

State Unemployment Insurance Roundup 2004-2006

National Employment Law Project

Overview

From 2001-2003, the state-federal unemployment insurance system delivered a net \$70 billion in benefits to the US economy, assisting families and communities weather the longest jobs slump in post-war history. However, this benefit payout weakened the position of many state trust funds, leading to natural countercyclical tax increases to recover recessionary pay outs. While nationally UI taxes remain less than 1 percent of overall compensation, the result was a more restrained UI policy climate in 2004-2006, as compared to the major measures that passed in 2002 and 2003. UI advocates have been forced to parry efforts by some business lobbyists to reduce benefits and UI taxes, while continuing efforts to make their state UI programs more responsive to the needs of a changing workforce.

As the US comes out of recession, state unemployment insurance programs continued to play a major role in lives of working families. The average jobless workers spent 18.4 weeks looking for work in 2005, barely down from the peak levels of 19.6 weeks in 2004. In 2005, UI programs helped 8 million Americans. Benefit payments from state programs totaled \$31 billion, a level which was 36% higher than pre-recession levels, even after adjusting for inflation.

In 2005, Hurricane Katrina demonstrated the necessity for a strong state UI system. The hurricane dislocated a half a million workers from their jobs, and UI provided them with a crucial lifeline. Evacuees faced tremendous barriers to employment, especially among those families who have been unable to return to their prior residence—the unemployment rate among this population was still at a depression like 25 percent through May 2006. While the state did not take advantage of an opportunity to strengthen its historically poor UI system, a national campaign did convince Congress to extend benefits for 165,000 jobless Louisianans until June, 2006, and the state took some administrative steps to ease access barriers for jobless workers.

Overall in 2004-2006, 13 states took action to improve the adequacy of UI benefits and another 28 states took a positive step to expand UI eligibility in one of the last two legislative sessions.

In 2004-2006, several states enacted laws that incrementally increased the amount of UI checks. Several states also enacted small increases in their taxable wage bases, often with concurrent increases in eligibility thresholds. More modest reforms geared towards particular population groups, such as UI benefits for “trailing spouses” in the military, UI benefits for survivors of domestic and other forms of sexual violence, and the elimination of the offset for those receiving social security retirement benefits, are gaining widespread support. In addition, with the enactment of federal anti-SUTA dumping legislation in 2004, some states are focusing enforcement efforts on employers who cheat the system out of their fair share of UI taxes.

Benefit Increases

The 2004-2006 legislative sessions saw modest benefit increases in several states: in 2004, Alabama, Arizona and Missouri increased their maximum benefits amounts. Alabama's \$10 increase brought its maximum weekly benefit to \$220. Arizona's increase brings its maximum benefit amount from \$205 to \$240. Missouri's increase brings its maximum from \$250 to \$320 by the year 2010.

In 2005, several other states, many among the lowest-benefit states in the country, increased benefit amounts: In Montana, the minimum weekly benefit is increased from 15% to 19% of the state average weekly wage. In Virginia, maximum benefits were increased from \$326 to \$330, and in Georgia, both minimums and maximums were increased slightly, with the maximum benefit beginning July 2006 now set at \$320. In Nebraska, increases will bring the maximum to a cap of \$288, with increases after December 2007 limited to \$10 per year. Louisiana's benefit increase fluctuates between \$221 and \$258, depending on the balance in the state unemployment insurance trust fund. In Maryland, beginning October 1, 2006, maximum benefits are increased from \$310 to \$340 per week. In 2005, Alaska, Michigan and Mississippi also had proposed legislation to increase benefit levels.

In 2006, two states modestly upgraded increases they had previously enacted: Alabama increased its maximum to \$230 in July 2006 and \$235 in July 2007. Virginia increased its maximum from \$330 to \$347 beginning July 2006.

Durational increase. In what amounts to an increase in benefits for many, the state of New Jersey adopted in 2004 a policy that extends the duration of regular state benefits (by eliminating a rule that only counted 75% of the worker's "base weeks" towards the maximum benefit amount available).

Waiting week. Another policy utilized in most states and related to the total benefit amount is an unfair cost-cutting measure that delays the delivery of unemployment checks by one full additional week beyond the normal processing time. In 2004, Ohio eliminated the first week "waiting week" during which benefits are not paid to eligible workers, for those unemployed due to a federally-declared disaster. That same year, Missouri suspended its waiting week through 2008. In 2005, Wyoming eliminated its waiting week altogether. North Carolina, Minnesota and Mississippi also had proposed legislation that would have eliminated the waiting week.

Extended benefits. New Jersey and Oregon adopted favorable changes to their extended benefits programs in 2005, recognizing the number and persistent problem of the long-term unemployed. On this issue, see NELP's report, *The Rising Stakes of Job Loss*, <http://www.nelp.org/news/pressreleases/prui052505.cfm>.

Two-quarter averaging. In 2006, the State of Washington enacted legislation which restores much of the damage done from the state's move in 2003 from benefit payments based on the highest quarter of earnings (a system used in about two-thirds of the states) to payments based on an average of earnings over all four quarters of the year. The 2006 legislation bases UI payments on the two highest quarters of a workers' earnings, and will result in benefits increases for 82% of

the state's unemployed. The move was part of a package of legislation that also affected financing in Washington State.

Eligibility Improvements

Part-time coverage

In 2004-2006, improvements in UI eligibility for part-time workers followed a more incremental approach than in past years. Although recent activity brings to thirty the total number of states that have provisions for eligibility for part-time workers, the most recent legislative changes have been small. For example, in 2005, New Hampshire adopted a policy which allows for benefits to be paid to a worker who refuses work during the hours of a particular shift because of child care duties, or restrict work if you are the primary child care provider. Texas also adopted a limited part-time benefit for those workers who are unable to work full time due to disability. In 2005, Maine extended the sunset on its existing part-time provisions through September 2007. In 2006, Wisconsin by rule, changed its part-time eligibility from a requirement that a person be seeking work for 35 hours per week, to 32 hours. Connecticut passed a provision allowing disabled individuals in certain conditions to limit their eligibility to part time work.

More than half of the states now provide UI benefits to some workers who have a history of part-time work, or good cause to limit their work search to a part-time job. Nine states pay UI benefits to part-time workers in most circumstances. These are CA, DE, KS, NE, NM, PA, SD, VT and WY. Another fourteen jurisdictions provide benefits based on work history or good cause, including AR, CO, DC, FL, HI, IA, LA, ME, MN, NJ, NC, NY, OK and RI. Eight states – CT, IL, MT, NH, TX, MA, WA and WI – provide for eligibility in extremely limited circumstances.

Alternative Base Period

In measuring a worker's eligibility for unemployment insurance benefits, most states count only wages earned in the first four of the last five completed calendar quarters. However, a growing number of states – twenty to date – use the alternative base period, which counts a workers' more recent earnings in order to determine eligibility for unemployment compensation and helps substantial numbers of low-wage and seasonal workers qualify. NELP's new report, *Clearing the Path to Unemployment Insurance Eligibility for Low-wage Workers*, provides data on the costs and benefits of enacting an ABP.

Hawaii, New Mexico and Virginia adopted the ABP in 2003, and in 2004, Georgia removed a sunset provision on its ABP, making the provision a permanent part of its system. Illinois also enacted the ABP in 2004, to take effect in 2008. In 2005, Connecticut extended the sunset on its provisional ABP until December 2007. Colorado nearly became the twenty-first state to adopt an ABP in 2005 – although both houses of the state legislature passed ABP legislation, Governor Owens vetoed the bill as "anti-business." While no state has yet passed an alternative base period in 2006, NELP engaged in widespread outreach on the issue and two important states—Minnesota and Florida—took measurable steps forward in their campaigns. Minnesota is likely to pass the ABP in a lame duck session in 2006.

Other Eligibility Improvements

In 2005, Nebraska became the sixteenth state to include in its UI programs persons who “voluntarily” quit their jobs due to some kind of emergency situation not necessarily caused by the employer. Many states limit eligibility to “work-related” job separations, and most states cover a short list of reasons for jobs separations that they consider a “voluntary quit with good cause.” Nebraska’s new state law allows workers to qualify for UI if they left a job under situations where “equity and good conscience” dictate that the worker receive unemployment insurance.

Domestic Violence Unemployment Insurance (DVUI). Currently, twenty eight states plus the District of Columbia pay unemployment insurance benefits to victims of domestic or sexual violence who must leave their work due to the violence or threat of violence to themselves or their family. In 2004, Arizona, DC and Illinois adopted this provision. In 2005, and South Carolina and Vermont became the most recent states to enact DVUI legislation. Vermont’s system creates a parallel fund that will provide UI benefits to domestic and sexual violence survivors: advocates hope that Vermont’s experience with the program will bring it into the UI trust fund system in the near future. In 2005, legislation was proposed in Louisiana, Mississippi, North Dakota, Tennessee and Virginia. While no new legislation was passed in 2006, a number of states debated proposals, including Michigan, Indiana and Iowa.

Increasingly, states that have already enacted DVUI have found that costs of providing these benefits are minimal, have taken a second look at their legislation, and eliminated barriers to receipt of DVUI benefits: in 2005-6, Colorado, Montana, Oklahoma and Oregon enacted improvements to their existing systems, in Montana and Oregon, legislation added sexual assault as a basis for a claim; in Colorado and Oklahoma, stringent proof requirements were eliminated, and in Oregon, adjustments were made to suitable work and work search requirements.

Social Security Offsets. Increasingly, states are moving to reduce or eliminate provisions that offset UI benefits against social security retirement benefits that their workers may be receiving. In 2004, Arizona eliminated its offset and Utah reduced its offset to 50%. In 2005, six states -- Hawaii, Nebraska, North Dakota, Pennsylvania, Virginia and West Virginia -- eliminated their offsets. In 2006, Massachusetts repealed its offset, South Dakota repealed the offset once the trust fund reaches a particular solvency level, and Utah extended until 2011 its offset of 50%, rather than 100%, of social security benefits. These changes bring the number of states that have partial or total offsets of social security benefits down to eight. These states are: Colorado, Illinois, Louisiana, Maine, Minnesota, Ohio, Rhode Island, and Utah. Ohio is intending to reduce its offset to 50% in legislation in 2007.

“Trailing Spouses.” For years, NELP has advocated, as part of its family friendly reforms, in favor of UI benefits for spouses or partners who must leave a job in order to keep their family together after a family transfer. In 2004-2006, states have moved to make sure that one large group of moderate income families subject to frequent employment related moves – those transferred due to the transfer of a spouse in the military – are eligible for benefits. In 2004, Florida enacted such a bill. In 2005-6, Colorado, Georgia, Nebraska and New Mexico changed their laws to accommodate the needs of military trailing spouses. At present, six states have laws that allow benefits in situations of family transfers of any kind: They are IN, KY, ME, NE, OK, TX,

and NC (with a two week delay for transfers that are not military related). Five states allow benefits in situations specific to military transfers (CO, FL, GA, NM, WA) Five states specifically **exclude** from benefits those who must move due to family transfers (MD, MA, OH, UT, VA).

Financing

Advocates are facing mounting pressure from employers and their lobbyists, who seem to claim in each state that their system is "the most expensive in the country." From 2004-2006 as trust funds climbed back from major payouts over the course of the recession, this pressure was particularly present. Active business-inspired tax debates -- in Washington State and in those states like Massachusetts, Missouri and California that faced insolvent trust funds -- competed with attempts to broaden access to UI and increase benefit levels. In large part, advocates in these states were able to resist benefit restrictions, while making or preserving improvements to revenue systems like an increased taxable wage base. With CFED, NELP released a report intended to assist advocates put these claims in context, by providing a road map to a true "healthy business climate," and placing UI taxes and benefits in that context. *See, An Economy for All of Us: Unemployment Insurance and the "Business Climate" Debate in Washington State*, <http://www.nelp.org/ui/state/states/economyforall.cfm>.

In response to federal legislation mandating that they address SUTA dumping by employers, most states enacted in 2005 legislation intended to combat certain forms of employer manipulation of tax rates. Unfortunately, many bills are falling short at protecting state trust funds: they are not reaching all forms of employer manipulation of rates and the penalties being adopted are not adequate to deter cheating and collect taxes. NELP has available additional resources and recommendations on this issue: http://www.nelp.org/ui/state/funding/statesutadumping_.cfm

Chart of State Benefit Enhancements and Eligibility Improvements to UI: 2004-2006

State	Benefit Enhancements	Eligibility Improvements
Alabama	INC	
Arizona	INC	DVUI, SS
Colorado		TS, DVUI
Connecticut		ABP, PT*
District of Columbia		DVUI
Florida		TS
Georgia	INC	TS, ABP
Hawaii		SS
Illinois		LO, DVUI, ABP*
Maine		PT
Maryland	INC	
Massachusetts		SS
Minnesota		ABP*
Missouri	INC, WW	
Montana	INC	DVUI
Nebraska	INC	SS
N Hampshire		PT*
N Jersey	DUR, EB	
N Mexico		TS
N Dakota		SS
Ohio	WW	
Oklahoma		DVUI
Oregon	EB	DVUI
Pennsylvania		SS
S Carolina		DVUI
S. Dakota		SS*
Texas		TS, PT*
Utah		SS*
Vermont		DVUI
Virginia	INC	SS
Washington	INC	
West Virginia		SS
Wisconsin		PT*
Wyoming	WW	
Total	13	28

Key to chart: INC = benefit increase, DUR = increase in duration of benefits, EB = improvements in the extended benefits system, WW = elimination of the waiting week, LO = benefits for locked out workers, DVUI = benefits for survivors of domestic violence, ABP = alternative base period, PT = benefits for part-time workers, SS = improvements or removal of offset for receipt of social security benefits, TS = benefits for "trailing spouses." Asterisk (*) marks changes that are conditional, sunsetted, or extremely limited.