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Georgia's Unemployment Trust Fund

More than $600 Million Owed to the Federal Government

By Clare S. Richie, M.P.A., Senior Policy Analyst

Summary

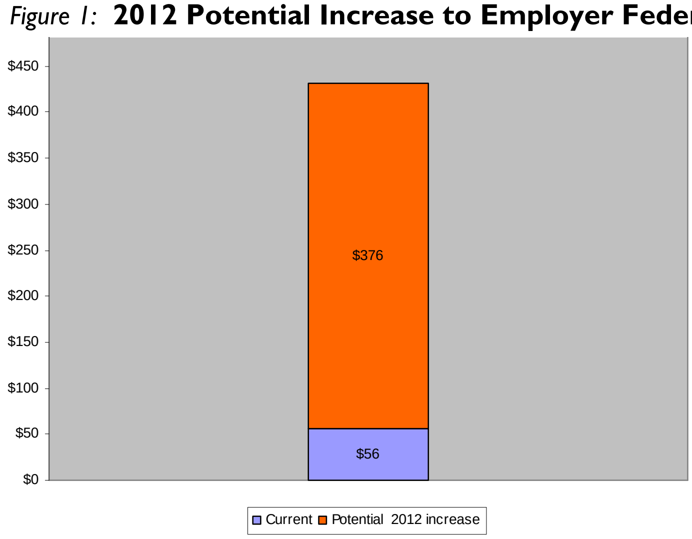
The federal-state unemployment insurance (UI) system, financed through federal and state payroll taxes, provides payments to eligible workers who are unemployed through no fault of their own. Georgia's unemployment trust fund became insolvent during the Great Recession after years of employer tax cuts. Most notably, from 2000 to 2003 most Georgia employers did not pay state UI payroll taxes and UI reserves decreased from a high of $2 billion to a low of $703 million. In December 2009, Georgia did not have enough reserves to meet its UI obligations and began borrowing from the federal government. Georgia is expected to continue borrowing through 2011.

Georgia's repayment of its $634.5 million federal unemployment trust fund loan is due by November 10, 2011 to avoid automatic federal UI tax increases on Georgia employers beginning in 2012. Georgia's first interest payment of approximately $24 million is due by October 1, 2011 and cannot be paid out of Georgia's unemployment trust fund.

Governor Nathan Deal and the Georgia congressional delegation should support federal efforts that provide states with short-term suspension of interest payments on its unemployment trust fund loan and a path to future solvency. The Unemployment Insurance Solvency Act of 2011 (U.S. Senate Bill 286) would:

- Suspend interest payments on state unemployment trust fund loans for 2011 and 2012,
- Suspend automatic FUTA tax increases on employers for 2011 and 2012, and
- Provide partial forgiveness of the unemployment trust fund loan principal for each state that enters into a voluntary agreement with the U.S. DOL.

Figure 1: **2012 Potential Increase to Employer Federal UI Taxes**



Without the reprieve offered by the proposed U.S. Senate Bill, Georgia will need to repay hundreds of millions of dollars to the federal government in 2011. Failure to repay could increase Federal UI taxes starting in 2012:

- Unpaid interest would increase Federal UI taxes by 5.4 percentage points from $56 to $434 per employee per year.
- Unpaid loan would increase Federal UI Taxes by 0.3 percentage points per year or $21 dollars per employee per year.

Background

The unemployment rate for Georgia is at a staggering 10.2 percent. In December 2010, nearly 480,000 Georgia workers were unemployed.[1] The federal-state unemployment insurance (UI) system provides payments to eligible workers who are unemployed through no fault of their own.

Georgia's UI payments are relatively low and of short duration. Weekly UI payments in Georgia average $269 per week, which is less than the national average of $296 per week, replacing about half of an average worker's wage.[2] Georgia claimants receive UI payments for an average of 15.3 weeks, ranking 46th shortest in duration compared to the other states.[3] However, even at a reduced level and short duration these continued dollars help sustain consumer demand during economic downturns and as the worker looks for another job.

Federal and State UI Taxes

The financing of UI has a federal and state tax component.

- **Federal UI tax (FUTA)** – Employers generally pay an effective tax rate of 0.8 percent on the first $7,000 of each employee's taxable wages, or $56 per employee per year. The stated tax rate is 6.2 percent, but employers in states like Georgia that are compliant with federal UI regulations receive a 5.4 percent credit, making the net rate 0.8 percent.

- **State UI tax** – In general, Georgia employers pay a tax rate ranging from a minimum of 0.025 percent to a maximum of 5.4 percent applied to the first $8,500 in taxable wages for each employee per year, or $2 to $459 per employee per year.[4] Individual employer tax rates are determined by "experience rating", which means that businesses that lay off a lot of workers pay a higher rate than those who lay off a few or no workers. This way, employers with more layoffs contribute more to the program that supports their former employees. [5]

The state UI tax component covers "regular" UI payments for workers, generally a maximum of 26 weeks of payments. The federal tax component is used to pay administrative costs of the program at both the federal and state levels, to partially cover the cost of extended benefits, and to maintain a federal unemployment trust fund, which a state may borrow from should it exhaust its own trust fund.

Unemployment Trust Fund

State UI taxes are placed in the states' unemployment trust fund, which accrues interest and is managed by the U.S. Treasury. States may only draw down from these critical reserves to make UI payments to eligible claimants or to repay the principal on any borrowing.

Solvency

There is no statutory requirement that dictates what level of reserves a state should maintain in its unemployment trust fund. However, there are widely accepted measures that states can use to ensure adequate unemployment reserves.

- **Average High Cost Multiple (AHCM)**. The AHCM is the equivalent of the reserve levels it would take to provide for one year of projected UI payment needs based on the highest levels of UI payments experienced by the state over the last 20 years. The U.S. Department of Labor (U.S. DOL) recommends that a state's reserve balance should have an ACHM of 1.00 or greater prior to a recession to be minimally solvent. [6]
- **State-wide Reserve Ratio.** This measure is the ratio of unemployment trust fund balance to total wages and assesses the state's unemployment reserves relative to full wage insurance. Most UI solvency experts share the assumption that an ideal pre-recession reserve ratio is at least 2.0; reserves that could replace 2 percent of all wages.[7] For Georgia, this ratio is calculated every June 30 by dividing the unemployment trust fund balance, including accrued interest, by the total covered wages paid in the state during the previous calendar year.[8]

Federal Loans and Interest Payments

Federal law requires that state UI programs continue to pay benefits to eligible workers even if the state's unemployment trust fund becomes insolvent. States may borrow from the Federal Unemployment Account (FUA) or from outside sources.[9]

Many state unemployment reserves were wiped out as unemployment climbed over the past three years. As of January 13, 2011, 30 states (including Georgia) and the Virgin Islands have cumulative outstanding federal loans of $41.6 billion.[10] The U.S. Department of Labor predicts that total outstanding loans will grow to $68 billion in 2013.[11]

Federal loans to states come at a cost as **states cannot pay interest with regular UI taxes.** Generally, interest charges accrue on FUA loans (except if the loans are made and repaid between January 1 and September 30 of the same calendar year). However, the Recovery Act temporarily waived interest on unemployment trust fund loans through calendar year 2010.

This Recovery Act provision did not release a state from the legal obligation to repay its underlying loan or from paying interest that started accruing on January 1, 2011. A state with a FUA loan owes its first interest payment by October 1, 2011. **By law, the interest payment cannot be paid from the state's unemployment trust fund.**

States with outstanding loans must repay them by November10 following the second consecutive January 1 on which the state has an outstanding loan. This provision gives states approximately 22 to 34 months to repay the loan depending on when the loan was obtained. Principal on loans may be repaid from the states unemployment trust fund.

Georgia's repayment of its $634.5 million federal unemployment trust fund loan is due by November 10, 2011 to avoid automatic federal UI tax increases on Georgia employers beginning in 2012. [12] **Georgia's first interest payment of approximately $24 million is due by October 1, 2011.**[13]

Consequences of Failing to Repay the Interest Payments or the Loan

Failure to repay the loan or interest payments when due would have serious consequences for Georgia and its employers.

Failure to Repay Interest

- Loss of full 5.4 percent employer federal UI tax (FUTA) credit received based on federal approval of the state's UI program. Georgia employers currently pay an effective tax rate of 0.8 percent on the first $7,000 of each employee's taxable wages, or $56 per employee per year. Starting January 1, 2012, employers' federal UI tax bill could go up from $56 per employee to $434 per employee.
- Loss of federal UI administration grants until the interest is paid. Georgia received $54.1 million in federal fiscal year 2010.[14]

Failure to Repay Loan

- Reduction of employer 5.4 percent FUTA tax credit. Starting in 2012, employers' FUTA would go up from $56 per employee to $77 per employee as the credit is reduced by 0.3 percentage points (effectively increasing the FUTA tax rate from 0.8 to 1.1 percent).[15] FUTA taxes would increase by an additional 0.3 percentage points per employee for each year there is an outstanding loan (e.g., increasing from 1.1 percent to 1.4 percent in 2013).

How Georgia's Unemployment Trust Fund Became Insolvent

A state's UI program should work counter to economic fluctuations. Meaning that in good economic times with low unemployment, the state should build up its UI reserves through revenue generated by employers. This way there will be adequate funds to pay UI benefits for unemployed workers when the state faces a recession and unemployment rises.[16]

Over the 30-year period from1970 through 1999, Georgia's unemployment trust fund grew steadily.[17] In 1999, Georgia's unemployment trust fund balance was nearly $2 billion.[18]A review of Georgia's UI laws and practices over the past two decades explains how Georgia's one-time robust unemployment trust fund became insolvent. State legislators, past governors and the former Georgia Department of Labor (DOL) commissioner gave tax breaks to employers over multiple years, often during strong economic times, which dramatically reduced the unemployment reserves and left it unable to recover prior to the Great Recession.

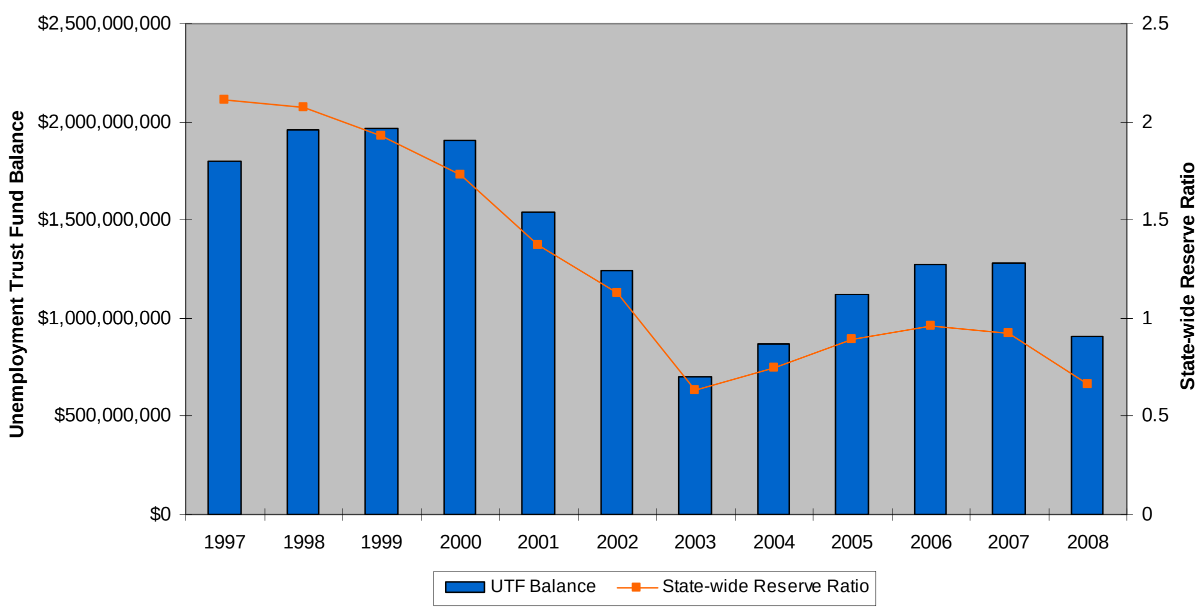
- **Tax Cuts in the 1990s** - According to the National Employment Law Project (NELP), Georgia cut the UI tax rate in 1994 by 6.25 percent, which cost the trust fund $45 million.[19] In 1998, Georgia enacted legislation that cut UI taxes by about $220 million.[20]
- **"UI Tax Holiday" from 2000 through 2003** was the largest unemployment tax break ever passed by any state. Implemented on January 1, 2000, this legislation was essentially a moratorium on state UI payroll taxes for the vast majority of Georgia's employers.[21] At the

time of passage, the Georgia DOL estimated that the cost to the unemployment trust fund would be nearly $1 billion.[22]

According to the law, if Georgia's State-wide Reserve Ratio was at or below 1.25, the UI tax holiday would be null and void.[23] *The State-wide Reserve Ratio fell from 1.93 in 1992 to below 1.25 in 2002 and 2003. Georgia policymakers ignored this trigger to raise employer state UI tax rates and instead passed new legislation in 2002 that suspended the overall increase in state UI taxes for the period of January 1, 2003 through December 31, 2003.*[24]

- **State-wide Reserve Ratio Triggers Ignored** – From 2002 forward, Georgia policymakers continued to pass legislation to suppress employer state UI tax increases that would build back the reserves, even during strong economic times. In 2003, Georgia enacted legislation (SB 167) that suspended the increase in employer state UI tax unless the State-wide Reserve Ratio was less than 1.00 percent at which point the DOL commissioner would have the discretion to increase the overall rate by a maximum of 35 percent. Similar legislation was passed to continue this provision through 2011.

Figure 1 **Georgia UI Trust Fund and State-wide Reserve Ratio History**



Source: U.S. Department of Labor, Employment and Training Administration Handbook 394

As shown in Figure 1, Georgia's unemployment trust fund balance fell from a high of nearly $2 billion in 1999 to a low of $703 million in 2003, while the State-wide Reserve Ratio dropped from 1.93 to 0.63. This drop was due to decreased revenue collections during the UI tax holiday and due to the increased unemployment benefits paid from the 2001 recession. From 2003 to 2008, even though the trust fund began to modestly grown again, it did not meet the solvency test of State-wide Reserve Ratio of at least 1.00 in 2008.

It is, therefore, not surprising that Georgia was unable to build back its unemployment reserves before the Great Recession. In December 2009, when Georgia could no longer meet its legal requirement to pay unemployment benefits, Georgia began borrowing from the federal government. [25]

Table 1 **Georgia UI Trust Fund History**

Year	Georgia UTF Balance	AHCM	State-wide Reserve Ratio	Min State UI Tax Rate	Max State UI Tax Rate
1997	$1.80 billion	2.20	2.11	*	*
1998	$1.96 billion	2.16	2.07	*	*
1999	$1.96 billion	2.01	1.93	.04%	5.4%
2000	$1.90 billion	1.80	1.73	0%	5.4%
2001	$1.54 billion	1.46	1.37	0%	5.4%
2002	$1.25 billion	1.20	1.13	0%	5.4%
2003	$703 million	0.67	0.63	0%	5.4%
2004	$870 million	0.79	0.75	0%	5.4%
2005	$1.12 billion	0.95	0.89	0%	7.02%
2006	$1.27 billion	1.02	0.96	.03%	6.21%
2007	$1.28 billion	0.98	0.92	.03%	5.40%
2008	$910 million	0.70	0.66	.03%	5.40%
2009	$0	0	0	.025%	5.40%

Sources: U.S. Department of Labor, Employment and Training Administration Handbook 394. UI State Tax Rates from U.S. DOL, ETA, Office of Workforce Security – Significant Provisions of State UI Laws, except the 1999 rates from National Employment Law Project and the 2000 and 2001 rates based on author interpretation of Senate Bill 222. Note: Under the UI Tax Holiday, from 2000 through 200, nearly all Georgia employers did not pay state UI Taxes.

Georgia's insolvency is a revenue problem not a spending problem. Georgia's UI benefits are lower than the national average ($269 per week compared to the national average of $296 per week) and are one of the shortest in duration (an average of 15.3 weeks). Georgia collected significantly less revenue than benefits paid, particularly from 2000 to 2003, during the UI Tax Holiday.

What are Georgia's Options?

Georgia's loan repayment of approximately $634.5 million is due by November 10, 2011. Georgia's first interest payment of approximately $24 million is due October 1, 2011. These figures could rise as Georgia is expected to continue borrowing through 2011.

Best Option – Short-term Relief from Federal Government and Path to Solvency

Gov. Deal and the Georgia congressional delegation should support federal efforts that provide states with short-term suspension of interest payments on its unemployment trust fund loan and a path to future solvency. The Unemployment Insurance Solvency Act of 2011 (Senate Bill 286) builds on the plan contains the plan outlined by President Barack Obama's federal fiscal year (FFY) 2012 budget proposal. Specifically the bill would:

- Suspend interest payments on state unemployment trust fund loans for 2011 and 2012,

- Suspend automatic FUTA tax increases on employers for 2011 and 2012, and
- Provide partial forgiveness of the unemployment trust fund loan principal for each state that enters into a voluntary abatement agreement with the U.S. DOL.[26] Each agreement would include a plan within a reasonable timeframe, to:
  - Repay its outstanding unemployment trust fund loan principal less the partial forgiveness, and
  - Reach solvency, defined as an average high cost multiple of 1.00.

  UI eligibility and benefit levels are preserved during the agreement period. Nationally, about one in three unemployed workers receives regular UI payments. In Georgia, UI payments are already below the national average and are short in duration. Restricting access or reducing payments would not only hurt unemployed workers and their families but it also would hurt local economies since ever dollar of UI payments generates about $1.60 in economic activity.[27]

This bill would provide desperately needed short-term relief to Georgia at a time when the economy is still weak. Once the economy is more stable, the bill offers Georgia and other states more flexibility to restore its UI program to solvency and prepare for future recessions.

State Options without Federal Relief

Georgia needs a back-up plan in the absence of federal intervention. Georgia should prioritize a plan for making the first interest payment, due October 1, 2011, because of the significant increase in employer FUTA tax in 2012 if interest is not paid.

According to the governor's budget report for FY 2012, issued in early January 2011, Georgia DOL's UI program is to "utilize state funds to pay first installment of the Unemployment Trust Fund loan interest and maximize federal funds for program operations."[28] It is unlikely that the Georgia DOL FY 2012 proposed budget can support an interest payment of $16.8 million to $22.4 million.

The options for the first interest payment include:

- **Employer special interest surcharge placed in a segregated account** – Georgia could join 20 other states and enact legislation to levy a special interest assessment on employers.[29] In these states, funds collected through the assessment are segregated from the UI trust fund and are used solely to repay federal interest.
- **State General Funds** – This is a worse idea. Financing of the unemployment trust fund is an employer responsibility. Using state funds to bail out employers puts the burden on the tax payer to foot the bill for employers who have enjoyed reduced payroll taxes for years and takes away desperately needed funds from education, health care, and elderly services.

<u>Unemployment Trust Fund Loan Repayment Through Bond Issue</u>

Georgia DOL Commissioner Butler is working with the state attorney general, governor's office and some members of the general assembly to determine if Georgia is legally allowed to issue a bond to repay the unemployment trust fund loan. With a bond, the commissioner believes he could access a lower interest rate than the federal government is currently offering (approximately 4 percent). Even with a bond, Georgia would still owe interest on its current loan to the federal government and would need a plan for repayment of the bond.

Study and Enact a Long-Term Solvency Plan

Georgia should seize the opportunity to study and enact a long term solvency plan. South Carolina hired an economics firm to study its solvency problem and make recommendations. In 2010, South Carolina passed legislation that created a plan to reach the average high cost multiple of 1.00 by increasing tax rates and the state's taxable wage base.[30] Basically, South Carolina determined the amount needed to pay off its FUA loan and spread that extra tax over five years.

Prior to the UI tax holiday, Georgia had a UI tax structure in which employers would fill the unemployment reserves back up when the reserves dropped too low. With careful study, Georgia could update its UI tax structure and return to solvency.

Contact: Clare S. Richie, CRichie@GBPI.org; 404.697.6669

Endnotes

[1] 478,833 unemployed Georgians. Seasonally adjusted data from Bureau of Labor Statistics for December 2010.
[2] U.S. Department of Labor, Average weekly benefit amount (AWBA) in the 3rd quarter of 2010. http://ows.doleta.gov/unemploy/content/data_stats/datasum10/DataSum_2010_3.pdf
[3] Actual Duration of Benefits, Claims Data Report for 2009, U.S. Department of Labor. http://workforcesecurity.doleta.gov/unemploy/hb394/hndbkrpt.asp
[4] U.S. Department of Labor, Significant Provisions of State Unemployment Insurance Laws Effective July 2010. http://www.workforcesecurity.doleta.gov/unemploy/content/sigpros/2010-2019/July2010.pdf Wages more than $8,500 are considered non-taxable for UI purposes in the state of Georgia. New employers, usually those with less than three years of employment history, are assigned a different rate. For 2010, the rate for newly liable employers is 2.7 percent.
[5] Georgia DOL tracks each employer's cumulative tax payments to the state unemployment trust fund, and the cumulative benefits paid to each employer's laid off workers. For a given computation date, usually three years ending shortly before the beginning of the taxable year, the Georgia DOL determines the employer's "total tax reserve"—difference between its cumulative contributions and benefit charges. The "total tax reserve" is then divided by the average annual payroll to yield the percent applied. The resulting percentage is then applied to base rate tables provided in the Employment Security Law. The computed rate applies to taxable wages paid during the calendar year immediately following the computation date. Edward Sennoga, "Analysis of Georgia's Unemployment Trust Fund Reserves", Fiscal Research Center, Andrew Young School of Policy Studies, Georgia State University, FRC Report No. 123, March, 2006. Available at http://aysps.gsu.edu/frc/files/Report123.pdf
[6] Mary Loeb, "Unemployment Compensation: Most States Insolvent, Federal Loans Accrue Interest, Federal Funds Information for States, Issue Brief 11-05, January 24, 2011. On September 17, 2010, the U.S. DOL published a final rule using the AHCM and state unemployment trust fund solvency as a requirement for receiving interest-free loans from the Federal Unemployment Account. It will be phased in starting in CY 2014. The rule requires a state to have enough funds in its unemployment trust fund account so that the state's AHCM is at least 1.00 at the end of one of the five calendar years prior to the year in which the potentially interest-free advance is taken. There are additional tax-effort requirements for interest free loans included in this final rule.
[7] Edward Sennoga, "Analysis of Georgia's Unemployment Trust Fund Reserves", Fiscal Research Center, Andrew Young School of Policy Studies, Georgia State University, FRC Report No. 123, March, 2006. Available at http://aysps.gsu.edu/frc/files/Report123.pdf
[8] Section 4 (a), Senate Bill 222 Workforce Reinvestment Act of 1999.
[9] Title XII of the Social Security Act contains provisions for borrowing from the U.S. Treasury under these circumstances.
[10] U.S. Department of Labor State Trust Fund Balance as of January 13, 2011. Available at http://www.workforcesecurity.doleta.gov/unemploy/budget.asp#tfloans

[11] U.S. Department of Labor, UI Outlook. Viewed on February 18, 2011. Available at http://ows.doleta.gov/unemploy/content/prez_budget.asp
[12] Georgia outstanding unemployment trust fund loan balance of $634.5 million as of February 11, 2011 http://workforcesecurity.doleta.gov/unemploy/budget.asp#tfloans
[13] Per Georgia DOL Commissioner Butler at the House Appropriations - Human Resources Committee meeting on February 21, 2011.
[14] Mary Loeb, "Unemployment Compensation: Most States Insolvent, Federal Loans Accrue Interest, Federal Funds Information for States, Issue Brief 11-05, January 24, 2011. http://www.ffis.org/node/2362
[15] Ibid.
[16] Ibid.
[17] Edward Sennoga, "Analysis of Georgia's Unemployment Trust Fund Reserves", Fiscal Research Center, Andrew Young School of Policy Studies, Georgia State University, FRC Report No. 123, March, 2006. Available at http://aysps.gsu.edu/frc/files/Report123.pdf
[18] Ibid.
[19] Ibid.
[20] Maurice Emsellem, Esq. and Vicky Lovell, PhD, "The Georgia Unemployment Insurance System: Overcoming Barriers for Low-Wage Part-Time & Women Workers", National Employment Law Project and Institute for Women's Policy Research, December 2000. http://nelp.3cdn.net/3523a8c8fc1c1c1be8_u5m6bhuvk.pdf
[21] Ibid. The law (SB 222) set forth a schedule of UI tax rates for different groups of employers, depending on their "experience rating". Those rates were then adjusted to reflect the solvency of the state's trust fund. The tax holiday legislation provides that employers would only have to pay 1 percent of their prior tax rate set by the UI tax schedules. Thus, the UI payroll tax rates on employers were cut to range from zero to 0.05 percent of the first $8,500 in taxable wages for each employee. This figure does not include a special administrative assessment of an additional 0.08 percent imposed by the state for other purposes. The largest number of Georgia employers are in the zero percent tax bracket, thus they are not paying any UI payroll taxes. The one group that was not covered by the tax holiday was the "negative balance employers," which is about 1 percent of the state's employers. "Negative balance employers" are those businesses whose experience-rated trust fund accounts have reserves of less than zero because their UI benefit costs have exceeded payroll tax contributions. These companies paid the maximum rate of 5.4 percent on the first $8,500 in earnings for each employee (a maximum of $459 per worker).
[22] Georgia Department of Labor, Workforce Information & Analysis Division, "Tax Holiday Forecast" submitted to the 1999 Georgia General Assembly. Maurice Emsellem, Esq. and Vicky Lovell, PhD, "The Georgia Unemployment Insurance System: Overcoming Barriers for Low-Wage Part-Time & Women Workers", National Employment Law Project and Institute for Women's Policy Research, December 2000. http://nelp.3cdn.net/3523a8c8fc1c1c1be8_u5m6bhuvk.pdf
[23] Georgia Senate Bill 222/ House Bill 779 "The 1999 Session Highlights", Available at http://www.senate.ga.gov/sro/Documents/Highlights/1999Highlights.pdf
[24] Georgia House Bill 342, 2002 Legislative Session.
[25] UI: State Trust Fund Loans *Updated January 25, 2011* http://www.ncsl.org/?tabid=13294. Viewed January 27, 2011.
[26] Senator Richard Durbin (IL), with Senators Jack Reed (RI) and Sherrod Brown (OH), introduced the Unemployment Insurance Solvency Act of 2011 (S.386) on February 17, 2011.
[27] Mark Zandi, "U.S. Macro Outlook: Compromise Boosts Stimulus," Moody's Analytics, December 8, 2010. Other analysts find that unemployment payments generate as much as $2 in economic activity during recessions for every dollar of payment provided. See The Role of Unemployment as an Automatic Stabilizer During a Recession, Impaq/Urban Institute for the U.S. Department of Labor, available at http://www.dol.gov/opa/media/press/eta/eta20101615fs.htm
[28] Governor's Budget Report FY 2012, p.256. Available at: http://opb.georgia.gov.
[29] National Employment Law Project, "Understanding Payment of Interest on Federal Loans to State Unemployment Trust Funds", January 18, 2011. Available at http://nelp.3cdn.net/f7eca33fcebf65c989_com6bne7h.pdf.
[30] South Carolina Act 234. Michael Leachman, Andrew Stettner, Iris Lav, Hannah Shaw and Rick McHugh, "Rebuilding the Unemployment Insurance System: A Deficit-Neutral Plan that Limits Tax Increases and Maintains Benefits," Center on Budget and Policy Priorites and National Employment Law Project, February 9, 2011. Available at http://www.cbpp.org/files/2-9-11sfp.pdf.