UWC NATIONAL UI ISSUES CONFERENCE

Financing UI Trust Fund Deficits:
Title XII Advances

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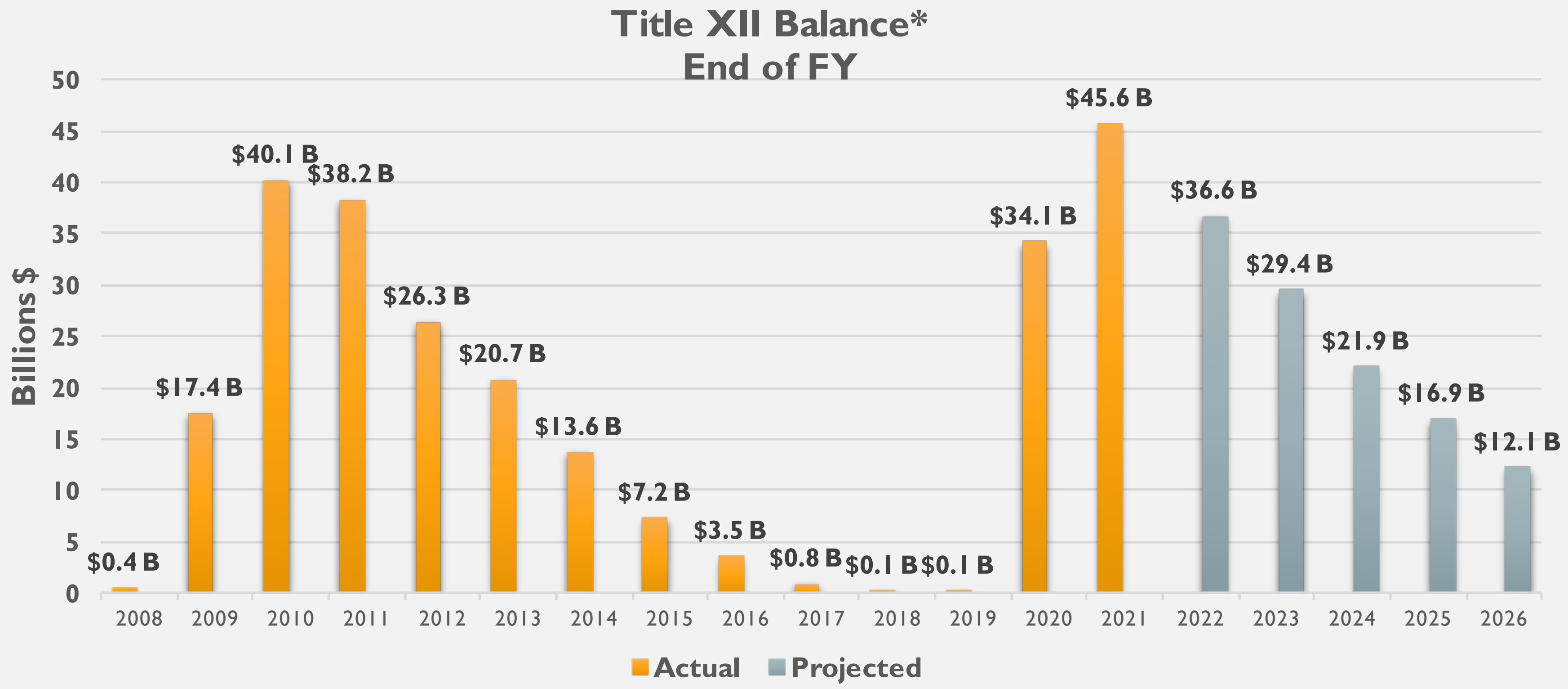
BORROWING FROM FUA

- Title XII Loans available to all states when state trust fund runs out of funds.
  - Repayable loan – Title XII Advance from the Federal Unemployment Account (FUA).
  - Governor or a designee may request loan from DOL when needed.
- Interest is accrued based on the average daily balance and may not be paid directly/indirectly from the state's UI Trust Fund, grants, or REED Act funds.
- During extended periods of borrowing, employers in a borrowing state may lose some of their FUTA tax credit (5.4% credit on the 6.0% FUTA tax) until the loans are repaid.

NOTABLE FEATURES OF TITLE XII LOANS

- Simplicity of borrowing and repayments
- Voluntary repayments may be requested at any time
- Interest only accrues on the amounts actually drawn
- "Sweep" feature
  - Minimizes the average daily balance to reduce interest accrual
- Availability of interest relief provisions
- Typical repayment sources:
  - Automatic FUTA credit reductions
  - SUTA tax collections & special assessments on employers in addition to SUTA
  - Other (Municipal Bonds, general revenues, other external sources)

TITLE XII BORROWING



* Actual and projected balances reflect state Title XII borrowing only. No state issued bonds are included in the actual balances or assumed during the projection period.

INTEREST ON TITLE XII LOANS

- Accrued interest must be paid each year by 9/30.
- Interest rate is based on the interest earnings by balances in the UTF during the 4th quarter of the prior Calendar Year.
    - CY 2021 Interest Rate: 2.2777%* -- CY 2020 Interest Rate: 2.4087%*
        - * Interest waived from March 17, 2020 through September 6, 2021.
- Potential Options for Interest Relief:
    - Cash Flow Loans
    - Delay/Deferral Options (3) based on timing of loans/economic conditions in state
    - *Potential for interest waivers during severe down turns…*
- Ramifications for failure to pay interest on Title XII loans
    - Lose UI Administrative Funding
    - Cause state to lose certification and thereby 5.4% FUTA tax credit
    - Both laws require "reasonable notice and opportunity for hearing" before penalty is imposed.

INTEREST FREE LOAN PROVISIONS

- Applies to funds borrowed from January 1 through September 30
- No interest will be assessed if the state:
  - Repays all outstanding loan amounts by September 30.
  - Does not borrow again between October 1, and December 31, of the same year
  - Satisfies funding goal requirements:
    - Must have had at least a 1.0 Average High Cost Multiple (AHCM) w/in past 5 years
    - For each year since the state had a 1.0 AHCM:
      - Average tax rate as a % of 5 year Benefit Cost Rate (BCR) >= 75%; and,
      - Average tax rate as a % of prior year average tax rate >= 80%

FUTA CREDIT REDUCTION

- Forces repayment of Title XII loans by reducing the 5.4% credit against the 6% FUTA rate.
- Goes into effect once a state passes two consecutive January firsts with an outstanding Title XII balance and does not repay the balance by November 10th of the second year.
  - Additional tax is due by the following January 31st.
- For each additional consecutive January 1st on which the state has an outstanding balance which remains unpaid by the following November 10, the FUTA tax credit is reduced according to a schedule.
- Funds collected via the FUTA credit reduction are credited against the state's outstanding loan balance.
- Credit reduction relief options available

FUTA CREDIT REDUCTION SCHEDULE

Year	Basic Reduction	Additional Reduction	FUTA Rate	$ Amount/Employee of ***Basic Reduction****
1	0.0%	0.0%	0.6%	$0
2	0.3%	0.0%	0.9%	$21
3	0.6%	2.7 Add-On	1.2% +	$42
4	0.9%	2.7 Add-On	1.5% +	$63
5	1.2%	BCR Add-On	1.8% +	$84
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19	5.4%	BCR Add-On	6.0%	$378

* Based on the $7,000 FUTA taxable wage base. Additional reductions beginning in year 3 and/or relief provisions would impact actual amount per employee.

ADDITIONAL REDUCTION SPECIFICS

- 2.7 Add-On = [(2.7% * 7000 / US AAW) – ST ATR_tot] * (ST AAW / 7000)

- BCR Add-On = (Higher of: BCR_tax or 2.7%) – ATR_tax

- Where:
  - AAW = Average Annual Wage (estimated – current year)
  - ATR_tot = Average Tax Rate on Total Wages (prior year)
  - ATR_tax = Average Tax Rate on Taxable Wages (prior year)
  - BCR_tax = 5-Year Average Benefit Cost (ending 2nd prior year) as a percent of Taxable Wages (prior year)

CREDIT REDUCTION RELIEF

- All require application to DOL by July 1 of tax year.
- Avoidance -- No credit reduction:
  - Pay off loan by amount of credit reduction incl. all loans taken in prior 12 months.
  - Increase solvency through legislative action equal to amount of credit reduction.
  - No borrowing until January 31 of following year,
- CAP – Caps credit reduction at 0.6% or prior year's reduction
  - No action to reduce taxes or solvency.
  - Avg. tax rate greater than/equal to 5 year benefit cost ratio.
  - Lower 9/30 loan balance than on 9/30 of third prior year.
- Fifth-Year Waiver – Replaced BCR Add-on w/ 2.7 Add-on:
  - No action to reduce solvency

FURTHER CONSIDERATIONS

- Principal on loans – whether Title XII or Municipal Bonds – may be paid from a state's Unemployment Trust Fund.
- Interest and administrative costs are more complicated –

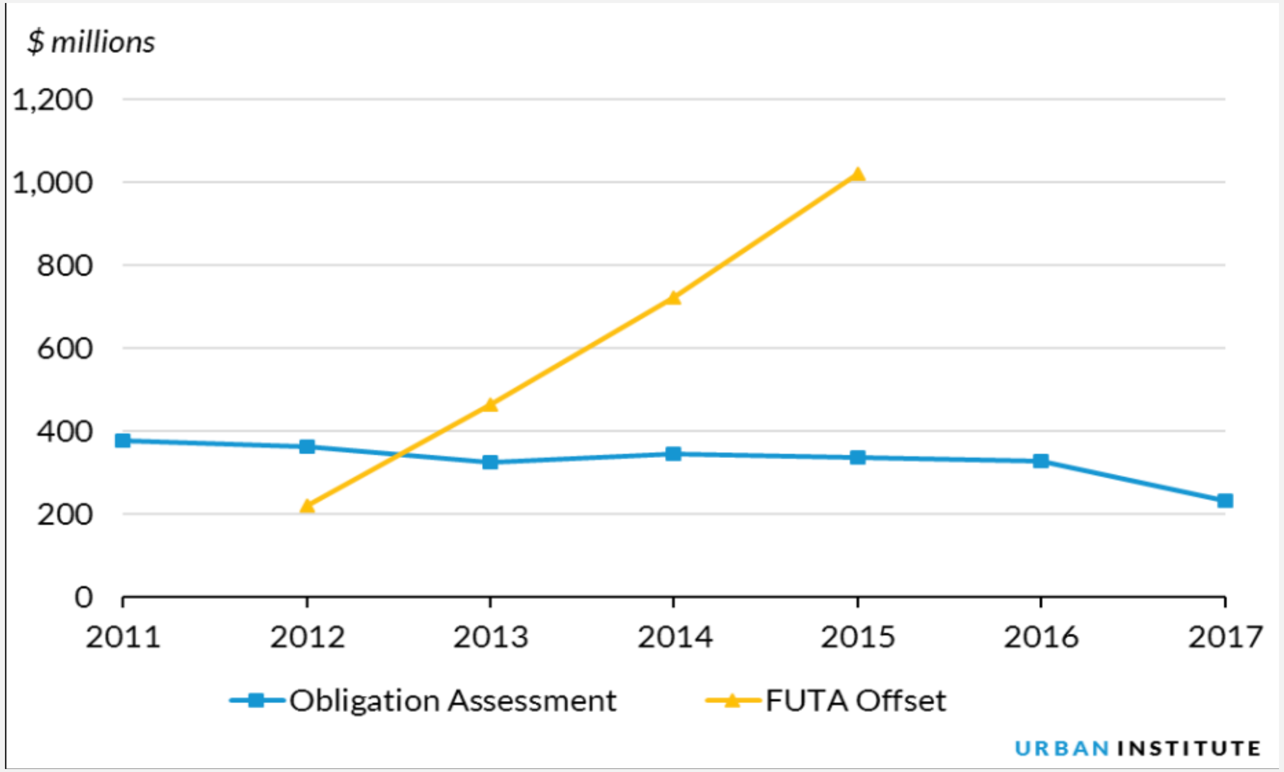
UC Advances and Loans					
Funding Source		Permissible Uses			
		Federal (Title XII) Advances		Non-federal Loans	
Description	SSA Reference	Interest Costs	Administrative Costs	Interest Costs	Administrative Costs
1. UC Administrative Grant	Section 302	No	Yes	No	Yes
2. Reed Act	Sections 903(a) and (d)	No	Yes	Yes	Yes
3. UC Modernization Incentive Payments	Section 903(f)	No	Yes	Yes	Yes
4. Special Administrative Transfers 2009	Section 903(g)	No	No	No	No
5. All unemployment fund moneys not listed in lines 2-4 above		No	No	No	No

Source: UIPL 07-04 and 07-04 Change 1

FURTHER CONSIDERATIONS

- FUTA Credit Reductions are fairly rigid:
  - Reduction applies equally to all taxable employers – no experience rating.
    - States may utilize credit reduction relief and meet the requirements for avoidance (or a CAP) while utilizing experience rating to meet requirements.
  - Significant year-over-year increases in tax rates based on credit reduction schedule w/ little to no state policymaker discretion.
- FUTA Credit Reductions force fairly rapid repayment.
- Economic conditions play a major role in states' ability to repay both Title XII and bonds. Additional Title XII loans can not be used to repay bonds – scheduled repayments during a new downturn would require alternative funding source (i.e. new bonds/state general revenues/alternative loans).

COMPARISON OF TEXAS' REVENUE STREAMS – BOND REPAYMENTS VS. ESTIMATED TITLE XII FUTA CREDIT REDUCTIONS

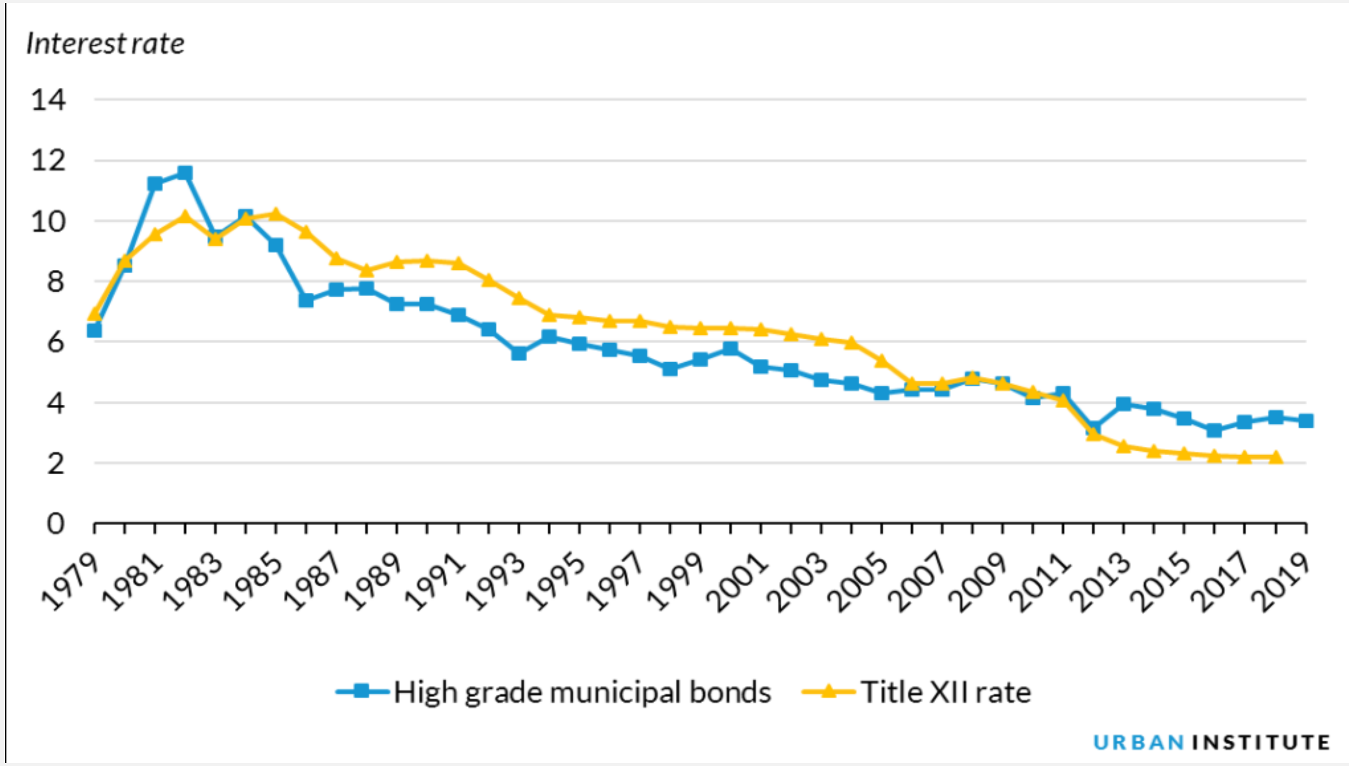


Source: Vroman, Wayne, Tracy Gordon, Lauren Eyster, Erin Huffer, and Carolyn O'Brien. (2020). Alternative Strategies for Financing State Unemployment Trust Fund Deficits: State Experiences in the Aftermath of the 2007 Recession. (Research Report). Prepared for the US Department of Labor, Chief Evaluation Office. Washington, DC: Urban Institute.

FURTHER CONSIDERATIONS

- Different requirements for:
  - Administrative costs
  - Levels and types of expertise
  - Inclusion of additional State Agencies
  - Outside expertise – other states w/ bonding experience, financial advisors, underwriters, bond counsel, etc. vs. coordination with US DOL and US Treasury
- Ensure statutory authority for issuing bonds.
- Political concerns regarding issuance of public debt.
- Interest rates not always higher on Title XII loans.

HISTORICAL COMPARISON OF RATES – TITLE XII & HIGH GRADE MUNICIPAL BONDS



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ADDITIONAL RESOURCES

- DOL Guidance on Repayment of Non-Federal Loans to Pay UI
  - UIPL 07-04: https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=1537
  - UIPL 07-04 Change 1: https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=2901
- Research on Alternative Financing of Unemployment Trust Fund Deficits
  - https://www.dol.gov/agencies/oasp/evaluation/completedstudies/Unemployment-Insurance-Deficit-Financing-Study
- Historical & Potential FUTA Credit Reduction Status:
  - https://oui.doleta.gov/unemploy/futa_credit.asp
- Daily Title XII Advance Balances & Accrued Interest
  - https://www.treasurydirect.gov/govt/reports/tfmp/tfmp_advactivitiessched.htm
- Historical UTF Yield Rates:
  - https://www.treasurydirect.gov/govt/rates/rates_tfr.htm

ADDITIONAL RESOURCES

- State UI Trust Fund Solvency Report
  https://oui.doleta.gov/unemploy/solvency.asp
  - 2021 Solvency Report Available
- State UI Tax Measures Report
  https://oui.doleta.gov/unemploy/sig_measure.asp
  - 2020 Tax Measures Report Available
- Significant Provisions of State UI Laws
  - https://oui.doleta.gov/unemploy/statelaws.asp#RecentSigProLaws
  - January 2021 Report Available