

Strengthening the UI Safety Net With \$8 Billion in New Federal Reed Act Funding: State Findings & Recommendations



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The Basics of the “Reed Act”

- According to the 1954 Reed Act, when the federal UI trust funds exceed ceilings set by Congress, the “excess” funds are transferred to state UI trust funds.
- Once transferred to the states, Reed Act funds can be used for UI programs and for the administration of “public employment” offices.
- The federal UI trust funds, which pay for administration of state UI programs, state UI loans and federal extended benefits, are generated from the federal UI tax (which is 0.8% of the first \$7,000 of a worker’s wages, or \$56).
- Reed Act transfers have been rare because Congress has typically raised the federal ceilings to avoid them.



The March 2002 Reed Act Distribution of \$8 Billion

- In March 2002, \$8 Billion in Reed Act funding was deposited in the state UI trust funds pursuant to the “Job Creation and Worker Assistance Act of 2002.”
- Each state’s allotment was determined based on its proportionate share of wages subject to the federal UI tax.
- Under the federal ceilings in place at the time, \$3.4 billion was scheduled to be released to the states.
- The Senate “stimulus” bill would have targeted a portion of the funding to expand UI eligibility for low-wage and part-time workers.
- The Republicans in the House of Representatives removed the existing ceilings and increased the amount to \$8 billion with no specific targeting.



How Much is \$8 Billion?

- The state Reed Act distributions ranged from a high of \$934 million in California to a low of \$12 million in Wyoming.
- On average, each state received an amount equal to 38% of the total state revenue generated in an entire year by state UI taxes. (See attached state Table)
- In 22 states, the Reed Act funding came to more than 50% of the revenue collected in one year in state UI taxes.
- In 2001, the U.S. Department of Labor estimated that Reed Act funding could pay for all the states to expand their UI eligibility by covering part-time workers and adopting the “alternative base period” for five years at a total cost of \$1.4 billion.



What General Rules Apply to Reed Act Funding under the 2002 Law?

- Reed Act funding is intended to pay for UI benefits and/or “administration” of the state UI or Employment Service (ES) programs. (The ES, created by the Wagner-Peyser Act, is also called the “Job Service” in many states.)
- In contrast, under federal law, state UI trust fund dollars can only be spent to pay for UI benefits, not administration of the UI or ES programs.
- Reed Act funds are commingled with the state UI trust funds. Unless the state indicates otherwise when it obligates or spends the money (described next), Reed Act funds are usually indistinguishable from other UI funds.



General Reed Act Rules (continued)

- Reed Act funds spent on UI or ES administration must be authorized by a specific state appropriation.
- It is not advised to specifically reference Reed Act funding in legislation that increases UI benefits or adopts eligibility reforms.
- The 2002 federal law does not impose a time limit on spending the state's Reed Act distribution (not true of the 1954 law).
- Reed Act funds must be spent on cash benefits for weeks of unemployment beginning after the law took effect on March 9, 2002. Reed Act funds may not pay for authorized administrative services provided before March 9, 2002.



What Benefits & Eligibility Expansions Can be Funded by the Reed Act?

- Unless spent on authorized administrative activities (discussed next), Reed Act funds must be used “only in the payment of cash benefits.”
- In addition to regular state benefits, the 2002 specifically authorizes states to spend Reed Act funds on the following reforms:
 - state-funded extended benefits
 - “Individuals who are seeking, or available for, only part-time (and not full-time) work”
 - “Individuals who would be eligible for regular compensation . . . under an alternative base period”
- Nothing in the law prevents the state from spending Reed Act funds on other UI benefit and eligibility reforms.



What Administrative Services are Authorized by the Reed Act?

- UI Services (Clear): Reed Act funds may be spent on any activity related to administration of the UI program, such as computers, increased staff and training, outreach and claims services.
- Employment Services (Not so Clear): Reed Act funds may be used for the “administration of . . . public employment offices.” According to a U.S. Department of Labor guidance (Training & Employment Guidance Letter No. 18-01), this includes all Employment Service functions that are authorized by the Wagner-Peyser Act, including certain One-Stop services provided to dislocated workers, welfare recipients and other groups.



What are the Limits to Authorized “Employment Services”?

- “Employment Services” administration authorized by the Reed Act and provided by One Stops includes:
 - staffing expenses related to One-Stop “core” and “intensive” services (covering job search, job placement, assessments and other activities)
 - equipment, rent and maintenance of facilities
 - products that support labor market and job search
 - outreach and education materials and Nothing if spent on benefits
- Services that are not authorized by the Reed Act:
 - occupational skills training is “not a cost of administering either the state’s UC law or it’s public employment offices.”
 - transportation subsidies to access jobs
 - counseling on how to stay employed



The Status of Reed Act Funding in the States

- Reed Act funding was released in March, well into the 2002 legislative sessions of most states.
- At least 22 states appropriated Reed Act funding in 2002 to cover UI and ES administrative activities, totaling about \$738 million. (See attached Table)
- 16 states took no action to appropriate Reed Act funds in 2002.
- Three states (New York, North Carolina and Texas) depleted all their Reed Act funds (\$1.14 billion) to pay benefits because their UI trust funds are insolvent.



Findings from the States with the Largest Appropriations

- Michigan had the largest appropriation, using its entire \$291 million in Reed Act funds. The bulk of the appropriation (\$206 million) replaced three years of state TANF funding for a range of activities.
- Ohio appropriated \$127 million (out of \$344 million), including \$78 million over three years to replace and augment state funding that supplemented federal administrative funding for UI and ES.
- Several other states also appropriated Reed Act funds to replace separate state funds that supplemented federal administrative grants.
- The bulk of the remaining state appropriations authorized technology upgrades, equipment purchases, staff training, and various One-Stop services.



State Reed Act Funding Withheld to Cut UI Taxes or Defer Tax Increases

- Reed Act funds were often held in the state UI trust funds to prevent scheduled increases in state tax rates or surtaxes triggered by variations in funding levels.
- As stated by Oregon Governor Kitzhaber, in a statement allowing a benefits increase to become law without his signature: “NFIB held the bill hostage for language that, contingent on Reed Act funds availability, would temporarily lower the unemployment insurance contribution rates paid by business.”



Examples of Tax Cuts Resulting from Reed Act Distributions

- Alabama employers remained in the same tax schedule as a result of the \$111 million distribution, saving them \$40 million over two years.
- Colorado avoided a solvency surcharge saving employers \$54-56 million in 2003 as a result of a \$142 Reed Act distribution.
- New Hampshire's UI Advisory Council voted not to spend its \$38 million Reed Act funds to keep its trust fund above the amount needed to maintain its extremely low tax rate.
- Pennsylvania employers saved \$131 million over two years as a result of the state's \$339 Reed Act distribution.
- Vermont's taxes were reduced by \$7.5 million, accounting for almost half of the state's Reed Act distribution.



UI Benefit & Eligibility Expansions

- According to the National Conference of State Legislatures, UI legislation was the most active area of labor legislation in the states in 2002.
- Four new states that adopted an “alternative base period” and a number of states that significantly increased their UI benefits.
- Most of these eligibility and benefit expansions were being actively debated before the Reed Act funding was made available in March, but the federal funding helped to make the case for state reforms.
- Examples:
 - Georgia adopted an 18-month alternative base period linked to the Reed Act funding
 - Vermont adopted a benefits increase (along with a tax cut) that added up to the full Reed Act distribution



Strategies Heading into the 2003 Legislative Sessions

- As early as possible. aggressively educate and seek consensus with the key policy makers about the Reed Act funding.
- Anticipate serious resistance in many states to using Reed Act funds, even when requested by state agencies to fund UI and ES administration.
- Be prepared to argue why this “one-time” funding is more than enough to help fund eligibility and benefit expansions
 - most eligibility reforms cost very little compared with the size of the Reed Act funding in most states
 - even without Reed Act funds, 19 states would have sufficient trust fund reserves to pay benefits for over one year during a peak recession (22 states with Reed Act funding).



Key Policies to Strengthen the UI Safety Net

- Expand eligibility & benefits, including the following reforms specifically authorized by the Reed Act:
 - state-funded extension for workers who have exhausted their federal benefits
 - part-time and alternative base period reforms
 - *Do not reference Reed Act funds in state legislation to avoid unnecessary future limitations.
- Key “administrative” reforms to expand access to UI and job services, including:
 - multilingual services, including translation of forms, in-person services, telephone claims and the appeals process
 - increase staffing of UI services to accommodate increased caseloads and avoid delays in processing claims and appeals.
 - computer programming and other administrative costs associated with implementation of the alternative base period.