2010 Legislative Wrap-Up Summary

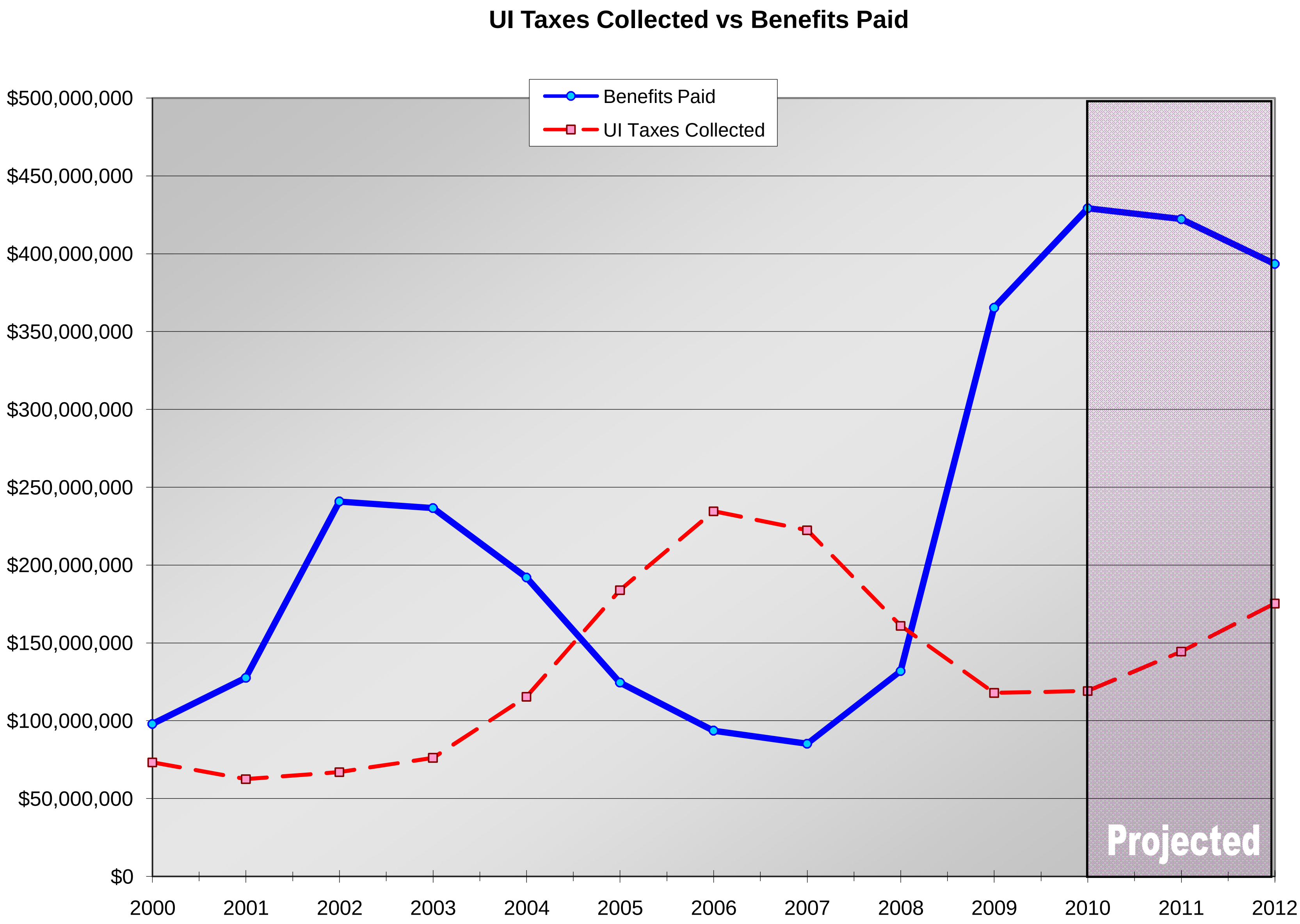
All of the department's bills passed both bodies and, although we took our share of budget cuts, we successfully defended the use of our special administration fund for employment-related purposes.

Major Funding Initiatives And Reallocations

During the 2010 General Session the Department's single line item was broken into three separate line items, Department of Workforce Services, Unemployment Insurance Administration, and Unemployment Compensation Fund for FY 2011. HB 2 also set up three additional line items that will come into effect in FY 2012. These are Department of Workforce Service-Administration, Department of Workforce Services-Policy and Operation, and Department of Workforce Services-General Assistance. These newly created line items will enable the Legislature to better understand how funds are appropriated and how the department is expending them.
The Legislatures passed an on-going reduction of $3,300,000 for Administrative, Technical and Program System Efficiencies, but also appropriated $2,000,000 one-time from the DWS Special Administrative Expense Fund. The Legislature also passed intent language that any funds are transferred between DWS schedule of programs need to be presented to the Legislature. In all, the department took a $6.6 million cut from the state's General Fund this year. However the department will still be able to maintain our caseload demand, and meet anticipated growth in caseloads in the coming year within our current staffing levels.

Bills Passed:

HB 18 - Unemployment Insurance Amendments
This bill modifies provisions of the Employment Security Act related to unemployment insurance benefits. It makes modifications to the definition of base period for purposes related to qualifying for unemployment insurance benefits and requires an annual report by the division on the impact of these modifications.
HB 43 - Unemployment Compensation Amendments
This bill modifies provisions in the Employment Security Act regarding the computation of individual weekly benefits for those whose benefit year begins after the termination of Pub. L. No. 111-5, Sec. 2002 as amended and the offset of Social Security benefits against the weekly benefit amount of unemployment compensation an individual is eligible to receive under the Act. It provides that Social Security benefits may not be offset against unemployment compensation weekly benefits under the Employment Security Act.
HB51 - Cash Assistance to Single Minor Parent
This minor change aligns Utah statute with existing federal regulations and current DWS policy that minor parents must attend school to be eligible for FEP benefits.
HB260 - Children's Health Insurance Plan Simplified Renewal
This bill requires the Children's Health Insurance Plan to apply for grants to fund a simplified renewal process.
SB127- Public Assistance Fraud Amendments
This bill modifies provisions relating to public assistance fraud, requires both earned and unearned income to be disclosed when an individual applies for public assistance; and allows the state agency administering the public assistance to request additional information it considers necessary to determine eligibility.
SB181- Employment Security Administration Fund Repealer
This bill repeals the Employment Security Administration Fund and makes conforming Utah Workforce Services Code, and Title 63J, Budgeting. This bill eliminates the Employment Security Administration Fund due to its obsolescence, allowing the Unemployment Insurance Division of the Department of Workforce Services to better meet its federal reporting requirements; and makes conforming and technical changes.


UI Taxes Collected vs Benefits Paid
Benefits Paid
UI Taxes Collected
$500,000,000
$450,000,000
$400,000,000
$350,000,000
$300,000,000
$250,000,000
$200,000,000
$150,000,000
$100,000,000
$50,000,000
$0
2000
2001
2002
2003
2004
2005
2006
2007
2008
2009
2010
2011
2012
Projected

Fiscal Year	Benefits Paid	UI Taxes Collected	Federal Extentions Paid
2000	$97,804,596	$73,229,619	
2001	$127,476,855	$62,531,396	(TEUC)
2002	$240,777,217	$67,025,817	$66,377,000
2003	$236,542,479	$76,222,390	$50,562,000
2004	$191,929,954	$115,462,044	$4,095,000
2005	$124,483,009	$183,899,861	
2006	$93,619,991	$234,516,020	
2007	$85,204,636	$222,348,544	(EUC+FAC)
2008	$131,830,170	$160,997,830	$22,438,994
2009	$365,181,246	$117,889,767	$228,865,379
2010	$429,058,716	$119,126,315	
2011	$422,125,087	$144,427,362	
2012	$393,356,949	$175,324,136	
Total:	$2,939,390,904	$1,753,001,103	$372,338,373

Proposed Reserve Factor Calculation | 2012

ACTUAL RESERVE BALANCE ABOVE THE 24 MONTH MAXIMUM			
IF THE ACTUAL RESERVE BALANCE IS BETWEEN:			
100% AND	105%	OF THE 24 MONTH MAXIMUM, THE RESERVE FACTOR IS:	0.95
105% AND	110%	OF THE 24 MONTH MAXIMUM, THE RESERVE FACTOR IS:	0.9
110% AND	115%	OF THE 24 MONTH MAXIMUM, THE RESERVE FACTOR IS:	0.85
115% AND	120%	OF THE 24 MONTH MAXIMUM, THE RESERVE FACTOR IS:	0.8
120% AND	125%	OF THE 24 MONTH MAXIMUM, THE RESERVE FACTOR IS:	0.75
125% AND	130%	OF THE 24 MONTH MAXIMUM, THE RESERVE FACTOR IS:	0.7
130% AND	135%	OF THE 24 MONTH MAXIMUM, THE RESERVE FACTOR IS:	0.65
135% AND	140%	OF THE 24 MONTH MAXIMUM, THE RESERVE FACTOR IS:	0.6
140% AND	145%	OF THE 24 MONTH MAXIMUM, THE RESERVE FACTOR IS:	0.55
145% AND	150%	OF THE 24 MONTH MAXIMUM, THE RESERVE FACTOR IS:	0.5
150% AND	155%	OF THE 24 MONTH MAXIMUM, THE RESERVE FACTOR IS:	0.45
155% AND	160%	OF THE 24 MONTH MAXIMUM, THE RESERVE FACTOR IS:	0.4
160% AND	165%	OF THE 24 MONTH MAXIMUM, THE RESERVE FACTOR IS:	0.35
165% AND	170%	OF THE 24 MONTH MAXIMUM, THE RESERVE FACTOR IS:	0.3
170% AND	175%	OF THE 24 MONTH MAXIMUM, THE RESERVE FACTOR IS:	0.25
175% AND	180%	OF THE 24 MONTH MAXIMUM, THE RESERVE FACTOR IS:	0.2
180% AND	185%	OF THE 24 MONTH MAXIMUM, THE RESERVE FACTOR IS:	0.15
185% AND	190%	OF THE 24 MONTH MAXIMUM, THE RESERVE FACTOR IS:	0.1
190% AND	above	OF THE 24 MONTH MAXIMUM, THE RESERVE FACTOR IS:	0.05

ACTUAL RESERVE BALANCE BELOW THE 18 MONTH MINIMUM			
IF THE ACTUAL RESERVE BALANCE IS BETWEEN:			
5% AND	10%	OF THE 18 MONTH MINIMUM, THE RESERVE FACTOR IS:	1.95
10% AND	15%	OF THE 18 MONTH MINIMUM, THE RESERVE FACTOR IS:	1.9
15% AND	20%	OF THE 18 MONTH MINIMUM, THE RESERVE FACTOR IS:	1.85
20% AND	25%	OF THE 18 MONTH MINIMUM, THE RESERVE FACTOR IS:	1.8
25% AND	30%	OF THE 18 MONTH MINIMUM, THE RESERVE FACTOR IS:	1.75
30% AND	35%	OF THE 18 MONTH MINIMUM, THE RESERVE FACTOR IS:	1.7
35% AND	40%	OF THE 18 MONTH MINIMUM, THE RESERVE FACTOR IS:	1.65
40% AND	45%	OF THE 18 MONTH MINIMUM, THE RESERVE FACTOR IS:	1.6
45% AND	50%	OF THE 18 MONTH MINIMUM, THE RESERVE FACTOR IS:	1.55
50% AND	55%	OF THE 18 MONTH MINIMUM, THE RESERVE FACTOR IS:	1.5
55% AND	60%	OF THE 18 MONTH MINIMUM, THE RESERVE FACTOR IS:	1.45
60% AND	65%	OF THE 18 MONTH MINIMUM, THE RESERVE FACTOR IS:	1.4
65% AND	70%	OF THE 18 MONTH MINIMUM, THE RESERVE FACTOR IS:	1.35
70% AND	75%	OF THE 18 MONTH MINIMUM, THE RESERVE FACTOR IS:	1.3
75% AND	80%	OF THE 18 MONTH MINIMUM, THE RESERVE FACTOR IS:	1.25
80% AND	85%	OF THE 18 MONTH MINIMUM, THE RESERVE FACTOR IS:	1.2
85% AND	90%	OF THE 18 MONTH MINIMUM, THE RESERVE FACTOR IS:	1.15
90% AND	95%	OF THE 18 MONTH MINIMUM, THE RESERVE FACTOR IS:	1.1
95% AND	100%	OF THE 18 MONTH MINIMUM, THE RESERVE FACTOR IS:	1.05

Trust Fund Balance	MinimumAdequate/Maximum Adequate		Reserve Ratio
($60,716,084)	$ 919,112,453 (18 Month Minimum Adequate)	-7%	2
	$ 1,228,124,398 (24 Month Maximum Adequate)	-5%	

* Note: Reserve Factor is 1.0 when the Trust Fund balance falls between the Max and Min Adiequate reserve levels.
** Note: Reserve Factor will be 2.0 when the Trust Fund becomes insolvent.

If the Actual Reserve Balance is Above the 100% Minimum Adequate or Below the 100% Maximum Adequate, the Reserve Factor is 1.0

Unemployment Insurance (UI) Trust Fund Solvency
June 9, 2010

WHY ARE SO MANY STATE UI PROGRAMS INSOLVENT?

There are two basic reasons why so many state UI programs are insolvent: (1) the Great Recession; and (2) many state trust funds were not prepared to weather a severe recession without borrowing.

Recessions offer significant challenges to state unemployment insurance trust funds in the form of increased benefit outlays, extended durations of claims and declines in taxable payrolls resulting in decreased UI tax revenues. The insolvency of many state UI trust funds is similar to the insolvency faced by states in the 1970s and 1980s, but worse. The depth and duration of the recession, and the unprecedented loss of jobs were prime contributors to trust fund insolvency. In Utah, prior to the recession, our average annual UI benefit payout was about $100 million per year average for 2005, 2006, and 2007; Utah anticipates they will pay out about $450 million average per year in 2009, 2010 and 2011.

The current recession probably will be the longest of the post-World War II era. The rate and extent of job losses in the current recession has exceeded those found in every recession since the 1970's. Of the 23 states that experienced increases in their unemployment rates above the national average of 9.7 percent, 19 have been forced to borrow to cover UI benefit costs.

Insufficient State UI Reserves

A way to gauge whether a state is prepared to weather a severe recession without borrowing is to compare: (1) its trust fund reserves relative to total covered wages paid by employers in the state during the most recent year to (2) state UI benefit costs relative to total covered wages paid by employers in the state in the year it experienced its highest benefit cost rate in the history of the program. (The benefit cost rate is benefits paid during the year divided by total covered wages paid by employers in the state that year.)

A ratio of (1) to (2) is called the "high-cost multiple." Such a ratio equal to one means a state has enough reserves to meet the highest UI benefit cost rate it has experienced in its history with its reserves alone. With unemployment tax revenue flowing into the state trust fund during the year, a state also has those funds available to cover UI benefit costs during the year. Recognizing a state can cover the costs of UI benefits from reserves and unemployment taxes flowing into the trust fund when a recession hits, a high-cost multiple (HCM) of at least 0.5 could be used as a rough gauge to assess if a state could weather a recession by spending its reserves and unemployment tax revenue flowing into the trust fund during a recession year. By this measure, at the beginning of this recession, 30 states were at risk of needing to borrow during a severe recession. All but one of these 30 states has borrowed to cover UI benefit costs already. Utah, unlike most states, was prepared to weather a historically medium to deep recession, Utah's trust fund was at $842 million on 12-31-07, our HCM was 1.15 (fifth highest in the country)

Another way to gauge state solvency is to refer to the "average high-cost multiple," which compares: (1) a state's trust fund reserves relative to total covered wages paid by employers in the state during the most recent year (same as the HCM) to (2) the average of state UI benefit costs relative to total covered wages paid by employers in the state in the last three recession years. The ratio of (1) to (2) is the average high-cost multiple (AHCM). An AHCM equal to one means a state has enough reserves to meet a recession comparable to the average of the last three recessions with its reserves alone. Just before the Great

Recession, five states had average high-cost multiples exceeding one and still had to borrow to pay benefits. All but one of the states with an AHCM less than 0.5 had to borrow during the Great Recession. And, 30 of the 35 state programs that had to borrow had AHCM's of less than 1.0. Utah had a 1.44 AHCM entering the recession.

Repayment of Loans

The Federal government imposes a separate federal UI payroll tax under the Federal Unemployment Tax Act (FUTA). The gross tax is levied on covered employers at a rate of 6.2 percent on wages up to $7,000 a year paid to a covered employee. However, FUTA provides a credit against the federal tax of 5.4 percent to employers in states with an approved state 5 unemployment insurance (UI) program and no overdue federal UI loans. If a state has a UI law that meets all federal requirements, as all states do, then its employers pay a base federal tax rate of 0.8 percent, or a maximum of $56 per covered employee, per year. Employers in states with overdue outstanding federal loans might pay a higher tax rate. FUTA tax revenues pay for federal and state UI and employment service administration, the federal half of the permanent federal-state extended benefits program, and federal loans to insolvent state UI programs.

Federal law contains an automatic repayment provision -- known as the FUTA credit reduction -- for states with loans that have been outstanding for roughly two to three years. Specifically, if a state has an outstanding loan on January 1st of two consecutive years and does not fully repay the advances by the November 10th following the second January 1st, the credit employers in the state receive on the Federal unemployment tax is reduced and the revenue generated from the credit is applied to the outstanding loan until it is repaid. Each year the loans are overdue, employers can lose at least 0.3 percentage point from the federal credit, which increases the net tax rate by 0.3 percentage point in the first year it is overdue for a tax rate of 1.1 percent, 0.6 percent in the second year it is overdue for a tax rate of 1.4 percent, and so on until the 5.4 percent credit is reduced to zero or the loan is repaid. Additional credit reductions after the first credit reduction might apply also.

Under permanent law, states are charged interest against most outstanding loans at a rate equal to the lower of 10 percent or the rate at which interest was paid on the state reserve balance in the federal unemployment trust fund for the last quarter of the preceding calendar year. The interest is normally due on the last day of the fiscal year in which the loans were made. Interest cannot be repaid, either directly or indirectly, from the repaying state's UI trust fund. Typically, a state is required to establish a "surcharge" to the UI tax to fund the interest paid on the loan. Reed Act monies cannot be used to pay any interest on federal loans. If a state fails to pay interest for any year on which it is due, the state could lose all of its FUTA offset credit (5.4 percent) for its employers as well as all grants for costs of administration until interest due has been paid.

Negative Consequences of Rapidly Increasing Employer Taxes and Cutting Benefits

In order to repay loans with state funds, states will need to build up trust fund reserves by raising taxes on employers or reducing benefit outlays or some combination of the two approaches; actions that could reduce the UI program's role as a prime federal government economic stabilizer and dampen consumer demand, job creation, and economic stability and growth. Increasing UI taxes, in particular, can have a detrimental effect on workers' wages and employment, especially if substantial tax increases occur too soon in the wake of a recession. Cutting benefits can reduce consumer demand and slow the economic recovery.

The burden of increased taxes on employers is mostly shifted to workers, particularly low-wage workers, in the form of decreased hiring or reduced fringe benefits or wages. Low-wage workers in particular are disproportionately affected because relatively low taxable wage bases apply only to the initial wages paid to a worker in a year. The federal taxable wage base of only $7,000, for example, hits employment of workers making, say, $20,000 per year, proportionately more than employment of workers making, say, $40,000 per year. For example, employers in industries that depend on low-wage workers may not hire as many workers as a result of a substantial UI tax increase. While tax increases might be necessary to restore the long-run balance in a state UI program, such measures during a recession could hurt the very workers the unemployment insurance system aims to help.

Status of State UI Loans

As of April 30, 2010, a total of 34 states and the Virgin Islands had borrowed more than $40 billion from the Federal Unemployment Account (FUA) in the federal Unemployment Trust Fund (UTF) to finance their unemployment benefits. By the end of FY 2012, USDOL projects as many as 40 states will have federal loans outstanding of more than $90 billion. In comparison, by the end of 1983, a total of 21 states and the District of Columbia had borrowed about $29 billion (in 2010 dollars).

The Recovery Act waived the charging of interest on federal advances to insolvent state UI programs from February 2009 to January 2011. NASWA supports extending this provision for two additional years. However, concerns have been expressed by solvent states about the "moral hazard" associated with interest-free loans; without the accrual of interest on outstanding loans, insolvent states are encouraged to borrow more funds and delay repaying the principal. In addition, solvent states realize that employers in their states will be required to pay added federal unemployment taxes in order to finance the interest-free loans. Solvent states also are concerned about the relatively low interest rate the federal government pays on their reserves that the federal government "borrows" from them for a long period. An interest rate nearer a long-term rate for sufficient reserves would provide a greater incentive for solvency.

Utah Unemployment Insurance Trust Fund

Utah has $384 million remaining in their UI Trust Fund, currently the fifth highest amount in the country. However this is down almost $500 million from a high of $855 million in July 2008 and is in jeopardy of going insolvent as early as the fall of 2011 if the unemployment claims level remains elevated for the next year. Fiscal year 2011 UI contributions are anticipated to be $144 million however benefits paid may be as high as $422 million using current OMB and GOBP forecast assumptions. While most Utah employers did not experience much, if any, UI tax increases in CY 2010, we anticipate most Utah employers will experience a 50 percent or more increase in CY 2011 based on statutory rate calculation increases. Utah's UI Trust last went insolvent in 1982 and 1983, to which Utah repaid the loan in less than one year.

Current Initiatives to help preserve Utah's UI Trust Fund

- Enhanced Integrity Effort: The UI Division recently increased staffing by 11 positions to increase our focus on the detection and collection of UI benefit overpayments. Utah has 12 data cross-matches for detecting fraud, the department estimates that for every federal administrative dollar spent we will collect five dollars in recoveries. We estimate we will bring in an additional $3.5 to the trust fund.

- Utah Back To Work Pilot: DWS has developed an initiative to provide Utah employers with an opportunity to re-employ approximately 3,700 Utah worker's. DWS targets two groups of unemployed job seekers; 2500 Unemployment Insurance (UI) claimants making less than $15 per hour in their last job who are currently receiving Unemployment Insurance (UI) benefits, and 700 eighteen to 24 year old young adults. A wage subsidy of up to $2,000 per participant for a maximum of 3 months will be provided to the employer for each employee they hire. ARRA funds will be used to fund the temporary subsidy and we anticipate we can save the UI trust fund about $3.5 million.

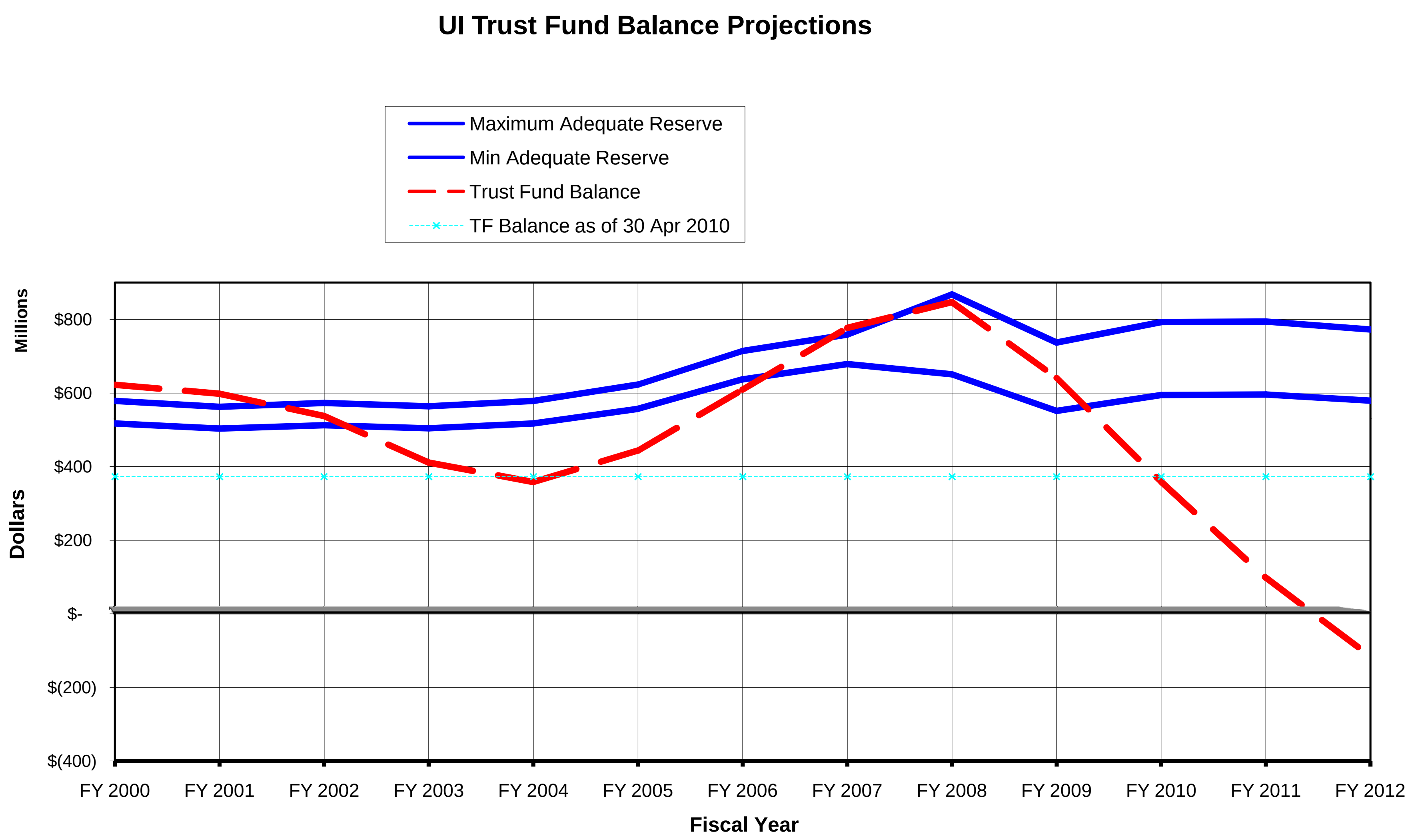
- Reemployment and Eligibility Assessment (REA) Grant: The Department was awarded a $1.3 million federal grant that will be focused on unattached UI claimants most likely to exhaust their UI benefits. The department envisioned it to be similar to the current Worker Profiling system, with the addition of a mandatory staff assisted component, to provide counseling, more in-depth assessments, and development of a work plan. The department feels that it would compliment the other re-employment initiatives and provides the necessary resources to cover most of the additional costs associated with the 10,000 UI customers that are required to participate during the first year. We anticipate we can save the UI trust fund about $4 million.

Potential Options to Consider

1) **Tax statute modifications:** The current statute (35A-4-303) defines an adequate reserve as the between 18 and 24 months of benefits at the average of the five highest benefit cost rates in the last 25 years. Consider expansion of the years to 40 to 50 years to capture the severe recessions of the early 1980s (only 1985 and earlier will currently be considered). This will result in a higher minimum and maximum reserve levels, which could impact, reserve factors. However, without a change to the Reserve factor statute we do not anticipate this would have any fiscal impact in the next few years.
2) **Tax statute modifications:** The current reserve factor is set between .5 and 1.0 if the actual reserve fund is greater than the "adequate" reserve level and is set at 1.0 to 1.5 if it is less than adequate and is set at 2.0 if the fund is insolvent. Consider expansion of the table to .05 to 1.0 if the actual reserve fund is greater than the "adequate" reserve level and is set at 1.0 to 1.95 if it is less than adequate. This would make further adjustments to the reserve factor when the fund is under or over funded and not have the current "cliff affect". See handout for current and proposed table.
3) **Benefit statute modifications:** The current statute (35a-4-401) established the weekly benefit amount at 1/26 of the individual's total wages for insured work paid during their highest base period quarter. The maximum is set at 62.5% of the insured average fiscal year weekly wage in the preceding fiscal year. Utah

currently pays an average weekly wage of $321 per week (18th nationally) and as a percentage of our average weekly wage 44.4% (10th nationally). Consider a reduction or temporary reduction in the weekly and maximum weekly benefit amount. For every $1 reduction in the WBA the Trust would save about $1 million dollars in benefits in FY 2012 and 2013.

4) **Employee Contributions to the Fund:** Currently 3 states require employees to contribute to the trust fund via a tax withholding. The negative consequence to this consideration is that it places a large administrative burden on the employer; a simple benefit reduction accomplishes the same savings to the trust fund.
5) **Do Nothing:** Many are confident that the federal government will continue to provide interest free loans past the current 12-31-2010 termination date.


UI Trust Fund Balance Projections
Maximum Adequate Reserve
Min Adequate Reserve
Trust Fund Balance
TF Balance as of 30 Apr 2010
Millions
Dollars
$800
$600
$400
$200
$-
$(200)
$(400)
FY 2000
FY 2001
FY 2002
FY 2003
FY 2004
FY 2005
FY 2006
FY 2007
FY 2008
FY 2009
FY 2010
FY 2011
FY 2012
Fiscal Year

UI Trust Fund Reserve Factor and Social Cost Calculation

Rates (projected after Rate Year 2010)*~

TF Balance as of:		Min Adequate	Max Adequate	Rate Year	Reserve Factor	Social Cost
FY 2000	$621,831,305	$ 516,599,225	$ 577,930,640	2001	0.90	0.001
FY 2001	$597,903,149	$ 503,232,550	$ 562,147,580	2002	0.90	0.001
FY 2002	$536,808,278	$ 511,885,663	$ 572,404,165	2003	1.10	0.001
FY 2003	$410,479,072	$ 503,876,130	$ 563,447,692	2004	1.20	0.003
FY 2004	$357,430,362	$ 516,819,985	$ 577,921,855	2005	1.40	0.004
FY 2005	$443,349,626	$ 556,497,422	$ 622,290,221	2006	1.25	0.004
FY 2006	$608,932,574	$ 636,792,920	$ 713,592,066	2007	1.05	0.003
FY 2007	$776,678,787	$ 678,248,835	$ 758,247,416	2008	0.95	0.001
FY 2008	$846,618,918	$ 650,511,143	$ 867,348,191	2009	1.00	0.002
FY 2009	$640,429,491	$ 550,838,639	$ 736,836,102	2010	1.00	0.002
FY 2010	$358,527,871	$ 594,255,719	$ 792,340,959	2011	1.45	0.003
FY 2011	$97,270,996	$ 595,526,439	$ 794,035,251	2012	1.50	0.004
FY 2012	-$116,078,395	$ 578,946,162	$ 771,928,216	2013	2.00	0.005

***Min/Max adequate 18-24 months after Rate Year 2008.**

~ Social Costs rounded to third decimal place after FY 2008.

payment of benefits) is $384 million 6-7-2010

<u>UI Tax Rate Calculations and Explanations</u>

<u>Benefit Costs</u>   X   Reserve Factor   +   Social Rate = Overall Tax Rate
Taxable Wages

Benefit Costs: Unemployment benefits paid to former employees that are charged to the employers account for the previous four fiscal years ending June 30^{th}.

Taxable Wages: Total taxable wages reported by the employer for the previous four fiscal years ending June 30^{th}.
(i.e. – taxable wage base for 2009 = $27,800 per employee, for 2010 = $28,300)

Reserve Factor: A multiplier (factor), which is adjusted up or down on an annual basis depending on the overall health of the UI Trust Fund balance. That formula is based on maintaining a balance in the Trust Fund that can fund 17 to 19 months (18 to 24 months effective 1-1-2009) of benefits during a severe economic downturn. The Reserve Factor is set at 1.0 when the Trust Fund balance falls between the Maximum and Minimum Adequate Reserve levels. The Reserve Factor is expected to increase from 1.0 to 1.45 for 2011 tax rates.

Social Rate: This rate is determined by benefit costs that cannot be charged to specific employers and is added to the UI tax rate for <u>all employers</u>; this is the minimum tax rate available. About 66% of all experienced rated employers have the minimum rate in 2010 (.002). The social rate is calculated using "social costs" for the previous four fiscal years.

Examples of the most common social costs (for the four fiscal years ending 6/30/09):

- Benefit Costs from which employers have been granted relief of charges (79%)
- Benefit Costs of employers who have gone out of business with no successor (15%)
- Benefit Costs, which exceed the calculated maximum tax rate of 9.2% (3%)
- Uncollectible Benefit overpayments (3%)

Section 35A-4-303: Determines contribution rate formula, taxable wages, reserve factor, and the social cost rate for all experience rated and new employers. New employers are assigned the average rate for their industry but not less than 1 percent. Employers become experience rated after they have one fiscal year of payroll.

(Prepared by Bill Starks, UI Director 6-9-2010)

Reserve Factor Calculation

CY 2010

ACTUAL RESERVE BALANCE ABOVE THE 24 MONTH MAXIMUM			
IF THE ACTUAL RESERVE BALANCE IS BETWEEN:			
100% AND	105%	OF THE 24 MONTH MAXIMUM, THE RESERVE FACTOR IS:	0.95
105% AND	110%	OF THE 24 MONTH MAXIMUM, THE RESERVE FACTOR IS:	0.9
110% AND	115%	OF THE 24 MONTH MAXIMUM, THE RESERVE FACTOR IS:	0.85
115% AND	120%	OF THE 24 MONTH MAXIMUM, THE RESERVE FACTOR IS:	0.8
120% AND	125%	OF THE 24 MONTH MAXIMUM, THE RESERVE FACTOR IS:	0.75
125% AND	130%	OF THE 24 MONTH MAXIMUM, THE RESERVE FACTOR IS:	0.7
130% AND	135%	OF THE 24 MONTH MAXIMUM, THE RESERVE FACTOR IS:	0.65
135% AND	140%	OF THE 24 MONTH MAXIMUM, THE RESERVE FACTOR IS:	0.6
140% AND	145%	OF THE 24 MONTH MAXIMUM, THE RESERVE FACTOR IS:	0.55
145% AND	Above	OF THE 24 MONTH MAXIMUM, THE RESERVE FACTOR IS:	0.5

ACTUAL RESERVE BALANCE BELOW THE 18 MONTH MINIMUM			
IF THE ACTUAL RESERVE BALANCE IS BETWEEN:			
0% AND	55%	OF THE 18 MONTH MINIMUM, THE RESERVE FACTOR IS:	1.5
55% AND	60%	OF THE 18 MONTH MINIMUM, THE RESERVE FACTOR IS:	1.45
60% AND	65%	OF THE 18 MONTH MINIMUM, THE RESERVE FACTOR IS:	1.4
65% AND	70%	OF THE 18 MONTH MINIMUM, THE RESERVE FACTOR IS:	1.35
70% AND	75%	OF THE 18 MONTH MINIMUM, THE RESERVE FACTOR IS:	1.3
75% AND	80%	OF THE 18 MONTH MINIMUM, THE RESERVE FACTOR IS:	1.25
80% AND	85%	OF THE 18 MONTH MINIMUM, THE RESERVE FACTOR IS:	1.2
85% AND	90%	OF THE 18 MONTH MINIMUM, THE RESERVE FACTOR IS:	1.15
90% AND	95%	OF THE 18 MONTH MINIMUM, THE RESERVE FACTOR IS:	1.1
95% AND	100%	OF THE 18 MONTH MINIMUM, THE RESERVE FACTOR IS:	1.05

Trust Fund Balance ÷	MinimumAdequate/Maximum Adequate		Reserve Ratio
$344,027,291	$ 594,255,719 (18 Month Minimum Adequate)	58%	1.45
	$ 792,340,959 (24 Month Maximum Adequate)	43%	

* Note: Reserve Factor is 1.0 when the Trust Fund balance falls between the Max and Min Adiequate reserve levels.
** Note: Reserve Factor will be 2.0 when the Trust Fund becomes insolvent.

If the Actual Reserve Balance is Above the 100% Minimum Adequate or Below the 100% Maximum Adequate, the Reserve Factor is 1.0

35A-4-303. **Determination of contribution rates.**

(1) (a) An employer's basic contribution rate is the same as the employer's benefit ratio, determined by dividing the total benefit costs charged back to an employer during the immediately preceding four fiscal years by the total taxable wages of the employer for the same time period, calculated to four decimal places, disregarding the remaining fraction, if any.

(b) In calculating the basic contribution rate under Subsection (1)(a):

(i) if four fiscal years of data are not available, the data of three fiscal years shall be divided by the total taxable wages for the same time period;

(ii) if three fiscal years of data are not available, the data of two fiscal years shall be divided by the total taxable wages for the same time period; or

(iii) if two fiscal years of data are not available, the data of one fiscal year shall be divided by the total taxable wages for the same time period.

(2) (a) In calculating the social contribution rate under Subsection (2)(b) or (c):

(i) if four fiscal years of data are not available, the data of three fiscal years shall be divided by the total taxable wages for the same time period; or

(ii) if three fiscal years of data are not available, the data of two fiscal years shall be divided by the total taxable wages for the same time period.

(b) Beginning January 1, 2005, the division shall calculate the social contribution rate by dividing all social costs as defined in Subsection 35A-4-307(1) applicable to the preceding four fiscal years by the total taxable wages of all employers subject to contributions for the same period, calculated to four decimal places, disregarding any remaining fraction.

(c) Beginning January 1, 2009, the division shall calculate the social contribution rate by dividing all social costs as defined in Subsection 35A-4-307(1) applicable to the preceding four fiscal years by the total taxable wages of all employers subject to contributions for the same period, calculated to four decimal places, disregarding any remaining fraction, and rounded to three decimal places, disregarding any further fraction, if the fourth decimal place is .0004 or less, or rounding up to the next higher number, if the fourth decimal place is .0005 or more.

(3) (a) Beginning January 1, 2000, the division shall by administrative decision set the reserve factor at a rate that shall sustain an adequate reserve.

(b) For the purpose of setting the reserve factor:

(i) (A) the adequate reserve is defined as between 17 and 19 months of benefits at the average of the five highest benefit cost rates in the last 25 years;

(B) beginning January 1, 2009, the adequate reserve is defined as between 18 and 24 months of benefits at the average of the five highest benefit cost rates in the last 25 years;

(ii) the reserve factor shall be 1.0000 if the actual reserve fund balance as of June 30 preceding the computation date is determined to be an adequate reserve;

(iii) the reserve factor will be set between 0.5000 and 1.0000 if the actual reserve fund balance as of June 30 preceding the computation date is greater than the adequate reserve;

(iv) the reserve factor will be set between 1.0000 and 1.5000 if the actual reserve fund balance as of June 30 prior to the computation date is less than the adequate reserve;

(v) if the actual reserve fund balance as of June 30 preceding the computation date is insolvent or negative or if there is an outstanding loan from the Federal Unemployment Account, the reserve factor will be set at 2.0000 until the actual reserve fund balance as of June 30 preceding the computation date is determined to be an adequate reserve;

(vi) the reserve factor will be set on or before January 1 of each year; and

(vii) monies made available to the state under Section 903 of the Social Security Act, as amended, which are received on or after January 1, 2004, may not be considered in establishing the reserve factor under this section for the rate year 2005 or any subsequent rate year.

(4) (a) On or after January 1, 2004, an employer's overall contribution rate is the employer's basic contribution rate multiplied by the reserve factor established according to Subsection (3), calculated to four decimal places, disregarding the remaining fraction, plus the social contribution rate established according to Subsection (2), and calculated to three decimal places, disregarding the remaining fraction, but not more than a maximum overall contribution rate of 9.0%, plus the applicable social contribution rate and not less than 1.1% for new employers.

(b) Beginning January 1, 2009, an employer's overall contribution rate is the employer's basic contribution rate multiplied by the reserve factor established according to Subsection (3)(b), calculated to four decimal places, disregarding the remaining fraction, plus the social contribution rate established according to Subsection (2), and calculated to three decimal places, disregarding the remaining fraction, but not more than a maximum overall contribution rate of 9%, plus the applicable social contribution rate and not less than 1.1% for new employers.

(c) The overall contribution rate does not include the addition of any penalty applicable to an employer as a result of delinquency in the payment of contributions as provided in Subsection (9).

(d) The overall contribution rate does not include the addition of any penalty applicable to an employer assessed a penalty rate under Subsection 35A-4-304(5)(a).

(5) Except as provided in Subsection (9), each new employer shall pay a contribution rate based on the average benefit cost rate experienced by employers of the major industry as defined by department rule to which the new employer belongs, the basic contribution rate to be determined as follows:

(a) Except as provided in Subsection (5)(b), by January 1 of each year, the basic contribution rate to be used in computing the employer's overall contribution rate is the benefit cost rate which is the greater of:

(i) the amount calculated by dividing the total benefit costs charged back to both active and inactive employers of the same major industry for the last two fiscal years by the total taxable wages paid by those employers that were paid during the same time period, computed to four decimal places, disregarding the remaining fraction, if any; or

(ii) 1%.

(b) If the major industrial classification assigned to a new employer is an industry for which a benefit cost rate does not exist because the industry has not operated in the state or has not been covered under this chapter, the employer's basic contribution rate shall be 5.4%. This basic contribution rate is used in computing the employer's overall contribution rate.

(6) Notwithstanding any other provision of this chapter, and except as provided in Subsection (7), if an employing unit that moves into this state is declared to be a qualified employer because it has sufficient payroll and benefit cost experience under another state, a rate shall be computed on the same basis as a rate is computed for all other employers subject to this

chapter if that unit furnishes adequate records on which to compute the rate.

(7) An employer who begins to operate in this state after having operated in another state shall be assigned the maximum overall contribution rate until the employer acquires sufficient experience in this state to be considered a "qualified employer" if the employer is:

(a) regularly engaged as a contractor in the construction, improvement, or repair of buildings, roads, or other structures on lands;

(b) generally regarded as being a construction contractor or a subcontractor specialized in some aspect of construction; or

(c) required to have a contractor's license or similar qualification under Title 58, Chapter 55, Utah Construction Trades Licensing Act, or the equivalent in laws of another state.

(8) (a) If an employer acquires the business or all or substantially all the assets of another employer and the other employer had discontinued operations upon the acquisition or transfers its trade or business, or a portion of its trade or business, under Subsection 35A-4-304(3)(a):

(i) for purposes of determining and establishing the acquiring party's qualifications for an experience rating classification, the payrolls of both employers during the qualifying period shall be jointly considered in determining the period of liability with respect to:

(A) the filing of contribution reports;

(B) the payment of contributions; and

(C) after January 1, 1985, the benefit costs of both employers;

(ii) the transferring employer shall be divested of the transferring employer's unemployment experience provided the transferring employer had discontinued operations, but only to the extent as defined under Subsection 35A-4-304(3)(c); and

(iii) if an employer transfers its trade or business, or a portion of its trade or business, as defined under Subsection 35A-4-304(3), the transferring employer may not be divested of its employer's unemployment experience.

(b) An employing unit or prospective employing unit that acquires the unemployment experience of an employer shall, for all purposes of this chapter, be an employer as of the date of acquisition.

(c) Notwithstanding Section 35A-4-310, when a transferring employer, as provided in Subsection (8)(a), is divested of the employer's unemployment experience by transferring all of the employer's business to another and by ceasing operations as of the date of the transfer, the transferring employer shall cease to be an employer, as defined by this chapter, as of the date of transfer.

(9) (a) A rate of less than 8% shall be effective January 1 of any contribution year on or after January 1, 1985, but before January 1, 1988, and a rate of less than the maximum overall contribution rate on or after January 1, 1988, only with respect to new employers and to those qualified employers who, except for amounts due under division determinations that have not become final, paid all contributions prescribed by the division with respect to the four consecutive calendar quarters in the fiscal year immediately preceding the computation date on or after January 1, 1985.

(b) Notwithstanding Subsections (1), (5), (6), and (8), on or after January 1, 1988, an employer who fails to pay all contributions prescribed by the division with respect to the four consecutive calendar quarters in the fiscal year immediately preceding the computation date, except for amounts due under determinations that have not become final, shall pay a contribution rate equal to the overall contribution rate determined under the experience rating provisions of this chapter, plus a surcharge of 1% of wages.

(c) An employer who pays all required contributions shall, for the current contribution year, be assigned a rate based upon the employer's own experience as provided under the experience rating provisions of this chapter effective the first day of the calendar quarter in which the payment was made.

(d) Delinquency in filing contribution reports shall not be the basis for denial of a rate less than the maximum contribution rate.