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## **Four Decades of Declining Federal Leadership in the Federal-State Unemployment Insurance Program**

**Upjohn Institute Working Paper 19-314**

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### **ABSTRACT**

The unemployment insurance (UI) program was established in 1935. Unlike other social insurance programs created by the Social Security Act, it was established as a federal-state program. The federal government initially acted as a strong partner working with state agencies that operate the UI program. Over the past four decades, however, the federal role in the UI program has declined because of reductions in federal resources dedicated to the program and weakening policy leadership and programmatic support. As a result, states operate increasingly divergent UI programs, with many programs providing limited access to the program for experienced unemployed workers who are unemployed through no fault of their own. This paper analyzes the declining role of federal leadership and concludes that it has not been an effective force in maintaining and enhancing a program that should be doing more to ameliorate the effects of economy-wide unemployment and helping individual UI recipients to return to work. If the UI system is going to be effective in the future, especially in future recessions, major strengthening of the UI program is necessary.

**JEL Classification Codes:** J65, J68, H7

**Key Words:** unemployment insurance, public policy, intergovernmental relations

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## **1. INTRODUCTION**

The unemployment insurance (UI) program is a federal-state program established in 1935 as part of the Social Security Act. The purpose of the program is to provide adequate income support for basic needs to workers who become unemployed through no fault of their own. Under state laws, state workforce agencies administer UI programs under broad federal requirements. Over the past four decades, there have been significant changes to the nature of the workforce—for example, large increases in the participation rate of women and older workers—as well as dramatic changes in the U.S. economy that have altered traditional employer-worker relationships in some industries. These economic changes require federal policy adjustments to the eligibility, adequacy, and delivery of unemployment benefits. At the same time, the UI system’s ability to respond to the changing needs of unemployed workers has been significantly weakened because of the decline in federal leadership, both by the U.S. Department of Labor (USDOL) and Congress. Since the 1980s, USDOL has provided state UI programs with insufficient policy direction and support, and it has decreased federal staffing for technical assistance, monitoring, and review of state policies and operations. Whether intentionally or not, USDOL has encouraged the removal of state UI program staff from local workforce offices throughout the United States. As a result, unemployed workers have had to apply for UI benefits via computer or telephone, such that some workers have difficulty completing their applications for benefits (Chodorow-Reich and Karabarbounis 2016). In addition, Congress has tended to neglect the UI program, with the result that state UI programs have generally reduced the duration and amount of payments they provide to experienced unemployed workers. Further, the variation in the availability of benefits among the states has become quite significant. This study documents and analyzes many of the changes that have contributed to the decline in federal support for the UI system and the effect of those changes on the UI safety net.

The weakening of the UI system should be seen in the larger context of the debate about the increasing size and scope of the federal government. The decline of the UI program can be traced in part to federal laws that have created new programs that have increased the demand for a wide range of other activities and services. New USDOL regulatory agencies (see Table 2) and the Workforce Innovation and Opportunity Act (WIOA) program have successfully competed for limited resources with older programs like UI and the Wagner-Peyser Act Employment Service (ES). At USDOL, the result has been a substantial decline in UI resources and policy leadership.

### **The UI Program Begins: Overview**

The UI program, established 85 years ago as part of the Social Security Act, pays weekly benefits to unemployed workers who have lost their jobs through no fault of their own. The basic “regular UI” program pays up to 26 weeks of benefits in most states, but the UI system also pays extended benefits during periods of high unemployment. There are additional federal programs that pay benefits to former armed service members, federal civilian employees, and workers adversely affected by trade policies and natural disasters.

The UI program was established as a federal-state partnership. UI benefits are paid by the states, which collect taxes from employers to pay for the regular program.<sup>1</sup> The federal partner, USDOL, oversees both the state and federal programs and is responsible for assuring both that benefits are paid and taxes are collected in compliance and conformity with federal UI laws and the guidance provided by USDOL. USDOL has additional responsibility for overseeing the federal UI programs, with state UI agencies acting as agents of the federal government.

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<sup>1</sup> A federal tax is imposed on employers to pay for the administration of both federal and state UI programs, which is partially offset in states that are in conformity with UI requirements and impose state UI taxes on employers.

Setting up the UI program after its enactment required the active participation of USDOL, but states had to enact companion state UI laws that were in conformity with the federal law. Then states had to implement statewide UI programs, and USDOL provided guidance on how to implement them.

Once the state UI laws were enacted and their programs were implemented, USDOL became responsible for reviewing changes to those laws and procedures, as well as for monitoring state program performance and recommending ways to improve the state programs, including providing the states with training. Training has been provided to staff of state workforce agencies (formerly called “employment security” agencies) for numerous aspects of program operations, including claims-taking, tax collection, improper payment and fraud protection, nonmonetary determinations, and appeals. USDOL also has provided training regarding support functions including state legislative conformity and compliance, establishing an actuarially sound trust fund account from which benefits are paid, submitting federal reports, and conducting research and analysis.

The ES, created by the Wagner-Peyser Act in 1933, predated the creation of the UI program and was critical for the effectiveness of the UI program. In local state workforce agency offices, the ES originally was co-located with UI staff, and the ES continues to administer the UI work test—ensuring that unemployed workers search for work—and provides reemployment services to UI claimants. The UI work test involves registration for work with the ES and receipt of job matching and job search services. The UI work test is critical for retaining the integrity of the UI program by ensuring that workers are able, available, and actively searching for work. During World War II, the UI program was used very little, since the wartime economy was at full employment. After the war, however, there were policy discussions about where the UI and

ES programs should be programmatically located—in the Social Security Administration or in the USDOL. The decision to house both programs in the USDOL had important long-term implications for these programs. The ES has been effectively eliminated through a series of reorganizations beginning in the 1990s. At the same time, the Office of Unemployment Insurance, also located in the Employment and Training Administration (ETA), has been greatly reduced in both scope and size. Despite its strong start, the Office of Unemployment Insurance has evolved into a small and weak organization.

### **A Weak and Uneven System**

With little oversight by USDOL and limited federal standards, the state UI programs have weakened both in their scope and adequacy of benefit payment programs as well as in their ability to adequately finance benefits. Below are some examples:

- Low recipiency: The national percentage of unemployed workers receiving UI benefits (the recipiency rate) was 28 percent in 2017 and varied between 59 percent in Rhode Island and 12 percent in Florida.
- Low benefit levels: UI was designed to replace 50 percent of lost wages, but the wage replacement rate was only 39 percent in 2018 because many workers' benefit levels were constrained by state maximum weekly benefit amounts. Replacement rates varied from 28.1 percent in Alaska to 49.4 percent in Pennsylvania.
- Declining durations: For nearly 40 years, all states provided at least 26 weeks of regular benefits. Today, eight states provide maximum benefit durations of less than 26 weeks, and in Florida, low-wage UI recipients can receive no more than nine weeks of benefits when unemployment levels are low.
- Variable maximum weekly benefits: Levels are set by state UI laws and vary between \$221 in Louisiana and \$769 in Massachusetts in 2019.<sup>2</sup>

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<sup>2</sup> This comparison includes the 50 states, but excludes U.S. territories with UI programs. The maximum weekly benefit level in Puerto Rico is \$133.

- Inadequate reserves: At the end of 2018, states had total reserves of \$66.6 billion in their Unemployment Trust Fund accounts, enough in the aggregate to fund benefits for a mild recession. The reserves were unevenly distributed, however, with trust fund balances meeting the low federally recommended minimum level in only 29 states, with the remainder having lower levels of reserves. One state was still in debt to the federal government 10 years after the end of the Great Recession (USDOL 2019).

The weakness of the UI system is largely attributable to the failure of USDOL and Congress to set nationwide standards with respect to weekly and maximum benefits as well as financing standards that would make state UI benefits more adequate and equitable across the country. Altogether, the federal government has stepped back from its role as a partner in requiring the UI system adapt to the needs of unemployed workers and the U.S. economy as a whole.

## **2. FEDERAL GOVERNMENT: U.S. DEPARTMENT OF LABOR**

### **Changing Environment and Declining Resources at the U.S. Department of Labor**

#### *Overview*

One important reason for the decline in USDOL's role in the UI program has been the limited and declining resources available to the UI national office, particularly the declining number of federal staff available to oversee an expanding and complex program.<sup>3</sup> The federal UI program also has little travel funding for staff to provide technical assistance and training to state UI employees.

The declining resources devoted to the UI program must be seen in the context of the shifting and declining resources throughout the federal government over many decades. These changes have affected the federal government as a whole but, particularly relevant in this case,

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<sup>3</sup> To a limited extent, the decline in federal staff has been offset by transferring federal tasks to the states and an increased use of contractors, but they mostly perform information technology tasks.

are the effects on USDOL and its sub-agencies, ETA and the Office of Unemployment Insurance.

Federal civilian employment in the Executive Branch has been static over the past 40 years. Excluding Postal Service employees, there were 2.1 million federal employees in 1976 and the same number in 2016 (OPM 2017). During those four decades, demands increased as new UI programs were enacted and older programs continued, evolved, and became more complex.<sup>4</sup> Rather than increasing staffing to deal with the new demands, administrative funding and staffing generally tended to be redirected from older established programs to newer federal functions and programs, and this tendency was reflected in the UI program.

#### *USDOL Becomes a Regulatory Agency*

USDOL, established in 1913, has evolved starkly over the past 50 years. In 1969, it was primarily an agency that administered grant programs and collected and analyzed statistical data, with only about one-third of its staff responsible for regulatory issues. Employment and training program staffing grew significantly with the mushrooming of training programs in the Manpower Administration, redesignated in 1975 as the Employment and Training Administration (Table 1).

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<sup>4</sup> For example, while reform of UI benefit and tax programs languished, concern about erroneous payments and underpayment of taxes resulted in the introduction and expansion of UI integrity programs, including quality control of UI benefit and tax systems and overpayment reduction programs.



**Table 1. U.S. Department of Labor Actual Full-Time Equivalent Employees by Function, Number, and Percent, Selected Fiscal Years, 1959–2016**

Year	Regulation		Employment and Training Administration		Bureau of Labor Statistics		Management, executive direction, and program development		Total	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
1959	2,078	37.9%	1,420	25.9%	958	17.5%	640	11.7%	5,096	93.1%
1969	3,422	32.8%	3,887	37.2%	1,537	14.7%	1,423	13.6%	10,269	98.3%
1979	12,821	59.0%	3,507	16.1%	2,087	9.6%	2,928	13.5%	21,343	98.3%
1989	10,467	59.5%	1,963	11.2%	2,097	11.9%	2,419	13.7%	16,946	96.3%
1999	9,618	58.9%	1,604	9.8%	2,406	14.7%	2,202	13.5%	15,830	97.0%
2016	10,194	64.8%	1,426	9.1%	2,280	14.5%	1,837	11.7%	15,757	95.5%
2019 <sup>a</sup>	9,751	65.0%	1,379	9.3%	2,242	14.9%	1,609	10.7%	14,999	95.1%

<sup>a</sup> Budget requested level for 2019; other data are actual.

SOURCE: Krueger (1999) for 1959 through 1999. USDOL (2017b) and USDOL (2018) for 2016 and 2019 (President’s Budget Request), respectively. Excludes the international labor function and “other” functions.

USDOL oversaw few regulatory agencies before 1970, but then it was given responsibility for administering several major sub-agencies that regulate occupational and mine safety, employee pensions and benefits, equal employment opportunity in federal contracting, and four workers’ compensation programs (Table 2).

**Table 2. USDOL Regulatory Agencies and Dates Established**

Regulatory agency	Date
Women’s Bureau	1920
Office Labor-Management Standards	1920
Wage and Hour Division	1938
Occupational and Safety and Health Administration	1971
Pension Benefit Guaranty Corporation	1974
Employee Benefit Security Administration	1974
Mine Safety and Health Administration	1977
Office of Federal Contract Compliance Programs	1978
Office of Workers’ Compensation Programs	1981

SOURCE: <https://www.dol.gov/general/aboutdol/history/dolhistoxford>.

By 2016, nearly two-thirds of USDOL staff were in its regulatory sub-agencies. These regulatory agencies were initially provided with substantial staff to administer their new programs, reaching 12,821 in 1979. By 2019, this staffing level declined by 24 percent as USDOL's overall administrative budget steadily declined. The decline of the ETA, however, was much greater, at 61 percent. This dramatic decline was initiated by two reductions in force (RIFs) that occurred in the early 1980s, but it has continued to the present (Table 1).

### *ETA Staffing Decline*

ETA's basic training, ES, and UI programs operate as federal-state-local partnerships, with the ETA sub-agencies overseeing the state and local programs. For many years, the ETA staff overseeing these programs were an important part of the USDOL. For example, in 1969, ETA staff constituted 37 percent of total USDOL staff. That percentage declined to only 9 percent by 2016. This decline is in large part because USDOL has increasingly been transformed from a program management agency into a regulatory agency.

Within ETA, resources also have changed sharply over time. The ETA policy emphasis has shifted to focus on the training of disadvantaged and displaced workers rather than on the income support, job finding, and placement of experienced workers who need to transition to new jobs, with policy and legislative initiatives and resources also favoring training programs. In addition, substantial resources have been devoted to the smaller agencies that ETA oversees, some of which are statutorily mandated, including those that deal with apprenticeships, foreign labor certification, older workers, Native Americans, and farm workers. ETA also has staff devoted to research, policy, performance measurement, information technology, and financial and administrative management.

In the competition for ETA staff, federal UI staff at the national and regional offices have declined, and today make up only 5 percent of total ETA staff. In addition, the statutorily mandated United States Employment Service has been eliminated as a component of the organization.

## **Declining Resources Devoted to the Federal Unemployment Insurance Program**

### *UI Staffing Decline*

UI comprises the largest part of the USDOL's budget, but it only has a small percentage of its staffing.<sup>5</sup> For example, in FY 2016, total USDOL appropriations were \$50.0 billion, of which UI benefit payments were \$32.7 billion, or 65 percent of the total. Yet, staffing to oversee the UI program, measured in "full-time equivalent" (FTE) positions, was only 66 of the 16,472 total FTEs for USDOL, or 0.4 percent (USDOL 2017b). As a result, attention to UI policy and program operations has been minimal, only generating interest if unemployment reaches recessionary levels when the demand for UI benefits by unemployed workers surges.

The UI national office is considered an active labor market program (i.e., it helps unemployed workers return to work) when working with other ETA agencies providing reemployment services and training. The number of UI national office staff, however, has declined sharply since the mid 1970s, from 145 approved and budgeted FTE positions in 1976 to 57 by 2018 (Table 3, Snidar 2018).<sup>6</sup> Further, open FTE staff positions have not been filled in recent years as authority has not been given to replace departing staff members. For example, in May 2015, only 54 of the approved 66 staff were on board. The decline has been greatest for the

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<sup>5</sup> In FY 2017, enacted budget authority provided \$30.2 billion from the Unemployment Trust Fund, while the amount for all of ETA was \$31 billion and for all of USDOL was \$43.7 billion (USDOL 2018). Thus, UI was 97% of the ETA budget and 69% of the total USDOL budget.

<sup>6</sup> UI national office staff has continued at a low and declining level since 2015, from 63 in 2016 to 62 in 2017 and 57 in 2018 (Snidar 2018).

program operations that support state UI programs such as benefit payment, appeals, nonmonetary determinations, tax collections, and other UI processes, as well as the federal ex-military, federal employee, interstate, and disaster unemployment insurance programs.<sup>7</sup> This has resulted in sharp declines in operational guidance and direction to the states. The smallest staff declines have been in executive management and federal functions in the actuarial, financial, reporting, and legislative areas.

While some national office responsibilities have been abandoned, thereby reducing oversight and technical assistance to states, other responsibilities have been transferred to or assumed by states and other nongovernmental agencies. For example, the National Association of State Workforce Agencies (NASWA), a Washington, DC state workforce agency membership organization, uses ETA grants to states and other funds to conduct federal functions of UI program integrity, computer technology, reporting and data collection, and research. On behalf of state workforce agencies and ETA, NASWA administers the UI Information Technology Support Center, the Workforce Information Technical Support Center, a research center, and a UI Integrity Center. The UI national office has also provided funding directly to individual states, for example, to Maryland to operate the Federal Employment Data Exchange System, that facilitates state access to federal and military employee employment data to improve program outcome accountability of workforce development programs. Thus, the UI national office has been able to externally and privately support some federal functions by using federal grant funds in lieu of performing these functions internally with federal staff.

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<sup>7</sup> For example, the UI national office developed a UI appeals process technical assistance guide in 1980 (USDOL 1989), but it has not updated or replaced in the past three decades despite the increased use of remote rather than in-person appeals. Similarly, at about the same time, a comparison of UI operational procedures was issued, but it too has not been updated.

A broader measure of UI staffing is the number of USDOL staff members who are funded by the Unemployment Trust Fund rather than from federally appropriated funds. These staff include not only the UI national office but other USDOL staff who provide support to the UI program, including the lawyers in the ETA Solicitor’s Office and the USDOL and ETA budget offices. By this broader measure, UI program staffing has declined steadily and dramatically from the late 1970s through the early 1990s (Table 4).

**Table 3. UI National Office Full-Time Equivalent Staff by Function, 1976, 1996, and 2015**

<b>Function</b>	<b>1976</b>	<b>1996</b>	<b>2015</b>	<b>2015 as share of 1976</b>
Total	145	94	66	0.46
Front Office	9	4	8	0.89
Actuarial, Reporting, Finance & Legislation	31	24	21	0.68
Actuarial	11	10	5	0.45
Reporting	4	4	5	1.25
Legislation, State & Federal	16	10	11	0.68
Research	7	10	0	0.0
UI Program Operations	59	21	15	0.22
State & Federal Benefits	55	15	11	0.20
Tax	4	7	4	No change
Information Technology, Data Analysis & Validation, Performance Measurement	28	24	17	0.61
Clerical	NA	15	NA	–

SOURCE: 1976: 1976 USDOL telephone directory (USDOL 1976); 1996: organization chart from Johnson (1996); 2015: Office of Unemployment Insurance (2015) staffing plan from USDOL (2015).

NOTE: As of early 2019, no staffing plan had been prepared since 2015. The 1996 organization chart is broken out by professional staff by function and clerical staff for the entire organization; no similar clerical/professional breakout is provided for 1976 or 2015. UI research staff were transferred to an ETA research office in the mid 1990s.

**Table 4. USDOL Staffing from Federal Unemployment Tax Act Funds, including Unemployment Insurance Office and Other Agencies, Solicitor’s Office and Budget Office Staffing, Full-Time Equivalent Budgeted Ceiling, Various Fiscal Years, 1979-2018**

'79	'80	'81	'82	'83	'84	'85	'86	'87	'88	'89	'90	'91	'92	'93
325	224	224	220	190	138	137	135	133	132	127	123	115	115	113

SOURCE: Data for 1979–1993: an undated and untitled UI actuarial document justifying a budgetary staffing increase, developed by the UI Actuarial Division in 1993 and received January 1, 2019 from Ron Wilus, Office of Unemployment Insurance chief actuary.

NOTE: Federal budget appropriations permit the Unemployment Trust Fund to pay the salaries of federal staff other than UI national office staff if they perform functions for the UI system.

The dramatic decline in UI staffing in the early 1980s reflects policy decisions to reduce federal staffing. During this period, ETA conducted two RIFs that sharply reduced staffing throughout ETA, particularly between 1982 and 1984 (Table 4). Whereas the first RIF was conducted throughout USDOL, the Assistant Secretary for ETA, Albert Angrisani, conducted a second RIF for ETA alone.<sup>8</sup>

In 1993, the Unemployment Insurance Service (now the Office of Unemployment Insurance) objected to the decline in staffing and attempted to justify a staffing increase, based on the staffing requirements of the ongoing “Base UI Program” and the “Growth of UIS Responsibilities” since the mid 1980s (Wilus 2019). UIS listed areas of substantial increase in responsibilities, with specific new responsibilities, many legislatively mandated:

- *New Financial Management Requirements*: Federal Employee Compensation Account chargeback accounting system, Unemployment Trust Fund financial statement, cash management (under the Cash Management Improvement Act)
- *New Legislative Mandates*: Emergency Unemployment Compensation Legislation, the Unemployment for Ex-Service Member program expansion, demonstration projects, supporting the Advisory Council on Unemployment Compensation, administrative finance reform, implementing Airline Deregulation benefits

<sup>8</sup> Staffing for ETA plummeted from 3,567 in 1979 to 1,158 in 1985 (O’Leary, Straits, and Wandner 2004, p. 316).

- *New State System Support:* Benefit Quality Control, Revenue Quality Control, cash management system, electronic reporting, UI database, interstate benefit support
- *Expanded Oversight Responsibilities:* Benefits Quality Control, Revenue Quality Control Performance Measurement Review, performance monitoring

Although some of those new responsibilities were temporary, in the period since 1993, the responsibilities have continued to increase, including oversight of programs, Self-Employment Assistance, Short-Time Compensation, Worker Profiling and Reemployment Services, and Reemployment Services and Eligibility Assessment. In addition, temporary Emergency Unemployment Compensation programs have been enacted by Congress and implemented by the UI national office staff in two subsequent recessions.

*Decline in UI Travel Budgets*

To provide oversight of and guidance to the states, UI national office staff must be able to travel to the regional and state offices to learn how the programs are actually operating and to provide on-the-ground guidance and training.

There has been a substantial decline in travel funding over time, however, leading to the inability of the UI national office to adequately monitor and guide regional UI offices and state UI agencies. In the 1970s, travel allocations to the UI national office were well in excess of \$100,000. In recent years, however, funding has declined sharply to almost half that amount, a level that prevents strong in-person interaction with the states and regions (Table 5).

**Table 5. Total Travel Obligations by Fiscal Year (\$)**

<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
36,315	53,438	56,963	55,419

SOURCE: Email from Carrie Snidar, Freedom Information Act Disclosure Officer for ETA, December 20, 2018.

### *Decline of UI in the USDOL Regional Offices*

The UI regional office staff is an important complement to the national office in providing direction and oversight. UI regional office staff have been the eyes and ears of the national UI office, but that role has diminished in recent years as regional office staffing and coordination between regional and national office staff have declined. While the regional staff are still dedicated to oversight of the UI program and continue to perform reviews of state and federal UI programs to ensure that the programs meet conformity and compliance standards, there are fewer of them, and they receive less direction from the national office.

The size of the regional staff has been thought to be inadequate to meet the oversight needs of the state UI programs for many years. In 1976, a study was conducted regarding the staffing requirements for ETA's regional offices. At that time, there were 10 ETA regional offices (reduced to six by 2004) that comprised approximately 60 percent of the total staff (about 1,670 of 2,800 ETA staff members). Individual ETA regional offices varied in staff size from approximately 100 to about 280. Dedicated UI staff in the regional offices totaled 95, varying by region from 7 to 12 (USDOL 1976).

The 1976 study found that the number of dedicated UI regional staff was insufficient to carry out the wide variety of required activities. It estimated the staff days per year needed to complete each activity for each state employment security agency as follows:

- administrative reviews (30 days every 4 years)
- budget monitoring (30 days per year)
- special evaluations/reviews of benefits, taxes, etc. (25 days per year)
- cost model restudies (43 days every 3 years)
- performance and self-appraisal reviews and follow-up (20 days per year)
- reviews of state legislation (8 days per year)



Overall, the study estimated that the UI regional office required a total of 130 staff to conduct the required activities.

The current UI regional staffing level is less than 60 spread across six regional offices. With the decline in staffing and travel funding, regional offices have curtailed their reviews of state and federal UI programs. With the elimination of the USDOL Office of Regional Management in Washington, DC at the end of 2018, the Philadelphia regional office assumed the role of partial regional coordination, with regions sending comments regarding ETA directives to states to Philadelphia to be forwarded to the national office. Lacking a regional coordinating organization, in many cases, regional staff now communicate one-on-one with the national office program staff (Kenyon 2019).

#### *Elimination of ES*

Under federal law, the United States Employment Service is required to perform two important functions for the UI program: 1) provide job matching and other reemployment services to UI claimants and 2) determine if UI claimants are adequately searching for work (the UI work test). While the UI national office declined in staffing, the ES was eliminated as a separate organization within ETA and the entire ES staff was absorbed into the WIA Adult Services Division in 2002 without dedicated staff to address UI issues (Table 6).<sup>9</sup>

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<sup>9</sup> This was accomplished despite the fact that section 1 of Wagner-Peyser Act, as amended, continues to require that “the United States Employment Service shall be established and maintained within the Department of Labor.”

**Table 6. Organization of Employment Service Programs in U.S. Dept. of Labor, 1977–2008**

<b>Date</b>	<b>Name of Employment Service organization</b>
Spring 1977	United States Employment Service
September 1983	United States Employment Service, Office of Employment Security
Winter 1991	United States Employment Service
Summer 1996	United States Employment Service
Fall 1998	United States Employment Service
March 2002	Division of U.S. Employment Services/America’s Labor Market Information System (ALMIS), Office of Career Transition Assistance
February 2003	Office of Adult Services, Office of Workforce Investment (OWI)
February 2004	Division of Employment Services and ALMIS, Office of Adult Services, OWI
April 2005	Division of Adult, Dislocated Worker, Employment Services, and Workforce Information, OWI
April 2006	Office of Adult Services, OWI
April 2007	Division of Adult Services, OWI
April 2008	Division of Adult Services, OWI

SOURCE: Annual *U.S. Department of Labor Telephone Directory*, selected years 1977–2008.

The UI national office had traditionally worked closely with the ES national office organization to coordinate program and policy changes related to the provision of reemployment services and the UI work test. With the decline and termination of the ES, that coordination became impossible.

#### *The UI Program Leaves the Public Workforce Local Offices*

From the 1930s to the 1990s, the UI program had staff in the local public workforce offices to take UI claims and administer most aspects of the UI program. Virtually all UI claims were made in-person in the local offices. Originally, the local offices administered only the UI and ES programs, but in the early 1990s, the ETA decided to create “one-stop” local offices that would administer all workforce programs, including UI. In response to the creation of one-stop offices, the UI administrator encouraged and funded implementation of first telephone and then

computer UI claims-taking, with the aim of removing UI staff from the local offices to avoid the need to have the UI program fund a significant proportion of the new one-stop centers—now called American Job Centers. Today nearly all UI claims-taking and other administrative activity is conducted remotely. As a result, the UI program has become a statewide program that is no longer administered in local communities, with UI recipients less likely to receive either support in filing their UI claims or obtaining reemployment services in the local offices. In addition, for many unemployed workers (including less educated workers or those with limited English-speaking capabilities and workers who have difficulty using the new technology), it has become more difficult to file for UI benefits. The result has been a decline in the percentage of unemployed workers who successfully apply for UI benefits (Wandner 2010, pp. 194–200). By encouraging the use of technology, the effect has been little to no in-person assistance, which has resulted in a decline in the receipt of UI benefits and reemployment assistance, especially among those unemployed workers who are not information-technology proficient.<sup>10</sup>

### **3. THE CHANGING ROLE OF THE UI NATIONAL OFFICE**

#### **From Program Management to Program Support Functions**

As can be seen from Table 3, the largest decline in the UI national office staff has been in oversight of UI program operations, particularly state and federal programs. In the 1970s, the UI national office staff provided far more active oversight of state and federal benefit programs than they do currently. For many years, the UI national office reviewed a sample of federal claims to

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<sup>10</sup> An exception was the Fiscal Year 2005 introduction of the voluntary Reemployment Eligibility Assessment initiative, replaced recently by a required Reemployment Services and Eligibility Assessment program, which requires selected claimants to meet in-person at a local workforce office regarding UI continuing eligibility and potential referral to reemployment services.

ensure that they had been processed consistent with federal law. At that time, the UI national office staff also supported the UI regional offices in providing guidance, monitoring, and training with respect to state and federal benefit programs. National office staff prepared review guides for federal UI programs (e.g., Unemployment Compensation for Federal Employees and Ex-Service members and the Trade Readjustment Allowance programs), so that UI regional office staff could use them to conduct oversight of state operations. As other programs were developed (e.g., benefit and revenue quality control programs), guides were developed for them as well. For example, in the mid 1990s, staff from the UI national office, ES, and the Job Training Partnership Act program prepared a review guide for regional office staff to conduct reviews of the new state Worker Profiling and Reemployment Services programs. These review functions have been eroded, superseded, or abandoned over time, and there is now a more limited federal role in overseeing the state and federal UI programs.

The effect of the decline in staffing, however, has not been quite as severe as the numbers indicate. Some of the changes reflect changing technology. With the advent of personal computers, the need for clerical services declined sharply. Thus in 1996, the UI national office had 15 clerical workers, but this declined to only one by 2015 (Johnson 1996; USDOL 2015). Whereas a computerized environment increased the efficiency of some of the remaining workforce, other staff reductions reduced the effectiveness of the UI national office. Today, the major functions of the UI national office have become program and legislative support.

### **Program Support to the UI National Office**

Program support remains an important function of the UI national office. These functions include the actuarial, budget, financial, reporting, database, national legislation, information technology and performance management systems. Table 3 shows that between 1976 and 2015,

staffing for these functions remained more stable than that for program operations functions. These support activities are required to run the UI national office, and many of them are mandated by law. However, the staff that perform these functions do not generally provide guidance or direction to the states.

### **State Legislative Activity**

UI national office legislative activity is divided into responsibilities for review of proposed federal and state legislation. National activity must be supported whether it involves proposals by the Executive or Legislative branches, and both branches frequently propose legislation that must be analyzed and then either supported or opposed. Recessions bring legislative proposals for extending the duration of UI benefits that must be reviewed, analyzed, and if enacted, quickly implemented. Federal UI legislative staff prepare guidance to the states about how to interpret and implement new laws. This function has changed little over time.

On the other hand, the UI national role in supporting the development or review of new state legislative proposals and enacted state UI legislation has been more fluid. The national office may proactively give guidance about state UI legislative provisions. Over the years, through different eras of communication and technology (i.e., letter, telephone, fax, email), UI national office staff, working with regional office staff, alert state policymakers to potential issues of consistency with federal UI requirements while bills are being considered. This requires a high level of communication between national, regional, and state UI staff throughout the various sessions of the state legislatures. National office staff also must review any new state laws to determine whether they are in conformity with federal UI law and applied in a manner that meets federal compliance standards.

Not only is the UI national office responsible for ensuring that the state UI laws are in conformity with federal law, it also is responsible for providing guidance to the states as to state legislative provisions that would achieve the national goals of the federal UI legislation. USDOL guidance to states, however, has gradually weakened. From the inception of the UI program through the early 1960s, the UI national office provided specific state UI legislative recommendations as well as periodic recommendations relating to the entire state UI program. This guidance is needed to ensure that the state UI programs are robust and carry out the spirit and letter of the federal UI law. In the early post-World War II period, detailed guides were developed, printed, and widely distributed. They included policy handbooks issued in 1950, 1962, 1970, and 1976 that gave states detailed guidance and recommendations regarding the state UI programs (USDOL n.d.-a).

For example, the UI program has always stressed that it is primarily for workers who become unemployed through no fault of their own. In 1950, however, the UI national office encouraged states to allow workers to become eligible for UI, regardless of the reason for their separation, as long as they continuously searched for work after becoming unemployed. USDOL suggested that even if a worker left “suitable work voluntarily without good cause,” the worker should only be “disqualified for the week in which he left work and the four weeks of continuous unemployment immediately following such week” (USDOL 1950). In 1962, the same issue was treated more generally, when USDOL recommended that states allow such workers to receive benefits after an unspecified time period by which the workers unemployment could be “attributable to economic factors rather than his voluntarily leaving work” (USDOL 1962). Since then, no further guidance to states has been given on this issue. As a result, all but eight states disqualify workers who voluntarily quit for their entire spell of unemployment, and they remain

disqualified from receiving benefits until they subsequently earn a specified amount of wages (USDOL 2017a). This example is a symptom of a broader federal policy roll back, where states over the last 40 years have been given less guidance and allowed more discretion in interpreting and administering UI programs. This change has been due to a combination of a federal governance philosophy that seeks to decentralize or devolve decision making to the states, as well as to the budgetary reality that the federal partner is without the necessary resources to monitor state UI operations.

#### **4. FEDERAL GOVERNMENT: CONGRESS**

In 1935, Congress enacted the Social Security Act that included the UI program, old-age pensions, and other programs for the needy. While the old-age pension program frequently has been amended, the UI program has been amended much less frequently. It has generally not adapted to changing economic conditions and changing labor markets or addressed the need to maintain the integrity and financial stability of the system.

Rather than being proactive, Congress has been reactive, particularly with respect to recessionary periods when unemployed workers experience a much greater need for UI benefits. Long durations of unemployment during recessions has led Congress to enact emergency unemployment programs in every U.S. recession since 1958. When members of Congress receive complaints from constituents that they have exhausted their entitlement to regular UI benefits but are still unemployed, Congress has stepped in to increase the potential duration of benefits. These temporary extensions of benefits have not been accompanied by more fundamental reform of the UI program, and congressional interest in the UI program has largely died out when unemployment levels fall.

Congress substantially reformed the UI program with the Unemployment Compensation Amendments of 1976, but it recognized that these reforms were only a partial solution. The 1976 Amendments, therefore, created the National Commission on Unemployment Compensation (NCUC) to make a series of recommendations for further reform (NCUC 1980). Congress, however, has not enacted any of the NCUC's recommendations.

Understanding the continuing need for further UI reform, Congress created a second UI commission, the Advisory Council on Unemployment Compensation (ACUC), as part of the federal legislation temporarily providing additional weeks of UI benefits in response to the 1991 recession (ACUC 1996). Again, Congress enacted none of the ACUC's recommendations.

**Table 7. Selected Recommendations of the National Commission on Unemployment Compensation (NCUC) and the Advisory Commission on Unemployment Compensation (ACUC)**

	NCUC	ACUC
Regular Benefits		
Qualifications		
Basic eligibility	19–39 weeks of work	800 hours worked Movable base period
Eliminate certain federal and state eligibility restrictions	Restrictions: pension offsets, professional athletes, educational restrictions	Eliminate seasonal worker exclusion provisions
Benefit levels	50% up to a maximum of 2/3 of state average weekly wage	50% up to a maximum of 65% of state average weekly wage
Extended Benefits	State trigger of 4.0% insured unemployment rate with no look-back factor	State total unemployment rate of 6.5%
Taxes		
Taxable wage base	65% of national annual wage	\$8,500

SOURCE: NCUC (1980), ACUC (1996).

NOTE: Extended benefits are initiated and ended by a trigger mechanism consisting of total or state unemployment rates. The triggering mechanism also has generally included a look-back mechanism comparing the current trigger rate to rates in prior years.



Rather than following the NCUC policy recommendations to expand federal UI provisions, in 1981 and 1982, Congress enacted more restrictive legislation<sup>11</sup> to reduce federal spending with respect to a wide variety of provisions (USDOL n.d.-b), including:

- Extended Benefits (EB): eliminated the national trigger; excluded EB claims from the calculation of state EB triggers; raised the EB trigger rate from 4 to 5 percent; and required states to restrict eligibility to workers who had worked at least 20 weeks in their base period.
- Unemployment Compensation for Ex-Service Members: disqualified individuals leaving the military at the end of their term of enlistment if they are eligible to reenlist.
- Trade Adjustment Assistance (TAA): made it more difficult for workers in firms adversely affect by international trade to qualify for TAA benefits by raising the qualifying standard from trade events “contributing importantly” to “substantial cause”; reduced the number of weeks of total benefits TAA recipients could receive to no more than 52.
- Limited UI eligibility of certain groups, including students and temporary alien farm workers.

Further, congressional neglect of the UI program is revealed in both the UI tax and benefit provisions. Congress has increased the taxable wage base (TWB) only three times since 1937—in 1972, 1978, and 1983—and in 2019, it remains at only \$7,000. By contrast, Congress has paid much more attention to the financial stability of the Social Security old-age pension program, raising the Social Security TWB nearly every year, reaching \$132,900 in 2019. The key difference between the two programs is that Congress has recognized that the TWB must increase automatically with Social Security benefits, which increase annually with the cost of living, so it has synchronized the increase in Social Security benefits and payroll taxes, attempting to keep the program’s revenue and benefit payments in balance.

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<sup>11</sup> Omnibus Reconciliation Act of 1981 (P.L. 97-35) and Tax Equity and Fiscal Responsibility Act of 1982 (P.L. 97-348).

On the UI benefit side, Congress has not responded to the changing labor force, especially the vast increase in the labor force participation by women and older workers. For example, despite an enormous increase in the incidence of two-earner households, there are no federal provisions for spouses to receive UI if they must quit their jobs to follow a spouse whose job requires them to relocate. Federal law also permits states to offset pensions from UI benefits, even though older workers have been the only segment of the labor force that is increasing its labor force participation since 1995, as increasing numbers of workers continue to work either in their career jobs or in other jobs after retiring from their career jobs. Congress also has not enacted federal provisions to ensure that part-time workers can receive UI even if they are searching for new part-time employment, although the percentage of U.S. workers seeking part-time work has surged.

## **5. THE STATES**

In the absence of direction from USDOL and Congress, many state UI programs are providing inadequate benefits and insufficient funding for existing benefits. Among the states, UI programs vary widely, with some being strong and others quite weak.

Over the past four decades, USDOL and Congress have provided the states only limited guidance and direction as they have faced great changes in the American workforce and the nature of the U.S. economy. The demographics of the workforce has resulted in more women and older workers in the labor force. There has been an increase in part-time work and the creation of a gig sector of the labor force, where individuals may be considered contractors rather than employees. Employers have used temporary layoffs far less and increasingly use permanent layoffs that result in longer durations of unemployment and a greater need for reemployment services. Each state has responded to these changes in different ways, resulting in large

differences in the extent to which the UI programs have adapted to changing labor market and economic conditions.

Similarly, without federal guidance, states have responded very differently with respect to creating an adequate UI benefit and financing system. This variation occurs largely because the nature and scope of the UI program is determined in state legislatures, with employer organizations generally pressing to constrict the program and organized labor wanting to expand it. Not surprisingly, the generosity of the UI program differs vastly among the states, with greater UI benefits paid in more unionized states. These differences include the percentage of unemployed workers who receive UI benefits (from 12 to 57 percent), the maximum level of weekly benefit payments (from \$221 to \$769), and the maximum duration of benefit payments (from 12 to 30 weeks).

## **6. CONCLUSION**

There has been a sharp decline in the guidance, direction, and oversight of state UI programs by USDOL. Similarly, Congress has neglected the UI program and has not made the necessary reforms to respond to both the changing demographics of the U.S. labor force and the structural changes to the U.S. economy. The shortcomings of the UI benefit payment and benefit financing programs in individual states have only exacerbated the problem.

As a result of federal inaction, state UI programs mostly have been on their own to modify and adjust their UI programs to the changing environment. States have responded very differently, resulting in a wide variety of access—or lack of access—to the UI program by workers unemployed through no fault of their own, and UI recipients find very different levels and durations of benefits available to them in the states.

Thus, in many significant respects, the UI system has become a state system as well as a system in decline. The federal role, especially in providing program operations and state UI legislative guidance, has become quite limited. Only during recessions, does the federal government actively intervene, providing additional weeks of benefits, albeit building on state UI programs with great differences in both access to and adequacy of benefits.

The declining federal role in the UI system has been accompanied by a decline in the scope and adequacy of the UI program throughout much of the United States. The federal partner has become less effective in responding to the declining effectiveness of the program in many states. It also has not been an effective force in maintaining and enhancing a program that should be doing more to ameliorate the effects of unemployment and helping UI recipients to return to work.

In response to the decline of the UI system, the need for major UI reform has been widely recognized by American researchers and policymakers, as discussed in the author's book, *Unemployment Insurance Reform: Fixing a Broken System* (Wandner 2018). The Organization for Economic Cooperation and Development similarly called for UI reform in its study of the U.S. UI system (OECD 2016).<sup>12</sup> If the UI system is going to be effective in the future, and especially in future recessions, major strengthening of the UI program is necessary.

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<sup>12</sup> The OECD (2016, p. 14) concluded that the United States should “Convene an independent Unemployment Insurance Commission to assess the extent to which, first, the current unemployment insurance system continues to fulfill its function and intention and, second, some of the key system parameters (such as minimum benefit criteria, eligibility criteria and the experience-rating mechanism) need to be adjusted.”

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