

**NATIONAL ASSOCIATION OF STATE WORKFORCE AGENCIES (NASWA)  
STATEMENT ON THE UNEMPLOYMENT INSURANCE PROVISIONS OF THE  
MIDDLE CLASS TAX RELIEF AND JOB CREATION ACT OF 2012**

**SUBMITTED BY DARRELL L. GATES  
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ON APRIL 25, 2012**

**TO THE HOUSE COMMITTEE ON WAYS AND MEANS  
SUBCOMMITTEE ON HUMAN RESOURCES**

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to testify on implementation of the Middle Class Tax Relief and Job Creation Act of 2012 (P.L. 112-96). State Workforce Agencies are responsible for implementation of EUC08 and other provisions in the Act. The National Association of State Workforce Agencies (NASWA) submits this testimony for the record.

The mission of NASWA is to serve as an advocate for state workforce agencies' programs and policies, as a liaison to workforce system partners, and as a forum for the exchange of information and effective practices. Our organization was founded in 1937. Since 1973, it has been a private, non-profit corporation, financed by annual dues from member agencies and other revenue.

Our members administer critical programs including Unemployment Insurance (UI), the Workforce Investment Act (WIA), Veterans' Employment and Training Services (VETS), Labor Market Information (LMI), Trade Adjustment Assistance (TAA) and the Employment Service (ES).

**The Unemployment Insurance System in the Aftermath of the Great Recession**

The unemployment insurance (UI) program is an entry point to the nation's one-stop career center system for workers who lose their jobs. For many workers, this may be their first interaction with the publicly-funded workforce system. It should provide timely income support, while emphasizing reemployment of UI claimants.

The UI system is a unique federal-state partnership, grounded in federal law, but administered through state law by state officials. It provides temporary, targeted, timely and partial wage replacement to laid-off workers. Created by the Social Security Act of 1935, the UI system has been a successful social insurance program for many years. The system is decentralized at the state level to address the varying economic problems among the states. State unemployment benefits are financed through state payroll taxes, which are held in individual state trust fund accounts in the federal Unemployment Trust Fund in the U.S. Treasury.

Administering unemployment benefits involves a number of efforts. For example, states are responsible for: (1) processing benefit payments for both state and federal claims; (2) preventing overpayments and fraud; (3) answering thousands of questions they receive from UI claimants and employer taxpayers; and (4) resolving disputes about job separations between UI claimants and employers in the claims adjudication process. These are time consuming tasks made harder by a record number of claimants during and after the Great Recession.

While much has been written about problems states have encountered with unemployment insurance call centers and on-line claims processing, states have done an extraordinary job reacting and adapting to the unprecedented challenges of the Great Recession. From 2008 to 2010, benefits paid to UI claimants more than tripled from roughly \$42 billion in Fiscal Year 2008 to \$143 billion in Fiscal Year 2010. While benefits decreased to \$113 billion in Fiscal Year 2011, the rapid and unprecedented increases in workload on state workforce agencies since 2008 brought some state programs nearly to a breaking point. This is due to the chronic federal underfunding of the states for the administration of the UI infrastructure which has left states with legacy information technology averaging 25 years old.

## **The Middle Class Tax Relief and Job Creation Act of 2012**

The Act extends the expiration dates of the EUC08 program and the temporary provisions of the Extended Benefit (EB) program. It contains complex and phased-in changes to the EUC08 program and alters the duration and state availability of each tier of the EUC08 program during three separate periods: March-May 2012, June-August 2012, and September-December 2012.

States are moving rapidly to conform to the Act. They appreciate the new law kept the current tier structure intact. NASWA recommends if the EUC08 program is extended beyond December 2012, it should retain the current tier structure. If the federal government decides to phase down the program after December 2012, it should either adjust the unemployment rate triggers for the tiers, the number of weeks in each tier, or eliminate tiers in reverse order with the last tier being the first to be eliminated.

### **Reemployment and Eligibility Assessment, and Reemployment Services**

The Act provides new entitlement funding estimated at about \$440 million to states from general funds to provide Reemployment and Eligibility Assessment (REA) activities and Reemployment Services (RES) to EUC claimants. NASWA applauds Congress for providing funding to assist the jobless get back to work faster.

Numerous evaluations demonstrate REA and RES programs reduce UI duration and are cost-effective. Reemployment assessments and services are proven to reduce a claimant's duration on unemployment insurance benefits by two weeks or more. This does not sound significant, but a reduction of two weeks of unemployment benefits for one million workers would save about \$600 million in federal benefit outlays.

Research varies, but in Washington State, for example, a reemployment services demonstration project reduced claimant's duration on UI by nearly eight weeks. Further, in Minnesota and Nevada, providing job search assistance services, including individual case management, also reduced duration of unemployment insurance -- by 4 weeks in Minnesota and 1.6 weeks in Nevada.

UI claimants do not necessarily have in-person connections to employment and job search assistance services. Most UI claims processing occurs remotely over the internet or telephone. They might be required to register for work, but they might not necessarily avail themselves of the services in one-stop career centers authorized under the Workforce Investment Act (WIA). States and the federal government have become more interested in connecting UI claimants to reemployment services, but the inflation adjusted funding for these programs has been declining and has not kept pace with the growth in the labor force, nor has it responded well to the near tripling of initial UI claims early in the Great Recession.

A permanent REA and RES program is needed. The American Recovery and Reinvestment Act of 2009 (ARRA) included \$250 million for states to provide Reemployment Services targeted specifically to UI claimants as a temporary increase in authorization for the Wagner-Peyser Act program. Many states used these funds effectively, but these funds have been spent and the workforce system is struggling to serve a persistently high continued UI claims workload despite the recent drops in initial UI claims. While most states have received separate REA grants from ETA, the funding amounts have been temporary, and these grants provided no funding for reemployment services.

Many states have reported it will be difficult to develop an effective program with per-capita operational costs of \$85 or less as specified in the Act. Further, the Act does not provide states funding to cover the fixed costs to develop programming and for start-up operations. States that have limited REA programs, or are not currently implementing REA programs, likely will face more difficulties because they will not be able to build on existing programs. Some states also have said with limited funding and high caseloads it will be hard to provide the reemployment services allowed under the new Act. They might be forced to provide minimal REA services only.

## **“In-Person” REA/RES Requirement**

According to USDOL guidance, “states must, at a minimum, require a EUC claimant’s presence to perform the review of eligibility and review of the claimant’s work search.” This will prove challenging for a number of states as USDOL projects approximately 3.2 million individuals will file for First Tier benefits and 1.4 million claimants currently receiving EUC First Tier benefits will transition to EUC Second Tier. Some 4.4 million workers receiving EUC First Tier benefits are being scheduled by states for “in person” reemployment services. About 9 million workers will be seen by states through the duration of the EUC program, which is scheduled to expire on January 2, 2013.

The guidance interprets the statutory “in person” provision to require the physical presence of each claimant at a one-stop career center or affiliate office. While the guidance permits flexibility to handle cases remotely where there would be a hardship on a claimant to appear in person, it does not recognize basic technology, such as the telephone and leading edge technologies that allow for “virtual” in-person meetings.

In my state of New Hampshire, we have invested in video conferencing technology and would like to use this technology to increase efficiencies in our delivery of the new REA/RES activities for EUC claimants. Specifically, we would like our office staff in rural areas to handle some of the in-person eligibility reviews for claimants in our urban areas through video conferencing. So a claimant who appears in the Manchester office would sit down and talk face-to-face through video conferencing with a staffer located in one of our rural offices. However, officials in USDOL’s Employment and Training Administration (ETA) told us the use of video conferencing in this manner would not comply with the “in-person” requirements under the statute.

While it is a complex task for all states, those states with the highest unemployment rates face challenges. In my state of New Hampshire, with an unemployment rate of 5.2 in March 2012, (preliminary seasonally adjusted), we will see approximately 8,000 persons for “in person” assessments conducted in our one-stop career centers throughout the remainder of the year, about 85 percent of our EUC workload from 2011. In states like Nevada and California, the task is more difficult. In Nevada, for example, they will be renting large convention facilities to process as many claimants as possible at one time. California, will conduct the assessments in their 80 plus one-stop career centers, but the scheduling and logistics of seeing more than 500,000 claimants for “in-person” assessments requires considerable organization and coordination.

NASWA also recommends early engagement in REA and RES -- targeting claimants who file their UI initial claims -- as important interventions to producing the greatest returns for the unemployed, employers and taxpayers. Under the Act, states are required to engage EUC claimants in REA activities within a specified period. Since EUC claimants in most states likely would be at least in their 27<sup>th</sup> week of UI receipt, the provisions are targeted at the long-term unemployed and not initial UI claimants. While we recognize the concern about long-term unemployment and the cost of EUC, state administrators believe engaging claimants in REA and RES earlier in their receipt of UI would be more cost-effective.

## **Work Search Requirements**

The Act amends EUC eligibility provisions to include specific language requiring individuals to be able to work, available for work, and actively seeking work. Under prior federal law, state law work search requirements applied to EUC claimants. The new law defines “actively seeking work” to mean an individual must register for employment services; engage in an active work search; maintain a detailed record of employer contacts; and provide the work search record to the state upon request.

The new language in the Act generally mirrors what state laws already require of claimants. As the Department of Labor’s Comparison of State UI Laws finds: “In addition to registration for work at a local employment office, all states... , whether by law or practice, require that a worker be actively seeking work or making a reasonable effort to obtain work.” One state was an exception to this statement until it recently changed its law. We know of no state exceptions now.

States should have the flexibility to collect the work search data in the manner that best works for their state. In New Hampshire, for example, UI claimants will have already submitted a record of their work search that will be electronically

linked to their claim in our system. Yet, ETA is insisting claimants bring “paper logs” of their work search with the names of employers contacted, method of contact and date of contact. This is duplicative of what they have already submitted.

### **Overpayments**

The Act changes federal law on the collection of UI overpayments from states “may” to “shall” collect state and federal overpayments. The new law reads:

A State shall deduct from unemployment benefits otherwise payable to an individual an amount equal to any overpayment made to such individual under an unemployment benefit program of the United States or of any other State, and not previously recovered. The amount so deducted shall be paid to the jurisdiction under whose program such overpayment was made. Any such deductions shall be made only in accordance with the same procedures relating to notice and opportunity for a hearing as apply to the recovery of overpayments of regular unemployment compensation paid by such State.

States strongly support avoiding UI overpayments and collecting them when they occur. States and the federal government are making improvements in this area despite continued underfunding of federal grants to states for UI administration, the excessive workload brought about by the Great Recession and the weak recovery of employment. Examples of improvement include the ongoing implementation of the State Information Data Exchange System (SIDES) and the new federal law requiring employers to report rehires of separated employees. Both these improvements help states make better decisions about the eligibility of UI claimants by providing more timely information about the claimants’ separations from employment and any earnings they might have while claiming UI benefits.

USDOL has not yet issued guidance on how states should implement this new law. States are concerned about implementation in the area of interstate benefits, which is governed by reciprocal interstate agreements among the states that the states are in the process of revising and updating. Collecting UI overpayments within a state is complex, but when trying to collect across state lines, states need reciprocal agreements under which the laws of each state are respected and obeyed.

### **Short-Time Compensation**

The Act included a new provision for Short-Time Compensation (STC) Program, also known as work sharing. It provides incentives for States to implement these programs and adds some new provisions with which states must comply within roughly two years. Some new provisions require participating employers to:

- reduce hours by at least 10 percent, but not more than 60 percent;
- certify, if health and retirement benefits are provided to employees, those benefits will not be reduced due to participation; and
- submit a written plan describing how the requirements will be implemented with an estimate of the number of layoffs that would have occurred but for the program.

The work sharing program is not a new concept to the federal-state unemployment insurance (UI) system. In 1978, California was the first state to implement a STC program where employers could offset workweek reductions with UI benefits in order to avoid total layoffs. Since 1978, twenty-one other states have introduced some type of work sharing program. California is the only state out of the twenty-two states (AZ, AR, CO, CA, CT, DC, FL, IA, KS, LA, MD, MA, MN, MO, NH, NY, OK, OR, RI, TX, VT, and WA) with a work sharing program that does not require a percentage maximum for the reduction of hours worked.

The new federal definition for the STC program has two requirements where states with existing STC programs might have to modify their UI laws in order to receive the federal funding. States will have to make sure the reduction of hours is not more than 60 percent and that employers will have to continue to provide health and retirement benefits. California has indicated the new federal requirement of a 60 percent maximum might be problematic for some employers.

USDOL has not yet issued guidance on these amendments, so states might have additional comments later.

### **Self-Employment Assistance**

The Act authorizes an extension of the Self-Employment Assistance (SEA) program to include individuals who are collecting EUC consistent with the parameters of the established program. The self-employment concept was first tested in the 1990's through a series of demonstration programs and then made permanent in 1998. While the concept of offering unemployed individuals the opportunity to start a small business as an alternative to collecting benefits is in theory promising, the experience has been mixed. Today seven states: Delaware, Maine, New Jersey, New York, Oregon, Pennsylvania and Washington have active Self-Employment Assistance programs.

The Act authorizes \$35 million for this activity. Data from the Department of Labor show from 1995 to 2011 the largest single year expenditure was about \$17 million in 2002 and the average yearly benefits paid for the whole period was only \$10.8 million. The average number of individuals referred to an SEA program peaked at 3,170 in 2002. The average per year for the whole period was about 2,000 claimants. In 2011 only 1,055 individuals entered an SEA program and they received benefits of slightly more than \$1million.

### **Non-Reduction Rule**

The Act modifies the non-reduction rule that requires states to maintain their current weekly benefit amounts (WBAs) in order to receive EUC08 funding, with an effective date of March 1, 2012. Prior to P.L.112-96, if states failed to maintain their WBAs, their access to EUC funding, 100 percent federal financing of Extended Benefits, and the deferral of interest and Federal Unemployment Tax Act credit reduction caps would have been in jeopardy.

While NSWA understands the intent of this provision to protect weekly benefit amounts for claimants, we believe the non-reduction rule should be eliminated. It limits a borrowing state's options to address solvency issues by denying EUC eligibility to states that reduce weekly benefit amounts. It might have led some states to reduce potential weeks of benefits instead. Without this provision, at least four states would have been found in violation of the non-reduction rule. States should have the flexibility to determine the most appropriate unemployment insurance benefit structure and methods for addressing unemployment insurance trust fund solvency.

### **Demonstration Projects**

The Act authorizes the Secretary of Labor to enter into agreements with up to 10 states that apply to conduct demonstration projects evaluating measures to reemploy UI claimants sooner than they normally would return to work. Approved demonstration projects are limited to those that: (1) subsidize employer-provided training; or (2) subsidize wages of UI claimants to pay the part of a wage that exceeds a UI claimant's weekly benefit amount. The maximum subsidy per week is the UI claimant's weekly benefit amount.

As part of the demonstration authority, the Secretary is authorized to waive the "withdrawal standard" that generally limits the use of state unemployment trust fund account funds to the payment of benefits. The applicant state must assure and provide supporting analysis that the demonstration project will not result in any increased net costs to the state's unemployment trust fund account during its operation. State trust funds may be used to cover the cost of the required state evaluation too, but these costs must be included in the calculation that there is no net impact on the state trust fund account.

NASWA strongly supports efforts to accelerate the rate at which UI claimants return to suitable work. Members believe this is not only good for the claimants, but it is good for employers and the taxpayers too. It would be helpful if the federal government would provide separate funds for the evaluations of these demonstration projects.

While New Hampshire has an excellent return-to-work program, it decided against applying for the demonstration project because USDOL imposed too many conditions in its Unemployment Insurance Program Letter. In order to provide assurances that all requirements in USDOL's application process were complete, New Hampshire would need an additional staff person to complete the application.

NASWA has one idea it would like to add to demonstration authority – reemployment bonuses. The concept is to pay bonuses to UI claimants who return to work sooner than projected. The bonus could be graduated to pay larger bonuses for early returns to work and progressively smaller bonuses for later returns to work. Similar rigorous evaluation standards to assure no net cost to state unemployment trust funds could apply to reemployment bonuses as has been applied to the demonstration projects under this Act. Such an option could be added to the authority described above with appropriate modifications.

NASWA would be pleased to work with the Subcommittee on such an amendment. A recent summary of the research evidence on reemployment bonuses by economist Stephen A. Wandner says they significantly affect job search behavior and reduce the duration of unemployment. Further, the bonuses should be no more than three or four times a claimant’s weekly benefit amount and they should be aimed at workers projected to be unemployed a long time, such as dislocated workers. Targeting workers who are likely to be unemployed a long time early in their spells of unemployment and subsidizing their reemployment has the greatest promise for unemployment benefit outlay savings.

### **Data Exchange Standardization for Improved Interoperability**

The Act requires the Secretary of Labor to designate a data exchange standard for information required under the UI program as described in Titles III, IX and XII of the Social Security Act. As we understand it, this in part reflects the concern that data about participants in various publicly-funded programs are not communicated efficiently among programs and are often collected and stored multiple times in multiple places. NASWA agrees such data could be collected, stored and exchanged more efficiently and used more effectively.

In response to this problem, NASWA, through its Information Technology Support Center (ITSC), funded by the U.S. Department of Labor, submitted a proposal to the Office of Management and Budget (OMB) Partnership Fund for a National Applicant Directory and Data Exchange System. It would be modeled after two existing systems: (1) the UI State Information Data Exchange System (SIDES); and (2) the Wage Record Interchange System (WRIS). Here is how the Data Exchange System would work:

- An applicant would apply for benefits or services from a program online;
- An electronic applicant record is created for that program database;
- The state requests data on the applicant from other participating programs by using a standardized format submitted to a central broker;
- The central broker contains an index file of unique identifiers of individual program applicants and program participants;
- The central broker queries other participating state programs for data on the applicant;
- Where data are found on the applicant, they are extracted in a standardized format and electronically sent back to the central broker;
- The central broker electronically transmits the data back to the requesting program; and
- The program to which the applicant has applied now has information on the applicant from the other participating programs.

Such a system would improve payment accuracy, administrative efficiency, service delivery and reduce barriers to program participation of eligible applicants. OMB has not yet funded this proposal. NASWA believes it responds to the concerns of Congress in this Act. We hope the Subcommittee would support the proposal and that OMB will fund it soon. The states of Florida, Minnesota and Mississippi have said they would participate in the proposed pilot of the system, so our Information Technology Support Center is ready to work with them to show that this concept could improve data exchange among programs dramatically.

### **Drug Testing of Applicants**

The Act allows states to enact legislation to test UI applicants for use of controlled substances as a condition of UI receipt, in cases in which the UI applicant was fired because of drug use. The U.S. Department of Labor has not yet issued guidance on this provision.

Generally, to qualify for UI, workers must have lost their jobs through no fault of their own and must be able to work, be available for work, and be actively seeking work. States disqualify workers from receipt of UI if they were discharged due to misconduct connected with work, and definitions of misconduct have developed separately in each state. As of January 2011, 20 states had specific provisions disqualifying workers from unemployment insurance if they lost their jobs because of drug use or failure to undergo drug testing, or they committed a related violation.

The Act also allows States to test UI applicants for drug use as a condition of receipt if suitable work for the applicant is available only in an occupation that regularly conducts drug testing. If states were to pass such a provision, it likely would apply to a small subset of the applicant population.

NASWA supports state flexibility. Spending on drug testing of UI applicants or claimants might yield savings and allay concerns about claimants' availability for work or ability to work. However, concerns about costs and due process have been raised. Drug tests are reported to cost \$25 to \$40 per test. One widely quoted study of federal government workers found 0.5 percent tested positively at an estimated cost of \$77,000 per positive result. We are unaware of any evidence on drug tests of UI applicants, but states would have to weigh the costs against the potential benefits. To make informed decisions, further information would be needed.

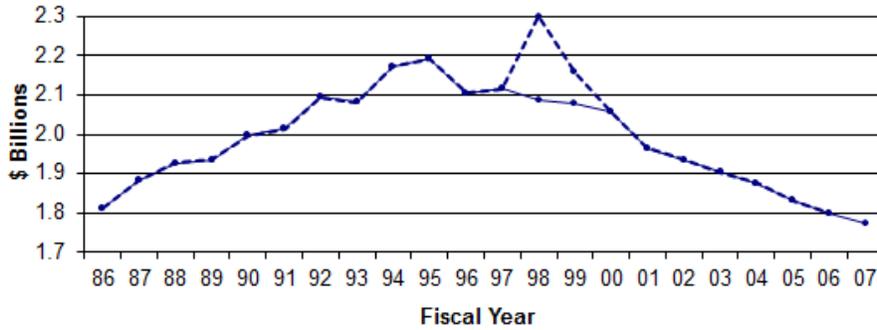
### **NASWA Recommendations: An Alternative Approach to UI Administrative Funding**

At the beginning of the "Great Recession" in December 2007, state unemployment insurance (UI) programs were struggling to administer their programs at a time of near full employment. They were not in a position to expand dramatically without engaging in triage of services and substantial reallocations of existing resources. Real funding for the base amount of insured unemployment had been declining since the mid-1990s. Despite hopes for improvements in productivity from adoption of remote UI claims taking through telephone call centers and the internet, many states faced steep challenges with a three-fold spike in initial UI claims and a more than doubling of continued UI claims. Fortunately, the system was designed to respond to such increases in demand for unemployment benefits with additional administrative funds, but not without critical time lags and much scrambling by states as they awaited additional resources.

In the federal-state UI system, one of the roles of the federal government is to provide grants to states to fund the administration of state UI programs. In part, Title III of the Social Security Act says: "The Secretary of Labor shall certify...for payment to each state which has an unemployment compensation law...such amounts...necessary for the proper and efficient administration of such law during the fiscal year...The Secretary of Labor's determination shall be based on (1) the population of the State; (2) an estimate of the number of persons covered by the State law and the cost of proper and efficient administration of such law; and (3) such other factors as the Secretary of Labor finds relevant."

The figure below shows real (adjusted for inflation) federal funding for state administration of UI per two million average weekly insured unemployment (AWIU) from 1986 to 2007. Two million AWIU is a rough measure of the base workload that would exist nationally to maintain operations of all state UI programs even at very low unemployment levels. The dotted line shows added federal funding to aid states making software adjustments for the year 2000 changeover. The solid line graph shows a substantial decline in real resources for base funding from about \$2.2 billion in 1995 to less than \$1.8 billion per two million AWIU in 2007. Although some of this decline might be due to productivity gains, states have long said they have not received enough base level funds to administer their programs in a proper and efficient manner even during periods of relatively low unemployment. Many states have adjusted for insufficient funds by adding state funds, but their ability to do that is dwindling as states cut their own spending to balance their annual budgets. States reported to NASWA in many years they added roughly \$150 million per year of their own funds to federal funds for UI administration.

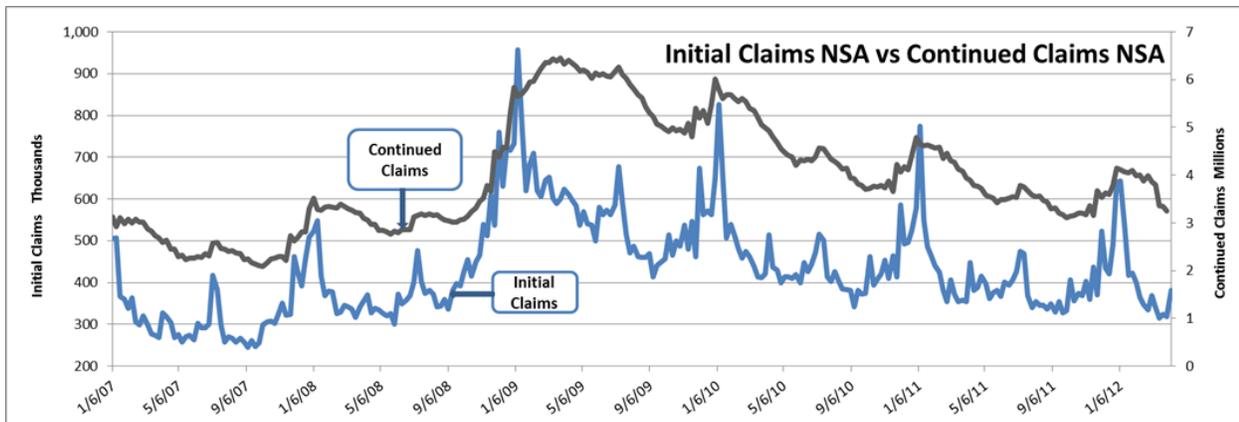
**UI Base Funding 1986-2007**  
**Inflation Adjusted Dollars per 2 million AWIU**



The figure below shows weekly initial claims and continued claims for the state programs only (Excluding EUC and EB) from January 2007 through January 2012. Note that unemployment usually lags behind the initial stages of a recession.

- The number of unadjusted weekly initial claims for state benefits was about the same in July 2008 as it was in July 2007, six months after and before the start of the recession, respectively. Then weekly initial claims skyrocketed to more than triple the level in July 2008 to around 900,000 from January to July 2009. The number of weekly continued claims for state benefits rose in response to more and more claimants entering the system and staying on UI for even longer durations than had been experienced recently. Weekly continued claims nearly doubled from about 3 million in July 2008 to about 6 million in July 2009.
- As the economy began recovering, weekly initial claims and continued claims showed gradual declines from 2010 to 2012. Initial claims decline as employer layoffs decline, but growing long-term unemployment and extensions of unemployment benefits led to longer durations on regular state benefits and higher weekly continued claims than would have existed in a stronger economic recovery. At the beginning of 2012, weekly initial claims were nearly back to normal, but weekly continued claims remained high at about 4 million.

**Unadjusted Initial and Continued Unemployment Insurance Claims (2007-2012)**

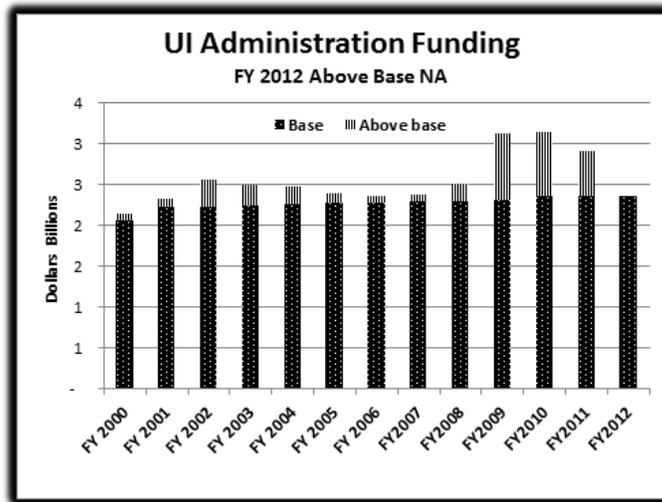


There are a number of sources of funding for state administration of UI. The main source is federal grants for administration of UI, which breaks down into base, above-base and contingency funding.

- Base funding is, in a sense, how much the U.S. Department of Labor (USDOL) determines a state needs to keep its program running regardless of how low the workload falls at or near full employment.
- Above-base funding is distributed during the year as states process workloads that exceed that funded by base funding. Conceptually, this allows USDOL to distribute funds to states that need the funds above the base funding, but after the workload has been experienced and reported by the state.
- Contingency funding is activated at the national level when the average weekly insured unemployment (AWIU) exceeds the level of AWIU that was funded in the federal budget. When a recession begins, contingency funding usually activates shortly after the beginning of the recession when unemployment increases. The formula provides USDOL with \$28.6 million per 100,000 additional AWIU above the level in the budget, which USDOL then distributes to states that have experienced the increased unemployment.

The figure below shows base, above base and contingency funding (imbedded in above base in the graph) for UI administration from fiscal years 2000 to 2012. Significant increases for above base are shown as that funding helped states cope with the recession beginning in December 2007, the last month of the first quarter of fiscal year 2008. As the graph shows, the substantial increases in above base and contingency funding occurred in fiscal years 2009, 2010 and 2011.

**Unemployment Insurance (UI) Administrative Funding  
(Fiscal Years 2000 to 2012)**



In addition to the regular annual funding, states can receive funds through supplemental budget requests (SBRs), which fund irregular activities, such as implementing the State Information Data Exchange System (SIDES), Reemployment and Eligibility Assessments, or information technology modernization projects. States also can add their own funds to UI administration. In the aggregate, states added about \$180 million of their own funds to the federal grants for administration of UI in 2007, but this total declined to about \$135 million in 2010, partly because of state budget cuts in response to the recession.

**NASWA Administrative Funding Reform Proposal**

NASWA urges the federal government to ensure sufficient funds for proper and efficient administration of state unemployment insurance (UI) programs by guaranteeing states at least 50 percent of Federal Unemployment Tax Act (FUTA) revenue collected in the previous tax year for grants to states for administration. Under this approach there would be a mixture of discretionary and mandatory spending for UI administrative funding, as there is under current law. (Contingency funding is mandatory funding authorized under appropriations acts.)

As under current law, funding would be appropriated for base funding, above-base funding and contingency funding. In addition to current law, performance incentive awards would be appropriated up to \$100 million to states that exceed acceptable levels of performance on core measures set in State Quality Service Plans (SQSPs).

Total UI Administration funding granted to states for a fiscal year would be the higher of the following:

- (1) the sum of (a) base funding, (b) above-base funding, (c) contingency funding, and (d) performance incentive awards, or
- (2) 50 percent of FUTA revenue collected in the previous tax year.

New mandatory funding would consist of the excess, if any, of 50 percent of FUTA revenue collected in the previous tax year over the funding under the sum of (a), (b), (c) and (d) above. Excesses likely would occur in years when unemployment is low because when unemployment is high, generally 50 percent FUTA revenue collected in the previous tax year would be lower than the sum of (a), (b), (c) and (d) above.

The excess, if any, would be a mandatory entitlement to states and distributed to states as follows:

- (1) 50 percent based on state shares of the sum of the funding under (a), (b), (c) and (d) above;  
and
- (2) 50 percent based on state shares of the estimated FUTA revenue collected during the previous tax year paid by employers in each state.

After excess funds have been deposited in a separate state administrative account for ten years, the state may transfer such funds to its unemployment trust fund account to cover state benefit costs.

A number of basic questions about the NASWA administrative funding proposal have been asked, such as:

- (1) Would funds be appropriated for performance incentive awards? We realize in the current budget environment, this is not very likely.
- (2) How much would the excess funding cost? This funding would be available only during periods of low unemployment. If the proposal had been in effect from 1986 to 2010, we estimated there would be 12 years out of the 25 years when an excess would have existed. The annual excess in current dollars would have varied in these 12 years between about \$90 million and to nearly \$250 million.
- (3) How would the cost be covered in the Congressional budget process? The proposal does not deal with the financing of the proposal. Costs could be covered within an unemployment insurance reform bill or a larger budget reconciliation bill by changes in spending or revenue to be determined later in those contexts.
- (4) How could new mandatory spending be created? Contingency funding already is a mandatory spending for grants to states for UI administration in appropriations bills and the new funding for REA/RES is mandatory spending on grants to states based on the number of EUC claimants needing in-person REAs.
- (5) Does the proposal have employer support? Yes, UWC, a group representing employers in the UI system supports the concept as long as states aim added funding at improving the integrity of the UI programs, which they intend.

We suspect the Subcommittee will have other questions about the NASWA proposal. NASWA looks forward to talking further about the concept. After years of struggle, it is the only proposal to reform UI administrative funding on which NASWA members have reached a consensus, and that employers support. It is the only idea currently in play that could alleviate the underfunding of the system by the federal government and help the states improve their UI information technology and other systems.

### **NASWA Recommendation: A New Capped Entitlement Grant for REA and RES**

States are struggling to administer their UI programs in a “proper and efficient manner” and provide REA/RES for several reasons: (1) They have said for years the federal government underfunds state grants for UI administration; (2) REA funding for state programs (not EUC) has not been provided to all states and appears to be only one-time funding provided through supplemental budget requests (SBRs); (3) RES funding has been limited, uncertain and episodic at best; and (4) inflation-adjusted funding for employment services under the Wagner Peyser Act and the Workforce Investment

Act has been cut many times, is steadily declining, and likely will continue declining as federal domestic discretionary spending is cut even more in the next few years.

In response to this struggle, NASWA suggests the federal government create a capped entitlement grant, at \$500 million per year, to states for REA and RES to ensure steady and sustainable funding for these important activities for the regular state UI programs. The program should be patterned after the REA/RES provisions in the Act that currently apply only to EUC claimants, but should be funded out of FUTA instead of general revenue. The amount per claimant should be set higher than \$85, perhaps at \$200 per claimant, so some RES could be provided in addition to minimal REA services. States strongly suggest a more cost-effective approach would be to apply REA/RES to the claimants of regular state benefits early in their claims, instead of waiting until they exhaust their regular state benefits, after as much as a half year, and transition onto EUC.

NASWA is aware that creating a new capped entitlement grant to states for REA/RES would be challenging. However, if there is sufficient FUTA revenue coming into the federal unemployment trust fund to finance these activities and sufficient funds are not appropriated for state administration of UI and Wagner Peyser Act services, a capped entitlement would be a way for the Committee on Ways and Means to ensure states receive sufficient funds for REA/RES. This could help claimants go back to work sooner, which also could lead to lower benefit outlays and lower employer taxes in the future.

We urge the Subcommittee to consider this idea and work with NASWA to map out the details of this concept.