

NORTH CAROLINA GENERAL ASSEMBLY



JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON UNEMPLOYMENT INSURANCE

REPORT TO THE 2017 SESSION of the 2017 GENERAL ASSEMBLY OF NORTH CAROLINA

DECEMBER 14, 2016

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RALEIGH, NORTH CAROLINA 27603-5925
TELEPHONE: (919) 733-9390

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TRANSMITTAL LETTER

December 14, 2016

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TO THE MEMBERS OF THE 2017 REGULAR SESSION
OF THE 2017 GENERAL ASSEMBLY

The **JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON
UNEMPLOYMENT INSURANCE**, respectfully submits the following report to the
2017 Regular Session of the 2017 General Assembly.

Sen. Bob Rucho (Co-Chair)

Rep. Julia C. Howard (Co-Chair)

Sen. Andy Wells (Co-Chair)

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COMMITTEE PROCEEDINGS, FINDINGS, AND RECOMMENDATIONS

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The Committee on Joint Legislative Oversight Committee on Unemployment Insurance met 3 times after the 2016 Regular Session. The following is a brief summary of the Committee's proceedings. Detailed minutes and information from each Committee meeting are available in the Legislative Library.

The General Assembly created the Committee as part of its unemployment insurance reform legislation in 2013, S.L. 2013-2. Appendix B of the Report contains a copy of the Committee's authorization found in Article 12R of Chapter 120 of the General Statutes. Appendix A lists the current membership of the Committee. The authorization charges the Committee to study the unemployment insurance (UI) program and the workforce development program, review developing issues for the UI system, and monitor the Unemployment Trust Fund and the Unemployment Insurance Reserve Fund.

This interim the Committee discussed the following topics and issues:

- Unemployment Trust Fund balance
- Disaster-related benefits and services
- SCUBI implementation
- Legislative requests from the Division of Employment Security (DES)

Unemployment Insurance Trust Fund

At the October Committee meeting, DES reported on the balance of the Unemployment Trust Fund. The Trust Fund had a balance of just over \$2 billion. Employer contributions through the State unemployment tax (SUTA) provide the revenue for this Fund. Monies in the Fund may only be used to pay unemployment benefits. The Unemployment Insurance Reserve Fund had a balance of \$50.7 million. The 20% surtax imposed on employers SUTA contributions provide the revenue for this Fund. The surtax does not apply whenever the amount in the Unemployment Trust Fund equals or exceeds \$1 billion. Employers did not have to pay this surtax for the 2016 calendar year. Monies in the Reserve Fund are used primarily to pay interest on advances, or loans, from the federal government to the State's Trust Fund to enable the Trust Fund to pay unemployment benefits. Any balance in the Reserve Fund on January 1 of each year that exceeds \$50 million, or the amount required to pay interest on Trust Fund borrowing in the previous year, whichever is higher, is transferred from the Reserve Fund to the Trust Fund at the end of the year.

The US Department of Labor (USDOL) encourages states to reach and maintain a balance in its Unemployment Trust Fund based on the State's Average High Cost Multiple (AHCM) to ensure that its Trust Fund has adequate reserves to fund historically high payouts during economic downturns. The AHCM compares the state's Trust Fund

level to the average of the three highest years of benefit payments over the last 20 years. A state whose Trust Fund has a favorable AHCM is allowed to borrow interest-free. DES reported that North Carolina's Trust Fund balance required to achieve interest-free borrowing based on the AHCM is \$2.3 billion.

Disaster-Related UI Benefits and Services

DES briefed the Committee on the services it provided in response to Hurricane Matthew and the benefits payable for claims related to the Hurricane. Hurricane Matthew impacted more than 30,000 businesses and thousands of employees. DES provided a physical presence in local offices located in the impacted communities and extended its call center hours during the work week and on Saturdays. The call center received 33,000 calls during the week of October 22nd; that number represents a 169% increase above average call volume.

DES received approximately 9,000 disaster-related unemployment claims. A person who loses employment due to a disaster must first apply for unemployment benefits through the State's regular UI Program. Benefits payable under the regular UI Program are payable from the State's Unemployment Insurance Fund. The weekly benefit amount and the duration of benefits are determined based upon the statutory formulas. As of December 12, 2016, DES paid approximately \$600,000 in regular UI benefits for job losses related to the disaster under the regular UI Program. Those benefits are not charged against an employer's account under G.S. 96-11.3(b)(2). In a press release issued on October 22, 2016, the Governor's office announced that the Governor instructed DES to waive the one-week waiting period and job search requirements for people whose employment or self-employment was lost or interrupted as a direct result of Hurricane Matthew. The Committee voted to codify these waivers in its Legislative Proposal, retroactive to October 1, 2016, and applicable to disaster unemployment assistance in the future.

A person who files a disaster-related unemployment claim and who is denied benefits under the State's regular UI Program may be eligible for federally funded disaster unemployment benefits. Examples of situations where a person may not be eligible for unemployment benefits under the regular UI Program, but may be eligible for benefits under the federal program include people who are self-employed, such as a small business owner, and a person who becomes a primary wage earner due to the disaster-related death of a primary wage earner. Although the payment of these benefits comes from the federally funded program rather than the State's UI Trust Fund, the weekly benefit amount is calculated in the same manner as a benefit under the regular UI Program.

The duration of the federally funded disaster unemployment benefits may last up to 26 weeks. Currently, the maximum duration for unemployment benefits under the State's regular UI Program is 13 weeks. A person may be eligible for additional weeks of unemployment benefits under the federally funded program if the person exhausts the 13-weeks of regular unemployment benefits, up to a cumulative total of the 26 weeks allowed under the federal program. However, most claimants were able to resume work

within a couple of weeks. As of December 12, 2016, DES paid approximately \$126,267 in federally funded disaster unemployment benefits.

SCUBI Implementation

DES is a member of the Southeast Consortium Unemployment Benefits Initiative, commonly referred to as SCUBI. The initiative is funded primarily by a \$50 million grant from USDOL as part of a shared UI platform to promote consistency and cost savings across the states. The other member states participating in SCUBI are South Carolina and Georgia. SCUBI will enable DES to retire its antiquated mainframe application that is more than 30 years old. The new system, once implemented, will automate many claims directly that currently requires manual staff application. It will afford employers, claimants, and administrators greater efficiency and online access to records and correspondence.

South Carolina will be the first of the three states to activate SCUBI; South Carolina tentatively plans to activate the system in March 2017. Assuming a successful launch by South Carolina, North Carolina plans to activate SCUBI by May 2017, and Georgia will follow in the summer of 2017.

Legislative Requests

DES presented the following list of legislative recommendations to the Committee:

- Waive the waiting week and work search requirements for UI claims due directly to a disaster covered by a federal disaster declaration.
- Exclude paid time off, such as vacation and sick leave, from the definition of severance pay. Severance pay reduces UI benefits.
- Replace "August 1 computation date" with "September 1 of the preceding calendar year" as the trigger date for determining the applicability of the surtax for the Unemployment Insurance Reserve Fund.
- Reduce the time allowed for employers to respond to UI claims from 14 days to 10 days to reflect the speed of electronic communications.
- Make conforming changes required by federal law and as directed by USDOL:
 - Federal law requires NC transfer the UI account if part or all of a business is transferred between employers with substantially common ownership, management or control.
 - Federal law requires NC not transfer the UI account if a predecessor employer acquired the business solely or primarily for the purpose of obtaining a lower contribution rate.

The Committee voted at its final meeting to recommend these changes. The Legislative Proposal and a Summary of the Proposal appear in Appendix C of this Report.

COMMITTEE MEMBERSHIP

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2015-2016

President Pro Tempore of the Senate
Appointments:

Sen. Bob Rucho (Co-Chair)

Sen. John M. Alexander, Jr.
Sen. Ben Clark
Sen. Wesley Meredith
Sen. Andy Wells

Speaker of the House of Representatives
Appointments:

Rep. Julia C. Howard (Co-Chair)

Rep. Harry Warren (Vice-Chair)
Rep. Dean Arp
Rep. Dana Bumgardner
Rep. Paul Tine (Advisory Member)

COMMITTEE CHARGE/STATUTORY AUTHORITY

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Article 12R.

Joint Legislative Oversight Committee on Unemployment Insurance.

§ 120-70.155. (Expires July 1, 2023) Creation and membership.

(a) The Joint Legislative Oversight Committee on Unemployment Insurance is established. The Committee consists of eight members appointed as follows:

- (1) Four members of the House of Representatives appointed by the Speaker of the House of Representatives.
- (2) Four members of the Senate appointed by the President Pro Tempore of the Senate.

(b) The members serve for a term of two years. Members may complete a term of service on the Committee even if they do not seek reelection or are not reelected to the General Assembly, but resignation or removal from service in the General Assembly constitutes resignation or removal from service on the Committee. A member continues to serve until a successor is appointed. A vacancy shall be filled by the officer who made the original appointment. (2013-2, s. 10; 2013-224, s. 19.)

§ 120-70.156. (Expires July 1, 2023) Purpose and powers of Committee.

(a) Purpose. – The Joint Legislative Oversight Committee on Unemployment Insurance is directed to study and review all unemployment insurance matters, workforce development programs, and reemployment assistance efforts of the State. The following duties and powers, which are enumerated by way of illustration, shall be liberally construed to provide maximum review by the Committee of these matters:

- (1) Study the unemployment insurance laws of North Carolina and the administration of those laws.
- (2) Review the State's unemployment insurance laws to determine which laws need clarification, technical amendment, repeal, or other change to make the laws concise, intelligible, and easy to administer.
- (3) Monitor the payment of the debt owed by the Unemployment Trust Fund to the federal government.
- (4) Review and determine the adequacy of the balances in the Unemployment Trust Fund and the Unemployment Insurance Reserve Fund.
- (5) Study the workforce development programs and reemployment assistance efforts of the Division of Workforce Solutions of the Department of Commerce.
- (6) Call upon the Department of Commerce to cooperate with it in the study of the unemployment insurance laws and the workforce development efforts of the State.

(b) The Committee may report its findings and recommendations to any regular session of the General Assembly. A report to the General Assembly may contain any legislation needed to implement a recommendation of the Committee. (2013-2, s. 10; 2013-224, s. 19.)

§ 120-70.157. (Expires July 1, 2023) Organization of Committee.

The Speaker of the House of Representatives shall designate one representative as cochair, and the President Pro Tempore of the Senate shall designate one senator as cochair. The Joint Legislative Oversight Committee on Unemployment Insurance may meet upon the joint call of the cochairs. A quorum of the Committee is five members.

The Committee may meet in the Legislative Building or the Legislative Office Building. While in the discharge of its official duties, the Committee has the powers of a joint committee under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Committee in its work. The House of Representatives and the Senate's Directors of Legislative Assistants shall assign clerical staff to the Committee, and the expenses relating to the clerical employees shall be borne by the Committee. The Committee may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02. Members of the Committee shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate. (2013-2, s. 10; 2013-224, s. 19.)

§ 120-70.158. (Expires July 1, 2023) Sunset.

This Article expires July 1, 2023. (2013-2, s. 10; 2013-224, s. 19.)

LEGISLATIVE PROPOSALS

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