EMPLOYMENT AND ECONOMIC DEVELOPMENT

Unemployment Insurance Update

Senate Jobs Committee
Wednesday, February 2, 2022

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The Basics

What is the Purpose of the UI Program?

Minnesota Statutes 268.03

"…The public good is promoted by providing workers who are unemployed through no fault of their own a temporary partial wage replacement to assist the unemployed worker to become reemployed…."

- Eligibility based: primarily laid off – but also quits and discharges where the worker did not cause their own unemployment
- Temporary: up to 26 weeks
- Partial wage replacement: about ½ of weekly wage up to statutory maximum (currently $820)
- To become reemployed: able to work, available for work, looking for work or something substantially similar (training for work)

How UI Benefits are Funded

- Funded by a state payroll tax paid by MN employers.
- UI benefit funding is designed to respond to seasonal downturns and the economic cycle.
- There are Experience Rated and Reimbursing employers – the former pay taxes, the latter reimburse the Trust Fund for benefits paid.
- The Trust Fund is held by the US Treasury and can only be used for payment of benefits – money from the Trust Fund cannot be diverted by states.

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Pandemic Response

Minnesota UI COVID Response: A Brief Summary

While managing the increase in activity, the UI program implemented various changes as directed by Gov. Walz, the Legislature, and Congress:

- Benefits available during the "waiting week"
- Suspension of certain eligibility requirements
- Shared Work changes
- Special relief of charges

New federal programs:

- A temporary increase of unemployment benefit payouts by $600 (spring summer 2020); $300 Jan-Aug 2021
- An extended benefit program for people who had exhausted their regular unemployment benefits
- A new benefit program for those not normally covered by UI
- Lost Wages Assistance (LWA), additional $300 Aug-Sep 2020
- Partial reimbursement for cost of regular, state UI benefits

Unemployment claims surge as states await federal guidance

Minnesota starts making unemployment payments to self-employed, independent contractors

Published April 24 | Coronavirus in Minnesota | FOX 9

ST. PAUL, Minn. (FOX 9) - Minnesota is among the first states to start making unemployment payments to those who are self-employed, independent contractors and others eligible that normally wouldn't qualify for unemployment benefits.

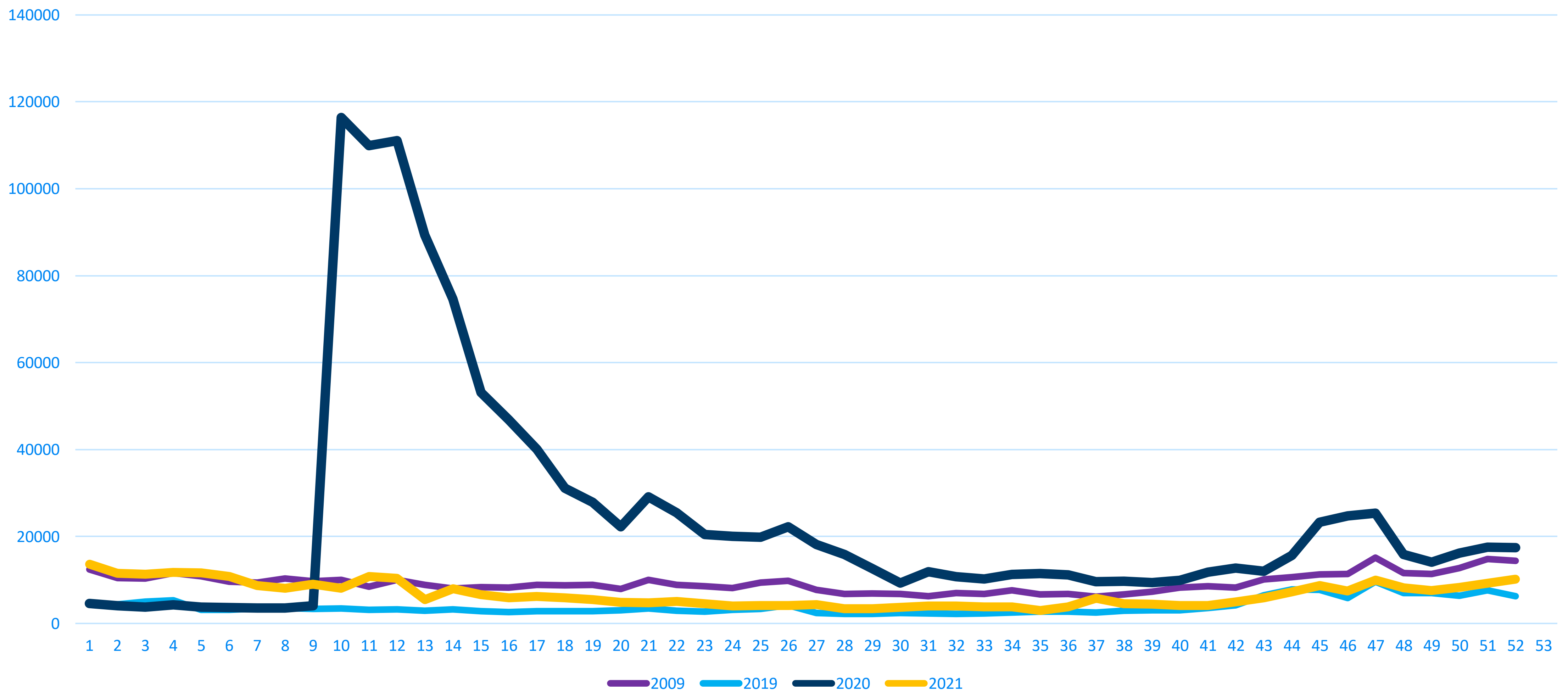
Minnesota issues first $600 CARES Act payments to people receiving unemployment benefits

Published April 8 | Coronavirus in Minnesota | FOX 9

Since March 16, 367,462 Minnesotans have filed for unemployment.

Minnesota is one of the first states to begin making the $600 payments.

The Great Recession with the Pandemic Initial Claims



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uimn.org

UI COVID Response: By the Numbers

Through the end of the special federal programs in September 2021:

- **1,352,915 applications** for benefits (**200,000** in 2019)
- **873,707** applicants received at least one payment
- **$14,852,874,935** in payments **($800 million** in 2019)
  - That's 353,639,879 bags of groceries
  - That's 18,047,236 rent payments

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Unemployment Insurance Tax Structure

State UI Tax Structure

Taxable Wage Base - the amount of wages an employer pays a single worker in a tax year that are taxed - indexed to 60% of state’s average annual wage

- Taxable Wage Bases:
  - 2020 -- $35,000
  - 2021 -- $35,000 (the Legislature carried 2020 tax components into 2021)
  - 2022 -- $38,000 (returned to indexed calculation)

Base Tax Rate

- The rate is between 0.1% and 0.5%, determined by the status of the Trust Fund on March 31st of the prior year
- Since the Trust Fund was in deficit on 3/31/2021, the Base Tax Rate is 0.5% for tax year 2022

Experience Rate

- Experience Rates are set similarly to insurance premiums -- they are higher for those employers that have more layoffs
- Calculated by dividing 125% of the unemployment benefits charged to the employer’s account for the experience rating period by the employer’s taxable wages for the same period
- Varies by employer from 0.0% to 8.9%. The rate is applied to the employer's taxable wage base
- EO and session law prescribed that COVID-related unemployment would not impact employer experience rates
- **2022 rates are nearly identical to 2020.** This is due to the application of the EO and session law

State UI Tax Structure – continued

Additional Assessment - a surtax that is applied to the amount owed by an employer after the Base and Experience rating amounts are calculated. It ensures that the Trust Fund recovers before the next downturn.

- There are four rates for Additional Assessment 0.0%, 5.0%, 10% and 14%. Like the Base Tax, there is a corresponding trigger point that is determined by the status of the Trust Fund on March 31st of the prior year.
- The rate will be 14% for 2022. It's the same for every business.

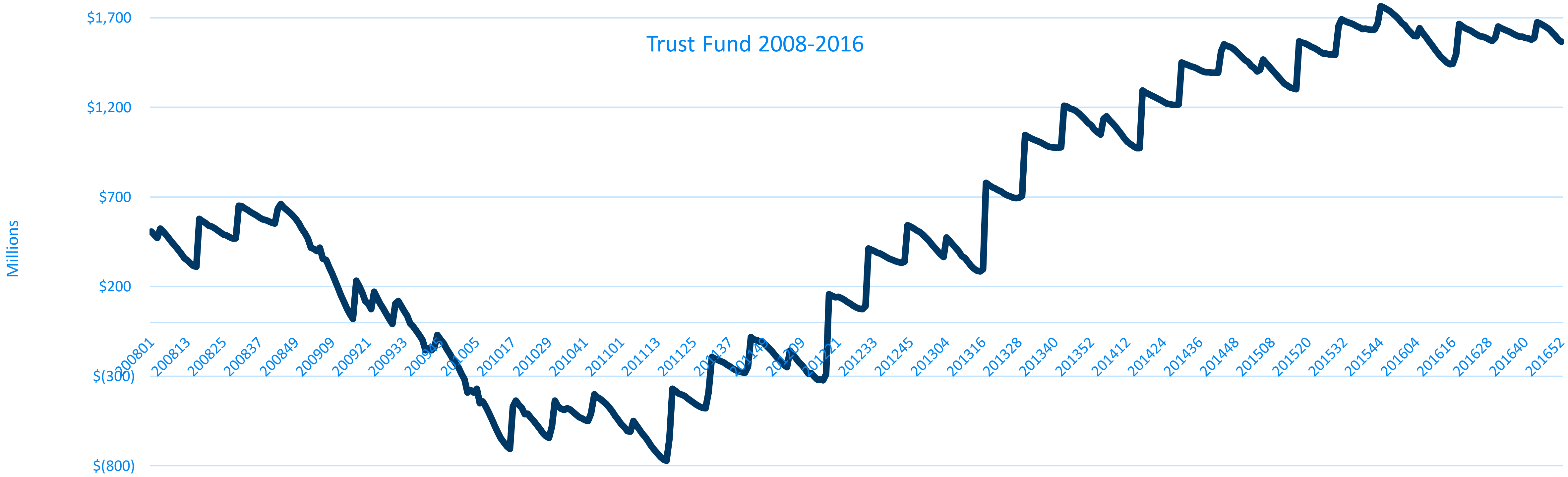
Special Assessment - pays for the interest Minnesota owes on any Trust Fund balances with the Federal Government. It acts as a surtax and is applied to the amount owed (including Additional Assessment) by a taxpaying employer.

- Was 4% in 2021; is 1.8% for 2022. It's the same for every business.
- State Law requires that the Special Assessment is set in October for the following year.
- Rate must be agreed to by the Commissioner of DEED and the Commissioner of MMB.

Federal Unemployment Tax (FUTA)

- FUTA - a federal tax used to fund the administrative costs of UI and ensure compliance and conformity with federal UI laws.
  - Technically, the tax is 6.0% of the federal, Taxable Wage Base of $7,000
  - However, so long as states are in compliance with federal law, their employers are granted a 5.4% credit
  - Because Minnesota is in compliance, our employers receive the credit, and only pay 0.6% on the first $7,000
- If a state's Trust Fund is in deficit on January 1st of two consecutive years and also the November 10th of the second year, the credit is reduced and will be progressively reduced each subsequent year if borrowing continues.
- If the Trust Fund is in deficit on 11/1/2022, Minnesota employers will have a 'partial loss' of FUTA credit for the entirety of the 2022 FUTA tax year - rate will be 0.9% in 2022.
- Each year the Trust Fund is in deficit on November 1st, the amount of the partial loss of FUTA credit gets progressively larger.

Taxes and UI Trust Fund Recovery in the Great Recession



Year	**2008**	**2009**	**2010**	**2011**	**2012**	**2013**	**2014**	**2015**	**2016**
Taxable Wage Base	$25,000	$26,000	$27,000	$27,000	$28,000	$29,000	$29,000	$30,000	$31,000
Base Tax	0.40%	0.40%	0.50%	0.50%	0.50%	0.50%	0.10%	0.10%	0.10%
Avg Exp Rate	1.58%	1.54%	1.91%	2.41%	2.53%	2.50%	2.13%	1.66%	1.49%
Add'l Assmt	14.00%	14.00%	14.00%	14.00%	14.00%	14.00%	0.00%	0.00%	0.00%
Special Assmt	0.00%	0.00%	0.00%	2.00%	0.50%	0.00%	0.00%	0.00%	0.00%

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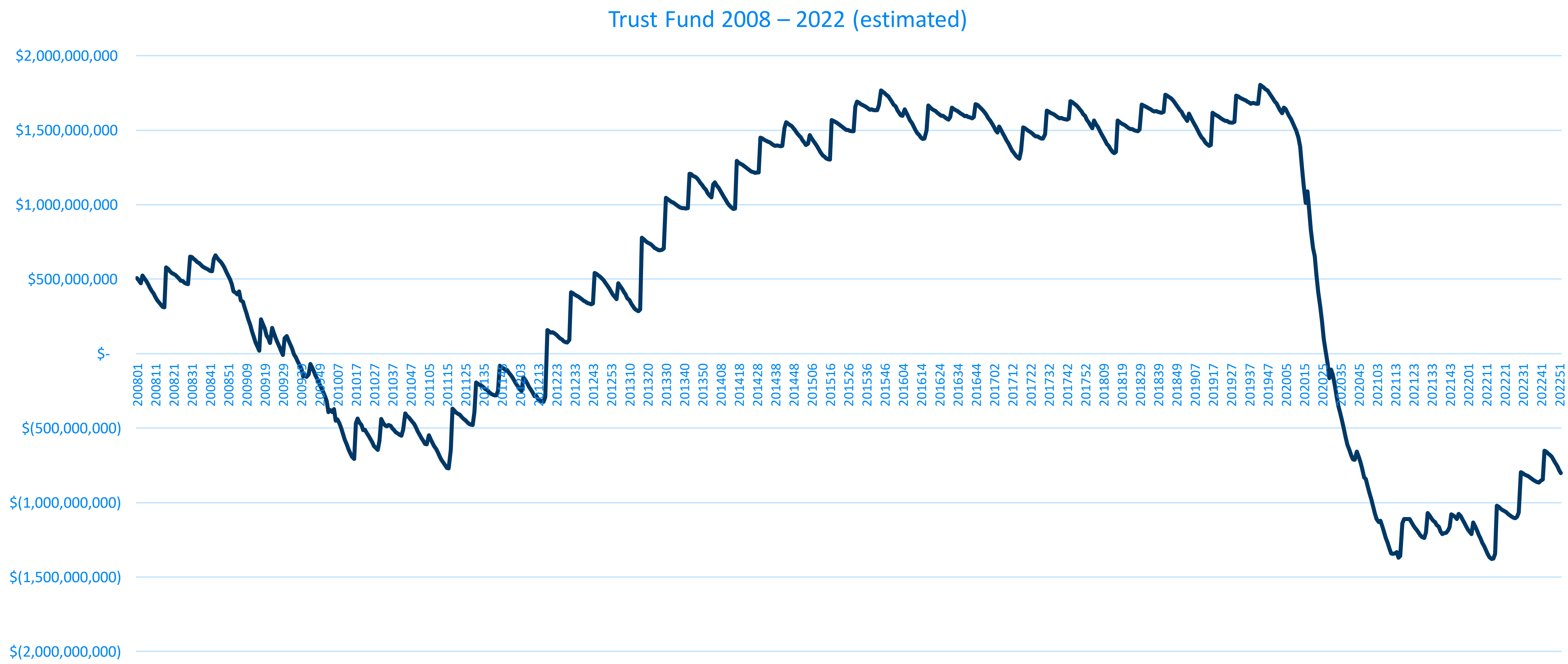
Unemployment Insurance Trust Fund

Minnesota’s UI Trust Fund: 2008-2022



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How advances from the federal gov’t work

- When a state’s Trust Fund goes into deficit, the state draws money from the US Treasury in the form of an advance. This is called a **Title XII Advance.**
- **Title XII Advances work like a line of credit.** Once permission is granted, the state has authority to draw funds to pay benefits.
    - Think of it as a home equity line of credit, not a mortgage
    - The "equity" in this case is future state UI and federal (FUTA) tax receipts
    - When benefit payments exceed receipts for a particular day, “borrowing” occurs
- **Title XII Advances are fairly common.** It is not unusual for states to borrow during a downturn
- **Repayment occurs when** receipts exceed benefit payments over time (years in the case of a recession).

How interest works on the borrowing

- **Interest on Title XII borrowing is charged monthly,** based on the average, daily balance for that month
- **The interest rate is set slightly above prime.** It can change and is not negotiable. Currently: 1.5909%
- **USDOL/Treasury “sends” the UI program a bill** for interest at the end of each month
- **Interest was waived by Congress** from March 2020 through September 2021
  - This only occurs when there are many states borrowing at the same time
  - The idea is that if several states are borrowing, it must be because of a downturn
- **Interest cannot be paid with Trust Fund money**
  - Must be paid with "state" funds
  - However, it is permissible for states to use UI taxing mechanisms to *collect* money to pay interest. This is what Minnesota does through its Special Assessment
  - The Special Assessment was set at 4% for 2021 and is set at 1.8% for 2022

What Other States Have Done

Have devoted some CARES/ARPA funding to UI, but haven’t paid Title XII advances:

- California
- Connecticut

Paid Title XII advances, but do not appear to have paid additional to UI Trust Fund:

- Hawaii
- Kentucky
- Nevada
- Ohio

Paid Title XII advances plus additional to UI Trust Fund:

- Louisiana
- New Mexico
- Texas
- West Virginia

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Updates on Reimbursing Employers and Fraud Prevention

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Updates on Reimbursing Employers and Fraud Prevention

Reimbursing Employers

- Unlike tax paying employers, reimbursing employers get a quarterly bill equal to the amount paid to former employees in the previous quarter.
- In other words, unlike tax paying employers, reimbursing employers bear the full and immediate cost of UI benefits paid with virtually no delay.
- Under the law, the failure of a reimbursing employer to pay the full amount due automatically begins the application of interest and penalties on the unpaid amount.
- Normally, all adjustments to benefit charges are completed before bills to Reimbursing Employers are mailed.
- Additionally, reimbursing employers historically have very stable UI expenditures that they can plan for.

Reimbursing Employers

- Within about a month of the beginning of the pandemic, Congress passed the CARES Act, which included very generous – though highly complicated – reimbursement to states for a portion of state benefits paid.

- The following provisions were passed:
    - Reimbursement for the first week of regular UI benefits if that week falls between 3/29/2020 and 12/26/2020
    - Reimbursement for Shared Work benefits paid for weeks between 3/29/2020 and 09/04/2021
    - Reimbursement of 50% of benefits chargeable to reimbursing employers between 3/15/2020 and 4/3/2021
    - Reimbursement of 75% of benefits chargeable to reimbursing employers between 4/4/2021 and 9/4/2021

- The federal reimbursements are complex and could not be implemented until a quarter is over -- effectively, this means that these charges could not be removed until the reimbursement period was over (after 9/4/2021).

- Additionally, any "relief" of charges under state laws could not be applied until *after* the federal reimbursements were applied.

- Taken together, this has meant that it has not been possible to calculate an accurate bill for reimbursing employers since March of 2020.

- Billing for reimbursing employers will resume in the coming weeks – only for expenses that were not picked up by Congress and were not pandemic-related.

Fraud Prevention

- There are several ways that employers and applicants can attempt to defraud the UI program.
- Tools are in place to detect and prevent these efforts, and they are constantly being enhanced.
- We generally do not describe how these detection tools work to reduce the possibility that they could be circumvented.
- The most common type of fraud for employers is intentional under-reporting or non-reporting of covered employment.
- The most common type of fraud for applicants is under-reporting or non-reporting income while receiving benefits.
- Historically, Minnesota's UI program has compared favorably to programs in other states in payment accuracy and anti-fraud efforts.

Fraud Prevention - Imposters

- Throughout the pandemic, the media covered some notable instances of identity thieves using stolen identities to apply for – and in some cases, receive – federal or state UI benefits. We call the individuals that do this "imposters".
- Imposters are not new. The strategies they employ were well understood prior to the pandemic and are largely detectable in the Minnesota UI system.
- Imposters may have been (at least initially) more successful at the beginning of the pandemic <u>in some states</u>. Some big dollar amounts were reported by some states early in the pandemic. It's not clear if those amounts reflect *actual* dollars lost as opposed to the estimated amounts that *would have* been lost had the imposters been successful.
- Some states have older systems that are very dependent on staff detection and therefore were not prepared for the pandemic-increase in overall new applications for benefits.
    - Minnesota's approach uses data analytics to detect and prevent imposters and therefore was able to scale well to the increased level of activity.

Fraud Prevention - Imposters

- It appears that identity thieves use datasets sold on the dark web.
- These datasets do not appear to be composed of rows of high-quality data obtained from a single source, but rather quite a bit of inferred data, probably assembled from data breaches and social media.
- The imposters tried to take advantage of:
  - The scale of the pandemic
  - The fact that UI programs are designed to respond very quickly – which is why UI was chosen for so much of the response
  - The fact that state UI programs were overwhelmed
- This issue presented itself in UI, but reflects the availability of so much data on so many people on the dark web - and the capacity for criminals to use powerful data tools to assemble that data.
- All state UI programs must continue to remain vigilant and enhance their detection tools, however:
  - The federal government needs to do a better job working with banks to make large scale schemes more difficult
  - Thought needs to be given to modifying any future pandemic response so that fraud risk can be better distributed

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Questions?