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Georgia's Unemployment Trust Fund

A Plan Urgently Needed to Restore Solvency

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Summary

Georgia still faces historic levels of unemployment with nearly half a million workers looking for jobs. Less than one-quarter of jobless workers receive regular state weekly unemployment payments, which only replace about one-third of an average worker's weekly wage. Georgia's state unemployment payroll taxes finance the state unemployment reserves to cover the initial 26 weeks of unemployment payments. Currently, additional weeks are funded temporarily by the federal government. Years of employer tax cuts left Georgia unprepared for a recession and high unemployment; now, the state is borrowing $721 million from the federal government to meet its obligations. As Georgia faces the consequences of insolvency, the state should develop a plan to fix the broken financing of its unemployment trust fund.

Update on Georgia's Insolvent Unemployment Trust Fund

- Georgia's first interest payment of $21 million is due on September 30, 2011. Two-thirds of states with outstanding unemployment loans, including Alabama and Arkansas, are paying off the interest using employer surcharges to avoid cuts to state services. Georgia is using state funds.
- Repayment of Georgia's $721 million federal unemployment trust fund loan is due by November 10, 2011. Failure to repay results in an automatic increase in federal unemployment taxes by $21 dollars per employee per year. The first increase would be on 2011 payroll due in January 2012.
- In 2011 and 2012, Labor Commissioner Mark Butler has the discretion to increase the overall state unemployment insurance tax rate by a maximum of 50 percent.

What are Georgia's Options for Long-Term Solvency?

Georgia should develop a fair and predictable tax structure with a reasonable tax for employers that allows the state to rebuild its reserves between recessions and protect benefits.

Best Option – Congressional Action

Governor Nathan Deal and the Georgia congressional delegation should support the Unemployment Insurance Solvency Act of 2011 (U.S. Senate Bill 386) that provides states with short-term relief and a path to future solvency—while reducing the deficit. The bill would:

- Suspend interest payments on state unemployment trust fund loans for 2011 and 2012,
- Suspend automatic federal unemployment tax (FUTA) increases on employers for 2011 and 2012, saving employers $21 per employee in 2011 and $42 per employee in 2012, and
- Forgive up to 60 percent of the federal loan balance for states that implement a plan to reach federally recommended solvency level, and
- Prevent damaging cuts in unemployment eligibility and benefits for jobless workers.

With or without S. 386, Georgia should convene a diverse task force (e.g. labor department, business associations, employer groups, fiscal policy experts, and labor unions) to develop a plan to repay the loan and rebuild reserves before the next down-cycle. The state's plan should enable employers' ability to recover and create jobs while protecting unemployment benefits for jobless workers.

How Georgia's Unemployment Trust Fund Became Insolvent

State unemployment taxes are placed in the state's unemployment trust fund and may only be used to make unemployment payments or to repay a federal loan. In good economic times, a state should build up its unemployment reserves to ensure there will be adequate funds for unemployment payments when the state faces a future recession.[1]

Georgia did not follow this principle. Starting in 2000, state legislators, governors and the former Georgia Department of Labor (DOL) commissioner gave tax breaks to employers, even during strong economic times, which dramatically reduced the unemployment insurance system's reserves and left it inadequately prepared for the recent recession.

- In 1999, Georgia's unemployment trust fund balance was nearly $2 billion dollars.
- From 2000 to 2003 the balance fell to $703 million, due to decreased revenue collections during the "Unemployment Insurance Tax Holiday", when most employers paid no state unemployment tax, and due to the increased unemployment payments from the 2001 recession.
- From 2004 forward, Georgia passed legislation to suppress automatic tax rate increases triggered when the health of the fund was weak. (Prior to 2004, the automatic surcharge ranged from 25 percent to a 100 percent for State Wide Reserve Ratios from 1.7 to 0.75 respectively.)

Table 1 **Georgia Unemployment Trust Fund History**

Year	Georgia UTF Balance	State-Wide Reserve Ratio	Min State UI Tax Rate	Max State UI Tax Rate
1999	$1.96 billion	1.93	0.04%	5.4%
2000	$1.90 billion	1.73	0%	5.4%
2001	$1.54 billion	1.37	0%	5.4%
2002	$1.25 billion	1.13	0%	5.4%
2003	$703 million	0.63	0%	5.4%
2004	$870 million	0.75	0%	5.4%
2005	$1.12 billion	0.89	0%	7.02%
2006	$1.27 billion	0.96	0.03%	6.21%
2007	$1.28 billion	0.92	0.03%	5.40%
2008	$910 million	0.66	0.03%	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 unemployment insurance tax holiday, from 2000 through 2003, nearly all Georgia employers did not pay state unemployment taxes.

Note: State-wide Reserve Ratio is calculated every June 30 by dividing the unemployment trust fund balance including accrued interest, by the total covered wages paid in Georgia during the previous calendar year. Most experts agree that an ideal pre-recession reserve ratio is at least 2.0.

- From 2004 forward, legislation was passed that gave the DOL Commissioner sole discretion to impose a surcharge, *capped at 35 percent,* if the State-Wide Reserve Ratio fell below 1.00 for the period 2004-2006 or below 1.25 for the years 2007-2010. For 2011 and 2012 the cap was increased to 50 percent.[2]
- The DOL Commissioner applied the surcharge once, even though the State-Wide Reserve Ratio ranged from zero to 0.96 from 2004 to 2011. Before his tenure ended, former DOL Commissioner Michael Thurmond exercised his discretion and called for a 35 percent surcharge applied to state unemployment taxes for 2011.[3] Commissioner Mark Butler has not indicated that he will further raise the surcharge to its 50 percent maximum for 2011 or apply any surcharge in 2012.

As shown in Table 1, Georgia's trust fund became insolvent after a decade of tax cuts and surcharge suppressions. In December 2009, Georgia began borrowing from the federal government when the fund had a zero balance and the state could no longer meet its legal requirement to pay unemployment payments.[4]

Georgia's Insolvency is a Revenue Problem not a Spending Problem

Georgia has some of the lowest unemployment tax rates in the nation.

- In 2010, U.S. DOL estimated that 40 percent of Georgia employers paid the minimum tax of $2 per employee per year.[5] Georgia DOL estimated 30 percent of employers will pay the minimum tax in 2011.[6]
- The average employer contribution was $191 per employee in 2010 or 0.51 percent of wages.[7] Employers in 37 states paid higher per employee taxes on average. (The U.S. averages were $281 and 0.63 percent respectively.) [8]
- Georgia's taxable wage base is $8,500. Thirty-eight states have a higher taxable wage base and 17 of these states increased their taxable wage base in 2011. The last time Georgia increased its taxable wage base was in 1990. [9]

Georgia offers some of the least generous unemployment payments in the U.S.

- Georgia's unemployment payments are $270 per week, only replacing about one-third of an average worker's weekly wage.[10]
- Regular state unemployment payments cover a worker for up to 26 weeks, but the average duration is 13.7 weeks, the lowest in the nation.[11]
- In 2011, only 22 percent of unemployed workers in Georgia received regular state unemployment payments. Low-wage workers are less likely than higher-wage workers to ever receive unemployment payments.[12]

States cannot change their method of benefit calculation (the weekly amount) until June 30, 2012 under a rule linked to federal government's provision of extended weeks of benefits to the long-term unemployed.[13]

Consequences of Georgia's Outstanding Unemployment Trust Fund Loan

Georgia to Use State General Revenue Funds for First Interest Payment

The Georgia legislature and governor agreed to use state funds to make the first loan interest payment of approximately $21 million, which is due by September 30, 2011.[14] More than $15 million of the payment comes from Medicaid and was transferred into the Governor's Emergency Fund.[15] The remainder, about $6 million, came from the Georgia Work$ program, leaving its budget at $200,000. Georgia Work$ is a voluntary program that pairs those receiving unemployment benefits with potential employers for eight weeks of training.[16] Employers pay nothing and are not obligated to hire participants. Program participants continue to receive weekly unemployment checks, as well as a small stipend (average $30 per week) for transportation, child care and other incidentals.[17]

Most states did not use state funds to make the interest payment. <u>Nineteen out of 27 states that owe interest, including Alabama and Arkansas, will pay through a special assessment on employers</u>.[18] In these states, funds collected through the special assessment are segregated from the unemployment trust fund and are used solely to repay federal interest.

Georgia could have followed the path of these states and paid the interest using a special assessment. Then it could have chosen to use the $21 million to provide some relief from this year's cuts to education, public health and work support programs.

Georgia Must Repay its Federal Loan

Georgia is currently borrowing $721 million from the federal government to pay regular unemployment benefits. Businesses in Georgia are required to start paying back the principal on these loans in a few months, through higher federal unemployment taxes. In January 2012, employers' federal unemployment taxes (FUTA) will increase by $21 per employee.[19] For 2013 and beyond, these taxes will increase by an additional $21 per employee per year until the loan is repaid.

Plan Needed to Restore Solvency

The financing of Georgia's unemployment trust fund is broken. A decade of tax cuts drained the reserves prior to the recent recession. In addition, under current state unemployment tax law, too many employers pay the minimum tax and the system relies unrealistically on tax increases when unemployment is high. Georgia needs to develop a fair and predictable tax structure with a reasonable tax for employers that allows the state to rebuild its reserves between recessions and protects unemployment benefits.

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

Governor Deal and the Georgia congressional delegation should support federal efforts that provide states with short-term suspension of interest payments on their unemployment trust fund loan and a path to future solvency. The Unemployment Insurance Solvency Act (S. 386) gives states a framework to restore the long-term health of their unemployment systems, avoid tax increases on businesses in this weak economy, and prevent damaging cuts in unemployment eligibility and benefits for jobless workers — all while reducing the federal deficit.[20]

Short-term - Provides tax cuts for employers while the economy is still weak

- Saves Georgia businesses about $200 million by suspending the federal unemployment tax increases that would otherwise hit employers in the next couple of years.
- Suspends loan interest payments for two years, which will save Georgia about $60 million over the next two years.

Long-term - Helps rebuild reserves in preparation of future recessions

- Forgives about $430 million of Georgia's outstanding loan — giving employers a major tax cut over the next several years — if the state enters into an agreement with the U.S. Department of Labor to rebuild the financing of its unemployment system and fully prepare for the next recession without making major reductions in benefits or eligibility.

- When the economy is more stable in 2014, S. 386 raises the federal taxable wage base from $7,000 (where it's been for nearly 30 years) to $15,000. States with low taxable wage bases, like Georgia, will need to increase their base to at least $15,000, a necessary step to assure that states will not fall back into debt in the future. This would not be a federal tax increase for Georgia employers, because the federal tax rate would adjust downward, offsetting the wage base increase.

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 unemployment program to solvency and prepare for future recessions.

State Option without Federal Relief – What Georgia Can Learn from Colorado

With or without federal relief, Georgia needs to revise how it finances its unemployment system to repay its debt, prepare for future recessions, provide employers a fair and predictable tax structure, and maintain benefits and eligibility.

Colorado faced a similar issue. The state owed approximately $500 million to the federal government, but took a more proactive approach to repaying its loan and rebuilding its reserves.[21] In summer 2010, the Colorado Department of Labor and Employment (CDLE) led a task force that included business associations, employer groups, fiscal policy think tanks, labor unions and government staff.[22]

The task force focused on the financing of Colorado's unemployment trust fund with two goals:

1. Repay the federal loan before automatic FUTA increases begin, and rebuild a necessary fund balance before the next down-cycle – without harming employers' ability to recover and increase jobs.
2. Construct a new state unemployment rate chart that "reflects and grows with the size of the Colorado economy to provide adequate reserves, that has less volatility and is simpler to administer, and reflects sound pooled insurance principles for shared risk and non-charged benefits." For example, some Colorado employers paid nothing when the fund balance was high. The task force agreed that all employers should pay a little each year – similar to how all drivers pay some car insurance even if they have perfect driving records.

The culmination of the task force's work was House Bill 1288, Unemployment Insurance Solvency Reform, which passed in spring 2011. Key provisions include:

For calendar years 2012 and 2013:

- Maintain the current rate chart through calendar years 2012 and 2013
- Cap the compounding solvency surcharge at current levels
- Raise the taxable wage base from $10,000 to $11,000
- Tighten fraud prevention and process practices for fund savings

For 2014 forward (once projected solvency achieved):

- Implement a new rate chart with more gradual pay scales and dynamic economic measures
- Index the wage base from $11,000 [23] (favored in lieu of drastic and unpredictable increases previously imposed by solvency surcharges)
- Remove the compounding solvency surcharge with a simple emergency-only surcharge

Colorado expects to reach solvency by 2013, which will save employers' from higher costs in interest and penalties.

Georgia should immediately convene a task force with diverse stakeholders in a public process that proposes legislation to repay the loan quicker and put Georgia's unemployment reserves on more stable and predictable footing – without harming employers' ability to recover and increase jobs. Like Colorado, Georgia's task force members should include business associations, employer groups, fiscal policy experts, labor unions and government staff.

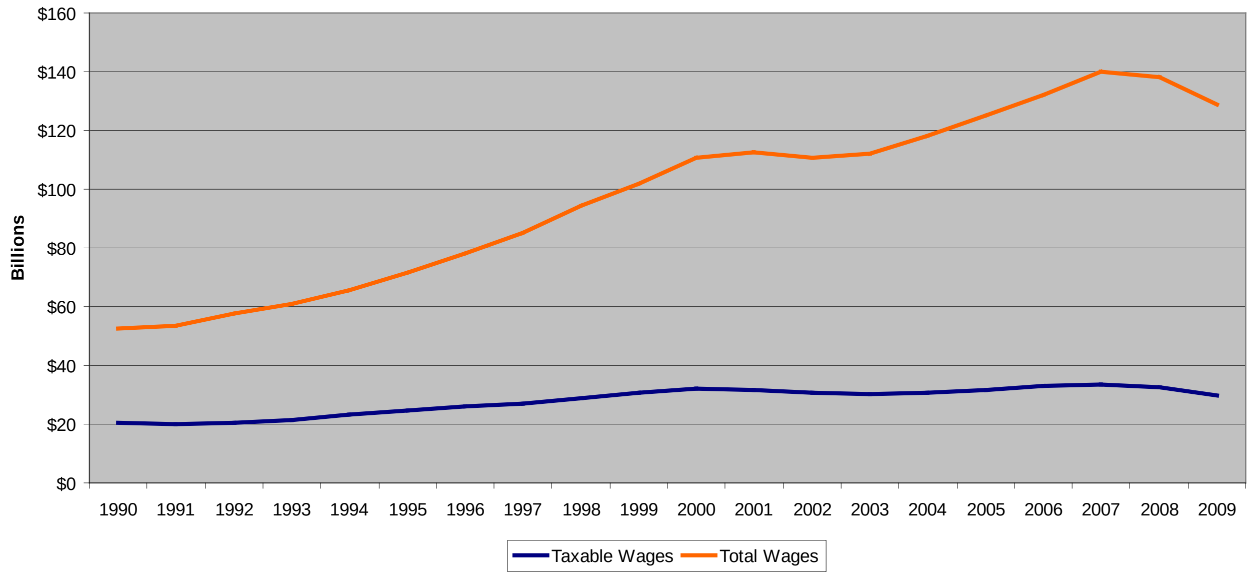
A Georgia task force should explore increasing Georgia's taxable wage base and updating the state unemployment rate structure.

Georgia's taxable wage base is too low ($8,500) and hasn't been updated since 1990. [24] Thirty-eight states have a higher taxable wage base and 17 of these states increased their taxable wage base in 2011.

As shown in Figure 1, total wages paid to all covered employees increased three times as fast as taxable wages paid to covered employees that are subject to state unemployment insurance taxes from 1990 through 2009.[25] During this period, total wages paid increased from $52 billion to

$130 billion, while taxable wages were relatively flat increasing only $20 billion to $30 billion. As a result, the share of taxable wages to total wages has fallen from almost 40 percent to less than 25 percent. This shows an erosion of Georgia's unemployment trust fund's revenue generating ability, since a given rise in total wages produces an increasingly smaller than proportional increase in taxable wages.

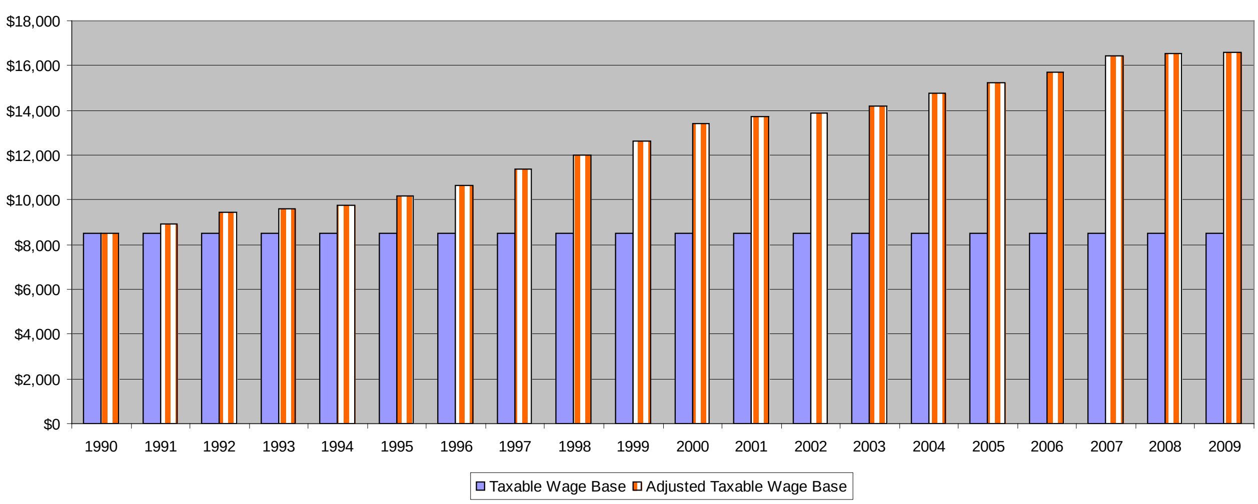
Figure 1 **Taxable Wages Increase More Slowly than Total Wages**



Source: U.S. Department of Labor Employment & Training Financial Handbook 394

In 1983, Georgia's taxable wage base was $7,000 and has been $8,500 since 1990. As shown in Figure 2, Georgia's taxable wage base would be more than $16,000 had it been adjusted annually for growth in the annual average wage.[26]

Figure 2 **Georgia's Taxable Wage Base Adjusted for Growth in Average Annual Wage**



Source: U.S. Department of Labor Employment & Training Financial Handbook 394

If Georgia updated its taxable wage base to $11,000 starting in 2013, holding all other state tax provisions constant, the unemployment reserves would likely reach solvency by 2020. Increasing the wage base to less than $11,000 would increase the number of years required to reach solvency.[27]

Minimum Rate should be Analyzed

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.[28]

In 2011, 30 percent of Georgia employers are paying the minimum rate of $2 per employee per year.

- What if the minimum rate increased slightly?
- What if that minimum rate were combined with an increase in the taxable wage base?

The task force could use data from analyses like this to develop a long-term solvency plan for Georgia – with or without federal relief.

Recommendations

Financing of the unemployment trust fund is an employer responsibility. Using state general funds to make Georgia's interest payments and having an outstanding loan that triggers annual federal tax increases on businesses is bad fiscal policy because:

- It ignores the underlying problem that Georgia's unemployment insurance system is broken after years of employer tax cuts, a rate structure with a high concentration of employers paying the minimum, an outdated taxable wage base, and low unemployment benefits.
- It redirects state funds away from other purposes, and
- It will not rebuild the unemployment reserves prior to the next recession.

Georgia needs to develop a fair and predictable tax structure with a reasonable tax for employers that allows the state to repay the loan and rebuild reserves before the next down-cycle without harming employers' ability to recover and create jobs and while protecting unemployment benefits for jobless workers.

1. Governor Deal and the Georgia congressional delegation should support federal efforts that provide states with short-term suspension of interest and principal payments on its unemployment trust fund loan and a path to future solvency. The Unemployment Insurance Solvency Act (S. 386) gives states like Georgia a framework to restore the long-term health of their unemployment systems, avoid tax increases on businesses in this weak economy, and prevent damaging cuts in unemployment eligibility and benefits for jobless workers — all while reducing the federal deficit.

2. Georgia should immediately convene a task force with diverse stakeholders in a public process that proposes legislation to repay the loan quickly and put Georgia's

unemployment reserves on more stable and predictable footing. Task force members should include business associations, employer groups, fiscal policy experts, labor unions and government staff. Like Colorado, the Georgia task force would need the cooperation of the state DOL to conduct analysis of the most effective combination of taxable wage increase and state unemployment tax rate structure.

3. Regardless of which long-term solvency plan is adopted, Georgia should enact a surcharge on employers to make future loan interest payments, as most other states have done.

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Endnotes

[1] 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 .
[2] House Bill 292 available at http://www.legis.ga.gov/Legislation/en-US/display.aspx?Legislation=32906
[3] E-mail correspondence with Georgia Department of Labor (Georgia DOL), August 23, 2011.
[4] UI: State Trust Fund Loans *Updated January 25, 2011* http://www.ncsl.org/?tabid=13294. Viewed January 27, 2011.
[5] "U.S. Department of Labor (U.S. DOL), 2010 Significant Measures of State UI Tax Systems, October 2010. Available at http://www.workforcesecurity.doleta.gov/unemploy/pdf/sigmeasuitaxsys10.pdf
[6] Informal report by Georgia Department of Labor.
[7] U.S. DOL, Significant Measures of State UI Tax Systems, October 2010. Available at: http://www.ows.doleta.gov/unemploy/pdf/sigmeasuitaxsys10.pdf
[8] Calculations by National Employment Law Project (NELP) using data from the U.S. Department of Labor Employment & Training Financial Handbook 394. Handbook available at http://workforcesecurity.doleta.gov/unemploy/hb394.asp
[9] U.S. DOL, Comparison of State Unemployment Laws. Available at http://www.ows.doleta.gov/unemploy/pdf/uilawcompar/2011/financing.pdf and State Unemployment Insurance Taxable Wage Bases 2008 – 2011, American Payroll Association, available at http://www.americanpayroll.org/members/stateui/state-ui-2/
[10] U.S. DOL, Unemployment Insurance Data Summary for Georgia, CYQ 2011.2. Available at http://www.ows.doleta.gov/unemploy/content/data_stats/datasum11/DataSum_2011_2.pdf
[11] Ibid. Workers who do not qualify for the full 26 weeks of state unemployment payments also do not qualify for the full 73 weeks of federal unemployment payments.
[12] Ibid.
[13] U.S. DOL program letter about the Non-reduction rule, question 6: http://wdr.doleta.gov/directives/attach/UIPL04-10_Ch7acc.pdf
[14] E-mail correspondence with Georgia DOL on September 26, 2011.
[15] $18.2 million in state funds were placed in the Governor's Emergency Fund during the 2011 session when the first interest payment was estimated to be $24 million. Georgia House Bill 78, FY 2012 State Budget, Office of the Governor, Governor's Emergency Fund. Available at http://www.senate.ga.gov/sbeo/Documents/AppropriationsDocuments/FY2012/General/FY12G_GovVeto_GeneralGovernment.pdf.
[16] E-mail correspondence with Georgia DOL on September 2, 2011.
[17] Currently only the newly unemployed, those who have at least 14 weeks of regular state unemployment payments remaining, are eligible for Georgia Work$. Per e-mail correspondence with Georgia DOL September 2, 2011 and http://www.dol.state.ga.us/em/georgia_works.htm
[18] 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.
[19]The effective tax will go from 0.6 percent to 0.9 percent. Congress allowed the 0.2 percent surtax to expire on June 30, 2011.The FUTA tax was $56 per employee. It went down to $42 per employee, because the surtax expired. The tax will be $63 per employee because of the credit reductions due by January 31, 2012 to start paying back the loans.
[20] Estimates provided by the Center on Budget and Policy Priorities. Full text of S. 386 available at http://www.govtrack.us/congress/billtext.xpd?bill=s112-386

[21] Unless otherwise stated this section is based on House Bill 1288 presentation before the Colorado House Economic and Business Development Committee and House Bill 1288 Fact Sheet provided by Colorado Fiscal Policy Institute on September 12, 2011 as well as interview with Colorado Fiscal Policy Institute on September 1, 2011.
[22] Members included CDLE staff, Colorado Association of Commerce and Industry (CACI) – the state chamber of commerce, the Bell Policy Center, Mountain States Employers Council, the Colorado Fiscal Policy Institute, National Federation of Independent Businesses (NFIB), American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), the Colorado Competitive Council (C3), and several individual companies.
[23] The June 2010 Colorado Legislative Audit Report recommended increasing the taxable wage base to $22,000. Audit available at: http://www.leg.state.co.us/OSA/coauditor1.nsf/All/1029D80BF5999FF68725775B0075B6F3/$FILE/1993%20Unemployment%20Insurance%20Perf%20June%202010%20final.pdf
[24] U.S. DOL Comparison of State Unemployment Laws. Available at http://www.ows.doleta.gov/unemploy/pdf/uilawcompar/2011/financing.pdf and State Unemployment Insurance Taxable Wage Bases 2008 – 2011, American Payroll Association, available at http://www.americanpayroll.org/members/stateui/state-ui-2/
[25] Georgia data from U.S. DOL Employment & Training Financial Handbook 394. See Handbook Glossary available at http://www.ows.doleta.gov/unemploy/hb394/gloss.asp for more detailed definition of total wages and taxable wages. Covered employees refers to most workers in the United States — 89 percent of the civilian labor force in 2006 — who work in jobs in which they are eligible for unemployment insurance (i.e., their employers are required to contribute money to the federal unemployment program). However, employees of certain nonprofit organizations, state and local governments, certain agricultural labor and some domestic services, as well as individuals who are self-employed are not eligible for federal unemployment compensation.
[26] Author calculation. Adjust taxable wage base by ratio of Georgia Average Annual Wage. Georgia data from U.S. DOL Employment & Training Financial Handbook 394.
[27] Estimate calculated by the Center on Budget and Policy Priorities.
[28] U.S. DOL, 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. 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. 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.