UI 101

A Brief Overview
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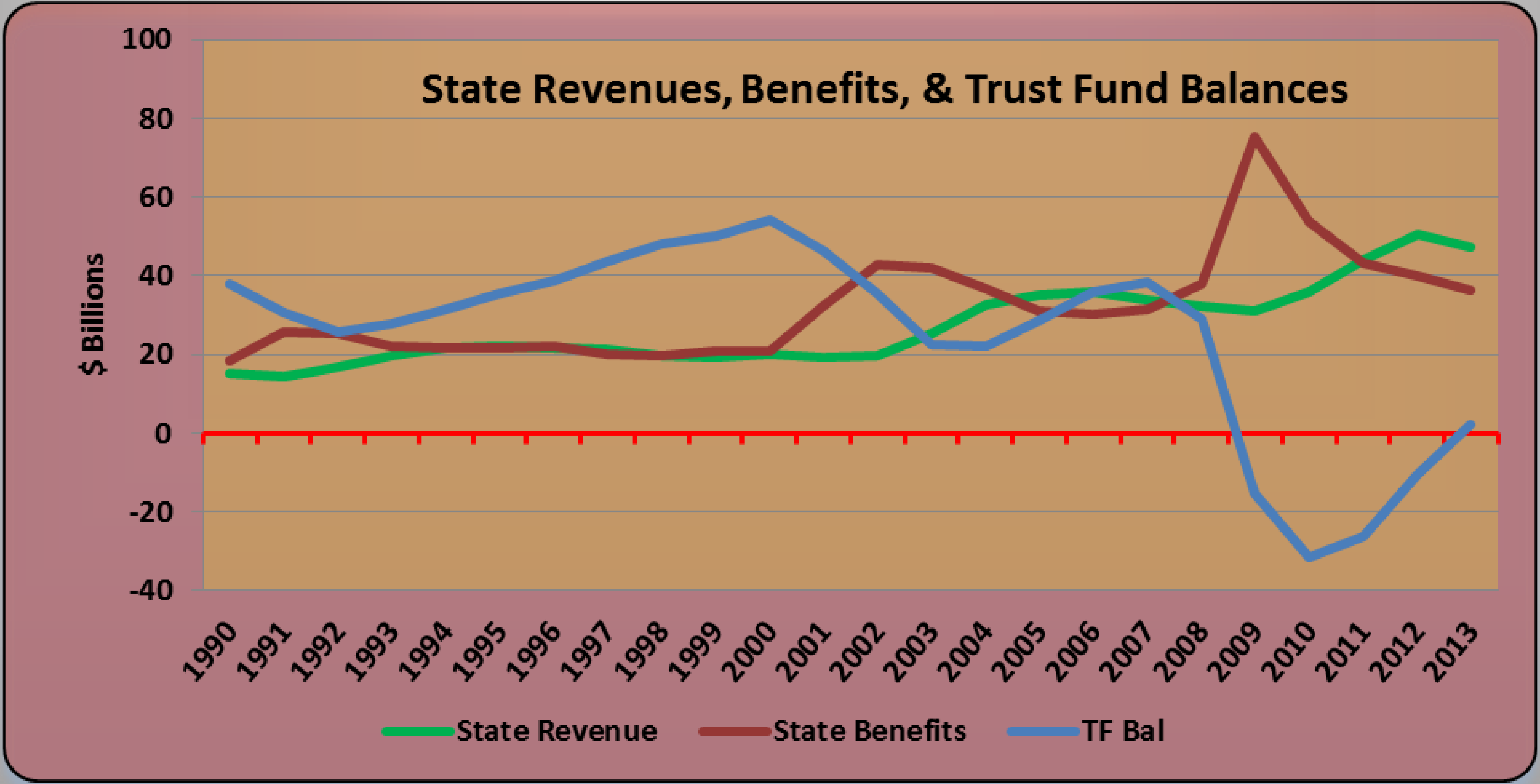
UI 101 Course Outline

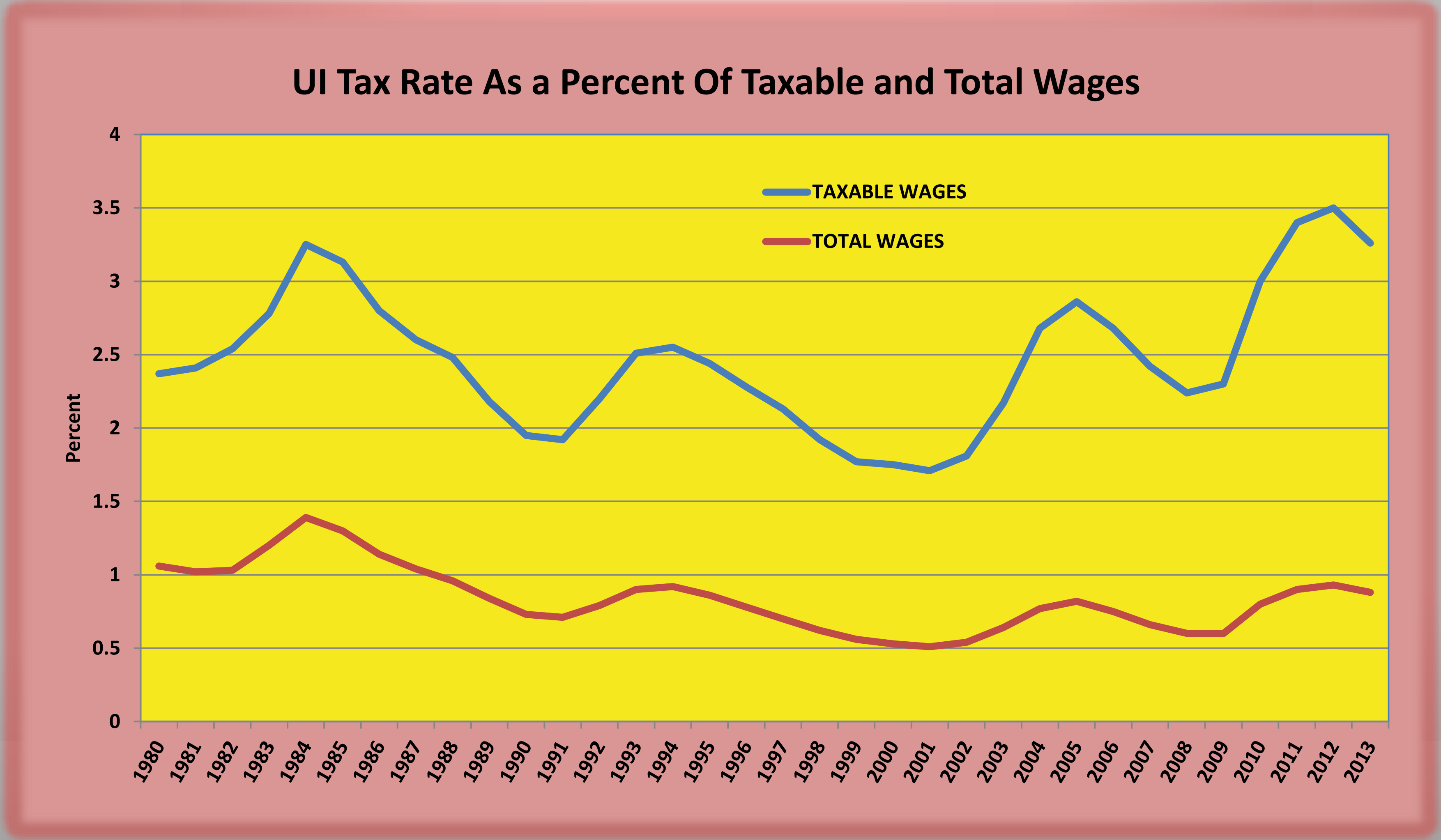
- Overview (JVE)
- Coverage (RAH)
- Financing (JVE)
- Benefits (RAH)
- Administration (JVE)
- Reemployment (RAH)

Overview

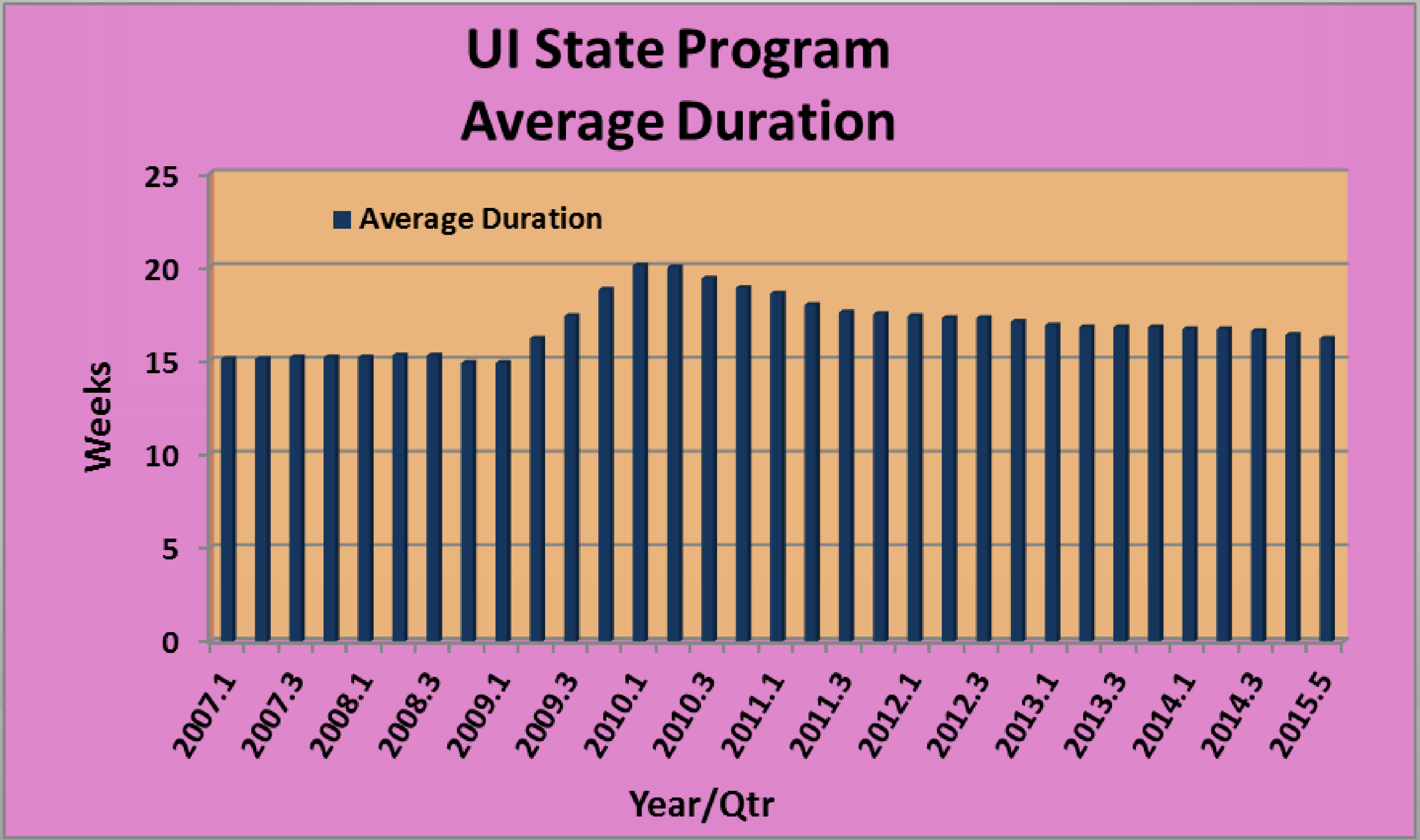
UI Revenue, Benefits, TF Balances



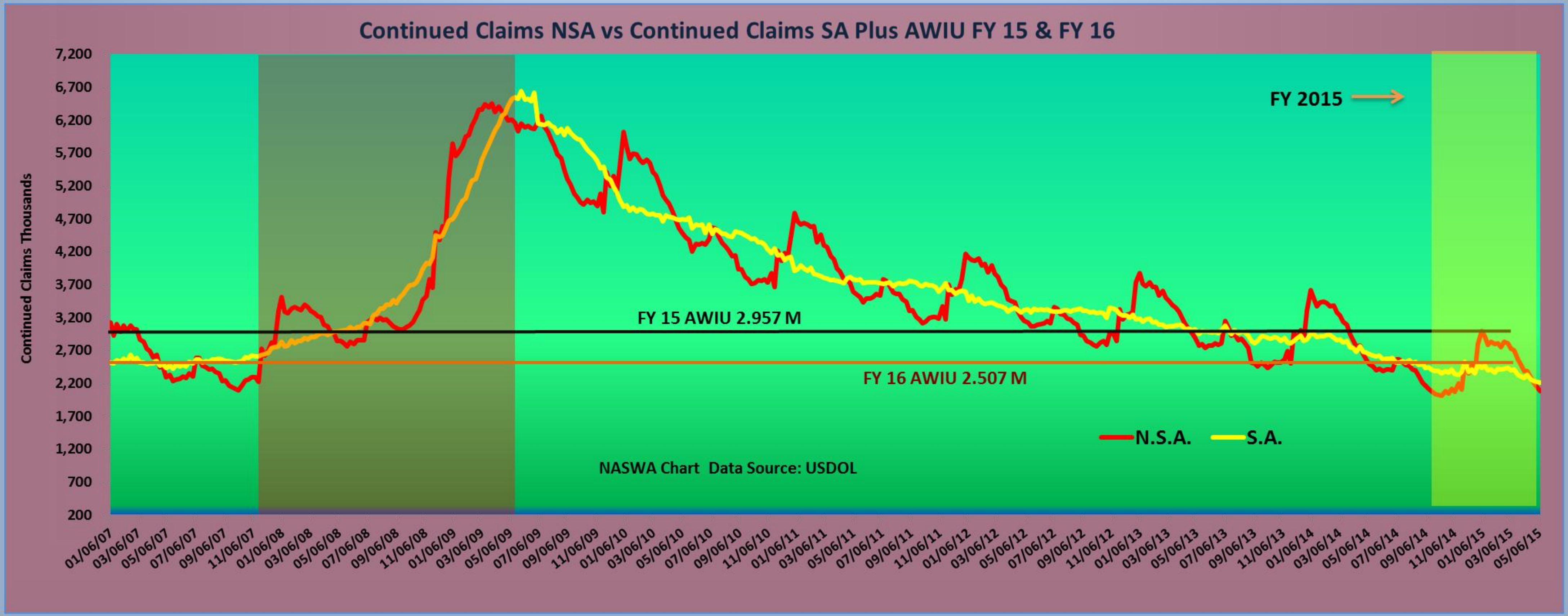
UI Tax Rates Comparison



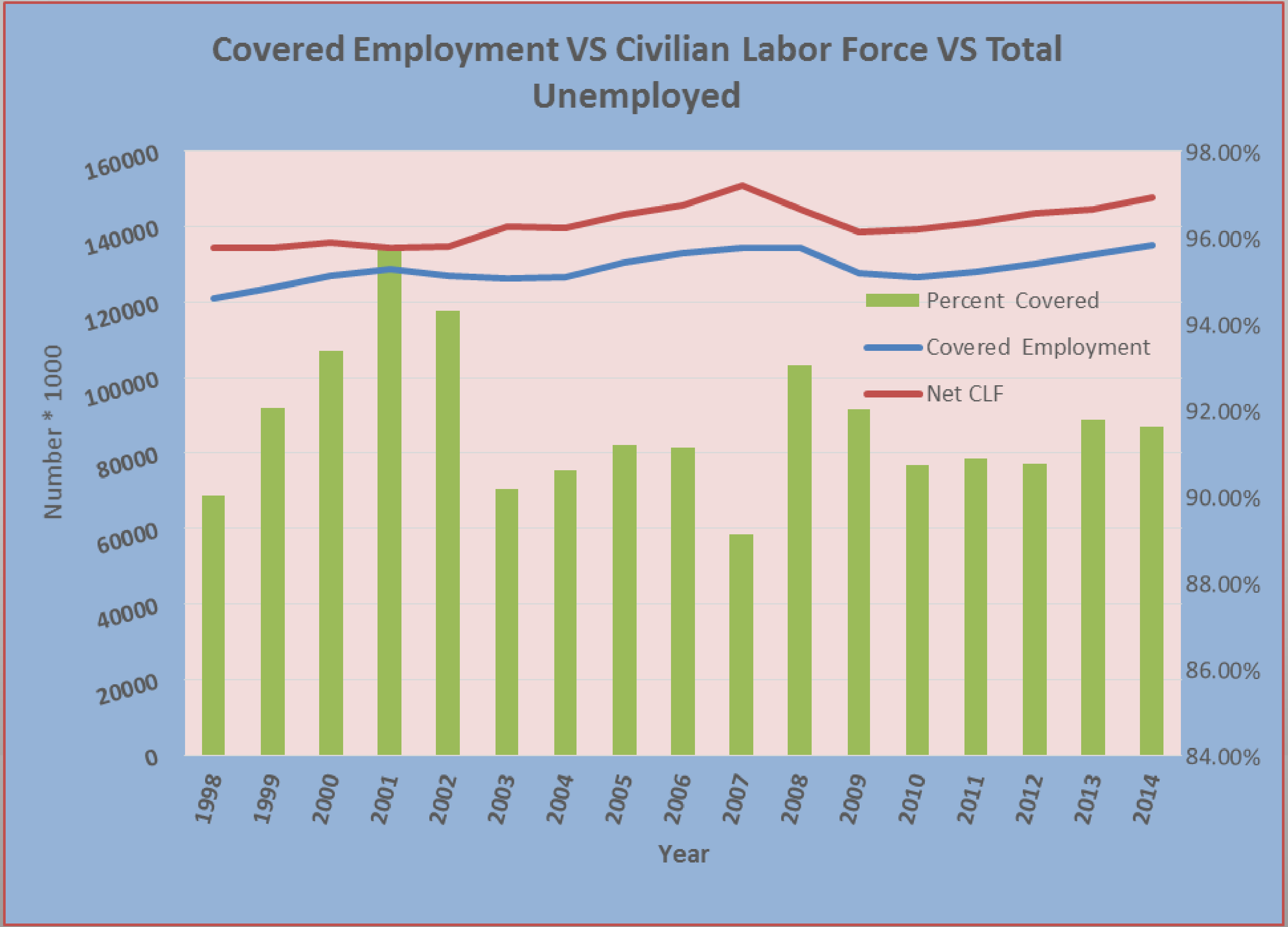
UI Average Duration-Regular Program



UI Continued Claims

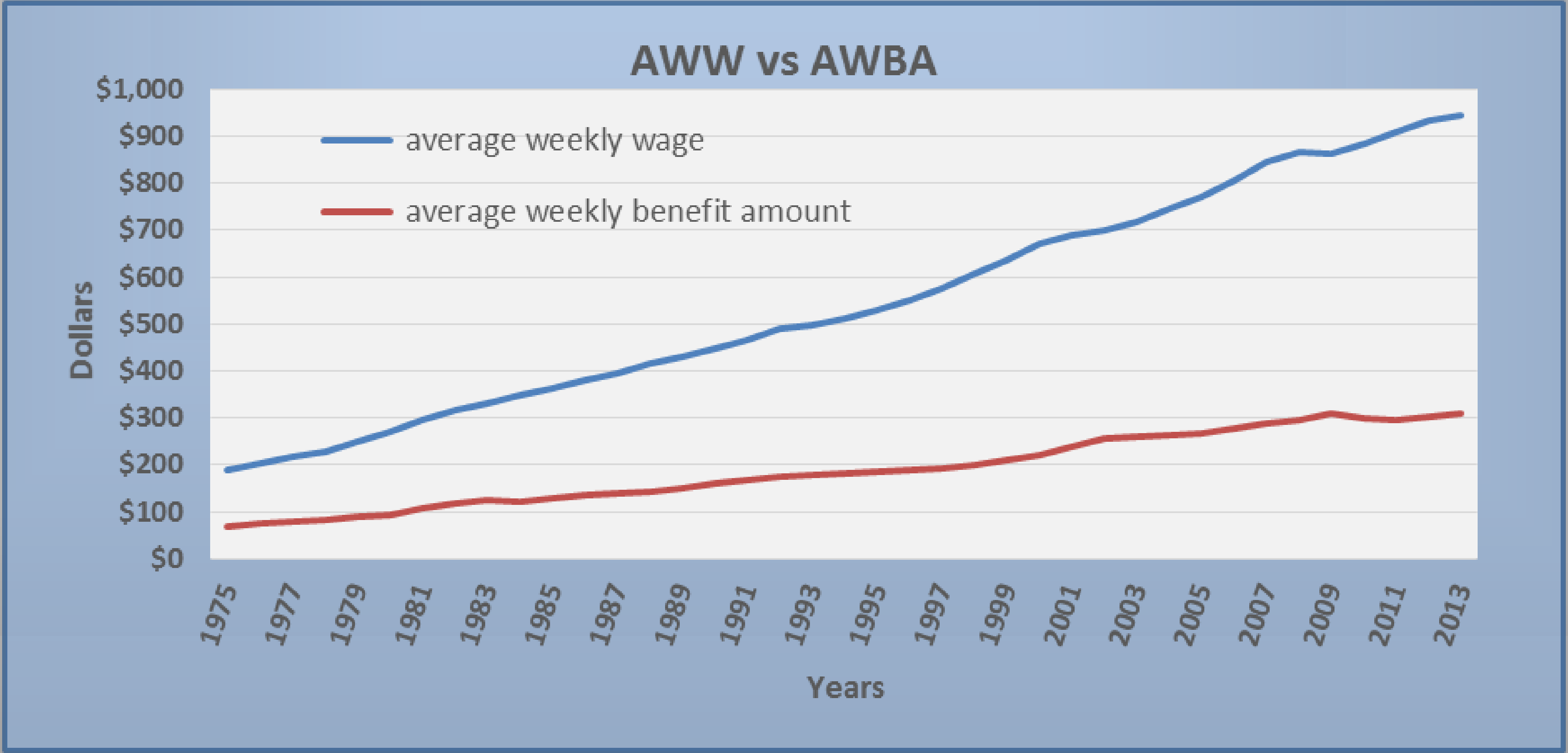


Coverage

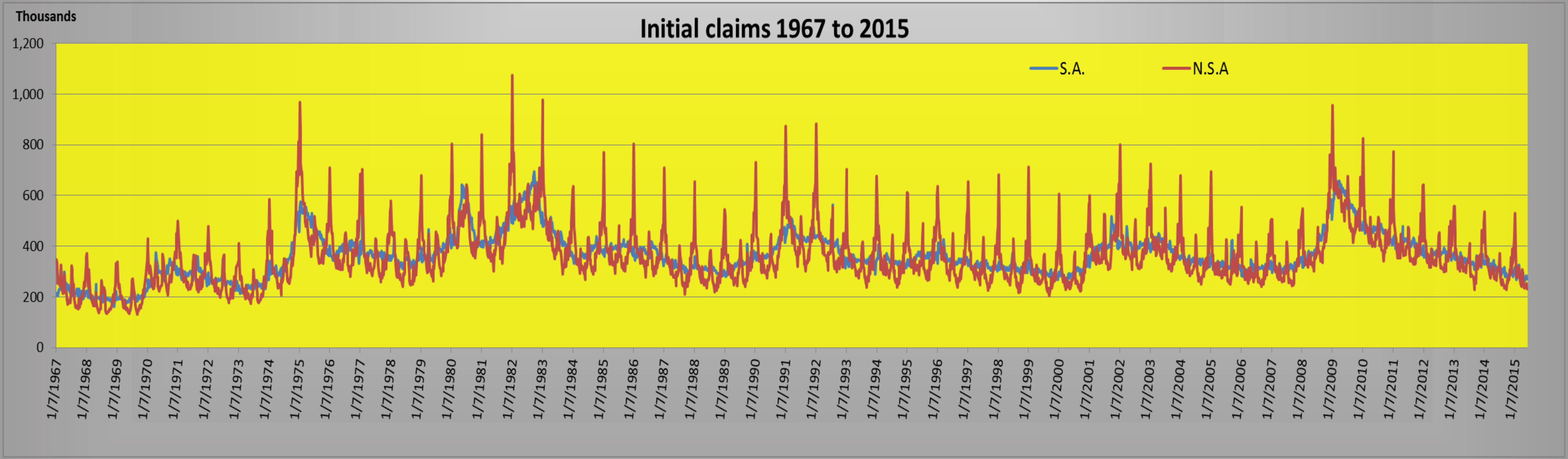


Covered Employment VS Civilian Labor Force VS Total Unemployed
160000
140000
120000
100000
80000
60000
40000
20000
0
Number * 1000
98.00%
96.00%
94.00%
92.00%
90.00%
88.00%
86.00%
84.00%
Percent Covered
Covered Employment
Net CLF
1998
1999
2000
2001
2002
2003
2004
2005
2006
2007
2008
2009
2010
2011
2012
2013
2014
Year

Average Weekly Wage vs Average Weekly Benefit



UI Data History—Initial Claims



UI In Perspective

- An *Insurance Program* that:
  - Provides workers who have lost their job through no fault of their own with payments for a given period of time or until they find a new job;
  - Provides the U.S. economy with additional consumer spending during an economic downturn;
  - Is established under a unique federal-state partnership;
  - Has a combination of federal and state taxes levied on employers to fund state-administered programs;
    - Federal funds are used primarily for administrative costs and half of the federal state extended benefits program;
    - State funds are determined by each state that establishes which employers are obligated to pay state unemployment taxes to fund benefit payments

UI For Workers

- Any individual who qualifies under the terms of the state unemployment compensation law is *entitled* to collect benefits;
- Eligible individuals must have worked for a certain minimum number of weeks and earned wages in the amount set by state law;
- An unemployed worker is not required to submit proof of financial need, anyone who qualifies has a right to collect benefits;
- During economic recessions the federal government has provided emergency assistance to allow states to extend the time individuals can receive benefits;
- State benefits are paid thru funds they have deposited in state accounts of the Federal Unemployment Trust Fund.

UI & ES A Brief History

- 1930's Three areas of Focus:
  - Creation of social welfare programs
  - Wagner-Peyser Act 1933
  - Social Security Act 1935

Wagner-Peyser Act 1933

- Three months after taking office as president, Franklin D. Roosevelt signed the Wagner-Peyser Act on June 6, 1933.
- The Wagner-Peyser Act establishing a nationwide network of public employment service (ES) offices.
- The ES played a key role in economic recovery from the Great Depression by referring jobless workers to available private sector jobs as well as to newly created public sector jobs
- Created first public labor exchange service
- Provides labor related services to employers and job seekers
- The ES continues to serve as the core for the national One-Stop delivery system established by the Workforce Investment Act of 1998.

US Activity Early 20th Century III

- Wisconsin acted as pioneer state, passing a UI law in January 1932.
  - Covered employers with 10 or more employees
  - Payroll tax on employers two percent on payroll
  - Revenue went to state controlled individual employer fund until $55 per employee was accumulated.
  - After $55, the rate dropped to one percent until $75/employee was paid.
- Employees entitled to 10 weeks of benefits, not to exceed 50 percent of average weekly wage or $10/week.

Why a Federal-State System?

- State-only programs were not working.
- Exclusively Federal system would be cumbersome and difficult.
- Federal-State system lessened disadvantages in interstate competition while allowing wide latitude for experimentation.

Federal “Requirements”

- Concerns about the constitutionality of Federal requirements led to an incentives system:
  - States are given a strong inducement to comply with Federal law.
  - States technically have a choice whether or not to establish their unemployment compensation programs in compliance with the provisions of Federal law.
  - Federal Unemployment Tax Act (FUTA) lets employers take credit against the Federal UI tax if their states’ UI programs comply with Federal law.

The Social Security Act

The Social Security Act of 1935 spelled out the provisions for UI:

- Title IX provided for:
  - The employer tax,
  - Specified exclusions from coverage,
  - Established standards that state systems must meet, and
  - Set up rules for developing an experience rating.
- Title III was concerned with administration.

Federal Unemployment Tax Act (FUTA)

- Substantial parts of Title IX (taxing provisions) were repealed and reenacted (1939) as FUTA.
- Moved the taxing provision in Title IX of the Social Security Act to the Internal Revenue Code, Chapter 23:
  - Section 3301 – Imposes tax
  - Section 3302 – Credits against tax
  - Section 3303 – Additional credit conditions (experience rating)
  - Section 3304 – Normal credit conditions

Significant Amendments

Significant Amendments:

- Allowing employers to make voluntary contributions;
- The Reed Act which allows excess federal funds to be returned to states and the establishment of a loan fund to help states pay benefits when their trust funds are depleted;
- Creation of a permanent extended benefit program;
- Extension of coverage to non-profits, agriculture, state and local government workers;
- Establishment of the Trade Adjustment Assistance Program; and
- Establishment of various additional extended benefit programs.

Coverage

UI Coverage

- Federal law does not technically "cover" services because no benefit rights accrue under Federal law except for service performed for the Federal government and railroads, which have separate Federal programs.
- The Federal Unemployment Tax Act (FUTA) tax influences coverage because employers who pay taxes under federally approved state UI laws may credit or "offset" their state taxes.
- Services performed for state/local governments, certain nonprofit organizations and federally recognized Indian tribes are not covered by FUTA but federal law requires states to cover them anyway.
- Federal and state definitions of employment exclude certain types of services and states generally have incorporated federal exclusions although they are not required to do so.

Covered Employers

- Except for agricultural and domestic service, FUTA applies to employing units who, <u>during any calendar quarter in the current or preceding calendar year, paid wages of at least $1,500</u>,
- <u>or had one or more workers on at least one day in each of 20 weeks</u>.
- 22 states have more inclusive definitions;

Agricultural Employment

- FUTA covers agricultural labor in employing units that paid wages in cash of <u>at least $20,000 in any calendar quarter in the current or preceding calendar year</u>,
- <u>or employed at least 10 workers on at least one day in each of 20 different weeks</u>.
- 10 states have more inclusive definitions.

Domestic Employment

- FUTA covers an employer who, during any calendar quarter in the current or preceding calendar year, paid wages in cash of $1,000 for domestic service in a private home, local college club, or local chapter of a college fraternity or sorority.
- 6 states have more inclusive definitions.

Employer-Employee Relationship

- More than half of the states use the “ABC” test, which means a worker is an employee unless the employee meets each of these conditions:
  - Free from direction or control in the work;
  - Outside the usual course of business; and
  - Customarily engaged in independent trade, occupation, profession or business.
- Nearly half of the states have additional tests.

Excluded Employment

- State exclusions generally follow FUTA, but also have additional exclusions.
- Self-employment is an important exclusion.
- Examples of exclusions include insurance and real estate agents on commission, part-time service for certain nonprofit organizations, service for relatives and service by students and spouses.

Officers of Corporations

- FUTA covers officers of corporations.
- Some states exclude officers of corporations, but employers of corporate officers are liable for the full FUTA tax on wages paid to these individuals
- If, instead, corporate officers were covered in a state, employers would be eligible for a specified percentage tax credit for payment of state taxes on the officers wages.
- 15 states have exclusions to this coverage.

Coverage by Federal Requirement

- Certain services performed for nonprofit organizations, state and local governments, and Indian tribes must be covered as a condition of federal approval of state law.
- Nonprofit organizations employing at least 4 workers in 20 weeks are covered.
- Twenty-one state programs cover nonprofits with at least 1 employee.

Coverage and Exclusions from Coverage in State/Local Government

- Federal law requires states to cover services for state and political subdivisions.
- Federal law permits states to exclude certain services though, such as services of:
  - Elected officials;
  - Members of a legislative or judicial bodies;
  - Members of the National Guard or Air National Guard; and
  - Certain temporary employees.

Other Coverage

- Indian Tribes must be covered, but they are not subject to FUTA taxes.
- Federal civilians and military service members are covered by federal programs that are administered by the states as agents of the U.S. government.
- Federal civilian and military wages area assigned to the appropriate state agency. Eligibility and the amount of benefits are then determined by the applicable state law.

Financing

Theory of UI Financing

Central Components:

- Federal authority
- The Unemployment Trust Fund
- Federal and state funding
- State laws
- Factors and economic considerations
  - Federal level
  - State level

Federal Law Authority

- The Federal Unemployment Tax Act (FUTA) envisions a cooperative federal-state program of benefits to unemployed workers.
- FUTA imposes an excise tax on every employer equal to a specified percentage of total taxable wages paid during the calendar year.
- The tax mechanism grants a wide range of discretion to the states as long as certain minimum Federal standards are met.

Federal Law Authority

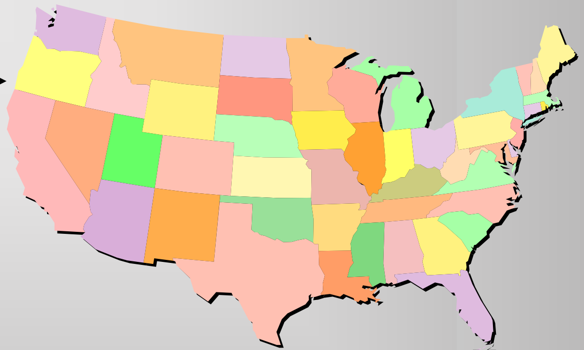
- FUTA requires employers to pay a Federal tax, currently 6.0 percent on the first $7000 paid with respect to each employee's wages.
- Employers in the state may take two credits against the tax:
  - For the amount of contributions actually paid into the state unemployment fund, and
  - An additional credit for
    - (contributions paid)-(the amount to be paid at the highest rate, up to a cap of 5.4 percent)
- To receive the additional credit, the state's <u>experience rating system</u> must conform to Federal law.

FUTA Tax

6.0% FUTA
Tax

On $7,000
wages

Acceptable UI
Program

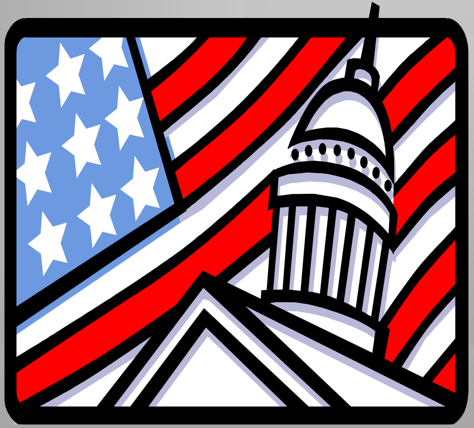


5.4% Credit

Covered
Employers

.6%

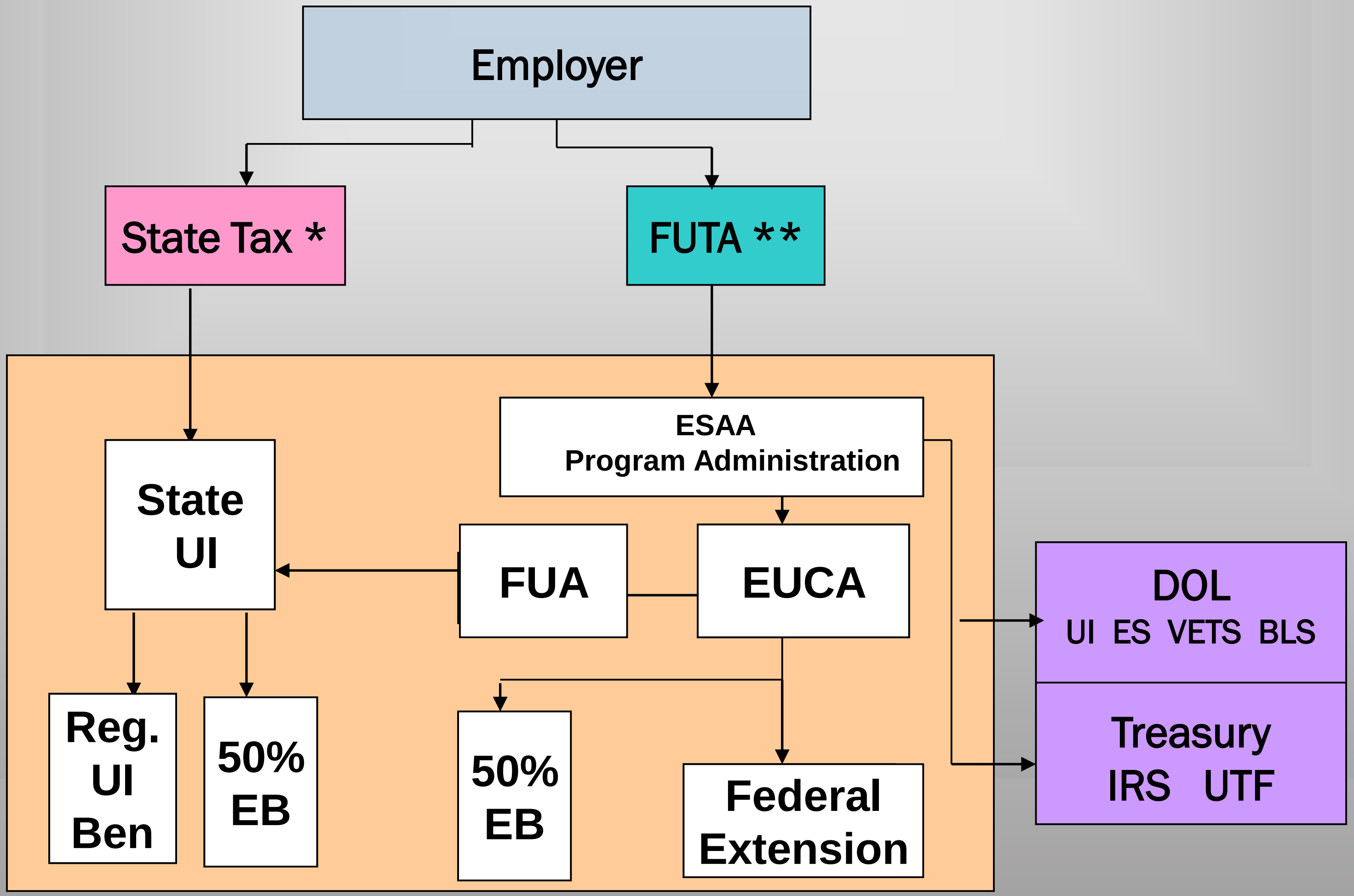
On
$7,000



History of FUTA

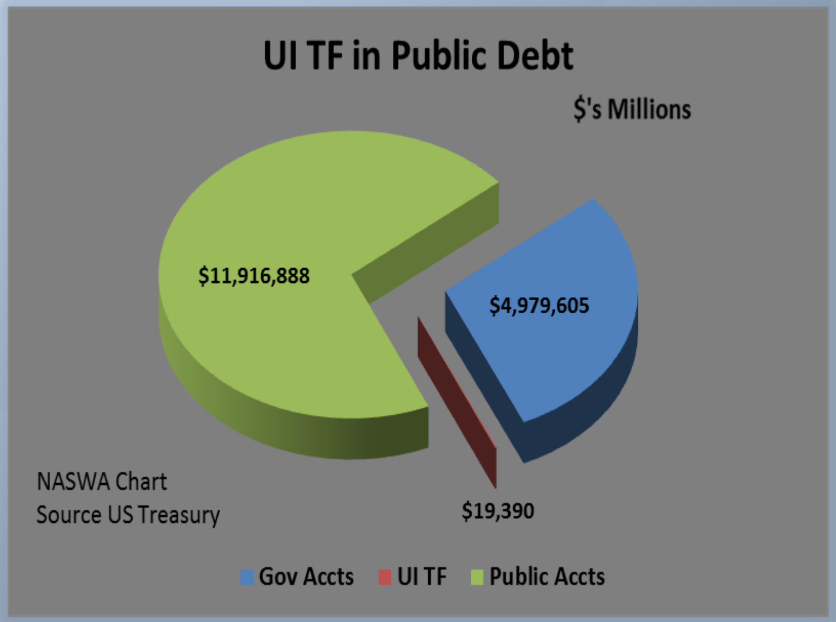
FUTA Tax History					
Year	FUTA Wage Base	FUTA Rate	FUTA Credit	Final FUTA Rate	Per Employee
1940	$3,000	3.0%	2.7%	0.3%	$9
1961	$3,000	3.1%	2.7%	0.4%	$12
1972	$4,200	3.2%	2.7%	0.5%	$21
1978	$6,000	3.4%	2.7%	0.7%	$42
1983	$7,000	6.2%	5.4%	0.8%	$56
2011	$7,000	6.0%	5.4%	0.6%	$42

FUTA Accounts



UI Trust Fund in Public Debt

- Total federal debt consists of debt held by the public & intragovernmental debt.
- The Treasury Sec. is authorized to receive and invest all funds collected by a state for the payment of UI benefits and invest such portion not required to meet current withdrawals.
- Such investment may be made only in interest-bearing obligations of the US or in obligations guaranteed as to both principal and interest by the US.



Taxable Wage Base

- Federal minimum of $7000
- Varies from State to State
- Two most common methods
  - Flat Rate-Set by Legislature
  - Indexed-Tied to other figure such as average weekly wage
- Employee Contributions
  - AK, NJ, PA

Estimated State & US Tax & Total Rates

Source: USDOL	2014 Estimated		
FWB	Taxable Wage Base $	Percent of	
State		Taxable Wages	Total Wages
United States	7000	3.36	0.82
Alabama	8,000	2.27	0.52
Alaska	37,400	3.08	1.99
Arizona	7,000	2.22	0.39
Arkansas	12,000	3.06	1.03
California	7,000	5.15	0.8
Colorado	11,700	2.63	0.67
Connecticut	15,000	3.99	0.96
Delaware	18,500	2.5	0.63
Dist. of Columbia	9,000	2.8	0.4
Florida	8,000	2.9	0.7
Georgia	9,500	2.36	0.41
Hawaii	40,400	1.8	1.22
Idaho	35,200	2.05	1.39
Illinois	12,960	4.58	1.2
Indiana	9,500	2.98	0.77
Iowa	26,800	1.55	0.83
Kansas	8,000	3.83	0.84
Kentucky	9,600	3.43	0.9
Louisiana	7,700	1.66	0.37
Maine	12,000	2.57	0.87
Maryland	8,500	2.85	0.56
Massachusetts	14,000	4.5	1.1
Michigan	9,500	5.82	1.34
Minnesota	29,000	1.85	0.88
Mississippi	14,000	1.89	0.77
Missouri	13,000	2.1	0.51
Montana	29,000	1.94	1.18
Nebraska	9,000	1.39	0.36
Nevada	27,400	1.95	1.15
New Hampshire	14,000	2.49	0.73
New Jersey	31,500	2.75	1.2
New Mexico	23,400	1.58	0.8
New York	10,300	4.5	0.7
North Carolina	21,400	2.06	0.91
North Dakota	33,600	1.11	0.64
Ohio	9,000	2.84	0.67
Oklahoma	18,700	1.51	0.68
Oregon	35,000	3.08	1.85
Pennsylvania	8,750	6.2	1.2
Puerto Rico	7,000	3.5	1.0
Rhode Island	20,600	3.7	1.5
South Carolina	12,000	2.67	0.87
South Dakota	14,000	1.06	0.39
Tennessee	9,000	2.45	0.47
Texas	9,000	2.99	0.98
Utah	30,800	1.26	0.83
Vermont	16,000	4.1	1.6
Virgin Islands	22,500	1.5	1.5
Virginia	8,000	2.61	0.47
Washington	41,300	2.94	1.71
West Virginia	12,000	3.3	1.1
Wisconsin	14,000	3.58	1.19
Wyoming	24,500	2.39	1.2

Experience Rating: History

- Employers state UI tax rates are influenced by their "experience with unemployment."
- The U.S. is the only country that uses experience rating to determine employer UI tax rates.
- Experience rating has been part of the U.S. system since it was established in 1935.
- Basically, experience rating works somewhat like other types of insurance, such as auto insurance, that charge customers variable rates based on certain risk factors.

Experience Rating

- UI benefits are primarily financed through the quarterly assessment of taxes on employer payrolls.
- Employer begins at an initial tax rate (new employer rate)
- Subsequent tax rates will vary based upon the amount of benefits charged to the employer's account.
- States have many provisions as to what "employment" is charged to an employer and the formula used to compute their experience rating.
- Once an employer's tax rate is determined, the rate applies to the wages paid to each employee for a specific year up to the state's maximum taxable wage base.

Employer Tax Rates

- Standard or New Employer Rate
  - May vary based on industry
  - Retain until requirements for a calculated rate are met
  - Generally three years
- Successor Rate
  - Transferred with ownership of business
  - May be optional or mandatory
  - Partial or total

UI Experience Rating Formulae

Reserve Ratio: -33	=	Beg. Balance+(Contributions-Benefits) / Taxable Wages
Benefit Ratio: -17	=	Benefits Charged (previous 3 years) / Taxable Wages
Benefit Wage Ratio: -2	=	Benefit Wages / Taxable Wages
Payroll Decline: -1	=	Average Difference in Qtr. Payroll) / Taxable Wages

State Benefit Financing Systems are Complex, Dynamic Systems

- The basic components of a state's UI taxing system consists of a set of tax schedules, or a single schedule that may be revised based on specific criteria set in State law.
- The tax schedule in effect in a given year is generally a function of the state's trust fund balance at a specific point in time.
- An employers tax rate is based on State's formula for determining the employers experience with unemployment.
- The more unemployment experienced by an employer, the higher their tax rate.

Experience Rated Tax System

Schedule of Rates Based on Measure of Trust Fund Balance

High Fund/Low Rates ⟷ Low Fund/High Rates

Employer Experience Factor

Good Experience- Low Rates

Bad Experience- High Rates

.5	.6	.7	.8	.9
1.0	1.1	1.2	1.3	1.4
1.5	1.6	1.7	1.8	1.9
2.0	2.1	2.2	2.3	2.4
2.5	2.6	2.7	2.8	2.9
3.0	3.1	3.2	3.3	3.4
4.0	4.1	4.2	4.3	4.4
4.5	4.5	4.6	4.7	4.8
5.4	5.5	5.6	5.7	5.8

Individual Factors Impacting Tax Rates

- Contributions paid in
- Benefits charged to reserve
- Acquisition or liquidation
- Significant change in average payroll amount
- Penalty assessments

Communalized Factors Impacting Rates

- Trust Fund balance
  - Applied to applicable rate table
  - Generally Set Annually
- Industry experience
  - Construction
  - Manufacturing
  - Mining

Wage Records

- General Reporting Requirements
  - Name
  - Social Security Number
  - Gross Wages for the period
- Various State Specific Requirements
  - Paid Hours Worked
  - Hourly Rate
  - Tips
  - Probationary Status
  - Demographic Information
  - Occupation

Covered Wages

Wages Include:

- Any remuneration in the form of salaries, wages, tips, commissions, fees, bonuses, vacation allowances, whether paid to full-time, part-time, or temporary employees, unless explicitly excluded.
- Other forms of remuneration such as value of goods, lodging, food, clothing, and non-cash fringe benefits unless incidental or for the convenience of the employer.
- Section 125 (cafeteria) plan benefits

Excluded Wages

Exclusions Include:

- Services performed by a sole proprietor or a member of a partnership
- Services performed for a sole proprietor by his or her parent, spouse, or child under the age of 18
- Services performed for a church, convention or association of churches, or any other religious organization that is supervised, controlled or principally supported by a church, if the employer is operated primarily for religious purposes.
- Railroad Workers

Benefit Charges

The Benefit Charge Function Includes:

- Distributing Benefit Charges
- Determining Non-chargeable Benefits
- Charging Reimbursing Employers
- Applying Voluntary Contributions

Distributing Benefit Charges

Methods approved by USDOL currently used by states:

- Charging base-period employers proportionately.
- Charging the principal base period employer.
- Charging the most recent/most recent base period employer.
- Charging base period employers in inverse chronological order.
- Charging the most recent employer for some benefits; then charging base period employers proportionately.

Non-Chargeable Benefits

In order to be consistent with Federal law, the benefits must be considered an unreasonable charge against the employer:

- Claimant voluntarily quit their job
- Claimant was discharged for work related misconduct
- Refusal of suitable work
- Combined Wage Claim charges
- Part-time work

Reimbursing Employers

- FUTA amendments in 1970 and 1976 extended coverage and required the option of reimbursing the State trust fund for benefits paid to workers of:
  - Non-profit Organizations
  - State and Local Governments
  - Indian Tribes
- Billed quarterly or at a flat rate

SUTA Dumping

- After I had to layoff a couple workers, my new tax rate is what???

- I have an idea, I'll "close" the business and start a "new" one so I go back to the base rate!!!

SUTA Dumping

- SUTA Dumping is a practice used by some employers to circumvent the experience rating process in order to avoid paying higher unemployment insurance taxes
- Federal Requirements
  - SUTA Dumping Act of 2004
    - Program in place
    - Meaningful penalty
    - 581 Reporting requirement

SUTA Dumping

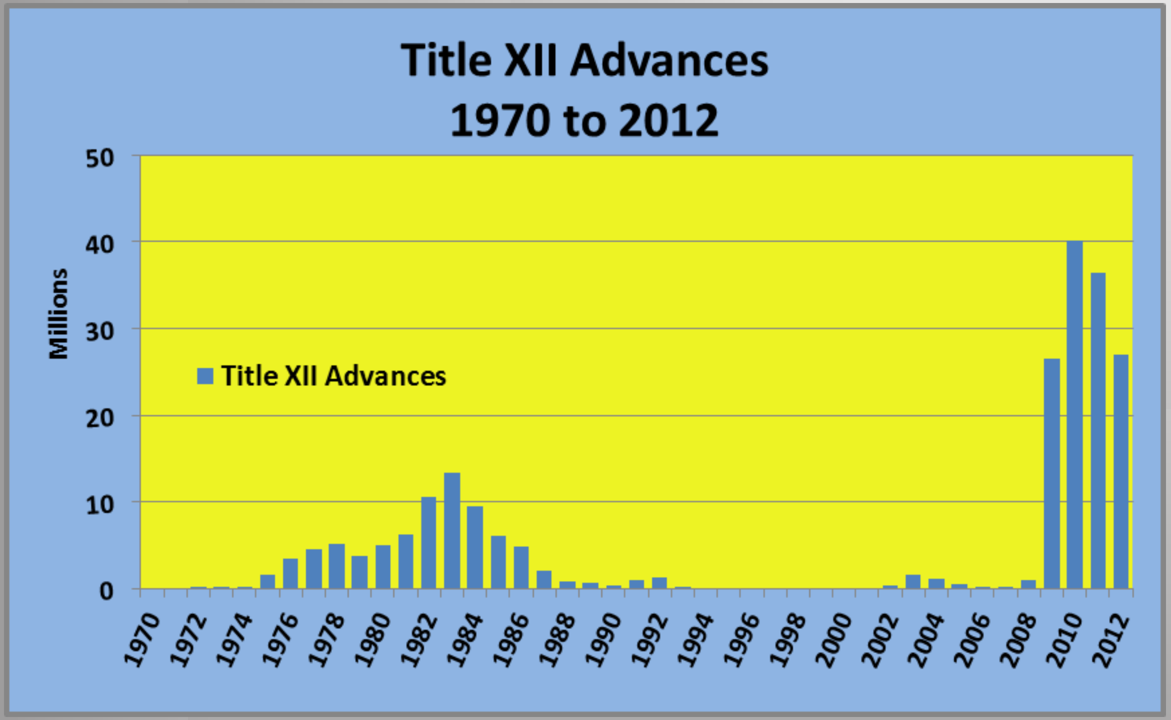
- Common SUTA Dumping Schemes:
  - Establishing multiple accounts and shuffle employees around to the account number with the lowest rate each year.
  - Acquire a business with a lower unemployment insurance rate and shuffle employees to that other business to pay the lower tax rate
- Outcome
  - Reactivation of employer accounts
  - Recalculation of employer rate
  - Transfer of contribution and wages among accounts
  - Application of penalty rate

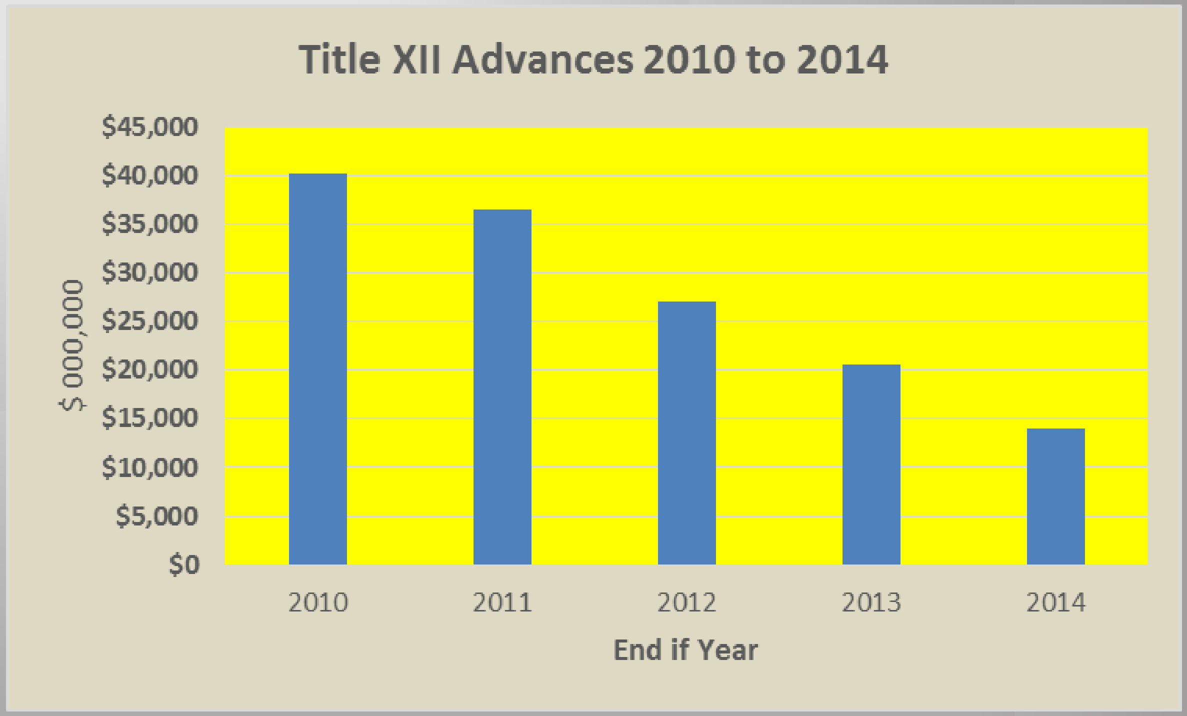
Title XII Advances

Title XII Advances

- The SSA allows states to borrow from the FUA (UTF) to pay: “cash benefits payable to individuals with respect to their unemployment, exclusive of expenses of administration.”
- Advances must be requested in writing, or electronically using the Loan & Repayment Application System (LARAS).
- Advances requests must satisfy the following requirements:
  - The request must cover a 3 month period and may not be submitted earlier than the first of the month preceding the first month of the three-month period covered by the request.
  - The request must include an estimate of the amount of advance that will be required by the state for the payment of compensation in each month of the three-month period covered by the request.

Title XII Advances





Current Title XII Advances

Outstanding Loans from the Federal Unemployment Account.	
Balances as of June 12, 2015:	
California	$5,472,617,597.09
Connecticut	$321,401,774.08
Indiana	$292,289,701.13
Kentucky	$15,353,960.35
Ohio	$983,216,324.25
Virgin Islands	$74,548,937.19
Total	$7,159,428,294.09

FUTA Credit Reduction

- If a state has outstanding loan balances on Jan 1st for two consecutive years, and does not repay the full amount of its loans by Nov 10th of the second year, the FUTA credit rate for employers will be reduced until the loan is repaid.
- The reduction schedule is 0.3% for the first year, plus 0.3% for the second year, and an additional 0.3% for each year thereafter that the state has not repaid its loan in full.
- Additional offset credit reductions may apply to a state beginning with the third and fifth taxable years if a loan balance is still outstanding and certain criteria are not met

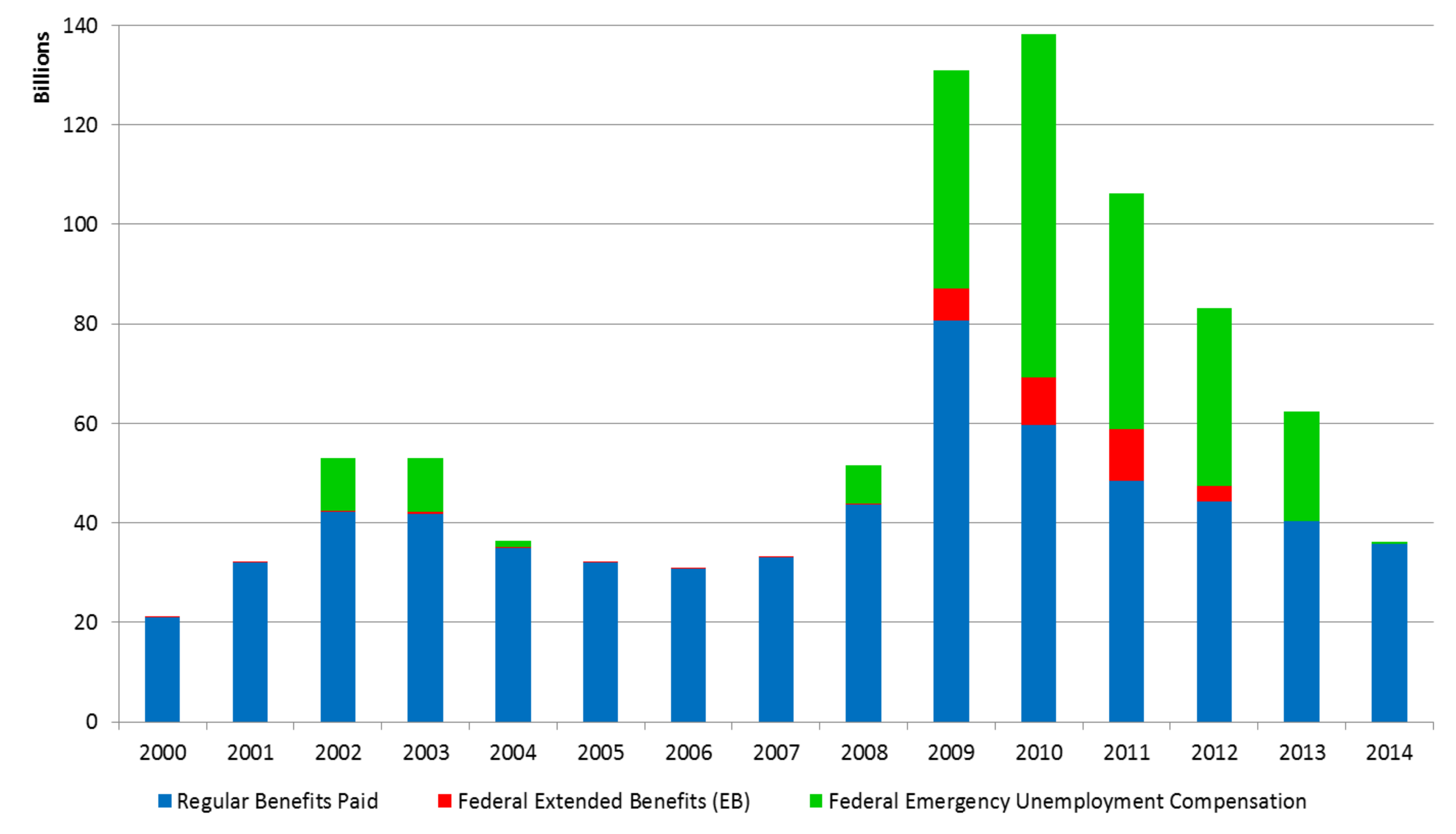
FUTA Credit Reduction Relief

- To avoid a FUTA credit reduction for a taxable year the state must:
  - Pay the amount of the credit reduction prior to Nov 10th of the year for which avoidance is sought;
  - Repay all FUA loans received during the one-year period ending November 9th prior to November 10th;
  - Increase solvency for the taxable year through legislative action by an amount equal to or greater than the amount of the FUTA credit reduction; and
  - Not borrow before the next January 31st.

Benefits

Monetary Entitlement

Regular, EB & Emergency Benefit Payments from 2000 to 2014



Base Periods

- The base period is the time period during which wages earned and possible hours or weeks worked are used to calculate monetary entitlement to benefits.
- Nearly all states define the base period for claimants as the first 4 of the last 5 completed calendar quarters.
- For individuals who do not qualify for monetary entitlement under the usual base period, most states also use alternate base periods that take into account more recent wages in the last two calendar quarters.

Benefit Years

- A benefit year is the <u>one year or 52-week period</u> during which an individual may receive benefits based on base period wages/employment.
- The <u>benefit year generally begins when an individual files a "valid claim,"</u> which is when the individual meets minimum wage/employment requirements.

Qualifying Wages or Employment

- Four methods are used among states to determine the amount of qualifying wages or employment.

1. Multiple of High-Quarter Wages;
2. Multiple of Weekly Benefit Amount;
3. Flat Qualifying Amount; and
4. Weeks/Hours of Employment.

Multiple of High-Quarter Wages

- Individuals must earn at least a certain amount in the quarter with the highest wages;
- In the base period, individuals must earn a multiple of the high-quarter earnings, which usually is set at 1.5.
- For example, if an individual earned $5,000 in the high quarter, the individual must have earned at least $7,500 in the entire base period to be monetarily eligible ($5,000 + $2,500).

Multiple of Weekly Benefit Amount

- First the state calculates the individual's weekly benefit amount or WBA (to be discussed shortly).
- And then the individual must have earned a <u>specified multiple of the weekly benefit amount in the base period, such as 40</u>, to gain monetary entitlement.
- For example, with a WBA of $300, the individual must have at least $12,000 (40 x 300) in the base period gain monetary entitlement.

Flat Qualifying Amount and Weeks/Hours of Employment

- Some states use a <u>flat qualifying amount earned in the base period</u>. They also often calculate the WBA off of base period wages instead of the high-quarter wages.
- Some states use <u>weeks/hours of employment by requiring individuals to have worked a certain number of weeks/hours at a certain weekly/hourly wage</u>.

Weekly Benefit Amount (WBA)

- States generally replace 50 percent of lost wages up to a maximum, usually set at the average weekly wage in the state.
- Some states also use progressive scales for their wage replacement rates so that low-wage workers can receive WBAs that yield wage replacement rates higher than 50 percent.
- Above average wage-earners tend to be capped at the maximum WBA and have wage replacement rates lower than 50 percent.

Methods of Computing the WBA

There are four methods for computing the WBA:

1. High-Quarter;
2. Multi-Quarter;
3. Annual-Wage; and
4. Weekly-Wage

High-Quarter Method for WBA

- More than half of the states use this method.
- In essence, states effectively calculate the average weekly wage in the high quarter by dividing by the 13 weeks in the quarter.
- Then the state that tries to replace half of lost wages.
- This is equal to dividing high-quarter wages by 26, or in other words, multiplying by 1/26,which is the most common multiple applied by the states using this method. {(1/13)(1/2) = 1/26}

The Other Three WBA Methods

- The Multi-Quarter Method averages quarterly wages paid in more than one quarter and applies a multiple to it, such as 1/26 times the average of two high quarters of wages in Alabama.
- The Annual-Wage Method applies a percentage to the annual wages in the base period, such as 1.0% in New Hampshire. (Note: A week's wages in a year is 1/52 of a year's wages; half of that is 1/104, which is a little less than 1/100 or 1%.)
- The Weekly-Wage Method applies a percentage to the average weekly wages in the base period, such as 47% in Indiana.

Other Aspects

- Many states automatically adjust their maximum WBAs to a set percentage of the state average weekly wage, such as 60% in Kansas.
- Individuals otherwise eligible for benefits must serve a waiting period in most states, which usually is one week.
- Some individuals can earn "partial benefits" if they earn less than their WBAs in a given week. (A small amount often is disregarded.)
- 13 states also provide dependents' allowances.

Duration of Benefits

- How long benefits may be collected in the benefit year usually is calculated up to the state maximum by dividing the individuals base period earnings by the individual's WBA.
- Maximum weeks of benefits available vary, but in most cases it is 26 weeks. A few state maximums do not vary or are "uniform" at 26 weeks, and some are less than 26 weeks.

Deductions and Withholdings

- Under federal law, benefits may not be intercepted to satisfy debts, except for:
- UI Overpayments;
- Child Support payments;
- “Overissuances” of Supplemental Nutrition Assistance Program (SNAP) benefits (Previously called Food Stamps); and
- Income Tax Withholding (voluntary for beneficiary)

Extensions & Special Programs

UWC UI 101 June 2015

Federal-State Extended Benefits

- Since 1970 federal law has provided Extended Benefits (EB) in states with high and rising unemployment.
- EB is <u>financed half by the federal unemployment tax and half by state unemployment taxes</u>.
- It activates in individual states during periods of <u>high and rising unemployment rates</u> in response to mandatory and optional “triggers.”

EB Triggers

- Up to 13 weeks of EB activates in states when:
  - Its insured unemployment rate (IUR) in the last 13 weeks is at least 5% <u>and</u>
  - is 120% of the average of the rates for the corresponding 13-week period in each of the two previous years, or
  - at state option, it is at least 6% in the last 13 weeks or (see next slide)
    - ✓ The insured unemployment rate is the ratio of the number of individuals collecting regular state UI to covered employment in the state, expressed as a percent.

EB Triggers (Continued)

- at state option, if the average total unemployment rate (TUR), seasonally adjusted, for the most recent 3 months is at least 6.5% and is 110% of the rate for the corresponding 3-month period in either of the prior 2 years.
- Also, if such a TUR is at least 8% and 110% of the rate for the corresponding 3-month period in either of the prior 2 years, weeks increase from13 to 20 weeks.
  - ✓ The TUR is the percent of the civilian labor force (employment plus unemployment) that is unemployed.

Special EB Qualifying Requirements

- A claimant to be eligible must:
  - have at least 20 weeks of covered employment in the base period or its equivalent (which can be 1.5 times high-quarter wages or 40 times the WBA);
  - engage in systematic and sustained work search;
  - must apply for "suitable work," which is defined as "any work within such individual's capabilities."
  - Subsequent employment is required before eligibility can be restored after voluntarily quitting work, committing misconduct, or refusing suitable work.

Other Programs

- Emergency extensions during and after recessions, usually funded by federal general revenues.
- Additional state benefits
- Trade Readjustment Allowances (TRA)
- Disaster Unemployment Assistance
- Short-Time Compensation
- Self-Employment Assistance.

Nonmonetary Eligibility

General Background

- In general, individuals must have lost their jobs through "no fault of their own" and must be "able to work," "available for work" and "actively seeking work."
- States make three determinations:
  - Are their any issues related to separating from employment and becoming unemployed?
  - Are there any weekly issues, such as refusal of suitable work offers?
  - Was any deductible income received, such as severance payments?

Separations from Employment: Voluntarily Leaving a Job

- In general, voluntarily leaving a job "without good cause" is a reason for disqualification.
- Some examples of "good cause" are leaving for other work, compulsory retirement, or sexual harassment.
- Disqualified Individuals have no right to benefits until they requalify, usually by obtaining new work and/or by serving a disqualification period.
- Qualified individuals are not necessarily eligible for benefits. They could be ineligible for a given week until the conditions, such as unavailability for work due to illnesses, cease to exist in a week.

Separations from Employment: Discharge for Misconduct Connected with Work

- Disqualifications for discharge for misconduct are similar to that for voluntary leaving, but can be more severe for "gross misconduct," such as dishonesty or criminal behavior.
- To requalify individuals usually must work again and/or serve a disqualification period.
- Federal law permits cancellation of wage credits for misconduct in connection with work, fraud in connection with a claim or receipt of disqualifying income.

Able to Work, Available for Work and Actively Seeking Work

- Able to work generally means physically and mentally able to work. Evidence of this is filing claims and registering for work at the public employment office.
- Availability to work generally means ready, willing and able to work. Evidence of this is registering for work at the public employment office.
- Actively seeking work involves showing a certain number of employer contacts per week, 2 or 3 being most common.

Refusal of "Suitable Work"

- Under certain circumstances, states disqualify individuals for refusal of "suitable work."
- "Suitable work" is defined by state laws and usually considers the degree of risk to the individual's health, safety, and morals; the individual's physical fitness, prior training, experience and earnings; the length of unemployment and prospects for obtaining employment in a customary occupation; and distance from the individual's residence.
- To requalify, individuals usually must work again and/or service a disqualification period, often the duration of unemployment.

Deductible Income

- Most states have provisions making individuals ineligible in a week during which they receive income such as dismissal wages, worker’s compensation, holiday or vacation pay, back pay, or benefits from a supplemental benefit plan.
- In many states, if the deductible income is less than the weekly benefit amount in a week, the individual will receive the difference.

Special Disqualified Groups

Some groups are disqualified under certain conditions:

- Students who worked for educational institutions;
- School personnel between terms or academic years;
- Professional athletes in the off season; and
- Aliens generally who were not lawfully admitted for permanent residence, not lawfully present to work, or not permanently residing "under color of law."

Appeals

In General

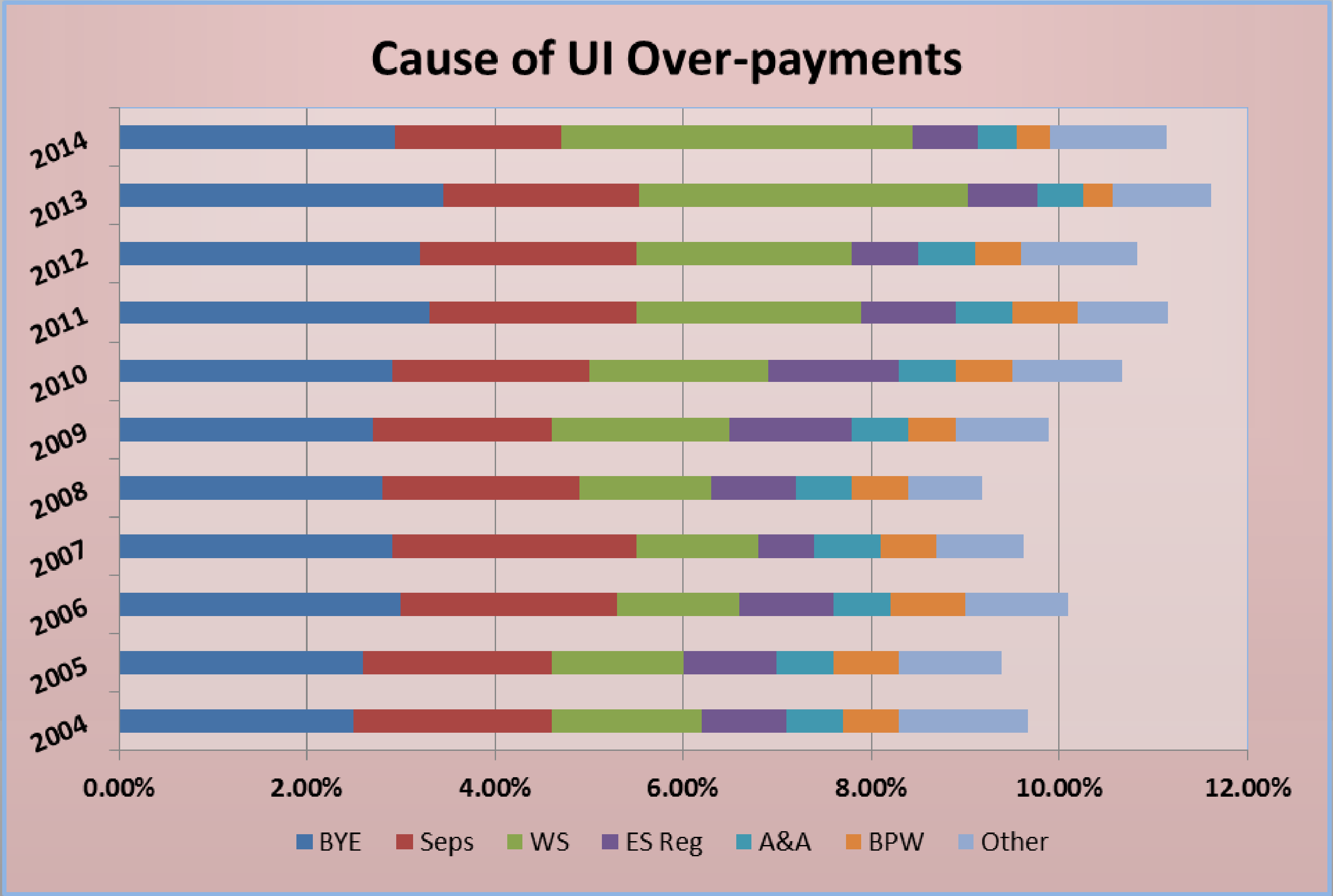
- Social Security Act requires states to offer "...opportunity for a fair hearing before an impartial tribunal, for all individuals whose claims for unemployment compensation are denied."
- In all states employers who have an interest are granted the right to appeal decisions on claims also.
- All but a few states have second-level appeals.
- In all states, appeals of the outcomes of administrative appeals may be made to state and federal court systems.

Java Decision

- California Department of Human Resources Development v. Java, 402, U.S. 121 (1971) said once a UI claimant has been found eligible for benefits, <u>such claimant will continue to receive benefits until a decision is issued reversing the determination allowing benefits.</u>
- In other words, an <u>employer's appeal will not affect the continuing payment of benefits until a subsequent decision is issued denying benefits.</u>

Overpayments

Cause of Overpayments



In General

- All state laws have provisions dealing with identifying, establishing, and collecting UI benefit overpayments.
- A <u>state law generally treats overpayments differently when the individual is not at fault</u> versus when the individual has committed fraud or willful misrepresentation or concealed material facts.

Non-Fraud Overpayments

- Some states provide if the overpayment is without fault or fraud by the individual, the individual is not liable to repay the amount overpaid.
- Overpayments can be recovered by direct repayment and other means, such as deducting the overpayments from future benefits payable.
- In December 2010, states were given the ability to collect overpayment using the federal income tax refund through the Treasury Offset Program (TOP).
- States also have other means such as offsetting state income tax refunds, intercepting lottery winnings, or taking civil action instate courts.

Fraudulent Overpayments

- Same methods of recovery are used as for Non-fraud overpayments.
- Most states can pursue criminal action in court for fraud too. This can lead to fines and prison.
- Beginning on October 21, 2013, federal law required states to impose mandatory penalties for fraud of not less than 15% of the amount of the erroneous payment.
- Fraud can also involve employers who abet individuals' attempts to fraudulently claim benefits and who attempt to prevent or reduce benefits of eligible individuals.

Other provisions

- After exhausting options for recovery of overpayments, most sates permit the program to write off certain overpayments if they have been outstanding for a period time ranging from 2 to 10 years and if they meet other conditions.

Administrative Financing

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UI Administrative Funding

Title III Section 302(a) Social Security Act: Secretary of Labor shall certify to the Secretary of Treasury such amounts as necessary for "proper and efficient administration" of each State's law.

State Administrative Funding Overview

- Federal UI Admin Budget is a lengthy process
- Estimate is submitted as part of the Presidents Budget to Congress
- Congress modifies as necessary, then passes it in a Federal Budget or most often a Continuing Resolution.
- Budget estimate is then allocated to the states in the UI Base Budget.
- States may earn additional funds by processing workload above that assigned to them in the Base Budget

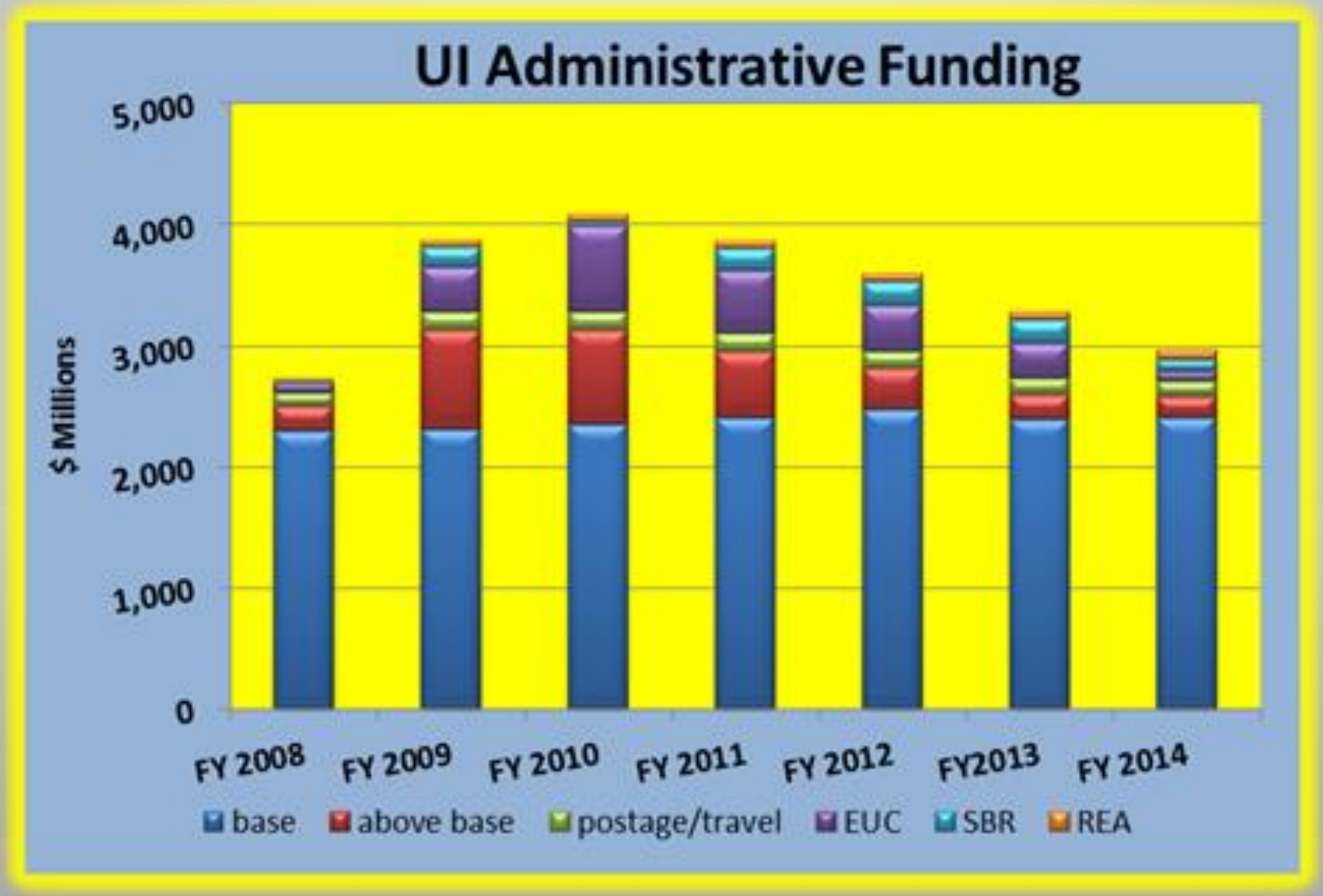
Federal Budget Formulation

- Workload Driven.
- UI Admin Budget has two key parts: Base and Above Base
- Other activities, e.g., non-personal services (utilities, facilities, etc.), overhead, support, & postage, are established percentages of staff costs.
- Based on cost of doing business and federal appropriation.

Components of Federal Administration Funding

- Base—Computed as part of the federal budget process and allocated to states each year
- Above Base—Estimated as part of the federal budget process and earned by states if they process workload above base estimates
- Postage/Travel—allocated as part of Base
- Supplemental Budget Requests (SBR) funding depends on the difference between federal budget levels and actual state usage
- Funding for extended benefits or special programs
- Funding for special activities--employee misclassification, REA/RES
- Contingency funding in times of higher unemployment

UI Administrative Funding



RJM Data Source for Allocation

- Resource Justification Model (RJM)
  - RJM is a data collection instrument.
- States submit data from cost accounting records
  - Expenditures, hours by functional activity, personnel costs
- Data is subject to review & verification

Allocating Base Funds

Overview

- Primary drivers of base allocation levels:
  - Each state's projected share of national UI workloads (claims, nonmons, appeals, wage records, tax accounts)
  - Each state's PS/PB rates- most recent FY
  - Time allowed for processing each budgeted workload item (MPUs, which are calculated from RJM data)- most recent FY
  - Non-personal services spending- most recent FY

Allocating Base Funds

Activities Funded

- Workloads
- Salaries/Benefits
- Non-personal Services
- Support
- Administrative Staff & Technical Services
- Postage

Allocating Base Funds

Funding provided in two parts:

Base – costs associated with processing an AWIU of 2.3M

• Initial Claims	17.588M
• Weeks Claimed	119.6M
• Non-monetary determinations	7.384M
• Appeals	.978M
• All subject employers (2008)	7.509M
• All wage records (2008)	645.178M

Allocating Base Funds

Availability by activity:

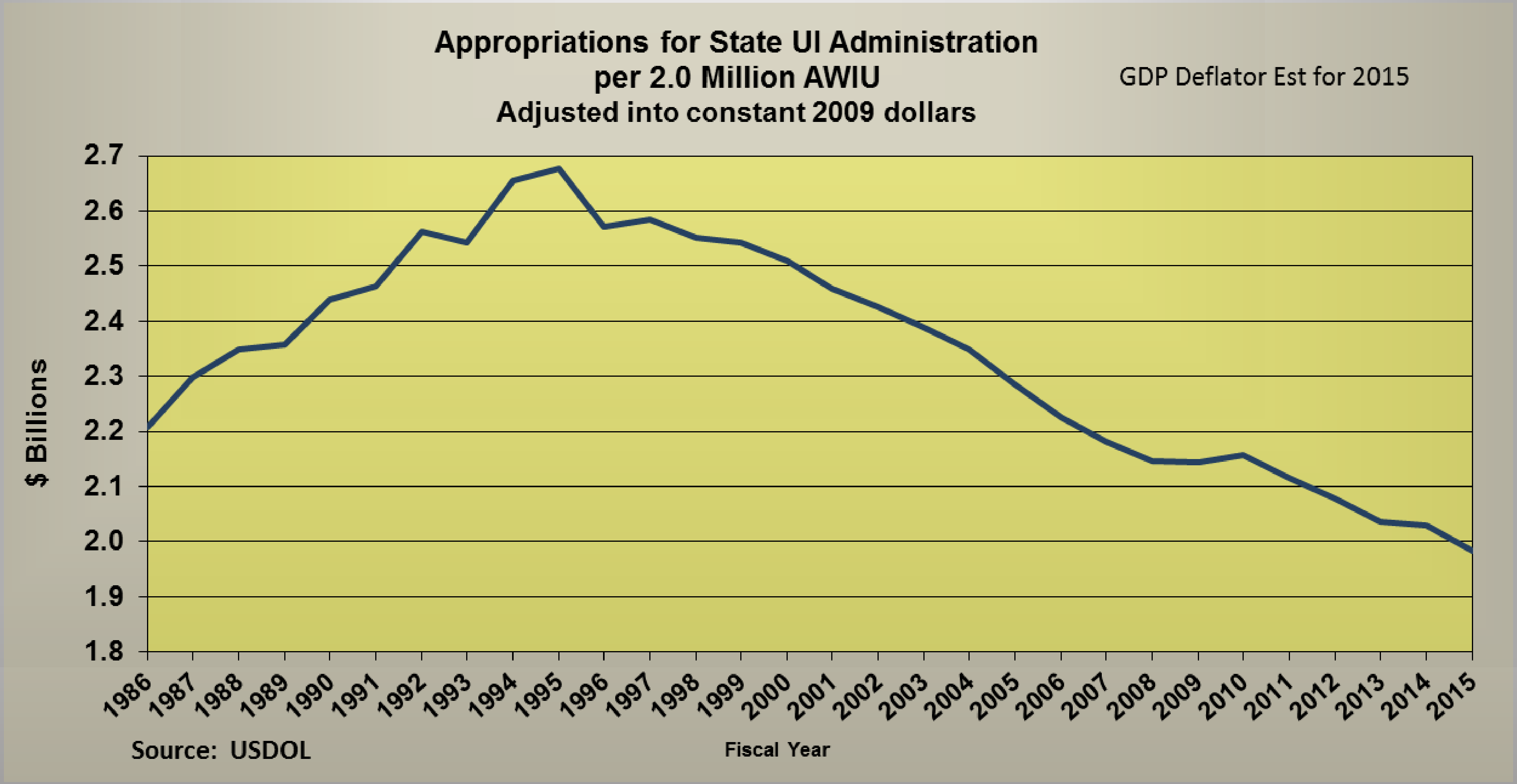
Allocated base funds assigned to functional activities according to proportions reflected in RJM data and funding available for the 2.3 million AWIU base.

- Claims activities

- Tax/Wage Records

Administrative Financing Issues

Funding UI Base Administration



Fully Funding the RJM

United States Department of Labor

Comparison of State RJM Submissions and UI Base Administrative Grants

November 5, 2013

Fiscal Year	Base Allocation (in millions) *	State RJM **	% Difference
Total FY09-13	**$11,970.03**	**$14,298.93**	**-16.3%**
FY 2013 ***	$2,397.95	$2,986.20	-19.7%
FY 2012	$2,474.80	$2,851.56	-13.2%
FY 2011	$2,407.47	$2,811.47	-14.4%
FY 2010	$2,375.10	$2,798.20	-15.1%
FY 2009 ****	$2,314.71	$2,851.51	-18.8%

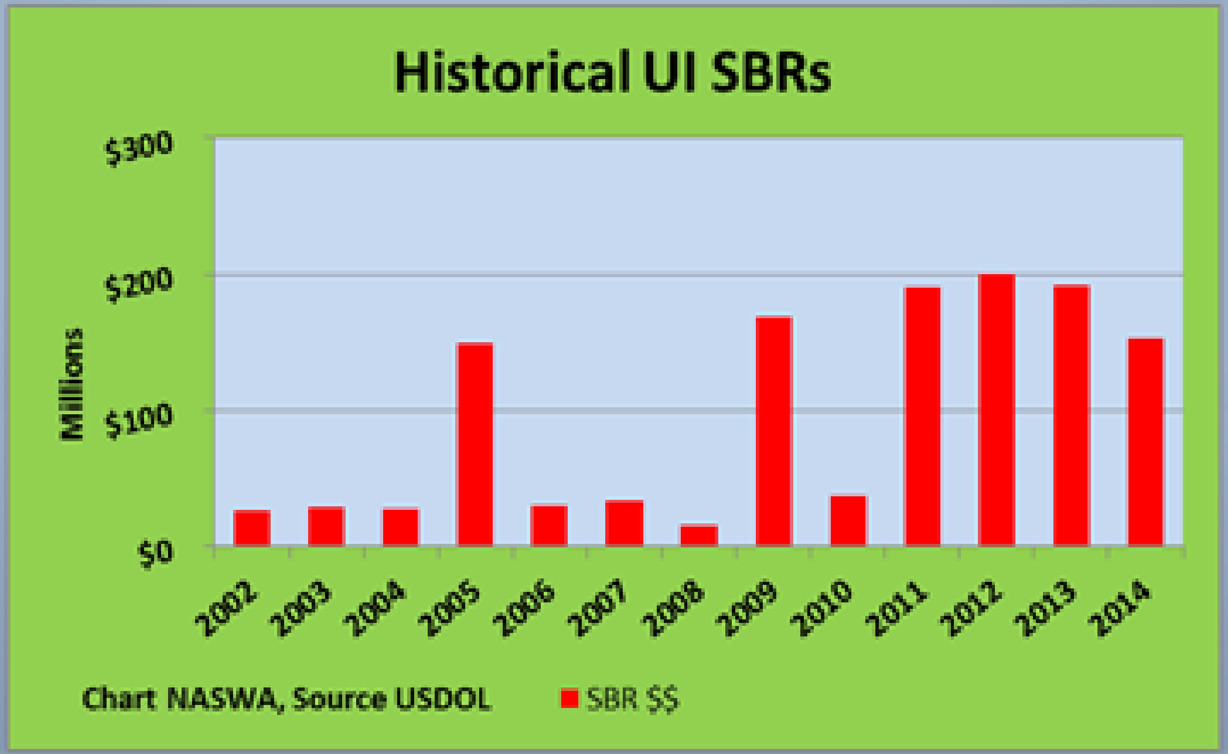
* Does not include Above-Base, Travel, or SBRs. Does include Base restorations in all years.

** Includes state dollars.

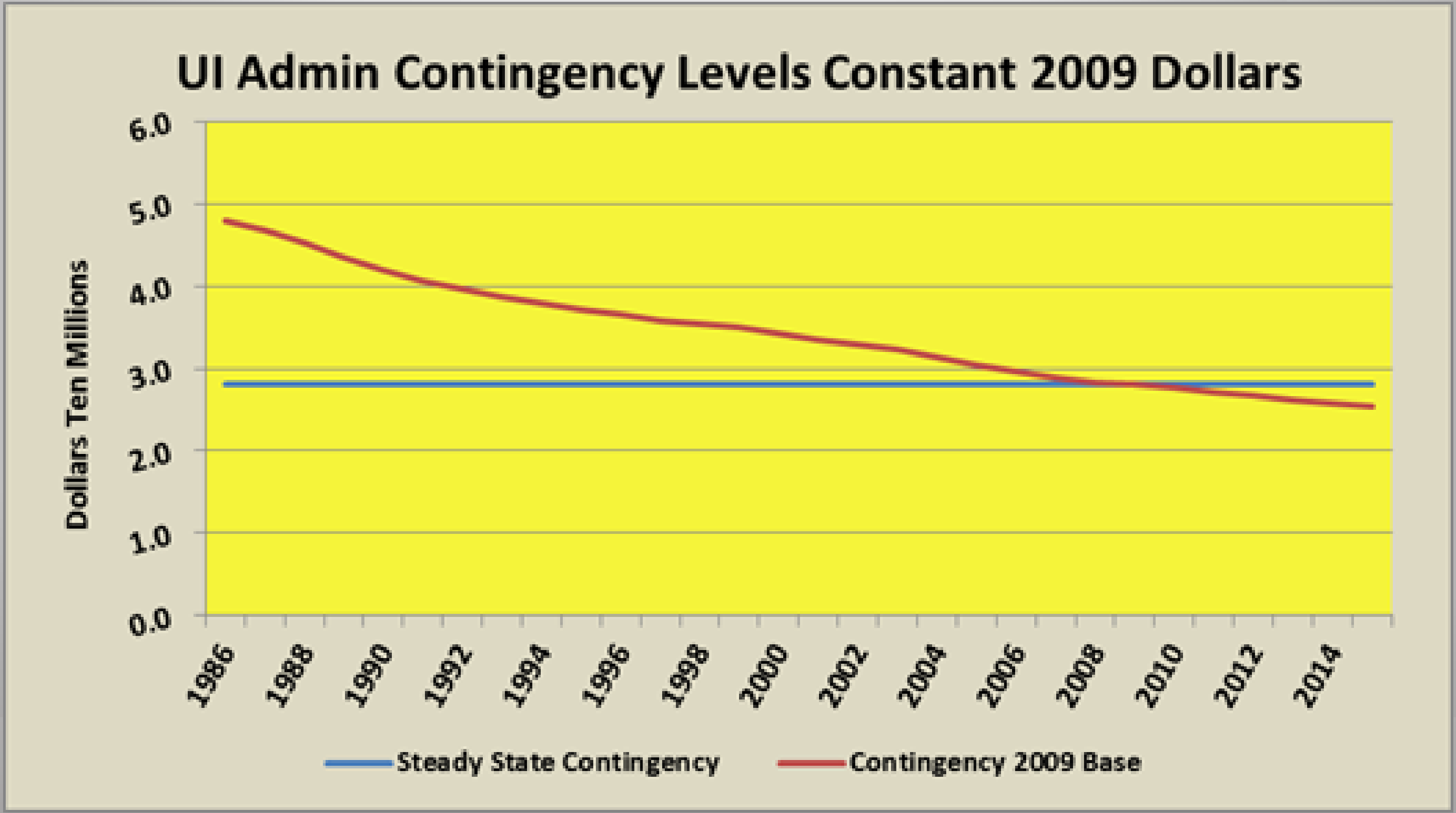
*** Not final. Another Base restoration may be forthcoming after Q4 above-base is distributed.

**** Does not inlcude ARRA funding.

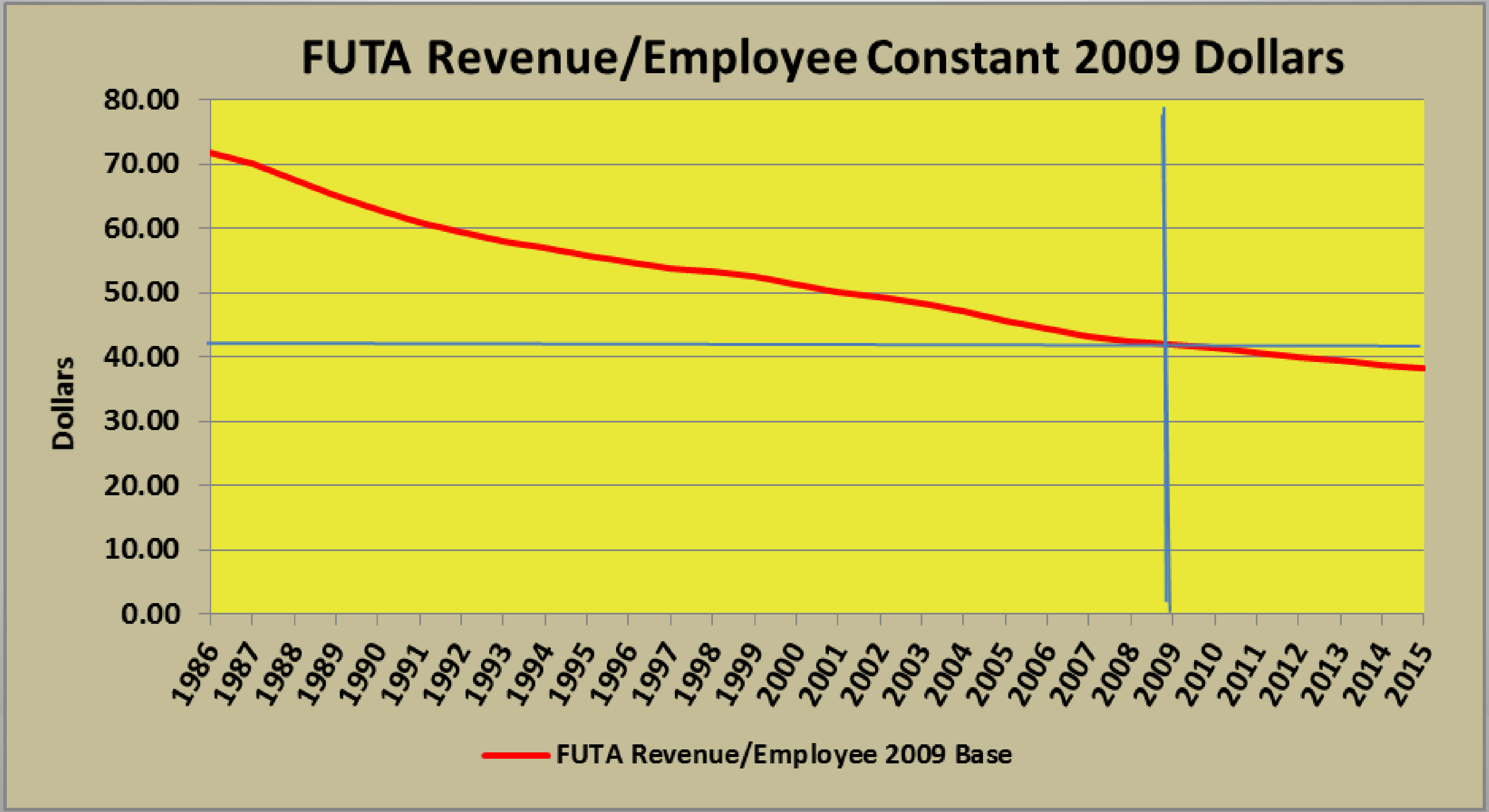
Utilizing SBR’s



Contingency Funding



FUTA



FUTA Revenue/Employee Constant 2009 Dollars
80.00
70.00
60.00
50.00
40.00
30.00
20.00
10.00
0.00
Dollars
1986
1987
1988
1989
1990
1991
1992
1993
1994
1995
1996
1997
1998
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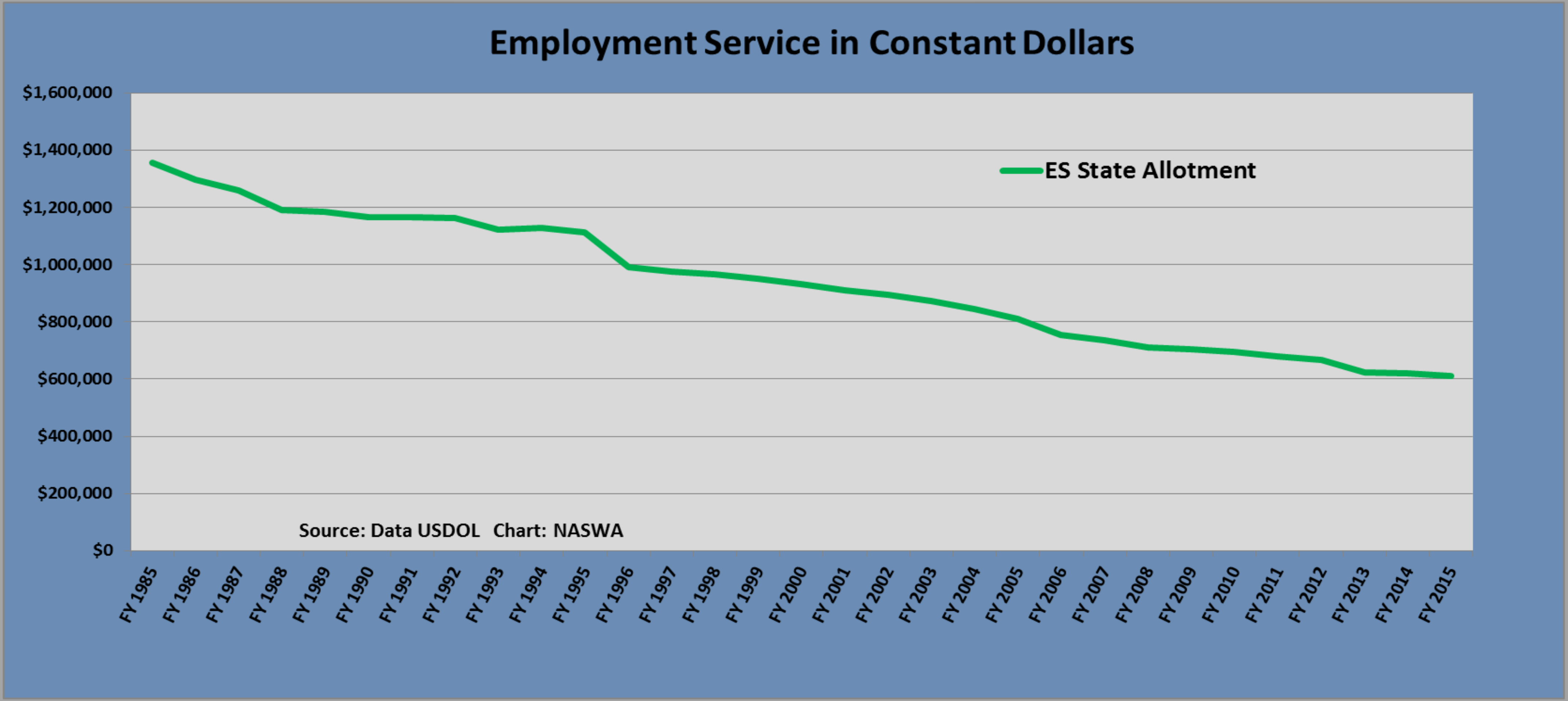
2015
FUTA Revenue/Employee 2009 Base

Employment Service Funding



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Reemployment

- Eligibility Assessments and Reemployment Services have been shown to be cost-effective in many state studies. In Nevada it was shown $2.60 was saved for each dollar spent on such efforts.
- The Administration's FY 2016 budget proposed to:
  - Nearly double spending on reemployment services to about <u>$181 million</u>;
  - Request an unusual $<u>30 million cap adjustment</u> on the relevant domestic discretionary spending category to allow for part of the increase;
  - Direct an additional $<u>500 million for in-person employment services</u> for unemployed workers;
  - Serve <u>about one-third of the claimants "profiled"</u> as likely to exhaust their benefits.