



# Confronting the UI Solvency Crisis

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# Serious UI Financing Crisis

- UI programs are set up to be self-financing.
  - State funds are deposited in and guarded by the U.S. Treasury, with backstop of federal loans.
- 31 states have loan balances totaling \$41 billion.
  - 12 states have loans over \$1 billion each.
- DOL estimates borrowing will grow to \$65 billion by FY 2013, and could impact as many as 35 states.
  - Post 1980s loans peaked at \$28 B (inflation adjusted) in 1983.



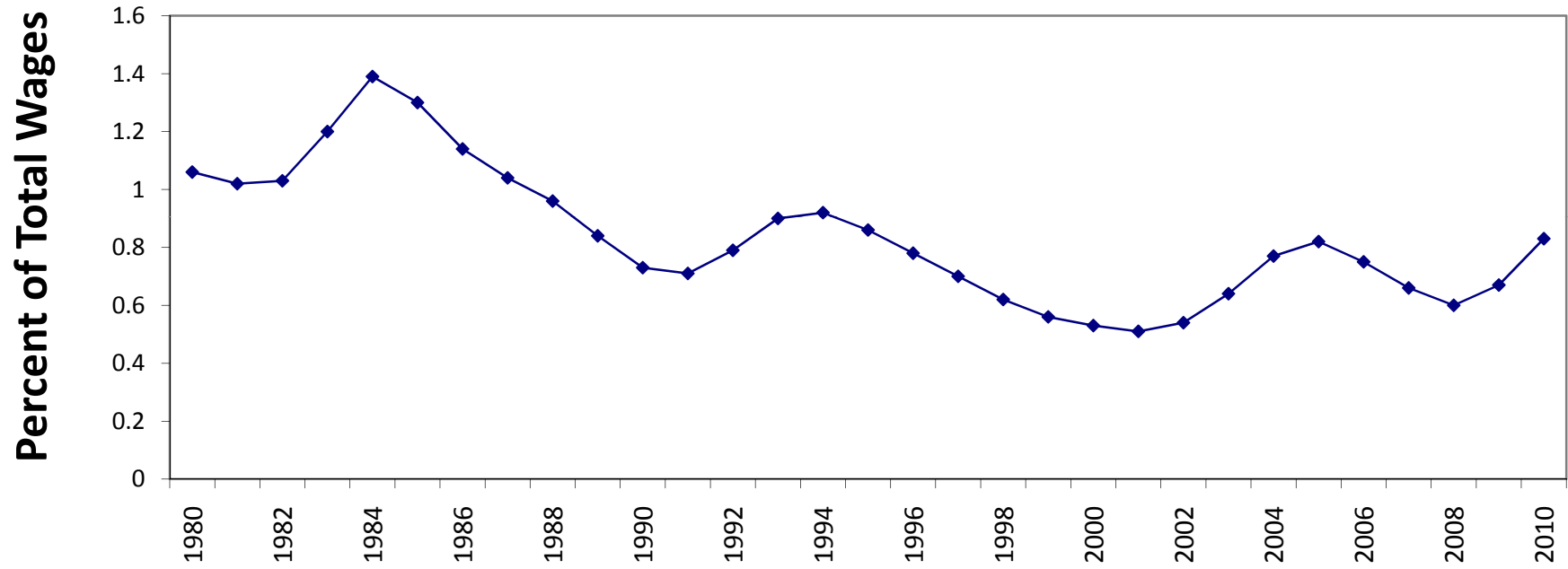


# How did we get here?

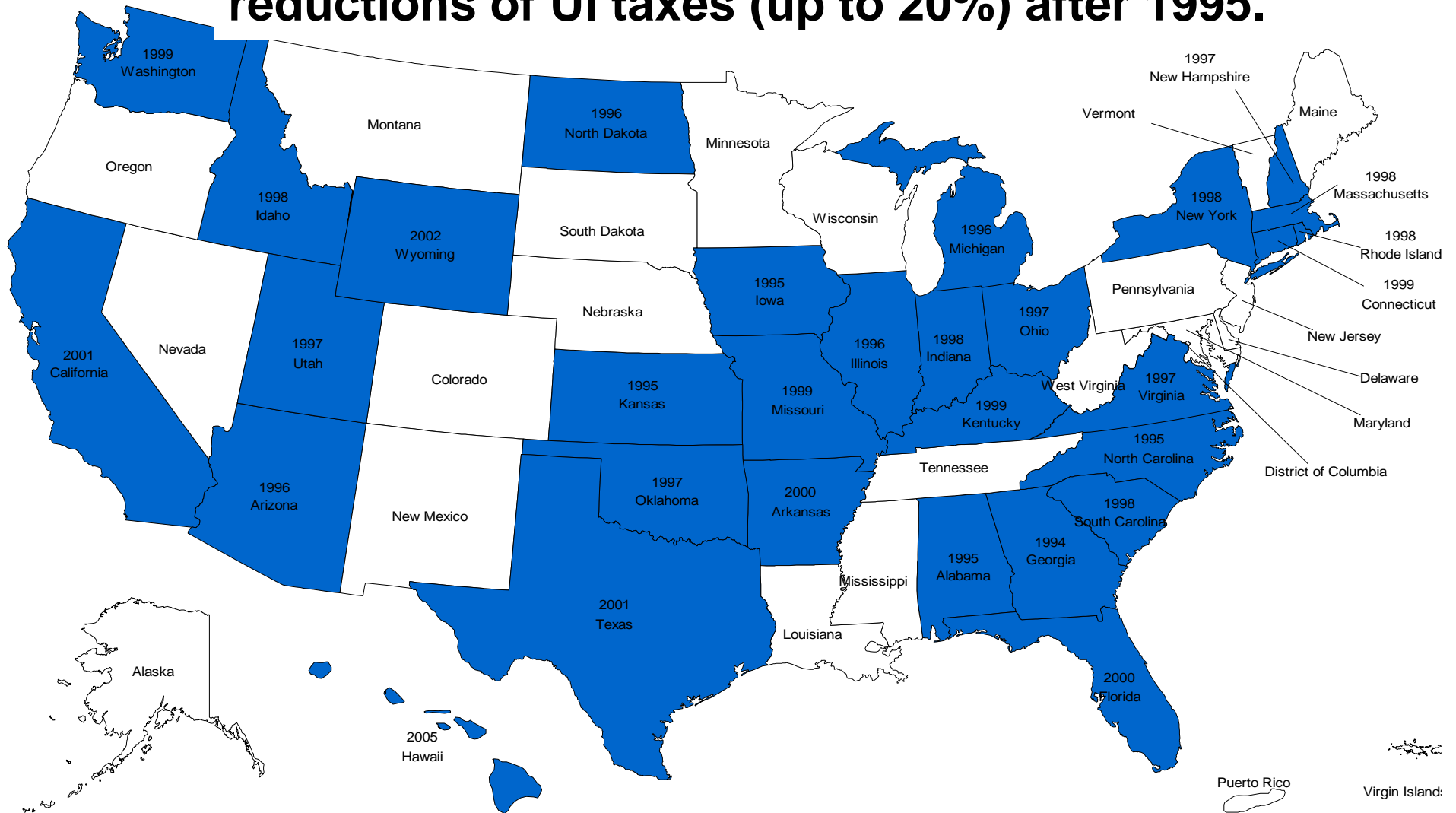
- Low trust fund reserves before the recession
- Shift in philosophy
  - *Forward Financing*: Build up reserves during good economic times to pay out benefits during recessions.
  - *Pay-as-you go financing*: Keep taxes nearly equal to benefit outlays every year
- Benefit costs surged
  - State UI benefits increased from \$30 billion in 2006 to \$80 billion in 2009, and Payrolls to generate revenue have dropped.



## Average Unemployment Tax Rate on Total Wages



# 28 states enacted significant legislative reductions of UI taxes (up to 20%) after 1995.

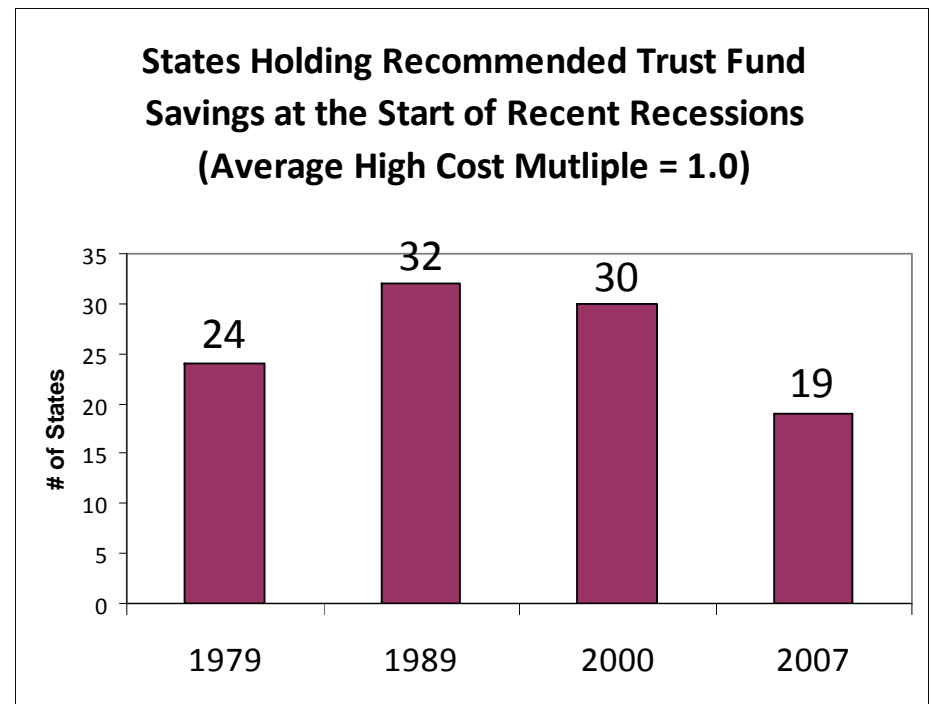


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Source: US DOL

# States entered the recession ill-prepared for increase in benefits

- Federal recommendation: At least 1 year of “peak-level” benefits saved before a recession starts.
- Actuarial measure known as the average high cost multiple = 1.0



Source: US DOL, includes territories.

# Categorizing the states

AHCM 1.0, 2007	Borrowing Status	# of States	States	Borrowing Odds
Above - 'Blameless' Borrowers	Yes	4	AZ, FL, NV, VT	0.22
Above - Wise Savers	No	14		
Below - Predictable Borrowers	Yes	27		0.82
Below - 'Lucky' Ones	No	6	DE, IA, ND, SD, TN, WV	





# Policy Consequences of UI Trust Fund Debt

- Benefit cuts: More than 40 states cut benefits and eligibility in the 1980s, and cuts were responsible for reducing the share of jobless workers getting state benefits from nearly half in 1975 to just over a quarter by 1983.
- Weakened safety net: States will have insufficient and in some case zero reserves to pay benefits as unemployment remains high, and, esp. if layoffs increase in a new recession.
- Interest and federal tax surcharges: Financial consequences will hit states and employers if loans are not paid back soon.
  - The Recovery Act waived interest on trust fund loans through Dec. 31, 2010, which will expire unless it is voted on in the lame duck session.
  - 22 states will face a \$21 per employer tax increase in early 2012, and 3 have already had taxes increased.



# Costs of Trust Fund Borrowing - Interest

- Due October 1: States with a loan balance on September 30, 2011 must pay interest on average daily balance from January 1-September 30, 2011 on October 1<sup>st</sup> or will have to give back their entire grant to run their state program.
- Interest rate: Current rate is 3.9%, and DOL projects interest owed of \$1.4 billion in 2011.
- Interest cannot be paid from state UI tax revenue.
  - 19 states have built-in permanent “piggy back” state taxes attached to each employer’s UI bill to pay interest. (DOL, Jan. 2010)
  - AL, AR, CO, CT, DE, ID, IA, ME, MN, MO, NY, NJ, OR, PA, TN, TX, WA, WV, WI
  - Amount is typically set in beginning of the year to equal amount needed on October 1<sup>st</sup>.
- Can of worms: Advocates in other insolvent states (CA, FL, GA, IL, IN, KS, KY, MD, MA, MI, NV, NC, OH, RI, SC) should make sure states have enacted a temporary assessment on employers or are planning to do so.



# Costs of Trust Fund Borrowing – FUTA Credit Reductions

- Fed tax is normally \$56 per head: Employers get a credit of 5.4% off of the 6.2% federal unemployment tax (on first \$7,000 per worker).
- Two year rule: If a state has a loan balance on two consecutive January 1<sup>sts</sup> and is still borrowing as of November 10, credit is reduced by 0.3% per year and extra tax is due the next January 31<sup>st</sup>
  - Effective tax increases of \$21 per year through year 19 if loan is not paid off. \$42, \$63, etc.
- Relief Available:
  - FUTA Tax Cap at \$42 per employee: State taxes are at least as high as benefit payout over the past five years, and state does not take action to worsen solvency.
  - FUTA Tax Waiver: Repay that year's loans and the state raises taxes high enough to make a loan payment as high as the credit



# Guidance for State Advocates

- The Road is Long:
  - Magnitude of recession and borrowing means requires a multiple year solvency plan.
- Protecting benefits:
  - The current federal EUC program forbids states from cutting benefit amounts or changing the method of calculation through April 2011. We hope that will be extended during lame duck.
  - Advocates must argue that cutting benefits will hurt families and the economy when the unemployment rate is still sky high
- Playing Federal Penalties
  - Federal tax penalties are a signal that it's time get responsible to fix state financing and not a reason to cut benefits.



# Key State Tax Reforms

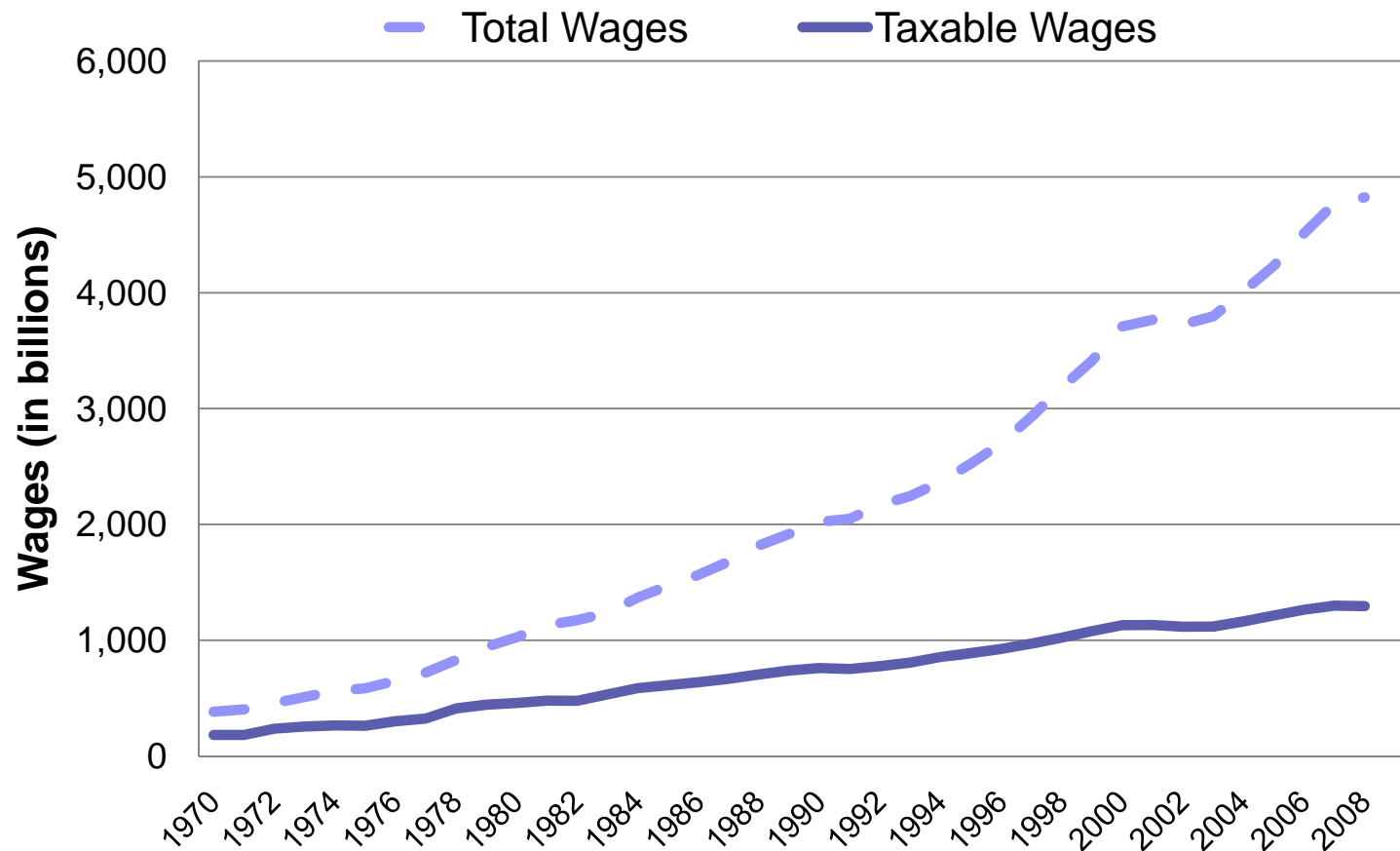
- Taxable Wage Base: the whole ball game (almost)
  - Brings in more revenue
  - Improves responsiveness
  - Fairer for all employers
- Maximum Tax Rate:
  - Should be high enough for experience rating to function.
  - In 2008, maximum tax ranged from \$378 per worker (FL, AZ, MS) to \$2,675 (MN).
  - *Not a panacea.*
- Eliminate Zero tax rates: Employers should never get something for nothing.




# Taxable Wage Base Explained

- U.S. average is \$12,214:
  - 6 states at the federal minimum of \$7,000
  - UI and Social Security started at \$3,000 in 1935. Social Security is now at \$106,800
- Indexing:
  - 17 states index their taxable wage base to growth in wages
    - 35 states index their maximum weekly benefit amount to growth in wages.
  - Leads to higher wage bases
  - Naturally balances premiums with growth in benefit costs
  - Strongly associated with solvency

## Comparison of Total to Taxable Wages 1970-2009






# Success Story #1: South Carolina S. 391 (May 2010)

- Context: As a percent of wages SC's loan is the 4<sup>th</sup> highest in the nation.
- Ingredient one: Excellent independent study of trust fund options, and commitment of exec, leg to solution.
- Ingredient two: Taking a long approach
  - **Solvent by 2015:** For each year in debt, agency will calculate the amount needed to generate revenues to equal benefit outlays in the tax year and pay loan back in 5 years, and adjust rates to generate this amount of revenue.
  - **Solvency Target:** Once the fund is solvent, agency will promulgate regulations needed to bring the fund up to AHCM of 1.0
- Ingredient three: Increases the taxable wage base to \$14,000 by 2014.
- Ingredient four: Uses \$99 million UI modernization payment to quickly bring down the loan balance.





# Success Story #2--Doing the best we could in Vermont. (S.290-May 2010)

- Reducing benefit cuts:
  - Governor's original proposal include benefit cuts for a majority of workers – 4 quarter averaging.
  - Final proposal incorporated temporary stop of the indexing of the maximum benefit until fund is solvent.
  - Institute a waiting week and other more minor benefit changes (effective only after federal rules expire)
- Significant increases in the taxable wage base:
  - Increases taxable wage base from \$10,000 to \$16,000 by 2012
  - Projected to bring fund in the black by 2015
- Strong, sustained education and media work by a coalition of labor and community was crucial



# Other State Action

- Other taxable wage base increases:
  - 2010: MS (\$14,000) SD (\$12,000)
  - 2009: AR (\$12,000), NH (\$14,000), TN (\$9,000), WV (\$12,000)
- Rogue's gallery:
  - IN and FL increased wage base in 2009 and then decreased it in 2010



# In case you really get sucked in...

- Automatic tax increases:

- Pay-as-you-go states are levying large tax increases but these are not as large as advertised on the average employer. Rates are projected to go up another 11% in 2011 nationally, after going up 24% in 2010.

- Experience rating:

- Positive balance employers are ones who have paid more in UI taxes than their former employees have collected. Negative balance are vice versa. Positive balance employers get riled up over UI tax increases.

- Social Costs:

- Benefits that cannot be charged to a particular employer-eligible voluntary quits, and charges that go above maximum tax rates.



# NELP can help!

- Analyze state tax proposals, estimates, testifying.
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## Unemployment Insurance Taxes -- Key Measures, 2010

States	Average Tax Rate on Total Wages	Average Tax Rate on Taxable Wages	Average Tax per Employee at Taxable Wage Base	Taxable Wage Base	Minimum Tax Rate	Maximum Tax Rate
Alabama	0.60%	2.39%	\$191	\$8,000	0.59%	6.74%
Alaska	1.00%	1.31%	\$447	\$34,100	1.00%	5.40%
Arizona	0.42%	2.00%	\$140	\$7,000	0.02%	5.90%
Arkansas	0.96%	3.03%	\$364	\$12,000	1.00%	6.90%
California	0.86%	4.96%	\$347	\$7,000	1.50%	6.20%
Colorado	0.56%	2.18%	\$218	\$10,000	0.00%	5.40%
Connecticut	0.96%	3.76%	\$564	\$15,000	1.90%	6.80%
Delaware	0.63%	2.60%	\$273	\$10,500	0.10%	8.00%
District of Columbia	0.38%	2.49%	\$224	\$9,000	1.60%	7.00%
Florida	0.76%	3.68%	\$257	\$7,000	0.36%	5.40%
Georgia	0.51%	2.25%	\$191	\$8,500	0.03%	5.40%
Hawaii	0.68%	1.89%	\$644	\$34,100	0.20%	5.40%
Idaho	1.92%	2.82%	\$939	\$33,300	0.96%	6.80%
Illinois	0.69%	2.39%	\$299	\$12,520	0.65%	7.25%
Indiana	0.63%	2.98%	\$209	\$7,000	1.10%	5.60%
Iowa	1.28%	2.43%	\$595	\$24,500	0.00%	9.00%
Kansas	0.94%	4.02%	\$322	\$8,000	0.11%	7.40%
Kentucky	0.88%	3.60%	\$288	\$8,000	1.00%	10.00%
Louisiana	0.36%	1.63%	\$114	\$7,700	0.11%	6.20%
Maine	0.96%	2.68%	\$322	\$12,000	0.78%	7.19%
Maryland	0.86%	4.79%	\$407	\$8,500	2.20%	13.50%
Massachusetts	1.26%	4.89%	\$685	\$14,000	1.26%	12.27%
Michigan	1.21%	5.30%	\$477	\$9,000	0.06%	10.30%
Minnesota	0.78%	1.64%	\$443	\$27,000	0.69%	10.84%
Mississippi	0.45%	1.73%	\$121	\$7,000	0.70%	5.40%
Missouri	0.67%	2.14%	\$278	\$13,000	0.00%	9.75%
Montana	1.18%	1.93%	\$502	\$26,000	0.42%	6.12%
Nebraska	0.87%	3.23%	\$291	\$9,000	0.00%	8.66%
Nevada	0.71%	1.25%	\$338	\$27,000	0.25%	5.40%
New Hampshire	0.26%	1.24%	\$124	\$10,000	0.05%	7.00%
New Jersey	1.05%	2.41%	\$716	\$29,700	0.30%	5.40%
New Mexico	0.74%	1.43%	\$297	\$20,800	0.03%	5.40%
New York	0.74%	4.58%	\$389	\$8,500	0.90%	8.90%
North Carolina	0.64%	1.51%	\$297	\$19,700	0.00%	6.84%
North Dakota	0.33%	1.41%	\$348	\$24,700	0.20%	10.00%
Ohio	0.64%	2.92%	\$263	\$9,000	0.40%	9.00%
Oklahoma	0.22%	0.57%	\$85	\$14,900	0.10%	5.50%
Oregon	1.66%	2.71%	\$871	\$32,100	1.80%	5.40%
Pennsylvania	1.17%	5.78%	\$462	\$8,000	2.24%	13.56%
Rhode Island	1.37%	3.74%	\$711	\$19,000	1.69%	9.79%
South Carolina	0.52%	2.25%	\$158	\$7,000	1.24%	6.10%
South Dakota	0.47%	1.51%	\$151	\$10,000	0.00%	8.50%
Tennessee	0.70%	3.25%	\$293	\$9,000	0.50%	10.00%
Texas	0.63%	2.81%	\$253	\$9,000	0.72%	8.60%
Utah	0.40%	0.71%	\$200	\$28,300	0.20%	9.20%
Vermont	0.86%	3.52%	\$352	\$10,000	1.10%	7.70%
Virginia	0.31%	1.56%	\$125	\$8,000	0.10%	6.20%
Washington	1.26%	2.17%	\$799	\$36,800	0.98%	6.02%
West Virginia	0.93%	2.97%	\$356	\$12,000	1.50%	7.50%
Wisconsin	1.12%	3.65%	\$438	\$12,000	0.27%	9.80%
Wyoming	1.10%	2.31%	\$526	\$22,800	0.56%	10.00%

# Unemployment Insurance Solvency -- Key Measures, November 2010

Dollar figures in millions

States	Net Trust Fund Balance (October 29, 2010)	Outstanding Loans from Federal Unemployment Account (October 29, 2010)	Trust Fund as % of Total Wages	Date Began Borrowing	Wages Subject to Federal Tax Increase if Insolvent on November 10th of *	Possible Interest**
Michigan	-\$3,441	\$3,811	-2.80%	Sep-06	2010	\$111.5
Indiana	-\$1,841	\$1,859	-2.28%	Dec-08	2010	\$54.4
North Carolina	-\$2,351	\$2,370	-2.01%	Feb-09	2011	\$69.3
South Carolina	-\$841	\$887	-1.70%	Dec-08	2010	\$25.9
Wisconsin	-\$1,282	\$1,425	-1.66%	Feb-09	2011	\$41.7
Kentucky	-\$754	\$795	-1.54%	Jan-09	2011	\$23.3
California	-\$8,687	\$8,781	-1.50%	Jan-09	2011	\$256.9
Pennsylvania	-\$2,666	\$3,009	-1.47%	Mar-09	2011	\$88.0
Ohio	-\$2,116	\$2,314	-1.39%	Jan-09	2011	\$67.7
Rhode Island	-\$182	\$225	-1.34%	Mar-09	2011	\$6.6
Nevada	-\$532	\$568	-1.34%	Oct-09	2011	\$16.6
Illinois	-\$2,171	\$2,240	-1.03%	Jul-09	2011	\$65.5
New Jersey	-\$1,624	\$1,750	-0.99%	Mar-09	2011	\$51.2
Missouri	-\$661	\$722	-0.83%	Feb-09	2011	\$21.1
Arkansas	-\$248	\$331	-0.80%	Mar-09	2011	\$9.7
New York	-\$2,796	\$3,177	-0.78%	Jan-09	2011	\$92.9
Florida	-\$1,642	\$1,739	-0.71%	Aug-09	2011	\$50.9
Idaho	-\$108	\$202	-0.68%	Jun-09	2011	\$5.9
Minnesota	-\$508	\$517	-0.58%	Jul-09	2011	\$15.1
Connecticut	-\$402	\$498	-0.56%	Oct-09	2011	\$14.6
Texas	-\$1,552	\$1,591	-0.41%	Jul-09	2011	\$46.5
Colorado	-\$340	\$358	-0.41%	Jan-10	2012	\$10.5
Vermont	-\$27	\$33	-0.35%	Mar-10	2012	\$1.0
Georgia	-\$407	\$431	-0.32%	Dec-09	2011	\$12.6
Alabama	-\$168	\$283	-0.31%	Sep-09	2011	\$8.3
Arizona	-\$157	\$167	-0.20%	Mar-10	2012	\$4.9
Virginia	-\$220	\$347	-0.17%	Oct-09	2011	\$10.1
Delaware	-\$19	\$21	-0.13%	Mar-10	2012	\$0.6
Kansas	-\$4	\$88	-0.01%	Mar-10	2012	\$2.6
New Hampshire	\$3	\$0	0.02%			---
Hawaii	\$6	\$0	0.03%			---
Massachusetts	\$85	\$387	0.06%	Feb-10	2012	\$11.3
Tennessee	\$192	\$0	0.23%			---
Maryland	\$253	\$134	0.29%	Feb-10	2012	\$3.9
South Dakota	\$27	\$0	0.29%			---
West Virginia	\$87	\$0	0.48%			---
Oklahoma	\$303	\$0	0.68%			---
Iowa	\$304	\$0	0.75%			---
Nebraska	\$227	\$0	0.93%			---
Utah	\$335	\$0	0.98%			---
North Dakota	\$93	\$0	1.03%			---
Montana	\$117	\$0	1.05%			---
District of Columbia	\$313	\$0	1.14%			---
New Mexico	\$256	\$0	1.18%			---
Mississippi	\$359	\$0	1.33%			---
Wyoming	\$127	\$0	1.54%			---
Louisiana	\$931	\$0	1.61%			---
Oregon	\$900	\$0	1.86%			---
Maine	\$285	\$0	1.94%			---
Washington	\$2,292	\$0	2.28%			---
Alaska	\$264	\$0	2.48%			---

\* Extra FUTA payments due the following January 31st.

\*\* This amount would be owed if the average daily balance on September 30, 2011 was equal to the current loan.

\*\*\* Michigan paid back its 2006 loan in 2007, but began borrowing again in 2008.

Prepared by National Employment Law Project