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October 12, 2011

Jane Oates
Assistant Secretary
Employment and Training Administration
United States Department of Labor
200 Constitution Ave., NW
Frances Perkins Building
Washington, DC 20210

Dear Ms. Oates,

Thank you for testifying before the Subcommittee on Human Resources on October 6 regarding the Unemployment Insurance program and methods by which the government can assist citizens with returning to work. I appreciate your insight into this issue from the Department of Labor's point of view.

In order to complete the record of the hearing, please respond to the following questions by Wednesday, October 26, 2011:

1.) During the hearing you agreed that raising the Federal Unemployment Tax Act (FUTA) tax on businesses would not be conducive to job creation. In the case of New York State, the State Department of Labor is able to levy a $27 per employee surcharge on businesses in order to recover funds to repay the interest on a loan from the federal government given in 2009 and 2010. This surcharge on small businesses came as result of New York State's inability to pay back an interest free loan from the Federal Government – a loan intended to strengthen the State's unemployment insurance program. In addition, the Federal Unemployment Tax Act (FUTA) levies an additional tax on businesses, which increases annually by .3% should the State be unable to repay the principle of the loan.

What reason does the Administration give for not allowing the States to use funds from the Unemployment Trust Fund to assist with paying the interest on loans from the Federal Government?

If States were able to use funds from the Unemployment Trust Fund to assist with paying the interest on loans from the Federal Government, New York may not have to levy a surcharge on employers to recover the money. Would the absence of the per employee surcharge on

businesses be more beneficial for job creation than the surcharge that was imposed in New York State earlier this year?

Given your sentiments that increasing taxes on businesses does not help create jobs, how does the federal government expect the current FUTA increase to allow businesses to create jobs?

2.) The Administration's proposal, in the President's Fiscal Year 2012 budget request and recommendations to the Joint Committee on Deficit Reduction, is to provide another two-year interest free loan to States' unemployment insurance systems. If a two-year interest free loan is given to New York State and the State is unable to pay the loan within the two year period, they must pay the .3% increased FUTA tax every year this loan is not repaid.

Is the intent of the Administration's plan to provide a two year interest free loan to States to maintain the States' Unemployment Insurance programs?

Will increasing the FUTA tax on businesses create jobs?

3.) In your testimony, you stated that in the case that unemployment insurance benefits are cut off, former recipients may seek long term disability benefits. You stated the numbers of individuals considered for Social Security Disability Insurance has doubled during the recession.

Could you provide for me the statistics of the number of citizens moving off the unemployment benefits rolls annually over a ten year period? In addition can you provide me with the number of citizens making disability claims annually over a ten year period?

Do you find any link between citizens moving off unemployment insurance to an increase in Social Security Disability Insurance benefits?

The Committee relies on electronic submissions for printing of the official record. Therefore, please send an electronic submission in Microsoft Word format to timothy.ford@mail.house.gov and drew.wayne@mail.house.gov.

Your consideration of my additional questions is appreciated. Should you have any questions please contact Drew Wayne in my office by e-mail or at (202) 225-3161. I look forward to your response.

Sincerely,

Tom Reed
Member of Congress

Questions and Answers
Committee on Ways and Means
Subcommittee on Human Resources
Rep. Reed, 29th District, New York

October 26, 2011

PART I

Question

During the hearing you agreed that raising the Federal Unemployment Tax Act (FUTA) tax on businesses would not be conducive to job creation. In the case of New York State, the State Department of Labor is imposing a $27 per employee surcharge on businesses in order to pay the interest on outstanding loans from the Federal government in 2009 and 2010. This surcharge on small businesses came as [a] result of New York State's inability to pay back its interest-free loans from the Federal government – loans intended to strengthen the State's unemployment insurance program due to increased pressure from extended Federal unemployment benefits. In addition, the FUTA will soon begin levying an added tax on businesses, which will increase annually by 0.3%, to repay the principle of the loan.

Why can't States use funds from their Unemployment Trust fund to assist with paying the interest on loans from the Federal government?

Answer

Section 1202(b)(5) of the Social Security Act (SSA), provides that interest required to be paid shall not be paid (directly or indirectly) by a state from amounts in its unemployment fund. If the Secretary of Labor determines that any state action results in the payment of such interest directly or indirectly (by an equivalent reduction in state unemployment taxes or otherwise) from such unemployment fund, the Secretary shall not certify such state's unemployment compensation law under Section 3304, FUTA.

Section 303(c)(3), SSA, and 3304(a)(17), FUTA, also prohibit payment of interest directly or indirectly from the state's unemployment fund.

Moreover, the states that owe interest on advances (loans) from the Federal Unemployment Account (FUA) took advances because their accounts in the unemployment trust fund (UTF) were insolvent due to paying regular unemployment compensation not because of the wholly federally funded unemployment benefits. States do not pay for any of the costs of extended Federal unemployment benefits. If states are permitted to use moneys in their unemployment trust fund accounts to pay interest on advances, they are merely adding to their debt and putting themselves in a position, absent other actions taken to increase solvency, to need even more advances and owe even more interest to Treasury.

Question

If States were able to use funds from their Unemployment Trust fund to assist with paying the interest on loans from the Federal government, New York may not have to levy a surcharge on employers to collect the money.

Would the absence of the per employee surcharge on businesses be more beneficial for job creation than the surcharge that was imposed in New York State earlier this year?

Answer

States have much discretion in determining the source of funds to pay this interest. Some states have used general revenues or other sources of funds to make this payment, while others, like New York, chose to assess a surcharge. Each state must determine the best alternative for that state's economy when selecting a fund source to repay interest.

Question

Given your sentiments that increasing taxes on businesses does not help create jobs, how does the Federal government expect the current FUTA increase to allow businesses to create jobs?

Answer

In the short term, the Administration's proposal will restore the long-standing FUTA tax rate that expired on June 30, 2011. This is necessary because the Federal accounts in the UTF have run out of funds, and have received $29 billion as of October 20, 2011 in interest-bearing advances from general revenues. However, the proposal also provides employers assistance in the short term. Employers in many states are facing effective increased FUTA taxes right now as a result of state UI systems' indebtedness (the revenue from reduced FUTA credits is to help states repay their advances). For 2011 and 2012, the proposal would eliminate these credit reductions and support economic recovery.

The Administration's long-term proposal does not increase FUTA taxes -- the increase in the taxable wage base will be accompanied by a reduction in the FUTA tax rate, resulting in an approximate net neutral effect on employers. Moreover, by increasing the taxable wage base to $15,000 in 2014, the Administration seeks to set the taxable wage base at the level it would have been, adjusted for inflation, had it been indexed at the time it was raised to its current level of $7,000 during the Reagan Administration. In the short-term, the Administration's proposal will restore the longstanding FUTA tax rate that expired on June 30, 2011.

PART II

Question

In the President's Fiscal Year 2012 budget request and recommendations to the Joint Committee on Deficit Reduction, the Administration recommended another two years of interest-free treatment on loans to State unemployment insurance systems and delays accompanying Federal tax increases for States that have not repaid the principal on those loans. The Administration's proposal would push the issue off for another two years, but other provisions in the Administration's plan would then accelerate subsequent tax hikes faster than current law; this means New York businesses will face even steeper increases in their Federal unemployment taxes starting in 2013. Across the U.S., the Administration's proposal amounts to a net tax hike of nearly $60 billion over 10 years.

Does the Administration believe that forcing a tax increase on businesses will create jobs in the coming years?

Answer

The Administration's proposal seeks in the short term to provide relief to both states and employers with regard to interest payments and the loss of FUTA tax credits. For calendar years 2011 and 2012, the proposal waives interest accrual and payments on advances (loans) made to states to pay unemployment compensation and to eliminate for two years assessment of any FUTA credit reductions that would effectively increase employers' FUTA taxes if the credit reductions were not eliminated. These provisions will help support economic recovery and job growth. As the economy improves, states will be in a better position to address their solvency issues.

To ensure trust fund solvency, the proposal increases and indexes the taxable wage base beginning in 2014, but also reduces the FUTA tax rate. This blended approach of providing relief in the short term and addressing trust fund solvency in the long term ensures that employers are not burdened in the short run and are best positioned to create jobs, while also ensuring American workers have a sound UI safety net for the future.

PART III

Question

In your testimony, you stated that if Federal unemployment benefits are not extended, former UI recipients may seek long-term disability benefits. You stated the number of individuals applying for Social Security disability benefits has doubled during the recession.

Please provide the number of individuals terminating unemployment benefits over the last ten years.

Answer

The states report the number of exhaustees -- or people who receive all benefits to which they are entitled. That data is provided in the table below. (We note that we are interpreting the term "terminate" to mean "exhaustee" in order to answer this question.) We also note that over 17.6 million workers have received Emergency Unemployment Compensation (EUC) and/or Extended Benefits (EB) since the Federal benefit supports began in 2008. The majority ultimately left the programs without collecting all available benefits, but some of these workers are still drawing benefits from the programs, while others exhausted their benefits in 2010 or 2011. In the absence of the EUC and EB programs, however, all 17.6 million of these workers would have exhausted their benefits at the end of their regular state UI entitlement.

Year	Exhaustees (millions)	Notes
2002	2.3	1
2003	2.6	1
2004	4.1	1
2005	2.9	1
2006	2.7	1
2007	0.9	2
2008	-	3
2009	-	3
2010	1.6	4
2011	1.6	4

1. Estimates draw exhaustees from regular program reports when states are not in payable periods for EB and from EB reports when states are in payable period for EB.
2. Reach back period for EUC goes to May of 2007, so exhaustees for this period are as in 1 but only through April.
3. Extensions and expansions of the EUC program continue to provide entitlement preventing anyone from being an exhaustee.
4. Estimates of final exhaustees provided by DOL for the EUC period covering the regular, EB and EUC program.

Question

Please provide the number of individuals subsequently applying for disability benefits over the last ten years.

Answer

We are unable to provide information on the number of individuals applying for disability benefits after receiving UI benefits. The Department of Labor does not collect, nor does it require states to collect, this information.

Question

Is there a confirmed link between individuals moving off unemployment insurance and on to Social Security disability benefits?

Answer

According to a report released by the Social Security Administration, *Changes in Incentives Influencing Program Size,*[1] economic changes influence applications to the disability insurance (DI) and Social Security Income (SSI) programs. The report reflects that, in general, disabled-worker application rates and incidence rates have tended to rise in periods of increasing unemployment and fall in periods of decreasing unemployment. However, the report does not explain the underlying reasons for these trends. Therefore, we defer to the Social Security Administration on this subject.

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[1] *http://www.ssa.gov/policy/docs/chartbooks/disability_trends/sect05.html*