



**Congressional
Research Service**

Informing the legislative debate since 1914

The Unemployment Trust Fund (UTF): State Insolvency and Federal Loans to States

Updated January 13, 2023

Congressional Research Service

<https://crsreports.congress.gov>

RS22954

Summary

States have a great deal of autonomy in how they establish and run their unemployment insurance programs. However, federal law requires states to pay Unemployment Compensation (UC) benefits promptly. During some recessions, current taxes and reserve balances may be insufficient to cover state obligations for UC benefits. States may borrow funds from the federal loan account within the Unemployment Trust Fund (UTF) to meet UC benefit obligations. Currently, five jurisdictions are borrowing funds from the UTF.

This report summarizes how insolvent states may borrow funds from the UTF loan account to meet their UC benefit obligations. It includes the manner in which states must repay federal UTF loans. It also provides details on how the UTF loans may trigger potential interest accrual and explains the timetable for increased net Federal Unemployment Taxes Act (FUTA) taxes if the funds are not repaid promptly. For 2022, the U.S. Virgin Islands had an increased net FUTA tax of 4.2% (instead of the 0.6% in states with no outstanding UTF loans). Additionally, California, Connecticut, Illinois, and New York had an increased net FUTA tax of 0.9% because of their outstanding UTF loans.

The Unemployment Insurance (UI) provisions in the Families First Coronavirus Response Act (FFCRA, P.L. 116-127, as amended by P.L. 116-260 and P.L. 117-2) provided various types of assistance to states, including a temporary suspension on the accrual of interest on federal advances (loans) to states to pay UC benefits and a waiver of interest payments through September 6, 2021. FFCRA did not reduce the underlying loan amount that must be repaid.

Outstanding loans listed by state may be found at the Department of Labor's (DOL's) website, <https://oui.doleta.gov/unemploy/budget.asp>.

Contents

Unemployment Compensation, Unemployment Taxes, and a State’s Obligation to Pay	
Benefits	1
State and Federal Unemployment Taxes	1
State Unemployment Taxes	1
Federal Unemployment Taxes	2
States Required to Pay UC Benefits.....	2
Funds Available for Loans to States Within the UTF	3
Mechanism for Receiving a Loan from the UTF	4
Loan Repayment.....	4
Federal Tax Increases on Outstanding Loans Through Credit Reductions	4
Basic Credit Reduction	5
Additional Credit Reductions: 2.7 Add-on and Benefit-Cost Ratio Add-on.....	5
Avoiding Some or All of the Credit Reduction.....	6
Revenue from Credit Reductions Reduces State UTF Loans	7
Interest Charges on Loans	7
Temporary Interest Waiver for 2020 and 2021.....	9
Status of Outstanding Loans, Accrued Interest Owed, and State Tax Credit Reductions	9

Tables

Table 1. Schedule of State Tax Credit Reduction and Net Federal Unemployment Tax Act (FUTA) Tax	5
Table 2. Outstanding Loan Balances, Interest Owed, and 2022 State Tax Credit Reduction.....	9

Contacts

Author Information.....	10
-------------------------	----

Unemployment Compensation, Unemployment Taxes, and a State's Obligation to Pay Benefits

Unemployment Compensation (UC) is a joint federal-state program financed by federal payroll taxes under the Federal Unemployment Tax Act¹ (FUTA) and by state payroll taxes under State Unemployment Tax Acts (SUTA).² These revenues are deposited into the appropriate account within the federal Unemployment Trust Fund (UTF).

Originally, the intent of the UC program, among other goals, was to help counter economic fluctuations such as recessions.³ This intent is reflected in the current UC program's funding and benefit structure. When the economy grows, UC program revenue rises through increased tax revenues. At the same time, UC program spending falls because fewer workers are unemployed. The effect of collecting more taxes while decreasing spending on benefits dampens demand in the economy. It also creates a surplus of funds, or a *reserve fund*, for the UC program to draw upon during a recession. These reserve balances are credited in the state's account within the UTF. During an economic slowdown or recession, UC tax revenue falls and UC program spending rises as more workers lose their jobs and receive UC benefits. The increased amount of UC payments to unemployed workers dampens the economic effect of lost earnings by injecting additional funds into the economy.

State and Federal Unemployment Taxes

State Unemployment Taxes

States levy their own payroll taxes (SUTA) on employers to fund regular UC benefits and the state share (50%) of the Extended Benefit (EB) program.⁴ Federal laws and regulations provide broad guidelines for these state taxes. Each state deposits its SUTA revenue into its account within the UTF.

SUTA revenue finances UC benefits. Generally, when economic activity is robust and increasing, SUTA revenue is greater than a state's UC expenditures. As a result, the state's reserves within the UTF grow. This trend is reversed during economic recessions and during the early economic recovery period, when the state's reserves are drawn down and new SUTA revenue does not always make up the shortfall.

¹ §§3301-3311 of the Internal Revenue Code of 1986 (26 U.S.C. §§3301-33011). For a complete description of FUTA, see CRS Report R44527, *Unemployment Compensation: The Fundamentals of the Federal Unemployment Tax (FUTA)*.

² The underlying framework of the Unemployment Compensation (UC) program is contained in the Social Security Act (SSA). Title III of the SSA authorizes grants to states for the administration of state UC laws, Title IX authorizes the various components of the federal Unemployment Trust Fund (UTF), and Title XII authorizes advances or loans to insolvent state UC programs.

³ See, for example, President Franklin Roosevelt's remarks at the signing of the SSA at <http://www.ssa.gov/history/fdrstmts.html#signing>.

⁴ The Extended Benefit (EB) program was established by the Federal-State Extended Unemployment Compensation Act of 1970 (EUCA), P.L. 91-373 (26 U.S.C. §3304, note). EUCA may extend receipt of unemployment benefits by 13 weeks or 20 weeks at the state level if certain economic situations exist within the state. For details, see CRS Report RL33362, *Unemployment Insurance: Programs and Benefits*.

If the recession is deep enough and if SUTA revenue is inadequate for long periods of time, states may have insufficient funds to pay for UC benefits. Federal law, which requires states to pay these benefits, provides a loan mechanism within the UTF framework that an insolvent state may opt to use to meet its UC benefit payment obligations.⁵ States must pay back these loans. If the loans are not paid back quickly (depending on the timing of the beginning of the loan period), states may face interest charges and the states' employers may face increased net FUTA rates until the loans are repaid.

In the years immediately following the 2007-2009 recession, many states had insufficient SUTA revenue and UTF account balances to pay UC benefits.

Federal Unemployment Taxes

All FUTA revenue is deposited into the Employment Security Administration Account (ESAA) within the UTF. Federal unemployment taxes pay for the federal share of EB (50%) and for administrative grants to the states. Additionally, through the federal loan account within the UTF, FUTA funds may be loaned to insolvent states to assist the payment of the states' UC obligations.

Net FUTA Rate Is 0.6%

FUTA imposes a 6.0% gross federal unemployment tax rate on the first \$7,000 paid annually by employers to each employee. Employers in states with programs approved by the U.S. Labor Secretary and with no outstanding federal loans may credit up to 5.4 percentage points of state unemployment taxes paid against the 6.0% tax rate, making the minimum net federal unemployment tax rate 0.6%.⁶

Because most employees earn more than the \$7,000 taxable wage ceiling in a calendar year, the FUTA tax typically is \$42 per worker per year ($\$7,000 \times 0.6\%$), or just over 2 cents per hour for a full-time, year-round worker.⁷

States Required to Pay UC Benefits

States have a great deal of autonomy in how they establish and run their unemployment insurance programs. However, the framework established by federal laws is clear and requires states to promptly pay the UC benefits as provided under state law.⁸

⁵ Federal unemployment compensation law does not restrict the states from using loan resources outside of the UTF. Depending on state law, states may have other funding measures available and may be able to use funds from outside of the UTF to pay the benefits (such as issuing bonds). Although the interest rate on municipal bonds may be lower, the total cost of such loans may be higher than borrowing from the UTF. For details, see Wayne Vroman et al., *A Comparison of Unemployment Insurance Financing Methods*, Urban Institute, prepared for the U.S. Department of Labor by the Urban Institute, 2017, p. 210, <https://www.dol.gov/sites/dolgov/files/OASP/legacy/files/A-Comparative-Analysis-of-Unemployment-Insurance-Financing-Methods-Final-Report.pdf>.

⁶ Section 3304 of FUTA (26 U.S.C. §3304) allows up to a 5.4% credit for *actual* state unemployment taxes paid. Additionally, under Section 3303 of FUTA (26 U.S.C. §3303), employers that paid less than a 5.4% rate in state unemployment taxes are eligible for an *additional* state tax credit of up to 5.4%. The total state tax credit (actual and additional) on federal unemployment tax calculation is restricted to be no more than 5.4%. Thus, all employers in states with approved UC programs receive a 5.4% credit in the calculation of FUTA, even if the employer paid less than a 5.4% rate in state unemployment taxes.

⁷ Assuming a full-time, year-round worker works 52 weeks per year and 40 hours per week (for 2,080 hours per year), $\$42 \div 2080 = \0.0202 and the state has no state tax credit reduction because of outstanding loans.

⁸ §3304 of FUTA (26 U.S.C. §3304). If the state does not pay the UC benefits, federal law is explicit. The state will not

In budgetary terms, UC benefits are an entitlement (although the program is financed by a dedicated tax imposed on employers and not by general revenue). Thus, even if a recession hits a given state and, as a result, that state's trust fund account is depleted, the state remains legally required to continue paying benefits. To do so, the state might borrow money either from the dedicated loan account⁹ within the UTF or from outside sources.

If the state chooses to borrow funds from the UTF, not only will the state be required to continue paying benefits, it also will be required to repay the funds (plus any interest due) it has borrowed from the federal loan account. Such states may need to raise taxes on their employers or reduce UC benefit levels, actions that dampen economic growth, job creation, and consumer demand. In short, states have strong incentives to keep adequate funds in their trust fund accounts.

If the state borrows from sources outside the UTF, the state would not be subject to the loan restrictions described below. Instead, the state would be subject to the terms within that outside loan agreement, which might offer a different (more favorable) interest rate or repayment schedule but may include fees to establish the loan.¹⁰

Funds Available for Loans to States Within the UTF

The Federal Unemployment Account (FUA) is the federal loan account within the UTF. The FUA is primarily funded from the statutory transfer of excess revenue from the Extended Unemployment Compensation Account (EUCA) being deposited into the FUA.¹¹

Federal law allows the FUA to borrow available funds from the other federal (EUCA and ESAA) accounts within the UTF.¹² Federal law also authorizes appropriations as loans from the general fund of the U.S. Treasury if balances in the federal accounts are insufficient to cover their expenditures.¹³ From FY2009 to FY2015, the FUA borrowed funds from the general fund of the U.S. Treasury to finance loans to the state accounts.¹⁴ On May 1, 2020, the FUA again began to

have a UC program meeting federal requirements, and thus the federal unemployment tax paid by employers on each employee's annual earnings would be a net tax of 6.0% (that is, up to \$420 per worker with no allowable state tax credit) rather than 0.6% if the state UC program paid benefits and had no outstanding loans.

⁹ The Federal Unemployment Account (FUA).

¹⁰ For details on such loans, see Wayne Vroman et al., *A Comparison of Unemployment Insurance Financing Methods*, Urban Institute, prepared for the U.S. Department of Labor by the Urban Institute, 2017, <https://www.dol.gov/sites/dolgov/files/OASP/legacy/files/A-Comparative-Analysis-of-Unemployment-Insurance-Financing-Methods-Final-Report.pdf>.

¹¹ 42 U.S.C. §1105(b)(1) requires that at the end of every month, 20% of all newly collected FUTA revenue be deposited into the EUCA, which is authorized to pay for the federal share of EB. The EUCA balance is limited to the maximum of 0.5% of covered wages (\$37.67 billion in FY2022). If the EUCA balance exceeds the limitation, 42 U.S.C. §1105(b)(2) requires that the excess be distributed to the FUA. In FY2022, the EUCA net balance was an estimated shortfall of (negative) \$12.59 billion. Thus, no EUCA funds were distributed to the FUA in FY2022.

¹² 42 U.S.C. §1110.

¹³ 42 U.S.C. §1323.

¹⁴ The FUA completed repaying its general fund advance balance in June 2015, and FUA funds were used to assist in repaying the remaining general fund advances to the EUCA. The EUCA finished repaying its general fund advance loans in FY2018 but continued to owe funds to the FUA while slowly repaying those non-interest bearing loans from the FUA. The EUCA once again began to borrow funds from the general fund in FY2021 and is projected to borrow funds from the general fund through FY2025. U.S. Department of Labor, Employment and Training Administration, *Unemployment Insurance Outlook Midsession Review Fiscal Year 2023*, Washington, DC, 2022, p. 16, https://oui.doleta.gov/unemploy/pdf/midsession_review_23.pdf.

borrow directly from the general fund because of increased lending to the states and is currently projected to borrow from the general fund through at least FY2028.¹⁵

Mechanism for Receiving a Loan from the UTF

Once a state recognizes that it does not have sufficient funds to pay UC benefits, the mechanism for receiving a loan from the UTF is straightforward. The state's governor (or the governor's designee) must submit a letter requesting that the U.S. Labor Secretary advance funds to the state account within the UTF. Once the loan is approved by the U.S. Labor Secretary, the funds are placed into the state account in monthly increments.

Loan Repayment

States with outstanding loans from the UTF must repay them fully by the November 10 following the second consecutive January 1 on which the state has an outstanding loan. If the outstanding loan is not repaid by that time, the state will face an effective federal tax increase. Thus, a state may have approximately 22 months (if borrowing began on January 1) to 34 months (if borrowing began on January 2) to repay the loan without a federal tax increase, depending on when it obtained the outstanding loan.

As of December 22, 2022, just under \$28 billion in UTF loans to states were outstanding. (See **Table 2** for the list of states borrowing funds.) The current list of states with outstanding loans may be found at the Department of Labor's (DOL's) website, <https://oui.doleta.gov/unemploy/budget.asp>.

Federal Tax Increases on Outstanding Loans Through Credit Reductions

If the state does not repay a loan by November 10 of the second year,¹⁶ the state becomes subject to a reduction in the amount of state unemployment tax credit applied against the federal unemployment tax beginning with the preceding January 1 until the state repays the loan fully. Depending on the duration of the loan and certain other measures, one or more of three different credit reductions may be required. These reductions are fully catalogued in **Table 1**.

At the end of FY2019, one jurisdiction had a federal UTF loan, totaling \$64 million (U.S. Virgin Islands). In comparison, by the end of FY2020, 19 jurisdictions had federal UTF loans totaling \$34.1 billion (California, Colorado, Connecticut, Delaware, Georgia, Hawaii, Illinois, Indiana, Kentucky, Massachusetts, Minnesota, New Jersey, New Mexico, New York, Ohio, Pennsylvania, Texas, U.S. Virgin Islands, and West Virginia). By the end of FY2021, the number of jurisdictions with outstanding federal loans had decreased to 12 (California, Colorado, Connecticut, Hawaii, Illinois, Massachusetts, Minnesota, New Jersey, New York, Pennsylvania, Texas, and U.S. Virgin Islands) but the loans had increased to a total of \$45.6 billion. By November 10, 2022, the number of jurisdictions with outstanding federal loans had decreased to five (California, Connecticut, Illinois, New York, and U.S. Virgin Islands) and the outstanding loan amount had

¹⁵ Ibid.

¹⁶ The "second year" is the year when the state has outstanding UTF loans on January 1 for the second January 1 in a row. Depending on the timing when the first loan began, it may actually be the third year of the loan.

decreased to \$27.3 billion.¹⁷ **Table 2** provides outstanding loan amounts as of December 22, 2022.

Basic Credit Reduction

The credit reduction is initially a 0.3 percentage point reduction for the year beginning with the calendar year in which the second consecutive January 1 passes during which the loan is outstanding and increases by a 0.3 percentage point reduction for each year there is an outstanding loan. For example, in the first year, the credit reduction results in the net federal tax rate increasing from 0.6% to 0.9%—an additional \$21 for each employee; in the second year, it would increase to 1.2%—a cumulative additional \$42 for each employee.

Additional Credit Reductions: 2.7 Add-on and Benefit-Cost Ratio Add-on

Two potential other credit reductions exist (in addition to the cumulative 0.3 percentage point increases) during the ensuing calendar years in which a state has an outstanding loan:

1. Beginning in the third year, the 2.7 add-on uses a statutory formula that takes into consideration the average annual wages and average employment contribution rate.¹⁸
2. Beginning in the fifth year, the Benefit-Cost Ratio (BCR) add-on replaces the 2.7 add-on and uses the five-year benefit-cost rate as well as average wages in its calculation.¹⁹

Table 1 presents these reductions and the subsequent net FUTA tax faced by state employers as a result of these unpaid loans. If any January 1 passes without an outstanding balance, the year count starts over with the next loan. DOL maintains data on historical and current state tax credit reductions at https://oui.doleta.gov/unemploy/futa_credit.asp.

Table 1. Schedule of State Tax Credit Reduction and Net Federal Unemployment Tax Act (FUTA) Tax

Loan Year	Credit Reduction	Additional Reductions	Net FUTA Tax (0.6% + credit reductions)
Year 1 of outstanding loan	0.0%	None	0.6%
Year 2 (applied retroactively at end of calendar year)	0.3%	None	0.9%
Year 3	0.6%	2.7 Add-on	1.2% or more ^a
Year 4	0.9%	2.7 Add-on	1.5% or more ^a
Year 5	1.2%	BCR Add-on	1.8% or more ^b
Year 6	1.5%	BCR Add-on	2.1% or more ^b
Year 7	1.8%	BCR Add-on	2.4% or more ^b

¹⁷ Data on jurisdictions and loan amounts for each quarter are available by selecting the data category “loan” at https://oui.doleta.gov/unemploy/data_summary/DataSum.asp.

¹⁸ The 2.7 add-on formula is $[(2.7\% \times 7000 \div \text{U.S. Annual Average Wage}) - \text{Average Annual State Tax Rate on Total Wages}] \times \text{State Annual Average Wage} \div 7000$.

¹⁹ The Benefit-Cost Ratio (BCR) add-on formula is: $\text{Max} [\text{Five-year Average State Unemployment UC Outlays} \div \text{Taxable Wages}, 2.7] - \text{Average Annual State Unemployment Tax Rate on Total Wages}$.

Loan Year	Credit Reduction	Additional Reductions	Net FUTA Tax (0.6% + credit reductions)
Year 8	2.1%	BCR Add-on	2.7% or more ^b
Year 9	2.4%	BCR Add-on	3.0% or more ^b
Year 10	2.7%	BCR Add-on	3.3% or more ^b
Year 11	3.0%	BCR Add-on	3.6% or more ^b
Year 12	3.3%	BCR Add-on	3.9% or more ^b
Year 13	3.6%	BCR Add-on	4.2% or more ^b
Year 14	3.9%	BCR Add-on	4.5% or more ^b
Year 15	4.2%	BCR Add-on	4.8% or more ^b
Year 16	4.5%	BCR Add-on	5.1% or more ^b
Year 17	4.8%	BCR Add-on	5.4% or more ^b
Year 18	5.1%	BCR Add-on	5.7% or more ^b
Year 19	5.4%	BCR Add-on	6.0%

Source: U.S. Department of Labor, Employment and Training Administration.

Notes: 2.7 Add-on = $[(2.7\% \times 7000 \div \text{U.S. Annual Average Wage}) - \text{Average Annual State Tax Rate on Total Wages}] \times \text{State Annual Average Wage} \div 7000$.

Benefit Cost Ratio (BCR) Add-on = $\text{Max} [\text{Five-year Average State Unemployment Compensation Outlays} \div \text{Taxable Wages}, 2.7] - \text{Average Annual State Unemployment Tax Rate on Total Wages}$.

- a. Exact net FUTA tax depends upon 2.7 Add-on calculation and whether state qualified for avoidance.
- b. Exact net FUTA tax depends upon BCR Add-on calculation (or the 2.7 Add-on calculation, if the BCR Add-on is waived).

Avoiding Some or All of the Credit Reduction

Section 272 of P.L. 97-248 allows a delinquent state the option of repaying—on or before November 9—a portion of its outstanding loans each year through transfer of a specified amount from its account in the UTF to the FUA.

If the state complies with all the requirements listed below, the potential credit reduction is avoided (there is no reduction):

- The state must repay all loans for the most recent one-year period ending on November 9, plus the potential additional taxes that would have been imposed for the tax year based upon a state tax credit reduction.
- The state must have sufficient amounts in the state account of the UTF to pay all compensation for the last quarter of that calendar year without receiving a loan.
- The state also must have altered its state law to increase the net solvency of its account with the UTF.

From 2011 through 2014, South Carolina met these requirements. As a result, employers in South Carolina were not subject to a state tax credit reduction in the calculation of their FUTA taxes. (Generally, employers in South Carolina would have paid more in state unemployment taxes to meet these requirements.)

Avoiding Credit Reduction: Cap

Once a state begins to have a credit reduction, the state may apply to have the reductions capped if the state meets four criteria:

- No legislative or other action in 12 months ending September 30 has been taken to decrease the state's unemployment tax effort. (A state cannot actively decrease its expected state unemployment tax revenue from current law.)
- No legislative or other action has been taken to decrease the net solvency of the state's trust fund account. (For example, the state would not be allowed to actively increase the average UC benefit amount from current law requirements.)
- Average state unemployment tax rate on total wages must exceed the five-year average benefit-cost rate on total wages.
- Balance of outstanding loans as of September 30 must not be greater than the balance three years before.

Waiving the BCR Add-on

The BCR add-on may be waived if the Secretary of Labor determines the state did not take legislative or other actions to decrease the net solvency of the state's trust fund account. The 2.7 add-on would then replace the BCR add-on.²⁰

Revenue from Credit Reductions Reduces State UTF Loans

The additional federal taxes attributable to the credit reduction are applied against the state's outstanding UTF loan. Thus, although technically employers are paying additional FUTA taxes, the additional tax pays off a state's debt. The state's employers will pay the additional federal taxes resulting from the credit reduction no later than January 31 of the next calendar year.

Interest Charges on Loans

Since April 1, 1982 (P.L. 97-35 as amended), states have been charged interest on new loans that are not repaid by the end of the fiscal year in which they were obtained.²¹ (Before April 1, 1982, states could receive these loans interest free.²²)

²⁰ The U.S. Virgin Islands applied for and received the BCR waiver for 2020. See https://oui.doleta.gov/unemploy/docs/potential_credit_states_2020.xlsx for details.

²¹ Interest payments can be delayed up to 9 months (and no interest on the unpaid interest would accrue) if the most recent 12-month average unemployment rate (from September of the previous year to August of that year) is 13.5% or higher (42 U.S.C. §1322(b)(9)). If the state's January through June average insured unemployment rate (IUR) in the previous year is 6.5% or higher, the state would be required to pay 25% of that current year's interest that is due (42 U.S.C. §1322(b)(3)(C)). (The IUR is the ratio of UC claimants divided by individuals in UC-covered jobs. It excludes unemployed workers who have exhausted their UC benefits and the self-employed.) The state then would pay the remaining 75% over the next three years (25% in each year). The remainder of the interest payment would be not be subject to additional interest.

²² Section 2004 of P.L. 111-5 temporarily waived interest payments and the accrual of interest on loans. The interest payments that were due from the time of enactment (February 17, 2009) until December 31, 2010, were deemed to have been made. No interest on advances accrued during the period. Although interest did not accrue during this period, this did *not* absolve states from repaying the underlying loans. If a state did not pay back funds within the prescribed amount of time or make good progress as determined by the Labor Secretary, the state tax credit was reduced. On January 1, 2011, the calculation of interest reverted to permanent law on interest charges. P.L. 115-123

The interest is the same rate as that paid by the federal government on state reserves in the UTF for the quarter ending December 31 of the preceding year but not higher than 10% per annum. The interest rate for calendar year loans is determined by Section 1202(b)(4) of the Social Security Act. The interest rate for a calendar year is the earnings yield on the UTF for the quarter ending December 31 of the previous calendar year. The U.S. Department of the Treasury calculated the fourth-quarter earnings yield in 2021 to be 1.5909%.²³

States may not pay the interest directly or indirectly from SUTA revenue or funds in their state account within the UTF. If a state does not repay the interest, or if it pays the interest with funds from SUTA taxes, DOL is required by federal law to refuse to certify that state's program as being in compliance with federal law.²⁴ Not being in compliance with federal unemployment law would mean that the state would not be eligible to receive administrative grants and employers in that state would not receive any state unemployment tax credit in the calculation of their federal unemployment taxes.

States may borrow funds without interest from the UTF during the year. To receive these interest-free loans, the states must meet four conditions:²⁵

1. The states must repay the loans by September 30.
2. For those repaid (by September 30) loans to maintain their interest-free status, there cannot be any loans made to that state in October, November, or December of the calendar year of such an interest-free loan. If loans are made in the last quarter of the calendar year, the "interest-free" loans made in the previous fiscal year will retroactively accrue interest charges.
3. States must have had at least one year in the past five calendar years before the year in which advances are taken in which the Average High Cost Multiple²⁶ (AHCM) was greater than or equal to 1.0.
4. Additionally, states must meet two criteria for maintenance-of-tax effort in every year from the most recent year the AHCM was at least 1.0 and the year in which loans are taken.
 - a. The average state unemployment tax rate (total state unemployment tax amount collected over total taxable wages) was at least 80% of the prior year's rate.
 - b. The average state unemployment tax rate was at least 75% of the average benefit-cost ratio over the preceding five calendar years, where the benefit-cost ratio for a year is defined as the amount of benefits and interest paid in the year divided by the total covered wages paid in the year.

temporarily waived the interest payments for the U.S. Virgin Islands due in 2017 until September 28, 2018, and exempted that interest from accruing additional interest during the period.

²³ UTF Quarterly Yields are published at https://www.treasurydirect.gov/govt/rates/rates_tfr.htm.

²⁴ 26 U.S.C. §3304(a)(17) and 42 C.F.R. §503(c)(3).

²⁵ 20 C.F.R. §606.32.

²⁶ The average high-cost multiple (AHCM) is the ratio of actual UTF account balances (divided by covered wages in that year) to the average of the 3 highest years of benefit payments (each divided by that year's covered wages) experienced by the state over the past 20 years. Presumably, the average of the 3 highest years' outlays would be a good indicator of potential expected UC payments if another recession were to occur. Under these assumptions, if a state had saved enough funds to pay for an average high year of UC benefit activity, its AHCM would be at least 1.0.

Temporary Interest Waiver for 2020 and 2021

Section 4103 of the Families First Coronavirus Response Act (FFCRA, P.L. 116-127) temporarily waived interest payments and the accrual of interest on federal advances (loans) to states to pay UC benefits through December 2020.²⁷ This waiver was subsequently extended by Title II, Section 221 of the Consolidated Appropriations Act, 2021 (P.L. 116-260) through March 14, 2021. Section 9021 of the American Recovery Plan Act of 2021 (P.L. 117-2) further extended the waiver through September 6, 2021. This expired interest waiver did not reduce a state’s underlying loan principal.

Status of Outstanding Loans, Accrued Interest Owed, and State Tax Credit Reductions

The second column in **Table 2** lists current outstanding state loan balances, which total just under \$28 billion.²⁸ The table also includes information on accrued interest payments for FY2023. The fourth column provides information on whether the state was subject to a credit reduction for tax year 2022. The last column provides the net FUTA tax faced by employers in each state that had an outstanding loan. Five jurisdictions had an outstanding loan balance. Four states had an increased net FUTA tax of 0.9% (rather than 0.6%), while the U.S. Virgin Islands had an increased net FUTA tax of 4.2%.

Table 2. Outstanding Loan Balances, Interest Owed, and 2022 State Tax Credit Reduction

(as of December 22, 2022)

State	Outstanding Loan Balance	Interest Accrued FY2023	2022 Tax Credit Reduction (%)	2020 Net FUTA Tax (0.6% + credit reductions)
California	\$18,500,099,469	\$65,636,601	0.3%	0.9%
Connecticut	\$91,800,644	\$328,999	0.3%	0.9%
Illinois	\$1,362,645,003	\$4,929,590	0.3%	0.9%
New York	\$7,920,768,926	\$28,493,165	0.3%	0.9%
U.S. Virgin Islands ^a	\$95,685,374	\$346,749	3.6% ^b	4.2%
Total	\$27,970,999,416	—	—	—

Source: Prepared by the Congressional Research Service (CRS), using data from the U.S. Bureau of Public Debt, <https://fiscaldata.treasury.gov/datasets/ssa-title-xii-advance-activities/advances-to-state-unemployment-funds-social-security-act-title-xii> and the U.S. Department of Labor, https://oui.doleta.gov/unemploy/futa_credit.asp.

²⁷ This provision amended Section 1202(b)(10)(A) of the Social Security Act (42 U.S.C. §1322(b)(10)(A)), originally created by Section 2004 of the American Recovery and Reinvestment Act (ARRA; P.L. 111-5). See CRS Report R40368, *Unemployment Insurance Provisions in the American Recovery and Reinvestment Act of 2009*.

²⁸ If a state is not listed on this table, (1) the state did not have any outstanding loans on December 22, 2022; (2) did not have interest accruals in FY2022 as of December 22, 2022; and (3) was not subject to a state tax credit reduction on the calculation of the net FUTA tax in 2022.

Notes: States not listed on this table had no outstanding loans on December 22, 2022, had no outstanding interest accruals, and were not subject to a state tax credit reduction on the calculation of the net FUTA tax in 2022.

- a. Under UC law, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands are considered to be states.
- b. The U.S. Virgin Islands received a waiver to the Benefit-Cost Ratio (BCR) add-on.

Author Information

Julie M. Whittaker
Specialist in Income Security

Disclaimer

This document was prepared by the Congressional Research Service (CRS). CRS serves as nonpartisan shared staff to congressional committees and Members of Congress. It operates solely at the behest of and under the direction of Congress. Information in a CRS Report should not be relied upon for purposes other than public understanding of information that has been provided by CRS to Members of Congress in connection with CRS's institutional role. CRS Reports, as a work of the United States Government, are not subject to copyright protection in the United States. Any CRS Report may be reproduced and distributed in its entirety without permission from CRS. However, as a CRS Report may include copyrighted images or material from a third party, you may need to obtain the permission of the copyright holder if you wish to copy or otherwise use copyrighted material.