Review of Arkansas Unemployment Insurance
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Part 1

A major topic of discussion this session will be unemployment insurance. The program was created by the U.S. Congress in 1935 as a program to be funded by employers. Each state administers the program including eligibility and claim payments, develops laws related to the benefit amounts, and sets the amount of employer contributions to the program. Arkansas's program is currently responsible for the first 26 weeks of lost wages. Benefits beyond the first weeks of coverage paid by the state administered program are paid by the federal government.

The Arkansas Department of Workforce Services manages a Trust Fund to pay the state's share of claims. That fund went broke in March of 2009 and has been required to borrow money from the federal government to pay claims. The current loan balance is $330.8 million. Arkansas is one of 32 states across the country whose funds have been required to borrow from the federal government to pay claims. These 32 states have borrowed $41 billion dollars. It is estimated that before unemployment numbers get back closer to normal that as many as 40 states may borrow a total of about $70 billion.

Part 2

Yesterday we talked about Arkansas being one of 32 states with an unemployment insurance trust fund that has an outstanding debt to the federal government. The latest projections we have from the AR Department of Workforce Services estimate the loan balance could grow from its current $330.8 million to $390.9 million by the end of 2011, $436.3 million by the end of 2012 and $449.7 million by the end of 2013 unless there are changes in the economy and/or changes to the unemployment insurance system. Because unemployment insurance is a federal program, federal laws are in place to recover the loans.

Arkansas businesses pay a state unemployment insurance tax and a federal insurance tax. The federal insurance tax rate (FUTA) is 6.2% but 5.4% is waived if state taxes are paid. When a state unemployment insurance trust fund has an outstanding loan balance for two consecutive January 1s then the FUTA credit is reduced by 0.3% each year until the loan balance is paid off. In addition, the federal government charges interest on the loans normally from the date of the first receipt of funds. However, federal stimulus legislation waived interest through the end of 2010, but now all outstanding loan balances are accruing interest at a rate of 4.09% for 2011.

Unless the Arkansas debt is paid off by November of 2011, which is not likely, Arkansas businesses' will see their FUTA tax rate increase from 0.8% to 1.1% payable in 2012. This rate is applied to the federal wage base of $7,000, which means employers will pay an additional $21 per employee in 2012. Again, the FUTA tax will continue to increase by 0.3% each year until the federal loan is paid off, which could take six to eight years.

In addition to the increases in the FUTA tax, there will also be a 0.2% increase in the state unemployment insurance tax. This increase would be applied to the Arkansas wage base that is currently $12,000, which will cost employers $24 per employee. All of the revenue from this increase is required to be spent on interest charges.

Therefore, employers will see their unemployment insurance costs increase by a minimum of $45 per employee in 2012. In the years that follow, the increases per employee related solely to the debt and interest would be: $66 in 2013, $87 in 2014, $108 in 2015, $129 in 2016, $150 in 2017, $161 in 2018 and $213 in 2019.

Part 3

The past two days we have described the unemployment insurance system, the current debt of the Arkansas and 31 other state's trust funds and the federal laws that are in place to increase employers' federal unemployment insurance taxes in 2012 to recover the Title XII (Social Security Act of 1935) loan amounts. Today we will outline the Arkansas unemployment insurance tax rate structure and provide a comparison of Arkansas's benefits to our surrounding states.

The Arkansas UI tax rate is made up of four parts and is then applied to a wage base of the first $12,000 of each employee's wages. The four parts of the tax rate are: 1) either a Base Rate for new employers or an Experience rated rate for employers more than three years old, 2) a Stabilization Tax, 3) an Extended Benefits Tax and 4) an Advance Interest Tax.

The base rate for new employers is 2.9%. The experience rated rate will vary between 0.1% and 10.0% depending upon each individual business' reserve ratio, which is impacted by the amount of workers each employer has laid off and who have made UI claims that were paid. The Stabilization Tax ranges from a negative 0.1 percent to a positive 0.8 percent. This tax is triggered by a ratio of the Trust Fund's balance to Total Payrolls for employment in Arkansas and has already reached its maximum of 0.8 percent. The Extended Benefits Tax is 0.1 percent when extended benefits are being paid and this tax has also already been triggered. Finally there is the Advance Interest Tax, which we mentioned yesterday. This tax rate is 0.2% and will be added on in 2012 to raise funds to pay the interest owed to the federal government.

The average tax rate in Arkansas is 2.51% and this ranks second highest among the seven states that adjoin Arkansas. Our taxable wage base ranks third in the region but Mississippi has recently passed legislation increasing their wage base from $7,000 (lowest in region) to $14,000 (next to highest in region).

Although Arkansas ranks sixth in both per capital income and average weekly wage earnings in our seven state region, we rank first in the minimum and maximum weekly unemployment insurance benefit amounts. We also rank first in the percentage of average weekly wage replacement. Arkansas's average UI weekly benefit amount is second highest in the seven state region. Mississippi, who has now increased their wage base, ranks fifth in minimum weekly benefit amount, seventh in maximum weekly benefit amount and seventh in average weekly benefit amount.

Part 4

Over the past three days we have presented information about how the unemployment insurance program came to be, some information about how it is funded and some information about the claim amounts. Today we will review some historical financial data and political issues associated with the program.

Some key financial factors in the unemployment insurance program are; 1) the taxable wage base, which is the amount of each employee's wages on which the unemployment insurance tax rate is applied, 2) the minimum and maximum weekly UI benefit amounts paid to qualifying discharged workers and 3) the Trust Fund balance. Below is a chart that shows each of these amounts for years in which the wage base was increased.

Year	Wage Base	Minimum Benefit	Maximum Benefit	Arkansas Trust Fund Balance
1971	3,000	15	50	48,886,000
1972	4,200	15	63	45,616,000
1977	5,400	15	100	(12,569,000)
1978	6,000	15	100	(4,704,000)
1981	6,900	15	136	(26,512,000)
1983	7,500	31	136	(79,886,000)
1990	7,800	38	215	125,864,000
1991	8,000	39	220	128,867,000
1993	8,500	43	240	76,332,000
1994	9,000	45	254	129,575,000
2003	9,500	62	345	117,080,000
2004	10,000	65	345	71,189,000
2009	10,000	79	441	(221,893,000)
2010	12,000			(330,853,383)

An advisory council was formed many years ago to provide advice to the Arkansas Department of Workforce Services on issues related to unemployment insurance. Members of this council are appointed by the Governor and the council meets quarterly. The AR State Chamber/AIA has and remains well represented on this council to speak on behalf of management. The employee representatives are currently and have historically been representatives of labor unions. Currently and at times throughout the history of this council there are also consumer/general public representatives.

The advisory council historically has discussed and negotiated changes in the state's UI system. The last time an agreement on UI legislation could not be reached was in the late 1960's when labor wanted the benefit amount to increase annually on an indexed basis and management could not agree. The legislature sided with labor and consequently the minimum and maximum benefit amounts increase annually.

The council has tried to assist the AR DWS in keeping the trust fund solvent. However, since 1971 the fund has been in debt six years prior to the current economic crisis. Recent actuarial recommendations suggested that the fund should have a balance of $700 million to $1.2 billion but management could not agree to ask the business community to increase taxes to provide that level of revenue to the trust fund.

Historically when the trust fund balance was declining or in debt the negotiations between management and labor usually resulted in a wage base increase coupled with a freeze on the indexed increases in the minimum and maximum benefit amounts. This approach was favored by management to avoid the high cost of the automatic federal unemployment insurance tax increases (described in previous days) and the state tax increases to pay interest on the federal loans.

Throughout the years management has raised issues regarding the high level of benefits that Arkansas provides while labor has pushed for an automatic increase in the wage base, which would be an automatic tax increase on businesses on an annual basis. The sides could not reach agreement on solutions to the trust fund balance other than in times when the fund needed revenue. Throughout this time, neither side felt they had the political opportunity to pass legislation to accomplish their desire over the others opposition.

Part 5

Last week, we provided a four-part review of the unemployment insurance program, which is a significant problem for Arkansas, 31 other states and the federal government. Because this program's original design by Congress was that employers pay for the system, a major factor in creating the problem is that employers were not willing to put more money into the system during good times. Likewise, the high level of benefits in Arkansas contributed to our state's problems. The greatest factor however, was the severity of the jobs lost in the "Great Recession."

Dwelling upon what happened will not address the problem, so we are focused on finding solutions. Here are some options we have identified:

Do Nothing. If no changes are made to the state's laws, then the federal increases described last week will occur. These increases will generate enough dollars to pay off the debt and pay for the interest without any action by the state legislature or Congress. However, once the debt is paid off, the tax increases go away and the fund will still not be solvent. If another recession hits before the debt is paid off, the tax increases will just continue longer and at even higher rates.

Make Changes to Arkansas Law. The State Chamber/AIA UI Committee developed a plan last year that included a $4,000 increase in the wage base to be phased in $1,000 per year over four years, to be coupled with some significant reductions in the state's UI benefits. The wage base increase when fully implemented would cost employers $100 per employee on average (based upon an average state UI tax rate of 2.5 percent, businesses with higher tax rates based upon their individual experience would pay more). The proposal was balanced in that the increased cost to employers would generate about $100 million more annually for the fund and the benefit cuts would generate between $75 million and $125 million. However, labor would not agree to cuts and we have found legislative resistance to the increased cost to business. Then, late last year Congress blocked states from making any cuts in the benefit amounts, which were two of the four changes we wanted to make in the UI benefits. We are exploring new changes in benefits that might generate similar annual savings without violating the federal prohibition on benefit amount reductions.

Bond the Debt. Texas and five other states with UI debt have issued bonds to pay off their debt and others are looking at the option. Texas' recent bond issue was approximately $2 billion and was part of a long term plan they had in place and had used before, which included having laws authorizing the bonds and creating the needed revenue stream to pay off the bonds. The revenue stream amount was based upon something similar to what the FUTA increases would cost. There are several challenges for Arkansas to consider: what laws have to be passed to create the bonds, will a public vote be required, how long would it take to pay off the bonds, bonding alone will not address the future solvency of the fund, what revenue stream would pay off the bonds and at what cost to employers.

Congressional Action. As this problem has grown and become more understood, there have been rumors about what action the U.S. Congress might take. One rumor that has been around for months is that the federal government would just forgive the debt. We cannot accept that rumor—how could the U.S. government just ignore $41 billion. Also, we feared that any "forgiveness" would likely result in federal UI tax increases that would cause Arkansas businesses to subsidize the larger states with much greater UI debts. A more realistic approach the federal government might take on this issue would be to increase the federal wage base which is currently $7,000. All states are required to have a state wage base of at least an amount equal to the federal wage base (AR is currently at $12,000). The State Chamber/AIA Executive Vice President attended a seminar in Chicago last June to examine the discussions about this problem nationally. At this meeting, actuaries recommended that if the federal wage base was raised to $20,000 or $25,000, then enough money would go into the system to pay back every state's UI debt and leave every state's UI trust fund in a solvent state. Of course, this would be a damaging 100 percent increase in Arkansas's UI taxes. More recent and less damaging rumors from Washington are that the federal wage base might be raised to $15,000 or $16,000. This would be exactly in the range of what our review of Arkansas's situation might require when coupled with changes to the state's benefits levels. The question is, when or if Congress might take any action.