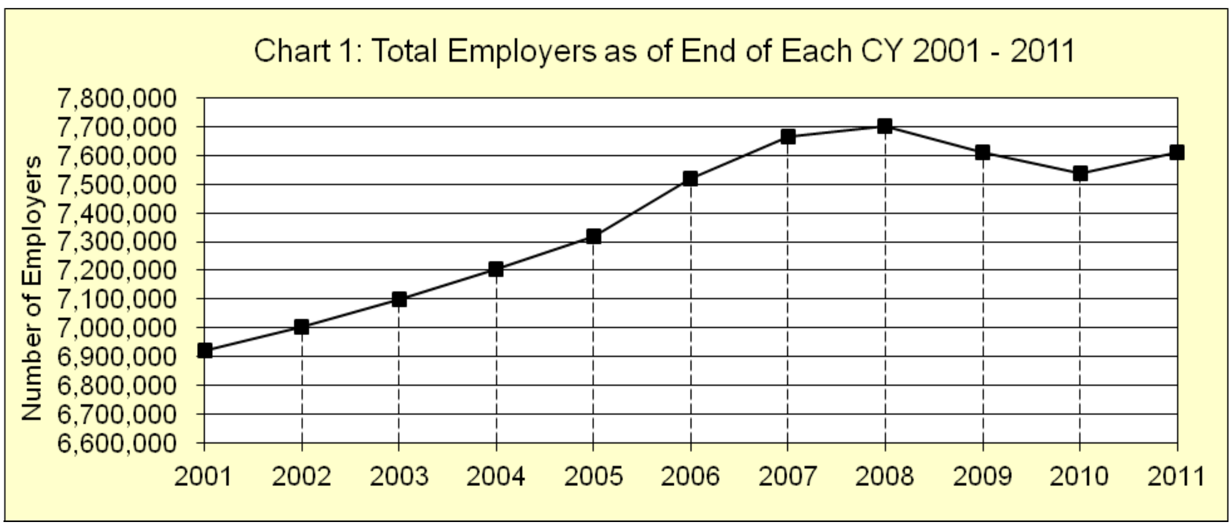
Attachment B - Analysis of Employment and Training Administration (ETA) 581, Contribution Operations Report Data for Calendar Year (CY) 2011

Subject Employers

Table 1 below shows the change in the number of active employers subject to state unemployment insurance (UI) coverage from December 31, 2010, to the end of CY 2011. Chart 1 below graphs the number of active employers since the end of CY 2001. The table and chart include both contributory and reimbursing employers from all 50 states, the District of Columbia, Puerto Rico and the Virgin Islands.

Table 1: Subject Employers - National Totals

As of Date	Contributory Employers	Reimbursing Employers	Total Employers
12/31/2010	7,438,444	100,286	7,538,730
12/31/2011	7,508,131	101,058	7,609,189
Change during CY 2011	69,687	772	70,459

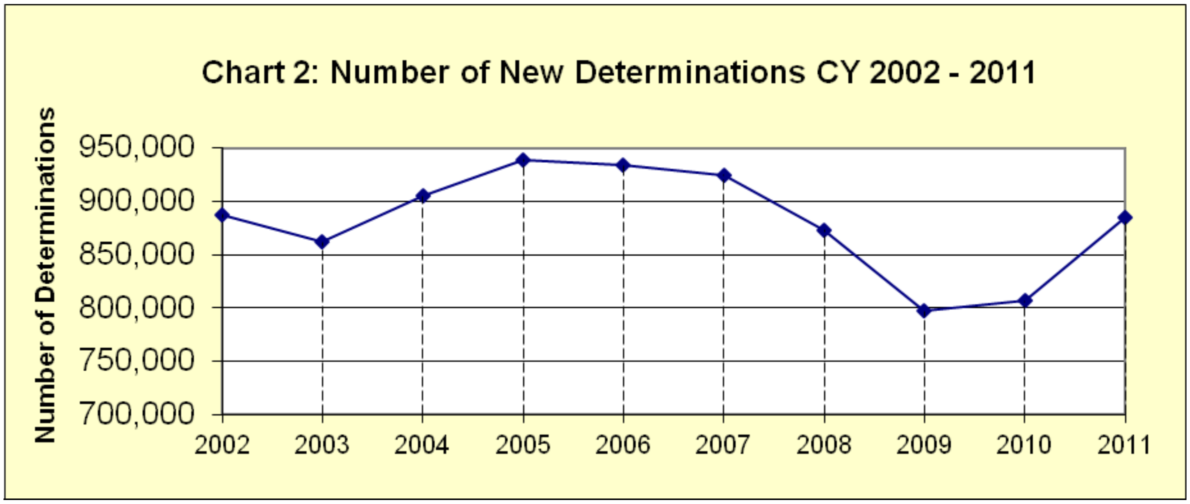


Status Determinations: New Employers

The timely discovery of liable employers and the prompt establishment of new accounts are tax functions vital to the successful operation of a state UI tax program. These functions affect the timely processing of UI claims and payments of benefits to eligible recipients. Computed Measure (CM) numbers 1- 4, as listed on Attachment A, concern the timeliness with which states determine liability and establish accounts for new and successor employers.

States report new status determinations on the ETA 581 report. The count includes all determinations of liability made within the ETA 581 report quarter of employers who have actually met a state threshold of liability, plus determinations that reactivated inactive accounts.

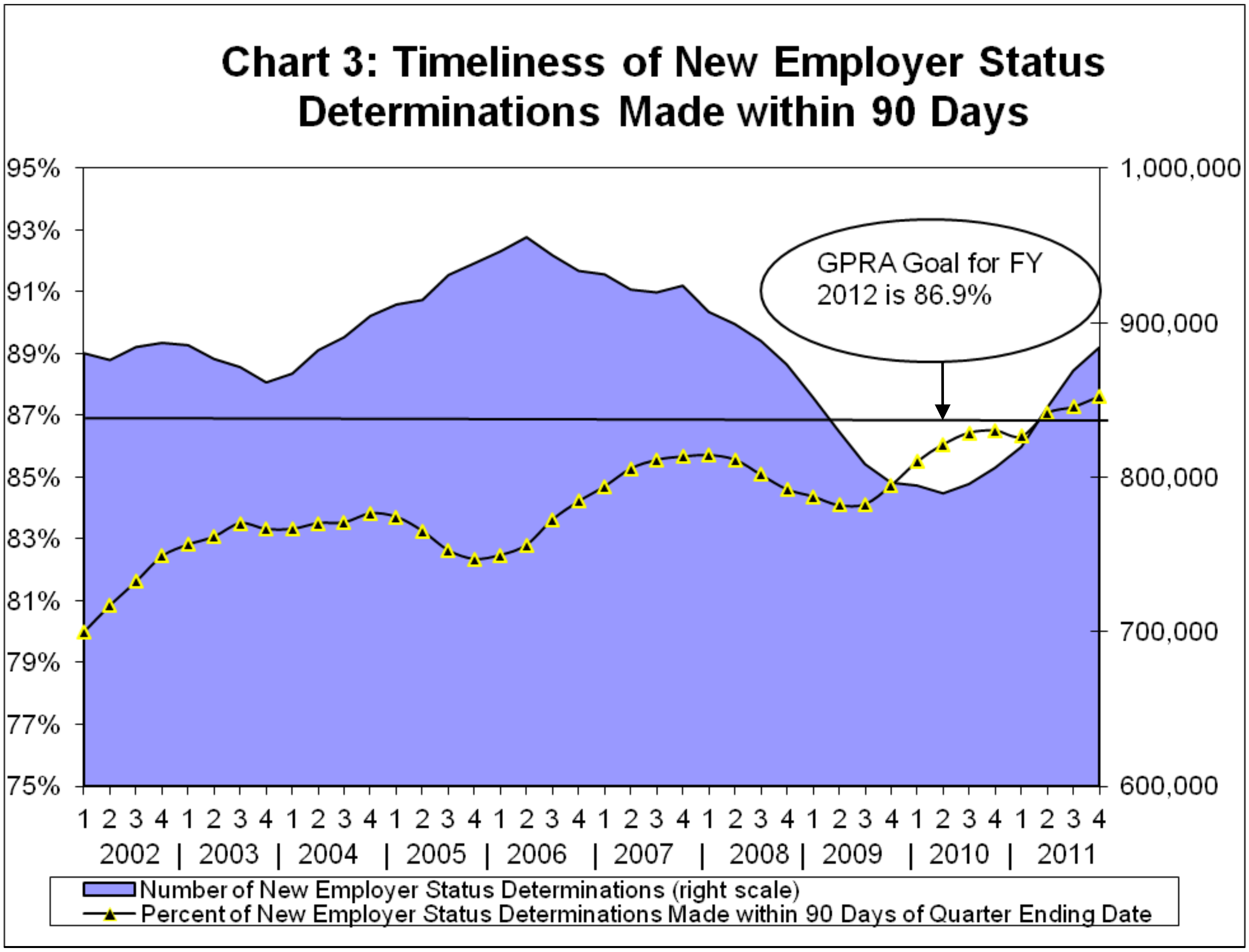
Chart 2 below summarizes the number of new status determinations made by states in the last 10 years.



Due to the importance placed on New Status Determinations, UI Performs includes a core measure that sets a minimum level of performance for timely discovery and establishment of new employers. The minimum level of performance for this measure is to establish 70 percent of new accounts within 90 days from the last day of the quarter in which the new entities first became liable.

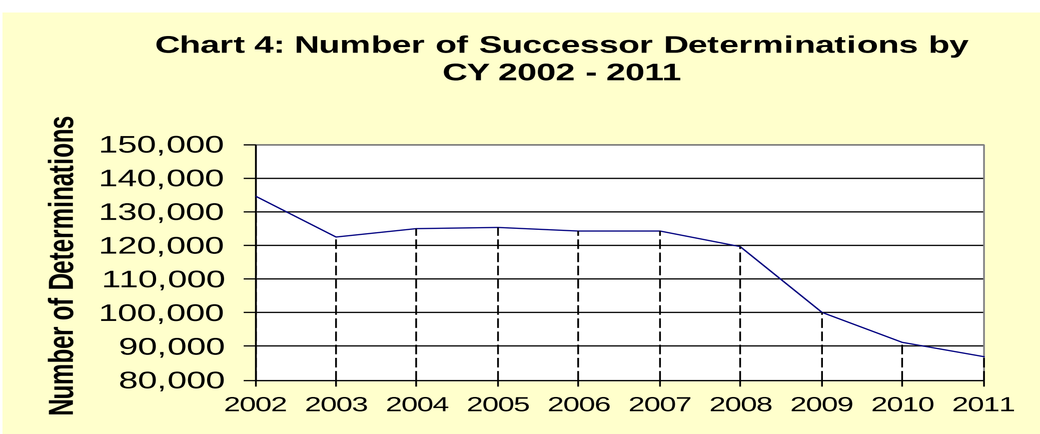
The U.S. Department of Labor (Department), in compliance with the Government Performance and Results Act (GPRA) of 1993, establishes a goal for new determinations on a fiscal year (FY) basis (October 1 to September 30 of the next CY). The GPRA goal, in contrast to the 70 percent UI Performs minimum acceptable level of performance, was set higher at 86.4 percent for FY 2011 (October 1, 2010 to September 30, 2011). Nationally, the goal was met for FY 2011 as the actual new employer timely status determination percentage for FY 2011 was 87.3 percent. The national GPRA goal for FY 2012 (October 1, 2011 to September 30, 2012) is 86.9 percent.

Chart 3 below summarizes the timeliness of new employer status determinations made within 90 days from the last day of the quarter in which the new entities first became liable. The number of new employer status determinations and the percentages of new employer status determinations made within 90 days, as plotted on the chart for a quarter, are based on aggregate information for four quarters (i.e., that quarter and the prior three quarters).



Status Determinations: Successor Employers

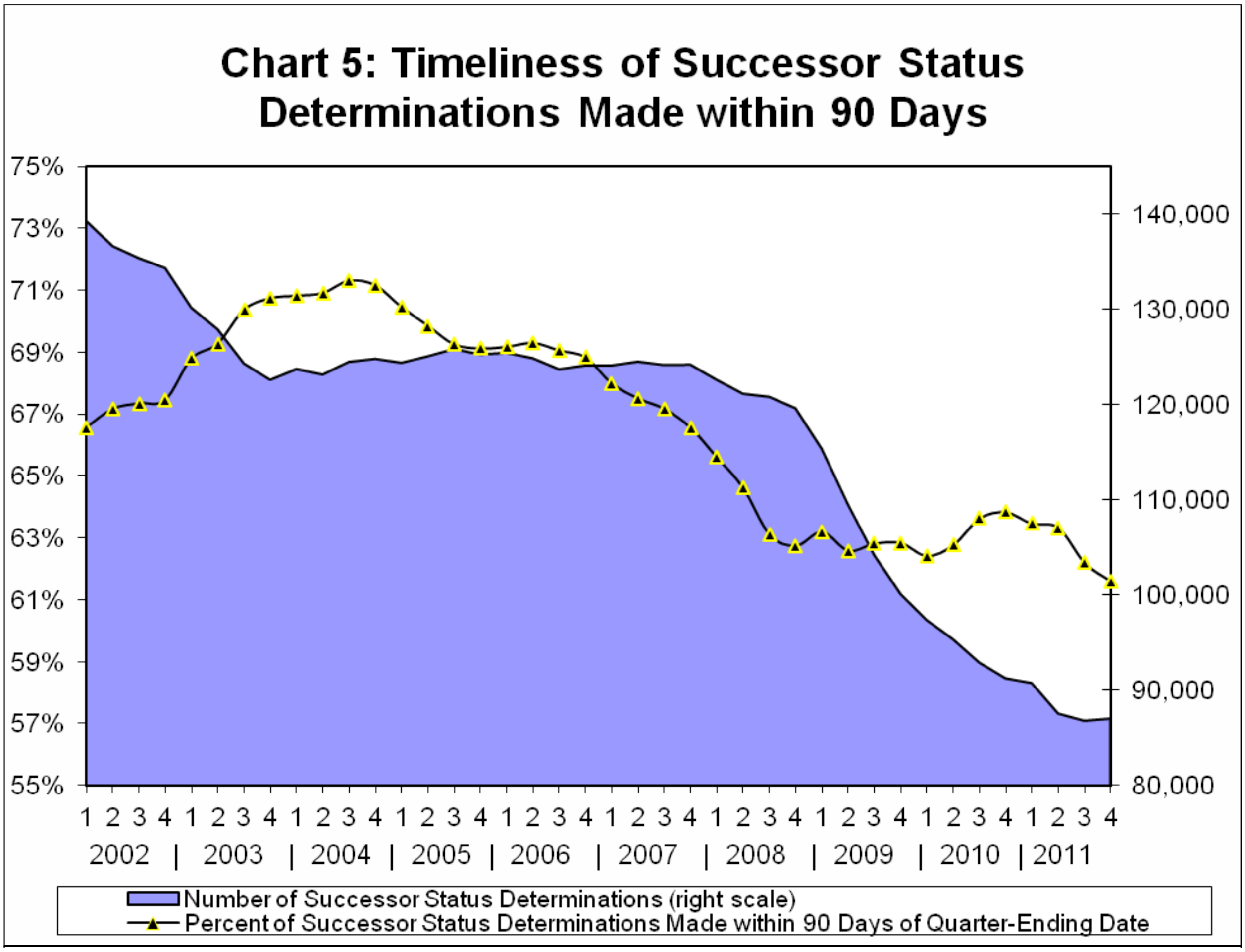
A successor status determination occurs when a state determines that an employer met the state's legal definition of successorship and was classified as a successor. Chart 4 below summarizes the trend of successor determinations made by states since 2002.



As illustrated in Table 2, successor determinations continued to take longer than new liability determinations.

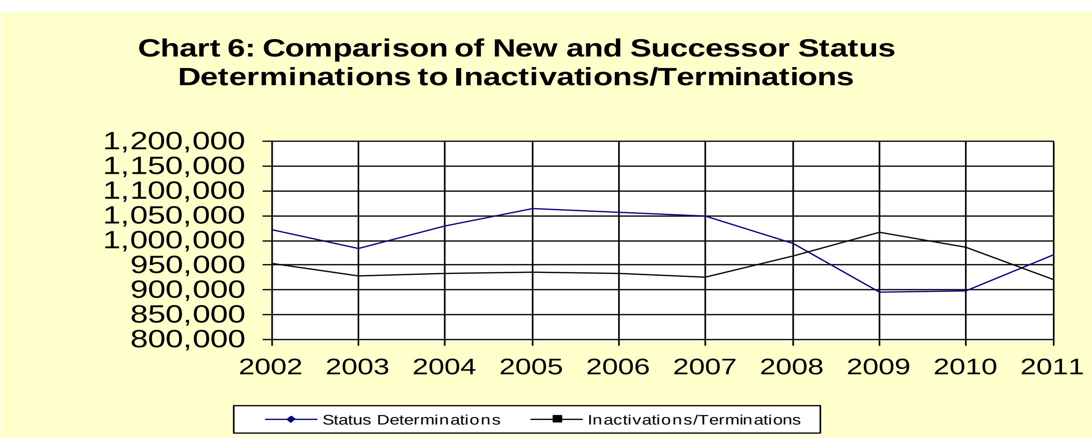
Table 2: New and Successor Status Determinations						
Year	New Determinations	New within 90 Days	New within 180 Days	Successor Determinations	Successor within 90 Days	Successor within 180 Days
2002	887,307	82.4%	90.2%	134,367	67.5%	81.3%
2003	861,661	83.3%	90.8%	122,628	70.7%	83.1%
2004	904,784	83.8%	91.3%	124,819	71.2%	83.1%
2005	938,927	82.4%	90.6%	125,276	69.1%	81.6%
2006	933,982	84.2%	91.4%	124,122	68.8%	81.5%
2007	924,378	85.7%	91.7%	124,211	66.6%	79.6%
2008	873,202	84.6%	90.8%	119,638	62.7%	76.2%
2009	796,725	84.7%	90.4%	100,116	62.8%	75.8%
2010	806,396	86.5%	91.7%	91,260	63.8%	75.9%
2011	884,372	87.6%	92.7%	87,035	61.6%	74.8%

Chart 5 below shows graphically the decline in the number of successor determinations made by states and the downward trend in states making the determinations within 90 days from the end of the quarter in which liability as a successor occurred. The number of successor determinations and the percentage of successor determinations made within 90 days, as plotted on the chart for a quarter, are based on aggregate information for four quarters (i.e., that quarter and the prior three quarters). Although the Department has not established a minimum level of performance for the timely determination of successor status, the data indicates that many states should take steps to improve the timeliness of successor determinations.



Comparison of Status Determinations to Account Inactivations/Terminations

Chart 6 below compares status determinations to account inactivations/terminations since 2002. Status determinations include determinations to establish new accounts and successor determinations. Chart 6 provides some insight regarding the changes in total subject employers that are graphed in Chart 1 on page one of this attachment. The number of inactivations and terminations exceeded the number of new and successor determinations for both 2009 and 2010.



Timely, Secured and Resolved Employer Reports

CM numbers 5 through 10, as listed on Attachment A, summarize the promptness with which employers file quarterly contribution reports with the states. CM numbers 5, 6 and 7 summarize data for contributory employers and CM numbers 8 through 10 summarize data for reimbursing employers. A description of the measures for employer reports follows:

1) <u>The percentage of timely contribution reports received by the state</u> - This CM is for the report quarter immediately preceding the ETA 581 report.

2) <u>The percentage of secured contribution reports obtained by the state during the ETA 581 report quarter</u> - This CM measures reports for the quarter immediately preceding the ETA 581 report quarter that employers submitted by the end of the ETA 581 report quarter. Since the secured report count (items 7 and 10 on the ETA 581 report) includes all of the timely reports, the number of secured reports must always be equal to or greater than the number of timely reports recorded in items 6 and 9 on the ETA 581 report.

3) <u>The percentage of reports that are resolved by the end of the report quarter</u> - This CM measures reports for the second quarter preceding the ETA 581 report quarter that are resolved by the end of the report quarter. States may count a report as resolved by: a) determining that the report is no longer due, inactivating the account, or closing the account; b) establishing a judgment or assessment that is legally due and collectible for the estimated amount of tax due; or c) receiving the report through some other means such as voluntarily filing, field auditor contacts, subpoenaing records, etc. Because resolved reports (items 8 and 11 on the ETA 581 report) include all of the secured reports submitted for the second tax report quarter prior to the ETA 581 report quarter, the number of resolved reports recorded in items 8 and 11 on the ETA 581 report must be equal to or greater than the number of secured reports recorded in items 7 and 10 on the previous ETA 581 report.

Employer Reports – Contributory Employers

Table 3 below provides a comparison of the national aggregate CM numbers 5, 6 and 7, as listed on Attachment A, for the last 10 years.

Table 3: Employer Reports – Contributory Employers			
Calendar Year	**% Timely**	**% Secured**	**% Resolved**
2002	87.9%	92.5%	97.0%
2003	88.2%	92.5%	97.0%
2004	88.2%	93.1%	97.1%
2005	88.3%	93.1%	97.4%
2006	88.5%	92.8%	97.8%
2007	88.3%	92.3%	97.0%
2008	88.8%	92.5%	96.6%
2009	88.8%	92.6%	96.4%
2010	89.2%	92.9%	96.1%
2011	90.8%	94.6%	98.2%

Employer Reports: Reimbursing Employers

Table 4 below provides a comparison of the national aggregate CM numbers 8, 9 and 10, as listed on Attachment A, for the last 10 years.

Table 4: Employer Reports – Reimbursing Employers			
Calendar Year	% Timely	% Secured	% Resolved
2002	80.5%	84.8%	86.3%
2003	80.4%	86.4%	88.3%
2004	81.7%	86.8%	88.1%
2005	83.7%	88.2%	88.8%
2006	86.3%	92.0%	93.7%
2007	87.7%	93.0%	94.3%
2008	89.5%	94.6%	96.0%
2009	90.9%	95.6%	97.8%
2010	92.8%	97.4%	99.0%
2011	91.8%	96.5%	99.0%

Note Regarding Table 4: Massachusetts began reporting data on report filing for reimbursing employers in the fourth quarter of 2009. Therefore, Massachusetts is excluded from the performance percentages for CYs prior to CY 2010.

Receivables – Contributory and Reimbursing Combined

Chart 7 below tracks the amount of contributions past due from contributory employers and the amount of reimbursable benefit payments past due from reimbursing employers as of the end of each CY from 2001 to 2011. The amounts were reported by states on quarterly ETA 581 reports.

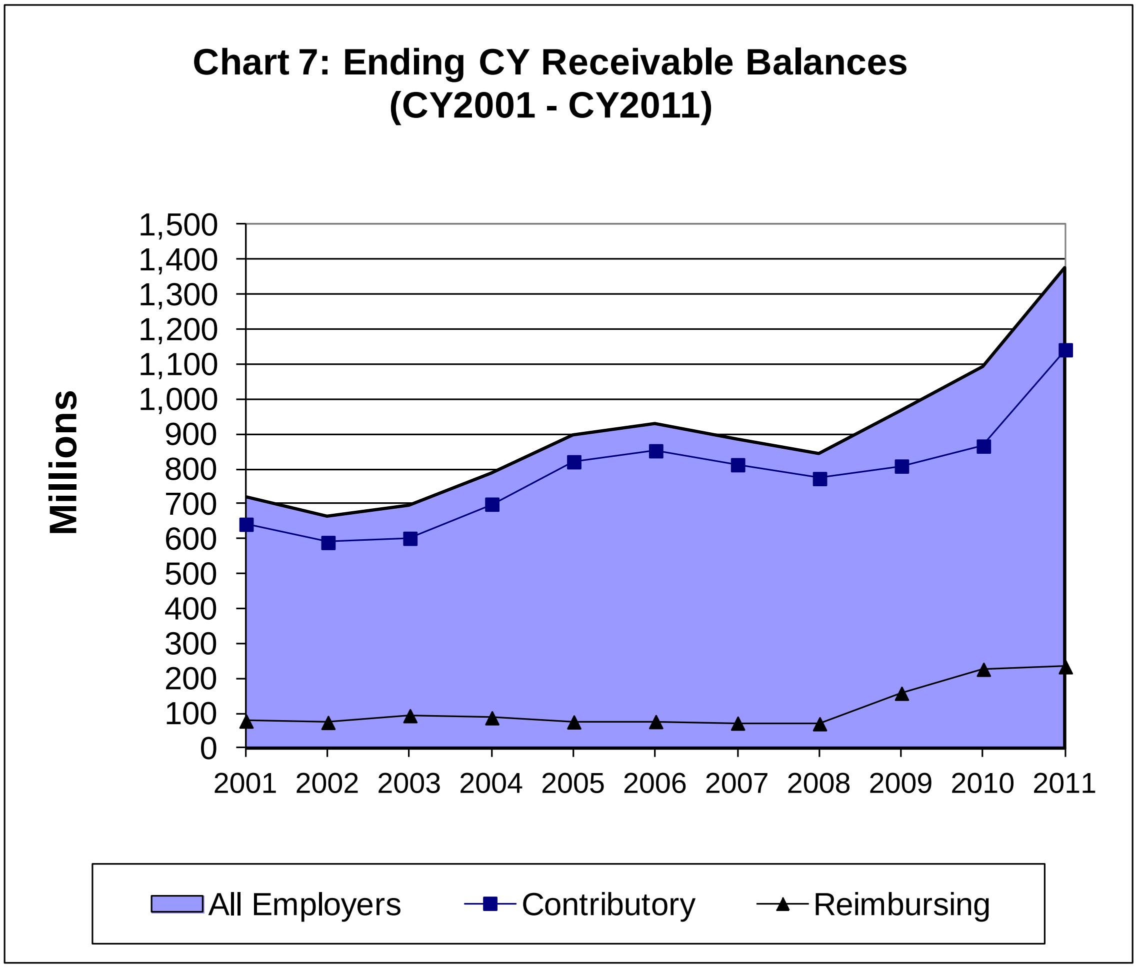
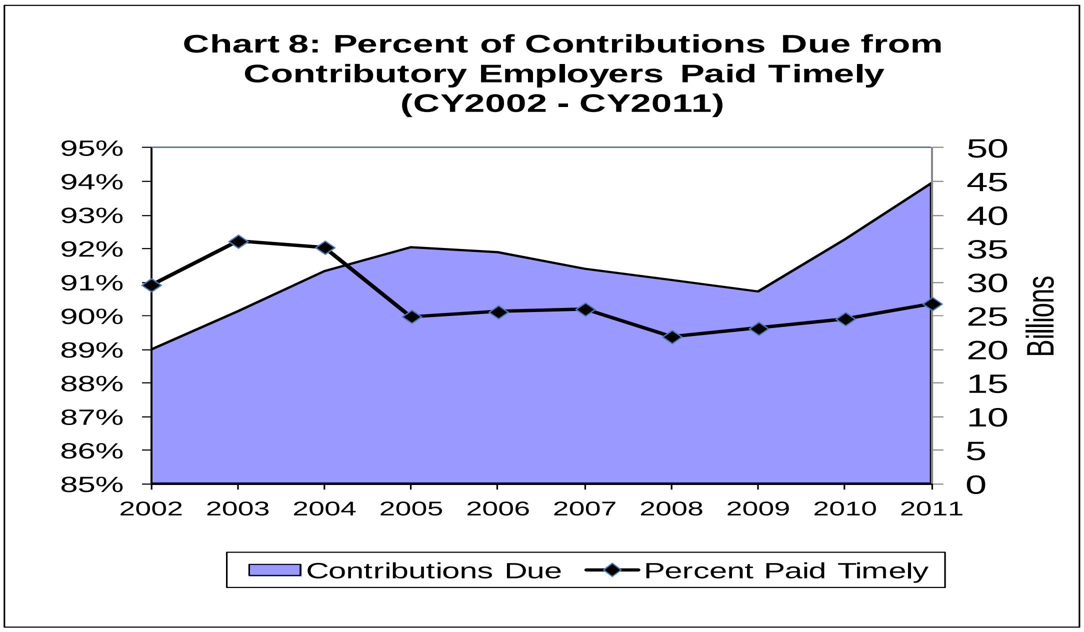
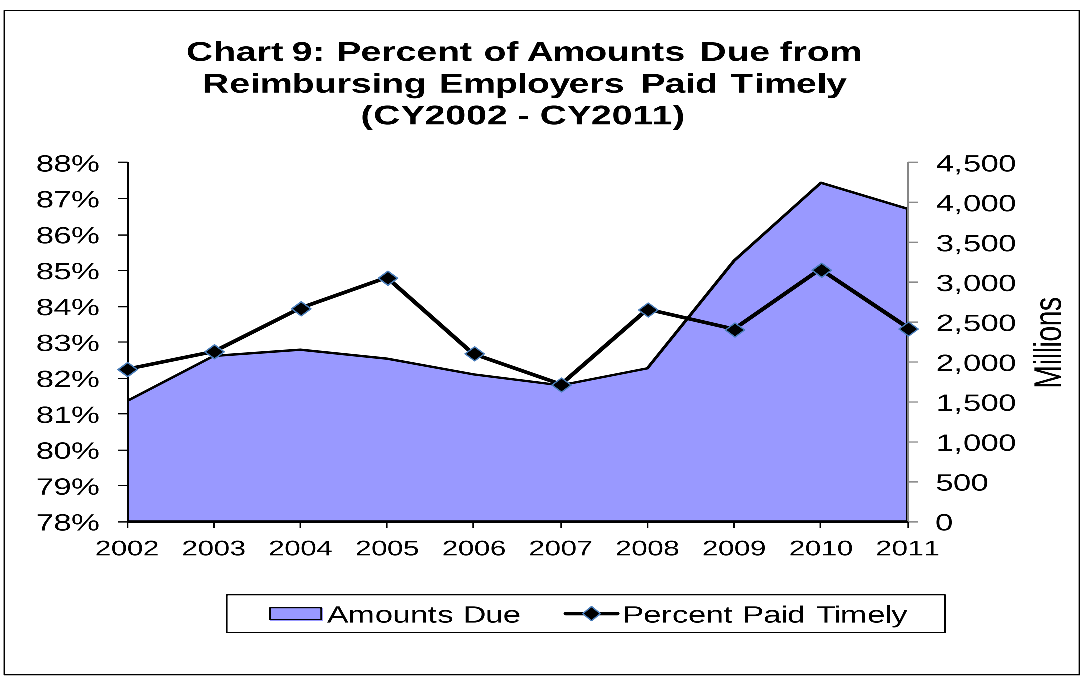


Table 5 below shows the actual amount of past due receivables at the end of each CY and the changes between years beginning in CY 2002.

Table 5: Receivable Balances - All Employers - All States					
Year	CY Ending Balance for Contributory Employers	CY Ending Balance for Reimbursing Employers	Total Past Due Receivables at End of CY	Change in Total Past Due from Previous CY	Percentage Change from Previous CY
2002	$589,738,905	$74,204,420	$663,943,325	-$56,098,971	-7.8%
2003	$601,726,827	$93,638,818	$695,365,645	$31,422,320	4.7%
2004	$699,471,080	$87,540,250	$787,011,330	$91,645,685	13.2%
2005	$820,906,453	$75,708,553	$896,615,006	$109,603,676	13.9%
2006	$852,437,577	$76,673,915	$929,111,492	$32,496,486	3.6%
2007	$812,466,285	$72,304,638	$884,770,923	-$44,340,569	-4.8%
2008	$772,806,609	$70,511,546	$843,318,155	-$41,452,768	-4.7%
2009	$808,586,865	$157,873,405	$966,460,270	$123,142,115	14.6%
2010	$865,803,381	$226,510,813	$1,092,314,194	$125,853,924	13.0%
2011	$1,141,762,457	$233,671,403	$1,375,433,860	$283,119,666	25.9%

Chart 7 and Table 5 show a significant increase in the dollar amount of receivables outstanding at the end of CY 2011 from the end of CY 2010. Data plotted in Charts 8 and 9 below indicate that the change in receivable balances between the years is primarily due to an increase in amounts due from employers. Charts 8 and 9 show that the percentages at which employers paid amounts due by their respective due dates (i.e., timely payments) have remained relatively constant. (Note: National Summary Tables numbers 4 and 5 on ETA's Web site for CM numbers 11 and 12 , as listed on Attachment A, summarize state percentages of amounts paid timely and note the formula for computing amounts due from contributory or reimbursing employers as "Amounts Deposited plus Determined Receivables minus Receivables Liquidated.")





Audit Activity

The UI employer audit program has been historically measured by the number of audits completed annually. With the issuance of Unemployment Insurance Program Letter (UIPL) No. 03-11, *Implementation of the Effective Audit Measure*, ETA established a new policy for the UI employer audit program. Beginning with data for CY 2011, the Effective Audit Measure will assess the success of state audit programs. However, full implementation of the Effective Audit Measure as a UI Performs Core Measure will occur for audits performed during CY 2013. States that fail the measure will not be required to write a Corrective Action Plan until the FY 2015 SQSP, which will use CY 2013 Effective Audit Measure results. UIPL No. 03-11 is available on the ETA Web site at https://www.ows.doleta.gov/dmstree/uipl/uipl2k11/uipl_0311.pdf .

CM numbers 17 through 21, as listed on Attachment A, summarize information on audit activity. Additional information on audit activity is presented below according to the factors that comprise the Effective Audit Measure.

Factor 1 of the Effective Audit Measure – Percent of Contributory Employers Audited

Prior to January 1, 2011, states were expected to audit two percent of their contributory employers each year. As part of the Effective Audit Measure, states are now required to audit one percent of their contributory employers each year. To compute the number of audits required per year, states should multiply one percent times the number of contributory employers counted at the end of the third quarter of the preceding CY. Table 6 below summarizes national data for the last 10 years. The number of required audits shown in Table 6 is based on a one percent audit penetration rate.

Table 6: Audit Penetration - Factor 1 of Effective Audit Measure - All States

Year	Number of Employers as of Previous September 30	Required Audits (1% of Number of Employers)	Completed Audits	Percent Completed
2002	6,779,109	67,791	110,987	1.6%
2003	6,852,994	68,530	116,281	1.7%
2004	6,955,550	69,556	120,243	1.7%
2005	7,054,890	70,549	116,124	1.6%
2006	7,156,865	71,569	116,463	1.6%
2007	7,375,964	73,760	117,487	1.6%
2008	7,521,497	75,215	108,693	1.4%
2009	7,574,880	75,749	108,147	1.4%
2010	7,499,042	74,990	106,800	1.4%
2011	7,409,593	74,096	95,703	1.3%

Factor 2 of the Effective Audit Measure – Percent of Total Wages Changed from Audits

Factor 2 (Percent of Total Wages Changed from Audits) has been a CM in the past and it continues to be a CM as part of the Effective Audit Measure. There is no change to the method for computing the Percent of Total Wages Changed from Audits. To pass the Effective Audit Measure, a state's Percent of Total Wages Changed from Audits needs to equal or be greater than two percent. The objective of factor 2 is to encourage states to target their audits in order to maximize the discovery of improper employer reporting. National data for the last 10 years is provided in Table 7 below.

Table 7: Summary of Changes in Total Wages Discovered Through Audits - Factor 2 of the Effective Audit Measure

Year	Underreported Total Wages	Overreported Total Wages	Gross Change	Total Wages Pre-Audit	Percent of Change
2002	$1,351,751,285	$331,322,102	$1,683,073,387	$38,062,129,532	4.4%
2003	$1,815,968,012	$352,167,432	$2,168,135,444	$41,899,696,644	5.2%
2004	$2,022,483,640	$577,708,747	$2,600,192,387	$52,750,229,942	4.9%
2005	$2,242,798,141	$604,335,021	$2,847,133,162	$56,006,782,965	5.1%
2006	$2,570,351,349	$494,602,132	$3,064,953,481	$57,858,654,573	5.3%
2007	$9,290,360,049	$412,040,929	$9,702,400,978	$79,488,705,708	12.2%
2008	$3,006,424,911	$550,434,537	$3,556,859,448	$55,438,722,612	6.4%
2009	$3,211,615,738	$773,253,914	$3,984,869,652	$60,963,400,481	6.5%
2010	$4,440,967,653	$543,135,181	$4,984,102,834	$78,002,957,689	6.4%
2011	$3,335,254,629	$487,061,334	$3,822,315,963	$58,050,397,834	6.6%

Note Regarding Table 7: The percentage of 12.2 percent for CY 2007 is larger than normal because the State of New York discovered a large amount of underreported wages as a result of auditing a high number of large employers.

Factor 3 of the Effective Audit Measure – Percent of Total Wages Audited

Factor 3 (Percent of Total Wages Audited), which has been a CM in the past, is a part of the Effective Audit Measure. There is no change to the method for computing the Percent of Total Wages Audited. To pass the Effective Audit Measure, a state's Percent of Total Wages Audited needs to equal or be greater than one percent. One purpose of factor 3 is to encourage audits of larger employers. National data for the last 10 years is provided in Table 8 below.

Table 8: Summary of Total Wages Paid in Prior Calendar Year That Were Audited - Factor 3 of the Effective Audit Measure					
Year	Total Wages Post Audit	Total Audits Completed	Total Quarters Audited	Total Wages Paid in Prior CY by Contributory Employers	Percent Total Wages Audited
2002	$39,069,414,428	107,429	489,349	$3,765,374,350,853	0.9%
2003	$43,363,497,224	110,987	504,440	$3,727,960,525,472	1.0%
2004	$54,195,004,835	116,281	524,614	$3,797,379,555,665	1.3%
2005	$57,645,246,085	120,243	544,224	$4,012,702,188,252	1.3%
2006	$59,934,403,790	116,463	534,474	$4,231,961,542,651	1.2%
2007	$88,367,024,828	117,487	531,689	$4,513,875,778,285	1.7%
2008	$57,894,712,986	108,693	490,543	$4,770,245,645,343	1.1%
2009	$63,401,762,305	108,147	491,182	$4,824,513,291,876	1.2%
2010	$81,900,790,161	106,800	485,184	$4,500,500,580,605	1.6%
2011	$60,898,591,129	95,703	451,586	$4,592,308,796,724	1.1%

Note Regarding Table 8: The total wages paid in the prior CY were reported by states to the Bureau of Labor Statistics as part of the Quarterly Census of Employment and Wages program.

Factor 4 of the Effective Audit Measure – Average Number of Misclassified Employees per Audit

Factor 4 (Average Number of Misclassified Employees) is a new CM and has been part of the Effective Audit Measure since CY 2011. The computation is the sum of misclassified employees for a CY divided by the sum of audits completed for the CY. To pass the Effective Audit Measure, a state must detect, on average, at least one misclassified worker per audit.

Table 9 below summarizes the national average number of misclassified employees discovered in audits in each of the last 10 years.

Table 9: Average Number of Misclassified Employees Detected per Audit - Factor 4 of the Effective Audit Measure			
Year	**Total Misclassified Employees Discovered**	**Total Audits Completed**	**Average Number of Misclassified Employees per Audit**
2002	107,210	107,429	1.0
2003	125,262	110,987	1.1
2004	123,044	116,281	1.1
2005	139,554	120,243	1.2
2006	160,000	116,463	1.4
2007	151,039	117,487	1.3
2008	209,067	108,693	1.9
2009	192,287	108,147	1.8
2010	209,909	106,800	2.0
2011	243,711	95,703	2.5

Note: UIPL No. 02-11, *Changes to the Employment and Training Administration (ETA) 581 Contribution Operations Report, and Related Handbooks*, advised states to begin reporting unreported (off-the-books) workers discovered in audits in addition to workers misclassified as independent contractors on the ETA 581 report beginning with the quarterly reports for CY 2011. This explains why the total number of misclassified employees discovered in CY 2011 is larger than prior years even though the number of audits completed in CY 2011 decreased. The number of completed audits decreased in CY 2011 because states were expected to audit one percent of their contributory employers in CY 2011 instead of the previous two percent requirement.

Effective Audit Measure

Although the Effective Audit Measure is not designated as a UI Performs Core Measure for CY 2011, a CM based on CY 2011 data is provided in CM number 21 as listed in Attachment A. A summary of state performance regarding the Effective Audit Measure for CY 2010 and CY 2011 is provided in Table 10 below.

Table 10 - Summary of Effective Audit Measure - Number of States Passed						
Year	***Factor 1*** **Percent of Contributory Employers Audited Pass if >= 1%**	***Factor 2*** **Percent Change in Total Wages from Audits Pass if >= 2%**	***Factor 3*** **Percent Total Wages Audited Pass if >= 1%**	***Factor 4*** **Average Number of Misclassified Workers per Audit Pass if >= 1**	**Effective Audit Measure Total Score Pass if >= 7**	**Effective Audit Measure Results**
2010	47	42	39	31	38	21
2011	45	44	37	36	38	25

Notes Regarding Table 10:

1. The Effective Audit Measure Total Score is the sum of the scores for Factors 1, 2, 3 and 4. This blended score must be greater than or equal to seven for a state to pass the Effective Audit Measure.

2. Table 10 shows that 21 states passed the Effective Audit Measure for CY 2010 based on data as of April 25, 2012. Attachment A shows that 20 states passed the Effective Audit Measure for CY 2010 based on data from National Summary Tables that were posted to ETA's Web site as of May 5, 2011. One state passed the Effective Audit Measure after the National Summary Tables for CY 2010 were posted because the state amended its ETA 581 reports regarding audit activity after May 5, 2011, but before April 25, 2012.

State Unemployment Tax Act (SUTA) Dumping

SUTA Dumping is the practice where employers shift workforce/payroll to avoid poor unemployment experience and high tax rates. States follow their written procedures to identify and investigate employers who may be SUTA dumping. States transfer unemployment experience, adjust tax rates, and assess contributions when SUTA dumping is detected. UIPL No. 02-11 required states to report data on SUTA dumping activity on the quarterly ETA 581 report beginning in CY 2011. States have reported data as shown in Table 11 below.

Table 11 - Summary of SUTA Dumping Data Reported on ETA 581 Reports			
Year	Number of Mandatory Transfers	Number of Prohibited Transfers	Total Net Contributions Due
2011	2,800	69	$40,847,686