



## **Department of Workforce Services**

### **Workforce Services Amendments Legislative Brief**

**October 17, 2012**

#### **Proposal:**

- **Amend Section 35A-4-405(5) of the Employment Security Act** to clarify that an individual who is determined to have committed UI fraud is ineligible for benefits for an additional 13 weeks for the first week the fraudulent misrepresentation was made and 6 weeks for each week thereafter, not to exceed 49 weeks. The period will begin on the Sunday of the week the determination was issued, rather than the Sunday following the week of the determination.
  - The legislation is requested so the department can effectively issue timely fraud overpayment decisions, and, under certain limited circumstances, avoid assessing an incorrect disqualification period.
  - The Department does not anticipate this legislation will result in any fiscal impact.
  
- **Amend Section 35A-4-506 of the Employment Security Act** to require, effective October 1, 2013, that 15 percent of any Unemployment Insurance (UI) fraud overpayment penalty collected by the Department of Workforce Services (DWS) be deposited into the Unemployment Insurance Compensation (Trust) Fund.
  - This legislation is required to be in compliance with Section 303(a)(11) of the Social Security Act, as enacted in Section 251 of the Trade Adjustment Assistance Extension Act of 2011 (Public Law 112-40). The legislation requires the State, as a condition to receive federal administrative grant funds, assess a penalty of not less than 15 percent to any individual who is determined to have fraudulently received unemployment compensation, and any amounts collected be deposited in the UI Trust Fund.
  - Utah currently assesses a 100 percent fraud penalty; however, all UI fraud overpayment penalties collected are deposited into the Special Administrative Expense Account established under Section 35A-4-506. Most recently, these restricted funds have been used for employer job development activities and funding retirement shortfalls.
  - The Department has collected approximately \$2.2 million per year in fraudulent benefit overpayments over the past five years; thus, approximately \$330,000 (15%) per year, effective October 1, 2013, will be required to be deposited into the Unemployment Compensation Fund, limited to the payment of UI benefits.