

SECTION 4 - UNEMPLOYMENT COMPENSATION

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OVERVIEW

The Social Security Act of 1935 (Public Law 74-271) created the Federal-State Unemployment Compensation (UC) Program. The program's two main objectives are to provide temporary and partial wage replacement to involuntarily unemployed workers and to stabilize the economy during recessions. These objectives are reflected in the current UC program's funding and benefit structure. When the economy grows, UC program revenue rises through increased tax revenues while UC program spending falls as fewer workers are unemployed and receive benefits. The effect of collecting more taxes while decreasing spending on benefits dampens demand in the economy. This also creates a surplus of funds or a "cushion" of available funds for the UC program to draw upon during a recession. In a recession, UC tax revenue falls and UC program spending rises as more workers lose their jobs and receive UC benefits. The increased amount of UC payments to unemployed workers dampens the economic effect of lost earnings by injecting additional funds into the economy. The U.S. Department of Labor oversees the system, but each State administers its own program. Federal law defines the District of Columbia, Puerto Rico, and the Virgin Islands as States for the purposes of UC; thus, there are 53 State programs.

The Federal Unemployment Tax Act (FUTA) of 1939 (Public Law 76-379) and Titles III, IX, and XII of the Social Security Act form the framework of the system. FUTA imposes on employers a 6.2 percent gross tax rate on the first \$7,000 of each covered employee's earnings. Employers in States with programs approved by the U.S. Department of Labor (DOL) and with no delinquent Federal unemployment trust fund (UTF) loans may credit 5.4 percentage points against the 6.2 percent tax rate, making the minimum net Federal unemployment tax rate 0.8 percent. Since all States have approved programs, 0.8 percent is the effective Federal tax rate. This Federal revenue finances administration of the system, half of the Federal-State Extended Benefits (EB) Program, and a Federal account for State loans. The individual States finance their own State UC benefits, as well as their half of the benefit cost of the Federal-State Extended Benefits Program.

In 1976, Congress passed a surtax of 0.2 percent of taxable wages to be added to the permanent FUTA tax rate (Public Law 94-566). Thus, the current effective 0.8 percent FUTA tax rate has two components: a permanent tax rate of 0.6 percent, and a surtax rate of 0.2 percent. The surtax has been extended seven times, most recently by Public Law 110-343 through December 31, 2009.

FUTA generally determines what employment is covered by the State UC programs. FUTA also imposes certain requirements on the State programs, but the States generally determine individual qualification requirements, disqualification provisions, eligibility, weekly benefit amounts, potential weeks of benefits, and the State tax structure used to finance all of the regular State benefits and half of the extended benefits.

The Social Security Act provides for the administrative framework: Title III authorizes Federal grants to the States for administration of the State UC laws; Title IX authorizes the various components of the Federal Unemployment Trust Fund; Title XII authorizes advances or loans to insolvent State UC Programs.

Table 4-1 provides a statistical overview of the UC Program.

TABLE 4-1--UNEMPLOYMENT COMPENSATION PROGRAM DATA, FISCAL YEARS 1997-2008

Statistic	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Total Civilian Unemployment Rate (Percent)	5.1	4.6	4.3	4.0	4.4	5.7	6.0	5.6	5.2	4.8	4.6	5.8 ¹
Insured Unemployment Rate ² (Percent)	2.1	1.9	1.8	1.7	2.1	2.8	2.8	2.5	2.1	2.0	1.9	2.2
Average Weekly Benefit Amount:												
Current Dollars	185	190	202	212	227	248	254	254	258	266	276	293
In 2008 Dollars ³	248	251	261	265	276	297	297	290	284	284	287	293
	State Unemployment Compensation											
Beneficiaries (Millions)	7.5	7.3	7.1	6.8	8.9	10.4	10.2	8.7	8.0	7.4	7.5	8.3
Regular Benefit Exhaustions (Millions)	2.6	2.3	2.3	2.2	2.5	4.2	4.4	3.9	3.0	2.7	2.6	3.0
Regular Benefits Paid (Billions of Dollars)	20.3	19.4	20.7	20.2	27.3	42.0	42.0	36.9	31.2	30.2	31.4	38.4
Extended Benefits (State share: Billions of Dollars)	⁶	⁶	⁶	⁶	⁶	0.1	0.2	0.1	0	⁶	0	⁶
State Tax Collections (Billions of Dollars)	22.1	21.0	20.0	20.7	20.8	20.9	26.7	32.7	35.1	35.9	33.7	34.2
State Trust Fund Impact ⁴ (Billions of Dollars)	1.8	1.6	-0.7	0.5	-6.5	-21.2	-15.5	-4.2	3.9	5.8	2.3	-4.2
	Federal Unemployment Accounts											
Federal Tax Collections ⁵ (Billions of Dollars)	6.2	6.5	6.7	6.9	6.9	6.6	6.5	6.6	6.7	7.1	7.3	7.3
Outlays: Federal EB Share Plus Temporary Emergency Unemployment Compensation (TeUC) or Emergency Unemployment Compensation (EUC08) (Billions of Dollars)	⁶	⁶	⁶	⁶	⁶	8.0	11.2	4.2	0.0	⁶	0.0	4.4
Federal Fund Transfers to States (Reed Act Distributions; Billions of Dollars)	0	0	⁶	0.1	0.1	8.1	0	0	0	0	0	0
	Administrative Costs (Billions of Dollars)											
State UI	2.3	2.3	2.5	2.4	2.4	2.5	3.0	2.7	2.6	2.6	2.5	2.7
Employment Service/Vets/LMI	1.0	1.0	1.1	1.0	1.1	1.0	1.1	1.0	1.1	1.1	0.9	1.0
Federal	0.2	0.2	0.1	0.2	0.2	0.2	0.1	0.1	0.2	0.2	0.2	0.3
Total	3.5	3.5	3.7	3.5	3.7	3.7	4.1	3.9	3.8	3.9	3.7	3.9

¹ Estimate from *A Preliminary Analysis of the President's Budget and an Update of CBO's Budget and Economic Outlook*, March 20, 2009.

² The average number of workers claiming State unemployment compensation benefits as a percent of all workers covered.

³ Adjusted using the Consumer Price Index for All Urban Consumers.

⁴ Equals income to State trust funds minus outlays. Excludes interest earned.

⁵ Net of reduced credits.

⁶ Less than \$50 million.

Source: U.S. Department of Labor, UI Outlook, Various Years.

BENEFITS

COVERAGE

In order to qualify for benefits, an unemployed person usually must have worked recently for a covered employer for a specified period of time and earned a certain amount of wages. In 2006, UC programs covered workers in 133.8 million jobs. The estimated 128.9 million workers in these jobs (after adjustment for multiple jobholders) represented 96.4 percent of civilian wage and salary employment and 89 percent of the civilian labor force.

FUTA covers certain employers and State laws also must cover these employers in order to qualify for the 5.4 percent Federal credit. If the States did not have this coverage, employers in the States would lose the credit. FUTA covers employers who paid wages of at least \$1,500 during any calendar quarter or who employed at least one worker in at least 1 day of each of 20 weeks in the current or prior year.

There are exceptions to these coverage requirements. Certain nonprofit organizations, State-local governments, services provided in the employ of Federally recognized Indian tribes, certain agricultural labor, and certain domestic service all have different thresholds for coverage.

FUTA covers agricultural labor for employers who paid cash wages of at least \$20,000 for agricultural labor in any calendar quarter or who employed 10 or more workers in at least 1 day in each of 20 different weeks in the current or prior year. FUTA also covers domestic service employers who paid cash wages of \$1,000 or more for domestic service during any calendar quarter in the current or prior year. FUTA requires coverage of nonprofit organization employers of at least four workers for 1 day in each of 20 different weeks in the current or prior year and State-local governments without regard to the number of employees. Nonprofit, State-local government organizations, and Federally recognized Indian tribes are not required to pay Federal unemployment taxes; they may choose instead to reimburse the system for benefits paid to their laid-off employees.

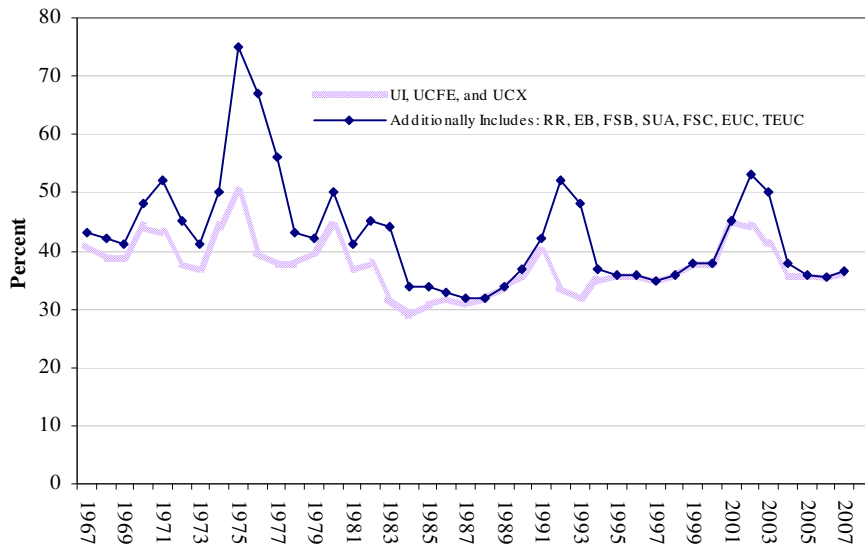
States may cover certain employment not covered by FUTA, but most States have chosen not to expand FUTA coverage significantly. The following employment generally is not covered: (1) self-employment; (2) certain agricultural labor and domestic service; (3) service for relatives; (4) service of patients in hospitals; (5) certain student interns; (6) certain alien farmworkers; (7) certain seasonal camp workers; and (8) railroad workers (who have their own unemployment program).

NUMBER OF COVERED WORKERS

Although the UC system covers 96.4 percent of all wage and salary workers, Figure 4-1 shows that on average 36 percent of unemployed persons were receiving UC benefits in 2007. This compares with a peak of 81 percent of the unemployed

receiving UC benefits in 1975 and a low point of 32 percent in 1988. Despite high unemployment during the early 1980s, there was a downward trend in the proportion of unemployed persons receiving regular State benefits until the mid-1980s. In part this reflects the tightening of Federal and State eligibility requirements that were introduced to address the financial insolvency gripping the system. The local peaks of 1992 (52%, Emergency Unemployment Compensation) and 2002 (53%, Temporary Emergency Unemployment Compensation) reflect the Congressional action to temporarily increase the duration of unemployment benefits during and immediately after economic recessions.

Figure 4-1--RATIO OF INSURED UNEMPLOYED TO UNEMPLOYED, 1967-2007



Note- Weeks claimed for the week including the 12th of the month. Data are not seasonally adjusted. PR and VI included. Beginning January 1987, rates include State UC, UC for Federal employees (UCFE), and UC for former servicemembers (UCX) programs. Prior to 1987, only regular State UC program data are included. For the entire figure, all State UC, UCFE, UC as well as Railroad Unemployment Insurance (RR), Extended Benefits (EB), and temporary special extended benefits (Federal Supplemental Benefits, Special Unemployment Assistance, Federal Supplemental Compensation, Emergency Unemployment Compensation, and Temporary Emergency Unemployment Compensation) are included in the top line of the figure.
Source: Department of Labor

ELIGIBILITY

States have developed diverse and complex methods for determining UC eligibility. In general there are three major factors used by States: (1) the amount of recent employment and earnings; (2) demonstrated ability and willingness to seek and accept suitable employment; and (3) certain disqualifications related to a claimant's most recent job separation or job offer refusal.

Monetary Qualifications

Table 4-2 shows the State monetary qualification requirements in the base year for the minimum and maximum weekly benefit amounts, and for the maximum total potential benefits. The base year is a recent 1-year period that most States define as the first 4 of the last 5 completed calendar quarters before the unemployed person claims benefits. Qualifying annual wages for the minimum weekly benefit amount vary from \$130 (Hawaii) to \$4,136 (Michigan). The range of qualifying wages for the maximum total potential benefit, which is the product of the maximum weekly benefit amount and the maximum potential weeks of benefits, is from \$5,320 (Puerto Rico) to \$53,389 (North Dakota).

In February 1996, a Federal court in *Pennington v. Doherty* overturned the base year definition used by most States. The court agreed with the contention that Illinois could have used an alternative base period (the last four completed quarters) and that this alternative would better carry out Federal law, which requires States to use administrative methods that ensure full payment of UC “when due.” This alternative method would impose greater costs on the States affected. The Balanced Budget Act of 1997 (Public Law 105-33) revised the Federal law that was central to the court's decision to give States full authority to set base periods for determining eligibility. In 2008, 18 States and the District of Columbia used an alternative base period.

Ability to Work and Availability for Work

All State laws provide that a claimant must be both able to work and available for work. A claimant must meet these conditions continuously to receive benefits. Only minor variations exist in State laws setting forth the requirements concerning a beneficiary's “ability to work.” While most States require that the beneficiary be able to work, a few States specify that a claimant must be mentally and physically able to work or must be able to work full-time.

“Available for work” is translated to mean being ready, willing, and able to work. In addition to registration for work at a local employment office, most State laws require that a claimant seek work actively or make a reasonable effort to obtain work. Generally, a person may not refuse an offer of, or referral to, “suitable work” without good cause.

TABLE 4-2--MONETARY QUALIFICATION REQUIREMENTS FOR
MINIMUM AND MAXIMUM WEEKLY BENEFIT AMOUNTS AND
MAXIMUM TOTAL POTENTIAL BENEFITS, 2008¹

State	Required Total Earnings in Base Period			Minimum Work In Base Period (Quarters) ³
	For Minimum Weekly Benefit	For Maximum Weekly Benefit	For Maximum Potential Benefits ²	
Alabama	\$2,315	\$12,170 ⁴	\$18,330	2Q
Alaska	1,000	26,750	26,750	2Q
Arizona	2,250	8,981	18,720	2Q
Arkansas	1,971	11,043	30,676	2Q
California	1,125	14,594	23,400	³
Colorado	2,500	17,897 ⁵	32,214 ⁵	³
Connecticut	780 ⁴	20,040	20,040	2Q
Delaware	920 ⁴	15,180 ⁴	17,160	2Q
District of Columbia	1,950	14,001	18,688	2Q
Florida	3,400	10,725	28,600	2Q
Georgia	1,848 ⁴	13,440 ⁴	33,280	2Q
Hawaii	130	13,598	13,598	2Q
Idaho	1,885	11,830	33,124	2Q
Illinois	1,600	20,345 ⁴	20,345 ⁴	2Q
Indiana	2,750	11,563	36,215	2Q
Iowa	1,790	9,977	27,066	2Q
Kansas	3,030	12,210	31,746	2Q
Kentucky	2,944	31,695	32,370	2Q
Louisiana	1,200	25,800	24,845	2Q
Maine	3,828	14,564 ⁴	25,818	2Q
Maryland	900	13,680	13,680	2Q
Massachusetts	3,000	31,200 ⁴	50,000	³
Michigan	4,136	13,245	21,889	2Q
Minnesota	1,250	9,376 ⁶	27,378 ⁶	2Q
Mississippi	1,200	8,400	16,380	2Q
Missouri	2,250	16,000 ⁴	24,960	2Q
Montana	2,087 ⁴	20,316 ⁴	35,553	2Q
Nebraska	2,651	8,548	22,244	2Q
Nevada	600	13,575	28,236	2Q
New Hampshire	2,800	41,500	41,500	2Q
New Jersey	2,860 ⁷	18,667 ⁷	24,267	2Q
New Mexico	1,605 ⁴	8,627	15,384	2Q
New York	2,400	15,776	15,776	2Q
North Carolina	4,291	12,377	37,128	2Q
North Dakota	2,795	25,025	53,389	2Q
Ohio	4,120 ⁷	14,600 ⁷	18,980 ⁸	2Q
Oklahoma	1,500	13,524	20,384	2Q
Oregon	1,000	37,040	37,040	2Q
Pennsylvania	1,320	21,480	21,480	2Q
Puerto Rico	280	5,320	5,320	2Q
Rhode Island	2,960	11,104 ⁹	37,050	2Q
South Carolina	900	12,714	25,428	2Q
South Dakota	1,288	13,110	22,230	2Q
Tennessee	1,561	14,301 ⁴	28,600	2Q

TABLE 4-2--MONETARY QUALIFICATION REQUIREMENTS FOR
MINIMUM AND MAXIMUM WEEKLY BENEFIT AMOUNTS AND
MAXIMUM TOTAL POTENTIAL BENEFITS, 2008¹-continued

State	Required Total Earnings in Base Period			Minimum Work In Base Period (Quarters) ³
	For Minimum Weekly Benefit	For Maximum Weekly Benefit	For Maximum Potential Benefits ²	
Texas	2,109	13,968	36,400	2Q
Utah	2,900	16,653	41,119	2Q
Vermont	2,773	18,405 ⁴	18,405	2Q
Virginia	2,700 ⁴	18,151 ⁴	36,301	2Q
Virgin Islands	1,287	17,706	35,412	2Q
Washington	680 Hours	26,754	40,170	680 Hours
West Virginia	2,200	38,500	38,500	2Q
Wisconsin	1,590	10,650	23,075	2Q
Wyoming	2,900	13,545	33,540	2Q

¹ Based on benefits for total unemployment. Amounts payable can be stretched out over a longer period in the case of partial unemployment.

² Based on maximum weekly benefit amount paid for maximum number of weeks. Total potential benefits equal a worker's weekly benefit amount times this potential duration.

³ Generally the number of quarters of work in base period required to qualify for minimum benefits. "2Q" denotes that State requires work in at least two quarters of the base period. States without an entry have the minimum work requirement specified as a wage amount.

⁴ State law requires wages to be earned in 2 quarters.

⁵ Colorado law provides for two different monetary qualification formulas. Amounts shown are based on the low formula.

⁶ Minnesota law provides for two different monetary qualification formulas. Amounts shown are based on the high quarter wage formula.

⁷ State law requires wages to be earned in each of 20 weeks at or above a specified amount.

⁸ State law requires wages to be earned in each of 26 weeks at or above a specified amount.

⁹ State law requires wages to be earned in 1 quarter.

Source: U.S. Department of Labor.

Most State laws list certain criteria by which the "suitability" of a work offer is to be tested. The usual criteria include the degree of risk to a claimant's health, safety, and morals; the physical fitness and prior training, experience, and earnings of the person; the length of unemployment and prospects for securing local work in a customary occupation; and the distance of the available work from the claimant's residence. Generally, as the length of unemployment increases, the claimant is required to accept a wider range of jobs.

In addition, Federal law requires States to deny benefits provided under the EB Program to any individual who fails to accept work that is offered in writing or is listed with the State Employment Service, or who fails to apply for any work to which he is referred by the State agency. The work must: (1) be within the person's capabilities; (2) pay wages equal to the highest of the Federal or any State or local minimum wage; (3) pay a gross weekly wage that exceeds the person's average weekly unemployment compensation benefits plus any supplemental unemployment compensation (usually private) payable to the individual; and (4) be consistent with the State definition of "suitable" work in other respects. Public Law 102-318 suspended these provisions from March 7, 1993 until January 1, 1995.

States must refer extended benefits claimants to any job meeting these requirements. If the State, based on information provided by the individual, determines that the individual's prospects for obtaining work in their customary occupation within a reasonably short period are good, the determination of whether any work is "suitable work" is made in accordance with State law rather than the criteria outlined above.

There are certain circumstances under which Federal law provides that regular State UC benefits and extended benefits may not be denied. A State may not deny benefits to an otherwise eligible individual for refusing to accept new work under any of the following conditions: (1) if the position offered is vacant directly due to a strike, lockout, or other labor dispute; (2) if the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; or (3) if, as a condition of being employed, the individual would be required to join a union or to resign from or refrain from joining any bona fide labor organization. Benefits may not be denied solely on the grounds of pregnancy. The State is prohibited from canceling wage credits or totally denying benefits except in cases of misconduct, fraud, or receipt of disqualifying income.

There are also certain conditions under which Federal law requires that benefits be denied. For example, benefits must be denied to professional and administrative employees of educational institutions during summer (and other vacation periods) if they have a reasonable assurance of reemployment; to professional athletes between sport seasons; and to aliens not permitted to work in the United States.

Disqualifications

The major causes for disqualification from benefits are not being able to work or available for work, voluntary separation from work without good cause, discharge for misconduct connected with the work, refusal of suitable work without good cause, and unemployment resulting from a labor dispute. Disqualification for one of these reasons may result in a postponement of benefits for some prescribed period, a cancellation of benefit rights, or a reduction of benefits otherwise payable.

Of the 16.0 million "monetarily eligible" initial UC claims in 2007, 12.6 percent were disqualified based on causes attributable to the manner of "separation" from the previous job. That is, 6.8 percent of initial claims were disqualified because the claimant was found to have voluntarily left a job without good cause and 5.8 percent were disqualified because the claimant had been fired for misconduct on the job. The separation disqualification rate ranged from a low of 7.1 percent in Pennsylvania to a high of 81.2 percent in Nebraska, with Colorado the next highest at 42.2 percent.

Federal law requires that benefits provided under the Extended Benefits Program be denied to an individual for the entire spell of his unemployment if he or she was disqualified from receiving State benefits because of voluntarily leaving

employment, discharge for misconduct, or refusal of suitable work. These benefits will be denied even if the disqualification were subsequently lifted with respect to the State benefits prior to reemployment. The person could receive extended benefits if the disqualification were lifted because he became reemployed and met the work or wage requirement of State law. Public Law 102-318 suspended the restrictions on extended benefits under Federal law from March 7, 1993, until January 1, 1995. The Advisory Council on Unemployment Compensation was required to study these provisions; it recommended that the Federal rules be eliminated.

Benefits for Family Leave

On December 3, 1999, DOL issued a Notice of Proposed Rule Making in the *Federal Register* to create, by regulation, a voluntary experimental program that would give States the option of extending UC eligibility to parents who take time off from employment after the birth or placement for adoption of a child under the Family Medical Leave Act of 1993 (P.L. 103-3). The final rule, Birth and Adoption Unemployment Compensation Rule (BAA-UC) of 2000, was published in the *Federal Register* on June 13, 2000.

On December 4, 2002, DOL published a Notice of Proposed Rulemaking to rescind BAA-UC.¹ Since no State had enacted a BAA-UC program, DOL determined that terminating the experiment would not result in any State withdrawing benefits it had previously granted. According to DOL, the only effect of rescinding the regulations would be a reduction of State flexibility since a State could no longer elect to use its unemployment fund to pay BAA-UC. On October 9, 2003, DOL published the final rule (68 Fed. Reg. 58-540) rescinding the BAA-UC. This final rule became effective on November 10, 2003.

Ex-Service Members

Unemployment Compensation for Ex-Servicemembers (UCX) provides income support while former active duty military personnel or reservists released from active duty search for work. The Emergency Unemployment Compensation Act of 1991 (Public Law 102-164) required that ex-servicemembers be treated the same as other unemployed workers with respect to benefit levels, the waiting period for benefits and benefit duration. Before this, Congress had placed restrictions on benefits for ex-service members, so that the maximum number of weeks of benefits an ex-service member could receive based on employment in the military was 13 (as compared with 26 weeks under the regular UC Program for civilian workers). In addition to a number of restrictive eligibility requirements, ex-service members had to wait 4 weeks from the date of their separation from the service before they could receive benefits. Military personnel on active duty do not qualify for Unemployment Compensation (UC) or UCX benefits.

The Federal government funds these benefits through the transfers from the appropriate military services' budgets to the Unemployment Trust Fund (UTF) to

¹ 67 Federal Register 72122.

reimburse the appropriate States for the UCX benefits distributed to unemployed ex-servicemembers. The DOL projects that for fiscal year 2008, approximately \$479 million in UCX benefits will be distributed to former military personnel.

Pension Offset

The Unemployment Compensation Amendments of 1976 (Public Law 94-566) required all States to reduce an individual's UC by the amount of any government or private pension or retirement pay received by the individual.

Public Law 96-364, enacted in 1980, modified this offset requirement. Under the modified provision, States are required to make the offset only in those cases in which the work-related pension was maintained or contributed to by a "base period" or "chargeable" employer. Entitlement to and the amount and duration of unemployment benefits are based on work performed during the State-specified base period. A "chargeable" employer is one whose account will be charged for UC received by the individual. However, the offset must be applied to Social Security benefits without regard to whether base period employment contributed to the Social Security entitlement.

States are allowed to reduce the amount of these offsets by amounts consistent with any contributions the employee made toward the pension. This policy allows States to limit the offset to one-half of the amount of a Social Security benefit received by an individual who qualifies for unemployment benefits.

Taxation of Unemployment Compensation Benefits Under Permanent Law

As a matter of permanent law, unemployment compensation benefits are fully subject to the Federal income tax (P.L. 111-5 temporarily suspended Federal income taxes on the first \$2,400 in unemployment benefits received in calendar year 2009). This tax treatment puts UC benefits on par with wages and other ordinary income with regard to income taxation. The Tax Reform Act of 1986 (Public Law 99-514) made all unemployment benefits taxable after December 31, 1986. The Revenue Act of 1978 (Public Law. 95-600) first made a portion of unemployment benefits taxable beginning January 1, 1979. Benefits were taxable only for tax filers whose adjusted gross income (AGI) exceeded \$20,000 (single filers) or \$25,000 (joint filers). Taxation was applied to the lesser of (1) UC benefits or (2) one-half of AGI (including unemployment benefits) in excess of the above-mentioned AGI thresholds. Before 1979, unemployment benefits were not subject to the Federal income tax.

Table 4-3 illustrates the estimated effect of taxing all unemployment benefits for the 2005 Federal tax law using 2005 population and incomes (the most recent data available). The estimates are based on 2005 tax data supplemented with information from the Current Population Survey for non-filers.

TABLE 4-3--ESTIMATED EFFECT OF TAXING UNEMPLOYMENT
COMPENSATION BENEFITS, BY INCOME CLASS, 2005

Level of individual or couple income ^a	Number of recipients of unemployment compensation (in thousands)	Number affected by taxation of benefits (in thousands)	Percent affected by taxation	Total amount of unemployment compensation benefits (in millions of 2005 dollars)	Total amount of taxes on benefits (in millions of 2005 dollars)	Taxes as a percent of total benefits
Less than \$10,000	755	82	11	1,829	6	0
\$10,000 - \$14,999	865	344	40	2,608	75	3
\$15,000 - \$19,999	818	382	47	2,799	136	5
\$20,000 - \$24,999	758	408	54	2,643	165	6
\$25,000 - \$29,999	676	388	57	2,391	176	7
\$30,000 - \$39,999	955	664	70	3,540	319	9
\$40,000 - \$49,999	758	634	84	2,825	371	13
\$50,000 - \$99,999	1,944	1,854	95	7,322	1,216	17
At least \$100,000	536	531	99	2,464	671	27
All	8,064	5,288	66	28,423	3,135	11

^a Income is defined as AGI plus statutory adjustments, tax-exempt interest, and nontaxable Social Security benefits

Source: Congressional Budget Office tax simulation model.

AMOUNT AND DURATION OF WEEKLY BENEFITS

Federal law does not provide floors or ceilings on the regular weekly State unemployment benefit amounts or on the duration of benefit receipt. In general, the States set weekly benefit amounts as a fraction of the individual's average weekly wage up to some State-determined maximum. The regular State programs generally provide up to 26 weeks of benefits. The permanent Federal-State Extended Benefits Program provides up to 20 additional weeks in States where unemployment rates are relatively high.

The temporary Emergency Unemployment Compensation (EUC08) program which began the week of July 6, 2008 provides up to 33 additional weeks of unemployment benefits to certain workers who have exhausted their rights to regular benefits. These benefits are in addition to any extended benefits that may be available, although States could opt to provide the EUC08 benefit before the extended benefit to its unemployed.

Table 4-4 shows the minimum and maximum weekly benefit amounts and potential duration for each State program. In 2007, the national average weekly benefit amount was \$288 and the average duration was 15 weeks. The minimum weekly benefit amounts for 2008 vary from \$5 in Vermont to \$129 in Washington. The maximum weekly benefit amounts range from \$133 in Puerto Rico to \$900 in Massachusetts.

Most States vary the duration of benefits with the amount of earnings the claimant has in the base year. Eight States provide uniform duration for entitlement (26 weeks). In those States that do not have a uniform duration, the minimum potential duration of UC entitlement ranges from 1 week (4 States) to 21 weeks (Louisiana). The maximum potential duration is 26 weeks in all States with two exceptions: Massachusetts (30 weeks) and Montana (28 weeks).

TABLE 4-4--AMOUNT AND DURATION OF WEEKLY BENEFITS FOR
TOTAL UNEMPLOYMENT UNDER THE REGULAR STATE PROGRAMS

State	2007 Average Weekly Benefit	2007 Benefit to Wage Replacement Rate	July 2008 Weekly Benefit Amount		2007 Average Duration (Weeks)	2008 Potential Duration (Weeks)	
			Minimum	Maximum		Minimum	Maximum
Alabama	\$188	41.0%	\$45	\$235	12	15	26
Alaska	200	30.5	44-68	248-320	14	16	26
Arizona	202	44.4	60	240	15	12	26
Arkansas	257	53.7	77	431	15	9	26
California	298	49.0	40	450	17	14	26
Colorado	326	49.1	25	431-475	13	13	26
Connecticut	310	36.3	15-30	501-576	16	26	26
Delaware	256	44.4	20	330	17	24	26
District of Columbia	286	44.2	50	359	19	19	26
Florida	237	37.5	32	275	14	9	26
Georgia	263	49.2	44	330	11	6	26
Hawaii	384	56.7	5	523	13	26	26
Idaho	255	49.3	58	364	11	10	26
Illinois	305	40.7	51-70	369-511	17	26	26
Indiana	290	54.6	50	390	13	8	26
Iowa	293	52.9	53-65	361-443	13	9	26
Kansas	302	52.5	103	423	14	10	26
Kentucky	284	53.8	39	415	14	15	26
Louisiana	204	41.7	10	284	15	21	26
Maine	254	46.4	60-90	344-516	14	14	26
Maryland	282	45.3	25-65	380	15	26	26
Massachusetts	379	46.7	32-48	600-900	18	10	30
Michigan	293	49.0	113-143	362	15	14	26
Minnesota	341	48.2	38	538	16	10	26
Mississippi	177	44.0	30	230	15	13	26
Missouri	225	42.8	35	320	14	8	26
Montana	228	45.3	120	407	15	8	28
Nebraska	234	47.0	30	298	12	14	26
Nevada	284	51.4	16	393	14	12	26
New Hampshire	263	41.5	32	427	13	26	26
New Jersey	359	51.2	85-97	560	18	1	26
New Mexico	256	49.2	66-99	355-455	16	1	26
New York	295	43.8	64	405	17	26	26
North Carolina	276	49.0	39	457	14	13	26
North Dakota	268	47.6	43	406	12	12	26
Ohio	290	43.5	103	365-493	15	20	26
Oklahoma	250	51.7	16	392	15	18	26
Oregon	286	49.1	113	482	14	3	26
Pennsylvania	323	55.5	35-43	539-547	16	16	26
Puerto Rico	111	34.1	7	133	19	26	26
Rhode Island	359	48.6	68-118	528-660	16	8	26

TABLE 4-4--AMOUNT AND DURATION OF WEEKLY BENEFITS FOR
TOTAL UNEMPLOYMENT UNDER THE REGULAR STATE PROGRAMS
-continued

State	2007 Average Weekly Benefit	2007 Benefit to Wage Replacement Rate	July 2008 Weekly Benefit Amount		2007 Average Duration (Weeks)	2008 Potential Duration (Weeks)	
			Minimum	Maximum		Minimum	Maximum
South Carolina	230	47.5	20	326	14	1	26
South Dakota	227	47.1	28	298	11	15	26
Tennessee	222	39.7	30	275	14	13	26
Texas	287	49.0	57	378	15	10	26
Utah	294	49.0	26	427	13	10	26
Vermont	287	51.1	64	425	14	26	26
Virginia	267	48.2	54	378	12	12	26
Virgin Islands	319	NA	33	454	15	13	26
Washington	334	48.2	129	541	13	1	26
West Virginia	240	47.6	24	424	13	26	26
Wisconsin	267	44.2	53	355	13	12	26
Wyoming	278	50.5	30	415	13	11	26
U.S. Average	288	47.0	NA	NA	15	NA	NA

¹A range of amounts is shown for those States that provide dependents' allowances.

NA – Not applicable.

Source: U.S. Department of Labor.

EXTENDED BENEFITS

The Federal-State Extended Benefits Program is available in every State and provides one-half of a claimant's total State benefits up to 13 weeks in States with an activated program, for a combined maximum of 39 weeks of regular and extended benefits. Weekly benefit amounts are identical to the regular State UC benefits for each claimant, and Federal funds pay half the cost. The program activates in a State under certain conditions when a State's insured unemployment rate² (IUR) or total unemployment rate³ (TUR) reaches certain levels. All States must pay up to 13 weeks of EB if the IUR for the previous 13 weeks is at least 5% and is 120% of the average of the rates for the same 13-week period in each of the 2 previous years.

There are two other optional thresholds that States may choose. States may choose one, two, or none of the options. The first option provides up to an additional 13 weeks of benefits if the State's IUR is at least 6%, regardless of previous years' averages. The second option has two components: (1) the option

²The 13-week average IUR is calculated from the ratio of the average number of insured unemployed persons under the regular State programs in the last 13 weeks to the average covered employment in the first four of the last five completed calendar quarters.

³The TUR is essentially a seasonally adjusted 3-month average of the unemployment rate published by the Bureau of Labor Statistics: that is, the ratio of the total number of unemployed persons divided by the total number of employed and unemployed persons. The IUR is substantially different than the TUR because it excludes several important groups: self-employed workers, unpaid family workers, workers in certain not-for-profit organizations, and several other, primarily seasonal, categories of workers.

provides up to an additional 13 weeks of benefits if the State's TUR is at least 6.5% and is at least 110% of the State's average TUR for the same 13-weeks in either of the previous two years and (2) the option provides up to an additional 7 weeks (for a total of 20 weeks) if the TUR is at least 8% and is at least 110% of the State's average TUR for the same 13-weeks in either of the previous two years. All but 12 State programs have adopted the first option. As of November 2, 2008, the second option (the TUR option) had been authorized by 12 States.

BENEFIT EXHAUSTION

Due to the limited duration of UC benefits, some individuals exhaust their benefits. For the regular State programs, 2.7 million individuals exhausted their benefits during 2007, or 35.6 percent of claimants who began receiving UC during the 12 month period beginning in July 2006.

Over the past 30 years there has been an increase in the percentage of UC benefit recipients exhausting their benefits. Figure 4-2 displays the monthly average total unemployment rate, the monthly annual average weeks of benefit collection, and monthly annual average UC exhaustion rate from January 1973 through September 2008. The 'monthly' annual average should not be misused as 'real time' information. Instead, the monthly statistic is a moving average of the exhaustion rates for the previous twelve-month period. The shaded areas in Figure 4-2 represent recessionary periods (as determined by the National Bureau of Economic Research).

In the 1970s and early 1980s as the recessions drew to a close the average exhaustion rate peaked as did the unemployment rate. The unemployment rate soon began to decline after the end of the recession, and was generally followed by declines in the exhaustion rate and average benefit duration. However, after the 1980s the relationship among these statistics and recessionary periods was substantially altered. Unemployment rates continue to rise or remain stable after the end of the recessionary periods rather than fall immediately after the end of the recession. Likewise, this trend is repeated with exhaustion rates and average benefit durations in this period. Furthermore, while in the 1970s and 1980s exhaustion rates eventually declined to under 30%, in the 1990s through 2008 the exhaustion rates were always above 30%, even during economic expansions.

There are many factors with complex interactions contributing to this rise in exhaustion rates. These factors include program benefit generosity and program requirements, workforce demographics, and economic conditions. Generally, the more generous the UC benefit and the less onerous the process for receipt, the greater likelihood of benefit receipt and likewise benefit exhaustion. The most recent significant increases in UC coverage were in the 1970s when State and local government employees, many household (domestic) workers, and employees of small businesses were covered. Although many State policy changes have restricted eligibility, individual (nominal) wages have increased due to inflation, allowing more individuals to reach the minimum earnings thresholds.

In the 1980s numerous State UC laws were changed to restrict eligibility and reduce benefit levels, partially in response to the 1982 requirement to repay Federal loans to State UC trust funds with interest. In the 1990s, in response to lowered Federal administrative funding, program rules that required intensive monitoring such as weekly proof of job search and weekly attendance requirements were relaxed or replaced with telephone responses or internet reporting systems in some States. In addition, some States began to expand benefits to workers with more limited work histories through the alternative wage bases for UC benefit calculations.

The variance among States in potential durations of receiving UC insurance benefits has implications for the exhaustion rate. Research estimates find that States with higher average potential duration of benefits have a lower percentage of exhaustees — after controlling for unemployment levels.⁴ For example, in a non-recessionary period of the late 1980s, Carson and Dynarski (1990) find that 26% of exhaustees had potential UC durations of less than 20 weeks as compared with only 12% of nonexhaustees having such low potential durations.⁵

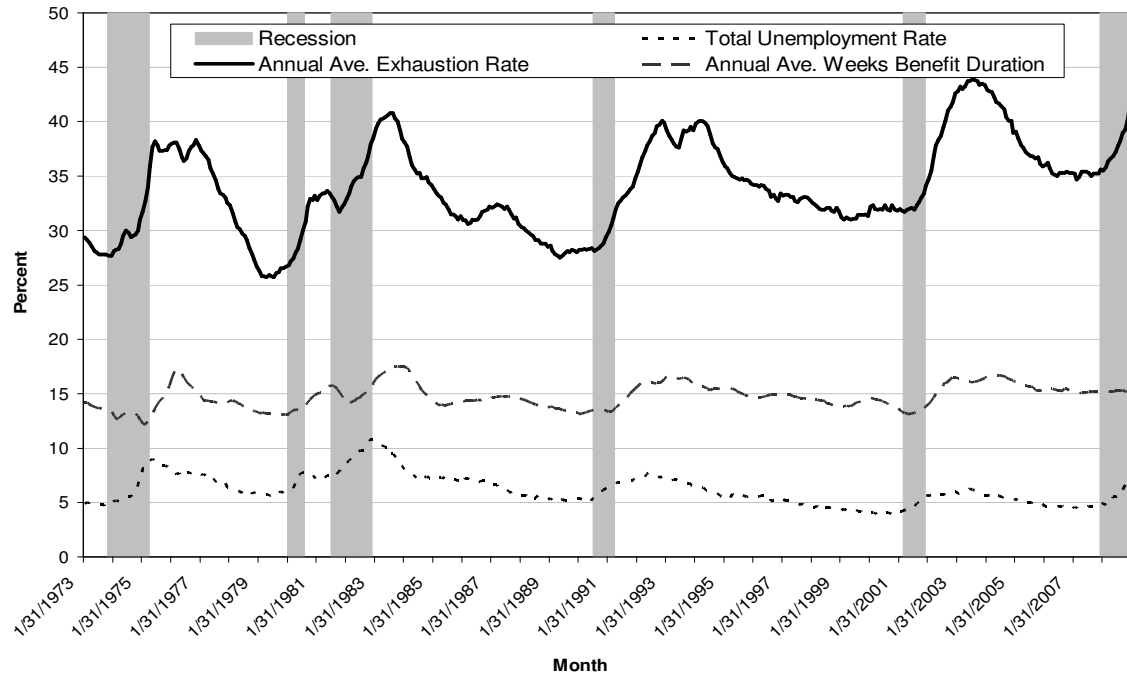
Research also indicates that UC benefit exhaustees differ from other workers who receive UC benefits. UC benefit exhaustees are more likely to: have lower levels of education; be female; be Hispanic; be Black; have a less stable work history and therefore qualify for lower benefits and shorter potential durations; be older; not belong to a union; not be employed in manufacturing; and not have a recall date or be more likely to be on permanent layoff.⁶

⁴Stephen Woodbury and Murray Rubin, “The Duration of Benefits” in *Unemployment Insurance in the United States: Analysis of Policy Issues*, Christopher O’Leary and Stephen Wandner, eds, W.E. Upjohn Institute for Employment Research: Kalamazoo, Michigan, 1997, pp. 211-283.

⁵Walter Corson and Mark Dynarski, A Study of Unemployment Insurance Recipients and Exhaustees: Findings from a National Survey, Unemployment Compensation Occasional Paper 90-3. U.S. Department of Labor Employment and Training Administration, 1990.

⁶For example, see Karen Needels, Walter Corson, and Walter Nicholson, Left Out of the Boom Economy: UI Recipients in the late 1990s, ETA Occasional Paper 2002-03, May 2002. U.S. Department of Labor.

FIGURE 4-2--UNEMPLOYMENT EXHAUSTION, BENEFIT DURATION, AND UNEMPLOYMENT RATE, 1973-2008



Source: Congressional Research Service and the U.S. Department of Labor.

SUPPLEMENTAL BENEFITS

The Extended Benefits (EB) Program was enacted to provide unemployment compensation benefits to workers who had exhausted their regular benefits during periods of high unemployment. Before enactment of a permanent EB Program, Congress authorized two temporary programs, during 1958 and 1959 and again in 1961 and 1962. The Federal-State Extended Unemployment Compensation Act of 1970 authorized a permanent mechanism for providing extended benefits. Extended benefits rules were amended by the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35) and the Unemployment Compensation Amendments of 1992 (Public Law 102-318).

During the 1970s and 1980s, temporary programs provided supplemental benefits to UC recipients who had exhausted both their regular and extended benefits during three periods of high unemployment: (1) the Emergency Unemployment Compensation Act of 1971, which provided benefits until March 31, 1973; (2) the Federal Supplemental Benefits Program, first authorized by the Emergency Unemployment Compensation Act of 1974, and subsequently extended in 1975 (twice) and in 1977; and (3) the Federal Supplemental Compensation Program, created by the Tax Equity and Fiscal Responsibility Act of 1982, which was subsequently extended and modified six times and finally expired on June 30, 1985.

In the 1990s, Congress passed the Emergency Unemployment Compensation Act of 1991 (Public Law 102-164) authorizing a temporary Emergency Unemployment Compensation (EUC) Program. The EUC Program, which was extended four times, effectively superseded the EB Program and entitled individuals whose regular unemployment compensation benefits had run out to additional weeks of assistance. At its peak in 1992, the EUC Program provided benefits for 26 or 33 weeks, depending on the level of unemployment in the respective States. The EUC Program ended on April 30, 1994.

Benefits under the EUC Program were originally financed from spending authority in the Extended Unemployment Compensation Account (EUCA) of the Unemployment Trust Fund. However, depletion of EUCA led Congress to fund EUC from general revenues from July 1992 to October 1993 (and statutorily were not required to be repaid). States that qualified for extended benefits while EUC was in effect could elect to suspend active extended benefit programs. This reduced the State funding burden because 50 percent of extended benefit costs are financed from State UC accounts while EUC was entirely Federally funded.

During the 2000s, two temporary programs provided supplemental benefits: the Temporary Extended Unemployment Compensation Act of 2002 (TEUC) and the Emergency Unemployment Compensation of 2008 (EUC08). TEUC was signed into law March 9, 2003, as a part of Public Law 107-147. The TEUC program provided up to 13 weeks of additional Federally-funded unemployment benefits in all States to individuals who exhausted their regular UC benefits. The

TEUC program also provided a second tier of up to an additional 13 weeks of benefits to individuals who exhausted their benefits in a high-unemployment State (TEUC-X). On April 16, 2003, Public Law 108-11 created a parallel TEUC program called TEUC-A, which provided up to 39 weeks of benefits for displaced airline workers, and provides a second tier (TEUC-AX) of benefits to individuals exhausting their TEUC-A benefits in a high-unemployment State. The TEUC program was extended two times and was active through March 31, 2004.

Table 4-5 shows several estimates of the cost of the TEUC Program at different points in time. A comparison of cost estimates at the time of enactment with later reviews shows that actual costs were similar or slightly higher than originally estimated. The President's Fiscal Year 2006 Budget estimated the final 3-year cost of TEUC benefits to be \$23.24 billion, approximately \$0.31 billion more than the Congressional Budget Office had estimated on the date of enactment.

TABLE 4-5--TEMPORARY EMERGENCY UNEMPLOYMENT COMPENSATION, INCLUDES TEUC, TEUC-X, TEUC-A, TEUC-AX

Estimate Source and Time	[In Billions of Dollars]			
Congressional Budget Office Estimates at				
Time of Enactment	FY2002	FY2003	FY2004	TOTAL
Public Law 107-147	6.97	3.10		10.07
Public Law 108-1	0.00	6.44		6.44
Public Law 108-26	0.00	2.28	4.14	6.42
Total	6.97	11.82	4.14	22.93
Office of Management and Budget				
	FY2002	FY2003	FY2004	TOTAL
OMB FY 2003 Midsession Review	6.32	2.62	0.00	8.94
OMB FY 2004 President's Budget	7.92	8.89	0.00	16.81
OMB FY 2004 Midsession Review	7.92	11.05	3.82	22.79
OMB FY 2005 President's Budget	7.92	11.03	4.13	23.08
OMB FY 2005 Midsession Review	7.92	11.03	4.19	23.14
OMB FY 2006 President's Budget (Total)	7.92	11.03	4.29	23.24

Source: Congressional Budget Office, Office of Management and Budget, and U.S. Department of Labor

EUC08 was signed into law on June 30, 2008, as a part of Public Law 110-252. EUC08 provided up to 13 weeks of additional Federally-funded unemployment benefits for weeks of qualifying unemployment on or after July 6, 2008. On November 21, 2008, the President signed P.L. 110-449, the Unemployment Compensation Extension Act of 2008 into law. P.L. 110-449 expanded the potential duration of the EUC08 benefit from up to 13 weeks of EUC08 to a maximum of 20 weeks. It also created a second tier of benefits for workers in States with high unemployment of up to an additional 13 weeks of tier II EUC08 benefits (for up to a cumulative 33 weeks of EUC08 benefits). The EUC08 program was extended in P.L. 111-5 to be active through December 26, 2009, with a phase-out continuing benefits into mid-2010.

**HYPOTHETICAL WEEKLY BENEFIT AMOUNTS FOR VARIOUS
WORKERS IN THE REGULAR STATE PROGRAMS**

Table 4-6 illustrates benefit amounts for various full-year workers in regular State programs for January 2008. The benefit amounts are set by the State legislatures. Column A of the table is for a full-time worker earning the July 2008 Federal minimum wage of \$6.55 per hour; column B is for a worker earning July 2009 Federal minimum wage of \$7.25 per hour; column C shows benefit amounts for a worker earning \$8.25 per hour; column D shows benefits amounts for a worker earning \$10.25 per hour; and column E shows a part-time worker earning the July 2008 Federal minimum wage of \$6.55 per hour and working 20 hours per week. All five cases are assumed to have a nonworking spouse and column D assumes the worker has two children. The weekly benefit amount for the full-time minimum wage worker (column A) varies from \$130 in Tennessee to \$178 in Kentucky. The maximum amount a worker earning \$10.25 per hour (column D) can receive varies considerably, from \$133 per week in Puerto Rico to \$279 in New Jersey. The weekly benefit amount for workers earning \$6.55 and working 20 hours a week varies from no benefits in Ohio and Michigan up to \$122 in Washington. (New Jersey and Vermont have State minimum wages higher than \$6.55 and at their respective State minimum wage, workers would qualify for benefits.)

**TABLE 4-6--WEEKLY STATE BENEFIT AMOUNTS FOR VARIOUS
FULL-YEAR WORKERS, JANUARY 2008**

State	Hypothetical Workers				
	A	B	C	D	E
Alabama	\$131	\$145	\$165	\$204	\$66
Alaska	144*	156	172	252	90*
Arizona	136*	151	172	212	68*
Arkansas	131	145	165	204	73
California	131*	145*	165	204	66*
Colorado	157*	174	198	244	78*
Connecticut	146*	160*	180	249	80*
Delaware	148*	163	186	230	74*
District of Columbia	131*	145	165	204	65*
Florida	131*	145	165	204	65*
Georgia	162	179	204	252	81
Hawaii	163*	180	205	253	82*
Idaho	131	145	165	204	65
Illinois	148*	164*	186	267	74*
Indiana	156	170	191	232	85
Iowa	154*	171	195	265	77*
Kansas	144	160	182	225	101
Kentucky	178	197	224	277	89
Louisiana	136	150	171	212	68
Maine	154*	171	195	261	77*
Maryland	142	158	179	237	71
Massachusetts	131*	145*	165	254	65*
Michigan	145	160	181	235	0
Minnesota	131	145	165	204	65
Mississippi	131	145	165	204	65

TABLE 4-6--WEEKLY STATE BENEFIT AMOUNTS FOR VARIOUS
FULL-YEAR WORKERS, JANUARY 2008 -continued

State	Hypothetical Workers				
	A	B	C	D	E
Missouri	136*	150	171	212	68*
Montana	136	150	171	212	114
Nebraska	131	145	165	204	65
Nevada	136	150	171	212	68
New Hampshire	148	148	178	217	75
New Jersey	167*	184	211	279	0*
New Mexico	140	155	176	268	70
New York	136*	145	165	204	68*
North Carolina	131	145	165	204	65
North Dakota	131	145	165	204	65
Ohio	131	145	165	204	0
Oklahoma	148	163	186	230	74
Oregon	170*	188*	214	265	108**
Pennsylvania	143*	153	179	222	70*
Puerto Rico	131	133	133	133	66
Rhode Island	157*	174*	198	269	78*
South Carolina	131	145	165	204	65
South Dakota	131	145	165	204	65
Tennessee	130	144	164	203	65
Texas	136	151	172	212	68
Utah	131	145	165	204	65
Vermont	151*	167*	190	235	0*
Virginia	136	150	171	212	68
Virgin Islands	131	145	165	204	65
Washington	131*	145*	165	204	122**
West Virginia	144	158	181	223	71
Wisconsin	136	150	171	212	68
Wyoming	136	150	171	212	68

* These States have State minimum wages higher than the hourly wages specified for certain hypothetical workers. As a result, an individual working the specified number of hours will receive a weekly benefit amount higher than that indicated in the table. Of note, for hypothetical worker E, the specified wages would not make him/her monetarily eligible in several States; however in New Jersey (\$90/week) and Vermont (\$88/week) the State's minimum wage is enough to establish monetary eligibility.

** Oregon and Washington also have State minimum wages higher than \$6.55; however, this does not affect the benefit amount listed in the table.

- A. \$6.55/hr. wage; 40 hrs./wk; 52 wks./yr.; nonworking spouse; no children;
- B. \$7.25/hr. wage; 40 hrs./wk; 52 wks./yr.; nonworking spouse; no children;
- C. \$8.25/hr. wage; 40 hrs./wk; 52 wks./yr.; nonworking spouse; no children;
- D. \$10.20/hr. wage; 40 hrs./wk; 52 wks./yr.; nonworking spouse; two children;
- E. \$6.55/hr. wage; 20 hrs./wk; 52 wks./yr.; nonworking spouse; no children.

THE UNEMPLOYMENT TRUST FUND

The Unemployment Trust Fund consists of 53 State UC benefit accounts, the Railroad Unemployment Insurance Account, the Railroad Administration Account, and four Federal accounts. (The railroad accounts are discussed in a

separate section of this volume.) The Federal unified budget accounts for all Federal-State UC outlays and taxes in the Federal Unemployment Trust Fund.

The Federal accounts in the trust fund are: (1) the Employment Security Administration Account (ESAA), which funds administration; (2) the Extended Unemployment Compensation Account (EUCA), which funds the Federal half of the Federal-State Extended Benefits Program; (3) the Federal Unemployment Account (FUA), which funds loans to insolvent State UC Programs; and (4) the Federal Employees' Compensation Account (FECA), which funds benefits for Federal civilian and military personnel authorized under 5 U.S.C. 85. The 0.8 percent Federal share of the unemployment tax finances the ESAA, EUCA, and FUA, but general revenues finance the FECA. Present law authorizes interest-bearing loans to ESAA, EUCA, and FUA from the general fund. The three accounts may receive noninterest-bearing advances from one another.

FINANCIAL CONDITION OF THE UNEMPLOYMENT TRUST FUND

Federal Accounts

At the end of fiscal year 2007, the ESAA exceeded its fiscal year 2007 ceiling of \$1.44 billion and the excess \$2.36 billion was deposited into the EUCA. The EUCA balance was \$16.64 billion and below its ceiling of \$22.57 billion. The FUA balance was \$14.34 billion and below its \$22.57 billion ceiling. Under the administration's mid-session review for fiscal year 2009 budget assumptions, the EUCA balance will not exceed its ceilings through fiscal year 2013.

State Accounts

State accounts had recovered substantially from the financial problems that began in the 1970s and continued through the early 1980s, but the 1990-91 and 2001 recessions reversed that trend. Table 4-7 illustrates how the State accounts at the end of 2007 held \$38 billion in the Unemployment Trust Fund.

The State accounts' current balances are well below the balances in the early 1970s (after adjusting for inflation). State reserve ratios (trust fund balances divided by total wages paid in taxable employment in the respective States during the year) show that a number of State accounts are at risk of financial problems in major recessions. The second column from the right margin of Table 4-7 shows that these State ratios in 2007 are 26 percent of their levels in 1970.

The last column of Table 4-7 shows the 2007 "average high-cost multiple," the ratio of the State's reserve ratio to its average highest cost rate. The highest cost rate is determined by averaging the 3 highest ratios of total costs of UC benefits paid to total wages in the last 20 years (or a period including 3 recessions, if longer). A State's reserve balance should provide for 1 year's projected benefit payment needs on the basis of the highest levels of benefit payments experienced by the State. States with average high-cost multiples below 1.0 may face greater risk of insolvency during recessions.

TABLE 4-7--FINANCIAL CONDITION OF STATE UNEMPLOYMENT COMPENSATION PROGRAMS,
SELECTED YEARS 1970-2007

State	Net Reserves in Millions of Dollars at the end of the Calendar Year						Reserve Ratios by Year						2007 Reserves as Percentage of 1970 Reserves	Average high-cost multiple 2007
	1970	1979	1982	1996	2002	2007	1970	1979	1982	1996	2002	2007		
Alabama	130	118	9	483	321	411	2.96	0.98	0.06	1.42	0.73	0.72	24%	0.52
Alaska	35	65	134	194	233	331	5.51	2.78	2.94	3.42	3.12	3.36	61%	1.07
Arizona	119	226	215	627	926	990	4.25	2.36	1.66	1.64	1.53	1.10	26%	1.10
Arkansas	49	24	-77	203	124	151	2.26	0.37	-1.00	1.11	0.50	0.49	22%	0.32
California	1,219	2,738	2,708	2,877	3,703	2,533	2.91	2.51	1.83	0.90	0.78	0.40	14%	0.27
Colorado	910	137	-4	511	472	630	2.54	1.11	-0.02	1.24	0.72	0.74	29%	0.67
Connecticut	252	-267	-252	278	548	598	0.08	-1.70	-1.21	0.62	0.90	0.76	950%	0.54
Delaware	22	-30	-35	258	294	174	1.72	-1.06	-0.96	2.96	2.23	1.10	64%	0.91
District of Columbia	74	-44	-57	99	290	400	3.22	-1.05	-1.03	0.80	1.48	1.47	46%	1.11
Florida	268	665	865	1,948	1,713	2,204	2.6	2.13	1.89	1.59	0.92	0.85	33%	1.04
Georgia	340	447	397	1,634	1,245	1,282	4.74	2.28	1.49	2.19	1.13	0.90	19%	0.96
Hawaii	44	79	108	22	305	556	2.9	2.24	2.43	2.04	2.45	3.17	109%	1.88
Idaho	46	93	29	266	195	196	5.16	3.20	0.85	3.06	1.60	1.10	21%	0.46
Illinois	401	-460	-2,069	1,639	448	1,802	1.55	-0.80	-3.18	1.19	0.24	0.79	51%	0.34
Indiana	326	418	63	1,273	1,125	307	3.13	1.69	0.23	2.19	1.53	0.35	11%	0.29
Iowa	125	155	-63	719	759	740	3.19	1.45	-0.55	3.00	2.36	1.81	57%	0.89
Kansas	84	238	142	651	416	638	3	2.75	1.29	2.58	1.15	1.40	47%	0.96
Kentucky	175	159	-121	501	488	231	4.21	1.36	-0.90	1.67	1.19	0.45	11%	0.21
Louisiana	146	238	-102	1,131	1,545	1,445	2.91	1.51	-0.47	3.45	3.59	2.54	87%	0.93
Maine	39	0	-4	112	455	479	2.86	0.00	-0.09	1.22	3.56	3.19	112%	1.64
Maryland	213	273	220	691	781	1,017	3.26	1.83	1.11	1.52	1.14	1.14	35%	0.78
Massachusetts	378	132	436	915	920	1,290	3.04	0.51	1.23	1.17	0.80	0.90	30%	0.50
Michigan	491	112	-2,186	1,831	2,076	31	2.49	0.25	-4.64	1.47	1.58	0.02	1%	NA
Minnesota	119	70	-288	513	131	546	1.76	0.41	-1.36	0.99	0.18	0.59	34%	0.38
Mississippi	85	231	257	553	684	728	3.87	3.47	3.12	3.13	3.02	2.60	67%	1.70
Missouri	264	296	-64	308	137	113	3.03	1.47	-0.27	0.61	0.20	0.14	5%	0.12
Montana	26	16	9	126	207	281	3.33	0.65	0.27	2.10	2.60	2.47	74%	1.45
Nebraska	55	81	72	195	153	279	2.87	1.58	1.14	1.40	0.79	1.16	40%	1.21

TABLE 4-7--FINANCIAL CONDITION OF STATE UNEMPLOYMENT COMPENSATION PROGRAMS,
SELECTED YEARS 1970-2007 -continued

State	Net Reserves in Millions of Dollars at the end of the Calendar Year						Reserve Ratios by Year						2007 Reserves as Percentage of 1970 Reserves	Average high-cost multiple 2007
	1970	1979	1982	1996	2002	2007	1970	1979	1982	1996	2002	2007		
Nevada	39	95	122	348	463	793	3.2	2.31	2.02	1.87	1.57	1.73	54%	1.02
New Hampshire	55	82	75	268	289	240	4.62	2.42	1.60	2.32	1.68	1.08	23%	1.16
New Jersey	448	-507	-423	2,029	2,306	650	2.76	-1.50	-0.97	2.06	1.63	0.38	14%	0.21
New Mexico	40	80	101	386	600	576	3.45	2.14	1.98	3.46	3.88	2.59	75%	1.85
New York	1,693	403	819	470	1,279	430	3.76	0.51	0.78	0.23	0.00	0.11	3%	0.09
North Carolina	414	564	400	1,336	189	394	5.22	2.71	1.52	1.92	0.19	0.31	6%	0.23
North Dakota	13	21	11	50	46	134	2.53	1.13	0.46	1.20	0.80	1.68	66%	0.80
Ohio	693	513	-1,658	1,751	1,537	445	3.01	1.02	-3.04	1.56	1.09	0.27	9%	0.12
Oklahoma	55	177	108	564	451	831	1.69	1.56	0.62	2.43	1.39	1.94	115%	1.54
Oregon	122	320	161	941	1,283	1,933	3.39	3.00	1.37	3.19	3.22	3.67	108%	1.46
Pennsylvania	852	-1,091	-2,145	2,032	1,710	1,546	3.53	-2.18	-3.75	1.85	1.14	0.83	24%	0.30
Puerto Rico	85	-33	-47	596	527	529	4.9	-0.88	-1.11	5.91	3.96	3.22	66%	1.00
Rhode Island	75	-96	-76	116	254	160	4.34	-2.75	-1.81	1.38	2.20	1.08	25%	0.37
South Carolina	166	195	50	603	529	199	4.61	1.96	0.40	1.95	1.28	0.38	8%	0.26
South Dakota	8	16	9	50	52	25	3.81	0.95	0.43	1.01	0.74	0.27	7%	0.33
Tennessee	212	264	15	827	592	566	3.57	1.63	0.08	1.63	0.87	0.65	18%	0.48
Texas	337	396	142	642	153	1,775	1.9	0.65	-0.16	0.36	0.00	0.46	24%	0.44
Utah	51	67	10	524	482	843	3.55	1.43	0.16	3.12	1.97	2.32	65%	1.44
Vermont	26	-21	-27	218	290	178	3.72	-1.30	-1.29	4.63	4.42	2.28	61%	1.21
Virginia	218	103	14	897	580	775	3.41	0.56	0.06	1.40	0.59	0.58	17%	0.70
Virgin Islands	NA	-7	-3	42	53	22	NA	-2.96	-0.55	7.42	6.26	1.96	NA	0.78
Washington	226	297	150	1,333	1,320	3,794	3.73	1.66	0.70	2.66	1.74	3.76	101%	1.54
West Virginia	108	39	-145	157	257	245	4.07	0.56	-1.85	1.36	1.81	1.40	34%	0.45
Wisconsin	322	465	-413	1,557	1,328	592	4.29	2.37	-1.53	3.10	1.96	0.72	17%	0.29
Wyoming	19	69	46	147	198	244	4.29	3.15	1.51	4.32	3.87	2.89	67%	1.13
Total	11,903	8,583	-2,645	38,632	36,031	38,303	3.11	0.91	-0.24	1.48	0.98	0.80	26%	0.52

NA - Not available.

Source: U.S. Department of Labor. Fourth Quarter Calendar Year UI Data Summary, Various Years. Years are based upon previous editions of this Chapter.

Thirty-four States had average high-cost multiples below 1.0; of which, 21 had average high-cost multiples at or below 0.5 in 2007. (Michigan had outstanding loans and is given a value of NA as a result.)

Table 4-8 summarizes the beginning balances in the various Unemployment Trust Fund accounts for selected fiscal years. At the start of fiscal year 2008, the 4 Federal accounts and the 53 State benefit accounts had a total balance of \$75.8 billion. In real terms this represents a level 8 percent higher than that of 1971. This increase in real dollars does not take into account the underlying erosion in funds once the large increase in the labor force is considered. Overall, a better measure of readiness for a recession is the ratio of the 2007 to 1970 reserve ratios in Table 4-7, which shows that aggregate reserves in 2007 relative to wages were at about 26 percent of the 1970 level.

TABLE 4-8--BEGINNING-OF-YEAR BALANCES IN UNEMPLOYMENT TRUST FUND ACCOUNTS, SELECTED FISCAL YEARS 1971-2008

[In Millions of Dollars]								
Account	1971	1976	1980	1983	1997	2000	2003	2008
Employment Security Administration	\$65	\$365	\$572	\$545	\$2,899	\$3,066	\$3,518	\$3,795
Extended Unemployment Compensation	0	116	764	483	9,466	13,147	12,865	16,638
Federal Unemployment (Reserve for State loans)	575	9	567	599	6,747	7,216	11,442	14,340
Federal Employees' Compensation	1	1	1	24	262	297	90	183
State Unemployment Compensation ²	12,409	6,145	8,272	720	43,657	48,290	41,366	40,844
Total: Nominal Dollars	13,049	6,635	10,175	2,371	63,031	72,013	69,281	75,800
Total: 2008 Real Dollars³	69,947	25,750	29,687	5,102	83,164	89,335	79,505	75,800

¹ There was no separate account for Federal Employees' Compensation for this year.

² Figures are net of loans from Federal funds. \$8 Billion in Reed Act distributions authorized in March 2002 under P.L. 107-147 are included.

³ Real dollars are obtained using the Consumer Price Index for All Urban Consumers.

Source: U.S. Department of Treasury, Bureau of Public Debt.

Whether a State trust fund balance is adequate is ultimately a matter up to each State as there is no statutory requirement of an adequately funded State UC program. States have a great deal of autonomy in how they establish and run their unemployment programs. However, the framework established by the Federal government requires States to actually pay the UC benefits as provided under State law. If the State does not pay the UC benefits, Federal law is explicit. The State will not have a UC program meeting Federal requirements and thus the Federal tax on employers would be a net tax of 6.2% (with no 5.4% credit for State unemployment taxes) rather than the net 0.8% if the State UC program paid benefits and had no outstanding loans.

During economic slowdowns or recession, some States have found that current State unemployment taxes and UTF reserve balances were insufficient to

cover State expenditures for unemployment compensation (UC) benefits. In budget terms, UC benefits are an entitlement (although the program is financed by a dedicated tax imposed on employers and not by general revenues). Thus, even if a recession occurs in a given State and as a result that State's trust account is depleted, the State remains legally required to continue paying benefits. To do so, the State will be forced to borrow money from the dedicated loan account, the FUA, within the UTF or from outside sources. If the State chooses to borrow funds from the FUA, not only will the State be required to continue paying benefits, it will also be required to repay the funds (plus any interest due) it has borrowed from the Federal loan account. Such States may be forced to raise taxes on their employers and/or reduce UC benefit levels, actions that dampen economic growth, job creation, and consumer demand. In short, States have strong incentives to keep adequate funds in their trust fund accounts.

Special Transfers to State Accounts: Hurricane Katrina

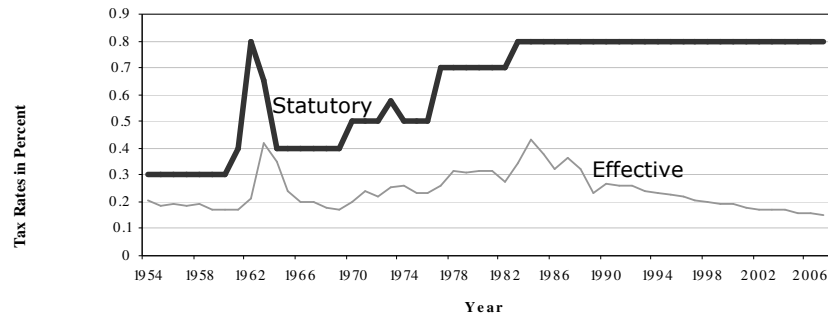
Section 201 of the QI, TMA, and Abstinence Programs Extension and Hurricane Katrina Unemployment Relief Act of 2005, Public Law 109-91, created a special UTF transfer from the FUA for FY2006 to the State UTF accounts of Alabama (\$15 million), Louisiana (\$400 million), and Mississippi (\$85 million). Section 202 also allowed administrative funds received by any State to be used to assist in the administration of claims for compensation on behalf of any other State if a major disaster was declared with respect to such other State or any area within such other State under the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Katrina.

THE FEDERAL UNEMPLOYMENT TAX

FUTA imposes a minimum, net Federal payroll tax on employers of 0.8 percent on the first \$7,000 paid annually to each employee. The current gross FUTA tax rate is 6.2 percent, but employers in States meeting certain Federal requirements and having no delinquent Federal loans are eligible for a 5.4 percent credit, making the current minimum net Federal tax rate 0.8 percent. Since most employees earn more than the \$7,000 taxable wage ceiling, the FUTA tax typically is \$56 per worker ($\$7,000 \times 0.8$ percent), or three cents per hour for a full-time worker.

Figure 4-3 depicts the historical trends in the statutory and effective Federal unemployment tax rates. The effective tax rate equals FUTA revenue as a percent of total covered wages. Although the statutory tax rate doubled from 0.4 percent in the late 1960s to 0.8 percent in the late 1980s, the effective tax rate has declined over the last 30 years because the \$7,000 ceiling on the taxable wage base has not been raised since 1973.

Figure 4-3--HISTORY OF FEDERAL UNEMPLOYMENT TAX RATE, 1954-2007



Note: The effective tax rate equals FUTA revenue as a percent of total covered wages.

Source: U.S. Department of Labor.

The States finance their programs and their share of the Extended Benefits Program with employer payroll taxes imposed on at least the first \$7,000 paid annually to each employee. States must adopt taxable wage bases at least as high as the Federal level because they otherwise would lose the 5.4 percent credit to applied to FUTA taxes. Table 4-9 shows that, as of January 2008, 42 States had taxable wage bases higher than the Federal taxable wage base, ranging up to \$30,200 in Hawaii.

In most States the standard tax rate for employers is 5.4 percent. However, State employer taxes are based on employers' experience with the unemployment compensation system. This experience rated State tax can range from zero on some employers in 14 States up to a maximum as high as 10 percent in 4 States and over 10 percent in 2 States.

TABLE 4-9--STATE UNEMPLOYMENT TAX BASES AND RATES, 2008

State	Estimated 2008 Average Tax Rate as a Percent of		2008 Tax Base	2008 Experience Rates ¹	
	Taxable wages	All wages		Minimum	Maximum
Alabama	1.4	0.4	\$8,000	0.20	6.80
Alaska	2.5	1.6	26,700	1.00	5.40
Arizona	1.5	0.3	7,000	0.50	5.40
Arkansas	2.3	0.8	9,000	0.10	6.80
California	4.2	0.8	7,000	0.10	5.40
Colorado	1.8	0.5	10,000	0.00	5.40
Connecticut	2.6	0.7	15,000	0.50	6.90
Delaware	2.2	0.5	8,500	0.10	9.50
District of Columbia	2.0	0.3	9,000	0.10	7.40
Florida	1.5	0.3	7,000	0.00	6.40
Georgia	1.6	0.4	8,500	0.13	10.80
Hawaii	0.9	0.6	30,200	0.00	5.40
Idaho	1.2	0.8	27,600	0.10	6.80
Illinois	3.8	1.0	9,000	0.20	9.00

TABLE 4-9--STATE UNEMPLOYMENT TAX
BASES AND RATES, 2008 --continued

State	Estimated 2008 Average Tax		2008 Tax Base	2008 Experience Rates ¹	
	Rate as a Percent of			Minimum	Maximum
	Taxable wages	All wages			
Indiana	2.8	0.6	7,000	0.10	5.60
Iowa	1.6	0.8	18,600	0.00	9.00
Kansas	1.5	0.5	8,000	0.01	7.40
Kentucky	2.6	0.7	8,000	0.30	10.00
Louisiana	1.4	0.3	7,000	0.90	6.00
Maine	1.8	0.7	12,000	0.50	7.50
Maryland	1.8	0.4	8,500	0.10	9.50
Massachusetts	3.6	1.1	10,800	0.60	9.30
Michigan	4.7	1.1	9,000	0.00	10.00
Minnesota	1.7	0.8	22,000	0.10	9.50
Mississippi	1.4	0.4	7,000	0.10	5.40
Missouri	2.2	0.7	7,500	0.00	8.70
Montana	1.2	0.8	19,700	0.00	6.37
Nebraska	1.7	0.5	7,000	NA	5.40
Nevada	1.4	0.8	21,500	0.25	5.40
New Hampshire	1.2	0.3	8,000	0.05	6.50
New Jersey	2.0	0.9	23,900	0.30	7.00
New Mexico	1.0	0.5	16,000	0.05	5.40
New York	3.5	0.6	8,500	2.40	8.90
North Carolina	1.9	0.8	15,900	0.00	5.40
North Dakota	1.2	0.6	18,000	0.10	5.4
Ohio	2.5	0.6	9,000	0.10	6.70
Oklahoma	1.2	0.5	11,700	0.10	5.50
Oregon	2.0	1.2	26,000	0.50	5.40
Pennsylvania	5.0	1.1	8,000	0.30	10.59
Puerto Rico	3.2	1.1	7,000	1.00	5.40
Rhode Island	3.4	1.2	12,000	0.60	10.00
South Carolina	2.2	0.5	7,000	0.54	6.10
South Dakota	0.9	0.3	7,000	0.00	10.50
Tennessee	1.8	0.4	7,000	0.00	10.00
Texas	1.9	0.5	9,000	0.00	6.00
Utah	0.5	0.3	22,000	0.10	8.10
Vermont	2.0	0.6	8,000	0.40	8.40
Virginia	0.2	0.1	8,000	0.00	6.40
Virgin Islands	1.0	0.3	18,000	0.10	9.50
Washington	2.5	1.5	28,500	0.47	5.40
West Virginia	2.8	0.9	8,000	0.00	8.50
Wisconsin	1.9	0.6	10,500	0.00	8.90
Wyoming	0.8	0.4	14,700	0.00	8.50
U.S. Average	2.5	0.7	NA	NA	NA

¹ Actual rates could be higher if State has an additional tax.

² Rate not specified.

NA - Not applicable.

Source: U.S. Department of Labor.

As Table 4-9 shows, estimated national average State tax rates on taxable wages and total wages for 2008 were 2.5 and 0.7 percent, respectively. Estimated average State tax rates on taxable wages ranged from 0.2 percent in Virginia to 4.7 percent in Michigan. Estimated average State tax rates on total wages varied from 0.1 percent in Virginia to 1.6 percent in Alaska.

Table 4-10 shows FY2007 State data on unemployment compensation covered employment, wages, taxable wages, the ratio of taxable to total wages, and average weekly wages. The ratio of taxable wages to total wages varied from 0.16 in New York and the District of Columbia to 0.69 in Hawaii.

Table 4-10--TWELVE-MONTH AVERAGE EMPLOYMENT AND WAGES COVERED BY STATE UNEMPLOYMENT TAXATION FOR PERIOD ENDING SEPTEMBER 30, 2007

State	Covered Employment (Thousands)	Total Wages (Millions)	Taxable Wages (Millions)	Ratio of Taxable Wages to Total Wages	Average Weekly Total Wages
Alabama	1,566	57,133	14,633	0.26	702
Alaska	232	9,884	6,076	0.62	818
Arizona	2,177	88,605	19,805	0.22	783
Arkansas	940	31,491	10,459	0.33	644
California	12,551	626,712	110,155	0.18	960
Colorado	1,883	85,711	22,992	0.27	875
Connecticut	1,299	78,437	20,462	0.26	1,161
Delaware	336	15,922	3,321	0.21	912
District of Columbia	382	27,346	4,309	0.16	1,377
Florida	6,581	256,113	58,149	0.23	748
Georgia	3,285	139,918	33,556	0.24	819
Hawaii	473	17,534	12,078	0.69	713
Idaho	530	17,579	11,598	0.66	638
Illinois	4,683	226,423	58,079	0.26	930
Indiana	2,335	88,118	19,522	0.22	726
Iowa	1,164	41,155	21,734	0.53	680
Kansas	1,225	45,019	14,969	0.33	707
Kentucky	1,412	50,980	13,106	0.26	695
Louisiana	1,472	56,411	12,930	0.23	737
Maine	449	15,093	5,593	0.37	646
Maryland	1,911	88,754	19,451	0.22	893
Massachusetts	2,534	142,944	41,792	0.29	1,085
Michigan	3,246	141,586	33,006	0.23	839
Minnesota	2,073	92,665	42,857	0.46	860
Mississippi	891	27,984	7,497	0.27	604
Missouri	2,127	82,261	24,833	0.30	744
Montana	366	11,365	7,350	0.65	597
Nebraska	707	24,442	6,965	0.29	665
Nevada	1,118	45,992	25,565	0.56	791
New Hampshire	488	21,634	4,537	0.21	852
New Jersey	3,181	171,589	74,810	0.44	1,037
New Mexico	629	21,905	10,849	0.50	669
New York	6,127	394,281	62,024	0.16	1,238
North Carolina	3,269	125,698	54,290	0.43	739
North Dakota	247	8,109	4,397	0.54	631

Table 4-10--TWELVE-MONTH AVERAGE EMPLOYMENT AND WAGES
COVERED BY STATE UNEMPLOYMENT TAXATION FOR PERIOD
ENDING SEPTEMBER 30, 2007 –continued

State	Covered Employment (Thousands)	Total Wages (Millions)	Taxable Wages (Millions)	Ratio of Taxable Wages to Total Wages	Average Weekly Total Wages
Ohio	4,154	164,379	41,853	0.26	761
Oklahoma	1,253	43,781	17,010	0.39	672
Oregon	1,350	52,733	31,413	0.60	751
Pennsylvania	4,318	186,164	39,552	0.21	829
Puerto Rico	709	16,404	5,443	0.33	445
Rhode Island	363	14,388	5,209	0.36	763
South Carolina	1,527	52,904	12,815	0.24	666
South Dakota	303	9,174	2,789	0.30	582
Tennessee	2,244	87,197	18,854	0.22	747
Texas	8,350	379,733	88,521	0.23	875
Utah	981	35,754	20,382	0.57	701
Vermont	218	7,854	2,018	0.26	693
Virgin Islands	2,913	132,522	27,565	0.21	875
Virginia	32	1,110	615	0.55	662
Washington	2,277	101,439	57,742	0.57	857
West Virginia	535	17,492	4,867	0.28	629
Wisconsin	2,202	82,118	24,007	0.29	717
Wyoming	213	8,304	3,870	0.47	749
U.S. Total	107,598	4,760,361	1,292,199	0.27	851

Source: U.S. Department of Labor

SUTA Dumping

Congress passed the SUTA Dumping Prevention Act of 2004 (P.L. 108-295), which was intended to end or at least significantly curtail SUTA dumping. SUTA dumping occurs when employers that pay relatively high UC taxes “dump” workers into an affiliated employer with lower UC taxes. The legality of SUTA dumping schemes varied depending on State laws. According to a Government Accountability Office (GAO) survey, over half of the State administrators felt that SUTA dumping resulted in lost State unemployment tax revenue. Administrators most often cited the employee leasing industry, hospitality industry, and construction industry as engaging in SUTA dumping practices.⁷

The SUTA Dumping Prevention Act required that States develop standards for employee transfers and impose penalties on firms and advisory groups that promote SUTA dumping techniques as a tax avoidance tool. States were required to impose meaningful penalties on those firms and people who either advise or implement SUTA dumping schemes. P.L. 108-295 permitted States to use certain information in the National Directory of New Hires from the Social Security Administration in the administration of Federal and State UC laws.

⁷ U.S. Congress, House Committee on Ways and Means, Subcommittee on Oversight and U.S. Congress, Subcommittee on Human Resources, Testimony of Robert J. Cramer, Managing Director Office of Special Investigations, Government Accountability Office, June 19, 2003, (GAO-03-819T). (Hereafter cited as GAO, 2003, at [<http://www.gao.gov/new.items/d03819t.pdf>].)

Before the enactment of Public Law 108-295 States had a variety of measures in place to minimize SUTA dumping. According to the GAO, in 2003, 21 State UC administrators reported that their programs had no laws specifically addressing SUTA dumping and 29 State administrators indicated that they had laws addressing SUTA dumping, but 7 felt that those laws were inadequate. Approximately two-fifths of the administrators indicated that their States already were adequately addressing the problem or that they did not know of any SUTA dumping in their States.⁸

Public Law 108-295 required the U.S. Secretary of DOL to submit a report to the Congress that (1) assesses the statute and appropriateness of State actions to meet its new requirements; and (2) recommends any further congressional action that the Secretary considers necessary to improve the effectiveness of the amendments. The DOL publicly released the report in May 2008. The data collection for the study consisted primarily of information regarding implementation activities between January and September 30, 2006.⁹ The information and data presented in the report represent a time when most States were still in the implementation process. Accordingly, while every State enacted conforming legislation, the report States that the available data are too limited to conclusively assess the effectiveness of the Act. No other study has been undertaken.

ADMINISTRATIVE FINANCING AND ALLOCATION

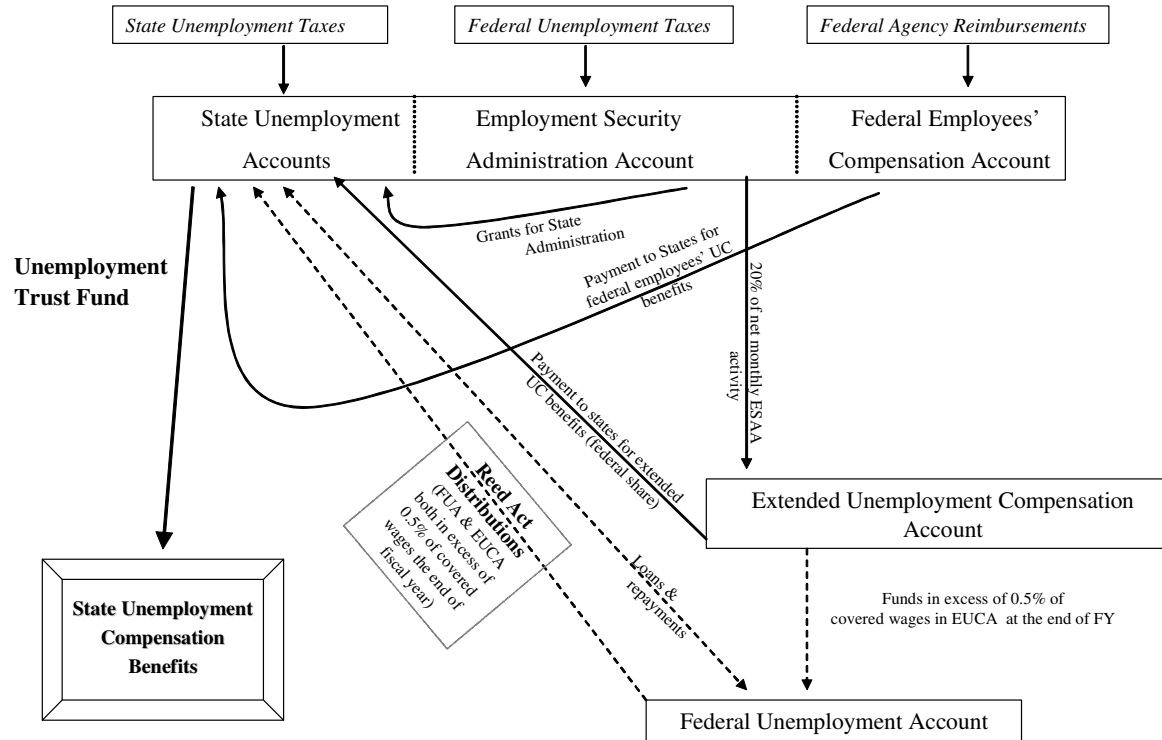
State unemployment compensation administrative expenses are Federally financed. A portion of revenue raised by FUTA is designated for administration and for maintaining a system of public employment offices. As explained earlier, FUTA revenue flows into three Federal accounts in the Unemployment Trust Fund. One of these accounts, the Employment Security Administration Account (ESAA), finances administrative costs associated with Federal and State unemployment compensation and employment services.

Under current law, 80 percent of FUTA revenue is allocated to ESAA and 20 percent to the Emergency Unemployment Compensation Account (EUCA) which contains the funds for the Federal share of EB benefits. The Federal Unemployment Account (FUA) is credited with the additional taxes paid by employers when a reduced credit against Federal taxes exists on account of an outstanding unpaid loan from FUA funds. When the State loans are repaid, they are also deposited into the FUA. Figure 4-4 shows the flows of FUTA funds through the UTF.

⁸ GAO, 2003.

⁹ *Evaluation of State Implementation of Section 303(k), SSA: Final Report*, Lawrence Chimierine, Lester Coffey, E.A. Hensley, Richard Sullivan, William Sullivan, Wayne Vroman, and Michael Ye. (Undated)

FIGURE 4-4--FLOW OF FUTA FUNDS UNDER EXISTING FEDERAL STATUTES



4-32

Source: Congressional Research Service

Funds for administration are limited to 95 percent of the estimated annual revenue that is expected to flow to ESAA from the FUTA tax. However, funds for administration may be augmented by three-eighths of the amount in ESAA at the beginning of the fiscal year, or \$150 million, whichever is less, if the rate of insured unemployment is at least 15 percent higher than it was over the corresponding calendar quarter in the immediately preceding year.

Title III of the Social Security Act authorizes payment to each State with an approved unemployment compensation law of such amounts as are deemed necessary for the proper and efficient administration of the UC Program during the fiscal year. Allocations are based on: (1) the population of the State; (2) an estimate of the number of persons covered by the State unemployment insurance law; (3) an estimate of the cost of proper and efficient administration of such law; and (4) such other factors as the Secretary of the U.S. Department of Labor (DOL) finds relevant.

Subject to the limit of available resources, the allocation of State grants for administration is made available for two major areas, the Unemployment Insurance Service (UI) and the Employment Service (ES). Each area has its own allocation methodology subject to general constraints set forth in the Social Security Act and the Wagner-Peyser Act.

There are two major Federal activities involved in overseeing grants to States for unemployment compensation administration: budget formulation and allocation. Each year, as part of the development of the President's budget, the DOL, in conjunction with the Department of Treasury, estimates revenue expected from FUTA and the appropriate amount to be available for administration. The estimate of FUTA revenues is based on several factors: (1) a wage base of \$7,000 per employee; (2) a tax rate of 0.8 percent (0.64 percentage points for administration and 0.16 percentage points for extended benefits); (3) the administration's projection of the level of unemployment and the growth in wages; and (4) the level of covered employment subject to FUTA. In addition, a determination is made based on the administration's forecast for unemployment as to whether the rate will increase by at least 15 percent.

Each year the President's budget sets forth an estimate of national unemployment in terms of the volume of unemployment claims per week. This is characterized as average weekly insured unemployment (AWIU). A portion of AWIU is expressed as "base" and the remainder as "contingency." For the fiscal year 2008 budget, the base was set at the level of resources required to process an average weekly volume of 2.525 million. (The appropriation provided for an apportionment of contingency reserve funds should the AWIU level exceed 2.786 million. Public Law 110-252 provided \$110 million in additional funding to the States to address the 0.261 million difference between the administration's estimated AWIU weekly volume for the base and original appropriation's AWIU base trigger for contingency reserve funding.)

At the beginning of the fiscal year, only the base funds are allocated to each State to administer its UC Program, while contingency funds are allocated on a needs basis as workload materializes. Base funds are distributed to the State for use throughout the fiscal year and are available regardless of the level of unemployment (workload) realized. If a State processes workloads in excess of the base level, it receives contingency funds determined by the extent of the resources required to process the additional workload. The allocation method is designed to provide each State with a funding amount that will support a roughly equal level of services across States to beneficiaries and employers. To achieve this objective, allocations are closely tied to the cost of doing business in each State and to each State's share of national workloads.

The allocation of the base UC grant funds to each State is made by:

1. projecting the workloads that each State is expected to process;
2. determining the staff required to process each State's projected workload;
3. multiplying the final staff-year allocations for each State by the cost per staff year (i.e., State salary and benefit level) to determine dollar funding levels; and
4. allocating overhead resources (administrative and management staff and nonpersonal services).

Each DOL regional office may redistribute resources among the States in its area with national office approval.

Responding to a fiscal year 2004 Labor, Health and Human Services, Education and Related Agencies Appropriations Conference Report (House Report 108-401), DOL released a document on the *Impact of Using Alternative Criteria for Allotting Administrative Grants to States for the Unemployment Insurance Program*. The document recommended that States be allowed to provide for the administrative funding of their own UC programs to reduce the Federal role in the process.

At the end of the fiscal year, there is a limitation on the balance in the ESAA. The account balance cannot exceed 40% of the prior fiscal year's appropriation by Congress. If the balance in the ESAA exceeds this limitation, the excess is distributed to EUCA. After the distribution, if the balance in the EUCA exceeds the limitation, the excess is distributed to the FUA. If after the distribution from the EUCA, the FUA balance exceeds the limitation, the excess is distributed, as a Reed Act distribution, to the State accounts.

REED ACT

Under certain financial conditions, excess Federal tax funds in the UTF are transferred to the individual State accounts. The transferred funds are referred to as Reed Act distributions. The Reed Act, Public Law 83-567, set ceilings in the Federal UTF accounts that trigger funds to be distributed to State accounts; Congress has changed these ceilings several times.¹⁰ Currently the statutory maximum for the EUCA is the greater of \$750 million or 0.5% of wages subject to State UC laws. The statutory maximum for the FUA is the greater of \$550 million or 0.5% of the covered wages. In practice the \$750 and \$550 million ceilings are meaningless as they have long been surpassed by the higher trigger of 0.5% of covered wages. Figure 4-4 which depicts the flow of FUTA fund through the UTF also includes a graphical interpretation of Reed Act distributions.

There are other transfers in the UTF that have been labeled by legislation as special Reed Act distributions. These are distributed in a manner similar to the Reed Act but do not follow all of the Reed Act provisions.

The most recent regular Reed Act distribution was \$15.9 million and occurred in 1998. The Balanced Budget Act (BBA) of 1997, Public Law 105-33, limited Reed Act distributions for the 1999 to 2001 period to special Reed Act distributions of \$100 million each year. In March 2002, the Job Creation and Worker Assistance Act of 2002, P.L. 107-147, provided for a one-time special Reed Act distribution of up to \$8 billion to State accounts. There is no projected Reed Act distribution through FY2013.

According to a Government Accountability Office (GAO) report, the \$8 billion Reed Act distribution prevented tax increases or surcharges in 30 States in 2002.¹¹ A DOL study conducted by the Center for Employment Security Education and Research (CESER) and Booz Allen Hamilton and Decern Consulting found that States used approximately half of the Reed Act distribution to lower State unemployment taxes in 2003 and 2004 from what they would have otherwise been.¹² The special distribution also led to increases in spending on UC benefits, UC administration and employment services.

¹⁰ The Balanced Budget Act of 1997, P.L. 105-33, increased the statutory ceiling on the FUA from 0.25% to 0.5% of covered wages, effective Oct. 1, 2001. The Unemployment Compensation Amendments of 1992, P.L. 102-318, lowered the FUA from 0.625% to 0.25% and increased the ceiling for EUCA from 0.375% to 0.5%. The Omnibus Budget Reconciliation Act of 1987, P.L. 100-203, raised the EUCA ceiling from 0.125% to .375% and increased the FUA ceiling from 0.125% to 0.625%.

¹¹ U.S. Government Accountability Office, *Unemployment Insurance: States' Use of the 2002 Reed Act Distribution*, GAO-03-496, March 2003, page 36.

¹² U.S. Department of Labor, *Unemployment Insurance: Assessment of the Impact of the 2002 Reed Act Distribution - Final Report*, ETAOP 2004-11, released August 2008.

LEGISLATIVE HISTORY

Major Federal laws passed by Congress since 1990 and their key provisions are as follows:

The Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508) extended the 0.2 percent FUTA surtax for 5 years through 1995.

The Emergency Unemployment Compensation Act of 1991 (Public Law 102-164) established temporary emergency unemployment compensation (EUC) benefits through July 4, 1992. It returned to States the option of covering nonprofessional school employees between school terms and restored benefits for ex-military members to the same duration and waiting period applicable to other unemployed workers. It extended the 0.2 percent FUTA surtax for 1 year through 1996.

The Unemployment Compensation Amendments of 1992 (Public Law 102-318) extended EUC for claims filed through March 6, 1993, and reduced the benefit periods to 20 and 26 weeks. The law also gave claimants eligible for both EUC and regular benefits the right to choose the more favorable of the two. States were authorized, effective March 7, 1993, to adopt an alternative trigger for the Federal-State EB Program. This trigger is based on a 3-month average total unemployment rate and can activate either a 13- or a 20-week benefit period depending on the rate.

The Emergency Unemployment Compensation Amendments of 1993 (Public Law 103-6) extended EUC for claims filed through October 2, 1993. The law also authorized funds for automated State systems to identify permanently displaced workers for early intervention with reemployment services.

The Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66) extended the 0.2 percent FUTA surtax for 2 years through 1998.

The Unemployment Compensation Amendments of 1993 (Public Law 103-152) extended EUC for claims filed through February 5, 1994, and set the benefit periods at 7 and 13 weeks. It repealed a provision passed in 1992 that allowed claimants to choose between EUC and regular State benefits. It required States to implement a “profiling” system to identify UI claimants most likely to need job search assistance to avoid long-term unemployment.

The North American Free Trade Agreement Implementation Act (Public Law 103-182) gave States the option of continuing UC benefits for claimants who elect to start their own businesses.

The Balanced Budget Act of 1997 (Public Law 105-33) gave States complete authority in setting base periods for determining eligibility for benefits, authorized appropriations for program integrity activities, limited trust fund distributions to States in fiscal years 1999-2001, and raised the ceiling on FUA assets from 0.25 percent to 0.5 percent of wages in covered employment starting in fiscal year 2002. The Taxpayer Relief Act of 1997 (Public Law 105-34) extended the 0.2 percent FUTA surtax through 2007.

The Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107-147) established a program to provide temporary extended unemployment compensation (TEUC) benefits of up to 13 weeks to individuals in all States who exhausted their regular UC benefits. This legislation also provided for a one-time transfer of \$8 billion to all States. TEUC benefits were fully Federally funded through EUCA funds and available in all States. TEUC also provided a second tier of up to 13 weeks of additional benefits to individuals in high-unemployment States (TEUC-X). The program was extended twice (Public Law 108-1, Public Law 108-26) and was authorized through March 31, 2004, with benefits phasing-out after December 31, 2003. In addition, Public Law 108-11 created a parallel program for displaced airline workers called TEUC-A. TEUC-A provided up to 39 weeks of benefits and also provided a second tier (TEUC-AX) of benefits to individuals exhausting their TEUC-A benefits in a high-unemployment State.

The SUTA Dumping Prevention Act of 2004 (Public Law 108-295) required States to develop standards for employee transfers and impose penalties on firms and advisory groups that promote SUTA dumping techniques as a tax avoidance tool and to impose meaningful penalties on those firms and people who either advise or implement SUTA dumping schemes. (SUTA refers to State unemployment tax acts.) The Act also permitted States to use certain information in the National Directory of New Hires from the Social Security Administration in the administration of Federal and State UC laws. The Act also required the U.S. Labor Secretary to submit to the Congress, not later than July 15, 2007, a report that (1) assessed the statute and appropriateness of State actions to meet its new requirements; and (2) recommended any further congressional action that the Secretary considered necessary to improve the effectiveness of the amendments.

The QI, TMA and Abstinance Programs Extension and Hurricane Katrina Unemployment Relief Act of 2005 (Public Law 109-91) transferred \$500 million from the FUA in the UTF to the State UTF accounts of Alabama (\$15 million), Louisiana (\$400 million), and Mississippi (\$85 million) to aid the States in meeting the UC benefit obligations following Hurricane Katrina. The Act also permitted any State, on or after August 28, 2005, to use UC administrative funds on behalf of any other State to assist workers seeking UC benefits on account of Hurricane Katrina. This applied only to the Hurricane Katrina disaster.

The Energy Independence and Security Act of 2007 (Public Law 110-140) extended the 0.2% FUTA surtax for 1 year through calendar year 2008.

Title IV of the Supplemental Appropriations Act of 2008 (Public Law 110-252) created a new temporary unemployment insurance program, the Emergency Unemployment Compensation (EUC08) program. The temporary unemployment insurance program provided up to 13 additional weeks of unemployment benefits to certain workers who have exhausted their rights to regular UC benefits. The program effectively began July 6, 2008, and was scheduled to terminate on March 28, 2009. No EUC08 benefit would be paid beyond the week ending July 4, 2009.

The Unemployment Compensation Extension Act of 2008 (Public Law 110-449) amended the EUC08 program, expanding the potential duration of the EUC08

benefit from up to 13 weeks of EUC08 to a maximum of 20 weeks. It also created a second tier of benefits for workers in States with high unemployment of up to a maximum of an additional 13 weeks of tier II EUC08 benefits (for up to a cumulative 33 weeks of EUC08 benefits).

The Energy Improvement and Extension Act of 2008 (Public Law 110-343) extended the 0.2% FUTA surtax for 1 additional year through calendar year 2009.

The American Recovery and Reinvestment Act of 2009 (P.L. 111-5, also known as ARRA or the 2009 stimulus package), contains several provisions affecting unemployment benefits. First, ARRA increases unemployment benefits by \$25 per week for all recipients of regular unemployment compensation (UC), extended benefits (EB), emergency unemployment compensation (EUC08), Trade Adjustment Assistance (TAA) programs, and Disaster Unemployment Assistance (DUA). Second, ARRA extends the temporary EUC08 program through December 26, 2009 (with grandfathering), to be financed by Federal general revenues. Third, ARRA provides for 100% Federal financing of the EB program to end before January 1, 2010 (with grandfathering), to be financed by the Federal government through the Unemployment Trust Fund. Fourth, ARRA allows States the option of changing temporarily the eligibility requirements for the EB program in order to expand the number of persons eligible for EB benefits, to end before June 1, 2010. Fifth, ARRA provides for an additional 13 weeks to the maximum amount of time railroad workers may receive extended unemployment benefits. Sixth, the legislation suspends income taxation on the first \$2,400 of unemployment benefits received in calendar year 2009. Seventh, ARRA provides relief to States from the payment and accrual of interest on Federal loans to States for the payment of unemployment benefits, from enactment of the stimulus package on February 17, 2009 through December 31, 2010. Eighth, ARRA transfers a total of \$500 million to the States for administering their unemployment programs, within 30 days of enactment of the 2009 stimulus package.

ARRA also provides for a special transfer of up to \$7 billion in Federal monies to State unemployment programs as “incentive payments” for changing certain State UC laws. All incentive payments must be made before October 1, 2011. For a State to receive one-third of its potential distribution it must first have enacted an alternative base period (ABP) to ensure the last completed quarter of a worker’s employment is counted when determining eligibility for unemployment benefits. The remaining two-thirds of the \$7 billion would be distributed to States contingent on their qualifying for the first one-third, plus State law containing at least two of the following four provisions: (1) permit former part-time workers to seek part-time work; (2) permit voluntary separations from employment for compelling family reasons, which must include domestic violence, illness or disability of an immediate family member, and the need to accompany a spouse who is relocating for employment; (3) provide extended compensation to UC recipients in qualifying training programs for high demand occupations; or (4) provide dependents allowances to UC recipients with dependents.