

Unemployment Insurance (UI) Modernization and the Recovery Act: Federalism with New Strings

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State Resisters to UI Modernization Incentive Funds

- In early 2009, six Republican governors (SC, AK, AL, MS, MN and LA) threatened to turn down ARRA funds to expand UI to additional low-income workers**
- Governors said these new rules would hurt businesses, which pay UI through payroll taxes, and result in higher taxes when the ARRA funds are spent**
- UI taxes are a very small portion of overall employer taxes**
- CBO projected that about 60 % of the \$7 billion in available incentive funds may not be spent because states would be reluctant to change rules for fear of long-run tax increases**

Study of UI Modernization - Our Analysis

- ❑ **Preliminary analysis of federal Recovery Act's UI Modernization provisions which were enacted by some states through June 2009**
- ❑ **Part of a forthcoming in-depth paper analyzing state UI policy deliberations and the consequences to intergovernmental federalism**
- ❑ **These reforms may have a profound impact on the cooperative federal-state UI program**

American Reinvestment and Recovery Act (ARRA)

P.L. No. 111-5 Overview

- ❑ Enacted February 17, 2009, The Assistance for Unemployed Workers and Families**
- ❑ Amends section 903 of the 74-year old Social Security Act in a new and untested way**
- ❑ Contains five (5) federally-selected UI Modernization provisions**
- ❑ States may enact all, some, or none of the modernization provisions**
- ❑ Federal provisions are voluntary**
- ❑ States whose UI law already contained them or enact them receive one-time incentive funds**

UI Modernization – Path to Reform

- ❑ Prompted by a three-decade erosion in UI reciprocity during an era of deindustrialization, political pledges of “no new taxes,” and strict federal UI rules imposed during the Reagan years
- ❑ NELP sought expansion of UI eligibility to accommodate a changing workforce, new employer practices and work arrangements
- ❑ Beginning in 2007, Rep. Jim McDermott (D-WA) sponsored legislation to improve UI eligibility consistent with NELP policy goals
- ❑ Obama campaign of 2008 endorsed the NELP-McDermott provisions
- ❑ Upon enactment of the UI Modernization provisions, McDermott touted the reform as “(a) New Deal for a New Century”

UI Modernization Provisions – Incentive Funds

- Each state's share of incentive funds is based on proportionate share of FUTA taxable wages multiplied by \$7 Billion in available funds (i.e., calculated the same way as the rarely-used Reed Act distributions)**
- State's share is reserved in an account of the Unemployment Trust Fund until the end of FY 2011 when unused funds become available for any FUA activity**
- Eligibility for maximum incentive payments is conditioned on state UI laws containing at least three UI eligibility provisions**

Incentive Funds and UI Modernization Provisions

- To obtain 1/3 of State's share of incentive funds, the state law must provide either a base period that uses most recent wages or an alternative base period (ABP) using recent wages**
- If a state qualifies under the base period provision, it also may obtain the remaining 2/3 share of incentive funds if its state law contains at least two of four additional eligibility provisions**

Additional UI Eligibility Provision Options (1)

- Make UI payable to certain individuals seeking part-time work**
- Individuals are not disqualified from UI for voluntary separations due to compelling family reasons:**
 - Domestic violence; Illness or disability of an immediate family member; and need to accompany spouse to a place impractical to commute, due to change in location of spouse's employment**

Additional UI Eligibility Provision Options (2)

- Pay an additional 26 weeks of UI paid to exhaustees who enroll and satisfactorily participate in approved training programs**
- Pay dependents' allowances of at least \$15 per dependent per week (states may cap total allowance at \$50 per week or 50% of the individual's WBA)**

Federalism's New UI Federal-State Relationship under ARRA

- ❑ **UI Modernization provisions expand UI eligibility in an unprecedented manner**
- ❑ **Federal provisions were enacted with less Congressional deliberation than other similar coverage/eligibility expansions (e.g. 1976 UI amendments), and without a public discussion about the long-run state tax consequences**
- ❑ **In the UI partnership's history, no previous UI expansion of required state coverage/eligibility has been enacted without a corresponding federal UI wage base or tax rate increase**
- ❑ **Obama Administration and Congress did not anticipate the reaction of some states to this coercive change in the administrative federalism of the UI program**

What Do We Know – Overall Federal and State Actions

- ❑ **Thirty-five states have taken some prior or recent legislative or regulatory action to be eligible for incentive funds**
- ❑ **DOL has approved a total of 26 states for incentive funds**
- ❑ **Nine states (CN, GA, ID, IA, KS, MN, NV, NJ, and OK) have been approved by DOL for full incentive funding**
- ❑ **Four states (AL, FL, TX and VA) failed to enact reforms by legislative vote**

Four Categories of States – Accepting Recovery Act Funds

- ❑ **States that had or wanted to expand benefit eligibility and saw incentive funds as a federal carrot (e.g. Iowa)**
- ❑ **States whose UI trust funds were depleting and bought into the expansion of eligibility as the price of a short-run financial relief (e.g. New Jersey)**
- ❑ **States whose opposition was based principally upon presidential politics, conservative philosophy, and/or public posturing (e.g. Alaska)**
- ❑ **States whose opposition was based upon resistance to federal intrusion into UI benefit and tax policies, and unwillingness to comply with the long-run tax consequences (e.g. South Carolina)**

Potential Outcomes of UI Modernization Effort (1)

- ❑ **Federal expansion of state eligibility through incentives (some states refer to it as a bribe/extortion) used federalism in a coercive manner, which was new to the existing UI intergovernmental partnership**
- ❑ **UI Modernization provisions have provided some states a short-run expansion of eligibility**
- ❑ **Incentive funds helped some states shore up UI trust fund shortfalls in short-run**
- ❑ **Some of the UI provisions will affect only a small number of UI recipients**

Potential Outcomes of UI Modernization Effort (2)

- In some states, UI benefit durations will increase**
- Without concomitant permanent employer tax increases to fund the benefit expansions, in the long-run states' eligibility may be reversed in the future**
- Application of the UI provisions may result in a structural change to the cooperative federalism of the UI program**
 - May intensify state eligibility variation inherent in the federal-state system**

Stay Tuned!

- ❑ **A longer version of this study is under development**
- ❑ **Thank you**

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