Good afternoon Chairman Tutvedt, Committee Members and Staff: My name is Mike Cooney and I am the acting Deputy Commissioner of the Montana Department of Labor and Industry.

I was asked to come speak to you to give an overview of the Unemployment Insurance Division, otherwise known as UI.

The Unemployment Insurance Program has been a key component in ensuring the economic security of Montana's workforce for more than 70 years. Unemployment Insurance is a federal and state partnership that maintains a wage insurance program that provides short-term economic assistance to eligible workers who become involuntarily unemployed. The program was established not only to lighten the burden of unemployment on workers and their families, but also to support local communities by stabilizing the workforce. Like other insurance programs, employers contribute funds based upon risk assessments and their own experience.

## MT UNEMPLOYMENT RATE

The unemployment rate for May is 4.6%. This rate is down considerably from our highest rate of 7.8% in the fall of 2011, during the recent economic down turn. The majority of Montana's 56 counties are in the 2 - 4.5% unemployment rate range as of May with the highest rates concentrated in northwestern Montana and the American Indian Reservations.

# TRUST FUND BALANCE

As of May 30, 2014, the trust fund balance is \$233,465,631. This covers approximately 11 months of benefits based on projections. Montana was one of only 11 states, whose Trust Fund remained fully solvent during the recession.

The last year has been a busy year for the UI program with the continued relatively high level of regular claims and the winding down of the emergency unemployment compensation program. I am excited about the direction of the program as we look toward the future and the 2015 Legislative session.

## **UI REFORM**

UI reform is a comprehensive package of initiatives to constructively collaborate with the Work Force Services division to re-employ UI claimants, improve the situation in which partial benefits are paid and enhance UI's operational ability in a cost-effective fashion. Quicker re-employment of claimants will positively affect the Trust Fund and employer's rates – a win-win for all involved. These consist of the following initiatives. Some require legislation and others are changes in rules and policies:

Misconduct - The Montana Department of Labor and Industry is in the process of implementing Sen. Buttrey's bill, SB 127, and to address concerns from the employer community. We realized that the rules and the statutes needed to align. We also needed to examine how the division was implementing the rule. In consultation with our own legal staff as well as the US Dept. of Labor, we determined that we were not fully utilizing the statute. The UI division has historically focused on the "final incident" in a discharge as is required by the rule; however, the rule also provides for a broader examination of the employment history and discipline proceedings. This interpretation is much more consistent with best HR practices. The division is in the process of training UI Claims Adjudicators on this change in interpretation and policy. This should result in fewer appeals as well as less frustration for Montana's business community.

The employer community has also asked us to provide a bit more flexibility in determining whether an un-timely response to a claim for unemployment insurance was warranted or for "good cause." This is another area we are working with our adjudicators and claims staff to ensure that reasonable explanations for un-timeliness, such as being away on vacation for a small business owner, is accepted. Lack of response from employers was the most significant factor in overpayment of UI benefits so the division is working diligently to provide the flexibility needed for small business operations and for the protection of the trust fund.

Montana Back to Work Initiative – This moves to expand the reemployment programs that target UI claimants identified as being at-risk of becoming long-term unemployed. This is a collaborative effort between the UI and Work Force Services Divisions. Claimants have the potential to be selected based on criteria such as industry worked, education, re-employment prospects and the labor market in which they reside. They will then be rated for these additional services. Many of these candidates will also likely qualify for the dislocated worker program.

Revise Total Unemployment Definition - The current law allows a claimant to earn less than twice their weekly benefit amount, work for less than 40 hours and still qualify for partial benefits. Through studying other state benefit programs, most states offer partial benefits up to 1.25 times their weekly benefit amount and allow workers to work 35 hours or less to be able to qualify for partial benefits. Revision of the total unemployment factors would bring Montana's partial benefit qualifiers more in alignment with offerings similar to other states and work to preserve the Trust Fund and keep employers taxes reduced.

Collection of non-fraud debt through negotiated settlements – This will modify our law to allow the UI division to use offers of compromise as a means to collect non-fraud benefit overpayments more quickly. This change would allow the agency to accept a negotiated, reduced lump sum payment when it is more cost effective than to recover a debt over a period of years if repaid under a monthly payment arrangement.

Collection of debt through wage garnishment – This modification of the law will allow UI to garnish wages of working individuals that have been determined to owe a benefit overpayment and have been unresponsive to past collection efforts.

### **PROGRAM INTEGRITY**

The UI division has and continues to take major steps to improve program integrity. Some examples of these are curbing fraud, reducing improper payments, emphasizing claimant and employer responsibility and reforming the UI program as mentioned previously.

#### FRAUD

Montana's UI Fraud Investigator has been in the position since 2012. His efforts continue to pay dividends in the prevention, detection and collection of improper payments through both public and staff education. Currently:

- We have 8 closed cases (Totaling \$29,734.61) finding the claimant had not committed fraud.
- We have 7 closed cases (Totaling \$36,805.47) which were investigated, adjudicated internally and payments are being made.
- We have 6 cases (Totaling \$54,700.28) that are currently open and being investigated for potential prosecution.

- We have 16 open cases (Totaling \$261,926.89) that have been investigated and are currently in various stages of prosecution.
- We have closed on 3 cases (Totaling \$70,629.06) which have been adjudicated by the court system meaning these cases were successfully prosecuted; the claimants were convicted of felony charges and have been sentenced to pay restitution.
  - As a side note, for cases that are successfully prosecuted, if the convicted person does not make payments, the Department of Corrections will file for wage garnishment on our behalf.
- Total we have handled 40 cases totaling \$453,796.31 from mid-July 2012 through the end of May. This does not include the many referrals that have been received and checked.

The UI program is seriously committed to dealing with not only the fraud that has been committed, but also the prevention of fraud going forward.

#### **CLAIMANT RESPONSIBILITY**

Starting in the fall of 2013, the UI division improved its ability to verify claimants are looking for work. The program requires claimants to make at least one valid work search each week they wish to claim benefits. Claimants are now required to report their work search efforts to the UI division each week when they file. UI now has the staffing and capability to do random audits of work search efforts by claimants and is providing better information to claimants informing them of their responsibility to not only seek work, but report their efforts each week. Since November of 2013 we have conducted approximately 1,450 work search, job attached or union attached verifications with both employers and claimants.

Almost 85% of the contacts have resulted in a pass or positive verification.

### **CLAIMANT HANDBOOK**

UI is in the final stages of producing a completely revamped claimant handbook. The current version is very text-heavy and not user friendly. New layout and language have been vetted by UI staff and we are working with a professional Montana designer to provide a much more useful and inviting book to claimants. The efforts here will increase both the usage of the book and enhance claimant's understanding of their obligations to qualify for benefits.

# WORKLOAD AND CLAIMS CENTER REORGANIZATION

With the improving economy, Montana's claims for the state fiscal year 2013 are down 7.5% from 2012. For state fiscal year 2014, we are down 9.8% unofficially compared to last year.

With the recession and federal extensions, Montana experienced a backlog of work and continues to work to improve meeting timeliness standards. Beginning in 2010, the recession forced us to evaluate our business processes to become more streamlined. This was also noted in the findings of the Legislative Audit of 2012.

The Division has been working on different staffing methods and performance reporting to assist in workload. The Claim Processing Bureau is in the final stages of reorganization to address the processing of issues on claims. The reorganization has divided staff into claims examiner levels appropriate to their knowledge and skill set and now requires a single person to conduct the fact finding and adjudication of issues on a claim. This will significantly reduce delays and offer a career path for employees. It is anticipated the structure will be fully in place by the end of this year, including training and placement of staff.

The agency is also looking toward additional streamlining of the claim appeals process. Under consideration are efforts to move certain contested cases to the Hearings Bureau from the initial determination, bypassing the redetermination step. The goal is to speed up the appeals process to give our customers, both employers and claimants, the timeliest decision they deserve.

## **STAARS AND eSERVICES FOR EMPLOYERS**

Montana issued a Request for Proposal in 2012 for a tax system rewrite and received two vendor proposals. The proposals were scored and FAST Enterprises was awarded the contract.

The Division's Status, Tax Accounting, Audit & Rating System or STAARS project was successfully brought online in February of this year along with UI eServices for Employers portal. This system is benefiting employers with its many self-service, online capabilities such as registration, account maintenance, e-communications, quarterly reporting, and e-check or credit card payments. Employers and third party agents have also benefited with additional electronic filing options, FSET and Quickbooks as well as ACH credit payments. UI Staff benefit as well with capabilities in increasing efficiencies in collections, imaging and workflow plus ad hoc reporting flexibility.

Through June 2014, which includes our first quarter 2014 filing period, over 11,500 employers have accessed UI eservices, filing nearly 9,500 quarterly reports and 8,200 payments amounting to \$15 million. In total, STAARS has processed over 37,000 quarterly reports (paper forms and electronic) and \$56.4 Million in payments.

We are listening to and implementing employer's suggestions for improving UI eServices, such as enhancing the confirmation page, modifying the print copy of the quarterly report with employer's address and confirmation number, improving and streamlining access into UI eServices, and modifying some of the language to make STAARS more intuitive and instructions more understandable.

### **In Conclusion:**

Thank you for putting me on your agenda to come talk to you about the UI program. Commissioner Bucy and I fully believe our UI reform efforts and claims and IT reorganization will not only better serve our claimants and employers, but more importantly work toward the vital re-employment of claimants though coordination with the Work Force Services Division. UI's tax structure is striking the proper balance between contributions from employers and the demand from claimants to remain solvent and effective. UI is a complex program and I and other staff present would be happy to answer any questions you may have.