants		\$250,000
▪ Reemploying 10,000 UI Claimants		\$2,500,000
▪ Reemploying 50,000 UI Claimants		\$12,500,000
Affordability/Benefit Recommendations		
• Change Max. WBA from 66 2/3% to \$350 (avg. of SE states)		\$105 million
• Reduce Number of Potential Weeks from 26 to 20		\$290 million
• Add Waiting Week After Filing Additional Claim During Benefit Year		\$17 million
Total Affordability/Benefit Savings		\$412 million
Tax Recommendations (in addition to \$937 million in 2011 contributions)		
• Eliminate 20% Reserve Fund tax, keep rates at 2012 levels		\$190-\$200 million
Total Tax Revenue		\$200 million

UI Trust Fund Impact

Year	Contributions (millions)	Benefits (millions)	Net Revenues	TF Balance, year-end w/Bond Option	Interest Earned on Maintaining TF Balance in 2013 (@3.5%)	TF Balance (including Interest Earned on Positive Balance)	TF Balance year-end w/o Bond Option
2011	\$1,095	\$1,691	(\$596)	\$(2,700)	-	\$(2,700)	\$(2,700)
2012	\$1,094	\$1,037	\$57	\$(2,912)	-	\$(2,912)	\$(2,912)
2013	\$1,046	\$636	\$410	\$410	8	\$418	\$(2,424)
2014	\$968	\$500	\$468	\$878	23	\$909	\$(1,696)
2015	\$904	\$520	\$384	\$1,262	39	\$1,333	\$(902)
2016	\$856	\$514	\$342	\$1,604	53	\$1,729	\$17
2017	\$816	\$409	\$407	\$2,011	69	\$2,205	\$308
2018	\$767	\$335	\$432	\$2,443	86	\$2,723	\$653
2019	\$721	\$307	\$414	\$2,857	104	\$3,242	\$1,009
2020	\$681	\$424	\$257	\$3,114	120	\$3,619	\$1,191

Note: Estimated savings would not begin to be realized until 2013 when recommended changes become effective if enacted in 2012. It should also be noted that during 2016-2017, or before, when the fund reaches \$1,867,950,548 the 1.0 AHCM kicks in contributions will be reduced by 5%.

Impact on Employers

For 0.0% rated employers, the recommended changes would require them to begin to pay a temporary assessment of around \$115 or \$116 per employer (or a somewhat lesser amount based on experience to be determined in the bond package with limits set in accord with USDOL) beginning in 2013. Once the trust fund balance adjusts with the repayment of the Title XII debt the state may review the rate structure to determine if additional changes are necessary.

For maximum rated employers (those paying 6.84%), the changes would require them to pay a temporary assessment of around \$115 or \$116 per employer (or a somewhat higher amount based on experience) beginning in 2013. In addition, the top rate will remain at 6.84% and would remain in place without the 20% Employment Security Reserve Fund tax. Because benefits will be cut and tax revenue will increase, the impact will be to drive down experience rates for 2014 and thereafter.

Overall the recommendations contained in this comprehensive study will only work if enacted as a package of reforms to NC unemployment system. If the state adopts all of these recommendations it will significantly improve trust fund status and set the course to sustainable solvency without negatively impacting existing or future job providers that fully fund the UI system.