

**Evaluation of the
Unemployment Insurance Trust Fund
Department of Labor and Employment
June 2010**



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Members of the Legislative Audit Committee:

This report contains the results of an evaluation of the Unemployment Insurance Trust Fund within the Department of Labor and Employment. The evaluation was conducted pursuant to Section 2-3-103, C.R.S., which authorizes the State Auditor to conduct audits of all departments, institutions, and agencies of state government. The report presents our findings, conclusions, and recommendations, and the responses of the Department of Labor and Employment.

Sally Symanski

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Glossary of Terms and Abbreviations

Average High Cost Multiple – A state’s reserve ratio divided by the average of the three highest cost rate experiences during a calendar year over the last 20 years. States use this measure to determine whether their trust fund reserve levels are appropriate to maintain solvency. This measure reflects the number of months a trust fund can remain solvent, ignoring all revenue and assuming a given rate of benefit payouts. This measure was created in response to criticisms that the high cost multiple is an overly conservative solvency measure.

CFR – Code of Federal Regulations. The codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government. These rules govern federally funded programs, such as Medicaid.

Department – Department of Labor and Employment. A principal department in Colorado state government. The Department has overall responsibility for the Unemployment Insurance Program, as well as for other employment-related functions, including providing employment services to businesses and job seekers, analyzing and disseminating data on employment conditions in Colorado, administering Colorado employment and labor laws, and administering and enforcing the workers’ compensation laws and regulations.

Division – Division of Employment and Training within the Department of Labor and Employment. The Unemployment Insurance Program is located within the Division.

Extended Benefits – Unemployment insurance benefits paid to eligible unemployed workers beyond the initial 26 weeks of benefits. These benefits may be authorized by federal or state law during periods of high unemployment.

FTE – Full-time equivalent. An FTE of 1.0 means that the person is equivalent to a full-time worker, while an FTE of 0.5 signals that the worker is only half-time.

FUTA – Federal Unemployment Tax Act. FUTA authorizes the Internal Revenue Service to collect an annual federal tax from employers on wages paid to their employees and makes an offset credit available to employers if they pay their state unemployment taxes in a timely manner and their state complies with federal requirements.

GAO – Government Accountability Office. An office within the legislative branch of the federal government. The GAO’s mission is “to support the Congress in meeting its constitutional responsibilities and to help improve the performance and ensure the accountability of the federal government for the benefit of the American people.”

High Cost Multiple – A state’s reserve ratio divided by the highest historical ratio of benefits to wages during any consecutive 12-month period. States use this measure to determine whether their trust fund reserve levels are appropriate to maintain solvency. This measure reflects the number of months a trust fund can remain solvent, ignoring all revenue and assuming a given rate of benefit payouts. This measure assesses the longer-term risk of solvency by comparing a state’s reserve ratio to its experience during the worst previous recession.

Insolvency – Occurs when the Unemployment Insurance Trust Fund’s reserve is zero or at a deficit.

Maximum Chargeable Wage Base – Section 8-70-103(6.5), C.R.S., defines chargeable wages as “those wages paid an individual employee during a calendar year on which the employer of that employee is required to pay premiums as provided” by Article 76 of Title 8. The maximum chargeable wage base is set at \$10,000 per employee per calendar year.

Premiums – Charged by the Department of Labor and Employment to employers on wages paid to their employees. The Department charges three different types of premiums to employers, and premiums are charged on the first \$10,000 in annual wages earned by each employee per calendar year (referred to as the maximum chargeable wage base).

Recovery Act – The federal American Recovery and Reinvestment Act of 2009. According to Public Law 111-5, the Recovery Act’s stated purpose is to: (1) preserve and create jobs and promote economic recovery; (2) assist those most impacted by the recession; (3) provide investments needed to increase economic efficiency by spurring technological advances in science and health; (4) invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits; and (5) stabilize state and local government budgets to minimize or avoid reductions in essential services.

Reserve – The fund balance of a state’s unemployment insurance trust fund.

Reserve Ratio – A state’s trust fund reserve as a percentage of total wages covered by a state’s unemployment insurance system for the past 12-month period. The reserve ratio reflects the size of a state’s economy in the short term and is used by states to determine whether their trust fund reserve levels are appropriate to ensure solvency.

TABOR – Taxpayer Bill of Rights. Article X, Section 20, of the Colorado Constitution.

UI – Unemployment Insurance.

UI Program – The Unemployment Insurance Program administered by the Department of Labor and Employment’s Division of Employment and Training. The Program provides temporary partial wage replacement to workers who have lost their jobs through no fault of their own.

UI Trust Fund – Colorado’s Unemployment Insurance Trust Fund. The UI Trust Fund is managed by the U.S. Treasury. Colorado deposits most of the UI premiums it collects from employers in the Trust Fund and draws down monies from the Trust Fund as needed to pay UI benefits.

USDOL – U.S. Department of Labor. A principal department in the federal government. The USDOL’s mission is to foster and promote “the welfare of the job seekers, wage earners, and retirees of the United States by improving their working conditions, advancing their opportunities for profitable employment, protecting their retirement and health care benefits, helping employers find workers, strengthening free collective bargaining, and tracking changes in employment, prices, and other national economic measurements.”

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Evaluation of the Unemployment Insurance Trust Fund
Department of Labor and Employment
June 2010

Purpose and Scope

The purpose of this evaluation was to review the solvency of Colorado's Unemployment Insurance (UI) Trust Fund within the Department of Labor and Employment (Department). The evaluation included: (1) assessing the effectiveness of Colorado's unemployment insurance financing system in providing sufficient funding to cover UI benefits, (2) reviewing the solvency measures used by the Department, and (3) examining the methods used by the Department to forecast UI Trust Fund reserves. We engaged an independent contractor and a management consulting firm to conduct the evaluation. The contractors reviewed the Department's policies and practices for monitoring and measuring the solvency of the Trust Fund, forecasting Trust Fund reserves, and the statutory financing structure for the Trust Fund. The contractors performed work from August 2009 through May 2010. We acknowledge the cooperation and assistance extended by management and staff at the Department of Labor and Employment.

Overview

In December 2007 the United States entered its eleventh economic recession since the end of World War II. By the end of 2009, the national unemployment rate had doubled, reaching 10 percent, and unemployment insurance benefit payments reached nearly \$80 billion. Colorado's unemployment rate also nearly doubled, reaching 7.5 percent at the end of 2009, and Colorado paid about \$1.1 billion in state unemployment insurance benefits in 2009. Unemployment insurance provides temporary partial wage replacement to workers who have lost their jobs through no fault of their own. For unemployed individuals to receive unemployment insurance benefits, they must meet certain conditions, such as being able and willing to work. Weekly benefit amounts are determined in accordance with a statutory formula. In 2009, Colorado paid claimants an average weekly benefit of \$360.96, and Colorado workers earned, on average, weekly wages of \$884.08.

UI programs operate under federal-state partnerships in which federal laws establish broad coverage and benefit provisions and states design individual programs in accordance with the federal guidance. States charge employers to support their respective UI programs but the federal government offers loans and other financial assistance in times of economic stress. In addition, employers pay annual Federal Unemployment Tax Act (FUTA) taxes to the federal government which are used to finance the administration of state UI and employment services programs, reimburse states for the federal share of any extended benefits, and provide loans to states with insolvent trust funds. The U.S. Treasury manages the national Unemployment Insurance Trust Fund, which contains individual accounts for each state. The taxes or premiums

collected by states are deposited into their individual state accounts; states draw down funds from their accounts as needed to pay UI benefits.

In Colorado, the Unemployment Insurance Program is located within the Department of Labor and Employment. Broadly speaking, any employer in Colorado employing at least one individual must pay unemployment insurance premiums. The Department charges three types of premiums on the first \$10,000 in annual wages paid to each employee, as follows:

- **Base contribution premium**, which generally varies based on an employer's experience rating (which reflects the employer's layoff history) from 0 to 5.4 percent, is intended to be the State's primary mechanism to finance unemployment insurance benefits.
- **UI surcharge**, which is set at 0.22 percent for most employers, is intended to cover noncharged or ineffectively charged benefits, such as those paid to employees of firms that went out of business but did not pay sufficient premiums to cover the benefits.
- **Solvency surcharge**, which is determined based on each employer's experience rating and increases incrementally each year up to a statutory cap. This surcharge is designed to be a temporary source of revenue. Under statute, the surcharge is triggered when the reserve in Colorado's UI Trust Fund on June 30 of any year is equal to or less than 0.9 percent of the previous year's total wages reported by experience-rated employers.

Total payroll premiums, the primary source of revenue for the UI Trust Fund, decreased by almost one-third between 2005 and 2009—from about \$505 million to about \$342 million. The Department reported the reasons for this drop are that employers' experience ratings improved, resulting in reduced premium rates, and private sector job losses in 2009 resulted in a large drop in taxable wages. Benefit payments more than doubled over the same period, increasing from \$305 million to over \$1 billion. The combination of decreasing revenue and rising benefits resulted in the UI Trust Fund becoming insolvent in January 2010. Insolvency occurs when a trust fund's reserve, or fund balance, is zero or at a deficit. As of May 20, 2010, Colorado had borrowed about \$254 million from the federal government to pay UI benefits.

Key Findings

Long-Term Solvency of Colorado's Unemployment Insurance Trust Fund

Trust Fund solvency is affected by several key components—the wage base, base contribution rates, and surcharges—working together. We found that the laws, policies, and practices in place in Colorado do not promote the long-term solvency of the Trust Fund and that reform of the UI financing system is needed. The Department needs to perform a comprehensive evaluation of the UI financing system, focusing on the components discussed below, and communicate the need to improve the long-term solvency of the Trust Fund to the Governor's Office, the General Assembly, and Colorado employers.

Maximum Chargeable Wage Base. Colorado's maximum chargeable wage base (the annual wage amount on which UI premiums are charged) is fixed in statute at \$10,000 per employee and has not been adjusted since 1988. As a result, the wage base has not kept up with increases in average annual wages and average benefit payments to claimants, both of which more than doubled between 1988 and 2009. We estimate that if the wage base had increased since 1988 to match the increase in average wages, the wage base in 2009 would have been roughly \$22,000. Failing to evaluate and adjust this fundamental component of the UI financing system could further weaken the financial condition of the Trust Fund and result in additional fees and federal taxes charged to employers due to borrowing funds from the federal government to pay UI benefits.

Base Contribution Rates. Colorado is one of only 16 states with a maximum base contribution rate at the lowest maximum rate allowed by federal law—currently 5.4 percent—compared to some states that had maximum base rates as high as 13.16 percent in 2009. Also, Colorado's Trust Fund reserve amounts that trigger increases in the base contribution rates have not been changed in nearly 20 years. When the Trust Fund reserves drop to \$450 million or below, base rates begin to increase for most employers. Because this trigger has not been adjusted since 1991 and annual wages and benefit payment amounts have doubled, this trigger no longer reflects an adequate reserve level. Finally, the trigger for employers to receive a credit against their base contribution premiums should be evaluated and may need to be raised to better reflect a Trust Fund reserve level that ensures solvency. The statutory trigger, which grants an employer a 20-percent credit against its base contribution rate if certain conditions exist, has been in place for 10 years. During the only two years in which the statutory conditions for the trigger existed—2001 and 2002—the State experienced a reduction in premium collections of about \$52 million.

Solvency Surcharge. Although the solvency surcharge prevented insolvency of the Trust Fund in 2004 and delayed insolvency during the current recession until January 2010, we identified three concerns with the design of the surcharge. First, the surcharge is not serving as a temporary premium as intended; it has been levied on employers for seven consecutive years and the Department does not expect it to be deactivated for at least another five years unless changes to the financing system are made. Second, the surcharge has become the largest source of revenue for the Trust Fund even though base rates are generally intended to be the primary source of revenue used to pay UI benefits. Third, the solvency surcharge can be financially onerous for employers because it compounds annually and is often assessed at the onset of and during economic recessions. The Department estimates that collections of the solvency surcharge more than tripled between 2004 and 2009, from \$63 million to \$196 million.

Equity of Premiums Charged to Employers. We identified 504 employers whose benefit charges exceeded their premium payments each year from 2004 through 2008 by a total of \$90 million. In addition, 149 of these employers paid the maximum base contribution rate (5.4 percent) during at least one of the five years and 82 paid the maximum rate for the entire five-year period. While it is inherent in an insurance system that some subsidization will occur, an increase in the base contribution rates may be needed to minimize subsidization of benefits among employers.

Solvency Measures. Colorado does not set and monitor standards for all relevant solvency measures for the Trust Fund. States and the U.S. Department of Labor typically monitor three measures to assess the adequacy of reserve levels: (1) the reserve ratio, (2) the high cost multiple, and (3) the average high cost multiple. The Department monitors only the reserve ratio. We found that Colorado's Trust Fund did not meet the recommended standards for the reserve ratio or high cost multiple during any year from 1989 through 2009 and only met the recommended standard for the average high cost multiple in eight of these years. Setting standards for and monitoring the high cost multiple and the average high cost multiple, in addition to the reserve ratio, could give the Department a more complete and long-term perspective on the Trust Fund's solvency and better predict the need to borrow federal funds to pay UI benefits.

Federal Loans. The Department has not fully investigated options for deferring interest on its federal loan used to pay UI benefits or begun communicating to employers the costs they will bear associated with the loan. As of May 20, 2010, Colorado had borrowed about \$254 million in federal funds and expects to have an outstanding loan balance until at least June 2013. Statute requires interest costs on federal loans to be paid by employers. Because Colorado's loan will likely be outstanding for more than three years, employers in the State will incur two costs: (1) interest accrued on the loan beginning on January 1, 2011, and (2) a decrease in the federal tax credit (i.e., FUTA tax credit) beginning in late 2012. These additional costs will be levied on employers while recovery from the current recession is still occurring. Federal law and regulations offer states options for deferring interest costs on loans, which could help Colorado employers.

Our recommendations and the responses of the Department of Labor and Employment can be found in the Recommendation Locator and in the body of this report.

RECOMMENDATION LOCATOR
Agency Addressed: Department of Labor and Employment

Rec. No.	Page No.	Recommendation Summary	Agency Response	Implementation Date
1	28	As part of a comprehensive assessment of the financing for the Unemployment Insurance (UI) Trust Fund, work with the General Assembly, the Governor's Office, and Colorado employers to evaluate options for raising the maximum chargeable wage base. Recommend the best option to the General Assembly.	Agree	January 2011
2	32	As part of a comprehensive assessment of the financing for the UI Trust Fund, work with the General Assembly, the Governor's Office, and Colorado employers to identify options to adjust the statutory base contribution rate schedules. This should include assessing options for raising the maximum base rates, aligning the reserve level triggers in the base rate schedules, and adjusting the Trust Fund reserve that qualifies employers for a 20-percent credit on their base rate premium. Recommend statutory changes to increase the base contribution rates, as necessary.	Agree	January 2011
3	34	As part of a comprehensive assessment of the financing for the UI Trust Fund, work with the General Assembly, the Governor's Office, and Colorado employers to evaluate options for redesigning the solvency surcharge so that it serves as a short-term funding source to avoid or delay insolvency of the Trust Fund. Recommend statutory changes to adjust the solvency surcharge's rate structure to minimize the financial burden on employers, as necessary.	Agree	January 2011
4	36	Enhance the equity of base contribution rates under the UI Program by: (a) working with the General Assembly, the Governor's Office, and Colorado employers to identify options to minimize subsidization of benefits among employers, including raising base contribution rates, automatically converting certain employers at the maximum base rate to reimbursable employers, or levying an additional surcharge on employers with maximum base rates; (b) recommending statutory changes, as necessary, to minimize future subsidization of UI benefits among employers; and (c) periodically assessing the level of subsidization within the UI Program and the impact on the equity of premiums.	Agree	January 2011

RECOMMENDATION LOCATOR
Agency Addressed: Department of Labor and Employment

Rec. No.	Page No.	Recommendation Summary	Agency Response	Implementation Date
5	41	Improve the early detection of potential problems with the adequacy of the UI Trust Fund reserves by: (a) determining appropriate levels for the reserve ratio, high cost multiple, and average high cost multiple; (b) regularly assessing these solvency measures against established goals; (c) sharing material concerns identified from regular assessments of the solvency measures with the General Assembly and the Governor's Office; and (d) identifying and working to implement options to meet the solvency goals set by the USDOL, if approved.	Agree	January 2011
6	44	Evaluate the potential cost burdens on Colorado employers resulting from federal loans to the State while the UI Trust Fund is insolvent, including: (a) exploring options to qualify for deferment of interest charges and assessing the implications of such deferments; and (b) estimating the potential interest charges on the loans and reductions in federal tax credits during the period the UI Trust Fund is insolvent and communicating this information to the General Assembly, the Governor's Office, and employers as early as possible.	Agree	November 2010
7	46	Improve monitoring of and reporting on the solvency of the Trust Fund to the Governor's Office and General Assembly. Adopt a formal process to assess the financing structure, the Fund's solvency, and unemployment benefits on an ongoing basis, including any events affecting the Trust Fund, and report concerns and recommendations regarding the solvency of the Trust Fund as needed.	Agree	December 2010

Overview of Unemployment Insurance

Chapter 1

In December 2007 the United States entered its eleventh economic recession since the end of World War II. This recession, like those before it, has created hardship for employees and employers alike, resulting in lost jobs, reduced wages, layoffs, and bankruptcies. The national unemployment rate doubled during the first two years of the recession, reaching 10 percent by the end of 2009. Unemployment insurance (UI) programs across the country paid out nearly \$80 billion in benefits to unemployed workers in 2009, an increase of about 158 percent from 2007. While remaining lower than the national average, Colorado's unemployment rate nearly doubled over the same period, reaching 7.5 percent at the end of 2009. In total, Colorado paid about \$1.1 billion in state UI benefits in 2009, an increase of 267 percent from the 2007 total of about \$300 million. According to the Department of Labor and Employment, Colorado's benefit payments increased at a higher rate over this two-year period than the U.S. overall because the State entered the recession about six to nine months after the rest of the nation. As a result, Colorado did not begin to experience significant increases in UI benefit payments until late 2008 while benefit payments for the U.S., as a whole, had already increased substantially in 2007.

Created by the federal Social Security Act of 1935, the national Unemployment Insurance program provides temporary partial wage replacement to workers who have lost their jobs through no fault of their own. Under this program, eligible unemployed workers receive weekly benefit payments that are intended to cover necessities (e.g., food, shelter, and clothing) while they search for work. One of the program's purposes is to help maintain communities' economic stability by safeguarding the income and purchasing power of unemployed workers.

Federal Unemployment Insurance Framework

UI programs operate under federal-state partnerships. Federal laws establish broad UI coverage and benefit provisions, the federal unemployment tax base and rate, and administrative requirements. Within this framework, states design the key components of their own UI programs, such as benefit eligibility criteria, benefit amounts, and tax rates assessed to employers to support the benefits paid. States are generally expected to charge adequate rates to support their respective UI programs. However, states may borrow from the federal government if their programs become insolvent in times of economic stress. Further, the federal government may subsidize state UI programs during recessionary periods.

Three agencies within the federal government are charged with different responsibilities related to unemployment insurance, as described below.

U.S. Department of Labor (USDOL). The USDOL oversees states' compliance with federal requirements related to unemployment insurance and distributes funding to states to administer their UI programs. Among its responsibilities, the USDOL ensures that state laws, regulations, rules, and operations comply with federal law; sets overall policy for administering the program; monitors state performance; and provides technical assistance to states, as needed. In addition, under the federal American Recovery and Reinvestment Act of 2009 (Recovery Act), the USDOL is responsible for handling two special distributions for states' UI programs:

- **Unemployment compensation modernization incentive payments.** A total of \$7 billion in incentive payments is available under the Recovery Act for states that apply for the funds by August 22, 2011, and meet the eligibility criteria. These incentive funds can be used by states to pay UI benefits. For a state to be eligible for the maximum incentive payment, the state's laws must contain certain provisions related to the base period (i.e., the period of past wages used to calculate the weekly benefit amount a claimant can receive). Further, the state's laws must include two of the four benefit eligibility requirements specified in the Recovery Act (e.g., an individual is not disqualified from unemployment compensation for separation due to certain compelling family reasons).
- **Special administrative transfers.** A total of \$500 million in special administrative transfers was available in 2009 to all states; states did not need to take any action to receive their transfers. These funds can only be used for: (1) implementing and administering provisions in state law that qualify the state for the UI compensation modernization incentive payments discussed above and improving outreach to individuals who may be eligible for UI benefits under these new provisions; (2) improving unemployment compensation benefit and tax operations, including responding to increased demand for unemployment compensation; and (3) offering self-assisted reemployment services for claimants.

In addition to these special distributions, the USDOL distributes other Recovery Act funds to states to cover extended benefits, which extend beyond regular benefits offered by states and are available during periods of high unemployment. We discuss extended benefits in greater detail later in this chapter.

Internal Revenue Service (IRS). The Federal Unemployment Tax Act (FUTA) authorizes the IRS to collect an annual federal tax from employers of 6.2 percent on wages up to \$7,000 paid to an employee each year. An offset credit of up to 5.4 percent is available to employers if they pay their state unemployment taxes in a timely manner and their state complies with federal requirements. Employers

receiving this credit pay a net tax rate as low as 0.8 percent, or \$56 for each employee with earnings of \$7,000 or more per year. During Federal Fiscal Year 2008 (most recent data available), the IRS collected about \$134.6 million in federal payroll taxes from Colorado employers.

U.S. Treasury. The U.S. Treasury manages the UI Trust Fund, which consists of 53 state accounts and 6 federal accounts. FUTA taxes collected by the IRS are deposited into three of the federal accounts and used to: (1) finance the administration of state UI and employment services programs, (2) reimburse states for the federal share of extended benefits, and (3) provide loans to states with insufficient reserves in their trust funds to cover benefits. Taxes collected by states are deposited into their individual state accounts and used to pay UI benefits for their respective state programs.

Colorado's Unemployment Insurance Program

In Colorado, the Division of Employment and Training (Division) within the Department of Labor and Employment (Department) is responsible for administering the Unemployment Insurance Program (UI Program). For Fiscal Year 2010, the General Assembly appropriated 470 FTE and about \$35.3 million to the UI Program to cover personnel and administrative costs. Of this appropriation, \$27.8 million is federal funds from payroll taxes collected by the IRS under FUTA. The remaining \$7.5 million is state funds from UI premiums paid by employers and deposited into the Employment Support Fund, interest collected on delinquent taxes, penalties assessed to employers, and the recoupment of the Division's investigative costs. The \$35.3 million appropriation is not used to make benefit payments to claimants; funds from Colorado's trust fund account at the U.S. Treasury are used to pay benefits.

In the sections below, we describe how workers qualify for unemployment benefits in Colorado, the unemployment premiums paid by employers, reserve levels in Colorado's Unemployment Insurance Trust Fund (UI Trust Fund), and recent legislation affecting the UI Trust Fund.

Eligibility for Benefits

Statute defines criteria unemployed individuals must meet to receive UI benefits [Section 8-73-107, C.R.S.]. Specifically, they must have lost their jobs through no fault of their own and earned at least \$2,500 in wages during the base period (the first four of the last five completed calendar quarters at the time the initial claim for benefits was filed). Additionally, at all times while unemployed, the unemployed individual must be:

- **Able to work** both mentally and physically.
- **Available to work**, meaning they have made necessary arrangements for family care, transportation, etc., so that they can report to work immediately in the event they are offered work.
- **Actively seeking work** by contacting a specific number of employers each week for work they are reasonably qualified to perform and willing to accept.
- **Willing to accept suitable work** if offered, which includes work of an equal or higher skill level than their past employment.

Unemployed workers must submit an initial application to the Department, either by phone or online. Department staff review the application and determine whether the applicant meets the criteria for UI benefits. Once an individual has been found eligible to receive benefits, he or she must request payments every two weeks, either by phone or online.

As required by statute [Section 8-73-102, C.R.S.], weekly benefit amounts are determined through one of two formulas:

- 60 percent of one twenty-sixth (1/26) of the highest wages earned in two consecutive calendar quarters during the base period. Under this formula, the benefit amount is typically 60 percent of one-week's wages if wages were constant during the entire six-month period.
- 50 percent of one fifty-second (1/52) of the total base period wages. Under this formula, the benefit amount is typically 50 percent of one-week's wages if wages were constant during the one-year period.

The Department uses the formula that gives the claimant the higher weekly benefit amount, without exceeding the maximum benefit. The maximum benefit for State Fiscal Year 2010 was \$487 per week; the maximum benefit is adjusted annually based on the State's average weekly wage earned. In 2009, Colorado paid claimants an average weekly benefit amount of \$360.96, which was higher than the U.S. average of \$309.58. During this same year Colorado workers earned, on average, weekly wages of \$884.08.

Colorado offers two types of unemployment benefits—regular and extended—to eligible individuals. Regular benefits are available to claimants for up to 26 weeks and are paid by the State with moneys in its UI Trust Fund. Extended benefits—those that extend beyond the initial 26 weeks of benefits—may be authorized by federal or state law during periods of high unemployment. Prior to the current recession, the federal government paid 50 percent of federal and state extended benefits with moneys in one of its UI trust fund accounts, and states paid

the remaining 50 percent with moneys in their individual trust fund accounts. At the time of our evaluation, the federal government offered several different tiers of extended benefits to eligible unemployed workers using funds appropriated under the Recovery Act. Additionally, Colorado offered extended benefits to claimants who had exhausted both their regular benefits and their extended federal benefits. These extended state benefits were also paid with federal funds appropriated under the Recovery Act.

Chart 1 shows the types of benefits offered by the federal government and the State to eligible unemployed workers in Colorado. At the time of our evaluation, claimants in Colorado could qualify for up to 86 weeks (about one year and eight months) of unemployment benefits.

Chart 1: Colorado Unemployment Insurance Program Potential Benefits Available to Unemployed Workers as of May 2010				
Type of Benefits		Maximum Duration of Benefits	Qualifications for Benefits	Source of Funds
Regular		Up to 26 weeks	Claimant must be unemployed through no fault of own, apply for benefits, and meet eligibility criteria set in statute.	Colorado UI Trust Fund
Federal Extended Benefits ¹	Tier I	Up to 20 weeks beyond regular benefits	Claimant must have exhausted regular benefits by May 22, 2010, and applied for Tier I benefits by May 26, 2010.	Federal funds appropriated under the American Recovery and Reinvestment Act of 2009
	Tier II	Up to 14 weeks beyond Tier I benefits	Claimant must have exhausted Tier I benefits by the week ending May 29, 2010.	
	Tier III	Up to 13 weeks beyond Tier II benefits	Available to states with an average three-month total unemployment rate of at least 6%. Claimant must have exhausted Tier II benefits by the week ending May 29, 2010.	
State Extended Benefits ²		Depends on average three-month unemployment rate: ➤ If greater than or equal to 6.5%, up to 13 additional weeks ➤ If greater than or equal to 8%, up to 20 additional weeks	Available to a claimant only after all regular benefits and federal extended benefits have been exhausted.	Federal funds appropriated under the American Recovery and Reinvestment Act of 2009

Source: Department of Labor and Employment data.

¹Tier I through III payments are available through November 6, 2010. The federal government also offers Tier IV extended benefits (up to 6 weeks beyond Tier III benefits) to unemployed workers in states with an average total unemployment rate of 8.5 percent or higher. For February through April 2010, Colorado had an average three-month unemployment rate of 7.8 percent and did not qualify for Tier IV benefits.

²Eligible claimants received up to 13 weeks of additional benefits through state extended benefits; Colorado’s average three-month total unemployment rate (7.8 percent) had not reached the 8 percent rate required for the 20-week extended benefits. State extended benefits were available to claimants through June 5, 2010.

Premiums Charged to Employers

Unemployment benefits in Colorado are funded through a complex set of premiums assessed by the State to employers on wages paid to their employees. Consistent with laws in 49 other states and territories, Colorado does not require employees to pay any unemployment insurance premiums. Broadly speaking, any employer in Colorado employing at least one individual must pay UI premiums. The Department charges three types of premiums; these premiums are charged only on the first \$10,000 in annual wages earned by each employee.

Premiums charged to employers vary based upon each employer's layoff history. Employers with fewer layoffs are charged reduced rates, while employers with more layoffs are charged higher rates. An employer's history with respect to layoffs and benefit payments is used to determine the employer's *experience rating*. Similar to other states, Colorado assigns experience ratings to employers to allocate the costs of the State's UI Program among employers in an equitable manner and to encourage employers to minimize layoffs and provide information to assist the State in determining a claimant's eligibility for UI benefits. Each year on June 30, the Department determines experience ratings for all employers that have been in business for at least one year, and the new ratings become effective on January 1 of the following year.

In Colorado, UI premiums are primarily charged to private sector employers. As of June 30, 2009, about 148,800 employers in Colorado were required to pay premiums. The premiums are deposited into the State's UI Trust Fund and used to pay UI benefits. These employers file wage reports and pay premiums on a quarterly basis. An additional 2,100 employers were classified as reimbursable as of this date. Under statute, certain eligible employers—including the State of Colorado, qualifying political subdivisions such as local governments, and nonprofit organizations—may choose to reimburse Colorado's UI Trust Fund for benefits paid to former employees rather than pay premiums [Section 8-76-108 to 111, C.R.S.].

The three premiums assessed to Colorado employers are:

Base contribution premium, which is intended to be the State's primary mechanism to finance UI benefits. The rates for this premium vary based upon an employer's experience rating and range from 0 to 5.4 percent on the first \$10,000 in annual wages earned by each employee. Therefore, the maximum premium an employer with the highest experience rating would be required to pay for an employee with annual wages of at least \$10,000 would be \$540 per year. Statute establishes premium schedules with the annual base contribution rates for each experience rating that can be assigned to employers [Section 8-76-103(3)(b)(II)(B) and (C), C.R.S.]. *Appendix A* includes the base contribution rate schedules effective at the time of our evaluation.

Statutes set a separate rate for new employers because they do not have unemployment and claims experience on which their rates can be based. For the construction industry, statutes consider employers that have been in business for less than three years to be new employers. New construction businesses are charged a tax rate that ranges from 3.1 percent to 4.3 percent for 2010. According to the Department, the construction industry is assigned a higher initial premium rate than other industries “because this industry is subject to more periods of unemployment due to factors such as inclement weather.” For all other industries, the statutes consider employers that have been in business less than one year to be new employers; these employers are initially assessed a standard rate of 1.7 percent on the first \$10,000 in annual wages earned by each employee.

UI surcharge, which is intended to cover noncharged or ineffectively charged benefit costs. These costs may include benefits paid to employees of firms that went out of business but did not pay sufficient premiums to cover the benefit costs for their former employees, or benefits not directly charged to an employer, such as those paid to military spouses who quit their jobs due to a military relocation.

Statute sets the UI surcharge at 0.22 percent of the first \$10,000 earned by each employee annually [Section 8-76-102(4)(d), C.R.S.]. This surcharge, which is a maximum of \$22 for each employee per year, is assessed to all employers that have paid out \$100 or more in unemployment benefits in the last three fiscal years. Statute requires 50 percent of the revenue from this surcharge to be deposited into the Employment Support Fund, which is used to cover Department overhead costs; offset funding deficits for administration of the UI Program; and fund a portion of costs incurred for Colorado’s workforce centers, Workforce Investment Act programs, and activities of the Department’s Division of Labor. Currently, the remaining 50 percent of revenue is deposited into the UI Trust Fund at the U.S. Treasury. We discuss recent legislative changes on the distribution of the UI surcharge later in this chapter.

Solvency surcharge, which is designed to be a temporary source of revenue when the reserve in Colorado’s UI Trust Fund on June 30 of any year drops below a level specified in statute. This surcharge was first activated under statute on January 1, 2004, when the reserve in the UI Trust Fund became equal to or less than 0.9 percent of the prior year’s total wages paid by employers subject to the solvency surcharge [Section 8-76-102(5), C.R.S.]. This surcharge has been assessed to employers each year since because the reserve has been 0.9 percent or less of the prior year’s total wages.

Solvency surcharges to individual employers are determined based upon each employer’s experience rating; rates increase incrementally each year and are capped for each experience rating, with maximum rates ranging from 0.2 to 5.4 percent. For example, an employer with an experience rating resulting in the highest solvency surcharge rate would pay 1.1 percent during the first year the surcharge was activated. If this employer retained the same experience rating

each year the surcharge is in effect, the employer's surcharge rate would increase by 1.1 percentage points each year until it reached the 5.4 percent maximum rate allowed by statute for that experience rating. Covered employers of state and local governments and certain nonprofit organizations and political subdivisions are not subject to the solvency surcharge. *Appendix B* includes the solvency surcharge schedule effective at the time of our evaluation. The solvency surcharge is deposited into the UI Trust Fund at the U.S. Treasury.

Chart 2 shows the three premium rates charged to employers by the State and the total amount the Department collected for each premium in 2009.

Chart 2: Colorado Unemployment Insurance Program Premiums Charged to Employers and Total Amount Collected Calendar Year 2009			
Premium Type	Rate Range	Dollar Range Employer Pays Per Employee¹	Premiums Collected (in millions)
Base Rate	0 to 5.4%	\$0 to \$540	\$124.9
UI Surcharge²	0.22%	\$22	\$20.7
Solvency Surcharge³	1 st Year Activated: 0 to 1.1%	\$0 to \$110	\$196.2 ⁴
	Max Rates: 0.2 to 5.4%	\$20 to \$540	
Totals	0.22 to 11.02%	\$22 to \$1,102	\$341.8
Source: Colorado Revised Statutes and data provided by the Department of Labor and Employment.			
¹ Dollar ranges reflect premiums charged on the first \$10,000 of wages per employee per calendar year.			
² Assessed to all employers that have paid \$100 or more in UI benefits in the last three fiscal years.			
³ Charged to all employers except state and local governments and certain nonprofit organizations and political subdivisions. Each employer's surcharge is determined based upon the employer's experience rating, and rates increase incrementally each year.			
⁴ The Department does not separately track the portion of each employer's quarterly premium payment that includes the solvency surcharge. The Department estimated this amount by deducting the base rate and UI surcharge premiums collected in 2009 from the total premiums collected.			

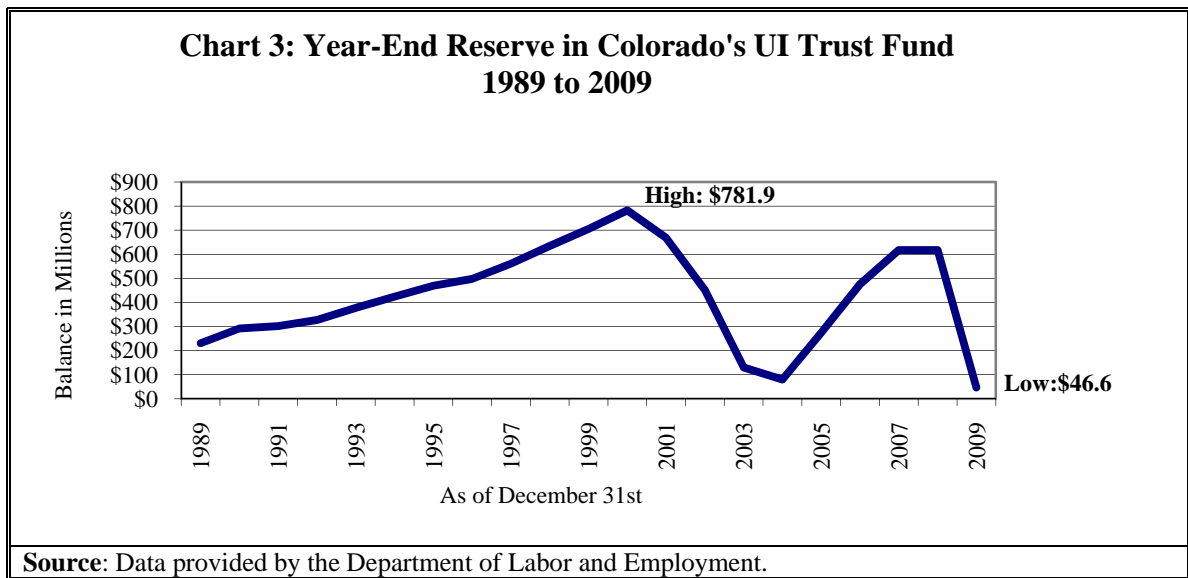
As Chart 2 shows, an employer with the highest rates for each of the three different premiums would have paid as much as \$1,102 (i.e., \$540 for base rate + \$22 for UI surcharge + \$540 for solvency surcharge) per employee during Calendar Year 2009. As discussed in greater detail in Chapter 2, the amount collected from the solvency surcharge exceeded the amount collected from the base contribution rate in 2008 and 2009. According to the Department, this is due to the compounding nature of this surcharge.

Unemployment Insurance Trust Fund

In accordance with federal and state laws [42 U.S.C. 503(a)(4) and Section 8-77-102, C.R.S.], Colorado must deposit all of the UI premiums it charges employers into its UI Trust Fund held by the U.S. Treasury, with the exception of 50 percent of premiums collected from the UI Surcharge, which is deposited into the State's Employment Support Fund [Section 8-76-102(4)(d), C.R.S.]. The U.S. Treasury

manages the federal UI Trust Fund, which contains individual trust fund accounts for each state, including Colorado. States draw down funds from their accounts as needed to pay UI benefits.

During strong economic times, states often build up the reserves in their UI trust funds as payroll tax revenue increases and benefit payouts decrease. Chart 3 below shows the increases and decreases in Colorado’s UI Trust Fund reserve between 1989 and 2009.



As shown in Chart 3, the reserve in Colorado’s UI Trust Fund steadily rose from 1989 to 2000. Due to an economic downturn beginning in 2001, the reserve sharply declined until 2004, with the UI Trust Fund nearly becoming insolvent in mid-2004. As the economy improved and the State began receiving additional revenue from the solvency surcharge, the reserve in the UI Trust Fund grew over the next four years. However, in 2008 and 2009 the unemployment rate and UI benefit claim filings in Colorado sharply increased, and consequently, the reserve dropped significantly.

In January 2010, the UI Trust Fund became insolvent. Insolvency occurs when the Trust Fund’s reserve, or fund balance, is zero or at a deficit. The State requested and received a federal line of credit of \$310 million to cover its UI benefit payouts from January through March 2010, which was only available during that quarter. In April 2010, the State received a new line of credit totaling \$255 million to cover payouts from April through June 2010. Department staff stated they do not believe the State will use the entire line of credit available during this six-month period. As of May 20, 2010, Colorado has borrowed nearly \$254 million from the federal government to pay UI benefits.

Chart 4 shows the revenue and benefit payments for Colorado’s UI Trust Fund and the beginning and ending reserves from Calendar Years 2005 to 2009.

Chart 4: Colorado's Unemployment Insurance Trust Fund Revenue, Benefit Payments, and Reserve Level Calendar Years 2005 to 2009						
	Dollars in Millions					Change from 2005 to 2009
	2005	2006	2007	2008	2009	
Reserve as of January 1	\$79.5	\$273.8	\$475.6	\$617.3	\$617.3	+676%
Revenue						
Payroll Premiums ¹	\$504.8	\$470.3	\$412.9	\$385.8	\$341.8	-32%
Interest ²	\$9.8	\$19.5	\$28.9	\$31.0	\$16.1	+64%
Federal UC Modernization ³	-	-	-	-	\$127.5	N/A
Total Revenue	\$514.6	\$489.8	\$441.8	\$416.8	\$485.4	-6%
Benefit Payments						
Benefit Payments	\$305.4	\$284.1	\$297.7	\$407.9	\$1,056.2	+246%
Accounting Adjustments⁴	-\$14.9	-\$3.9	-\$2.4	-\$8.9	\$0.1	99%
Reserve as of December 31	\$273.8	\$475.6	\$617.3	\$617.3	\$46.6	-83%
Source: Financial data provided by the Department of Labor and Employment.						
¹ Payroll premiums include all three premiums: (1) base rate, (2) UI surcharge, and (3) solvency surcharge.						
² The U.S. Treasury pays states interest based upon the reserve in each state's trust fund.						
³ Under the federal American Recovery and Reinvestment Act of 2009, the federal government distributed unemployment compensation (UC) modernization incentive payments to states meeting eligibility criteria. The \$127.5 million received by Colorado was designated for payment of regular UI benefits. The State also received \$9.1 million for workload and administrative purposes as well as benefit payments for the State Extended Benefits Program; these funds were not deposited into the UI Trust Fund and are not included as revenue above.						
⁴ Includes various adjustments such as interest and penalties charged to employers, moneys received from or benefits paid to other states related to interstate combined wage claims, and reimbursable benefits paid by employers.						

As shown in Chart 4, total revenue deposited into the UI Trust Fund decreased by 6 percent from 2005 to 2009, with payroll premiums dropping more than 30 percent, from \$504.8 million to \$341.8 million. Department staff reported the reasons for the drop in premium collections are that: (1) employers' experience ratings improved over these five years, resulting in reduced premium rates charged to them, and (2) heavy private sector job losses in 2009 resulted in a large drop in taxable wages. In contrast, benefit payments increased almost 250 percent, from \$305.4 million to about \$1.06 billion, during this five-year period. The combination of decreasing revenue and rising benefit payouts resulted in a deficit reserve in the UI Trust Fund in mid-January 2010.

Recent Legislation

During Colorado's 2009 Legislative Session, the General Assembly passed three bills that affect the UI Trust Fund, which are described below.

House Bill 09-1363: This bill designated the UI Program as an enterprise for purposes of Section 20 of Article X of the State Constitution, which is known as the Taxpayer Bill of Rights (TABOR). According to the bill, the UI Program, as an enterprise, is not subject to certain TABOR limitations. The bill also changed the terminology in the Colorado Employment and Security Act (Act) from "taxes"

to “premiums.” The statute had previously defined “taxes” as “the money payments to the unemployment compensation fund” required by the Act; HB 09-1363 eliminated this definition and defined “premiums” in the same way, as “the money payments to the unemployment compensation fund required” by the Act.

Senate Bill 09-247: With funds available under the Recovery Act, the federal government distributed unemployment compensation modernization incentive payments in 2009 to states meeting eligibility criteria for the funds. Senate Bill 09-247 amended statute to make Colorado eligible for these funds. For example, this bill allows UI benefits to be paid to individuals who quit their jobs to care for an ill or disabled immediate family member who requires care for a longer duration than the amount of leave available under the employer’s medical leave policy or the federal Family and Medical Leave Act of 1993. In total, the Department received \$127.5 million in federal unemployment compensation modernization incentive payments in 2009; these funds were used to pay regular state benefits to claimants.

Senate Bill 09-76: This bill reduced the percentage of UI Surcharge moneys deposited into the UI Trust Fund from July 1, 2009, through December 31, 2016 from 50 percent to 30 percent and allocated 20 percent to the Employment and Training Technology Fund. The bill states that if the UI Trust Fund reserve falls below \$25 million, the moneys in the Employment and Training Technology Fund are to be allocated to the UI Trust Fund. In January 2010, the UI Trust Fund dropped below \$25 million and subsequently became insolvent, so 50 percent of the UI Surcharge premiums are allocated to the UI Trust Fund. As stated previously, the remaining 50 percent of the UI Surcharge is deposited to the Employment Support Fund to cover Department overhead costs, offset funding deficits for administration of the UI Program, and fund a portion of costs incurred for Colorado’s workforce centers, WIA programs, and activities of the Department’s Division of Labor.

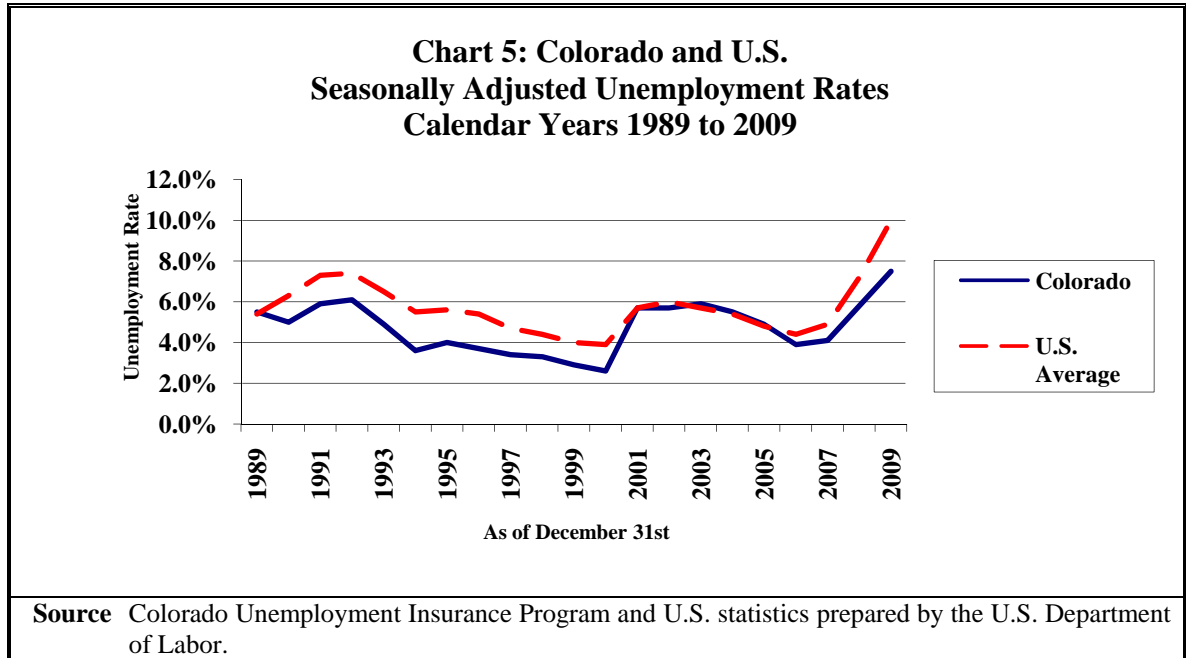
No legislation was enacted during the 2010 Legislative Session that affected Colorado’s UI Trust Fund.

Colorado Unemployment Rates and Claims

During the 21-year period of 1989 to 2009, the U.S. experienced three economic recessions: the first between July 1990 and March 1991, the second between March and November 2001, and the third beginning in December 2007.

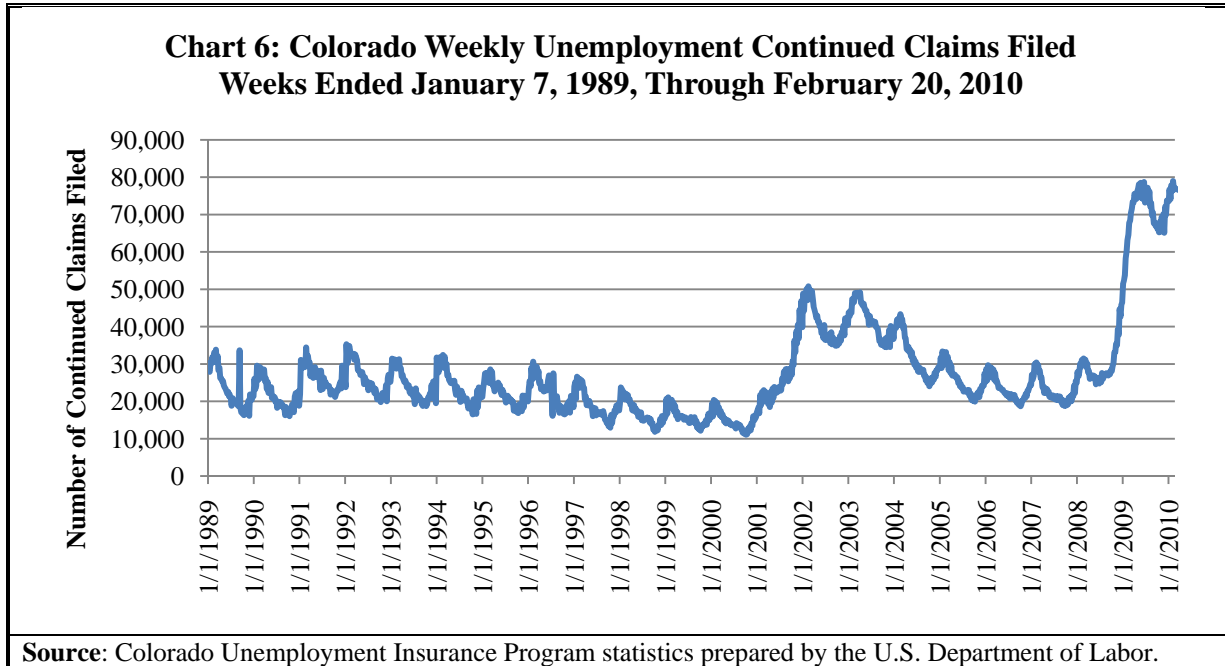
Chart 5 shows the seasonally adjusted unemployment rates for Colorado and the U.S. over the last 21 years and illustrates the cyclical nature of the economy, with rises in unemployment indicating economic downturns, and declines indicating economic upswings. A seasonal adjustment is a statistical technique applied by the Department to monthly data to eliminate changes that normally occur during

the year due to seasonal events, such as changes in the weather, major holidays, shifts in production schedules, harvest time, and the opening and closing of schools.



In general, Colorado's unemployment rate was lower than the U.S. average during the 21-year period shown in Chart 5. In 2009, the unemployment rates for both Colorado and the U.S. reached their highest levels during the 21-year period, with the U.S. rate at 10 percent and Colorado's at 7.5 percent on December 31, 2009.

As the unemployment rate increased in Colorado in 2009, the volume of UI claims filed rose sharply as well, with the total weekly number reaching about 80,000 in mid-2009. The Department tracks two types of UI claims: (1) initial claims, which are new claims filed by unemployed workers; and (2) continued claims, which are all subsequent claims filed by a covered individual and which represent the bulk of UI claims filed in Colorado. Chart 6 shows the volume of continued claims filed in Colorado on a weekly basis from January 7, 1989 through February 20, 2010.



As shown in Chart 6, while weekly filings of continued claims in Colorado fluctuated seasonally from 1989 through 2000, claim filings gradually declined over this period, reaching the lowest weekly amount of about 11,100 continued claims in October 2000. In 2001, claim filings in the State began to steadily rise as the U.S. entered a recession. Although the recession lasted only from March to November 2001, weekly claim filings remained at higher levels in Colorado into 2004. From mid-2004 into 2008, filings gradually decreased, with seasonal fluctuations occurring each year. In late 2008, about nine months after the U.S. entered its current recession, claim filings in Colorado rose significantly and continued to steeply increase during the first half of 2009; filings for these claims slowed down slightly in the autumn of 2009 but increased again in late 2009 and into early 2010. During the week ending February 6, 2010, filings totaled about 79,980, the highest number filed during the 21-year period. In 2009, unemployed workers received an average of 16 weeks of regular benefits, up 3 weeks from the 2008 average of about 13 weeks.

As mentioned earlier, the State paid unemployed workers nearly \$1.1 billion in benefit payments in 2009, an increase of 267 percent from 2007. In contrast, the State collected about \$341.8 million in payroll premiums in 2009, which represents only about one-third of benefit payouts during the year. In Chapter 2, we discuss issues related to Colorado’s UI financing system.

Scope and Methodology

The Office of the State Auditor (OSA) engaged an independent contractor, Julie Kennedy, and an outside firm, JVP Partners, Inc., to conduct the evaluation of the

UI Trust Fund. The purpose of this evaluation was to assess the solvency of Colorado's UI Trust Fund and the financing of the UI Program. The evaluation focused on:

- Trends and statistics related to unemployment rates, premium collections, benefits, and the Trust Fund.
- The Department's practices for assessing and monitoring the solvency of Colorado's UI Trust Fund.
- The adequacy of Colorado's system to finance its UI Program.

The evaluation did not include a review of benefit levels paid by the State to claimants.

As part of the evaluation, the contractors (Julie Kennedy and JVP Partners) collected national and Colorado economic and unemployment insurance data from 1989 to 2009 and analyzed trends affecting Colorado's UI Trust Fund. They also reviewed studies performed by the Department during the last 10 years related to the solvency of the UI Trust Fund, the Department's methods for measuring the UI Trust Fund's solvency, and the Department's Trust Fund forecasts. In addition, the contractors reviewed federal statutes and regulations related to unemployment insurance. Finally, the contractors evaluated Colorado's UI financing system, including premiums charged to employers and subsidization of benefits paid on behalf of employers, and gathered information on other states' financing systems.

Unemployment Insurance Trust Fund Solvency

Chapter 2

According to the U.S. Government Accountability Office (GAO), the Unemployment Insurance (UI) Program was intended to be forward funded and self-financed by states. Under this approach, states are encouraged to build up reserves in their trust funds during periods of economic expansion to ensure they have sufficient funds available to pay UI benefits during economic downturns. The purpose of forward funding is to enable states to increase the likelihood that their trust funds will remain solvent during a mild or moderate recession.

In addition to promoting solvency, forward funding provides two other benefits. First, this approach helps to avoid reductions in UI benefits paid to claimants during a recession. The U.S. Department of Labor (USDOL) reported that some states with low or insolvent trust funds have cut benefits during economic recessions. For example, three of the nine states whose trust funds became insolvent during the 2001 recession reduced their benefits. Second, forward funding helps states avoid raising payroll taxes in the midst of a recession, when employers are most vulnerable to financial difficulties. With forward funding, states are more likely to have a cushion of funding to pay benefits throughout a recession without having to increase taxes or reduce benefits at the worst time for employers and claimants.

Over the past three decades, however, not all states have adopted financing policies that promote forward funding of their UI trust funds. According to an April 2010 report by the GAO, “long-standing UI tax policies and practices in many states over 3 decades have eroded trust fund reserves, leaving states in a weak position prior to the recent recession.” One reason not all states have adopted forward funding policies is because the federal government has given states wide latitude in designing their UI programs and has minimal requirements to encourage states to adopt such policies. For example, although the federal government requires states to set their maximum taxable wage bases at the same level as or higher than the Federal Unemployment Tax Act (FUTA) wage base, the FUTA wage base has remained fixed at \$7,000 per worker per year since 1983. By not raising the FUTA wage base over the last 27 years, the federal government has not encouraged states to increase their wage bases to account for rising wages and benefit costs.

A combination of the weakened conditions of states’ trust funds and the severity of the current recession has resulted in a surge in the number of states with

insolvent trust funds. The federal government has built mechanisms into the UI system to help states address periods of insolvency, including offering federal loans to states with insolvent funds. As of May 20, 2010, a total of 33 states with insolvent trust funds, including Colorado, had outstanding loans from the federal government totaling \$38 billion; these states use the loans to pay UI benefits. The USDOL estimates that by 2012 as many as 40 states will need to borrow from the federal government to pay UI benefits, and outstanding loan balances could reach \$90 billion. Further, if states do not modify their UI financing systems to improve solvency, the USDOL estimates that aggregate reserves maintained in states' trust funds in 2018 will be less than half their pre-recession (2007) levels, and six states will still be borrowing from the federal government in 2019.

In January 2011 the federal government will begin charging interest on outstanding UI loans held by the states. The Department estimates that Colorado will be able to repay its federal loans between June 2013 and June 2015, meaning the State will pay interest to the federal government for an extended period. Under statute, Colorado employers will pay the cost of these loans, as discussed in more detail later in the chapter.

We assessed Colorado's system for financing its UI Trust Fund and found that the laws, policies, and practices do not promote the long-term solvency of the Trust Fund. Overall, we concluded that reform of the UI financing system is needed to address the Trust Fund's long-term solvency. As discussed in this chapter, we identified weaknesses that indicate the Department of Labor and Employment (Department) needs to take action in the following areas:

- The mechanisms the State uses to assess premiums to employers, including the maximum wage base, base contribution rates, and the solvency surcharge, need to be reviewed and updated.
- The distribution of unemployment costs among Colorado employers needs to be evaluated to further promote equity.
- The Department's use of solvency measures to identify potential solvency issues needs to be expanded.
- The Department's planning and communication related to federal loans needs to be more proactive.

Long-Term Solvency of Colorado's Unemployment Insurance Trust Fund

Between 1985 and 2010, Colorado did not borrow any federal funds to pay UI benefits. However, following the 2001 recession, the State's UI Trust Fund

nearly became insolvent, with the reserve dropping to a low of \$8 million in April 2004. A combination of two factors allowed the State to avoid insolvency and gradually build up the reserve after 2004: the general economic recovery and the triggering of the solvency surcharge in January 2004. Although Colorado increased its reserve level from 2004 to 2007, it did not build up enough reserves to cover benefit costs during the current recession, which began nationally in December 2007. Consequently, the Trust Fund became insolvent in January 2010.

We identified weaknesses in the following components of Colorado's UI financing system that impact the solvency of the Trust Fund:

- **Maximum chargeable wage base.** The maximum amount of an employee's annual wage for which the Department charges UI premiums to employers is currently set at \$10,000 for each employee.
- **Base contribution rates.** The Department charges employers varied rates, depending upon each employer's experience rating. This premium is intended to be the primary source of revenue for the UI Trust Fund. In 2009, the Department collected about \$125 million in base rate premiums.
- **Solvency surcharge.** This surcharge is intended to delay and prevent insolvency and is activated when the Trust Fund reserve drops below a level designated in statute. In 2009, the Department collected an estimated \$196 million in solvency surcharges from employers.

As we discuss in the following three sections, the Department needs to perform a comprehensive evaluation of the UI financing system, focusing on how these components should be modified to improve the long-term solvency of the Trust Fund. As part of this evaluation, the Department should first identify how much revenue the State needs to generate to ensure the solvency of the Trust Fund, which will involve evaluating the following two factors:

- **Solvency standards adopted by the Department.** Later in this chapter, we discuss three different types of solvency standards the Department should monitor and recommend that the Department adopt solvency goals. With solvency goals, the Department can determine how much revenue needs to be collected to ensure the Trust Fund builds up adequate reserves to cover benefit payments during a recession.
- **Benefits paid to claimants.** Managing the UI system involves balancing the policy goals associated with paying benefits, such as maintaining economic stability by safeguarding the income and purchasing power of unemployed workers, with the generation of sufficient revenue to fund the program. In evaluating the UI financing system, the Department must consider the effect of benefits on the total amount of premiums that need

to be collected. In addition, the Department may want to consider analyzing the benefit levels currently in statute and how the benefit levels affect the Trust Fund.

We discuss each of the three components impacting the solvency of the Trust Fund—maximum chargeable wage base, base contribution rates, and the solvency surcharge—in the following sections. It is important to note that the solvency of the State’s Trust Fund is affected by how the components work together. As a result, the Department should identify the best combination of options that produce adequate reserves in the Trust Fund.

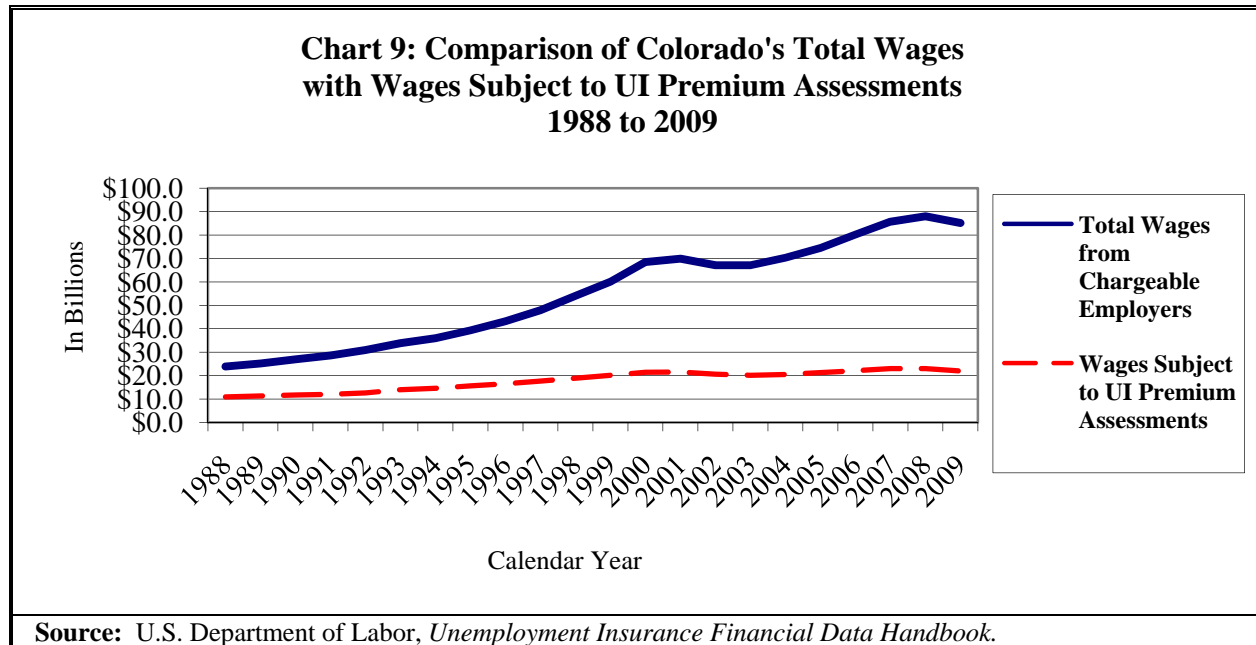
Maximum Chargeable Wage Base

One component that drives the solvency of the Trust Fund is the amount of premiums collected from employers. All states set a cap on the annual wages for which unemployment insurance taxes or premiums will be assessed for each employee. In general, states refer to this cap as a maximum taxable wage base; Colorado statute refers to it as a maximum chargeable wage base. States establish either a fixed or a flexible wage base in their financing systems. A fixed wage base is a set amount that is not regularly adjusted. For example, Colorado’s wage base is fixed at \$10,000 per employee per year and has not been adjusted since 1988. A flexible wage base is automatically adjusted on a periodic basis, typically annually. This type of wage base is often adjusted based upon wages earned by employees in the state during the previous year.

Because Colorado’s wage base has been capped at \$10,000 for the last 22 years, the wage base has not kept up with increases in average annual wages and average benefit payments to claimants. As mentioned earlier, the maximum benefit is adjusted annually based on the state’s average weekly wage earned. In fact, as shown in Chart 8, the average annual wage and average weekly benefit amounts both more than doubled from 1988 to 2009, while the maximum wage base remained the same. As a result, the maximum chargeable wage base as a percentage of average annual wages dropped 25 percentage points, from 47 percent of wages in 1988 to 22 percent in 2009. We estimate that if the wage base had increased since 1988 to match the increase in average wages, the wage base in 2009 would have been roughly \$22,000.

Chart 8: Average Weekly Benefit, Average Annual Wages, and Maximum Chargeable Wage Base for Colorado's UI Program 1988 and 2009			
Measurement	1988	2009	Percent Difference
Average Weekly Benefit Amount	\$158.32	\$360.96	+128%
Average Annual Wages	\$21,145	\$45,972	+117%
Maximum Chargeable Wage Base	\$10,000	\$10,000	0%
Maximum Chargeable Wage Base as a Percent of Average Annual Wages	47%	22%	
Source: Analysis of data from the U.S. Department of Labor on Colorado's UI Program.			

We also compared the taxable wages to total wages earned annually in Colorado from 1988 to 2009. As illustrated in Chart 9 below, the gap between the total wages earned and wages subject to UI premium assessments widened from \$13 billion to about \$63 billion between 1988 and 2009.



We also compared Colorado's wage base to those used in other states and territories. Chart 10 shows the wage bases for the 50 states, Washington, D.C., Puerto Rico, and the Virgin Islands as of January 1, 2009 (most recent data available). As shown, wage bases ranged from a low of \$7,000 to a high of \$35,700. Colorado's wage base is \$10,000 and 25 states or territories have higher wage bases. For the 33 states and territories with outstanding federal loans as of May 20, 2010, the wage bases ranged from a low of \$7,000 to a high of \$33,200. This wide range of wage bases indicates that a state's wage base does not, by itself, drive the solvency of a state's trust fund.

Chart 10: Comparison of States' and Territories' Maximum Wage Bases for Unemployment Insurance Programs as of January 1, 2009					
State/ Territory	Taxable Wage Base	State/ Territory	Taxable Wage Base	State/ Territory	Taxable Wage Base
WA	\$35,700	MA ¹	\$14,000	AL ¹	\$8,000
ID ¹	\$33,200	HI	\$13,000	KS ¹	\$8,000
AK	\$32,700	MO ¹	\$12,500	KY ¹	\$8,000
OR	\$31,300	IL ¹	\$12,300	NH	\$8,000
NJ ¹	\$28,900	ME	\$12,000	PA ¹	\$8,000
UT	\$27,800	WI ¹	\$12,000	VT ¹	\$8,000
NV ¹	\$26,600	DE ¹	\$10,500	VA ¹	\$8,000
MN ¹	\$26,000	AR ¹	\$10,000	WV	\$8,000
MT	\$25,100	CO ¹	\$10,000	AZ	\$7,000
IA	\$23,700	SD ¹	\$9,500	CA ¹	\$7,000
ND	\$23,700	DC	\$9,000	FL ¹	\$7,000
VI ¹	\$22,100	MI ¹	\$9,000	IN ¹	\$7,000
WY	\$21,500	NE	\$9,000	LA	\$7,000
NM	\$20,900	OH ¹	\$9,000	MS	\$7,000
NC ¹	\$19,300	TX ¹	\$9,000	PR	\$7,000
RI ¹	\$18,000	GA ¹	\$8,500	SC ¹	\$7,000
CT ¹	\$15,000	MD ¹	\$8,500	TN ¹	\$7,000
OK	\$14,200	NY ¹	\$8,500		

Source: U.S. Department of Labor, *Comparison of State Unemployment Insurance* (January 1, 2009) and data on states' and territories' outstanding federal loans as of May 20, 2010.
¹States and territories with outstanding loans from the federal government as of May 20, 2010. These states' UI trust funds are insolvent, and the loan monies are used to pay UI benefits.

Colorado is one of 35 states and territories with fixed wage bases ranging from \$7,000 to \$18,000. The remaining 18 states use flexible wage bases ranging from \$7,000 to \$35,700. Flexible wage bases tend to be significantly higher than fixed ones, averaging about \$24,000 as of January 1, 2009, compared with an average of about \$9,300 for states with fixed wage bases.

Raising the maximum wage base would be one way to help improve the solvency of Colorado's UI Trust Fund. In a 2003 study conducted by the Department on the State's UI financing structure, the Department concluded that "indexing the wage base to the annual change in average weekly wages would halt the long-term erosion of the taxable wage to total wage ratio and make future ad hoc adjustments to the wage base unnecessary." The study suggested that increasing the maximum wage base to \$18,000 in 2003 and indexing it to average covered wages each year thereafter would generate "a more favorable outlook for fund solvency." The study recommended that the Department "develop a strategy explaining the need for increasing the maximum taxable wage base either on a one-time basis or with future adjustments indexed to changes in weekly wages." According to Department staff, no action has been taken to implement this recommendation.

The Department should evaluate alternatives for increasing the maximum chargeable wage base. Among the options evaluated, the Department should consider the two listed below.

Shifting to an indexed wage base. Indexing the wage base to align with average covered wages would provide additional revenue to the Trust Fund, address current UI funding shortfalls, and promote the solvency of the Trust Fund in future years. If the wage base had been indexed in 2009 and set at a maximum of \$22,000 per employee, the Department estimates it would have collected an additional \$410 million in premiums during the year, which would have averted insolvency. Indexing would also allow the Trust Fund to grow more during good economic times, so that employers are not faced with extra premiums during recessions. Further, the additional revenue would likely result in deactivation of the solvency surcharge sooner; thus a higher wage base would be significantly offset by the elimination of the solvency surcharge. In evaluating options for increasing the maximum wage base, the Department should consider the potential financial burdens that fully indexing the wage base in a single year would have on employers, as this could initially more than double the premiums employers would be required to pay for each employee earning the maximum wage base.

Increase the wage base in increments each year. Under this option, the State could set in statute an amount to increase the wage base each year. During the 2010 Legislative Session, the Joint Budget Committee (JBC) considered sponsoring legislation that would incrementally raise the maximum wage base \$500 each year from 2011 to 2012 and \$1,000 each year from 2013 to 2016, resulting in the wage base increasing to \$15,000 by 2016. The JBC decided to postpone sponsoring legislation because the Department indicated that more comprehensive reform of the UI financing system is needed, including raising the wage base and restructuring base contribution rate schedules in statute.

A gradual increase in the wage base would be less burdensome to employers, especially during the current economic recession, and would help the State pay down its loans and rebuild reserves in the UI Trust Fund. However, this option does not guarantee adequate financing of the Trust Fund. Because benefit payments are linked to average wages paid to employees, gradual increases may still not result in enough revenue to properly fund future benefit payouts. With this option, the Department would need to monitor the financial condition of the Trust Fund on an ongoing basis and propose further adjustments as wages paid to Colorado workers increase.

Raising the wage base to an amount that promotes the long-term solvency of the UI Trust Fund could cause financial hardships for some employers, particularly if the wage base is increased during the recession. However, failing to adjust this fundamental component of the UI financing system could further weaken the financial condition of the Trust Fund and, as we discuss later in the chapter, could result in additional fees and federal taxes charged to employers due to the

Department's need to borrow funds from the federal government to pay UI benefits. As a result, the Department should work closely with the General Assembly, the Governor's Office, and Colorado employers to identify the best option for raising the wage base so that it promotes the long-term solvency of the Trust Fund and, to the extent possible, minimizes financial hardships on employers.

Recommendation No. 1:

As part of a comprehensive assessment of the financing for the Unemployment Insurance (UI) Trust Fund, the Department of Labor and Employment should work with the General Assembly, the Governor's Office, and Colorado employers to evaluate options for raising the maximum chargeable wage base, including indexing the wage base to annual wages earned by Colorado employees and increasing the wage base in increments annually. Using the results of this evaluation, the Department should recommend to the General Assembly the option that best promotes the long-term solvency of the UI Trust Fund while minimizing, to the extent possible, financial hardships on employers.

Department of Labor and Employment Response:

Agree. Implementation date: January 2011.

The Department agrees that an analysis of increasing the taxable wage base is needed as part of an overall analysis of unemployment insurance financing. As part of the Department's ongoing efforts to work with stakeholders, a formal study on the financing structure of the Unemployment Insurance Trust Fund will be initiated. This study will incorporate the recommendations contained within this audit as part of the analysis. Based on the analysis, the Department will recommend to the Governor's Office and General Assembly any needed adjustments to the wage base.

Base Contribution Rates

In addition to raising the maximum wage base on which premiums are charged, the second component the State could adjust is the base contribution rates charged to employers. The federal government gives states discretion on how they establish their base contribution rates, as long as they set their maximum rates at 5.4 percent of the wage base, or higher. Colorado's base contribution rates are set in statute and vary according to each employer's experience rating, ranging from 0 to 5.4 percent on the first \$10,000 in wages earned by each employee annually.

In addition, base rates vary depending on the amount of reserves in the Trust Fund; rates begin to increase for each experience rating when the reserves drop to \$450 million and continue to increase at intervals as the reserves drop further (referred to as reserve level triggers). Further, certain employers can qualify for a 20 percent contribution credit against their base rate premiums when the reserves in the Trust Fund represent at least 1.1 percent of all insured employees’ annual wages.

We reviewed the base contribution rates set in statute and identified adjustments that should be made in three areas—maximum base rates, reserve level triggers, and contribution credits—to improve the solvency of the UI Trust Fund, as described below.

Maximum Base Rates. Colorado’s maximum base rates are currently set at 5.4 percent, the lowest maximum rate allowed by federal law. We compared Colorado’s rates with those of other states and territories and found that Colorado’s base rates are among the lowest in the country. As Chart 11 shows, states and territories set their maximum base rates as low as 5.4 percent and as high as 13.16 percent in 2009.

Chart 11: Comparison of UI Base Contribution Rates By State/Territory in 2009

State/ Territory	Rate Range		State/ Territory	Rate Range		State/ Territory	Rate Range	
	Min	Max		Min	Max		Min	Max
PA	1.84%	13.16%	WV	1.50%	7.50%	OK	0.10%	5.50%
MA	1.26%	12.27%	KS	0.00%	7.40%	PR	1.40%	5.40%
MN	0.56%	10.70%	NC	0.00%	6.84%	AK	1.00%	5.40%
MI	0.60%	10.30%	CT	1.90%	6.80%	OR	0.90%	5.40%
KY	1.00%	10.00%	AR	0.90%	6.80%	MS	0.70%	5.40%
TN	0.50%	10.00%	IL	0.60%	6.80%	ID	0.45%	5.40%
ND	0.20%	9.86%	DC	1.30%	6.60%	ME	0.44%	5.40%
RI	1.69%	9.79%	VT	0.80%	6.50%	NJ	0.30%	5.40%
MO	0.00%	9.75%	NH	0.10%	6.50%	NV	0.25%	5.40%
UT	0.20%	9.20%	VA	0.18%	6.28%	FL	0.12%	5.40%
WY	0.30%	9.10%	TX	0.26%	6.26%	GA	0.03%	5.40%
MD	0.60%	9.00%	CA	1.50%	6.20%	NM	0.03%	5.40%
OH	0.40%	9.00%	LA	0.10%	6.20%	AZ	0.02%	5.40%
NY	0.70%	8.70%	MT	0.00%	6.12%	CO	0.00%	5.40%
SD	0.00%	8.50%	AL	0.44%	6.04%	HI	0.00%	5.40%
WI	0.00%	8.50%	SC	1.14%	6.00%	NE	0.00%	5.40%
DE	1.00%	8.00%	VI	0.00%	6.00%	WA	0.00%	5.40%
IA	0.00%	8.00%	IN	1.10%	5.60%			

Source: U.S. Department of Labor, *2009 Significant Measures of State UI Tax System*.

While the base contribution rates are used for only one of the premiums assessed to Colorado employers, base rates are generally intended to be the primary source of revenue to pay UI benefits. As a result, base contribution rates should be set at appropriate levels to ensure that the State builds up sufficient reserves to cover benefit payouts during economic downturns. The Department has not reviewed

the base contribution rates since its 2003 study of Colorado's UI financing system.

Reserve Level Trigger. The second area related to base contribution rates that should be reviewed is the reserve level trigger. In Colorado, when the Trust Fund reserves drop to \$450 million or below, base rates begin to increase for most experience ratings. The statutory base rate schedules include 12 different reserve level intervals and corresponding rates for each experience rating. For example, an employer with an experience rating of +1 would be assessed a base rate of 1.5 percent when the Trust Fund reserve is over \$450 million. When the reserve level drops to between \$396 and \$450 million, this employer's base rate would increase to 1.6 percent and would continue to increase with each incremental drop until the reserves become zero or are at a deficit. The statutory base rates can be found in *Appendix A*.

We found the Department has not reviewed the Trust Fund reserve amounts that trigger increases in the base contribution rates in nearly 20 years. According to Department staff, the \$450 million trigger represented Trust Fund reserves in 1991 that would have adequately covered benefits during a recession. However, because this trigger has not been adjusted since 1991 and annual wages and benefit payment amounts have doubled, this trigger no longer reflects an adequate reserve level. If the State were to use the Department's recommended adequacy standard of 1.4 percent of the total wages covered by the State's UI system for the past 12-month period, we estimate the State would need to adjust the trigger to \$1.2 billion for 2010.

The Department should evaluate options for adjusting the \$450 million trigger to reflect increases in wages and benefit payments. In evaluating these options, the Department should review methods used by other states to set these triggers. The USDOL identified two other approaches states use that Colorado could consider, which include establishing the rate schedules based upon:

- **The percentage the trust fund reserve represents of the state's total payroll or gross covered wages.** For example, Montana charges employers base rates from its most favorable schedule when the reserve is equal to at least 2.6 percent of the state's payroll and rates from its least favorable schedule when the reserve is less than 0.25 percent of payroll.
- **The percentage the trust fund reserve represents of the solvency standard set by the state.** For example, Oregon charges employers base rates from its most favorable schedule when the reserve is at least 200 percent of the standard adopted by the state to ensure fund solvency, and rates from its least favorable schedule when the reserve is less than 100 percent of the solvency standard.

Contribution Credits. The third area related to base contribution rates that should be reviewed is the criteria under which employers receive a contribution credit, or a credit against the premiums they pay to the State. Statute grants an employer a 20-percent credit against its base contribution rate if the employer meets all of the following conditions:

- The employer has filed all required reports and paid all premiums required by the Colorado Employment Security Act as of the most recent computation date (i.e., June 30 of each year), does not have a negative experience rating that assigns the maximum base rate allowed in statute, and does not make reimbursement payments in lieu of premiums.
- The unexpended and unencumbered balance in the UI Trust Fund represents at least 1.1 percent of the total amount of insured wages paid in Colorado during the calendar year immediately preceding the computation date [Section 8-76-103(7), C.R.S.].

Since 2000, when the credit was added to statute, the second condition cited above—the Trust Fund reserve equaling at least 1.1 percent of total insured wages paid in the prior year—only occurred in 2001 and 2002. During these two years, the Department estimates that the 20-percent credit was available to 99 percent of experience-rated employers and resulted in about a \$52 million reduction in premiums collected by the State.

The Trust Fund reserve level that triggers the 20-percent contribution credit for eligible employers should be modified to promote solvency. In its 2003 study of Colorado's UI financing system, the Department recommended that the Trust Fund reserve level that triggers the 20-percent credit be raised from 1.1 percent to 1.4 percent of annual total insured wages to ensure that the State maintained reserves sufficient to cover UI benefit payouts during a recession. The Department did not implement the recommendation because it was advised that raising the trigger was not permissible under TABOR without a vote of the electorate. The Department should reevaluate whether the reserve adequacy level should be raised for employers to qualify for the 20-percent credit and make recommendations to change the trigger.

Overall, the Department should promote solvency of the Trust Fund by working with the General Assembly, the Governor's Office, and Colorado employers to identify options for raising base contribution rates, adjusting the reserve level triggers in the base rate schedules, and changing the minimum reserve that qualifies employers for a 20-percent contribution credit to promote solvency of the Trust Fund. Using the results of its evaluation, the Department should recommend statutory changes to the General Assembly, as necessary.

Recommendation No. 2:

As part of a comprehensive assessment of the financing for the Unemployment Insurance (UI) Trust Fund, the Department of Labor and Employment should work with the General Assembly, the Governor's Office, and Colorado employers to identify options for adjusting statutory base contribution rate schedules for the Unemployment Insurance Program to promote (UI) Trust Fund solvency. The Department should:

- a. Assess options for raising the maximum base contribution rates set in statute, adjusting the reserve level triggers in the base contribution rate schedules, and changing the minimum trust fund reserve that qualifies eligible employers for a 20-percent credit on their base rate premium.
- b. Use the results of the evaluation to recommend statutory changes to the General Assembly to increase the base contribution rates, as necessary.

Department of Labor and Employment Response:

Agree. Implementation date: January 2011.

- a. The Department agrees that an analysis of the base premium structure is needed as part of an overall analysis of unemployment insurance financing. As part of the Department's ongoing efforts to work with stakeholders, a formal study analyzing the financing structure of the Unemployment Insurance Trust Fund will be initiated. This study will use the recommendations contained within this audit as part of the analysis.
- b. Based on the analysis, the Department will recommend to the Governor's Office and General Assembly any needed adjustments to the base contribution rates.

Solvency Surcharge

The third component of the UI financing system that needs to be reassessed because of its impact on the solvency of the UI Trust Fund is the solvency surcharge. Solvency surcharges are typically assessed to employers when a state's trust fund reserve drops below a specified level. As of January 1, 2009, Colorado was one of 19 states with solvency surcharges built into their UI financing systems. Statute requires the Department to assess the solvency surcharge to employers when the Trust Fund reserve is equal to or less than 0.9

percent of the previous year's total wages reported by employers assigned experience ratings [Section 8-76-102(5), C.R.S.]. The solvency surcharge was first activated in Colorado on January 1, 2004. Because the Trust Fund reserve has remained below the 0.9 percent threshold, the solvency surcharge has been charged to employers on a continuous basis since then. The Department estimates that it collected about \$821 million in solvency surcharges from employers from 2004 through 2009.

We assessed the effectiveness of the solvency surcharge in promoting the solvency of the UI Trust Fund. Overall, we found that the solvency surcharge served its purpose by preventing insolvency of the Trust Fund in 2004 and delaying insolvency during the current recession until January 2010. However, we identified three concerns with the design of the surcharge.

First, the surcharge is not serving as a temporary premium, as intended. Department staff reported that the solvency surcharge was not designed to be assessed to employers on a long-term basis. However, this surcharge has been levied on employers for seven consecutive years. The Department does not expect it to be deactivated for at least another five years unless changes to the financing system are made. While the current recession has contributed to extending the amount of time the surcharge will be charged to employers, we also found that weaknesses in other components of Colorado's UI financing system, including the low maximum chargeable wage base and low base rates discussed earlier, have contributed to the long-term assessment of the surcharge.

Second, because the solvency surcharge has been activated for so long and rates compound annually, the surcharge has become the largest source of revenue for the Trust Fund. The total amount of solvency surcharge premiums surpassed the amount of base contributions collected in 2008 and 2009. Specifically, employers paid a total of about \$382 million in solvency surcharges during these two years, compared to a total of \$304 million in base contributions. As mentioned earlier, base rates premiums are generally intended to be the primary source of revenue used to pay UI benefits.

Third, the solvency surcharge can be financially onerous for employers because it compounds annually. For employers with high experience ratings, the compounding can increase premiums by 20 percent while for employers with negative experience ratings (-0 to about -25), the compounding of the solvency surcharge eventually nearly doubles the premium. Further, the surcharge is often assessed to employers at the onset of and during economic recessions, which can be the worst time for employers to experience tax increases. Department staff estimate that collections of the solvency surcharge increased from \$63 million in 2004 to \$196 million in 2009, an increase of 211 percent.

A solvency surcharge can be beneficial to a UI financing system as long as it serves as a source of revenue only when an otherwise well-funded trust fund faces

a reduced funding level over a relatively short period of time. Solvency surcharges are generally not intended to be a substitute for adequate base contribution rates and wage bases. If the State intends for the solvency surcharge to serve as a short-term source of funding to prevent insolvency or minimize borrowing, the State should assess ways to strengthen the financing structure related to the base contribution rates and wage base. To accomplish this, the Department will need to implement Recommendation Nos. 1 and 2. This could help increase revenue for the UI Trust Fund and shorten the amount of time the solvency surcharge is assessed to employers. The Department should also evaluate the rate structure of the solvency surcharge itself to identify options for minimizing the financial burden on employers, including identifying the benefits and drawbacks of compounding the solvency surcharge. As with the assessments included in Recommendation Nos. 1 and 2, the Department should perform this evaluation in collaboration with the General Assembly, the Governor's Office, and Colorado employers.

Recommendation No. 3:

As part of a comprehensive assessment of the financing for the Unemployment Insurance (UI) Trust Fund, the Department of Labor and Employment should work with the General Assembly, the Governor's Office, and Colorado employers to evaluate the best options for redesigning the solvency surcharge so that it serves as a short-term funding source for avoiding or delaying insolvency of the UI Trust Fund. Based on the evaluation, the Department should determine what adjustments to the solvency surcharge's rate structure will minimize the financial burden on employers and recommend statutory changes to the General Assembly, as necessary.

Department of Labor and Employment Response:

Agree. Implementation date: January 2011.

The Department agrees that the solvency surcharge was not intended to be a long-term financing mechanism. As such, the Department agrees that an analysis is needed on how the solvency surcharge should be restructured in conjunction with the overall funding system. As part of the Department's ongoing efforts to work with stakeholders, a formal study on the financing structure of the Unemployment Insurance Trust Fund will be initiated. This study will use the recommendations contained in this audit as part of the analysis. Based on the analysis, the Department will recommend to the Governor's Office and General Assembly any needed adjustments to the solvency surcharge.

Equity of Premiums Charged to Employers

Colorado's UI financing system is based upon an experience rating system, which links employer premium rates to an employer's layoff history. One of the primary purposes of experience rating systems is to allocate unemployment costs among employers in an equitable manner (i.e., employers with more frequent layoffs should pay proportionately higher premiums). As part of our evaluation, we assessed whether unemployment costs are equitably distributed among employers and found that some employers' UI benefit costs are being subsidized by other employers.

We analyzed data maintained by the Department on payroll premiums paid and benefits charged by employers from Calendar Years 2004 through 2008. Our analysis included more than 183,000 employers in the UI system during one or more years of the period reviewed. These employers paid a total of \$1.7 billion in payroll premiums and had UI benefit charges (i.e., UI benefit payments to former employees) totaling \$1.3 billion during this period.

From our analysis, we identified 504 employers whose benefit charges exceeded their premium payments each year from 2004 through 2008. In total, these employers' benefit charges exceeded their premium payments by \$90 million during this five-year period, or an average of \$18 million per year. Total benefit charges of \$120.9 million that were paid on behalf of these employers were about four times more than total premiums of \$30.9 million they paid to the State during this period. In addition, 149 of these 504 employers (30 percent) paid the maximum base contribution rate (5.4 percent) set in statute during at least one of the five years and 82 (16 percent) paid the maximum rate during the entire five-year period.

Department staff expressed concerns that employers assigned experience ratings resulting in assessment of the maximum base rate may no longer be motivated to minimize layoffs. A 2003 study conducted by the Department on the State's UI financing structure recommended that the Department "consider ways to reduce the amount of benefit subsidization by low-rated employers," which are those employers with higher layoffs and higher base rates. As part of the study, the Department found that although subsidized employers paying the maximum base rate only represented about 4 percent of covered employers in State Fiscal Year 2003, these employers accounted for a greater share of subsidization (nearly 30 percent).

While it is inherent in an insurance system that some subsidization will occur and cannot be fully eliminated, the Department should, in conjunction with Recommendation No. 2, assess whether base contribution rates should be raised to minimize subsidization of benefits, particularly for employers paying the highest rates allowed by law. As mentioned earlier, Colorado's base rates are

among the lowest in the nation. Two options for minimizing subsidization, which were recommended in the Department's 2003 study of the UI financing structure, include:

- Automatically converting employers assessed the maximum base rate for three consecutive years to reimbursable employers. As discussed in Chapter 1, reimbursable employers are those that reimburse Colorado's UI Trust Fund for actual benefit claims paid to former employees rather than paying quarterly premiums.
- Levying an additional surcharge on all employers with maximum base rates. Revenue collected from the surcharge could be used to cover ineffective charging, similar to the UI surcharge.

The Department has not performed this type of assessment since its 2003 study. The Department should work with the General Assembly, the Governor's Office, and Colorado employers in identifying options that will best minimize subsidization and recommend statutory changes to the General Assembly related to its evaluation results. In addition, the Department should periodically assess the levels of subsidization occurring within the UI Program and the impacts that subsidization has on the equity of premiums paid by employers.

Recommendation No. 4:

The Department of Labor and Employment should enhance the equity of base contribution rates assessed to employers under Colorado's Unemployment Insurance (UI) Program by:

- a. Working with the General Assembly, the Governor's Office, and Colorado employers to identify options for minimizing subsidization of UI benefits. In conjunction with Recommendation No. 2, the Department should assess whether base contribution rates should be raised to minimize subsidization. The Department should also consider other alternatives, including automatically converting employers assessed the maximum base rate for three consecutive years to reimbursable employers or levying an additional surcharge on all employers with maximum base rates.
- b. Recommending statutory changes, as necessary, to minimize future subsidization of UI benefits among employers.
- c. Periodically assessing the level of subsidization occurring within the UI Program and the impacts that subsidization has on the equity of premiums paid by employers.

Department of Labor and Employment Response:

Agree. Implementation date: January 2011.

- a. While it is recognized that some subsidization is inherent in all insurance systems, the Department agrees that the level of subsidization needs to be analyzed and likely adjusted. As part of the Department's ongoing efforts to work with stakeholders, a formal study on the financing structure of the Unemployment Insurance Trust Fund will be initiated. This study will use the recommendations contained within this audit as part of the analysis.
- b. Based on the analysis, the Department will recommend to the Governor's Office and General Assembly any needed adjustments to address subsidization.
- c. The Department will include as part of the formal reporting process to be adopted in response to Recommendation No. 7, a portion devoted to analyzing employer subsidization.

Solvency Measures

The USDOL allows states to determine trust fund reserve levels that are appropriate for them to ensure solvency of their UI trust funds. The USDOL, GAO, and UI experts have provided guidance to states on appropriate reserve levels. States and the USDOL typically monitor three measures to assess the adequacy of reserve levels: (1) the reserve ratio, (2) the high cost multiple, and (3) the average high cost multiple. Chart 12 below explains the measures and shows Colorado's results on each measure for 2005 through 2009. Although the Department monitors only the reserve ratio, monitoring all three solvency measures in relation to their respective solvency standards can help states detect potential problems with the adequacy of their trust fund reserves early. The Department has not set goals for two of the three solvency measures—the high cost multiple and the average high cost multiple.

**Chart 12: Solvency Measures and Standards for Unemployment Insurance Trust Funds
As Applied to Colorado's UI Trust Fund From Calendar Years 2005 Through 2009**

Solvency Measure	Description	Standard for Solvency	Solvency Measures in Colorado				
			2005	2006	2007	2008	2009
Reserve Ratio	A state's trust fund reserve as a percentage of total wages covered by a state's UI system for the past 12-month period. This measure reflects the size of a state's economy in the short term.	<i>Pre-recession ratio of 1.4% to 2.0%. Some UI experts recommend a ratio of 2.0%; the Colorado Department of Labor and Employment recommended a ratio of 1.4% in its 2003 study.</i>	0.39	0.62	0.74	0.70	0.08
High Cost Multiple (HCM)	A state's reserve ratio divided by the highest historical ratio of benefits to wages during any consecutive 12-month period. This measure assesses the longer-term risk of insolvency by comparing a state's reserve ratio to its experience during the worst previous recession.	<i>Pre-recession multiple of between 1.5 and 3.0, as recommended by the GAO and USDOL.</i>	0.31	0.49	0.59	0.56	0.06
Average High Cost Multiple (AHCM)	Created in response to criticisms that the HCM is an overly conservative measure. Calculated by dividing the state's reserve ratio by the average three highest cost rate experiences during a calendar year over the last 20 years.	<i>Pre-recession multiple of at least 1.0, as recommended by the National Advisory Council on Unemployment Compensation.</i>	0.35	0.56	0.67	0.64	0.07
Source: Data from the Department of Labor and Employment, the U.S. Department of Labor, the U.S. Government Accountability Office, and the National Advisory Council on Unemployment Compensation.							

As Chart 12 shows, Colorado did not meet any of the standards recommended for the solvency measures from 2005 through 2009. We further reviewed the three solvency measures from 1989 through 2004 and found that Colorado did not meet the standards for the reserve ratio and high cost multiple during any of these years and only met the standard for the average high cost multiple during 8 of the 21 years (from 1993 to 2000).

We also reviewed Colorado's and other states' solvency measures at the onset of the current recession (i.e., as of December 31, 2007) and found that only two states met the minimum standards recommended by UI experts for all three solvency measures. An additional 9 states met two of the three solvency standards (the reserve ratio and the average high cost multiple), 8 states met one of the standards, and the remaining 34 (including Colorado) met none of the standards. As mentioned earlier, the GAO and USDOL have expressed concerns

about the weakened condition of many states’ UI trust funds over the last three decades due, in part, to states failing to adopt forward funding policies.

Chart 13 shows the reserves that Colorado would have needed in its UI Trust Fund prior to the most recent recession to meet each of the three solvency measures. As shown, for Colorado to meet the standards set for the three solvency measures, the reserve level in its UI Trust Fund would need to have ranged from \$658.9 million to almost \$1.7 billion as of December 31, 2007. In actuality, the reserve level was \$630.4 million, or between \$28.5 million and almost \$1.1 billion less than needed to meet the standards.

Chart 13: Colorado’s Unemployment Insurance Trust Fund Comparison of Actual Trust Fund Reserve with Reserve that Would Meet Solvency Standards as of December 31, 2007¹				
Solvency Measure	Standard for Solvency	Trust Fund Reserve Meeting Solvency Standard (in \$000s)	Actual Trust Fund Balance (in \$000s)	Difference Between Actual & Targeted Balance (in \$000s)
Reserve Ratio	1.4 (low)	\$1,182,600	\$630,400	-\$552,200
	2.0 (high)	\$1,689,400	\$630,400	-\$1,059,000
High Cost Multiple	1.5 (low)	\$796,500	\$630,400	-\$166,100
	3.0 (high)	\$1,593,000	\$630,400	-\$962,600
Average High Cost Multiple	1.0	\$658,900	\$630,400	-\$28,500
Source: Calculations by the Department of Labor and Employment of the Trust Fund reserve to meet high cost multiple and average high cost multiple standards; contractor’s calculation of Trust Fund reserve to meet reserve ratio standard; and USDOL data related to Colorado’s UI Program.				
¹ In the U.S., the most recent economic recession began in December 2007. This table shows the amount of reserves Colorado would have needed in its UI Trust Fund to meet each of the pre-recession solvency standards.				

By only monitoring the reserve ratio, the Department has not considered how the State’s previous experience with recessions can affect the solvency of the Trust Fund. Both the high cost multiple and average high cost multiple, which are currently not being monitored by the Department, consider past recession experiences. The high cost multiple incorporates a more conservative approach by including the highest 12-month period of benefit payouts in a state’s history. Research conducted by UI experts at the Urban Institute argues for the use of the high cost multiple as a solvency measure, noting a “strong association” between a state’s high cost multiple before a recession and the likelihood of its having to borrow during a recession. However, critics of the high cost multiple believe it is overly conservative. We found that only two states maintained pre-recession reserves at the end of 2007 that met the minimum high cost multiple standard of 1.5 recommended by UI experts. The average high cost multiple was developed to respond to criticism of the high cost multiple by averaging the three highest cost periods over the past 20 years. The USDOL tends to use the average high-cost multiple more than the other two measures.

One of the reasons the Department should monitor the high cost multiple and the average high cost multiple in addition to the reserve ratio is that these measures can give the Department a more complete and long-term perspective on the Trust Fund's solvency and better predict whether the State will likely need to borrow funds from the federal government during a recession to pay UI benefits. In Chart 14, we compare the pre-recession (December 31, 2007) solvency measures for states borrowing funds from the federal government as of May 20, 2010, with those for states not borrowing funds. As shown, a higher percentage of states not borrowing federal funds met the pre-recession solvency standards (shown in Chart 12) than those borrowing. In fact, for each of the solvency measures, the pre-recession averages for non-borrowing states were more than double those of the borrowing states. For example, the average reserve ratio for non-borrowing states was 2.37 compared with 0.75 for borrowing states.

**Chart 14: States' UI Solvency Results as of December 31, 2007¹
By Federal Borrowing Status as of May 20, 2010**

Federal Loan Borrowing Status as of 5/20/10	Number of States	Number & Percent of States Meeting Solvency Standard on 12/31/07		
		Reserve Ratio of 2.0 or Higher	Average High Cost Multiple of 1.0 or Higher	High Cost Multiple of 1.5 or Higher
Borrowing	33	1 state (3%)	3 states (9%)	0 states (0%)
Non-Borrowing	20	12 states (60%)	14 states (70%)	2 states (10%)

Source: Data from the U.S. Department of Labor.
¹The current recession began in December 2007.

In addition, proposed rules issued by the USDOL in June 2009, if approved, would require states to meet a solvency goal to qualify for interest-free loans. In particular, a state would need to have an average high cost multiple of 1.0 or higher in at least one of the five years prior to when the state seeks to obtain an interest-free loan. If this proposed rule had been in effect at the time Colorado began borrowing from the federal government in January 2010, the State would not have qualified for interest-free loans because its average high cost multiple never reached 1.0. In fact, Colorado's average high cost multiple from 2001 through 2009 ranged from 0.07 to 0.89. The USDOL had not finalized the proposed rules as of the end of our evaluation.

Overall, the Department should improve its monitoring of the Trust Fund by calculating the three main solvency measures on an ongoing basis and adopting solvency goals. These goals can either be benchmarks recommended by UI experts or those set by the Department based upon its own assessment of the reserve levels that ensure solvency of the Trust Fund. As mentioned earlier, setting solvency goals can be beneficial to the Department in determining the total amount of revenue it must collect to build up adequate reserves in the Trust Fund to cover benefit costs and in identifying the best options for modifying the UI financing system. The Department should use the results of its ongoing monitoring of the three measures to share any solvency concerns with the General

Assembly and the Governor's Office and propose statutory changes to the State's UI financing system, as necessary, to ensure adequate Trust Fund reserves and eligibility for future interest-free loans.

Recommendation No. 5:

The Department of Labor and Employment should improve its early detection of potential problems with the adequacy of Colorado's Unemployment Insurance (UI) Trust Fund reserves by:

- a. Determining appropriate levels for each of the three main solvency measures—reserve ratio, high cost multiple, and average high cost multiple—and setting specific solvency goals. The Department could either adopt benchmarks established by UI experts (e.g., an average high cost multiple of 1.0, as recommended by the National Advisory Council on Unemployment Compensation) or set its own solvency goals.
- b. Regularly assessing the three main solvency measures against the established goals.
- c. Sharing material concerns identified from regular assessments of the solvency measures with the General Assembly and the Governor's Office.
- d. Identifying options for meeting solvency goals set by the USDOL, if approved, and working with the General Assembly and the Governor's Office to change statutes, as necessary, to ensure that the State meets the goals.

Department of Labor and Employment Response:

Agree. Implementation date: January 2011.

- a. The Department agrees that solvency goals are important and need to be communicated to all stakeholders. The Department will determine appropriate levels for the three measures, adopt solvency goals, and work with stakeholders to ascertain how the goals may be achieved.
 - b. - d. Communication with the General Assembly and Governor's Office will occur as part of the formal reporting process to be developed as part of Recommendation No. 7. This communication will report calculations of the three solvency measures, material concerns about each, and potential options for meeting solvency requirements that may be established by the U.S. Department of Labor.
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Federal Loans

The federal government offers loans to states and territories with insolvent UI trust funds to cover benefit costs. Under the Recovery Act, the federal government is not charging interest on such loans issued between February 17, 2009 and December 31, 2010. However, beginning on January 1, 2011, states and territories will be charged interest on their outstanding loans. As shown in Chart 15, Colorado had an outstanding federal loan of \$253.7 million as of May 20, 2010 and was one of 33 states or territories (including the Virgin Islands) with outstanding loans. For these 33 states or territories, outstanding loans totaled \$37.8 billion.

Rank	State/ Territory	Loan Balance	Rank	State/ Territory	Loan Balance	Rank	State/ Territory	Loan Balance
1	California	\$6,964,558	13	South Carolina	\$886,662	25	Rhode Island	\$225,473
2	Michigan	\$3,876,782	14	Kentucky	\$795,100	26	Idaho	\$202,402
3	New York	\$3,176,873	15	Missouri	\$722,117	27	Maryland	\$133,841
4	Pennsylvania	\$3,008,615	16	Connecticut	\$498,453	28	Kansas	\$88,159
5	Ohio	\$2,314,187	17	Minnesota	\$477,700	29	Vermont	\$32,657
6	Illinois	\$2,239,582	18	Georgia	\$416,000	30	South Dakota	\$24,027
7	North Carolina	\$2,104,722	19	Nevada	\$397,516	31	Tennessee	\$20,737
8	New Jersey	\$1,749,564	20	Massachusetts	\$387,313	32	Virgin Islands	\$13,322
9	Indiana	\$1,729,520	21	Virginia	\$346,876	33	Delaware	\$12,902
10	Florida	\$1,612,500	22	Arkansas	\$330,853	Total Outstanding Loans		\$37,778,309
11	Wisconsin	\$1,424,769	23	Alabama	\$283,001			
12	Texas	\$1,027,829	24	Colorado	\$253,697			

Source: Unemployment Insurance data from the U.S. Department of Labor.

Colorado plans to repay its federal UI loan with premiums collected from employers. According to its recent forecasts, the Department estimates that it could repay its federal loan as early as June 2013 and as late as June 2015. The timing of repayment depends on the economic condition of the State and the amount of premiums collected from employers and benefits paid to claimants over the next several years. Because Colorado's loan will likely be outstanding for more than three years, the State will pay interest to the federal government for an extended period and employers will be subject to two costs associated with these loans: (1) interest accrued on the loan beginning on January 1, 2011, and (2) a decrease in the FUTA tax credit beginning in late 2012. Federal law and regulations offer states options for deferring interest costs incurred on loans.

We assessed the Department's planning efforts related to the federal loan and found that the Department should fully investigate options for deferring interest costs for employers. Federal law [42 USC 1322 (b)(4)] and regulations [20 CFR 606.30] stipulate that the interest rate assessed on loans is the lesser of (1) 10 percent or (2) the rate at which interest was paid on the state reserve balance in the federal unemployment trust fund for the last quarter of the preceding calendar

year, which is currently approximately 4 percent for Colorado. At this time, the Department does not know what the interest rate charged on the loan will be during the first year interest is likely to be assessed, which is 2011.

According to federal law [42 USC 1322(b)(5)], states cannot use the reserves in their UI trust funds to pay interest accrued on their loans; states must use alternative sources of funds, such as additional taxes or premiums charged to employers. For Colorado, statute requires interest costs incurred on federal loans to be paid by all employers assigned experience ratings, with the exception of state and local governments, certain nonprofit organizations and political subdivisions, and employers whose benefit charges are zero or who have been assigned the best experience ratings (a positive excess of +7 or more in the base contribution rate tables found in *Appendix A*) [Section 8-77-103, C.R.S.]. Statute requires the Department to segregate these interest funds from other premiums charged to employers and to deposit them into the State's Federal Advance Interest Repayment Fund, which is maintained by the State Treasurer.

From our review of federal law and regulations, we found that opportunities may exist for Colorado to defer interest costs. States with loans are required to pay accrued interest on September 30 of each year, with the exception of states qualifying for deferred interest payments. According to federal law [42 USC 1322(b)] and regulations [20 CFR 606.40-42], states may defer their interest payments to December 31 of the following calendar year for loans made in the last five months of the federal fiscal year (i.e., loans made from May through September), but interest accrues on the deferred interest payment. The Department should begin to research whether the State could qualify for deferred interest payments and determine the financial implications of such deferments.

In addition, we found the Department had not started the process of communicating to employers the costs they will bear associated with the federal loans. These costs will be levied on employers while recovery from the current recession is still occurring. We believe the Department should begin this process as soon as possible to allow employers to begin to financially prepare for these expenses.

The Department's Trust Fund reserve forecasts include information that could help the Department estimate the potential costs associated with interest charged on the federal loans during the period of insolvency. As discussed earlier, the forecasts estimate the amount and duration of borrowing from the federal government to pay UI benefits. At this time, the Department does not know what the interest rate charged on the loan will be during the first year interest is likely to be assessed, which is 2011. However, once the Department receives sufficient information on the interest rate that will be charged to the State in 2011, the Department should use its forecasts to estimate how much interest will be assessed to employers during this year.

The Department should share with employers information about the interest costs through the newsletters it issues to employers, on its website, and/or as part of the information it includes in its quarterly premium assessments to employers. Further, as part of the comprehensive evaluation suggested in this report, the Department should share this information with the Governor's Office and the General Assembly to help them understand the costs associated with borrowing and the costs and benefits of reforming Colorado's UI financing system.

Recommendation No. 6:

The Department of Labor and Employment should evaluate the potential cost burdens on Colorado employers resulting from federal loans issued to the State while its UI Trust Fund remains insolvent. As part of this evaluation, the Department should:

- a. Explore the State's options for qualifying for deferment of interest charges and assess the implications of such deferments.
- b. Use its forecasts to estimate the potential costs associated with interest charged on the loans and reductions in federal tax credits during the period the UI Trust Fund remains insolvent and communicate this information to the General Assembly, the Governor's Office, and employers as early as possible. The Department could include this information in its newsletters issued to employers, on its website, and/or as part of communications included in its quarterly premium assessments to employers.

Department of Labor and Employment Response:

Agree. Implementation date: November 2010.

- a. The Department has begun the process of exploring the options for qualifying for deferment of interest payments. This process will be ongoing during this period of insolvency.
 - b. The Department will also begin the process of communicating with employers the potential need to assess employers an additional surcharge to pay the interest payments. As part of the communication with employers, the Department will identify potential interest amounts based on the most recent unemployment insurance trust fund forecasts.
-

Monitoring and Reporting on the Trust Fund

As described in this chapter, we have identified several ways the Department can improve its monitoring of the solvency of Colorado's UI Trust Fund. For example, we have recommended that the Department periodically review employer subsidization within the UI program and monitor all three solvency measures to detect solvency issues earlier. In addition, the Department should improve its reporting to the General Assembly and the Governor's Office related to the solvency of the Trust Fund. The Department has a responsibility under statute to identify weaknesses within Colorado's UI financing system that could affect the solvency of the Trust Fund. Specifically:

Whenever any event occurs that may have a material effect on the adequacy of the fund, whether to increase costs or decrease revenues or otherwise, the [Department] shall promptly analyze such potential effect and provide such analysis to the Governor and the General Assembly. [Section 8-72-101(3), C.R.S.]

Department staff reported that they provide information about the Trust Fund to the General Assembly and the Governor's Office through the fiscal note, budgetary, and other legislative processes. However, the Department often provides such information in an informal manner and on an ad hoc basis. Because of the recent solvency issues that have affected the Trust Fund, it would be beneficial for the Department to develop a formal and routine process for analyzing solvency issues and reporting them to the Governor's Office and the General Assembly.

Further, we found that the Department has not always formally communicated key information about the solvency of the Trust Fund to the Governor's Office and the General Assembly. For example, the Department completed a study of the UI financing system in 2003 that identified concerns with Colorado's low maximum wage base and its tax rate schedules. The study emphasized that these components of the financing system should be adjusted to ensure "the revenue generating capacity of the system is not outstripped by growing potential liabilities caused by rising benefits and a larger workforce." The study also recognized that raising the wage base and tax rates would require approval by Colorado voters as mandated by TABOR, which limits increases in the State's revenue. A 1993 formal opinion issued by the Attorney General's Office concluded that a public vote would be required if there was a change to the unemployment insurance tax structure because it would represent a change in tax policy which would directly cause a net tax revenue increase. In the 2003 study, the Department stated that "although TABOR restrictions requiring voter approval will be difficult to obtain, it may be necessary to begin considering some

type of education program preparing the groundwork for such a request.” However, the results of the 2003 study were never formally shared with the General Assembly or the Governor’s Office, and none of the recommendations in the study were implemented.

Overall, the Department needs to be proactive in monitoring the solvency of Colorado’s UI Trust Fund, analyzing the effect of any events that may materially impact the Trust Fund, and making recommendations to the Governor’s Office and the General Assembly to address the effects on the Trust Fund. Because of the weaknesses we identified, we believe the Department should undertake a comprehensive evaluation of all the factors described in this chapter. The Department also needs to monitor, analyze, report on, and make recommendations related to any events materially affecting the Trust Fund on an ongoing basis.

Recommendation No. 7:

The Department of Labor and Employment should improve its monitoring of and reporting on the solvency of the UI Trust Fund to the Governor’s Office and General Assembly. In particular, the Department should adopt a formal process to assess the financing structure, the Trust Fund’s solvency, and unemployment benefits on an ongoing basis, including any events affecting the Trust Fund, and report concerns and recommendations regarding the solvency of the Trust Fund as needed.

Department of Labor and Employment Response:

Agree. Implementation date: December 2010.

The Department strives to communicate current issues on an ongoing basis and agrees that a formal communication process will greatly assist in disseminating information about this important issue. The Department will reinstate a reporting process to formally communicate these issues. This process will be similar to that which was previously required in statute. This formal process will help ensure that the Governor’s Office and General Assembly are informed of ongoing solvency issues. The Department plans to implement and submit an annual report on the condition of the Trust Fund. This report will include a calculation of each of the three solvency measures, possible options for achieving U.S. Department of Labor solvency recommendations, material concerns about the Trust Fund, and other relevant issues.

Appendices

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Appendix A

Colorado's Unemployment Insurance Base Contribution Rate Schedule

In Colorado, unemployment insurance (UI) base contribution rates charged to employers are set in statute [Section 8-76-103(3)(b)(II)(B) and (C), C.R.S.]. Rates charged to employers vary depending upon two factors: (1) an employer's experience rating, which is determined based upon an employer's history with respect to layoffs and benefit payments, and (2) the reserve level in the UI Trust Fund. The chart below shows the statutory base contribution rate schedule currently used in Colorado.

Colorado's Statutory Base Contribution Premium Schedule As of June 2010												
Experience Rating	Base Contribution Rates By UI Trust Fund Reserve Intervals (in Millions)											
	Over \$450	\$396 to \$450	\$342 to \$396	\$306 to \$342	\$270 to \$306	\$234 to \$270	\$198 to \$234	\$162 to \$198	\$126 to \$162	\$90 to \$126	More than \$0 to \$90	\$0 or Deficit
+20 or more	0%	0%	0%	0%	0.1%	0.2%	0.3%	0.3%	0.3%	0.3%	0.3%	1.0%
+19	0%	0%	0%	0.1%	0.2%	0.3%	0.3%	0.3%	0.3%	0.3%	0.3%	1.0%
+18	0%	0%	0%	0.1%	0.2%	0.3%	0.3%	0.3%	0.3%	0.3%	0.3%	1.0%
+17	0%	0%	0.1%	0.1%	0.3%	0.3%	0.3%	0.3%	0.3%	0.3%	0.3%	1.0%
+16	0%	0%	0.1%	0.1%	0.3%	0.3%	0.3%	0.3%	0.3%	0.3%	0.4%	1.1%
+15	0%	0.1%	0.1%	0.1%	0.3%	0.3%	0.3%	0.3%	0.3%	0.3%	0.5%	1.2%
+14	0%	0.1%	0.1%	0.1%	0.3%	0.3%	0.3%	0.3%	0.3%	0.4%	0.6%	1.3%
+13	0.1%	0.1%	0.1%	0.1%	0.3%	0.3%	0.3%	0.3%	0.4%	0.5%	0.7%	1.4%
+12	0.1%	0.1%	0.1%	0.1%	0.3%	0.3%	0.3%	0.4%	0.5%	0.6%	0.8%	1.5%
+11	0.1%	0.1%	0.1%	0.1%	0.3%	0.3%	0.4%	0.5%	0.6%	0.7%	0.9%	1.6%
+10	0.1%	0.1%	0.1%	0.2%	0.3%	0.4%	0.5%	0.6%	0.7%	0.8%	1.0%	1.7%
+9	0.1%	0.1%	0.2%	0.3%	0.4%	0.5%	0.6%	0.7%	0.8%	0.9%	1.1%	1.8%
+8	0.1%	0.2%	0.3%	0.4%	0.5%	0.6%	0.7%	0.8%	0.9%	1.0%	1.2%	1.9%
+7	0.2%	0.3%	0.4%	0.5%	0.6%	0.7%	0.8%	0.9%	1.0%	1.1%	1.3%	2.0%
+6	0.2%	0.4%	0.5%	0.6%	0.7%	0.8%	0.9%	1.0%	1.1%	1.2%	1.4%	2.1%
+5	0.3%	0.5%	0.6%	0.7%	0.8%	0.9%	1.0%	1.1%	1.2%	1.3%	1.5%	2.2%
+4	0.4%	0.6%	0.7%	0.8%	0.9%	1.0%	1.1%	1.2%	1.3%	1.4%	1.6%	2.3%
+3	0.7%	0.9%	1.0%	1.1%	1.2%	1.3%	1.4%	1.5%	1.6%	1.7%	1.9%	2.4%
+2	1.1%	1.2%	1.3%	1.4%	1.5%	1.6%	1.7%	1.8%	1.9%	2.0%	2.2%	2.5%
+1	1.5%	1.6%	1.7%	1.8%	1.9%	2.0%	2.0%	2.1%	2.2%	2.3%	2.5%	2.6%
+0	2.0%	2.1%	2.2%	2.3%	2.3%	2.4%	2.4%	2.5%	2.5%	2.6%	2.7%	2.7%
Unrated	1.7%	1.7%	1.7%	1.7%	1.7%	1.7%	1.7%	1.7%	1.7%	1.7%	1.7%	1.7%
-0	2.8%	2.8%	2.8%	2.8%	2.8%	2.8%	2.8%	2.8%	2.8%	2.8%	2.8%	3.0%
-1	2.9%	2.9%	2.9%	2.9%	2.9%	2.9%	2.9%	2.9%	2.9%	2.9%	2.9%	3.1%
-2	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.2%
-3	3.1%	3.1%	3.1%	3.1%	3.1%	3.1%	3.1%	3.1%	3.1%	3.1%	3.1%	3.3%
-4	3.2%	3.2%	3.2%	3.2%	3.2%	3.2%	3.2%	3.2%	3.2%	3.2%	3.2%	3.4%
-5	3.3%	3.3%	3.3%	3.3%	3.3%	3.3%	3.3%	3.3%	3.3%	3.3%	3.3%	3.5%
-6	3.4%	3.4%	3.4%	3.4%	3.4%	3.4%	3.4%	3.4%	3.4%	3.4%	3.4%	3.6%
-7	3.5%	3.5%	3.5%	3.5%	3.5%	3.5%	3.5%	3.5%	3.5%	3.5%	3.5%	3.7%
-8	3.6%	3.6%	3.6%	3.6%	3.6%	3.6%	3.6%	3.6%	3.6%	3.6%	3.6%	3.8%
-9	3.7%	3.7%	3.7%	3.7%	3.7%	3.7%	3.7%	3.7%	3.7%	3.7%	3.7%	3.9%
-10	3.8%	3.8%	3.8%	3.8%	3.8%	3.8%	3.8%	3.8%	3.8%	3.8%	3.8%	4.0%
-11	3.9%	3.9%	3.9%	3.9%	3.9%	3.9%	3.9%	3.9%	3.9%	3.9%	3.9%	4.1%
-12	4.0%	4.0%	4.0%	4.0%	4.0%	4.0%	4.0%	4.0%	4.0%	4.0%	4.0%	4.2%
-13	4.1%	4.1%	4.1%	4.1%	4.1%	4.1%	4.1%	4.1%	4.1%	4.1%	4.1%	4.3%
-14	4.2%	4.2%	4.2%	4.2%	4.2%	4.2%	4.2%	4.2%	4.2%	4.2%	4.2%	4.4%

Colorado's Statutory Base Contribution Premium Schedule As of June 2010

Experience Rating	Base Contribution Rates By UI Trust Fund Reserve Intervals (in Millions)											
	Over \$450	\$396 to \$450	\$342 to \$396	\$306 to \$342	\$270 to \$306	\$234 to \$270	\$198 to \$234	\$162 to \$198	\$126 to \$162	\$90 to \$126	More than \$0 to \$90	\$0 or Deficit
-15	4.3%	4.3%	4.3%	4.3%	4.3%	4.3%	4.3%	4.3%	4.3%	4.3%	4.3%	4.5%
-16	4.4%	4.4%	4.4%	4.4%	4.4%	4.4%	4.4%	4.4%	4.4%	4.4%	4.4%	4.6%
-17	4.5%	4.5%	4.5%	4.5%	4.5%	4.5%	4.5%	4.5%	4.5%	4.5%	4.5%	4.7%
-18	4.6%	4.6%	4.6%	4.6%	4.6%	4.6%	4.6%	4.6%	4.6%	4.6%	4.6%	4.8%
-19	4.7%	4.7%	4.7%	4.7%	4.7%	4.7%	4.7%	4.7%	4.7%	4.7%	4.7%	4.9%
-20	4.8%	4.8%	4.8%	4.8%	4.8%	4.8%	4.8%	4.8%	4.8%	4.8%	4.8%	5.0%
-21	4.9%	4.9%	4.9%	4.9%	4.9%	4.9%	4.9%	4.9%	4.9%	4.9%	4.9%	5.1%
-22	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.2%
-23	5.1%	5.1%	5.1%	5.1%	5.1%	5.1%	5.1%	5.1%	5.1%	5.1%	5.1%	5.3%
-24	5.2%	5.2%	5.2%	5.2%	5.2%	5.2%	5.2%	5.2%	5.2%	5.2%	5.2%	5.4%
-25	5.3%	5.3%	5.3%	5.3%	5.3%	5.3%	5.3%	5.3%	5.3%	5.3%	5.3%	5.4%
More than -25	5.4%	5.4%	5.4%	5.4%	5.4%	5.4%	5.4%	5.4%	5.4%	5.4%	5.4%	5.4%

Source: Colorado Revised Statutes [Section 8-76-103(3)(b)(II)(B) & (C), C.R.S.].

Appendix B

Colorado's Unemployment Insurance Solvency Surcharge Schedule

In Colorado, unemployment insurance (UI) solvency surcharge rates are set in statute [Section 8-76-102(5)(b), C.R.S.]. This surcharge was first activated under statute on January 1, 2004 when the reserve in the UI Trust Fund became equal to or less than 0.9 percent of the prior year's total wages paid by employers subject to the solvency surcharge [Section 8-76-102(5)(a)(I), C.R.S.]. This surcharge has been assessed to employers each subsequent year because the reserve has been 0.9 percent or less of the prior year's total wages.

Solvency surcharges assessed to individual employers are determined based upon each employer's experience rating; rates increase incrementally each year and are capped for each experience rating, with maximum rates ranging from 0.2 to 5.4 percent. For example, an employer with an experience rating of -25 would pay 1.1 percent during the first year the surcharge was activated. If this employer retained the same experience rating each year the surcharge is in effect, the employer's surcharge rate would increase by 1.1 percentage points each year thereafter until it reached the 5.3 percent maximum rate allowed by statute for that experience rating. Covered employers of state and local governments and certain nonprofit organizations and political subdivisions are not subject to the solvency surcharge [Section 8-76-102(5)(a)(III), C.R.S.]. The chart below shows the solvency surcharge schedule currently set in statute.

Colorado's Statutory Solvency Surcharge Rate Schedule As of June 2010					
Experience Rating	Surcharge Yearly Increment	Statutory Maximum Rate	Experience Rating	Surcharge Yearly Increment	Statutory Maximum Rate
+20 or More	0%	0.2%	-7	0.7%	3.5%
+19 through +11	0.1%	0.3%	-8	0.7%	3.6%
+10	0.1%	0.4%	-9	0.7%	3.7%
+9	0.1%	0.5%	-10	0.8%	3.8%
+8	0.1%	0.6%	-11	0.8%	3.9%
+7	0.1%	0.7%	-12	0.8%	4.0%
+6	0.2%	0.8%	-13	0.8%	4.1%
+5	0.2%	0.9%	-14	0.8%	4.2%
+4	0.2%	1.0%	-15	0.9%	4.3%
+3	0.3%	1.3%	-16	0.9%	4.4%
+2	0.3%	1.6%	-17	0.9%	4.5%
+1	0.4%	2.0%	-18	0.9%	4.6%
+0	0.5%	2.4%	-19	0.9%	4.7%
Unrated	0.6%	2.7%	-20	1.0%	4.8%
-0	0.6%	2.8%	-21	1.0%	4.9%
-1	0.6%	2.9%	-22	1.0%	5.0%
-2	0.6%	3.0%	-23	1.0%	5.1%
-3	0.6%	3.1%	-24	1.0%	5.2%
-4	0.6%	3.2%	-25	1.1%	5.3%
-5	0.7%	3.3%	More than -25	1.1%	5.4%
-6	0.7%	3.4%			

Source: Colorado Revised Statute [Section 8-76-102(5)(b), C.R.S.].

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