

HB

147

FURTHER

4/12/89

DATE TURNED INTO OFFICE

4/21/89

Mr. President:

L&C

Committee considered

CSHB 147 (JUD)

unemployment insurance and to unemployment insurance contribution overpayments; establishing a priority for payment; relating to disclosure of certain wage and unemployment compensation information; and recommended

[x] replace with S CS CSHB 147 (L+C) [x] same title [] or adopt CS [] new title [] attached amendment(s) and [] technical title change (HB only) [] letter of intent adopted

[x] do pass

[] do not pass

[] no recommendation

[] individual recommendations

[] further referral to

FISCAL NOTE(S) [] zero Dept of Labor 4/21/89 [x] fiscal impact [] appropriation no FN [] new [] updated [] previous [] same as previous fiscal note(s) published

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Handwritten signatures of committee members: Bob Keady, [unclear], and Jan Fair.

Blank lines for other recommendations.

Chairman signature and recommendation: [unclear] do pass

[] Committee Backup attached

fiscal note - labor 4/5/89 Governor's letter



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 3, 1989

The Honorable Sam Cotten
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

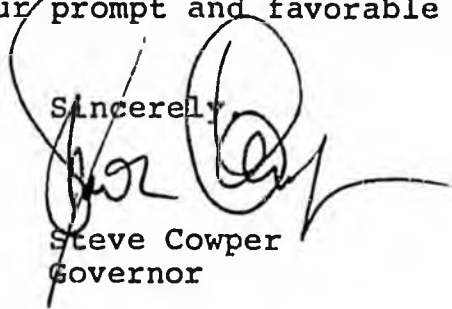
Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to unemployment insurance and unemployment insurance contribution overpayments. Passage of the bill will bring Alaska's law into conformity with recent amendments of federal law, as well as improve efficiency in the administration of the unemployment insurance program in the state.

Many of the provisions of the bill were in last session's SCS HB 384(L&C), and one, sec. 12, was in last year's CSHB 287(Fin) am. The attached bill contains nine additional sections for your consideration. These are: required sharing of information with federal public housing programs (sec. 2); extension of the Reed Act authorization (sec. 3); a provision for use of private collection agencies for employer contributions (sec. 9); clarification that redetermination of an initial claim applies only to the monetary determination (sec. 14); correction of current law to allow for eligibility under certain conditions while an individual is in certain training programs (sec. 16); restriction of denial of benefits or waiting-week credit for individuals in certain training programs (sec. 17); correction of current law to allow an immediate disqualification for fraudulent act (sec. 18); exempting employer overpayments of contributions for unemployment insurance from the provisions of the Uniform Unclaimed Property Act (retroactive to September 7, 1986) (secs. 24 and 26); and modification of the dependent's allowance by allowing each unemployed parent in the family unit to claim dependent children (repeal of AS 23.20.350(f)(4) and (5); sec. 25).

Many of these changes are detailed and technical in nature. Department of Labor staff will be available to testify before legislative committees to answer any questions that legislators might have. Due to the extensive review of many of the sections of this bill during last session, I am confident that the bill generally is not controversial in nature. Therefore, I urge your prompt and favorable action on this measure.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Cowper", written over the word "Sincerely,".

Steve Cowper
Governor

AS 23.20.379 is amended by adding a new subsection (c) to read:

AS 23.20.379(c) An insured worker is disqualified for waiting-week credit or benefits for the first week in which the insured worker is unemployed and for the next fifty-one weeks of unemployment following that week or until the individual has worked subsequent to the discharge from work and earned 20 times his weekly benefit amount in employment covered under this act if the insured worker was discharged for commission of a felony or theft in connection with the work. In addition, the insured worker shall not be eligible for extended benefits under this chapter until the worker has requalified for benefits by meeting the earnings requirement in this subsection.

AS 23.20.379(c) is amended and renumbered to read:

AS 23.20.379(d) [c] The department shall reduce the maximum potential benefits to which an insured worker disqualified under [(a) OR (b) of] this section would have been entitled by three times the insured workers' weekly benefit amount, excluding the allowance for dependents, or by the amount of unpaid benefits to which the insured worker is entitled, whichever is less.

AS 23.20.379(d) is amended and renumbered to read:

AS 23.20.379(e[d]) The disqualification required in subsection (a) and (b) [THIS SECTION] is terminated if the insured worker returns to employment and earns at least eight times the insured worker's weekly benefit amount.

AS 23.20.406(h) is amended to read:

AS 23.20.406(h) An individual is not eligible to receive extended benefits for any week of unemployment in the individual's eligibility period if the individual has been disqualified for benefits because the individual voluntarily left work, was discharged for misconduct, or refused an offer of suitable work, unless the disqualification imposed for those reasons has been terminated in accordance with AS 23.20.379(e) [d].

Original sponsor: Rules/Governor

See page 10

1 IN THE HOUSE

BY THE LABOR AND
COMMERCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 147 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to unemployment insurance and to
7 unemployment insurance contribution overpayments;
8 establishing a priority for payment; relating to
9 disclosure of certain wage and unemployment compensa-
10 tion information; and providing for an effective
11 date."

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

13 * Section 1. AS 16.10.290(a) is amended to read:

14 (a) A person applying for a license as a fish processor or
15 primary fish buyer shall file with the commissioner of labor a surety
16 bond running to the State of Alaska conditioned upon the promise to
17 pay (1) all persons furnishing labor to a fish processor or primary
18 fish buyer, including contractual employee benefits; [AND] (2) in-
19 dependent registered commercial fishermen for the price of the raw
20 fishery resource purchased from them; and (3) unemployment insurance
21 contributions. If the surety bond is insufficient to satisfy all
22 obligations under this subsection, the obligations to persons furnish-
23 ing labor and to independent registered commercial fishermen shall be
24 paid before unemployment insurance contributions are paid. The surety
25 or sureties must [SHALL] be satisfactory, in the determination of the
26 commissioner.

27 * Sec. 2. AS 23.20.110 is amended by adding a new subsection to read:

28 (k) If an individual who is applying for or participating in a
29 housing assistance program administered by the United States

1 Department of Housing and Urban Development gives authorization, the
2 department shall disclose, to the United States Department of Housing
3 and Urban Development or to representatives of the housing assistance
4 program operating the program, wage information and unemployment com-
5 pensation information. The authorization shall be made by the indi-
6 vidual on a consent form approved by the department. The form must
7 state the information authorized to be released and require the signa-
8 ture of the individual. In this subsection,

9 (1) "unemployment compensation information" means whether
10 the individual is receiving, has received, or has applied for unem-
11 ployment compensation, and the amount of unemployment compensation
12 that the individual is receiving or will receive;

13 (2) "wage information" means the social security number, or
14 numbers if there are more than one, and quarterly wages of an em-
15 ployee, and the name, address, state, and, if known, federal employer
16 identification number of an employer reporting wages under this chap-
17 ter.

18 * Sec. 3. AS 23.20.145(f) is amended to read:

19 (f) Money credited to the account of this state in the unemploy-
20 ment trust fund by the Secretary of the Treasury of the United States
21 under 42 U.S.C. 1103 (Sec. 903, Social Security Act) may not be requi-
22 sitioned from this state's account or used except for the payment of
23 benefits and for the payment of expenses incurred for the adminis-
24 tration of this chapter. This money may be requisitioned under (b) of
25 this section for the payment of benefits. This money may also be
26 requisitioned and used for the payment of expenses incurred for the
27 administration of this chapter but only under a specific appropriation
28 by the legislature and only if the expenses are incurred and the money
29 is requisitioned after the enactment of an appropriation law that

1 [WHICH]

2 (1) specifies the purpose for which the money is appropri-
3 ated and the amount appropriated;

4 (2) limits the period within which the money may be ob-
5 ligated to a period ending not more than two years after the date of
6 the enactment of the appropriation law; and

7 (3) limits the amount that [WHICH] may be obligated during
8 a fiscal year to an amount that [WHICH] does not exceed the amount by
9 which [(A)] the aggregate of the amounts credited to the account of
10 this state under 42 U.S.C. 1103 (Sec. 903, Social Security Act) during
11 that fiscal year and the 34 [24] preceding fiscal years exceeds [(B)]
12 the aggregate of the amounts obligated for administration and paid out
13 for benefits and charged against the amounts credited to the account
14 of this state during those 35 [25] fiscal years.

15 * Sec. 4. AS 23.20.145(g) is amended to read:

16 (g) Amounts credited to this state's account in the unemployment
17 trust fund under 42 U.S.C. 1103 (Sec. 903, Social Security Act) that
18 [WHICH] are obligated for administration or paid out for benefits
19 shall be charged against equivalent amounts that [WHICH] were first
20 credited and that [WHICH] are not already so charged. However, an
21 amount obligated for administration during a fiscal year specified in
22 this section may not be charged against any amount credited during
23 [SUCH] a fiscal year earlier than the 34th [24TH] preceding fiscal
24 year.

25 * Sec. 5. AS 23.20.195(a) is amended to read:

26 (a) If the contributions are unpaid after 30 days from the date
27 of mailing or personal delivery of a written demand for payment, the
28 department may [SHALL] assess and collect in the same manner as con-
29 tributions a penalty equal to the greater of 10 percent of the

1 contributions due or \$10. [IN NO EVENT MAY THE PENALTY BE LESS THAN
2 \$1.]

3 * Sec. 6. AS 23.20.205(a) is amended to read:

4 (a) If the department finds that a contribution including inter-
5 est or penalty on the contribution is delinquent, the department may
6 issue a notice of assessment specifying the amount due and may serve
7 it on the delinquent employer. The notice must inform the employer of
8 the department's rights under (c) of this section. A peace officer or
9 an authorized representative of the department may serve the notice
10 personally or the department may mail the notice by certified or
11 registered mail with return receipt requested.

12 * Sec. 7. AS 23.20.205(c) is amended to read:

13 (c) Unless an appeal is filed under AS 23.20.220, if [IF] the
14 amount assessed is not paid within 30 days after personal service or
15 mailing of the notice as required by (a) of this section, the depart-
16 ment may [, SUBJECT TO AS 23.20.220,] collect the amount stated in the
17 assessment by the distraint, seizure, and sale of the property, goods,
18 chattels, and effects of the delinquent employer. Goods and property
19 exempt from execution under the laws of this state are exempt from
20 distraint and sale under this section.

21 * Sec. 8. AS 23.20.220(a) is amended to read:

22 (a) When a notice of assessment is delivered or mailed to a
23 delinquent employer, the employer may within 30 days file an appeal [A
24 PETITION] in writing with the department, stating that the assessment
25 is unjust or incorrect and requesting a hearing on it. The period for
26 filing an appeal may be extended for a reasonable period for good
27 cause. The appeal must [PETITION SHALL] set out the reasons the
28 assessment is objected to and the amount of contributions that [WHICH]
29 the employer admits is due, and must be accompanied by a bond or

1 deposit of other security in the amount of the assessment to ensure
2 [INSURE] collection. The department may waive the security require-
3 ment if the employer submits proof of solvency or reasonable assur-
4 ance, as prescribed by regulations, that the contributions, interest,
5 and penalties due are not in jeopardy. If [NO PETITION IS FILED
6 WITHIN THE TIME PRESCRIBED, OR IF] the employer fails to provide the
7 required security, the collection under AS 23.20.205(c) is not stayed
8 [THE ASSESSMENT IS PRIMA FACIE CORRECT]. The department shall adopt
9 regulations for procedures for an appeal under this subsection [HOW-
10 EVER, THE DEPARTMENT MAY ENTERTAIN A SUBSEQUENT APPLICATION FOR RE-
11 FUND, AND, IF DENIED A REFUND, A HEARING ON THE APPLICATION IN ACCOR-
12 DANCE WITH AS 23.20.225].

13 * Sec. 9. AS 23.20.220(b) is amended to read:

14 (b) If the appeal is accompanied by the required security or the
15 department has waived the security requirement, filing an appeal
16 [FILING A PETITION] on a disputed assessment with the department stays
17 the sale provided for in AS 23.20.210 until a final decision on the
18 assessment is made. However, the filing of an appeal [A PETITION]
19 does not affect the right of the department to perfect a lien as
20 provided in AS 23.20.200.

21 * Sec. 10. AS 23.20.220(c) is amended to read:

22 (c) After granting the appellant [PETITIONER] reasonable oppor-
23 tunity for fair hearing, the department shall make a decision on the
24 appeal [PETITION]. The department's decision is final unless the
25 appellant [PETITIONER] initiates a proceeding for judicial review in
26 the manner provided by AS 23.20.445.

27 * Sec. 11. AS 23.20.225 is amended by adding a new subsection to read:

28 (e) The department shall adopt regulations providing for the
29 disposition of excess contributions paid to the unemployment

1 compensation fund under AS 23.20.130. The regulations must be sub-
2 stantially similar to the provisions of AS 34.45.110 - 34.45.430.

3 * Sec. 12. AS 23.20.240(a) is amended to read:

4 (a) If after notice an employer defaults in the payment of
5 contribution or interest, the amount due may be collected by a person
6 authorized by law and authorized by the department, by civil action in
7 the name of the state, or by both methods. The department shall
8 include in the amount due the fees or costs charged the department by
9 the person for the collection of the delinquent amount. An [AND THE]
10 employer who is [IF FOUND] liable shall pay the cost of the collec-
11 tion, including collection fees charged, and the costs of legal
12 action.

13 * Sec. 13. AS 23.20 is amended by adding a new section to read:

14 Sec. 23.20.242. APPEALS BY OFFICER, MEMBER, OR EMPLOYEE. The
15 department shall permit each officer or employee of a corporation or a
16 member or employee of a partnership who is required to pay the contri-
17 butions and interest owed by the corporation or partnership under
18 AS 23.20.165 - 23.20.278 to appeal individually their duty to pay
19 under those sections.

20 * Sec. 14. AS 23.20.277(b) is amended to read:

21 (b) At the end of each calendar quarter, or at the end of any
22 other period as determined by the department, the department shall
23 bill each government entity, nonprofit organization, or group of
24 nonprofit organizations that [, WHICH] has elected to make payments in
25 place of contributions, for benefits paid during the quarter or other
26 prescribed period that are attributable to service in the employ of
27 the government entity, nonprofit organization, or group. In the case
28 of nonprofit organizations and groups of nonprofit organizations, the
29 amount billed is an amount equal to the full amount of regular

1 benefits plus [ONE-HALF OF THE AMOUNT OF] extended benefits that are
2 not reimbursable by the federal government. In [AND IN] the case of
3 a government entity the amount billed is [WHICH HAS ELECTED TO MAKE
4 PAYMENTS UNDER THIS SECTION] an amount equal to the full amount of the
5 regular benefits plus the full amount of the extended benefits paid
6 [DURING THE QUARTER OR OTHER PRESCRIBED PERIOD THAT IS ATTRIBUTABLE TO
7 SERVICE IN THE EMPLOY OF THE NONPROFIT ORGANIZATION].

8 * Sec. 15. AS 23.20.277(e) is amended to read:

9 (e) At the end of each taxable year, the department shall deter-
10 mine whether the total of payments for the year made by a nonprofit
11 organization or group of nonprofit organizations is less than, or in
12 excess of, the total amount of regular benefits plus [ONE-HALF OF THE
13 AMOUNT OF] extended benefits not reimbursable by the federal govern-
14 ment paid to individuals during the taxable year based on wages attri-
15 butable to service in the employ of the nonprofit organization or
16 group. In [; AND IN] the case of a government entity that has elected
17 to make payments under this section, the department shall determine
18 whether the total of payments for the year is less than, or in excess
19 of, the total amount of regular benefits plus the total amount of
20 extended benefits as determined in this subsection. Each organization
21 or group whose total payments for the taxable year are less than the
22 amount so determined is liable for payment of the unpaid balance to
23 the fund in accordance with (f) of this section. If the total pay-
24 ments exceed the amount so determined for the taxable year, all or
25 part of the excess may, at the discretion of the department, be re-
26 funded from the fund or retained in the fund as part of the payments
27 that [WHICH] may be required for the next taxable year.

28 * Sec. 16. AS 23.20.277(1) is amended to read:

29 (1) Each employer that is liable for payments in place of

1 contributions shall pay to the department for the fund the amount of
2 regular benefits plus the [AMOUNT OF ONE-HALF OF] extended benefits
3 not reimbursable by the federal government paid to individuals that
4 are attributable to service in the employ of that employer. However,
5 a government entity that [WHICH] has elected to make payments under
6 this section is liable for the amount of regular benefits plus the
7 full amount of extended benefits that [WHICH] are attributable to
8 service in the employ of that entity. If benefits paid to an indi-
9 vidual are based on wages paid by more than one employer and one or
10 more of these employers is [ARE] liable for payments in place of
11 contributions, the amount payable to the fund by each employer that is
12 liable for payments shall be determined by the department in accor-
13 dance with regulations adopted by the department.

14 * Sec. 17. AS 23.20.340(b) is amended to read:

15 (b) Within one year from the date of the initial determination
16 of the weekly benefit amount and the maximum potential benefit amount
17 established under AS 23.20.350, the department shall reconsider only
18 the determination of the monetary amounts and shall issue a redeter-
19 mination amending the initial determination if it finds that an error
20 in computation or identity has been made or that additional wages
21 pertinent to the claimant's insured status have become available, or
22 that the initial determination resulted from a nondisclosure or mis-
23 representation of a material fact concerning the determination of
24 monetary amounts.

25 * Sec. 18. AS 23.20.378(c) is amended to read:

26 (c) An insured worker is disqualified for waiting-week credit or
27 benefits for a week of unemployment while the insured worker is pursu-
28 ing an academic education [ATTENDS AN ESTABLISHED SCHOOL IN A COURSE
29 OF STUDY PROVIDING ACADEMIC INSTRUCTION OF 10 OR MORE CREDIT HOURS PER

1 WEEK, OR THE EQUIVALENT]. A disqualification under this subsection
2 begins with the first week of academic instruction and ends with the
3 week immediately before the first full week in which the insured
4 worker is no longer pursuing an academic education. However, an
5 insured worker who has been pursuing an academic education for at
6 least one school term and who was working at least 30 hours a week
7 during a significant portion of the time that the worker was pursuing
8 an academic education is not disqualified for waiting-week credit or
9 benefits under this subsection if the worker's academic schedule does
10 not preclude full-time work in the worker's occupation and if the
11 insured worker became unemployed because the worker was laid off or
12 the worker's job was eliminated [ATTENDING CLASSES IF THE INSURED
13 WORKER CERTIFIES THAT THE PERIOD OF NONATTENDANCE WILL LAST AT LEAST
14 60 DAYS]. In this subsection,

15 (1) "pursuing an academic education" means attending an
16 established school in a course of study providing academic instruction
17 of 10 or more credit hours per week, or the equivalent;

18 (2) [THE TERM] "school" includes primary schools, secondary
19 schools, and institutions of higher education.

20 * Sec. 19. AS 23.20.379(c) is amended to read:

21 (c) The department shall reduce the maximum potential benefits
22 to which an insured worker disqualified under [(a) OR (b) OF] this
23 section would have been entitled by three times the insured worker's
24 weekly benefit amount, excluding the allowance for dependents, or by
25 the amount of unpaid benefits to which the insured worker is entitled,
26 whichever is less.

27 * Sec. 20. AS 23.20.379(d) is amended to read:

28 (d) The disqualification required in (a) and (b) of this section
29 is terminated if the insured worker returns to employment and earns at

1 least eight times the insured worker's weekly benefit amount.

2 * Sec. 21. AS 23.20.379 is amended by adding a new subsection to read:

3 (e) An insured worker is disqualified for waiting-week credit or
4 benefits for the first week in which the insured worker is unemployed
5 and for the next 51 weeks of unemployment following that week or until
6 the individual has worked subsequent to the discharge from work and
7 earned 20 times the insured worker's weekly benefit amount in employ-
8 ment covered under this chapter if the insured worker was discharged
9 for commission of a felony or theft in connection with the work. In
10 addition, the insured worker is not eligible for extended benefits
11 under this chapter until the worker has requalified for benefits by
12 meeting the earnings requirement in this subsection.

13 * Sec. 22. AS 23.20.382(b) is repealed and reenacted to read:

14 (b) An otherwise eligible individual may not be denied benefits
15 or waiting-week credit for any week because the individual is in
16 training approved under 19 U.S.C. 2296(a)(1) (sec. 236(a)(1), Trade
17 Act of 1974), if

18 (1) while attending the training, the individual is not
19 available for work, fails to seek work, or refuses work; or

20 (2) the individual left work that was not suitable employ-
21 ment to enter training.

22 * Sec. 23. AS 23.20.382 is amended by adding a new subsection to read:

23 (d) An otherwise eligible individual may not be denied benefits
24 or waiting-week credit for any week because the individual is in any
25 training approved under 29 U.S.C. 1651 - 1658, as amended by P.L.
26 100-418, and, while attending the training, is not available for work,
27 fails to seek work, or refuses work.

28 * Sec. 24. AS 23.20.387(a) is amended to read:

29 (a) An insured worker is disqualified for benefits for the week

1 with respect to which the false statement or misrepresentation was
2 made and for an additional period of not less than six weeks or more
3 than 52 weeks if the department determines that the insured worker has
4 knowingly made a false statement or misrepresentation of a material
5 fact or knowingly failed to report a material fact with intent to
6 obtain or increase benefits under this chapter. The length of the
7 additional [THIS] disqualification and the beginning date of that
8 [THE] disqualification shall be determined by the department according
9 to the circumstances in each case.

10 * Sec. 25. AS 23.20.390 is amended by adding a new subsection to read:

11 (f) In addition to the liability under (a) of this section for
12 the amount of benefits improperly paid, an individual who is disqual-
13 ified from receipt of benefits under AS 23.20.387 is liable to the
14 department for a penalty in an amount equal to 50 percent of the
15 benefits that were obtained by knowingly making a false statement or
16 misrepresenting a material fact, or knowingly failing to report a
17 material fact, with the intent to obtain or increase benefits under
18 this chapter. The department may, under regulations adopted under
19 this chapter, waive the collection of a penalty under this section.
20 The department shall deposit into the general fund the penalty that it
21 collects.

22 * Sec. 26. AS 23.20.530(a) is amended to read:

23 (a) In this chapter, "wages" means all remuneration for service
24 from whatever source, including, but not limited to, insured work,
25 noninsured work, or self-employment; commissions, bonuses, back pay
26 and the cash value of all remuneration in a medium other than cash
27 shall be treated as wages; gratuities customarily received by an
28 individual in the course of service from persons other than the indi-
29 vidual's employing unit may be treated as wages received from the

1 employing unit only to the extent the individual reports the gratu-
2 ities to the employing unit. The reasonable cash value of remunera-
3 tion in a medium other than cash, and the reasonable amount of gratu-
4 ities, shall be estimated and determined in accordance with regula-
5 tions adopted by the department; notwithstanding AS 23.20.350(a), back
6 pay awards shall be allocated to the weeks or quarters with respect to
7 which the pay was earned. If the remuneration of an individual is not
8 based upon a fixed period of time or if the individual's wages are
9 paid in irregular intervals or in a manner that [WHICH] does not
10 extend regularly over the period of employment, the wages shall be
11 allocated to weeks or quarters in accordance with regulations adopted
12 by the department. The regulations must [SHALL], so far as possible,
13 produce results reasonably similar to those that [WHICH] would prevail
14 if the individual's wages were paid at regular intervals. When an
15 employer has filed for bankruptcy, unpaid wages earned for services
16 performed for the employer are considered wages for the quarter in
17 which they were earned.

18 * Sec. 27. AS 23.20 is amended by adding a new section to read:

19 Sec. 23.20.533. APPLICATION FOR DEMONSTRATION PROJECT. (a) The
20 Department of Labor shall pursue application with appropriate agencies
21 to qualify this state as a pilot state for demonstration programs
22 related to helping unemployed Alaskans regain employment, if adminis-
23 trative money is available to operate the project.

24 (b) The Department of Labor may waive provisions of this chapter
25 for individuals who participate in a demonstration project, to the
26 extent required for the state to participate in the project.

27 * Sec. 28. AS 34.45.760(10) is amended to read:

28 (10) "intangible property"

29 (A) includes

1 (i) money, checks, drafts, deposits, interest,
2 dividends, and income;

3 (ii) credit balances, customer overpayments, gift
4 certificates, security deposits, refunds, credit memos,
5 unpaid wages, and unidentified remittances;

6 (iii) stocks and other intangible ownership inter-
7 ests in business associations;

8 (iv) money deposited to redeem stocks, bonds,
9 coupons, and other securities, or to make distributions;

10 (v) amounts due and payable under the terms of
11 insurance policies; and

12 (vi) amounts distributable from a trust or custo-
13 dial fund established under a plan to provide health, wel-
14 fare, pension, vacation, severance, retirement, death, stock
15 purchase, profit-sharing, employee savings, supplemental
16 unemployment insurance, or similar benefits;

17 (B) does not include

18 (i) unused airline tickets; [OR]

19 (ii) shares of stock issued by a corporation
20 organized under 43 U.S.C. 1601 - 1629a (Alaska Native Claims
21 Settlement Act) or unclaimed dividends payable on the
22 shares of stock; or

23 (iii) overpaid contributions by employers to the
24 unemployment compensation fund under AS 23.20.130:

25 * Sec. 29. AS 23.20.175(a), 23.20.175(b), 23.20.175(c)(1), 23.20.350--
26 (f)(4), and 23.20.350(f)(5) are repealed.

27 * Sec. 30. Section 28 of this Act is retroactive to September 7, 1986.

28 * Sec. 31. Sections 11, 28, and 30 of this Act take effect immediately
29 under AS 01.10.070(c).

1 * Sec. 32. Sections 1 - 10, 12 - 27, and 29 of this Act take effect
2 July 2, 1989.
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION : SCS CSHB 147 (L&C)
PUBLISH DATE : _____

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: All
Title: " An Act relating to
unemployment insurance..." BRU: All
Sponsor: Rules Committee Components: All
Requestor: Senate Labor & Commerce

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	0.0	44.0	44.0	44.0	44.0	44.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	44.0	44.0	44.0	44.0	44.0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE	0.0	150.0	150.0	150.0	150.0	150.0
---------	-----	-------	-------	-------	-------	-------

FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	30.8	30.8	30.8	30.8	30.8
FEDERAL FUNDS						
OTHER	0.0	13.2	13.2	13.2	13.2	13.2
TOTAL	0.0	44.0	44.0	44.0	44.0	44.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

See Attached

Prepared by: Judy Knight, Deputy Director
Division: Employment Security Division

Phone : 465-2712
Date : 4/21/89

Approved by Commissioner: Jim Sampson
Agency: Department of Labor

Date: 4/21/89

Distribution (by preparer) :
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Fiscal Note Analysis

for

"An Act relating to Unemployment Insurance..."

Three sections of this bill carry expenditure impact; one section will generate revenue.

Section 11 requires the department to adopt regulations to follow the notice and publication provisions of the Unclaimed Property Act. The minimal costs associated with this requirement will be paid for out of currently budgeted federal operating funds.

Section 18 would pay unemployment benefits to individuals who attend school if they became laid off while both attending school and working at least thirty hours a week.

There would be a cost to the State if state employees were laid off and qualified under this bill for unemployment benefits. Under existing law, the State reimburses the Unemployment Insurance Trust Fund for benefits paid to its employees. We estimate that 7 employees a year would qualify for benefits. At an average benefit of \$2,000 each, this would equate to \$14,000 a year.

Section 29 would change the provisions for dependent allowance. Both parents would receive the allowance if they are unemployed at the same time. We estimate this would cost the State \$30,000 per year in benefits to ex-state employees.

The total impact of these two provisions would be \$44,000 per year. However, since approximately 70% of the state operating budget is general funds, we estimate that \$30,800 (70% of \$44,000) of general fund money would be used while \$13,200 would be other funds. Other funds include federal, inter-agency, user fees, etc.

Section 25 of this bill provides for a penalty of 50% to be assessed claimants who are disqualified for fraudulent receipt of UI benefits. When collected, this penalty will be deposited in the General Fund as unrestricted revenue. The calculations used to arrive at estimated anticipated revenues are as follows:

- | | |
|---|------------|
| 1. Total detected fraudulent payments made per year | \$500,000. |
| 2. 50% penalty on detected fraudulent payments | \$250,000. |
| 3. A 60% collection rate on the established penalties | \$150,000. |

Assumptions:

1. An effective date for sections 18, 25, and 29 of July 2, 1989.
2. Detected fraudulent overpayments will remain at about \$500,000/year through 1994.
3. The fraud penalty must be collected in cash, therefore we have assumed a 60% collection rate on established penalties. The penalty cannot be collected by reducing a claimants future benefit entitlement due to a conflict with federal law.

SECTION-BY-SECTION ANALYSIS
CS for House Bill 147 (Jud)

Section 1:

The proposed amendment of AS 16.10.290(a) enhances the Department's ability to collect delinquent unemployment insurance contributions from fish processors and fish buyers. The Department's figures indicate that, as of December 1987, about 25 percent of all fish processors and buyers were delinquent in their contributions. Those delinquencies resulted in a loss to the unemployment trust fund of about \$610,000 as of that date. Under the proposed amendment, the Department may assert claims for contributions against the fish processors' and buyers' surety bonds, such claims having next priority after claims for wages and payments for raw fish.

Section 2:

The Stewart B. McKinney Homeless Assistance Amendments Act of 1988 requires, as a condition of receiving administrative grants under Title III of the Social Security Act, that states must disclose certain information contained in employment security records, upon request, to HUD and representatives of a public housing agency. It also provides for reimbursement of costs and appropriate safeguards of the information. The proposed amendment to AS 23.20.110 would allow the Department of Labor to comply with these federal requirements. This is a federal conformity issue and passage is required by September 30, 1989. The U.S. Secretary of Labor may withhold administrative funding for the Employment Security Division if this disclosure provision is not timely enacted.

Sections 3 and 4:

These sections provide for extension of the Reed Act for ten years. Title IX of the Social Security Act makes excess funds collected under the Federal Unemployment Tax Act (FUTA) available to pay benefits or for administration of employment security programs. Federal law extended the time limits in which the funds may be used by ten years. Unless Congress increases the maximum allowable levels in these funds, we anticipate that there will be excess funds to distribute back to the states in the near future. Current statute does not permit the Employment Security Division to receive or use these funds. This proposal, by extending the Reed Act, would allow Alaska to accept its share of the funds.

Section 5:

The amendment of AS 23.20.195(a) in this section provides that the ten percent penalty on delinquent employer reports and taxes may be discretionary instead of mandatory. It also increases the minimum penalty to \$10 from \$1. A discretionary penalty would remove the requirement for the Department to assess and collect penalties when it was not cost effective to do so.

Section 6:

This section requires the Department to inform an employer, at the time a notice of assessment for delinquent contributions is served on the employer, of the Department's rights. This includes the right to collect the amount stated in the assessment by distraint, seizure and sale of the property or, goods of the delinquent employer.

Sections 7, 8, 9 and 10:

The amendments to AS 23.20.205(c) and AS 23.20.220(a), (b) and (c) in these sections clarify the procedures for the appeal by an employer of the Department's assessment against the employer for unemployment contributions. The Department may extend the 30-day appeal filing deadline for good cause. Also, the amendments clarify that if the employer files security with the appeal, the collection of the assessment will be stayed pending determination of the appeal.

In addition, extraneous language in AS 23.20.220 is being deleted.

Section 11:

This section provides for the Department to adopt regulations for the disposition of excess contributions paid to the unemployment compensation fund. Section 25 of this bill exempts these funds from the Unclaimed Property Act, instead, retaining the funds in the Unemployment Trust Fund. Section 11 directs the Department to adopt regulations substantially similar to the provisions of the Unclaimed Property Act to address the handling of these unclaimed funds.

Section 12:

This amendment to AS 23.20.240 would allow the Department to use private collection facilities (or individuals) to collect outstanding employer contributions from employers. The Department is owed large amounts of contributions, especially by out of state employers, that are difficult to collect. This would provide a means to collect these delinquent contributions. The amendment provides for adding the collection fee to the amount of the debt owed, as Federal law prohibits the use of trust fund (or employer contributions) to pay collection costs. This provision would provide the Department a means, not currently available, to collect delinquent contributions.

Section 13:

Under current law, an officer or employee of a corporation, or partner or employee of a partnership may be liable for delinquent unemployment contributions in a civil action if they have been determined to have the duty to pay the contributions. These individuals have no prior appeal rights regarding the determination of their duty to pay the contributions. This section provides a new section, AS 23.20.242, that allows these individuals to appeal, at an administrative level, the determination of "duty to pay," prior to civil action.

Sections 14, 15 and 16:

Under current law, nonprofit organizations pay 50 percent of extended benefits (which is the amount not reimbursable by the federal government). Under the Gramm-Rudman-Hollings Act (the Federal Balanced Budget and Emergency Deficit Control Act of 1985), the reimbursable share of extended benefits payments may decrease because it is subject to sequestration. This action will increase the amount of extended benefits payments not reimbursable by the U.S. Department of Labor. To offset the anticipated loss of some portion of the federal money, nonprofit organizations that choose to reimburse the Department for benefits paid to their former employees, instead of paying contributions under AS 23.20.165, will, under the amendments to AS 23.20.277(b), (e) and (l), be required to reimburse the Department the full amount of extended benefits paid to their former employees that is not reimbursable. The amount charged government entities will not change because they currently reimburse 100 percent of extended benefits paid.

Section 17:

This section clarifies the intent of the law that the proviso for redetermining an initial claim applies only to the weekly benefit amount and the maximum potential benefit. This monetary redetermination will take place if the Department finds that an error in computation or identity was made, additional wages for a claimant have become available or the initial determination resulted from the nondisclosure or misrepresentation of a material fact.

Section 18:

This amendment provides for the payment of benefits to individuals who have been working full time while attending school and who are laid off from work. Under present law, a person who is taking ten (10) or more credit hours of classes in an academic program is not eligible for unemployment insurance benefits, with no exceptions. Current law unfairly penalizes individuals who have demonstrated that they can attend school without affecting their availability to work full time.

Section 19:

This amendment would correct the language in AS 23.20.382 so the restrictions would apply only to claims under the Trade Act, as intended. Current language applies restrictions to all claimants that were only intended to apply to Trade Act claimants.

Section 20:

Federal law precludes states from denying benefits to individuals because they are in training approved under Title III of the Job Training Partnership Act (JTPA). This amendment provides that all individuals who are attending training approved under JTPA will not be denied their unemployment insurance benefits. This conforming legislation is needed to pay benefits to those individuals, regardless of whether their training is academic or vocational.

Section 21:

This provision disqualifies the week in which a fraudulent act occurs in addition to the period of disqualification currently imposed. Under current law, an individual can be paid for a week in which he commits fraud, because the disqualification begins the week the fraud decision is issued.

Section 22:

Under proposed AS 23.20.390(f), individuals who fraudulently obtain benefits incur an additional monetary penalty of 50 percent of the amount improperly received, unless the Department waives the penalty, with any penalties collected to go to the general fund. Currently, under AS 23.20.387, a person who fraudulently receives benefits is disqualified from receiving benefits for a specified period of time, and, under AS 23.20.390(a), must repay the benefits fraudulently received (a situation similar to an interest-free loan). As a further disincentive for fraud, the 50 percent penalty is proposed.

Section 23:

Under current law, an individual's eligibility for unemployment insurance benefits is based upon wages paid to the individual. Thus, if an individual works for an employer who files for bankruptcy and does not pay its employees, the individual does not qualify for unemployment benefits. The proposed amendment to AS 23.20.530(a) in this section rectifies this situation. This section expands the definition of "wages" to include earnings for work that an employee performs but is not paid when the employer files for bankruptcy.

Section 24:

This provision allows the Department to participate in demonstration or pilot projects with the U.S. Department of Labor (USDOL) that test innovative ways to assist unemployed individuals to return to work. The Department may waive eligibility requirements if needed. Participation in these projects will be incumbent upon availability of administrative funds for operating the project.

Section 25:

This amendment provides for employer overpayments of unemployment insurance contributions that are not claimed by the employer to remain in the Unemployment Trust Fund. The Unclaimed Property Act (AS 34.45) requires state agencies to transfer unclaimed property to the Department of Revenue. Since expenditures from the Unemployment Trust Fund are automatically replaced by employers in the state under the contribution formula, employers should receive the indirect benefit (through lower contribution rates) of the unclaimed overpayments. This exemption from the Unclaimed Property Act would permit these funds to remain in the Unemployment Trust Fund if not claimed.

Section 26:

This section modifies the provisions covering dependents' allowance payments. Currently, a dependent claimed by one parent cannot be claimed by another parent until the first person's benefit year has expired (even if the first parent is not claiming benefits or has no remaining benefits to receive). A portion of every parent's wages goes to support their children. UI is for temporary, partial wage replacement of every eligible claimant. It is, therefore, inequitable for any parent with children to support to be denied dependents' allowance. This proposal allows each unemployed parent in a family unit to claim dependent children. Three dependents would still be the most that could be claimed by any claimant.

It also repeals outdated subsections of AS 23.20.175.

Sections 27, 28 and 29 provide for effective dates.



Official Business

Alaska State Legislature

P.O. Box V
State Capitol
Juneau, Alaska 99811

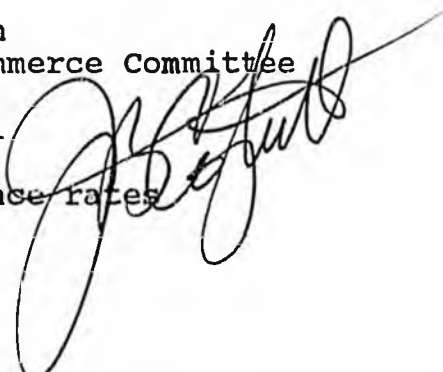
MEMORANDUM

To: Senator Dick Eliason
Senate Labor and Commerce Committee

From: Senator Jack Coghill

Re: Unemployment insurance rates

Date: January 10, 1989



Attached is a copy of a letter I received from one of my constituents regarding the contribution rates for the Employment Security Division. As you can see by the letter to the Department of Labor, the employer contribution rates have increased from 6.21% to 6.79%.

During my interim travels, I have had numerous inquiries about the unemployment insurance rates. I would like to see the Senate Labor and Commerce Committee take time to fully review the unemployment insurance rate system.

Frontier Foto

PORTRAITURE AT ITS BEST



P.O. BOX 55222
NORTH POLE, ALASKA 99705
907-488-3083

December 9, 1980

Senator Jack Coghill
P.O. Box 55028
North Pole, AK 99705

Dear Senator Coghill,

Enclosed is a copy of a letter that I sent to the Dept. of Labor. If this is based on current statute then I think it's time that a change is made.

Several months ago there was a big article in the News-Miner dealing with the same subject, so I am not alone in this matter, except that they were paying less than me.

I think we need some changes here. If I remember right from that article, Alaska is the only, or one of only a few states operating under this type of law. What do you think??

Sincerely,

Wayne C. Grieme
WAYNE C. GRIEME

6230 Grieme Rd.
Salcha, AK 99714

December 9, 1988

Alaska Department Of Labor
ESD, P.O. Box 3-7000
Juneau, AK 99802

Dear Sir:

I am writing in regards to the the recently received contribution rate sheet for ESD. The sheet shows another increase in this years rate to 6.72%, this is ridiculous. This is up from 6.21% last year.

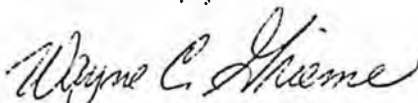
In talking with the local office they explained how this punitive system works. This system severely punishes small seasonal businesses. I own and operate two totally unrelated businesses under two business licenses. One business runs longer than the other and I hire more personnel to operate that one. The second business is pretty much run by me with the exception of maybe 10 days when I hire two people to work with me. This all takes place over two different quarters, thus the penalty.

This year there will be even a larger disparity between the two, because I hired more people in the third quarter than the forth. This means that my rate will climb even higher next year beacause I had expanded my summer trade and hired more people and worked them longer then 1987. My goal is to increase sales and hire people for as long as I can, this is what this state needs. If your goal is to put small businesses out of business, just come out and say so, that would be kinder then taxing us out of business. It also makes it harder to compete against indivduals who come up only for the summer and then go elsewhere to live, they show only one quarter, if that.

What can be done to rectify this problem??

Copies of this are being forwarded to my local representatives. Should it go elsewhere??

Sincerely,


WAYNE C. GRIEME

- unemployment insurance



Digger Inc.
700 Kallian Street
Sitka, Alaska 99835
Office: (907)747-6915
Restaurant: (907)747-8709

January 23, 1989

Alaska Department of Labor
Employment Security Division
P.O. Box 3-1000
Juneau, Alaska 99802

To Whom It May Concern:

In reviewing my most recent notice of contribution rate and comparing with the McDonald's Restaurant in Ketchikan the following question come to mind.

1. What is the formula for figuring quarterly decline quotients, and average quarterly decline quotients?
2. Why is Ketchikan a rate class 7 and Sitka a 14?
3. No where in the contribution rate is there a seasonality factor. For example in the summer or quarters 2 and 3 I hire high school and college students (to meet consumer demands) who return to school in quarters 3 and 4, but do not file unemployment claims. Why is this?
4. The contribution rates also do not consider my "Experience Factor" for claims filed. Why should I go to the time, trouble and considerable expense to appeal an unemployment claim that I feel is unjust if this is not considered? Seems to me I should save the time and money.
5. Also there seems to be a penalty for running my business more efficiently. I show a sizable decline in the 3rd quarter of 1987. After one year of business I have figured out how to run my business with fewer better trained employee's. This reduction was handled by students returning to schools and other workers leaving town or taking other jobs; not by massive layoffs. Yet I show a payroll decline and am penalized by a higher rate. Why?
6. In the past I had an employee caught stealing who after a 6 week waiting period received unemployment benefits. The act of theft was admitted in writing by the employee. Seems wrong to me for an employee to break the law and reward them with benefits. Why isn't this possibility eliminated from the law or taken care of by an administrative rule?



Digger Inc.
700 Katlian Street
Sitka, Alaska 99835
Office: (907)747-6915
Restaurant: (907)747-8709

Any help you can offer in reviewing my rate and answering the above questions will greatly be appreciated. If you have any questions or need further information please call.

Sincerely,

MCDONALD'S/DIGGER INC.

L. David Barnes
L. David Barnes

cc: Senator Dick Eliason
Representative Ben Grussendorf

QUARTER	YEAR	DOLLAR AMOUNT	DOLLAR AMOUNT	QUARTERLY DECLINE
			REQUIRE	QUOTIENTS
3	85	139611.73		
4	85	130638.58	8973.15	0.064272178
1	86	110773.24	19865.34	0.152063349
2	86	117385.22	0.00	0.000000000
3	86	127531.94	0.00	0.000000000
4	86	112088.61	15443.33	0.121093821
1	87	102604.42	9484.19	0.084613325
2	87	118165.67	0.00	0.000000000
3	87	136593.61	0.00	0.000000000
4	87	115619.01	20974.60	0.153554767
1	88	115662.98	0.00	0.000000000
2	88	126424.89	0.00	0.000000000

EMPLOYMENT SECURITY DIVISION
P.O. BOX 17000 - NUNATAL AK 99588

CONTRIBUTION RATE

YOUR CONTRIBUTION RATE FOR THE YEAR INDICATED IS SHOWN BELOW. This rate determination has been made pursuant to Alaska Statute Sec. 23.20.290. Your rate is based on the upper-left tabulation of your (or your predecessor's, or combination thereof) quarterly payroll experience during the qualifying period, quarterly payroll declines and decline quotients. SEE REVERSE FOR APPEAL OR REVIEW RIGHTS.

ELIGIBILITY STATUS A	RATE CLASS 7	RATE	SUM OF QUARTERLY DECLINE QUOTIENTS 0.575597440
			AVERAGE QUARTERLY DECLINE QUOTIENT 0.052327040

INDUSTRY	RATE BASED ON INDUSTRY AVERAGE	AVERAGE RATE
		%

12-01-88	MCDONALDS OF KETCHIKAN PEGRAM JOHN SR 108 PLAZA PORT WEST KETCHIKAN AK 997010000
0000677175	
1989 CALENDAR YEAR	
The Taxable Wage Base for above Calendar Year is the first \$20,900.00 paid to each individual before deductions.	

COVERAGE DETERMINATION
AS OF THE DATE SHOWN YOU ARE LIABLE TO PROVIDE UNEMPLOYMENT INSURANCE COVERAGE FOR YOUR EMPLOYEES. SEE COVERAGE APPEAL RIGHTS ON REVERSE.

CONTRIBUTION RATES			LIABLE DATE
3.17%	0.70%	3.87%	07-20-85

QUARTER	YEAR	DOLLAR AMOUNT	DOLLAR AMOUNT	QUARTERLY DECLINE
			REQUIRE	QUOTIENTS
0	00	0.00		
0	00	0.00	0.00	0.000000000
0	00	0.00	0.00	0.000000000
0	00	0.00	0.00	0.000000000
3	86	82291.97	0.00	0.000000000
4	86	93903.53	0.00	0.000000000
1	87	75495.93	18407.60	0.196026709
2	87	96552.94	0.00	0.000000000
3	87	66910.71	29642.23	0.307004944
4	87	63118.96	3791.75	0.056668805
1	88	52371.66	10747.30	0.170270549
2	88	84800.35	0.00	0.000000000

EMPLOYMENT SECURITY DIVISION

CONTRIBUTION RATE

YOUR CONTRIBUTION RATE FOR THE YEAR INDICATED IS SHOWN BELOW. This rate determination has been made pursuant to Alaska Statute Sec. 23.20.290. Your rate is based on the upper-left tabulation of your (or your predecessor's, or combination thereof) quarterly payroll experience during the qualifying period, quarterly payroll declines and decline quotients. SEE REVERSE FOR APPEAL OR REVIEW RIGHTS.

ELIGIBILITY STATUS A	RATE CLASS 14	RATE	SUM OF QUARTERLY DECLINE QUOTIENTS 0.729971007
			AVERAGE QUARTERLY DECLINE QUOTIENT 0.104281572

INDUSTRY	RATE BASED ON INDUSTRY AVERAGE	AVERAGE RATE
		%

12-01-88	DIGGERS INC 700 KATLIAN SITKA AK 998350000
0000726230	
1989 CALENDAR YEAR	
The Taxable Wage Base for above Calendar Year is the first \$20,900.00 paid to each individual before deductions.	

COVERAGE DETERMINATION
AS OF THE DATE SHOWN YOU ARE LIABLE TO PROVIDE UNEMPLOYMENT INSURANCE COVERAGE FOR YOUR EMPLOYEES. SEE COVERAGE APPEAL RIGHTS ON REVERSE.

CONTRIBUTION RATES			LIABLE DATE
5.12%	0.70%	5.82%	07-11-86

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF LABOR

DIVISION OF EMPLOYMENT SECURITY
AFFILIATED WITH U.S. EMPLOYMENT SERVICE

P.O. BOX 3-7000
JUNEAU, ALASKA 99802-1218
PHONE: 465-2758
FAX: (907) 465-2783
Status Unit

December 23, 1988

Frontier Foto
Box 55222
North Pole, AK 99705

ACCOUNT #0000581119

We have received your letter dated December 9, 1988, in which you request a review and redetermination of your Employment Security contribution rate for 1989.

Your increased rate for 1989 is partially due to an overall increase of .47% in employer rates from 1988 to 1989. This increase is not as large as the increase from 1987 to 1988, and is the result of lingering effects of Alaska's recession of 1986-87.

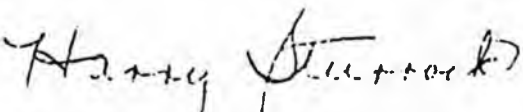
The good news is that this should be the last year of increasing contribution rates, barring any unforeseen catastrophies. Our projections, based on current information available, are that contribution rates should decrease over the next three years.

Enclosed is the Employer Handbook for your future use. Pages 17-22 explain contribution rates, and how they are determined.

Due to your seasonal business, your rate has remained in rate class 20 for several years continuously. It is adversely affected by the quarters in which you had no payroll. Alaska Statute 23.20.285 (c) states that the department "shall weight the sum by adding to it 1.000000000 for each quarter in the employer's qualifying period in which the employer has no payroll, which quarter immediately follows a quarter in which the employer has no payroll."

We sincerely regret to inform you that no relief is provided for seasonal employers. Therefore, your application is denied.

This notice will become final unless, within 15 days from the date of this letter, you initiate a formal request to the Commissioner of Labor to be granted a reasonable opportunity for a fair hearing, stating your reasons for the appeal. The appeal may be filed by mail to the Commissioner's Hearing Officer, Box 1149, Juneau, AK 99802


Harry Stukrock, Supervisor
Accounts and Contributions

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF LABOR

DIVISION OF EMPLOYMENT SECURITY
AFFILIATED WITH U.S. EMPLOYMENT SERVICE

P.O. BOX 3-7000
JUNEAU, ALASKA 99802-1218
PHONE:

465-2758
FAX: (907) 465-2704
Status Unit

February 15, 1989

Diggers, Inc.
700 Katlian
Sitka, AK 99835

ACCOUNT #0000726230

We have received your letter dated January 23, 1989, in which you request a review and redetermination of your Employment Security contribution rate for 1989.

We have considered this letter to be an untimely application for review as provided in Alaska Statute 23.20.305. This section of the Employment Security Act is printed on the reverse side of your rate notice and allows fifteen days from the mailing date of the rate in which to request a review and redetermination. The mailing date of the 1989 rates was December 1, 1988.

Your increased rate for 1989 is partially due to an overall increase of .47% in employer rates from 1988 to 1989. This increase is not as large as the increase from 1987 to 1988, and is the result of lingering effects of Alaska's recession of 1986-87.

The good news is that this should be the last year of increasing contribution rates, barring any unforeseen catastrophies. Our projections, based on current information available, are that contribution rates should decrease over the next three years.

Pages 17-22 of the enclosed Employer Handbook explain experience rating, variable contribution rates, and options available to the employer, providing relief from payroll fluctuation in certain circumstances.

As an employer with more than four quarters in the computation period, your "A" rate is based on your own experience with payroll declines. Because of this, rates may differ from business to business.

The decline of total wages in the first, third and fourth quarters of 1987, and the first quarter of 1988 have adversely affected your 1989 rate.

February 15, 1989

To answer your questions 3, 4 and 5 and, to a certain extent 6, we must remind you that the primary purpose of unemployment insurance is to stabilize the buying power within a community in order to insure that loss of income for whatever reason to one business does not erode other businesses. Therefore, there is no seasonality factor or other experience rating based on the claims filed by former employees, because the Legislature believed that the loss of income of seasonal workers adversely affected the buying power available in a particular community.

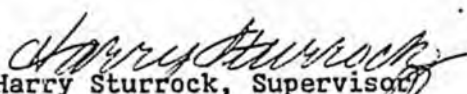
Unfortunately, in one sense you are quite correct. You are "penalized" for running your business more efficiently, when that efficiency is effectuated by employing fewer people and therefore reducing the buying power of the community. You thus absorb some of the impact upon the community that happens when fewer people are employed, however this occurs.

With regard, then, to your employee fired for theft, the Legislature considered the good of the community to be primary. Unemployment insurance benefits are neither a reward for meritorious service nor a welfare program for the indigent, but purely a way of protecting all businesses from the deleterious effects of loss of income within the community. Some states do provide additional penalties to cases such as you describe, but the difficulty in that approach is that it requires a type of proof not usually available to other than a trained enforcement agency. Your legislator may, of course, wish to consider it.

We have noted that wages paid to corporate officers L. David Barnes and Candra Barnes were reported in various quarters from the second quarter of 1987 through the third quarter of 1988. Adjustments are being made to remove them. Please do not include these wages on future contribution reports, nor on the wage schedule.

A corrected 1989 rate will be mailed under separate cover.

This notice will become final unless, within 15 days from the date of this letter, you initiate a formal request to the Commissioner of Labor to be granted a reasonable opportunity for a fair hearing, stating your reasons for the appeal. The appeal may be filed by mail to the Commissioner's Hearing Officer, Box 1149, Juneau, AK 99802.


Harry Sturrock, Supervisor
Accounts and Contributions

cc: Senator Dick Eliason
Representative Ben Grussendorf

The Unemployment Insurance System: It Works for Alaskans When Alaskans Cannot Work

by Michael Hurst

The recession that began in late 1985 had a serious impact on almost every sector of the Alaskan economy. It was the individual Alaska worker, though, who was among the most gravely affected and also was among the first affected. More than 20,000 workers' jobs disappeared from the economy in two short years, 1986 and 1987. Average yearly earnings per job declined by 3% during the same period. Many workers were forced to move south. More than 10,000 properties went into foreclosure.

The 1980s recession eventually touched nearly every industry, occupation, and geographic area. Among industries, construction was hit first and hardest, actually starting to decline in 1984. The transportation, communications and utilities sector followed close behind. The services, trade, finance and real estate industries began to sustain losses in 1987 when the recession's secondary effects — loss of wages — were triggered. In all, over \$750 million in Alaska payroll was lost between 1985 and 1987.

**More than 20,000
workers' jobs
disappeared from the
economy in 1986 and 1987**

UI System: Alaska's 3rd Largest Employer' During Recession

If it hadn't been for Alaska's Unemployment Insurance (UI) system, the impact of the recession would have been much more severe on both unemployed workers and on Alaska's economy in general. Between 1985 and 1988 more than 138,000 unemployed workers received unemployment compensation totalling over \$578 million. Over \$111 million more was paid out in benefits between November 1985 and April 1988 than was collected in taxes and reimbursements in that same period. This provided a direct stimulus to the economy. If the UI system's benefits were considered payroll, the system would have been the third largest employer in the state during this period.

Why Employers' Tax Rates Are Fluctuating Drastically

Both employees and employers benefit from the UI system. It is self-financed, primarily through employer and employee taxes. The financing method is automatic and is designed to be countercyclical. The countercyclical design explains why average employer tax rates are still fluctuating drastically. Evidence of this wild fluctuation is the fact that in 1985 the average employer tax rate amounted to 2.17%. In the present calendar year, the average tax rate on employers will be 4.14%, the highest in history. What are the reasons for the hike? Alaska employers are paying in 1989 for the increased benefit payments disbursed during the past recessionary year, and they are rebuilding the UI savings account as a buffer against future recessions.

Purpose of the Unemployment Compensation System is Twofold

The Alaska Employment Security Act was enacted by the territorial legislature in 1937 because state lawmakers recognized that "...involuntary unemployment is a serious menace to the health, morale, and welfare of the people of the state." With this legislative mandate in mind, there is a twofold purpose of the unemployment compensation system. The system is designed to: 1) Ease the

Many Alaskans were able to remain in the state during the last recession largely because of the unemployment insurance compensation they received while out of work.

financial distress of lost income to unemployed workers and their families, and 2) Maintain purchasing power to help stabilize the state's economy.

Focuses of this article:

Having briefly sketched out an overview of the Alaska Unemployment Insurance system and its recent effects on the state's economy, it's now pertinent to outline where this article is going. This commentary will focus primarily on the recessionary years of 1985 through 1988, and this article will —

- Evaluate the support that UI gave to unemployed workers.
- Examine how the Unemployment Insurance system in Alaska successfully achieved its goals during the recent recession.
- Show how the UI trust fund helped stabilize the economy.
- Explain why UI employer tax rates are so high in 1989, and
- Explain why the rates will decline in 1990 and 1991.

**George and Jean —
A typical, fictitious case**

George had worked as a heavy equipment operator at a Fairbanks concrete plant since moving to Alaska in 1974. His wife Jean had been a loan officer at the local bank for six years. When the price of oil fell in late 1985, the concrete plant operation was closed and George was laid off. Jean was not affected immediately. But, eventually, the loss of wages in Fairbanks forced many residents to move south; many defaulted on their home loans. The bank began to lose assets and was forced to cut back. In late 1986 Jean was laid off.

George and Jean's story was a common one in Alaska between late 1985 and early 1988. About 20,000 jobs disappeared from the Alaska economy in 1986 and 1987. Many workers were indeed forced to move south. Home foreclosures and bankruptcies were a common occurrence.

Yet like many others who were laid off

during the recession, George and Jean chose to remain in Fairbanks. Luckily, George was rehired after a few months of being out of work. He went back to work at the Fairbanks concrete plant after new military-related construction projects allowed the plant to reopen. Jean also returned to work after a few jobless months, having been hired by owners of a local tourism business.

The Fairbanks couple survived financially and were able to remain in the state largely because of the unemployment insurance compensation they received while out of work.

In order to better understand how the UI system helped George and Jean during their time of joblessness, and how it has helped thousands of other couples like them, it's pertinent to briefly explain UI's major programs. The system has two major programs — regular and extended benefits. Also important in coming to understand the UI benefits program are questions regarding adequacy of the benefits, and how much compensation individual claimants are entitled to receive.

**Regular Benefits: \$260 Per
Week for 26 Weeks Is Maximum**

The chief type of unemployment insurance benefits paid in the U.S. is called simply 'regular benefits'. How much a claimant receives in total regular benefits is determined by two elements: the claimant's weekly benefit amount and the number of weeks that the claimant receives benefits.

In Alaska, the claimant's weekly benefit amount is determined by his earnings in his 'base period'. (The base period is defined as the first four of the prior five complete calendar quarters.) The minimum benefit amount is \$38 per week for total earnings of \$1,000. The maximum is \$188 per week for total earnings of \$19,750 and over. A claimant may also receive dependents benefits, allowing him \$24 for each dependent — up to three dependents. In all, therefore, it's possible for a claimant to receive up to \$260 per week in benefit payments.

The number of weeks that a claimant can receive benefits depends upon the

steadiness of the claimant's work history during his base period. The maximum number of weeks that a claimant can receive regular benefits is 26 weeks, presuming he received his earnings equally over four quarters. The minimum number of weeks is 16, presuming he received all of his earnings in one quarter.

Extended Benefits Payable Only When Statewide Insured Unemployment Rate is 6%

When a claimant exhausts all of the regular benefits to which he is entitled, he becomes eligible for an additional benefit program called 'extended benefits'. He may claim up to one-half of the amount of regular benefits for which he was found eligible. There is an additional eligibility restriction, however. Extended benefits are only payable when Alaska's statewide unemployment is above a certain level. Specifically, the statewide 'Insured Unemployment Rate' (IUR) must be at least 6.0%. The statewide IUR is a weekly ratio of:

$$\frac{\text{Claims Actually Filed}}{\text{Average Employment}}$$

In Alaska, extended benefits are usually payable beginning in January; they usually end in July or August. Figure 1 shows the insured unemployment rates for 1986 and 1988. Note that in 1986 the IUR never fell below 6.0%. This means that extended benefits were payable year-round in 1986.

Benefit Adequacy: A Critical Measure of the UI System's Success

A critical function of the UI system is to partially replace an individual's lost income while he is unemployed. An important measure of the system's success is determined by the percentage of earned income replaced by UI. This is often referred to as 'benefit adequacy.' In 1988 the average weekly benefit amount for regular benefits was \$156.57. In that same year, the average weekly earnings for UI recipients were \$366. Thus, the average UI benefit replaced about 43% of the average earned income for UI claimants.

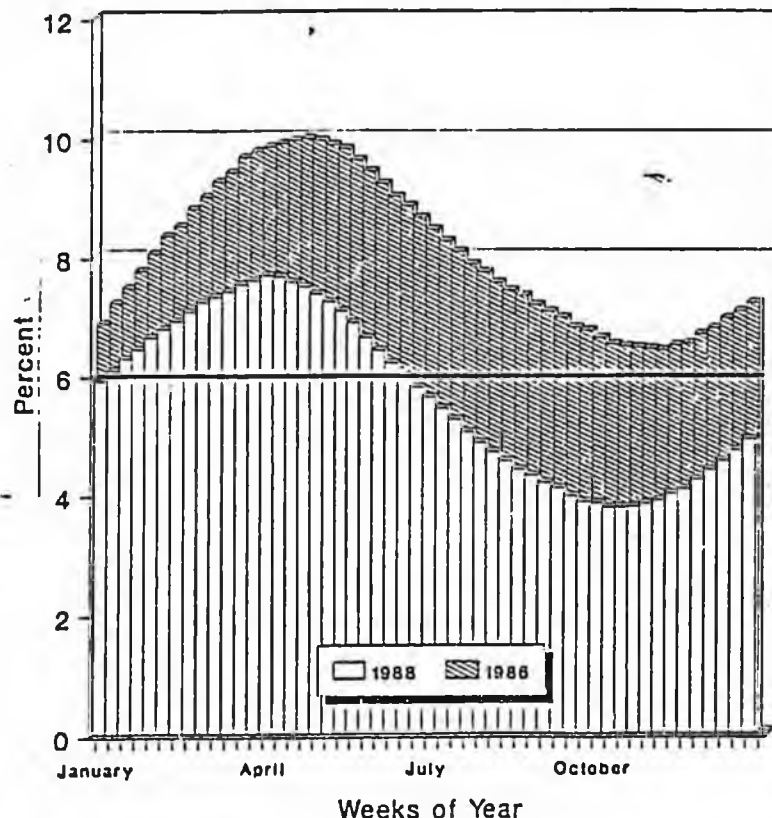
Table 1 provides data on the two main programs in Alaska — regular and extended benefits — for the five years 1984 to 1988. It lists the number of first payments (an approximation of the number of UI recipients), the total number of weeks claimants received payments, the amount of money they received in benefits, and the number of 'exhausts'. (Exhausts is defined as the number of recipients who have received the maximum benefits they were eligible to receive.) Table 1 also shows the 'Exhaustion Rate', and the average number of weeks each recipient has received compensation. (Exhaustion Rate is defined as the percentage of recipients who exhaust their eligible benefits.)

Note in Table 1 that all of the categories peaked in 1986; peaking in 1987, though, were the Exhaustion Rate and the average number of weeks per recipient. This indicates that while

In 1988, the average UI benefit replaced about 43% of claimants' average earned income.

Figure 1

Insured Unemployment Rate -- 1986 and 1988

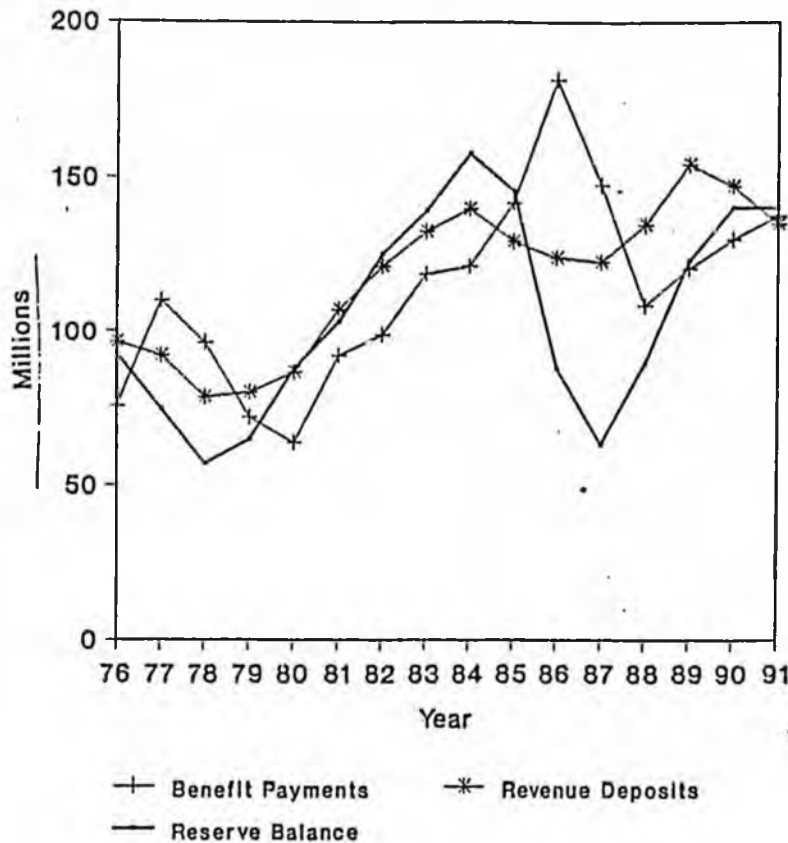


Extended Benefits payable when IUR is at least 6.0%

Source: Alaska Department of Labor, Research & Analysis

Figure 2

**UI Trust Fund Cash Flow
Payments, Revenues, Reserve Balance**



Source: Alaska Department of Labor, Research & Analysis

actual total claims began to decline after 1986, those who remained unemployed were out of work for a longer period of time. Even though there were fewer total recipients in 1987, the situation was worse in 1987 than 1986 for the individual UI recipient.

**UI Disbursements
Reduces Negative
Income Multiplier Effect**

When George lost his job his wages were not lost to just him. His wages were lost to the entire Fairbanks community because of his lost ability to purchase goods and services. This loss of demand for goods and services often results in further job layoffs. This turn of events is commonly known as a negative 'multiplier effect'. Using the multiplier effect, most economists estimate that no less than two jobs are lost for every initial layoff.

Part of UI's purpose is to diminish the negative multiplier's effect in causing additional lost jobs or wages. The UI system performed this function well during the past recession. More than \$750 million was lost in total payroll in Alaska in 1986 and 1987. Much of this loss had already been induced by the multiplier effect. Yet at the same time unemployment compensation was pumping back into unemployed Alaska workers' hands more than \$257 million.

Table 1

UI Recipients and Payments, 1984-1988

Year	First Payments	Weeks Paid	Amount Paid (\$)	Final Payments (Exhausts)	Exhaust Rate	Average Duration (Weeks)
<u>Regular Benefits</u>						
1984	45,453	662,704	96,612,962	20,704	0.46	14.6
1985	49,348	767,652	123,967,863	24,291	0.49	15.6
1986	55,514	911,807	147,359,435	30,148	0.54	16.4
1987	45,345	770,406	123,528,576	26,496	0.58	17.0
1988	36,090	579,422	92,974,600	18,670	0.52	16.1
<u>Extended Benefits</u>						
1984	9,736	52,056	7,403,330	2,712	0.28	5.3
1985	12,158	69,368	10,715,479	3,749	0.31	5.7
1986	20,678	136,180	21,946,702	8,486	0.41	6.6
1987	13,145	94,773	15,230,837	6,246	0.48	7.2
1988	8,281	51,385	8,153,738	2,806	0.34	6.2

Source: ETA 5-159 report to the U.S. Department of Labor.

(Another \$72 million was paid to former Alaska workers living outside of the state.) Altogether, the four years 1985-through-1988 the UI system accounted for over \$451 million of income in Alaska. (In those same years, another \$127 million was paid to former workers living out-of-state.)

UI Trust Fund Account Dropped Dangerously Low in 1987-88

The UI Trust Fund is designed to act as a savings account which can be drawn down during difficult economic times and built up when times have improved. As mentioned earlier the trust fund paid out \$111 million more in benefits than it received in revenue between November 1985 and April 1988. This very large outflow of funds would not have been possible without adequate reserves in the UI Trust Fund. At the end of November 1985 the balance in the state's trust fund account was \$157 million. The account hit bottom in late April 1988, falling to \$46 million. (Figure 2 shows benefit disbursements, revenue deposits, and the reserve balance of the trust fund from 1976 to 1988. Figure 2 also depicts forecasts for 1989-91.)

One of the main obligations of all states' financing mechanisms is maintaining the solvency of the trust fund. Alaska's system is designed to remain perpetually solvent by way of a formula that automatically raises tax rates when benefits are high or when the trust fund is low. Yet in 1987 it appeared that the system's solvency might fail. To cope with that unexpected possibility, legislation was passed that year enabling the state to borrow money (and pay interest on the borrowed funds) to maintain the fund's solvency. The main reason for the falling trust fund balance was a massive rise in benefit payment outlays — from \$121 million in 1984 to \$142 million in 1985 and \$182 million in 1986. In 1987, payments declined to \$147 million; that outlay, though, still amounted to \$25 million over revenues for 1987.

The trust fund did not go broke, though, and no money actually was borrowed to maintain its solvency. It was in April 1988 that the fund's steady negative momentum was finally halted. This past calendar year of 1988 saw a

continuing decline in benefit payment outlays (to \$108 million), and an increase in revenue (to \$137 million). The increase can be attributed to higher UI taxes. At the end of 1988 the fund had recovered to a balance of about \$89 million. By the end of 1989 it is expected to reach \$120 million. And by the end of 1990 it is expected to reach \$140 million. Alaska's UI trust fund hasn't been forced to borrow money since 1960. Barring any future recession of the same magnitude as that which occurred between 1985 and 1987, the fund should never have to borrow any funds. This likelihood is due to the state's automatic financing mechanism, which is the next subject of this article.

Current UI Rates: Why They Are Now So Historically High

George's employers were hard hit by the drop in oil prices just as were many other businesses throughout Alaska. They had to cut back to a skeleton crew, sell some of their equipment, and restructure some of their loans. For a couple of years they were constantly on the verge of bankruptcy. To make matters worse, the owners feared that George and their other best employees would leave the Fairbanks area. If those fears proved true, they would have had to pay additional expense to train new employees when their business revenues improved.

Fortunately, the concrete plant's unemployment insurance taxes were reasonably low during the time when the owners were on the verge of bankruptcy. In 1985 the owners' rates were 2.17% of each employee's taxable wages — about \$473 per year per employee. By 1986 taxes had increased to \$555 per employee. But in 1987 the taxes that the plant paid per employee rose to \$866. And in 1988 the UI taxes soared to \$1,097. Finally, the 1989 taxes that the concrete plant owners have been assessed are the highest they have ever been, \$1,137.

What caused the tax rates to rise so much? And why such a rapid increase over the past three years? Two factors influenced the rates for the concrete plant. First, the plant's unique unemployment problems placed them in a higher 'tax bracket'. Second, and more important, average rates for all Alaska employers rose over the past

**Alaska's UI system
is designed to remain
perpetually solvent by
way of a formula that
automatically raises tax
rates when benefits
are high or when
the trust fund is low.**

three years. All rates rose automatically to help the system recover from the 'benefits shock' of 1985 and 1986.

Before we examine in detail why rates are so high in this calendar year, it's relevant to understand how UI tax rates—both individual employers' and average UI tax rates—are calculated in the first place.

An Explanation of Individual Employers' Business Rates:

As Figure 3 shows, the greatest proportion of revenue flowing into the UI trust fund comes from employer and employee 'tax contributions'. In fact, tax contributions are the only source of revenue that significantly affects the balance of the trust fund; all other deposits are direct reimbursements. These revenues are tax contributions because they are assessed on employers by the state Department of Labor in advance of future UI payments to their employees.

Each employer is assigned to one of 21 different rate classes, each of which has a different tax rate. The assignment decision is linked to a couple of factors: If the employer has been operating a business for at least one year, the business' individual rate class is based

on the employer's own individual experience with unemployment. If the business has been in operation for less than one year, it is assigned the average rate class shared by other employers in the same industry. This process is termed 'experience rating'.

In Alaska, an employer's experience rating is first determined by measuring declines in payroll from one quarter to the next. This figure is averaged over three years' time. (This method of measurement is used because declines in payroll are primarily caused by reductions in the business' work force. Reductions in the work force cause a rise in UI payments.) Employers with a low payroll decline receive a more favorable UI tax experience rating than employers showing high declines in payroll.

Each of every 21 rate classes is assigned a tax rate that is a percentage of the 'average'—or base—tax rate. The percentages range from 40% (for Rate Class 1) to 165% (for Rate Class 21). (The percentage for the average rate—which comes in at rate classes 10 and 11—is 100%.) These percentages are actually called 'experience factors'. Table 2 shows the 21 different rate classes, the experience factors, and the 1989 tax rates for each rate class.

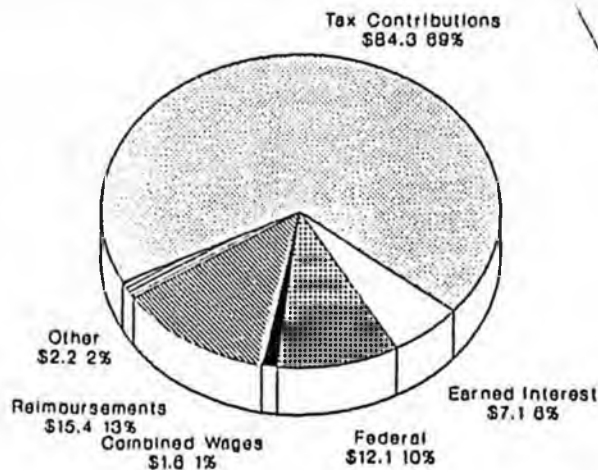
For the employer to determine the business' maximum UI contribution paid on each employee, the employer can take the business' assigned tax rate and multiply it by each employee's taxable wages. (Taxable wages are determined by each state's UI tax base; Alaska's UI tax base is equal to 75 percent of the statewide average annual wage.) For 1989, the state's tax base is \$20,900, down from \$21,800 in 1985. Thus, in 1989, the maximum tax an employer will be required to pay per employee—for an employer in the 'average rate class' (rate classes 10 or 11)—will be \$865.26, or 4.14% of \$20,900.

How Average UI Tax Rates Are Calculated:

Although this article has first addressed individual employers' business rates, it is the average tax rate which is first computed and determined by the Alaska Department of Labor according to Alaska statutes.

Figure 3

UI Trust Fund Revenue Sources 1987, Total and Percentage of Total (\$ = Millions)



*'Combined Wages' are reimbursements from other states for shared UI, due to wages earned both in Alaska and other states.

Source: Alaska Department of Labor, Research & Analysis

Indeed, it is the average tax rate which is the real substance of Alaska's UI financing system. The level of the average tax rate determines how much total tax contributions are collected each year. Individual employers either pay lesser or greater percentages of this average rate.

Guts of the UI: Benefit Costs and the Benefit Cost Ratio

In order to understand how the average UI tax rates are calculated, it is first important to understand the 'guts' of the UI system, benefit costs and the 'benefit cost ratio'. Benefits paid to claimants are called 'benefit costs' because they are a cost to the system. (UI benefits have also been considered a cost of doing business to all U.S. employers ever since the Social Security Act was enacted in 1935.) Benefit costs

do not include all benefits paid; instead, benefit costs are that portion of benefits paid to employees by taxable employers.

Benefit cost data alone are insufficient to determine the financial condition of the UI system. Wages paid are also a critical element because the total amount of wages paid in the state determines the amount of taxes being collected and the amount of potential future benefits for which the system might be liable. The fundamental driving force, then, of average UI tax rates, is what is known as the 'benefit cost rate' (BCR). The BCR is computed as: benefits paid in the current year divided by wages paid in the prior year.

Since the Unemployment Insurance system is self-financing, taxes collected in the long run must be equal to benefits paid in the long run. This is achieved when the long-run average tax rate is

equal to the long-run benefit cost rate. (In 1980, the Alaska Legislature recognized the need to balance these two factors. As a result, lawmakers adopted it as the prime equation for determining tax rates.) Average UI tax rates are designed to be — in their most fundamental form — equal to the benefit cost rate.

Alaska UI System Designed to be Countercyclical and to Respond Rapidly to Economy's Changes

However, Alaska's UI system is not so simple. The design of this state's system has been devised so that it can respond quickly to changes in the economy and so that it can work in a countercyclical fashion. The system is designed to delay tax increases so that employers are not hit by the tax hikes during the worst part of a recession.

Table 2

UI Employer and Employee Contribution Rates, 1989

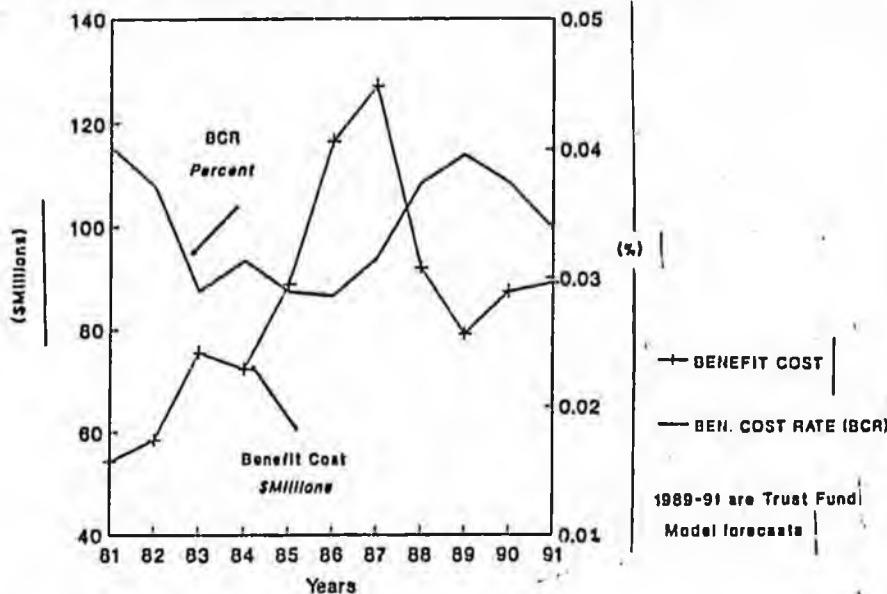
Rate Class	Experience Factor	Employee Contribution Rate	Employer Contribution Rate	Total Contribution Rate
1	0.40	0.7%	2.20%	2.90%
2	0.45	0.7	2.36	3.06
3	0.50	0.7	2.52	3.22
4	0.55	0.7	2.68	3.38
5	0.60	0.7	2.85	3.55
6	0.65	0.7	3.01	3.71
7	0.70	0.7	3.17	3.87
8	0.80	0.7	3.50	4.20
9	0.90	0.7	3.82	4.52
10	1.00	0.7	4.14	4.84
11	1.00	0.7	4.14	4.84
12	1.10	0.7	4.47	5.17
13	1.20	0.7	4.79	5.49
14	1.30	0.7	5.12	5.82
15	1.35	0.7	5.28	5.98
16	1.40	0.7	5.44	6.14
17	1.45	0.7	5.60	6.30
18	1.50	0.7	5.77	6.47
19	1.55	0.7	5.93	6.63
20	1.60	0.7	6.09	6.79
21	1.65	0.7	6.25	6.95

Average Benefit Cost Rate (ABCR) = 0.039558
 $.82 \times \text{ABCR} = 0.032438$
 Trust Fund Solvency Adjustment (TFSA) = 0.009
 Employee Tax Rate = 0.18 (ABCR) = 0.7%
 Average Employer Tax Rate = 0.82 (ABCR)
 + TFSA = 4.14%
 Individual Employer Tax Rates = 0.82 (ABCR) (Experience Factor) + TFSA

Sources: Alaska Statutes 23.20.290. Alaska Department of Labor, 1988. Table 1, UI Tax Rate Calculations, 1989.

Figure 4

UI Benefit Costs and Rate (BCR) State Fiscal Years 1981 - 1991



Source: Alaska Department of Labor, Research & Analysis

In theory, a system that is strictly countercyclical is one which has a single tax rate year after year. In contrast, a system that is not countercyclical — but instead responds rapidly to changes — computes rates according to benefit payments of the prior year.

Alaska's UI system, as mentioned beforehand, is a compromise between a state's need to respond quickly to changes in its economy and the need for the system to work in a countercyclical fashion. Rather than using a one-year formula to compute the benefit cost rate, Alaska uses an average of the three prior years. (Figure 4 depicts benefit costs and the three-year benefit cost rate for state fiscal years 1981 through 1988. Figure 4 also depicts forecasts for 1989 through 1991).

Employers Pay 82% of Benefit Cost Rate, Employees 18%

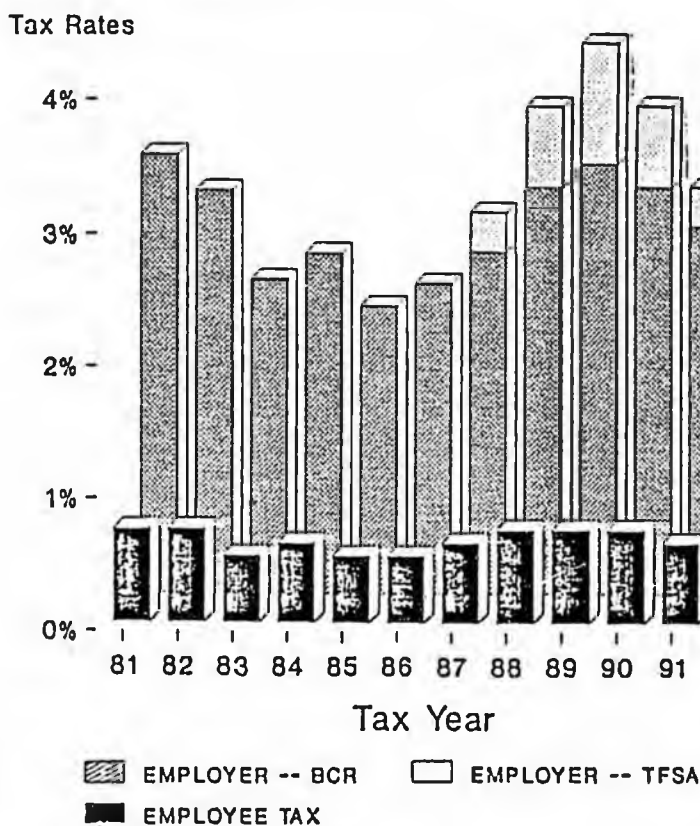
Once the three-year benefit cost rate is determined, employers are assigned 82% of that rate, employees the other 18%. All employees' taxes are equal. The average employer tax varies, however. The employer's tax rate is a result of the average employer tax multiplied by the individual employer's experience factor. In a stable economy, this is all there is to the computation of tax rates.

Additional Surtax Ensures Trust Fund's Solvency

However, in a severe recession like the state has experienced over the past few years, this system — as designed so far — is unlikely to recover quickly enough to ensure a solvent trust fund. In order then to ensure trust fund solvency during recessionary years, an additional 'surtax' is added to employer tax rates. This surtax is called the Trust Fund Solvency Adjustment (TFSA). The TFSA is determined by a schedule dictated by Alaska statutes. It ranges from -0.4% (when the trust fund balance is excessively high) to 1.1% (when the trust fund balance is dangerously low). The TFSA also acts in a countercyclical fashion; it cannot rise or drop by more than 0.3% from one year to the next. In 1985 the TFSA

Figure 5

Components of Average UI Tax Rate Employer and Employee Taxes



Employer taxes are sum of BCR and TFSA

Source: Alaska Department of Labor, Research & Analysis

was -0.2%. In 1987 and 1988, it was 0.3% and 0.6%. In this calendar year, 1989, the TFSA is 0.9%.

Altogether, George's employers' tax rate is calculated this way: It is the total of two computations; that is, 82% of Alaska's three-year benefit cost rate is multiplied by the plant's own experience factor. And added to this sum is the Trust Fund Solvency Adjustment.

Now, after having gained a basic understanding of the formula which determines the UI tax rate, it's possible to comprehend why the tax rates were so high in 1988 and continue to be high in 1989. It's also possible to perceive why UI tax rates in Alaska are expected to decline in 1990 and 1991.

Average Tax Rates Tracked Between 1981 and 1991

Figure 5 illustrates the components of employee and employer tax rates; the rates are depicted as a percent of taxable wages. The employer tax rates include both portions attributable to the benefit cost rate, as well as the Trust Fund Solvency Adjustment.

(The sum of these two elements is the total average employer tax rate.) These employer rates are the average tax rates for each year listed. The figure includes data as far back as 1981, the first year of Alaska's current financing system. The 1989 tax rates are actual rates, having already been assigned. The 1990 and 1991 rates are forecasts generated by DOL Research & Analysis economists using the department's UI Trust Fund Model.

We can see from Figure 5 that tax rates declined steadily through the early 1980s, then began to rise in 1986. Over the last 20 years, the average tax rate has been about 3.2%. This tells us that the rates between 1983 and 1986 were substantially lower than average. Figure 5 also points out, though, that benefit costs were actually increasing during these same years, and that they nearly peaked in 1986. During this time, benefit cost rates were declining while benefit costs were rising. This apparent contradiction can be explained via two factors: total wages were rising faster than benefit costs, and the benefit cost rate is a three-year average.

The Surtax (TFSA) and Rising Benefit Costs Are the Causes of Higher UI Taxes

It is pertinent to note in Figure 5 that the benefit cost rate portion of employer taxes is about the same for SFY 1989 as it was for SFY 1981. The reason that total taxes are higher is due to the TFSA. Figure 2 demonstrates the fact that rising UI Trust Fund revenues (caused by lower tax rates, coupled with higher employment and payroll) kept pace with rising benefits until 1984. Between 1985 and 1987 trust fund reserves plunged sharply. This sudden plunge caused the first positive TFSA — amounting to +0.3% — to be added to 1987 tax rates. Through this calendar year, 1989, the TFSA has risen to 0.9%

By adding together the two portions of employer tax rates — the benefit cost rate and the TFSA — it's possible to come to two conclusions: 1) That the higher tax rates of 1987 through 1989 represent a delayed reaction to the rapidly rising benefit costs amassed between 1984 and 1987, and 2) That the higher tax rates of 1987 through 1989 represent a move to recapture UI trust funds lost during the precipitous decline of its reserve balance between 1985 and 1988.

It's worthy to again note that if a countercyclical financing system did not exist, the highest tax rates would have occurred in 1986 and 1987, the two worst years of the recession.

Thus, higher tax rates are being levied this year so that prior benefit payments can be adequately covered. Further, the higher tax rates are being levied so that the trust fund can be rebuilt to cover any possible, future recession.

UI Tax Rates To Drop In 1990 and 1991, and Possibly in 1992

It's encouraging to point out that the same elements that have caused tax rates to increase (benefit costs and TFSA) will combine to produce lower tax rates in 1990 and 1991. It's likely, too, that 1992 will also be a year marked by lower UI taxes. Here are the reasons: Benefit costs began to decline in the

If the countercyclical financing system did not exist, the highest tax rates would have occurred in 1986 and 1987, the two worst years of the recession.

These projections – that UI tax rates will drop in 1990 and 1991, and possibly in 1992 – could prove overly optimistic if the state's current budget shortfall results in added job losses in 1989.

latter half of 1987 and should continue to decline until mid-1989. So that portion of tax rates attributed to benefit costs will begin to decline in 1989 and continue to decline through 1991. Meanwhile, the UI trust fund reserve began to recover in 1988 and will continue to recover through 1991. So the Trust Fund Solvency Adjustment will begin to decline in 1990.

These projections are based on current estimates of future employment and unemployment by the state Department of Labor. These projections could prove overly optimistic if the state's current budget shortfall results in added job losses in 1989. Added unemployment in 1989 could reduce the rate of decline of employer tax rates. But because UI tax rates are calculated upon past data, new job layoffs are unlikely to alter the fact that declining tax rates will occur.

amount of benefits that can be claimed. It is financed through the payment of premiums — in this case, employer and employee taxes and reimbursements. As with other forms of insurance, these 'premiums' are often a bitter pill for employers to swallow, especially when the rates rise to exceptionally high levels. As with other forms of insurance, though, when the benefits are needed they provide vital support to the recipients.

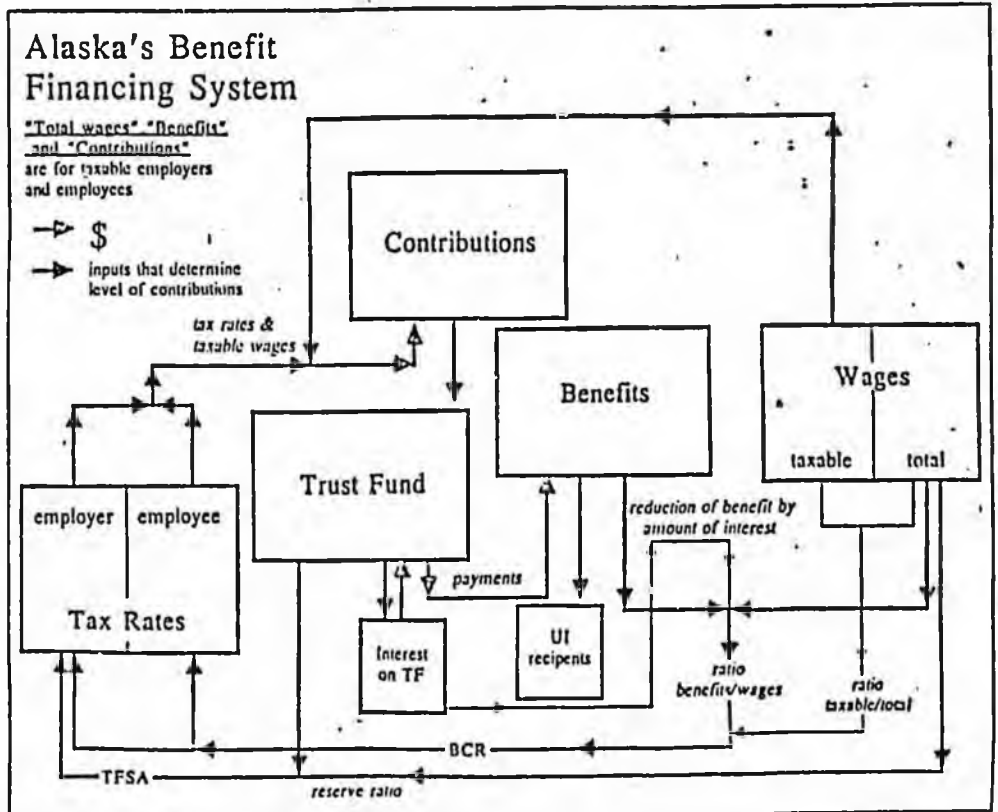
Unemployment insurance has the dual purpose of providing temporary income support for unemployed workers and providing a measure of stability to the economy. During the recession that began in late 1985, Alaska's Unemployment Insurance system has performed well. Many thousands of workers received hundreds of millions of dollars in compensation. This allowed many of the workers to stay in Alaska. Without the compensation they would have been forced to leave the state. Furthermore, the reserves in the UI trust fund account provided a critical buffer to a flagging economy. The system is now in the process of rebuilding its reserves. And barring any major economic catastrophe, the UI system will continue serving Alaska workers when called upon in the future.

Conclusion

The Alaska Unemployment Insurance system is just that — an insurance system — and not a social welfare system. It is only available to persons who have worked and are temporarily unemployed. There is a limit to the

About the Author:

Michael Hurst is a labor economist employed for five years with the Research & Analysis Section, Administrative Services Division, Alaska Department of Labor. Hurst is also the actuary for the Alaska Unemployment Insurance System. He is based in Juneau.



Individual Employer Rates

The great bulk of revenue into the UI trust fund comes from employer and employee tax contributions; in fact, tax contributions are the only source of revenue that affects the balance of the trust fund, since all other deposits are direct reimbursements. They are tax contributions because they are assessed on employers by the Department of Labor in advance of anticipated future UI payments to their employees. Each employer is assigned one of 21 rates. If they have been operating for at least 1 year, their rate is based on their own individual experience with unemployment; if not, they are assigned the average rate for other employers in their industry. This is called experience rating.

In Alaska an employer's individual experience with employment is approximated by measuring declines in payroll from one quarter to the next, averaged over three years. The system is based on the presumption that declines in payroll are primarily caused by reductions in the work force, which results in increases in UI payments.

Once an individual employer's experience is calculated, the employer is assigned to one of 21 rate classes. Each rate class is assigned a tax rate that is a percentage of the "average" or base tax rate -- that percentage for rate classes 10 and 11 is 100%. The percentage is actually called the experience factor.

The Calculation of Average UI Tax Rates

So far we have been working backwards, from individual employer rates; but tax rates are computed first from the average tax rate, which is the real substance of Alaska's UI financing system. The average tax rate is what determines how much is collected in total tax contributions each year. Individual employers pay lesser or greater percentages of this average rate, but they all add up to 100%. Actually, "average" is a bit of a misnomer in this case -- it is really the base rate that is calculated first, from which the individual rates are assigned. It is the average rate that is multiplied by the total payroll in the state, not the average rate of all employers in Alaska.

Benefit Costs and the Benefit Cost Ratio

UI benefits paid to claimants are called benefit costs because they are a cost to the system that must be covered; they have also been considered a cost of doing business to employers throughout the U.S. since the Social Security Act of 1935. But benefit costs alone are not sufficient to determine the condition of the UI system. Wages paid are important as well since they determine both the amount of taxes collected and the amount of potential future benefits that the system is liable for. Therefore it is the benefit cost rate (BCR) that is the fundamental driving force of UI tax rates. It is computed as benefits paid in the current year divided by wages paid in the prior year.

Prior to 1981 tax rates were tied to the trust fund directly, more specifically to the ratio of the trust fund to wages (the trust fund reserve rate). The reserve rate was compared to the highest previous benefit cost rate and tax rates were then calculated to cover the highest cost year.

However, since unemployment insurance is a self-financing system, taxes collected must be equal to benefits paid in the long run. It has been shown mathematically

that this simplifies to the equation, $ATR = BCR$, or the average tax rate must be equal to the benefit cost rate in the long run. In 1980 the Alaska Legislature recognized that relationship and changed Alaska's financing system to incorporate it directly as the prime equation for tax rates. In its most fundamental form, and in a stable economy, the average tax rate is equal to the benefit cost rate.

It is not quite that simple, however. First of all, Alaska's system is a compromise between responding quickly to changes in the economy and being countercyclical. For instance, if a single year was used for the benefit cost rate, the highest tax rates would have been in 1986 and 1987, but the highest rates actually are in 1988 and 1989. Alaska's system is designed to delay tax increases so that they do not hit employers during the worst part of a recession. In order to accomplish this, the system uses an average of the three prior years to compute the benefit cost rate. Thus, the 1985 and 1986 benefit cost rates do not get factored in until the 1986 and 1987 tax years, and they are tempered by low BCR's of prior years; on the other hand, 1985 and 1986 BCR's do not disappear from tax rate calculations until 1989 and 1990 respectively.

Once the three-year benefit cost rate is determined, employers pay 82% of the BCR, and employees pay the other 18%. The employee tax is equal for all employees. The average employer tax is multiplied by the individual employer's experience factor to compute the individual employer's tax rate. In a stable economy this is all there is to the computation of tax rates.

In a severe recession like we have had over the past few years, however, this system is not likely to recover quickly enough to keep the trust fund solvent. So an additional "surtax" called the trust fund solvency adjustment (TFSA) is added to employer tax rates. The TFSA is determined by a schedule in the Alaska Statutes, and ranges from a -0.4% when the trust fund balance is excessively high to 1.1% when the trust fund balance is dangerously low. In 1985 the TFSA was -0.2%; in 1987-89 it has been 0.3%, 0.6%, and 0.9%.

COLUMN A
Rate Class

COLUMN B
Cumulative
Ratable Payroll
At least but less than
(Percent) (Percent)

COLUMN C
Experience
Factor

1		5	.40
2	5	10	.45
3	10	15	.50
4	15	20	.55
5	20	25	.60
6	25	30	.65
7	30	35	.70
8	35	40	.80
9	40	45	.90
10	45	50	1.00
11	50	55	1.00
12	55	60	1.10
13	60	65	1.20
14	65	70	1.30
15	70	75	1.35
16	75	80	1.40
17	80	85	1.45
18	85	90	1.50
19	90	95	1.55
20	95	99.99	1.60
21	99.99		1.65

TAXATION

Table 200.--Summary of experience-rating provisions, 52 States^{1/}

State	Type of experience rating				Tax-able wage base above \$7,000 (37 ^{1/} States)	Wages include remuneration over \$7,000 if subject to FUTA (44 States)	Voluntary contributions permitted (21 States)
	Reserve ratio (32 States)	Benefit ratio (15 States)	Benefit wage ratio (4 States)	Payroll declines (1 States)			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Ala.	.....	.....	X	.....	\$ 8,000	X	.....
Alaska	.....	.....	.....	Quarterly	\$21,100 ^{3/}	X	.....
Ariz.	X	.....	.....	.....	.....	X	X
Ark.	X	.....	.....	.....	\$ 7,500	X	x ^{2/}
Calif.	X	.....	.....	.....	.....	.....	.....
Colo.	X	.....	.....	.....	\$10,000	X	X
Conn.	.....	X	.....	.....	\$ 7,100	x ^{4/}	.....
Del.	.....	.....	X	.....	\$ 8,500	X	.....
D.C.	X	.....	.....	.....	\$ 8,000	X	.....
Fla.	.....	X	.....	.....	.....	X	.....
Ga.	X	.....	.....	.....	\$ 7,500	x ^{4/}	.....
Hawaii	X	.....	.....	.....	\$ 8,700 ^{3/}	X	.....
Idaho	X	.....	.....	.....	\$16,200 ^{3/}	X	.....
Ill.	.....	.....	x ^{7/}	.....	\$ 9,000	x ^{4/}	.....
Ind.	X	.....	.....	.....	.....	x ^{4/}	X
Iowa	.....	X	.....	.....	\$11,000 ^{3/}	X	.....
Kans.	X	.....	.....	.....	\$ 8,000	X	x ^{2/}
Ky.	X	.....	.....	.....	\$ 8,000	X	.....
La.	X	.....	.....	.....	\$ 8,500	X	x ^{2/}
Maine	X	.....	.....	.....	.....	X	X
Md.	.....	X	.....	.....	.....	X	.....
Mass.	X	.....	.....	.....	.....	X	.....
Mich.	.....	X	.....	.....	\$ 9,500	X	X
Minn.	.....	X	.....	.....	\$11,700 ^{3/}	X	x ^{2/}
Miss.	.....	X	.....	.....	.....	X	.....
Mo.	X	.....	.....	.....	\$ 7,500 ^{6/}	X	X
Mont.	X	.....	.....	.....	\$12,600 ^{3/}	X	.....
Nebr.	X	.....	.....	.....	.....	X	X
Nev.	X	.....	.....	.....	\$12,100 ^{3/}	X	.....
N.H.	X	.....	.....	.....	.....	.....	.....
N.J.	X	.....	.....	.....	\$12,000 ^{3/}	X	X
N. Mex.	X	.....	.....	.....	\$10,800 ^{3/}	X	X
N.Y.	X	.....	.....	.....	.....	x ^{4/}	X
N.C.	X	.....	.....	.....	\$10,100 ^{3/}	X	x ^{2/}
N.Dak.	X	.....	.....	.....	\$11,000 ^{3/}	X	X
Ohio	X	.....	.....	.....	\$ 8,000	X	X

(Table continued on next page)

TAXATION

Table 200.--Summary of experience-rating provisions, 52 States^{1/}(continued)

State	Type of experience rating				Tax-able wage base above \$7,000 (37 ^{1/} States)	Wages include remuneration over \$7,000 if subject to FUTA (44 States)	Voluntary contributions permitted (21 States)
	Reserve ratio (32 States)	Benefit ratio (15 States)	Benefit wage ratio (4 States)	Payroll declines (1 States)			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Okla.	. . . . .	. . . . .	X	. . . . .	\$ 9,100 ^{3/}	. . . . .	. . . . .
Oreg.	. . . . .	X	. . . . .	. . . . .	\$14,000 ^{3/}	. . . . .	. . . . .
Pa.	. . . . .	x ^{5/}	. . . . .	. . . . .	\$ 8,000	x ^{4/}	X
R.I.	X	. . . . .	. . . . .	. . . . .	\$12,000 ^{3/}	x ^{4/}	. . . . .
S.C.	X	. . . . .	. . . . .	. . . . .	. . . . .	X	. . . . .
S.Dak.	X	. . . . .	. . . . .	. . . . .	. . . . .	x ^{4/}	X
Tenn.	X	. . . . .	. . . . .	. . . . .	. . . . .	x ^{4/}	. . . . .
Tex.	. . . . .	X	. . . . .	. . . . .	\$ 8,000	. . . . .	. . . . .
Utah	. . . . .	X	. . . . .	. . . . .	\$13,200 ^{3/}	X	. . . . .
Vt.	. . . . .	X	. . . . .	. . . . .	\$ 8,000	X	. . . . .
Va.	. . . . .	X	. . . . .	. . . . .	. . . . .	. . . . .	. . . . .
V.I.	X	. . . . .	. . . . .	. . . . .	\$14,000 ^{3/}	. . . . .	. . . . .
Wash.	. . . . .	X	. . . . .	. . . . .	\$15,100 ^{3/}	. . . . .	. . . . .
W.Va.	X	. . . . .	. . . . .	. . . . .	\$ 8,000	X	X
Wis.	X	. . . . .	. . . . .	. . . . .	\$10,500	X	x ^{2/}
Wyo.	. . . . .	X	. . . . .	. . . . .	\$10,200 ^{3/}	X	. . . . .

^{1/}Excludes P.R. which has no experience-rating system and which levies a tax on \$7,000. See Tables 201 to 206 for more detailed analysis of experience-rating provisions.

^{2/}Voluntary contributions limited to amount of benefits charged during 12 months preceding last computation date, Ark and La.; ER receives credit for 100% of any voluntary contributions made to fund, N.C.; reduction in rate because of voluntary contributions limited to two rate groups for positive-balance ER's, other limitations apply for negative-balance ER's, Kans., and Wisc.; surcharge added equal to 25% of benefits canceled by voluntary contributions unless voluntary payment is made to overcome charges incurred as result of unemployment of 75% or more of ER's workers caused by damages from fire, flood, or other acts of God, Minn.; not permitted for yrs. in which rate schedule higher than basic schedule is in effect or in which additional surtax or solvency rates apply, La.

^{3/}See following table for computation of flexible taxable wage bases for States noted.

^{4/}Wages include all kinds of remuneration subject to FUTA.

^{5/}Formula includes reserve ratio, Pa.

^{6/}If the balance in the trust fund less Federal advances is less than \$100 million, the taxable wage base will increase by \$500 or if \$250 million or more, it will be reduced by \$500, Mo. (therefore in 1988 it's \$7,000) If the trust fund balance is more than \$350 million the wage base will be \$9,000, Colo....

^{7/}In the process of converting from a benefit wage ratio formula to a reserve ratio formula, Ill...

TAXATION

215.01 FEDERAL REQUIREMENTS FOR EXPERIENCE RATING.--State experience-rating provisions have developed on the basis of the additional credit provisions of the Social Security Act, now the Federal Unemployment Tax Act, as amended. The Federal law allows employers additional credit for a lowered rate of contribution if the rates were based on not less than 3 years of "experience with respect to unemployment or other factors bearing a direct relation to unemployment risk." This requirement was modified by amendment in 1954 which authorized the States to extend experience-rating tax reductions to new and newly covered employers after they have had at least 1 year of such experience. The requirement was further modified by the 1970 amendments which permitted the States to allow a reduced rate (but not less than one percent) on a "reasonable basis".

215.02 STATE REQUIREMENTS FOR EXPERIENCE RATING.--In most States 3 years of experience with unemployment means more than 3 years of coverage and contribution experience. Factors affecting the time required to become a "qualified" employer include (1) the coverage provisions of the State law ("at any time" vs. 20 weeks; Table 100); (2) in States using benefits or benefit derivatives in the experience-rating formula, the type of base period and benefit year and the lag between these two periods, which determine how soon a new employer may be charged for benefits; (3) the type of formula used for rate determinations; and (4) the length of the period between the date as of which rate computations are made and the effective date for rates.

220 Types of Formulas for Experience Rating

Under the general Federal requirements, the experience-rating provisions of State laws vary greatly, and the number of variations increases with each legislative year. The most significant variations grow out of differences in the formulas used for rate determinations. The factor used to measure experience with unemployment is the basic variable which makes it possible to establish the relative incidence of unemployment among the workers of different employers. Differences in such experience represent the major justification for differences in tax rates, either to provide an incentive for stabilization of employment or to allocate the cost of unemployment. At present there are four distinct systems, usually identified as reserve-ratio, benefit-ratio, benefit-wage-ratio, and payroll-decline formulas. A few States have combinations of the systems.

In spite of significant differences, all systems have certain common characteristics. All formulas are devised to establish the relative experience of individual employers with unemployment or with benefit costs. To this end, all have factors for measuring each employer's experience with unemployment or benefit expenditures, and all compare this experience with a measure of exposure--usually payrolls--to establish the relative experience of large and small employers. However, the four systems differ greatly in the construction of the formulas, in the factors used to measure experience and the methods of measurement, in the number of years over which the experience is recorded, in the presence or absence of other factors, and in the relative weight given the various factors in the final assignment of rates.

TAXATION

220.01 RESERVE-RATIO FORMULA.--The reserve ratio was the earliest of the experience-rating formulas and continues to be the most popular. It is now used in 32 States (Table 200). The system is essentially cost accounting. On each employer's record are entered the amount of his payroll, his contributions, and the benefits paid to his workers. The benefits are subtracted from the contributions, and the resulting balance is divided by the payroll to determine the size of the balance in terms of the potential liability for benefits inherent in wage payments. The balance carried forward each year under the reserve-ratio plan is ordinarily the difference between the employer's total contributions and the total benefits received by his workers since the law became effective. In the District of Columbia, Idaho, and Louisiana, contributions and benefits are limited to those since a certain date in 1939, 1940, or 1941, and in Rhode Island they are limited to those since October 1, 1958, and in Montana those since October 1, 1981. In Missouri they may be limited to the last 5 years if that works to an employer's advantage. In New Hampshire an employer whose rate is determined to be 3.5 percent or over may make an irrevocable election to have his rate computed thereafter on the basis of his 5 most recent years of experience. However, his new rate may not be less than 2.7 percent except for uniform rate reduction based on the fund balance.

The payroll used to measure the reserves is ordinarily the last 3 years but Massachusetts, South Carolina, and Wisconsin figure reserves on the last year's payrolls only. Idaho and Nebraska use 4 years. Arkansas gives the employer the advantage of the lesser of the average 3- or 5-year payroll, or, at his option, the last year's payroll. New Jersey protects the fund by using the higher of the average 3- or 5-year payroll.

The employer must accumulate and maintain a specified reserve before his rate is reduced; then rates are assigned according to a schedule of rates for specified ranges of reserve ratios; the higher the ratio, the lower the rate. The formula is designed to make sure that no employer will be granted a rate reduction unless over the years he contributes more to the fund than his workers draw in benefits. Also, fluctuations in the State fund balance affect the rate that an employer will pay for a given reserve; an increase in the State fund may signal the application of an alternate tax rate schedule in which a lower rate is assigned for a given reserve and, conversely, a decrease in the fund balance may signal the application of an alternate tax schedule which requires a higher rate.

220.02 BENEFIT-RATIO FORMULA.--The benefit-ratio formula also uses benefits as the measure of experience, but eliminates contributions from the formula and relates benefits directly to payrolls. The ratio of benefits to payrolls is the index for rate variation. The theory is that, if each employer pays a rate which approximates his benefit ratio, the program will be adequately financed. Rates are further varied by the inclusion in the formulas of three or more schedules, effective at specified levels of the State fund in terms of dollar amounts or a proportion of payrolls or fund adequacy percentage. In Florida and Wyoming an employer's benefit ratio becomes his contribution rate after it has been adjusted to reflect noncharged benefits and balance of fund. The adjustment in Florida also considers excess payments. In Pennsylvania rates are determined on the basis of three factors--reserve ratio, benefit ratio, and State adjustment. In Michigan rates are also based on the sum of three factors: the employer's experience rate; a State rate to recover noncharged or ineffectively charged benefits; and an adjustment rate to recover fund benefit costs not otherwise recoverable. In Utah rates are based on 3 factors: the reserve factor, social tax and experience. In Texas rates are based on a deficit tax ratio and a State replenishment ratio in addition to the employer's benefit ratio.

TAXATION

Unlike the reserve ratio, the benefit-ratio system is geared to short-term experience. Only the benefits paid in the most recent 3 years are used in the determination of the benefit ratios except in Utah, Virginia, and Washington where the last 4 years of benefits are used and in Iowa and Michigan, where the last 5 years of benefits are used. (Table 203).

220.03 BENEFIT-WAGE-RATIO FORMULA.--The benefit-wage formula is radically different. It makes no attempt to measure all benefits paid to the workers of individual employers. The relative experience of employers is measured by the separations of workers which result in benefit payments, but the duration of their benefits is not a factor. The separations, weighted with the wages earned by the workers with each base-period employer, are recorded on each employer's experience-rating record as benefit wages. Only one separation per beneficiary per benefit year is recorded for any one employer, but the charging of any benefit wages has been postponed until benefits have been paid in the State specified: in Alabama until payment is made for the first week; and in Oklahoma for the second week of unemployment; in Illinois, until the benefits paid equal three times the weekly benefit amount. The index which is used to establish the relative experience of employers is the proportion of each employer's payroll which is paid to those of his workers who become unemployed and receive benefits; i.e., the ratio of his benefit wages to his total taxable wages.

The formula is designed to assess variable rates which will raise the equivalent of the total amount paid out as benefits. The percentage relationship between total benefit payments and total benefit wages in the State during 3 years is determined. This ratio, known as the State experience factor, means that, on the average, the workers who drew benefits received a certain amount of benefits for each dollar of benefit wages paid and the same amount of taxes per dollar of benefit wages is needed to replenish the fund. The total amount to be raised is distributed among employers in accordance with their benefit-wage ratios; the higher the ratio, the higher the rate.

Individual employer's rates are determined by multiplying the employer's experience factor by the State experience factor. The multiplication is facilitated by a table which assigns rates which are the same as, or slightly more than, the product of the employer's benefit-wage ratio and the State factor. The range of the rates is, however, limited by a minimum and maximum. The minimum and the rounding upward of some rates tend to increase the amount which would be raised if the plan were affected without the table; the maximum, however, decreases the income from employers who would otherwise have paid higher rates.

220.04 PAYROLL VARIATION PLAN.--The payroll variation plan is independent of benefit payments to individual workers; neither benefits nor any benefit derivatives are used to measure unemployment. Experience with unemployment is measured by the decline in an employer's payroll from quarter to quarter or from year to year. The declines are expressed as a percentage of payrolls in the preceding period, so that experience of employers with large and small payrolls may be compared. If the payroll shows no decrease or only a small percentage decrease over a given period, the employer will be eligible for the largest proportional reductions.

Alaska measures the stability of payrolls from quarter to quarter over a 3-year period; the changes reflect changes in general business activity and also seasonal or irregular declines in employment.

TAXATION

Montana has three factors: annual declines, age, and a ratio of benefits to contributions; no reduced rate is allowed to an employer whose last 3-year benefit payments have exceeded contributions.

The payroll variation plans use a variety of methods for reducing rates. Alaska arrays employers according to their average quarterly decline quotients and groups them on the basis of cumulative payrolls in 10 classes for which rates are specified in a schedule. Montana classifies employers in 14 classes and assigns rates designed to yield a specified percent of payrolls varying with the fund balance.

225 Transfer of Employers' Experience

Because of Federal requirements, no rate can be granted based on experience unless the agency has at least a 1-year record of the employer's experience with the factors used to measure unemployment. Without such a record there would be no basis for rate determination. For this reason all State laws specify the conditions under which the experience record of a predecessor employer may be transferred to an employer who, through purchase or otherwise, acquires the predecessor's business. In some States (Table 204) the authorization for transfer of the record is limited to total transfers; i.e., the record may be transferred only if a single successor employer acquires the predecessor's organization, trade, or business and substantially all its assets. In the other States the provisions authorize partial as well as total transfers; in these States, if only a portion of a business is acquired by any one successor, that part of the predecessor's record which pertains to the acquired portion of the business may be transferred to the successor.

In most States the transfer of the record in cases of total transfer automatically follows whenever all or substantially all of a business is transferred. In the remaining States the transfer is not made unless the employers concerned request it.

Under most of the laws, transfers are made whether the acquisition is the result of reorganization, purchase, inheritance, receivership, or any other cause. Delaware, however, permits transfer of the experience record to a successor only when there is substantial continuity of ownership and management.

Some States condition the transfer of the record on what happens to the business after it is acquired by the successor. For example, in some States there can be no transfer if the enterprise acquired is not continued (Table 204); in 3 of these States (California, District of Columbia, and Wisconsin) the successor must employ substantially the same workers. In 22 States¹ successor employers must assume liability for the predecessor's unpaid contributions, although in the District of Columbia, Massachusetts, and Wisconsin, successor employers are only secondarily liable.

¹/Ariz., Ark., Calif., D.C., Ga., Idaho, Ill., Ind., Ky., Maine, Mass., Mich., Minn., Mo., Nebr., N.H., N.Mex., Ohio, Okla., S.C., W.Va., and Wisc.

TAXATION

Most States establish by statute or regulation the rate to be assigned the successor employer from the date of the transfer to the end of the rate year in which the transfer occurs. The rate assignments vary with the status of the successor employer prior to the acquisition of the predecessor's business. Over half the States provide that an employer who has a rate based on experience with unemployment shall continue to pay that rate for the remainder of the rate year; the others, that a new rate be assigned based on the employer's own record combined with the acquired record (Table 204).

230 Differences in Charging Methods

Various methods are used to identify the employer who will be charged with benefits when a worker becomes unemployed and draws benefits. Except in the case of very temporary or partial unemployment, compensated unemployment occurs after a worker-employer relationship has been broken. Therefore, the laws indicate in some detail which one or more of the former employers should be charged with the claimant's benefits. In the reserve-ratio and benefit-ratio States, it is the claimant's benefits that are charged; in the benefit-wage States, the benefit wages. There is, of course, no charging of benefits in the payroll-decline systems.

In most States the maximum amount of benefits to be charged is the maximum amount for which any claimant is eligible under the State law. In Arkansas, Colorado, Michigan, and Oregon, an employer who willfully submits false information on a benefit claim to evade charges is penalized: In Arkansas, by charging the employer's account with twice the claimant's maximum potential benefits; in Oregon, with 2 to 10 times the claimant's weekly benefit amount; in Colorado, with 1-1/2 times the amount of benefits due during the delay caused by the false statement and all of the benefits paid to the claimant during the remainder of the benefit year; and in Michigan by a forfeiture to the Commission of an amount equal to the total benefits which are or would be allowed the claimant.

In the States with benefit-wage-ratio formulas, the maximum amount of benefit wages charged is usually the amount of wages required for maximum annual benefits; in Alabama and Delaware, the maximum taxable wages.

230.01 CHARGING MOST RECENT EMPLOYERS.--In three States, Maine, New Hampshire, and South Carolina, with a reserve-ratio system, Virginia with a benefit-wage-ratio, the most recent employer gets all the charges on the theory of primary responsibility for the unemployment.

All the States that charge benefits to the last employer relieve an employer of these charges if only casual or short-time employment is involved. Maine limits charges to a most recent employer who employed the claimant for more than 5 consecutive weeks; New Hampshire, more than 4 weeks; Virginia, at least 30 days. South Carolina omits charges to employers who paid a claimant less than eight times the weekly benefit.

TAXATION

230.02 CHARGING BASE-PERIOD EMPLOYERS IN INVERSE CHRONOLOGICAL ORDER.--Some States limit charges to base-period employers but charge them in inverse order of employment (Table 205). This method combines the theory that liability for benefits results from wage payments with the theory of employer responsibility for unemployment; responsibility for the unemployment is assumed to lessen with time, and the more remote the employment from the period of compensable unemployment, the less the probability of an employer's being charged. A maximum limit is placed on the amount that may be charged any one employer; when the limit is reached, the next previous employer is charged. The limit is usually fixed as a fraction of the wages paid by the employer or as a specified amount in the base period or in the quarter, or as a combination of the two. Usually the limit is the same as the limit on the duration of benefits in terms of quarterly or base-period wages (sec. 335.04).

In Michigan, New Jersey, New York, Ohio, and Wisconsin, the amount of the charges against any one employer is limited by the extent of the claimant's employment with that employer; i.e., the number of credit weeks earned with that employer. In New York, when a claimant's weeks of benefits exceed weeks of employment, the charging formula is applied a second time--a week of benefits charged to each employer's account for each week of employment with that employer, in inverse chronological order of employment--until all weeks of benefits have been charged. In Colorado charges are omitted if an employer paid \$500 or less, \$100 or less in South Dakota; in Missouri most employers who employ claimants less than 28 days and pay them less than \$400 are skipped in the charging.

If a claimant's unemployment is short, or if the last employer in the base period employed the claimant for a considerable part of the base period, this method of charging employers in inverse chronological order gives the same results as charging the last employer in the base period. If a claimant's unemployment is long, such charging gives much the same results as charging all base-period employers proportionately.

All the States that provide for charging in inverse order of employment have determined, by regulation, the order of charging in case of simultaneous employment by two or more employers.

230.03 CHARGES IN PROPORTION TO BASE-PERIOD WAGES.--On the theory that unemployment results from general conditions of the labor market more than from a given employer's separations, the largest number of States charge benefits against all base-period employers in proportion to the wages earned by the beneficiary with each employer. Their charging methods assume that liability for benefits inheres in wage payments. This also is true in a State that charges all benefits to a principal employer.

In two States employers responsible for a small amount of base-period wages are relieved of charges. A Florida employer who paid a claimant less than \$100 in the base period is not charged and in Connecticut if the employer paid \$300 or less.

TAXATION

235 Noncharging of Benefits

In many States there has been a tendency to recognize that the costs of benefits of certain types should not be charged to individual employers. This has resulted in "noncharging" provisions of various types in practically all State laws which base rates on benefits or benefit derivatives (Table 205). In the States which charge benefits, certain benefits are omitted from charging as indicated below; in the States which charge benefit wages, certain wages are not counted as benefit wages. Such provisions are, of course, not applicable in States in which rate reductions are based solely on payroll decreases.

The omission of charges for benefits based on employment of short duration has already been mentioned (sec. 230, and Table 205, footnote 6). The postponement of charges until a certain amount of benefits has been paid (sec. 220.03) results in noncharging of benefits for claimants whose unemployment was of very short duration. In many States, charges are omitted when benefits are paid on the basis of an early determination in an appealed case and the determination is eventually reversed. In many States, charges are omitted for reimbursements in the case of benefits paid under a reciprocal arrangement authorizing the combination of the individual's wage credits in 2 or more States; i.e., situations when the claimant would be ineligible in the State without the out-of-State wage credits. In Connecticut, District of Columbia, Maine, Massachusetts, and Rhode Island dependents' allowances are not charged to employers' accounts.

The laws in Alabama, Arizona, California, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Minnesota, Mississippi, Missouri, New York, North Carolina, Oklahoma, Oregon, Pennsylvania, Rhode Island, Utah, West Virginia, and Wyoming provide that an employer who employed a claimant part time in the base period and continues to give substantial equal part-time employment is not charged for benefits.

Five States (Arkansas, Colorado, Maine, North Carolina, and Ohio) have special provisions or regulations for identifying the employer to be charged in the case of benefits paid to seasonal workers; in general, seasonal employers are charged only with benefits paid for unemployment occurring during the season, and nonseasonal employers, with benefits paid for unemployment at other times.

The District of Columbia, Georgia, Hawaii, Kansas, Louisiana, Maine, Massachusetts, New Hampshire, North Carolina, Oregon, South Carolina, South Dakota, Utah, and Vermont provide that benefits paid to an individual taking approved training shall not be charged to the employer's account. In Minnesota and Virginia benefits may be noncharged if an offer to rehire has been refused because the individual is in approved training.

New York has established a 3-year demonstration project which allows claimants in approved training to receive additional benefits. These additional benefits will be charged to the general account. The demonstration program will expire in 1990.

TAXATION

Another type of omission of charges is for benefits paid following a period of disqualification for voluntary quit, misconduct, or refusal of suitable work or for benefits paid following a potentially disqualifying separation for which no disqualification was imposed; e.g., because the claimant had good personal cause for leaving voluntarily, or because of a job which lasted throughout the normal disqualification period and then was laid off for lack of work. The intent is to relieve the employer of charges for unemployment, caused by circumstances beyond the employer's control, by means other than limiting good cause for voluntary leaving to good cause attributable to the employer, disqualification for the duration of the unemployment, or the cancellation of wage credits. The provisions vary with variations in the employer to be charged and with the disqualification provisions (sec. 425), particularly as regards the cancellation and reduction of benefit rights. In this summary, no attempt is made here to distinguish between noncharging of benefits or benefit wages following a period of disqualification and noncharging where no disqualification is imposed. Most States provide for noncharging where voluntary leaving or discharge for misconduct is involved and some States, refusal of suitable work (Table 205). A few of these States limit noncharging to cases where a claimant refuses reemployment in suitable work.

In Florida and South Dakota, benefits are not charged if an individual is discharged for unsatisfactory performance during a probationary period and if there is conclusive evidence of unsatisfactory work and that the probationer was not separated because employment was not of a permanent nature.

Alabama and Connecticut have provisions for canceling specified percentages of charges if the employer rehires the worker within specified periods.

Minnesota, North Carolina, North Dakota, Oklahoma, Pennsylvania (limited to the first 8 weeks of benefits), Tennessee, Washington (if employer requests the exemption and if the Commission approves it), and Wyoming exempt from charging benefits paid for unemployment due directly to a disaster if the claimant would otherwise have been eligible for disaster benefits. (Table 205, footnote 12.) Connecticut noncharges benefits paid for unemployment resulting from physical damage to a place of employment caused by severe weather conditions. Minnesota also noncharges benefits paid following disasters under certain conditions regardless of eligibility for disaster benefits.

240 Requirements for Reduced Rates

In accordance with the Federal requirements for experience rating, no reduced rates were possible in any State during the first 3 years of its unemployment insurance law. Except for Wisconsin, whose law preceded the Social Security Act, no reduced rates were effective until 1940, and then only in three States.

The requirements for any rate reduction vary greatly among the States, regardless of type of experience-rating formula.

240.01 PREREQUISITES FOR ANY REDUCED RATES.--Less than half the State laws now contain some requirement of a minimum fund balance before any reduced rate may be allowed. The solvency requirement may be in terms of millions of dollars; in terms of a multiple of benefits paid; in terms of a percentage of payrolls in certain past years; in terms of whichever is greater, a specified dollar amount or a specified requirement in terms of benefits or payroll; or in terms of a particular fund solvency factor or fund adequacy percentage (Table 206). Regardless of form, the purpose of the requirement is to make certain that the fund is adequate for the benefits that may be payable.

TAXATION

A more general provision is included in the New Hampshire law. In New Hampshire a flat rate may be set if the Commissioner determines that the solvency of the fund no longer permits reduced rates.

In more than half the States there is no provision for a suspension of reduced rates because of low fund balances. In most of these States, rates are increased (or a portion of all employers' contributions is diverted to a specified account) when the fund (or a specified amount in the fund) falls below the levels indicated in Table 206.

240.02 REQUIREMENTS FOR REDUCED RATES FOR INDIVIDUAL EMPLOYERS.--Each State law incorporates at least the Federal requirements (sec. 215.01) for reduced rates of individual employers. A few require more than 3 years of potential benefits for their employees or of benefit chargeability; a few require recent liability for contributions (Table 203). Many States require that all necessary contribution reports must have been filed and all contributions due must have been paid. If the system uses benefit charges, contributions paid in a given period must have exceeded benefit charges.

245 Rates and Rate Schedules

In almost all States rates are assigned in accordance with rate schedules in the law; in Nebraska in accordance with a rate schedule in a regulation required under general provisions in the law. The rates are assigned for specified reserve ratios, benefit ratios, or for specified benefit-wage ratios. In Arizona the rates assigned for specified reserve ratios are adjusted to yield specified average rates. In Alaska rates are assigned according to specified payroll declines; and in Connecticut, Idaho, Kansas and Montana according to employers' experience arrayed in comparison with other employers' experience.

245.01 FUND REQUIREMENTS FOR RATES AND RATE SCHEDULES.--In most States, the level of the balance in the State's unemployment fund, as measured at a prescribed time each year, determines which one of two or more rate schedules will be applicable for the following year. Thus, an increase in the level of the fund usually results in the application of a rate schedule under which the prerequisites for given rates are lowered. In some States, employers' rates may be lowered as a result of an increase in the fund balance, not by the application of a more favorable schedule, but by subtracting a specified amount from each rate in a single schedule, by dividing each rate in the schedule by a given figure, or by adding new lower rates to the schedule. A few States with benefit-wage-ratio systems provide for adjusting the State factor in accordance with the fund balance as a means of raising or lowering all employers' rates. Although these laws may contain only one rate schedule, the changes in the State factor, which reflect current fund levels, change the benefit-wage-ratio prerequisite for a given rate.

245.02 RATE REDUCTION THROUGH VOLUNTARY CONTRIBUTIONS.--In about half the States employers may obtain lower rates by voluntary contributions (Table 200). The purpose of the voluntary contribution provision in States with reserve-ratio formulas is to increase the balance in the employer's reserve so that a lower rate is assigned which will save more than the amount of the voluntary contribution. In Minnesota, with a benefit-ratio system, the purpose is to permit an employer to pay voluntary contributions to cancel benefit charges to the account and thus reduce the benefit ratio.