


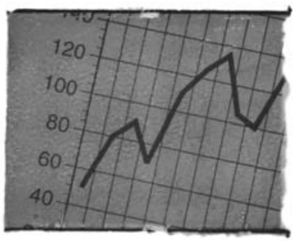



ANALYSIS OF THE NEW JERSEY BUDGET

DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT

FISCAL YEAR 2013 - 2014

PREPARED BY OFFICE OF LEGISLATIVE SERVICES
NEW JERSEY LEGISLATURE • APRIL 2013

NEW JERSEY STATE LEGISLATURE

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DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT

Budget Pages....... C-5, C-13 to C-14, C-21 to C-22, D-218, D-225 to D-245, D-379

Fiscal Summary ($000)

	Expended FY 2012	Adjusted Appropriation FY 2013	Recommended FY 2014	Percent Change 2013-14
State Budgeted	$203,269	$159,789	$159,339	(0.3%)
Federal Funds	$413,704	$520,175	$520,175	—
Other	$187,086	$252,222	$253,451	0.5%
Grand Total	$804,059	$932,186	$932,965	0.1%

Personnel Summary - Positions By Funding Source

	Actual FY 2012	Revised FY 2013	Funded FY 2014	Percent Change 2013-14
State	474	468	476	1.7%
Federal	2,426	2,377	2,380	0.1%
Other	371	349	354	1.4%
Total Positions	3,271	3,194	3,210	0.5%

FY 2012 (as of December) and revised FY 2013 (as of January) personnel data reflect actual payroll counts. FY 2014 data reflect the number of positions funded.

Link to Website: http://www.njleg.state.nj.us/legislativepub/finance.asp

Highlights

- The FY 2014 Budget Recommendation for the Department of Labor and Workforce Development (DLWD) of $932.965 million is a $779,000 (0.1 percent) increase compared to the FY 2013 adjusted appropriation of $932.186 million. Over half of the DLWD's funding is from the federal government, $520.175 million (or 55.8%). The remainder consists of dedicated revenues, including transfers from special revenue and proprietary funds, $253.45 million (or 27.2%), and State General Fund and Casino Revenue Fund appropriations, $159.34 million (or 17.1%).

- The FY 2014 Budget Recommendation proposes a $450,000 (39.4%) decrease in the appropriation from the General Fund for Administration and Support Services. This represents a shift in funding for the operations of the Office of Contract Compliance and Equal Employment Opportunity in Public Contracts (Office) from the General Fund to the New Jersey Builders Utilization Initiative for Labor Diversity (NJ BUILD) account pursuant to proposed budget language. The Office is responsible for ensuring State entities comply with statutory requirements to transfer 0.5 percent of any public works contract in excess of $1 million to the DLWD to fund training opportunities for women and minorities in construction trade occupations. The Office was transferred to the DLWD from the Department of the Treasury on or about December 5, 2011.

- The FY 2014 Budget Recommendation includes an $800,000 (7.0%) increase in anticipated funding for Workers' Compensation. According to the department, this increase is reflective of higher administrative costs, including increased fringe benefit rates for the employees of the Division of Workers' Compensation, and corresponds to an increase in Second Injury Fund (SIF) assessments. P.L.1990, c.46 provides that all administrative costs of the Division of Workers' Compensation be paid out of the SIF. Revenue collected through SIF is derived through an assessment on workers' compensation insurance for both self-insured and privately insured employers.

- Supplementary budget information (contained on page 45 of the "Other Governmental Funds and Proprietary Funds" section of the Governor's FY 2014 Budget, available in the online version only) indicates that the unemployment insurance compensation trust fund (UI trust fund) will have a balance of $226.34 million at the beginning of FY 2014. The fund anticipates revenues of $4.9 billion in FY 2014 and expenditures of $3.926 billion for benefits and administrative costs. The balance at the end of FY 2014 is anticipated to be $1.29 billion.

- As of March 12, 2013, the UI trust fund had an outstanding debt of $1.1 billion owed to the federal government. Employers are currently paying higher federal and State UI taxes and an additional annual assessment to reimburse the federal government for the principal and interest of the loan. Additionally, any revenue in excess of benefits and administrative costs in the UI trust fund is applied to the debt. Through the additional payments and increased tax revenue, the DWLD estimates that the State will have paid off the entire loan balance by May, 2014.

Highlights (Cont'd)

- The balance of the UI trust fund affects the tax rate for employers for the following year. It is anticipated that the current balance of the UI trust fund will trigger a 10 percent surcharge on all employers' UI taxes in the State as of July 1, 2013. Senate Bill No. 2404, which has been approved by the Senate and awaits consideration by the Assembly, will prevent this surcharge from occurring.

Background Paper:

Fiscal and Personnel Summary

AGENCY FUNDING BY SOURCE OF FUNDS ($000)

	Expended FY 2012	Adj. Approp. FY 2013	Recom. FY 2014	Percent Change 2012-14	Percent Change 2013-14
General Fund					
Direct State Services	$135,880	$92,837	$92,387	(32.0%)	(0.5%)
Grants-In-Aid	65,193	64,756	64,756	(0.7%)	0.0%
State Aid	0	0	0	0.0%	0.0%
Capital Construction	0	0	0	0.0%	0.0%
Debt Service	0	0	0	0.0%	0.0%
Sub-Total	**$201,073**	**$157,593**	**$157,143**	**(21.8%)**	**(0.3%)**
Property Tax Relief Fund					
Direct State Services	$0	$0	$0	0.0%	0.0%
Grants-In-Aid	0	0	0	0.0%	0.0%
State Aid	0	0	0	0.0%	0.0%
Sub-Total	**$0**	**$0**	**$0**	**0.0%**	**0.0%**
Casino Revenue Fund	$2,196	$2,196	$2,196	0.0%	0.0%
Casino Control Fund	$0	$0	$0	0.0%	0.0%
State Total	**$203,269**	**$159,789**	**$159,339**	**(21.6%)**	**(0.3%)**
Federal Funds	$413,704	$520,175	$520,175	25.7%	0.0%
Other Funds	$187,086	$252,222	$253,451	35.5%	0.5%
Grand Total	**$804,059**	**$932,186**	**$932,965**	**16.0%**	**0.1%**

PERSONNEL SUMMARY - POSITIONS BY FUNDING SOURCE

	Actual FY 2012	Revised FY 2013	Funded FY 2014	Percent Change 2012-14	Percent Change 2013-14
State	474	468	476	0.4%	1.7%
Federal	2,426	2,377	2,380	(1.9%)	0.1%
All Other	371	349	354	(4.6%)	1.4%
Total Positions	**3,271**	**3,194**	**3,210**	**(1.9%)**	**0.5%**

FY 2012 (as of December) and revised FY 2013 (as of January) personnel data reflect actual payroll counts. FY 2014 data reflect the number of positions funded.

AFFIRMATIVE ACTION DATA

Total Minority Percent	41%	42.4%	42.2%	----	----

Significant Changes/New Programs ($000)

Budget Item	Adj. Approp. FY 2013	Recomm. FY 2014	Dollar Change	Percent Change	Budget Page
ECONOMIC PLANNING AND DEVELOPMENT					
DIRECT STATE SERVICES					
Administration and Support Services	**$1,143**	**$693**	**($ 450)**	**(39.4%)**	**D-231**

The FY 2014 Budget Recommendation proposes a $450,000 (39.4%) decrease in the appropriation from the General Fund for Administration and Support Services. According to the department, this reduction in funding will be offset by recommended language authorizing an appropriation of an equal amount from the New Jersey Builders Utilization Initiative for Labor Diversity (NJ BUILD) account. This appropriation will support the operations of the Office of Contract Compliance and Equal Employment Opportunity in Public Contracts (Office) located in the Department of Labor and Workforce Development (DLWD). The Office, which has been referred to by various names in the statutes and budget documents over the years, was transferred to the DLWD from the Department of the Treasury on or about December 5, 2011.

P.L.2009, c.335 (C.52:40 -1 et seq.) requires the Office to determine whether each of the State entities whose performance it monitors has properly allocated and released to the DLWD, as authorized by P.L. 2009, c. 313 (C.52:38-7 et seq.), one-half of one percent of the total cost of a construction contract of $1,000,000 or more, to be used by the department for the NJBUILD program to train minorities and women for employment in construction trades. The transferred funds are deposited into what is known as the NJ BUILD account.

The department is required to use the transferred funds to provide on-the-job or off-the-job outreach and training programs, including programs of preparation for admission into registered apprenticeships for minority group members and women in the construction trades, which foster opportunities for long-term trade and professional employment, providing economic self-sufficiency for the minority group members and women. Additionally, pursuant to the statute, the Office is tasked with ensuring that businesses contracting with the State are abiding by reporting requirements and contractual obligations regarding the use of small and minority and women-owned businesses.

According to fiscal data, the NJ Build account has approximately $3.2 million in uncommitted funds as of March 4, 2013. In response to the OLS Discussion Points during the FY 2013 budget process, the department reported that a total of $12.5 million collected for the NJ BUILD account had not been used for its intended purpose, but rather was lapsed to the General Fund as follows: $1.5 million FY 2010; $5.0 million in FY 2011; and $6.0 million in FY 2012.

Significant Changes/New Programs ($000) (Cont'd)

Budget Item	Adj. Approp. FY 2013	Recomm. FY 2014	Dollar Change	Percent Change	Budget Page
ECONOMIC ASSISTANCE AND SECURITY					
ALL OTHER FUNDS					
Workers' Compensation	**$11,489**	**$12,289**	**$ 800**	**7.0%**	**D-235**

The FY 2014 Budget Recommendation includes an $800,000 (7.0%) increase in anticipated funding for Workers' Compensation. According to the department, this increase is reflective of higher administrative costs, including increased fringe benefit rates for the employees of the Division of Workers' Compensation, and corresponds to an increase in Second Injury Fund (SIF) assessments.

P.L.1990, c.46 provides that all administrative costs of the Division of Workers' Compensation be paid out of the SIF. Revenue is provided for the SIF through an assessment on workers' compensation insurance for both self-insured and privately insured employers. Any increased workers' compensation administrative costs result in an increased SIF assessment.

In addition to paying the administrative costs of the Division of Workers' Compensation, the SIF, also known as the Special Compensation Fund, established pursuant to R.S.34:15-94, provides workers' compensation benefits to totally and permanently disabled workers with prior, work-related disabilities. Furthermore, P.L.1980, c.83 provides that the SIF pay for a cost of living adjustment (COLA) for workers (and their dependents) suffering permanent disability or death before 1980.

Significant Language Changes

Addition	2013 Handbook: p. 2014 Budget: p. D-232

<u>Notwithstanding the provisions of any law or regulation to the contrary, in addition to the amount hereinabove appropriated for Administration and Support Services, there is appropriated $450,000 from the New Jersey Builders Utilization Initiative for Labor Diversity, pursuant to P.L. 2009 c.313, for enforcing the provisions of P.L. 2009 c.335.</u>

<u>Explanation</u>

The FY 2014 Budget Recommendation includes a new language provision appropriating $450,000 from the New Jersey Builders Utilization Initiative for Labor Diversity (NJ BUILD) account for Administrative and Support Services, to offset a reduction of $450,000 in General Fund appropriations. According to the department, these funds will be used to support the six staff members and related costs of the Office of Contract Compliance and Equal Employment Opportunity in Public Contracts (Office) located in the Department of Labor and Workforce Development (DLWD). The Office, which has been referred to by various names in the statutes and budget documents over the years, was transferred to the DLWD from the Department of the Treasury on or about December 5, 2011 and is currently funded by General Fund appropriations.

P.L.2009, c.335 (C.52:40 -1 et seq.) requires the Office to determine whether each of the State entities whose performance it monitors has properly allocated and released to the DLWD, as authorized by P.L. 2009, c. 313 (C.52:38-7 et seq.), one-half of one percent of the total cost of a construction contract of $1,000,000 or more, to be used by the department for the NJBUILD program to train minorities and women for employment in construction trades. The transferred funds are deposited into what is known as the NJ BUILD account.

The department is required to use the transferred funds to provide on-the-job or off-the-job outreach and training programs, including programs of preparation for admission into registered apprenticeships for minority group members and women in the construction trades, which foster opportunities for long-term trade and professional employment, providing economic self-sufficiency for the minority group members and women. Additionally, pursuant to the statute, the Office is tasked with ensuring that businesses contracting with the State are abiding by reporting requirements and contractual obligations regarding the use of small and minority and women-owned businesses.

According to fiscal data, the NJ Build account has approximately $3.2 million in uncommitted funds as of March 4, 2013. In response to the OLS Discussion Points during the FY 2013 budget process, the department reported that a total of $12.5 million collected for the NJ BUILD account had not been used for its intended purpose, but rather was lapsed to the General Fund as follows: $1.5 million FY 2010; $5.0 million in FY 2011; and $6.0 million in FY 2012.

EXPLANATION: FY 2013 language not recommended for FY 2014 denoted by strikethrough.
Recommended FY 2014 language that did not appear in FY 2013 denoted by underlining.

Background Paper: Unemployment Insurance - An Overview

Budget Pages.... C-21, D-225 to D-245

HISTORY/OVERVIEW

The Social Security Act of 1935 authorized a federal-state unemployment insurance (UI) system to provide temporary partial wage replacement to individuals who lose their jobs through no fault of their own. New Jersey's unemployment insurance system, established by the "unemployment compensation law," R.S.43:21-1 et seq., began paying benefits to laid off workers in 1939. The main goals of the UI system are to alleviate the hardship of involuntary unemployment on workers and their families and to stabilize the economy. As stated in the New Jersey "unemployment compensation law," the system is designed to meet these goals by facilitating "the systematic accumulation of funds during periods of employment to provide benefits for periods of unemployment, thus maintaining purchasing power and limiting the serious social consequences of poor relief assistance."

Nationally, the UI system operates as a federal-state partnership. The federal program provides broad requirements for eligibility and states determine the details of the operation and administration of their programs within the minimum requirements established by federal law.

Federal law, pursuant to Titles III, IX, and XII of the Social Security Act and the Federal Unemployment Tax Act of 1939 (FUTA), defines which employment is a "covered service" and must be covered by unemployment insurance in the states' programs, although states may expand the definition to be more inclusive. Federal law also defines the method for triggering extended benefits, the federal tax base and rate and how states will apply for and repay any loans from the federal Unemployment Trust Fund. The federal government also serves as the depository for state contributions and federal payroll taxes that finance UI. Furthermore, the federal government provides annual appropriations for grants to states for administration of the UI program and oversees the appropriate and efficient use of those funds.

States must meet the minimum requirements established by the federal law. Within these parameters, states are permitted to set UI eligibility provisions (including minimum time periods and/or minimum amount of wages earned before workers can become eligible to receive benefits), determine benefit amounts, and set state payroll tax wage base and rate structures for employers. States also: determine operation methods; administer the program; take claims from individuals; determine eligibility; pay benefits to workers; determine employer liability; and assess and collect contributions.

CURRENT STATUS

The UI system has experienced very high volumes of benefit claims due to sustained, high rates of unemployment, which steadily rose from 4.6% in January, 2008, to a peak of 10% in December, 2010 and, as of February, 2013, is 9.3%. As a result, the State's unemployment insurance compensation trust fund account (UI trust fund) was completely depleted as of March 5, 2009. On this date, the State commenced borrowing from the federal Unemployment Trust Fund to pay State UI benefits. New Jersey continues borrowing from the federal government and, as of March 12, 2013, has an outstanding loan balance of $1.1 billion. Employers are currently paying higher federal and State UI taxes and an additional annual assessment to reimburse the federal government for the principal and interest of the loan. Through the additional payments and increased tax revenue (both to be discussed in more detail in this

Background Paper: Unemployment Insurance - An Overview (Cont'd)

paper), the department estimates that the State will have paid off the entire loan balance by May, 2014.

States are permitted to borrow from the federal Unemployment Trust Fund to pay state UI claims, but must return the funds on a scheduled basis and must pay interest on this loan. The federal American Recovery and Reinvestment Act (ARRA) of 2009 contained a provision that waived the accrual of interest on loans issued from the federal Unemployment Trust Fund to states until December 31, 2010.

Sections 3302(c)(2) and 3302(d)(3) of the Federal Unemployment Tax Act (FUTA) provide that, when a state has borrowed from the federal government, and the loan is still outstanding two years after the state first borrowed the money, then a reduction to the employers' FUTA credit is initiated to pay back the principal of that loan. The current FUTA tax rate is 6.0% on the first $7,000 in wages. This rate is offset with a credit of 5.4%, yielding a net tax of 0.6% ($42). However, since New Jersey is in deficit to the federal government, the 5.4% credit gradually phased out (at 0.3% per year) and the employers began to pay more federal UI taxes as of January 1, 2012. The phase out of the credit resulted in a FUTA tax of 0.9% ($63) per employee in 2012, 1.2% ($84) per employee in 2013, and most likely 1.5% ($105) per employee in 2014. The department anticipates that the loan will be paid back in May, 2014 and thus, there should be no increase in the FUTA tax in calendar year 2015.

Additionally, the State can pay back the principal of the loan through State UI taxes or disbursements from the State General Fund. As the State is not in the fiscal position to pay back the federal government with General Fund monies, it has been relying on the excess revenue collected from the State UI taxes. Therefore, as the State UI trust fund collects revenue in excess of the benefits it is paying to the unemployed, the State pays that excess revenue to the federal government to pay down the principal of the loan. For information on these loan repayments, please see http://www.treasurydirect.gov/govt/reports/tfmp/tfmp_utf.htm.

Section 1202 of the Social Security Act (42 U.S.C. s.1322) prohibits the State from paying back the interest on the loan with State UI tax revenue. State statute establishes a system for paying back any interest accrued on federal UI loans. Section 16 of P.L.1984, c.24 (N.J.S.A.43:21-14.3), provides that the Commissioner of Labor and Workforce Development must, on or before June 30 of each year, review the amount of interest owed to the United States Treasury for advances made from the federal Unemployment Trust Fund to pay State UI benefits and determine if the Unemployment Compensation Auxiliary Fund (UCAF) has the needed funds to repay the interest to the federal government by September of that calendar year. If it is determined by the commissioner that the UCAF has insufficient funds to repay the accrued interest, then the statute provides for a special assessment on employers, except governmental entities and nonprofit organizations. The assessment is determined by the department as a ratio of the amount of interest owed to 95 percent of the total employer contributions payable for UI on taxable wages during the preceding calendar year. This ratio is then applied to the individual employer's amount of unemployment contributions payable in the previous year to determine the amount of assessment.

N.J.S.A.43:21-14.3 also establishes the "Unemployment Compensation Interest Repayment Fund" to "be used solely for the purpose of paying interest due on any advances made from the federal Unemployment Trust Fund under Title XII of the Social Security Act (42 U.S.C. s.1321 et seq.)" should the commissioner determine that there are insufficient funds in the UCAF. As stated above, the money borrowed from the federal government was interest

Background Paper: Unemployment Insurance - An Overview (Cont'd)

free until December 31, 2010, but after this time the loan accrued interest and the first interest payment was due on September 30, 2011.

The first interest payment of approximately $48 million was paid to the federal government on September 30, 2011 and the second payment of approximately $44.7 million was paid to the federal government on September 30, 2012. In order to pay this amount, the department mailed Federal Loan Interest Assessment Statements in July of each year and the due date for the assessment was August of each year. According to the department, the average cost of the assessment was approximately $20 per employee in July 2011 and $18.50 per employee in July 2012. Furthermore, the department anticipates that there will be an additional assessment in July, 2013 of $8.30 per employee.

In addition to the cost of the interest assessment and the increased federal taxes charged to employers in FY 2013, the State UI tax rate has also increased over the past year. As is discussed in more detail below, the payment of State UI benefits are generally supported through the taxes collected from employers and employees which are deposited in the UI trust fund. The employer tax rate, determined in part based on the balance of the UI trust fund, as listed in 5 columns, "A" through "E" in N.J.S.A. 43:21-7. The tax rate is variable and dependent upon the amount of funds available in the UI trust fund. If the fund is low, the statute requires an increase in taxes to increase revenue and replenish the fund. Due to the low level of funds in the UI trust fund, the UI tax rate was first expected to increase on July 1, 2008, but P.L.2008, c.20 was enacted in June, 2008 authorizing the transfer of $260 million into the UI fund from the General Fund and delaying the date for calculating the reserve ratio from March 31 to June 30, 2008. These changes enabled the fund to maintain the ratio needed to retain the "A" tax schedule for FY 2009 and therefore avoided a tax increase for employers. However, the increasing benefit payments throughout FY 2009 decreased the fund to a zero balance in March, 2009. Foreseeing the depletion of the UI trust fund due to increased benefit needs, the FY 2010 Appropriations Act transferred $150 million from the General Fund to the UI trust fund. This action enabled the fund to be at such a level that the increase in the tax was only a shift from the "A" column to the "B" column on July 1, 2009. Furthermore, the Legislature continued to act to prevent large UI tax hikes in FY 2011, FY 2012, and FY 2013 through the enactment of P.L.2010, c.37 and P.L. 2011, c.81, respectively. These laws amended N.J.S.A.43:21-7 to impose lower tax rates for FY 2011 ("C" column), FY 2012 ("D" column), and FY 2013 ("E" column) than would have been triggered under statute. P.L.2011, c. 81 also amended the tax columns to allow for the accumulation of larger reserves in the UI trust fund and established a UI Task Force charged with conducting a comprehensive review and assessment of the State's UI system.

The anticipated balance of the UI trust fund in June, 2013 will trigger a 10 percent surcharge to the current UI tax rate (set at the "E" column). The Legislature is considering Senate Bill No. 2404 which will delay the imposition of the surcharge for one year. As of March 18, 2013, the bill had been approved by the Senate but still needs to be considered by the Assembly and signed by the Governor. If it is not enacted, employers will pay the highest possible tax rate beginning on July 1, 2013.

Prior to the prolonged period of high unemployment and the record number of individuals collecting UI since the beginning of the recession in 2008, the State also had acted to divert funds intended for the UI trust fund to other purposes from 1992 until 2005. During that time, over $4.6 billion had been diverted from the UI trust fund to the Health Care Subsidy Fund (please see the OLS background paper, "History of Diversions from the Unemployment

Background Paper: Unemployment Insurance - An Overview (Cont'd)

Insurance, Temporary Disability Insurance, and Second Injury Funds" for more information). These diversions depleted the surplus that was intended to ensure the financial stability of the fund during times of recession, such as the current period. However, the approval of Senate Concurrent Resolution 60 of 2008 on November 2, 2010 by the voters of New Jersey meant the adoption of a Constitutional Amendment (paragraph 8 of Article VIII, Section II of the State Constitution), requiring that contributions collected from assessments on wages be used solely for employee benefits, and prohibiting the use of contributions from those assessments for any other purpose. According to the statement to the public question posing this amendment, the paragraph's intent was to dedicate all contributions made to State funds, such as the UI trust fund, to the purpose of that fund, thereby protecting the UI trust fund from further diversions.

In short, the UI trust fund is currently in deficit to the federal government, but the Legislature has acted to restore the UI trust fund with the needed revenue through changes in the tax structure described in more detail on page 5 of this paper. A UI Task Force has been established and has issued three reports on the status of the fund and recommendations to stabilize the fund and improve the UI system. The changes to the tax structure and the UI system should replenish the UI trust fund and restore a surplus in the next several years to prevent the depletion of the fund in a future recession. Until the UI trust fund is again in surplus, the employers of the State will continue to pay both the interest assessment and the additional federal tax. The department has estimated that both of these additional payments should be complete in 2014.

FUNDING

As already explained, UI is funded jointly through the federal unemployment tax, more commonly referred to as the "FUTA tax," for the act under which it was established. All of the revenues collected from the taxes established under FUTA (the federal tax levied on employers and the State UI taxes levied on employers and employees) are deposited into a variety of specific fund accounts in the federal Unemployment Trust Fund. This section of the paper will explain these funding mechanisms in more detail.

Federal Funding

FUTA tax revenue is used primarily to finance administrative costs of the system, fund loans to states and cover extended benefits. Revenues collected from FUTA are deposited into the employment security administration account (ESAA), the extended unemployment compensation account (EUCA) and the federal unemployment compensation account (FUA) located in the federal Unemployment Trust Fund.

The amount of tax levied under FUTA is established in Section 3301 of the Social Security Act. Section 3301 imposes a payroll tax for every "covered service," equal to a specified percentage of total wages paid during a calendar year. FUTA currently provides that the tax rate is 6.0 percent. Wages subject to the tax are defined in Section 3306(a) of FUTA as the first $7,000 paid to an employee in a calendar year. However, FUTA provides for a tax credit of up to 5.4% for employers who pay state taxes on time for "covered services," as defined under FUTA, in an approved state UI program. Thus, the effective FUTA tax rate is 0.6 percent (6.0 – 5.4) or $42 ($7,000 x 0.006) per employee. However, as noted previously, when the State is in arrears to the federal government, the offset is reduced by 0.3 percent per year, thus the current effective FUTA tax rate for New Jersey is 1.1 percent or $84 per

Background Paper: Unemployment Insurance - An Overview (Cont'd)

employee and is expected to rise to 1.4 percent in 2014. The total amount of FUTA tax collected from wages in New Jersey for 2011 was approximately $196 million.

State Funding

In addition to the federal tax, state governments also levy payroll taxes on employers and in three states, including New Jersey, payroll taxes on employees. These taxes are deposited into the state's UI trust fund within the federal Unemployment Trust Fund. Each state has its own UI trust fund account within the federal Unemployment Trust Fund. For reports of these accounts, please see http://www.treasurydirect.gov/govt/reports/tfmp/tfmp_utf.htm.

The New Jersey "unemployment compensation law" establishes the State tax rate for both employers and employees. The tax rate is applied to income earned up to the statutorily defined taxable wage base (N.J.S.A.43:21-7). The taxable wage base is 28 times the Statewide average weekly wage (SAWW) for all covered workers. The SAWW is calculated annually by the Department of Labor and Workforce Development. The taxable wage base for 2013 is $30,900.

Employee and Employer Contribution

In New Jersey, the tax on the employee is levied at a rate of 0.3825% on the first $30,900 of income earned. Thus, in 2013, the maximum employee contribution is approximately $116 per employee (0.003825 x 30,900). The total amount of employee contributions in New Jersey in FY 2013 is estimated to be approximately $315 million.

In New Jersey, the employer's tax rate is determined by individual employers' experience and the annual experience of the State UI trust fund. The experience rating tax table provided in N.J.S.A.43:21-7 (see next page), dictates the tax rate of the employer. The tax rate is dependent upon a combination of the annual experience of the State UI trust fund, as calculated through the determination of the overall fund reserve ratio, and the experience of the individual employer. The overall fund reserve ratio is determined on March 31 of each year by dividing the fund balance on that date by the taxable wages from the previous calendar year. The fund reserve ratio is used to determine the tax column that will be applied to employers in the next fiscal year. The tax columns are referred to as "A" through "E;" "A" being the lowest tax rate and the most advantageous to the employers and "E" being the highest tax rate. The total amount of employer contributions in New Jersey in FY 2013 is estimated to be $2.69 billion (excluding the FUTA tax).

The tax rate is currently in the "E" column in FY 2013 and will remain in the "E" column in FY 2014, but will also include a 10 percent surcharge to each employer's tax due to the low level of the UI trust fund. N.J.S.A.43:21-7 requires a 10 percent surcharge when the fund reserve ratio is less than 1.0 percent. As mentioned previously, however, the Legislature is currently considering legislation, Senate Bill. No. 2404, that would eliminate this surcharge for FY 2014. From July 1, 1998 to July 1, 2009, the tax rate was in the "A" column and system wide tax increases were avoided. Tax increases were avoided because of legislative enactments (P.L.1984, c.24, P.L. 1996, c.30; P.L.1997, c.263; P.L.2001, c.152; P.L.2002, c.13; P.L.2003, c.107; and P.L.2004, c.45) amending the experience rating tax table. Each new tax table authorized by these enactments established a lower reserve ratio in order to maintain the

Background Paper: Unemployment Insurance - An Overview (Cont'd)

lowest tax rate for employers. In each case, these changes in the tax table were made in conjunction with legislation that diverted funds from the UI trust fund to other funds.

The current prolonged high unemployment along with the diversions from the UI trust fund led to a depletion of the UI trust fund. In order to prevent a similar problem in any future recession, the Legislature enacted SCR 60 and P.L.2011, c.81, which amends the experience rating table P.L.2011, c.81 increased the UI trust fund reserve ratios which are used to set employer UI tax rates in such a manner that larger reserves are required in the UI trust fund before employer UI taxes are reduced. Specifically, the law sets the reserve ratio triggers at the same level they were during FY 2003. The intent of these changes is to build up the UI trust fund reserves sufficient to reduce the likelihood that any future recession will result in the deep UI trust fund deficits which have caused such large employer UI tax increases, as has occurred in the previous three fiscal years. Following is the current experience rating table, pursuant to P.L.2011, c.81:

EXPERIENCE RATING TAX TABLE

	Fund Reserve Ratio[1]				
Employer Reserve Ratio	3.50% and Over	3.00% to 3.49%	2.5% to 2.99%	2.0% to 2.49%	1.99% and Under
Tax Column	A	B	C	D	E
Positive Reserve Ratio:					
17% and over	0.3	0.4	0.5	0.6	1.2
16.00% to 16.99%	0.4	0.5	0.6	0.6	1.2
15.00% to 15.99%	0.4	0.6	0.7	0.7	1.2
14.00% to 14.99%	0.5	0.6	0.7	0.8	1.2
13.00% to 13.99%	0.6	0.7	0.8	0.9	1.2
12.00% to 12.99%	0.6	0.8	0.9	1.0	1.2
11.00% to 11.99%	0.7	0.8	1.0	1.1	1.2
10.00% to 10.99%	0.9	1.1	1.3	1.5	1.6
9.00% to 9.99%	1.0	1.3	1.6	1.7	1.9
8.00% to 8.99%	1.3	1.6	1.9	2.1	2.3
7.00% to 7.99%	1.4	1.8	2.2	2.4	2.6
6.00% to 6.99%	1.7	2.1	2.5	2.8	3.0
5.00% to 5.99%	1.9	2.4	2.8	3.1	3.4
4.00% to 4.99%	2.0	2.6	3.1	3.4	3.7
3.00% to 3.99%	2.1	2.7	3.2	3.6	3.9
2.00% to 2.99%	2.2	2.8	3.3	3.7	4.0
1.00% to 1.99%	2.3	2.9	3.4	3.8	4.1
0.00% to 0.99%	2.4	3.0	3.6	4.0	4.3
Deficit Reserve Ratio:					
-0.00% to -2.99%	3.4	4.3	5.1	5.6	6.1
-3.00% to -5.99%	3.4	4.3	5.1	5.7	6.2
-6.00% to -8.99%	3.5	4.4	5.2	5.8	6.3
-9.00% to-11.99%	3.5	4.5	5.3	5.9	6.4
-12.00% to-14.99%	3.6	4.6	5.4	6.0	6.5
-15.00% to-19.99%	3.6	4.6	5.5	6.1	6.6
-20.00% to-24.99%	3.7	4.7	5.6	6.2	6.7
-25.00% to-29.99%	3.7	4.8	5.6	6.3	6.8
-30.00% to-34.99%	3.8	4.8	5.7	6.3	6.9
-35.00% and under	5.4	5.4	5.8	6.4	7.0
New Employer Rate	2.8	2.8	2.8	3.1	3.4

[1]Fund balance as of March 31 as a percentage of taxable wages in the prior calendar year.

[2]Employer Reserve Ratio (Contributions minus benefits as a percentage of employer's taxable wages).

Background Paper: Unemployment Insurance - An Overview (Cont'd)

In addition to determining what column will be used to calculate the tax rate on all employers, the employer's individual reserve ratio (left hand column in table) is calculated through an experience rating system to determine that employer's particular rate. To determine the employer's ratio, the benefits paid out by the employer are subtracted from all the contributions an employer has made to the State UI trust fund and then that amount is divided by the amount of the employer's taxable wages (average of all payroll over the previous three years). The more charges against the account, the higher the tax rate; the fewer claims against the account, the lower the tax rate. The purpose of the experience rating system is to ensure an equitable distribution of costs of the system among employers and to encourage employers to stabilize their workforce.

Depending on their experience rating, New Jersey employers are taxed (in FY 2013) on a scale from 1.2 percent to a maximum of 7 percent on the first $30,900 (2013) paid in wages, a range from a minimum of $371 to a maximum of $2,163 per employee. New employers, since they have no experience, begin at a tax rate of 3.4 percent, or $1,050 per year, per employee. The average tax rate on taxable wages ($30,300) in 2012 was 3.1 percent, or $939 per employee. The total amount of employer contributions in New Jersey for FY 2013 is estimated to be $2.69 billion.

Although the majority of employers in the State contribute to the UI trust fund, there are some noteworthy exemptions. The State and any of its governmental entities, including schools, municipalities and local governments, and a majority of non-profit entities do not pay into the UI trust fund on a forward basis through taxes but rather are "reimbursable" employers (N.J.S.A. 43:21-7.2 and 7.3). These entities reimburse the UI trust fund for any charges on their accounts for benefits to former employees in the previous calendar year.

ELIGIBILITY

UI is available to individuals in New Jersey, who, in most instances, have lost their jobs through no fault of their own. Persons who are **not** eligible for UI include those who: voluntarily left their employment; were terminated for "gross" misconduct; are not employed in a "covered service," as defined in FUTA or by State law; certain corporate officers and owners of businesses, including the self-employed; and, those who have not earned enough in wages or worked for a sufficient amount of time to qualify. Additionally, certain individuals who were terminated for simple or severe misconduct or left employment voluntarily, but under certain circumstances, may not be immediately eligible for UI benefits, but may qualify after returning to work for a shortened time period.

More specifically, some examples of employment exempt from "covered services" under FUTA and therefore not covered under UI are: ministers or members of religious orders; services performed in the employ of a foreign government; insurance solicitors who work on commission; certain agricultural labor; and certain domestic service. In addition, FUTA excludes from its definition of "covered service" several categories of employers that, while not required to pay the FUTA tax or the State tax, are required to provide unemployment compensation benefits through an alternate system. Examples of these types of services include: federal employers; non-profit employers; maritime employers; railroad employers; and the states. Furthermore, corporate officers or business owners who have ceased working but whose corporation has not filed for bankruptcy are not eligible for UI, whereas those individuals whose corporations have filed for bankruptcy are eligible. Lastly, individuals must

Background Paper: Unemployment Insurance - An Overview (Cont'd)

have earned at least 20 times the minimum wage for at least 20 weeks or earned at least 1,000 times the minimum state hourly wage during their base year. The base year is either: the first four calendar quarters of the last five completed quarters before the date of the claim; the four most recently completed calendar quarters before the date of the claim; or the three most recently completed calendar quarters before the date of the claim and the weeks in the filing quarter up to the date of the claim.

BENEFITS

Once an individual's eligibility for UI is established, the level of benefits must be determined. In New Jersey, weekly UI benefits are 60 percent of a laid-off worker's weekly wages (plus dependent allowances of up to 15 percent for 3 or more dependents), up to 57 percent of the Statewide average weekly wage (SAWW) for all workers, or a maximum weekly benefit of $624 in 2013. The average New Jersey weekly benefit was $395 in 2012, third highest in the nation, but twenty-eighth in the nation as a percentage of average wages. The total amount of regular benefits paid to workers in New Jersey in 2012 was $2.48 billion.

Duration of Benefits

Individuals may continue to collect UI benefits for up to 26 weeks in New Jersey. To remain eligible for benefits during this time, the individual must: report to the local One-Stop Career Center as scheduled; be able and available to work; actively seek work; not refuse any offer of suitable work; and claim the weekly unemployment benefits on the Internet or by telephone. In New Jersey, in 2011, 216,464 individuals (57% of those claiming benefits) exhausted their regular benefits, seventh highest in the nation. The average claim duration was 20 weeks, sixth longest in the nation.

Extended Benefits

There are four means by which an individual can access UI benefits beyond the regular 26 week duration. All of these benefits are cumulative and are in addition to the original 26 weeks of benefits. Two are permanently established in statute: the jointly funded federal-state extended benefits program and the State funded additional benefits during training program. Two are temporary in nature and are generally issued as a result of either an act of Congress or an enactment at the State level: Federal Temporary Extension of Unemployment Benefits and the State Emergency Unemployment Benefits Program.

Currently, long term unemployed individuals in New Jersey can access up to 47 weeks of Temporary Extended UI benefits until December 28, 2013 under Congressional enactments as detailed below.

Federal/State Extended Benefits Program

The joint federal-state extended benefits (EB) program is triggered when states reach certain levels of unemployment. The regular EB program provides for 50 percent of regular benefits or an additional 13 weeks of benefits, whichever is less, for workers. The "high EB" program provides for 80 percent of regular benefits or an additional 20 weeks of benefits. These benefits are equally funded (50/50) from a state UI trust fund and from the federal extended unemployment compensation account. In New Jersey, the trigger for regular EB is an unemployment rate of at least 6.5% in each of the most recent three months, which must also

Background Paper: Unemployment Insurance - An Overview (Cont'd)

represent 110% of the rate for the corresponding three-month period in either of the previous two years. If the average total unemployment rate reaches 8% and is 110% of the rate for the corresponding three-month period in either of the previous two years, New Jersey qualifies for "high EB," 20 weeks or 80% of regular benefits.

Most recently, New Jersey initially met the qualifications to trigger 13 weeks of regular EB in the week ending March 7, 2009. However, due to high unemployment, effective May 3, 2009, New Jersey qualified for 20 weeks of "high EB." As discussed in the above paragraph, the requirements for the State to qualify for, or "trigger," high EB is a comparison between the current UI rate and the UI rate two years prior. However, due to the prolonged high unemployment rates in the State, this qualification definition no longer made the State trigger high EB. In fact, since unemployment was high for so long throughout the country, many states were faced with the expiration (or trigger off) of their EB programs. In order to prevent this, federal legislation was enacted (Public Law 111-312) allowing states to change their laws and provide a longer period of "look back" or comparison for UI rates. As it currently stands, New Jersey can "look back" and compare its current UI rate to that which existed three years prior, as opposed to two years prior.

However, even with the elongated "look back," New Jersey triggered off EB on June 16, 2012. At that time, there was a three week phase out for individuals who were collecting EB and no new individuals can access EB at this time.

In order to provide greater relief to the states, the American Recovery and Reinvestment Act (ARRA) of 2009 included a provision that eliminates the required state contribution for EB. Pursuant to the original language contained in ARRA, the 100 percent federal payment would have ended January 1, 2010; however, subsequent legislation, most recently the "Tax Relief Extension Act of 2012" (H.R. 8 – 112th Congress), extended the 100 percent federal funding for claims filed until the week beginning December 28, 2013. The total amount of extended benefits paid to workers in New Jersey in 2012 was \$734.4 million. Additionally, workers received \$535 million in 2009, \$607.4 million in 2010 and \$692.4 million in 2011 through EB, all of which was fully funded with federal dollars.

Federal Temporary Extension of Unemployment Benefits

The second means to provide additional UI benefits are temporary extensions of unemployment compensation (TEUC) through an Act of Congress. The extensions are of varying duration and there are certain qualifications that individuals must meet to access benefits. To qualify, individuals must have: filed an initial claim that was in effect during or after the onset of the TEUC; exhausted regular benefits or have no benefit rights due to the expiration of a benefit year ending during or after the onset of the TEUC; no rights to regular or extended benefits under any state or federal law; and had 20 weeks of full-time work, or the equivalent in wages, in the base period.

Congress has issued a TEUC four times since June 26, 2008. The first TEUC (Tier I) was included in the Federal Fiscal Year 2008 supplemental spending bill (H.R.2642) and extends benefits for 80 percent of regular benefits or 20 weeks, whichever is less. Subsequent legislation, most recently, the "Tax Relief Extension Act of 2012" (H.R. 8 – 112th Congress) extended the payment of these Tier I benefits to 14 weeks for claims filed until the week beginning December 28, 2013. Currently, New Jersey residents may access up to 14 weeks of Tier I benefits.

Background Paper: Unemployment Insurance - An Overview (Cont'd)

The second TEUC (Tier II) was included in the "Unemployment Compensation Extension Act of 2008" (Public Law 110-449), enacted November 21, 2008, and provides for an additional 50 percent of regular benefits or 13 weeks, whichever is less, for states in which the unemployment rate reaches or exceeds an average of 6.0% for three consecutive months. New Jersey reached that trigger for the three-month period ending November 28, 2008. Workers in the State qualified for these Tier II benefits as of January 10, 2009. The "Worker, Homeownership, and Business Assistance Act of 2009" (Public Law No. 111-92), more commonly referred to as the Worker Assistance Act, effective November 6, 2009, increased the maximum benefits available pursuant to Tier II from 13 weeks to 14 weeks of benefits in all states and removed the UI rate trigger for eligibility. Subsequent legislation, most recently, the "Tax Relief Extension Act of 2012" (H.R. 8 – 112th Congress), extended the payment of Tier II benefits for claims filed until the week beginning December 28, 2013, for individuals in states in which the unemployment rate reaches or exceeds a three month average of 6.0 percent. Currently, New Jersey residents may access up to 14 weeks of Tier II benefits.

The third TEUC (Tier III) was also issued as a result of the "Unemployment Compensation Extension Act of 2008" and provided an additional seven weeks of federally funded benefits beginning November 23, 2008 to all claimants. The Worker Assistance Act increased the maximum benefits available pursuant to Tier III from 7 weeks to 13 weeks of benefits in all states in which the unemployment rate reaches or exceeds a three-month average total unemployment rate of at least 6 percent. The "Tax Relief Extension Act of 2012" (H.R. 8 – 112th Congress), extended the payment of Tier III benefits for 9 weeks for claims filed until the week beginning December 28, 2013, but only for individuals residing in states in which the three month average unemployment rate is at least 7.0%. Currently, New Jersey residents can access up to 9 weeks of Tier III benefits.

The Worker Assistance Act also created a fourth TEUC (Tier IV) providing up to 6 additional weeks of benefits in states with a 13-week insured unemployment rate of at least 6 percent or a three-month average total unemployment rate of at least 8.5 percent. The "Tax Relief Extension Act of 2012" (H.R. 8 – 112th Congress), extended the payment of Tier IV benefits for 10 weeks for claims filed until the week beginning December 28, 2013, but only for individuals residing in states with an unemployment rate of 9% or more. Currently, New Jersey residents can access up to 10 weeks of Tier IV benefits.

In all, New Jersey residents can currently access up to 47 weeks of TEUC benefits until December 28, 2013 beyond the initial 26 week period. At that time, if no additional legislation is enacted, anyone currently receiving TEUC will complete that Tier of benefits and then will no longer be eligible for federal TEUC. The total amount of TEUC benefits paid to workers in New Jersey in 2012 was $2.4 billion. Additionally, workers received $2.7 billion in 2009; $4.0 billion in 2010; and, $2.9 billion in 2011 through TEUC benefits, all of which was fully funded with federal dollars.

State Emergency Unemployment Benefits Program

The third means by which individuals can continue their benefits beyond the initial 26 week period are State emergency unemployment benefits programs. While such a program is not currently active, in the past, the State has statutorily authorized additional benefits through these emergency programs. This has occurred twice in the previous 15 years, from December 30, 2001 to March 9, 2002 and from June 2, 1996 to March 1, 1997. During the 2001/2002

Background Paper: Unemployment Insurance - An Overview (Cont'd)

extension, benefits were granted for 10 weeks, while the 1996/1997 extension provided up to 50% of the original benefit amount or 13 weeks, whichever was less.

Additional Benefits during Training

The fourth means by which individuals can continue their benefits beyond the initial 26 week period is the State funded Additional Benefits during Training program (ABT). If approved by a State counselor, eligible individuals may enroll in an approved training program and receive their UI benefit for an additional 26 weeks. These funds are provided from the State UI trust fund. The total amount of ABT paid to workers in New Jersey in 2012 was $24.9 million, on par with the $27.7 million paid in 2011, which was significantly more than the $15.1 million in ABT benefits paid in 2010 and the $5.2 million paid in 2009, but more in line with the expenditures for ABT in the years prior to 2009 and before the recession.

Disaster Unemployment Assistance

Disaster Unemployment Assistance (DUA), also referred to as Disaster Relief and Emergency Assistance, is a federal program that provides temporary financial assistance to individuals unemployed as a result of a major disaster declared by the President. DUA benefits are administered by the State department, but are funded by the Federal Emergency Management Agency (FEMA). DUA was made available to individuals in New Jersey after Hurricane Sandy struck in October, 2012. People could apply for the aid from October 29, 2012 till February 4, 2013.

DUA is available to persons who do not have employment due to a disaster and are not eligible for regular unemployment insurance benefits. Instances where an individual may collect DUA include: the self employed; persons with an injury caused by the disaster; persons who cannot reach the place of work; persons who cannot work due to damage to the place of work; and an individual who becomes the head of household and is seeking work because the former head of household died as a result of the disaster. Individuals are eligible for benefits for 26 weeks, but not for the additional federal TEUC. As of the February 4 deadline for DUA applications, the department had received 3,703 applications, approved 2,663 of these, disallowed 285 and was in the process of reviewing 755.

Current Status of Benefits

All of the extensions, EB, TEUC, and ABT, are cumulative and are provided to an individual in the following order: TEUC first; then EB; then ABT. Therefore, an individual who is currently unemployed would be eligible for the original 26 weeks of regular UI benefits and an additional 47 weeks of TEUC, for a total of 73 weeks of successive benefits. Additionally, certain individuals are eligible for an additional 26 weeks of ABT. Those individuals that are eligible for ABT can access up to 99 weeks of successive benefits, so long as they are enrolled in an approved training program.

CONCLUSION

The unemployment compensation program is a state/federal partnership that has operated since 1935, the midst of the Great Depression. The federal government establishes the parameters of the program and the states develop, implement, administer and monitor each program. The costs of the states' programs are funded jointly by federal and state taxes.

Background Paper: Unemployment Insurance - An Overview (Cont'd)

Currently, due to the recent economic recession, the unemployment compensation system is under financial stress nationwide, including in New Jersey. State UI programs nationwide are relying on federal dollars through the extension of benefits and the borrowing of federal dollars to support their state trust funds. New Jersey is one of 22 states, plus one territory, that owe the federal UI account almost $29.3 billion, as of March, 2013. In all likelihood, the State will continue to borrow and repay the federal UI account until at least May, 2014 through continued higher taxes on employers, continued assessments to repay the interest owed on the borrowed funds and an increase in the federal effective tax rate. It is presumed that the State will then begin to replenish the UI trust fund, and changes made by the Legislature to fortify the fund will enable it to maintain a balance into the future.

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Individuals wishing information and committee schedules on the FY 2014 budget are encouraged to contact:

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