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Institutional moral hazard in the multi-tiered regulation of unemployment in the United States – Background paper.

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Abstract

This paper has been written in preparation of a research project funded by the European Commission (on the Feasibility and Added Value of a European Unemployment Benefit Scheme, contract VC/2015/0006). This paper adds information and detailed analysis to the following deliverable of that research project: *Institutional Moral Hazard in the Multi-tiered Regulation of Unemployment and Social Assistance Benefits and Activation - A summary of eight country case studies*; but it was not a deliverable. We use the concept 'institutional moral hazard' to analyse intergovernmental relations within multi-tiered welfare states, specifically in the domain of unemployment-related benefits and related activation policies (the 'regulation of unemployment'). This paper is one of eight separate case studies, it focuses on the US. US unemployment insurance is a cooperation between the states and the federal government. Social assistance is divided between state-operated programmes, funded by block grants, and federally designed food assistance. Transversal activation policies are implemented by the states. At first sight, concerns for institutional moral hazard seem limited. But several reforms altered cost-sharing arrangements in social assistance and led to stricter minimum requirements for state-run activation policies. Therefore, it would be a mistake to overlook the role of institutional moral hazard in the US system.

Keywords: *Institutional moral hazard; multi-tiered welfare states; intergovernmental relations; unemployment insurance; social assistance; Active Labour Market Policies; activation; social policy; United States.*

United States[1]

List of abbreviations

ABAWD - Able Bodied Adults without Dependents
AFDC - Aid to Families with Dependent Children
BBCE – Broad-Based Categorical Eligibility
BCR – Benefit Cost Ratio
DHHS - Department of Health and Human Services
DOL –Department of Labour
EB - Extended Unemployment Compensation
EmB – Emergency Benefits
ESAA - Employment Service Administration Account
EUC08 - Emergency Unemployment Compensation programme implemented in 2008
ITA – Individual Training Account
FUTA - Federal Unemployment Tax Act
MoE - Maintenance of Effort
PRWORA - Personal Responsibility and Work Opportunity Reconciliation Act
SA – Social assistance
SFAG - State Family Assistance Grant
SNAP - Supplemental Nutrition Assistance Programme
SNAP E&T - Supplemental Nutrition Assistance Programme Employment & Training
SSA - Social Security Act
TANF - Temporary Assistance for Needy Families
UI – Unemployment insurance
US DA (FNS) – United States Department of Agriculture (Food and Nutrition Service)
US DOL – United States Department of Labour
USP – Unified State Plan
WDB – Workforce Development Board
WIA – Workforce Investment Act
WIB - Workforce Investment Boards
WIOA - Workforce Innovation and Opportunity Act

Introduction

Two actors dominate the US regulation of unemployment: the states and the federal government. The states have a large amount of autonomy, not just in the implementation of benefit and activation systems but also in the creation of sub-state governance and administration systems. As a consequence, the American unemployment-related benefit schemes are different in their set-up than in most of the other cases we examine in this project. Its unemployment insurance (UI) is a federal-state cooperation of relatively low generosity. This UI scheme and its governance have multiple distinguishing features relative to the other cases we examine. Furthermore, the US does not have a single unified benefit for social assistance (SA); it has instead a multitude of different residual benefits and services. We examine the two most important SA-related benefit schemes: Temporary Assistance for Needy Families (TANF) and Supplemental Nutrition Assistance Programme (SNAP). The states have very significant autonomy concerning TANF, not only in its implementation but also concerning the design of basic parameters such as benefit levels. SNAP is more centralised but still involves various levels of government. Finally, the US activation system is different from those in most of the other cases we examine. The US has a system of 'workforce development' that overarches both unemployed and employed jobseekers. This system has limited links, at the level of

[1] We thank Burt Barnow and Chris O'Leary for very useful exchanges on the US case and Georg Fischer for comments.

individuals, to specific benefit schemes (although some exceptions do exist). As with TANF, states have considerable leeway not only in the design of workforce development, but also in its governance. States are even in charge of the creation of sub-state levels of workforce development-governance.

Because the states have such autonomy, the mechanisms of US federal control are also different from most other cases we examine – with the possible exception of Canada. The US federal government often exerts influence through conditional funding. However, the states generally remain responsible for their own legislation (and are therefore not forced by federal laws). Therefore, the federal requirements often focus strongly on administrative conditions, rather than the actual behaviour of the states. As a result, institutional moral hazard might seem to be less prominent in the US regulation of unemployment. This view is perhaps reinforced by the low generosity of US benefits, which makes the fiscal impact of unemployment regulation less salient. This view is not entirely correct, however, and the analysis below will show that institutional moral hazard has been an important driver of US welfare reform.

1. Unemployment insurance

American UI is a federal-state cooperation somewhat like the Austrian SA scheme: the federal government has laid down some minimum requirements for state legislation. So just as in the Austrian SA scheme, the constituent parts of the federation remain responsible for the legislation but they have adopted those federal minimum requirements. However, unlike Austrian SA, both the American states and its federal government contribute to the costs of the scheme – which makes the American UI more cooperative. Cf. Table 1 for the division of labour between the levels of government.

Table 1 Division of labour between the US federal and state governments concerning UI. Source: US DOL 2013: 1-2

Federal	State
Ensure conformity and substantial compliance of state law, regulations, rules, and operations with federal law.	Determine operation methods and directly administer the programme.
Determine administrative fund requirements and provide money to states for proper and efficient administration.	Take claims from individuals, determine eligibility, and insure timely payment of benefits to workers.
Set broad overall policy for administration of the programme, monitor state performance, and provide technical assistance as necessary.	Determine employer liability, and assess and collect contributions.
Hold and invest all money in the unemployment trust fund until drawn down by states for the payment of compensation.	

UI is governed by the Social Security Act (SSA), the Federal Unemployment Tax Act (FUTA) and state law. It consists of three elements: the basic UI system, supplementary benefits and emergency benefits. The SSA established the federal-state relationship for UI and the FUTA regulated fiscal responsibilities – which included incentives for state compliance with federal goals. The SSA and the FUTA "set forth broad coverage provisions, some benefit provisions, the federal tax base and rate, and administrative requirements" (US DOL, 2013, p. 1). These federal regulations do not cover qualifying requirements, benefit levels or the duration of benefits (US DOL, 2013, p. 11).

Before we go into the details of the federal-state cooperation, we first turn to the basic parameters of the scheme such as generosity, duration and strictness of eligibility – which are almost fully the responsibility of the states themselves. Most states have a maximum benefit duration of 26 weeks (GAO, 2015, pp. 4-5). Eleven states have legislated different potential UI durations, of which two have longer durations and nine have shorter durations.[2] The differentiation in benefit duration is only recent. Previously, there were 48 states with benefits lasting 26 weeks, while Massachusetts and Montana had slightly longer benefit durations. It is rather surprising that states can determine the duration of benefits themselves, especially in the light of possible federally funded extensions, which kick in earlier if state benefit durations are cut. This issue will be discussed in more detail in the section on institutional moral hazard (cf. infra).

The average replacement rate for the US as a whole varied between 39% and 42% for 2007 through 2014.[3] In the wake of the crisis, the federal government temporarily provided an additional $25

[2] Massachusetts and Montana have durations of 30 and 28 weeks, respectively, while Arkansas, Florida, Georgia, Illinois, Kansas, Michigan, Missouri, North Carolina and South Carolina reduced the maximum duration to as low as 12 weeks at times – with 20 weeks being the most common new maximum duration (GAO, 2015, p. 5).

[3] Based on calculations of averages for individuals (not states) by the US DOL: http://workforcesecurity.doleta.gov/unemploy/repl_ratio/repl_ratio_rpt.asp (Weighted Average of Weekly

weekly benefit per claimant, which was known as Federal Additional Compensation (FAC). The condition for the FAC was that states could not actively change the way their benefits were calculated.[4] There are also the eligibility criteria: “All states require a worker to have earned a certain amount of wages, worked for a certain period of time or both to be monetarily eligible to receive unemployment compensation benefits” (Ernst & Young, 2014, p. 11). Furthermore, all state laws require beneficiaries to be able to work, to be available for work and to be actively seeking work while being free from disqualifications such as voluntary discharge, being fired for misconduct or refusing to accept suitable work (US DOL, 2013, p. 12).[5] Normally, wages from the previous year determine an individual’s eligibility; however, this can vary greatly among states (Ernst & Young, 2014, p. 11; US DOL, 2013, p. 12).

A final federal requirement is that states operate a so-called ‘experience rating system’. This entails that states assign tax rates to employers based on their individual experience with unemployment. “All state laws provide for a system of experience rating under which individual employers' contribution rates vary from the standard rate on the basis of their experience with the amount of unemployment encountered by their employees. In most states, 3 years of experience with unemployment means more than 3 years of coverage and contribution experience” (US DOL, 2013, p. 10). Federal law concerning state experience rating systems allows: reduced rates for employers with at least 1 year of experience with respect to unemployment or other factors bearing a direct relation to unemployment risk, and reduced rates for newly subject employers on a reasonable basis (US DOL, 2013, p. 10). State systems vary greatly, but always within these federal boundaries. Simply put, employers are subject to a higher tax rate contingent on the relative incidence of unemployment among their employees.[6] These experience rating systems combat moral hazard at the level of employers (cf. infra for a more detailed discussion).

The overall strictness of the eligibility criteria in the US is relatively low, which is mainly due to job search availability or monitoring requirements (Figure 1). As Figure 2 shows, the only case where the US is stricter, compared to the other cases we examined, is for sanctions for voluntary job loss and the refusal to take up new work. The requirements for availability, job-search and monitoring are quite lax, as are the sanctions for refusing to participate in ALMPs. This reflects the relatively low generosity of American UI and the limited direct ties between UI as a benefit scheme and the delivery of ALMPs.

Benefit Amount / Weighted Average of Norm Hourly Wage for between 20.085 and 24.802 valid individual cases).

[4] Already existing automatic adjustment rules are not included in this condition (GAO, 2015, p. 12).

[5] The only federal limitation on eligibility is that it must be paid to persons who are ‘able and available’ which is defined in a very broad sense (cf. 20 CFR 604).

[6] The way in which this relative incidence is measured can vary. “At present there are four distinct systems, usually identified as reserve-ratio, benefit-ratio, benefit-wage-ratio, and payroll-decline formulas. A few states have combinations of the systems” (US DOL, 2013, p. 10).

Figure 1 Overall strictness of eligibility criteria. Source: Langenbucher 2015, p. 27.

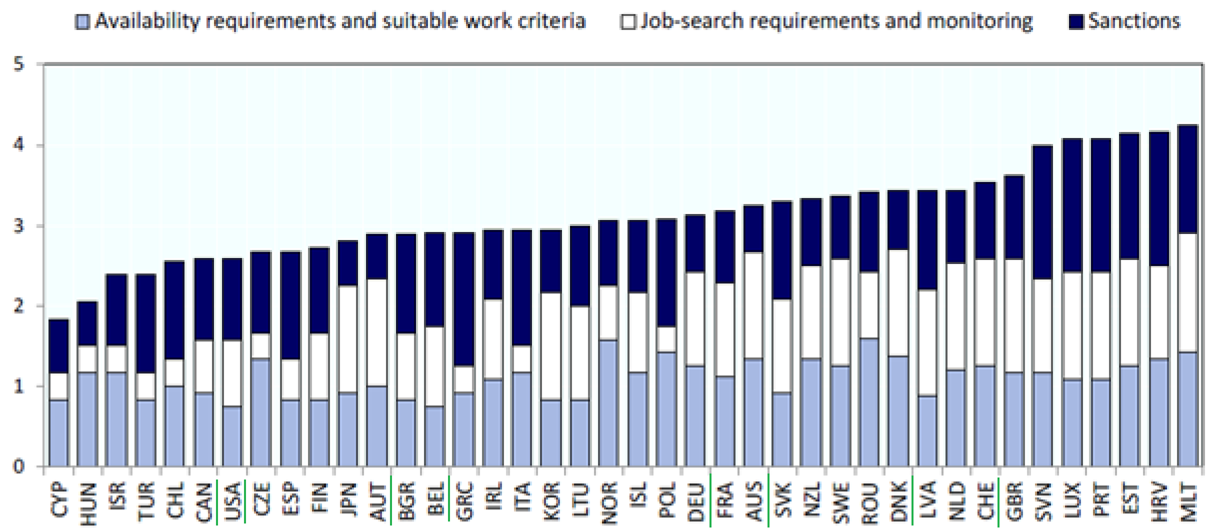
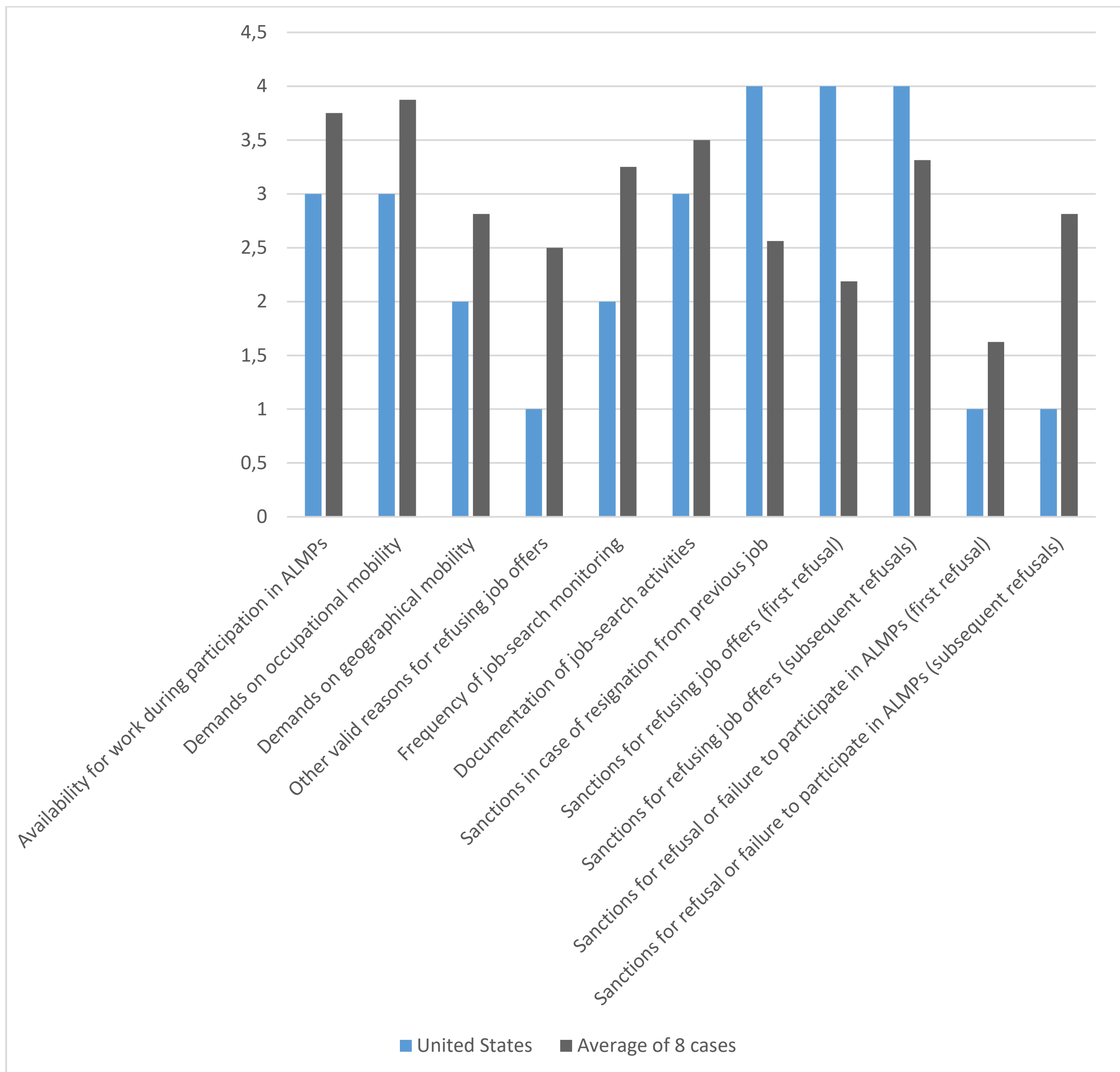


Figure 2 Strictness of eligibility in American UI. Source: Langenbucher 2015.



Outside the regular UI benefits, there is also a standard supplementary benefit scheme, Extended Unemployment Compensation (EB)[7], as well as the option for an emergency benefit scheme (EmB) – the latest of which was the Temporary Emergency Unemployment Compensation (EUC08) programme that expired on the 1st of January 2014. EB is a scheme which is not always active but can be triggered depending on the state employment rate.[8] This scheme is a form of co-insurance because both the federal government and the states contribute to the costs. Federal law prescribes one standard and two optional triggers (or 'on indicators'). States are required to adopt one of these triggers in their own laws. It is up to the states themselves as to whether they choose to adopt one of the optional triggers or the standard one. When state unemployment rates increase a certain percentage that is defined by these triggers or when they exceed a certain level over a 13-week reference period, states are required to initiate an EB scheme. Furthermore, federal law also prescribes an 'off trigger', conditions under which the EB schemes are cancelled again; this 'off

[7] Cf. Code of Federal Regulations, title 20 (5) section 615.

[8] Cf. Table 7 in the appendix and Code of Federal Regulations, title 20 (5) section 615.12.

trigger' is always the same. When the EB scheme is triggered, UI duration is extended by 50% - but is capped at 39 weeks. Although this scheme is aimed at the states' existing caseloads of UI beneficiaries, the federal level poses some extra eligibility requirements and caps the maximum amount of benefits paid to individuals – which are computed using the state benefit levels.[9] The federal level enforces the aforementioned triggers to counteract the perverse incentive of states to not extend benefits. That would allow states to prevent any extra fiscal burden incurred by the extension of benefits, but at the cost of less effective stabilisation (cf. infra for a more detailed discussion). In principle, this scheme is solely governed by federal legislation, but the federal government enters into agreements with the states to administer the programme on a contractual basis (Quade, O'leary, & Dupper, 2008, pp. 361-362).

EmB is a type of scheme that requires special emergency legislation and can, therefore, differ from time to time. The EUC08 programme provided an additional 14 to 53 extra weeks of benefits (before benefits are paid by the EB scheme) for eligible jobseekers during the period of 2008-2013 (US DOL, 2013, p. 13). This benefit scheme was completely federally financed and legislated. Both EBs and EmBs function as automatic stabilisers in times of extraordinary hardship; however, the EBs are triggered automatically while EmBs require new legislation (Nichols & Needels, 2006, p. 16). This means that the stabilisation effects of EmBs are somewhat limited by the time it takes to pass the required legislation. Just as the EB, the EmB technically operates through the states; the federal government transfers funds to the state accounts (cf. Figure 1). Hence, budgetary transfers are applied to implement an EB or EmB.[10] However, in row 4 of the analytical grid we only specify the loan system (cf. infra) as a transfer between levels of government. We disregard the EmB and EB schemes as transfers between levels of government because they are seen as true federal benefits in the American public debate, and are considered clearly distinct from state benefits. The EB and EmB, thus, are perceived as direct transfers from the federal level to beneficiaries. For that reason, in terms of the overall project, our classification considers the EB and EmB system as more of a 'genuine' variant of the EUBS rather than the 'equivalent' variant.[11]

The governance of this federal-state cooperation concerning UI hinges on the interaction between federal conditions, federal dollars, federal taxation, and state legislation and implementation.[12] The state finances the benefits itself through state unemployment compensation laws, the revenues of which must go into a state unemployment trust fund account and can only be used for purposes legislated by the federal government (cf. Figure 1 for the flow of funds between the federal and state level).[13] Through the federal payroll tax (FUTA), the federal government finances both the state and federal administration of UI, which amounted to almost 10% of its total costs in 2013 (USDOL 2013: 2). However, these federal dollars are conditional; states must submit a claim to be approved by the Secretary of Labour (cf. Table 8 in the appendix). The federal conditions ensure that the administration of UI is done in full cooperation with the federal government and federal agencies; states must disclose information, transfer experience ratings when businesses move, assess eligibility of claimants and profile jobless workers. Only the latter condition resembles the systems of minimum requirements that we have found in the other cases we examined, which often focus on

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[9] Cf. Code of Federal Regulations, title 20 (5) sections 615.4, 615.6 and 615.7

[10] We thank Christopher O'Leary for this information

[11] The 'equivalent' variant entails transfers between levels of government while the 'genuine' variant entails transfers straight to the beneficiaries.

[12] Cf. 42 US Code Chapter 7 subchapters III, IX and XII for federal legislation concerning financial governance of regular UI.

[13] Cf. 42 US Code § 1104 for the Unemployment Trust Fund, and § 3304 for the specified use according to the FUTA.

activation requirements such as the stipulation of a mandatory timetable for interviews with jobless workers or a minimum amount of interventions that a region or municipality must perform. Most of the remaining US federal conditions are purely administrative and focus on aligning state administrations with each other and with those of federal agencies.

As mentioned above, the benefits are financed from the state trust fund accounts, and are thus financed by the states. The administration of the system is financed from the federally controlled and financed Employment Security Administration Account (ESAA). The EBs are financed 50% by another federal account (Extended Unemployment Compensation Account) and the remaining 50% comes from the state trust fund accounts. However, between 2009 and 2013 the EB programme was fully paid out of the federal pocket due to the special circumstances (US DOL, 2013, p. 12).[14] EmBs are also the full fiscal responsibility of the federal government. When states deplete their trust fund account, they can run a negative balance that is financed by Federal Unemployment Account. In other words, states have the option to borrow from the federal government when they cannot meet the fiscal burden of the UI system. This 'loan system' is essentially a form of redistribution among states, albeit temporary (cf. infra). The loan system is very clearly seen as a federal help to the state government, and not as federal benefits disbursed directly to the beneficiaries. For that reason we regard this system of borrowing as one which resembles an 'equivalent' EUBS.

Borrowing is conditional, however, and comes with federal requirements, which brings us to the second source of federal influence on UI governance: the FUTA. The FUTA is a law that imposes a federal 6% payroll tax levied on every employer for the wages they provide (based on an annual minimum wage base of $7000).[15] It requires that states comply with certain administrative conditions (cf. Table 9 in the appendix), but more poignantly, that they do not borrow from the federal government for an extended period of time. If a state meets the minimum FUTA administrative conditions the federal government provides a FUTA tax credit of up to 5,4 percentage points to the employers within that state – reducing the net FUTA rate to 0,6%.[16] In other words, if the state complies with the FUTA requirements its employers are given a tax credit by the federal government.

Once a state is eligible for the FUTA tax credit, this credit can be reduced if it borrows for two or more consecutive years (Table 2). To be clear, if states are subject to a FUTA credit *reduction*, this entails that the employers in that state will be confronted with a tax rate that rises above 0,6%. If a state retains a negative balance in its trust fund for two consecutive years, the FUTA tax credit is reduced by 0,3 percentage points for every year beyond the first. So in the first year a state starts borrowing, the FUTA rate applicable to the business in that state remains at 0,6%, but the second year it becomes 0,9% and the third year 1,2%, and so forth.[17] Additionally, the federal government imposes a 2,7 percentage point add-on to the FUTA credit reduction that triggers the third year of a federal loan to a state, thereby increasing the federal tax rate for the business in that state further.[18] Finally, if a state continues to borrow for five years or more, a further FUTA credit reduction will be applied; the so-called Benefit Cost Ratio (BCR).[19] This final credit reduction is computed per individual state. In essence, the add-on and the BCR are further penalties to states that continue to borrow

[14] Cf. Code of Federal Regulations, title 20 (5) section 615.14 for the legislation on the regular division of costs.
[15] Most states actually have a higher wage base ranging up to $44,000 in Washington for 2016 (American Payroll, 2015).
[16] Cf. 26 US Code § 3302-3304.
[17] Under certain conditions, states can avoid a FUTA credit reduction (and, thus, a higher tax rate for its businesses) by applying for a waiver. For a discussion on waivers, see: Ernst & Young (2014, p. 3).
[18] This means that in year three the FUTA credit will be 2,1 percentage points (5,4 – 0,6 – 2,7), resulting in a net FUTA rate of 3,9% (6 – 2,1). Cf. 26 US Code § 3302 (b).
[19] Cf. 26 US Code § 3302 (c).

from the federal government (Ernst & Young, 2014, p. 4). In 2014, 15 states were subject to the reduction of the FUTA credit to employers – meaning the employers in those states were subject to a *higher* tax rate.[20] Due to these strict conditions, as well as the recent low interest rates, some states opted to borrow on the open market to fund their trust fund deficit. Therefore, not all states that that borrow are subject to the accountability mechanism of the FUTA.

Table 2 Reductions to the FUTA tax credit. Source: Ernst & Young 2014: 4, 26 US Code chapter 23 § 3302.

	FUTA credit reduction
No penalties	No credit reduction (the standard 5,4% credit is applied, which means that the net FUTA rate is at 0,6% down from 6,0%)
Yearly credit reduction	– 0,3 percentage points each consecutive year starting in year 2 of federal loan to state trust fund
Add-on to credit reduction (in year 3 of federal loan)	– 2,7 percentage point in year 3 of federal loan to state trust fund
Benefit Cost Ratio (in year 5 of federal loan)	Calculated per state on the basis of the average benefit cost for the preceding four years, the average state taxable wage of the preceding year and the average total tax rate on wages in the preceding year.

Table 3 below shows that there have been structural differences in unemployment and especially in UI caseloads. In times of low unemployment, this does not entail a structural redistribution of funds, since only administration costs are transferred from the federal level to the states and not the costs of regular benefits. However, during times of crisis when EBs are triggered and even more so during periods in which EmBs are active, these structural differences in caseloads do result in inter-state redistribution. Solidarity in the American UI system takes different forms: federal funding of administration costs, co-insurance (EB), re-insurance (the loan-system) and direct insurance of beneficiaries (EmB).[21]

Table 3 Variation in state unemployment rates & UI caseloads for 2000-2010. Source: Bureau of Labor Statistics, http://www.bls.gov/gps/

Unemployed	**2000**	**2001**	**2002**	**2003**	**2004**	**2005**	**2006**	**2007**	**2008**	**2009**	**2010**
Average	3,88	4,51	5,36	5,59	5,19	4,91	4,42	4,33	5,32	8,49	8,8
Standard deviation	0,92	0,88	1	1,03	1,02	1,05	1,01	0,98	1,21	1,94	2,06
Coefficient of variation	23,6	19,6	18,6	18,5	19,6	21,4	23	22,6	22,8	22,8	23,4
Insured unemployed	**2000**	**2001**	**2002**	**2003**	**2004**	**2005**	**2006**	**2007**	**2008**	**2009**	**2010**
Average	1,65	2,18	2,58	2,59	2,18	1,97	1,78	1,81	2,25	4,06	3,42
Standard deviation	0,71	0,77	0,81	0,82	0,73	0,75	0,69	0,67	0,78	1,15	0,92
Coefficient of variation	42,9	35,3	31,5	31,6	33,7	38	38,6	37,3	34,8	28,3	26,8

This section has shown the complex nature of the American intergovernmental cooperation concerning UI, and it should be stressed again that one should be careful in drawing comparisons from the US experience.[22]

[20] These are Arkansas, California, Connecticut, Delaware, Georgia, Indiana, Kentucky, Missouri, New York, North Carolina, Ohio, Rhode Island, South Carolina, Virgin Islands and Wisconsin.

[21] With the caveat that EmB is technically operated by the states, but regarded as a truly federal benefit directed towards the beneficiaries.

[22] For example, we noted that we regard the EB as a system of direct federal benefits but that technically, these benefits flow through the state trust fund accounts. Additionally, we identified the loan system as a form of re-insurance, but we stressed that this is only a temporary redistribution as the FUTA incorporates mechanisms that force states to repay their loans.

2. Social assistance

SA, as it is present in most of our European cases, does not exist in the US. Instead, there are multiple programmes and schemes that are more targeted – either in their purpose or to a specific demographic group. From this multitude of programmes and schemes we have chosen to examine two, one having the largest caseload of the US schemes, and the other being functionally the closest to SA in most of the other cases we examined (and which still has a caseload large enough to be relevant). SNAP (formerly called Food Stamps), with the largest case load (46,5 million persons in 2014), requires the largest budgetary effort ($74,1 billion in 2014, followed by UI which costed $34,9 billion in that same year). However, it is different from most SA schemes examined in this study because its benefits are solely meant for buying food and, consequently, have the lowest levels of all the schemes examined here. Secondly, we will examine the TANF programme, as it is the closest functional equivalent to a universal residual unemployment-related cash benefit scheme. Formerly, before the 1996 overhaul (cf. infra), the programme now called TANF was a true functional equivalent to most SA schemes examined here. However, under the current regulation, TANF can be used for other purposes than just benefit transfers and/or ALMPs. Besides providing assistance to needy families and ending benefit dependency of TANF-receiving parents, official TANF policy goals include reducing the number of out-of-wedlock pregnancies and promoting the formation and maintenance of two-parent families.[23] As a result, during the height of the financial crisis in 2011, less than 30% of funds were used for "traditional cash welfare" (Falk & Aussenberg, 2014, p. 3). Nonetheless, of the larger US schemes, TANF remains the scheme that is functionally closest to traditional SA.

2.1 Supplemental Nutrition Assistance Programme

SNAP is a programme "designed primarily to increase the food purchasing power of eligible low-income households to help them buy a nutritionally adequate low-cost diet" (Aussenberg, 2014, p. 1). In its current form it is authorised by the 2008 Food and Nutrition Act, and is recently reauthorized in the 2014 Farm Bill, but it dates back to 1939. It is a federally designed scheme, jointly administrated by the US Department of Agriculture's Food and Nutrition Service (USDA FNS) and the states. The benefits are fully federally financed, while the financing for the administration of the scheme is shared equally by the federal and state level.[24] Benefits are awarded to the household as a unit, and the benefit rates are a function of the maximum allotment (which is dependent on the size of the household and in some cases adjusted to the geographical location) and the net monthly income of the household. Monthly benefits are equal to the difference between the maximum allotment and 30% of the household net monthly income (which is presumed to be the average household's expenditure on food).[25] The maximum allotment for most states – different maximum rates are used for some special (geographical) cases such as Alaska and Hawaii– are between $194 for one person and $1.169 for an eight-person household (Aussenberg, 2014, p. 14). Certain types of expenditures can be subtracted from the monthly income, which decreases the amount that is subtracted from the maximum allotment and, therefore, increases the benefit level. The benefits are disbursed by the states in the form of a debit-like card, which can only be used at certain (federally approved) vendors. These cards cannot be used at other locations nor can they be used to withdraw

[23] Cf. 42 US Code § 601.

[24] The federal level reimburses 50% of the state's administration costs, cf. 7 USC § 2025. Some exceptions do apply to the level of reimbursement.

[25] Cf. 7 US Code § 2017.

the benefits in cash (Aussenberg, 2014, pp. 17-18). In other words, they can solely be used for the procurement of food.

Eligibility can be determined in two ways: through *regular* federal means and asset tests and through a state *categorical* eligibility tests.[26] The former is straightforward: applicants are subjected to a means test of 100% of the federal poverty line, or 130% for a household with dependents. Additionally, the household is subjected to an asset test of up to $2.000 ($3.250 for households with elderly or disabled persons). Some assets, such as vehicles, are partially exempted for this test. However, states can make SNAP eligible for beneficiaries of other asset- and means-tested schemes such as TANF, Supplemental Security Income and the state's General Assistance benefits. This possibility was introduced in 1971, abolished in 1977 and gradually reinstated in the 1980s and 1990s (Falk & Aussenberg, 2014, pp. 2-3). The idea behind categorical eligibility is the simplification of administration: since the caseloads of these other state-run benefits are already subjected to means and/or asset tests, it is easier to simply assume eligibility for SNAP as well (Falk & Aussenberg, 2014, p. 2). In 1996 TANF took its current shape, which includes a large number of services other than traditional cash transfers. The federal level (USDA) issued regulations that TANF noncash benefits or in-kind transfers would also imply eligibility for SNAP, as long as (1) these noncash benefits or in-kind transfers are at least financed 50% by TANF[27] funds, and (2) an income limit of 200% of the federal poverty line was enforced (Falk & Aussenberg, 2014, p. 4).[28] This option has been referred to as 'broad-based categorical eligibility' (BBCE), the logic behind this being, again, the simplification of administration (GAO, 2012, p. 2). Furthermore, states have a range of options to adjust the administration of the SNAP scheme as they see fit.[29] Most importantly, they can disregard the worth of vehicles completely, they can implement transitional benefits to help families moving off of TANF or other benefits, or they can simplify monitoring and reporting requirements for beneficiaries.[30]

In essence, states can provide eligibility with a more generous asset test, or they may circumvent that asset test altogether and apply a much more generous means test (200% of the federal poverty line rather than 100 and 130%). Thus they can heavily influence the federal caseload. When the federal government issued the BBCE guidelines, this option did not avail many states; between 2001 and 2006 only 7 states implemented BBCE. This changed in the course of the Great Recession; by2012, 43 states implemented BBCE.[31] Between 2002 and 2012 the SNAP caseload doubled and its costs quadrupled (GAO, 2012, p. 2). However, categorical eligibility and BBCE are only a (small) part of the explanation of those increasing caseloads and costs (GAO, 2012). The section on institutional moral hazard will go deeper into the causal mechanisms behind those increases and the consequences of BBCE for the federal budget.

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[26] Cf. 7 US Code § 2014. In regulation and legislation, 'regular' eligibility is referred to as 'traditional' eligibility. However, this is confusing because the USDA FNS also developed a subcategorisation of 'categorical' eligibility which includes the term 'traditional categorical' eligibility (Falk & Aussenberg, 2014, p. 5).
[27] Or MoE funds, cf. infra.
[28] Cf. 7 C.F.R. 273.2(j).
[29] Cf. 7 C.F.R. 273.
[30] For a complete overview of all state options cf. USDA FNS (2012).
[31] Five other states maintain the traditional categorical eligibility requirements (in which noncash transfers do not convey eligibility) and five other states implemented the narrow categorical eligibility, which expands only slightly on the traditional categorical eligibility requirements. This leads to a grant total of 53 states, since these numbers include the District of Columbia, Guam and the Virgin Islands.

2.2 Temporary Assistance for Needy Families

TANF is a programme for which states can submit claims (or rather a 'state plan' called the State Family Assistance Grant or SFAG) with the federal government (the Department of Health and Human Services or DHHS) to apply for a block grant. These block grants can be used for purposes other than just the administration of the system. Due to the grant being fixed in size, the states cannot manipulate their funding by increasing caseloads.

The block-funded TANF is the successor of the open-ended Aid to Families with Dependent Children (AFDC). TANF was created in 1996 by the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA). This reform entailed more flexibility for the states in some regards, but counter-intuitively, it was motivated by institutional moral hazard. Under AFDC, states were required to administer the federal programme (under very strict rules) (Hein & Clark, 1999, pp. 11-12). In contrast, under TANF, states are required to operate their own cash benefit programme. "Where the PRWORA grants states what appears to be more meaningful policy discretion, careful analysis reveals that these options are weighted by substantial financial or other penalties. The Act limits states' decision-making processes to ensure that they exercise discretion in accordance with policy norms embedded in the federal legislation. For this reason, the PRWORA should not be understood as a neutral federal block grant programme that cedes the important decisions to states in an impartial manner. Rather, through its technical, financial detail, the Act operationally transfers control of new and important areas of policy traditionally left to the state to the federal government" (Hoke, 1998, pp. 115-116). TANF transferred the responsibility over eligibility criteria from the federal level to the states but also somewhat limited the autonomy of states in determining benefit amounts.[32] As a result, this limited autonomy has affected the categorical eligibility option of SNAP; lower TANF eligibility thresholds entails more SNAP beneficiaries.

State flexibility is not limitless; the federal government stipulates a number of requirements for the state plans/claims. These include limited outlines of the state plans but also require, for example, stipulations such as the operation of foster and childcare programmes (cf. Table 11). Finally, there are limitations on the use of federal block grant funds (also in Table 10). Appropriate uses include disbursing benefits or benefits in kind, running a placement programme, administration costs and setting up and maintaining IT-systems.[33]

The size of federal expenditure on state grants and each state's individual grant size are based on the "federal share of expenditures in the pre-1996 AFDC, Emergency Assistance, and Job opportunities and Basic Skills training programs" (Falk, 2013b, p. 3).[34] Federal expenditure has not evolved much since 1996. In addition to the block grants, TANF programmes are financed by the states themselves through so-called Maintenance of Effort (MoE) spending, which is also an innovation of the PRWORA.[35] MoE spending is mandatory for receiving federal TANF funds. In 2013 the funding amounted to $16,5 billion from federal grants and $10,4 billion from state funds (Falk, 2013a, pp. 1-2), about two-thirds of the UI programme and one-third of (federally financed) SNAP. Again, there

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[32] However, the federal level poses some broad eligibility requirements, most important of which is that benefits may only be disbursed to families with dependent children earning less than 200% of the poverty line (cf. Cf. 42 US Code § 608 and Table 10 in the appendix).

[33] Cf. 42 US Code § 604.

[34] "The original formula entitled each state to the greatest of the average federal share of expenditures in these programs for FY1992 through FY1994; the federal share of expenditures for these programs in FY1994 adjusted for states that amended their EA programs in FY1994 or FY1995; or the federal share of expenditures for these programs in FY1995. The FY1994 adjustment for EA programme amendments is the amount by which the federal share of EA expenditures in FY1995 exceeded that of FY1994" (Falk, 2013b, p. 3).

[35] Cf. 42 US Code § 609 a 7 i, see also (Brown, 2012) for a very extensive discussion of MoE.

are federal guidelines as to what qualifies as MoE spending (cf. Table 12), but these are more relaxed than other TANF criteria.

By regulating plans, federal funding and MoE spending, the federal government exerts influence over the state legislation of TANF. However, TANF is seen as a relaxation of federal requirements and an increase in federal flexibility (Falk, 2013b, p. 9; Falk, 2014, p. 5).[36] Compared to the control of central federal governments over SA in most of the other cases, the TANF regulations entail relatively high flexibility. In an international perspective, American states have a broad discretion when it comes to the design of their TANF cash benefit system (Falk, 2014, p. 2). A case in point is benefit levels, which vary greatly. In 2012 the maximum cash benefit levels for single parents with 2 children varied between $923 (Alaska) and $170 (Mississippi) (Falk, 2014, p. 8).[37] Objectively, it could be said that there is a large heterogeneity in the design and generosity of the TANF cash benefit schemes per state (Falk, 2014). Moreover, cash benefits only constitute a relatively small portion of the uses of TANF and MoE expenditure. In summary, the cash benefit schemes may vary from state to state but the uses of TANF funds vary even more strongly across states (Falk, 2013b, p. 21).

Fiscally, the introduction of the TANF has reduced costs. In the height of AFDC in March of 1994, 5,1 million families received cash benefits. Nineteen years later the caseload of TANF was reduced to 1,8 million families (Falk, 2013a, p. 8). Furthermore, when adjusted for inflation, the maximum amount of cash benefits received decreased (Falk, 2014, p. 11). These developments are the result of a change in funding method; rather than open-ended funding for benefits (for which states set the levels) to families under national eligibility rules, states must now use a finite amount of funds to provide both benefits and services to those families the state determines to be eligible.

Normally, this would be the point where we would reflect upon the structural heterogeneity of caseloads for the purposes of determining whether there is a redistribution effect of the federal division of funds. However, such an analysis would not be pertinent to TANF for two reasons: first of all, the states have a large influence over the design of the programme, which would bias any comparison. Secondly, TANF funds are not divided according to caseload per state; instead, the amount is based on historical spending patterns under AFDC, as explained here.[38] Therefore, most states have received the same amount for most of the years since the introduction of TANF in 1996.

Even though there is not a distribution of funds based on current caseloads, there is a redistributive effect of this division of funds. Table 13 in the appendix compares grant amounts per state, as a percentage of total federal funds, to the state population as a percentage of the total population. Some states receive a disproportionately larger percentage of total funds compared to their population percentage. For example, California receives more than 22% of the funds, while it only represents around 12% of the total population. In contrast, Texas only receives slightly less than 3% of the total funds while its population is around 7,75% of the total US population.

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[36] However, as Hoke rightly notes, this view might ignore some of the financial and technical aspects of the PRWORA (1998, pp. 115-116).

[37] Benefit levels are often dependent on family size. The benefit levels for families with 6 children in the same states varied between $1229 and $242.

[38] Neither has the required MoE spending levels. This entails that the real value of funding has declined since the introduction of TANF by as much as 30% (Falk, 2014, p. 4).

3. Activation

The US has a single one-stop-shop for all jobseekers. As in Canada, activation in the US is placed within a broader context of 'workforce development'. The one-stop-shop and the context of workforce development are related to another difference with many of the European cases examined in this study: the benefit schemes and the provision of ALMPs are less directly linked in the US case. In other words, while in most other cases examined in this study, governments have a very specific activation regime per benefit scheme and sometimes tie these regimes to specific institutions or agencies, the direct linkages between US benefit schemes and ALMP delivery are less numerous and obvious. Rather, its workforce development system is aimed at broad (and sometimes universal) coverage. Nonetheless, specific ALMP requirements for specific benefit schemes do occur in the US; however, since most ALMPs are delivered through a unified framework, we will not discuss the activation of UI and SA under differentiated headings.

The US has one of the earliest (federal) PES systems in place (referred to as the 'Employment Services' or ES), which dates back to the Wagner-Peyser act of 1933. However, its role has been languishing for decades. Since its enactment in 1933, the ES was aimed at servicing the UI caseload, but this exclusive relationship has been abolished (O'Leary & Eberts, 2008, p. 13). Since 1998, the ES was given a place in the one-stop system. In essence, this change entailed a decentralisation of responsibilities. There were four PES responsibilities devolved to the states: (1) facilitating the match between job seekers and employers, (2) providing labour market information to job seekers and employers, (3) making appropriate referrals to related employment and training programs and (4) meeting the work test requirements of state unemployment compensation systems (O'Leary & Eberts, 2008, p. 3). The ES provides three tiers of services: "self-assisted services such as internet-based job postings, resume preparation, and skills assessment tools; facilitated self-service, which includes access to resource rooms with more computer aids and staff assistance; and staff-assisted services, such as individualized screening, job matching, and counselling" (O'Leary & Eberts, 2008, p. 2). With the 2014 Workforce Innovation and Opportunity Act (WIOA), the role of the ES in the one-stop system is reinforced. "[O]ne of the key functions played by the ES is to deliver many of the "career services" established by WIOA [cf. infra], since Wagner-Peyser Act-funded ES services are available at all comprehensive One-Stop centers and many affiliated sites. ES staff often are the first to assist individuals seeking employment assistance and refer individuals to other programs in the One-Stop system of partners" (Bradley, 2015, p. 8).

The US has a history of multi-tiered governance of ALMP delivery starting with the New Deal era. The 1962 Manpower Development Training Act, in which the federal government directly funded local communities for ALMP delivery, is the first multi-tiered predecessor of WIOA. The 1973 Comprehensive Employment and Training Act conveyed even more decision-making authority to sub-state political entities (Bradley, 2015, p. 3). By 1982, with the introduction of the Job Training Partnership Act, the states were, for the first time, involved in the delivery of ALMPs, and they shifted the focus firmly towards training. The latest predecessor of the current WIOA, the Workforce Investment Act (WIA), was introduced in 1998 and established the one-stop system that the US still has today. The WIA laid the foundation for the current system and its governance. The WIA enacted state and local 'Workforce Investment Boards' (WIBs), which governed the implementation of service delivery. Furthermore, it was the start of universal access and shifted the focus from training to work-first policies (Bradley, 2015, p. 3; for an excellent discussion of the WIA see: Bradley, 2013). This system was meant to be 'demand-driven' in the sense that local businesses held a majority in the WIBs (and thus an important role in the governance) and that the jobseekers were given an element

of ‘consumer-choice’ by providing Individual Training Accounts (ITA) with which participants could choose the type of training and the provider.

The WIOA is not fully operational yet. However, the legislative contours are clear enough here to provide an outline of the division of labour between the different levels of government. As the WIA, the WIOA covers more than just ALMP delivery to jobless workers, but we focus on the following titles title 1 (workforce development activities) and title 3(amendments to the Wagner-Peyser Act).[39] Title 1 includes funding streams for (1) adult employment and training activities, (2) dislocated worker employment and training activities and (3) youth workforce investment. This study will focus on the former two of the title 1 funding streams.

WIOA replaced the WIBs created under the WIA by Workforce Development Boards (WDBs). Just as the WIBs, the WDBs are enacted at the state and local level. Different stakeholders participate in the WDBs, which are appointed by the governor (state) and the chief elected official (local).[40] WDBs have to foster cooperation, oversee administration, design strategies, plan and report on the implementation of unemployment regulation. The federal level prescribes the governance framework and provides earmarked funds and guidelines, but the flexibility of WDBs is great. The precise responsibilities of the WDB are outlined in Table 4.

Table 4 Responsibilities of state and local Workforce Development Boards. Source: Bradley 2015: 13, WIOA Sections 101(b)(1) & 107(b)(1).

State WDB	Local WDB
Development and implementation of a Unified State Plan	Development of a local plan for workforce investment activities
Review of state-wide policies, programs, and recommendations that would align workforce programs to support a streamlined workforce development system	Analysis of regional labour market conditions, including needed knowledge and skills for the regional economy
Development and continuous improvement of state-wide workforce activities, including coordination and nonduplication of One-Stop partner programs and strategies to support career pathways	Engagement of regional employers to promote business participation on the WDB and to coordinate workforce activities with needs of employers
Designation of local workforce investment areas and identification of regions	Development and implementation of career pathways
Development of formulas for within-state distribution of adult and youth funds	Identification and promotion of proven and promising workforce development strategies
Development and updating of state performance accountability measures	Development of strategies to use technology to increase accessibility and effectiveness of the local workforce system
Identification and dissemination of best practices of workforce development policy	Oversight of all programs for youth, adult, and dislocated workers
Development of strategies to improve technology in facilitating access to and delivery of One-Stop services	Negotiation of local performance measures with the governor
Preparation of annual reports to DOL on performance measures	Selection of One-Stop operators and eligible providers of training
Development of the state-wide workforce and labour market information system	Coordination of WIOA workforce development activities with local education providers
	Development of a budget and administration of funding to service providers
	Assistance in development of a state-wide employment statistics system
	Assessment of accessibility for disabled individuals at all local One-Stop centres.

One of the most important responsibilities of the WDBs is to plan state and local strategies, to design the local one-stop-shop and to maintain a performance management system.[41] The federal level

[39] Cf. WIOA of 22/7/2014.
[40] Cf. WIOA Section 101(b)(1).
[41] Cf. Cf. WIOA section 102 for the complete description of the state plans (called Unified State Plan or USP). Cf. Cf. WIOA section 108 for the complete description of local plans. Cf. [41] Cf. WIOA section 121(b)(1)(B) for

determines ‘primary indicators’ of performance, and the states must negotiate the levels of these indicators with the federal government to determine what is appropriate to adopt in their USP. In turn, the governor negotiates the appropriate levels of these indicators with the local level for adoption into local plans. The state may also propose additional indicators, but these cannot replace the federally determined primary indicators. The local level reports to the state level, which in turn reports to the federal level.

Besides the governance framework, the federal level also prescribes the types of services provided to clients in the one-stop-shops. The federal government does so for every stream of funds under the WIOA, but since we focus on the adult and dislocated worker activities under title 1 of the WIOA, Table 5 presents an outline describing the two types of prescribed services: career services and training services. These two types of services represent less intensive and more intensive services respectively.[42] Furthermore, federal regulation prescribes a list of state-wide activities for which the governor may use state funds (the so-called ‘governor’s reserve’, cf. infra).[43] Therefore, at both the local and state level, federal legislation provides a prescribed (but broad) policy menu.

Table 5 Federal description of services to be provided under WIOA title 1 adult and dislocated worker activities. Source: Bradley 2015: 18

Career Services	Training Services
Eligibility Determinations	Occupational Skills (e.g., classroom training)
Outreach, Intake, Orientation, and Referrals	On-the-Job Training
Assessment of Skills and Needs	Incumbent Worker Training
Labour Exchange Services, including Job Search Assistance and Information on In-Demand Occupations	Combined Workplace Training with Related Instruction
Workforce and Labour Market Information	Skill Upgrading and Retraining
Performance and Cost Information for Eligible Training and Education Providers	Entrepreneurial Training
Performance Measurement Data for Local Area	Transitional Jobs
Information On and Referral To Supportive Services	Job Readiness Training
Information on Filing for Unemployment Compensation	Adult Education and Literacy Combined with Training
Assistance in Establishing Eligibility for Financial Aid for non-WIOA Training and Education Programs	Customized Training in Conjunction with an Employer
Services to Obtain or Retain Employment*	
Follow-Up Services for at least One Year to Participants Who are Placed in Unsubsidized Employment	

*“Services to Obtain or Retain Employment” include comprehensive and specialized assessments of skills and needs, development of an Individual Employment Plan (IEP), group and/or individual counseling, career planning, case management, prevocational services to prepare individuals for employment or training, work experiences linked to careers, financial literacy services, and English language acquisition.

In most of the other cases we examine, federal or central legislation directly outlines how benefit scheme caseloads should interact with activation. For example: central or federal governments often codify a standardised process for contact between UI beneficiaries and the PES or one-stop-shop as well as a standardised timeframe for specific actions that the PES or one-stop-shop must take. Such direct linkages are limited in the US, but this does not mean they are totally absent. Federal UI legislation determines that states may only pay benefits to persons who are able and available to work,[44] but the scope of federal regulation concerning the concept of ‘able and available’ is quite

mandatory partner programmes in the one-stop-shops and WIOA section 121(b)(2)(B) for optional partner programmes.

[42] Previously, under the WIA, the federal government stipulated that these services were sequentially delivered. Under the WIOA the federal government prescribes eligibility criteria for training services, which can now be delivered before other services when clients are eligible, cf. WIOA section 134(c)(3)(A)

[43] Cf. WIOA section 134(a)(2)(A), 134(a)(2)(B), 134(a)(3), 129(b)(1) and 129(b)(2). See for an excellent overview Bradley 2015: 16-18.

[44] Cf. 20 CFR 604.3.

broad and remains up to the states to assess.[45] The federal link between UI benefits and one-stop-shops is limited to the stipulation that states are required to engage in worker profiling and refer them to appropriate services. It is up to the states to determine the needs of these clients, and which services they refer them to – this can be any job search assistance service under state or federal law.[46]

The federal government has stepped up its concern for activation when it comes to EB and EmB. When beneficiaries receive the extended part of benefits (in most states after 26 weeks of regular UI benefits), they are subject to federal legislation obligating them to make a 'systematic and sustained effort' and to provide 'tangible evidence' thereof.[47] For the EmB programme EUC08, the federal government imposed even stricter job search requirements. Individuals had to be mandatorily registered with employment services (at the one-stop-shop), they had to be engaged in an active search, and they had to maintain a written record thereof that they could produce if necessary. Furthermore, the same legislation obligated states to deliver activation services and assessment of skills at the one-stop-shop for those individuals receiving benefits under the EUC08 programme.[48] The 'able and available' clause was inserted by The Middle Class Tax Relief & Job Creation Act of 2012 and constituted the first formal activation requirement for regular UI benefits; however, most states had already adopted such a requirement in their own laws and statutes (Klerman, 2013, p. 2).

Furthermore, as already noted, the PRWORA also introduced work and activation requirements for TANF, indicating a growing federal concern for activation. First of all, states are obligated to develop individual responsibility plans with TANF recipients that detail the way in which the state and the individual will work towards private sector re-employment.[49] Secondly, states are required to achieve certain work participation rates regarding their TANF caseloads or otherwise suffer reductions in their grants (the details will be discussed in the section below). However, these activation requirements are not directly linked to the one-stop-shop. Rather, the federal government outlines twelve types of work activities that count towards the participation levels,[50] and the one-stop-shop can refer clients to such services. Moreover, TANF has become a mandatory partner in the one-stop-shops.

SNAP also includes work requirements. Most SNAP recipients are already employed but earn so little that they are still eligible. Others might be exempt by being under 16 or over 60 years old, being declared 'unfit' due to a disability, receiving TANF benefits and fulfilling their TANF work requirements, having dependent young children, being enrolled in a school or being enrolled in a drug treatment programme (Lower-Basch, 2014, p. 3). Those without exemption are called 'work

[45] Cf. 20 CFR 604.3-5
[46] Cf. 42 US Code. 503 (j).
[47] Cf. 20 CFR 615.2.
[48] Cf. sections 2141-2.
[49] Cf. 42 US Code. 608 (b).
[50] 42 US Code 607(d) specifies 12 work activities: (1) unsubsidised employment; (2) subsidised private sector employment; (3) subsidised public sector employment; (4) work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available; (5) on-the-job training; (6) job search and job readiness assistance; (7) community service programmes; (8) vocational educational training (not to exceed 12 months with respect to any individual); (9) job skills training directly related to employment; (10) education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalence; (11) satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate; and (12) the provision of child care services to an individual who is participating in a community service programme. See also (Falk, 2013b, pp. 17-18).

registrants' and can be sanctioned by the states for non-compliance with participation requirements. A subset of work registrants (those between 18 and 50, not living in a household with a minor child and physically and mentally able to work) is referred to as Able Bodied Adults without Dependents (ABAWDs). ABAWDs can only receive SNAP benefits for a maximum of three months if they do not comply with participation requirements. So although it might seem as if the US federal government is not very involved in legislating direct links between workforce development and unemployment-related benefits compared to the other cases we examine, the changes in 1996 and 2012 signal an increasing federal concern for activation.

The funding of ALMPs is almost completely federal; however, due to the fragmentation of funding streams it is quite complicated. First of all, the ES is funded by a federal account (ESAA to be precise) (O'Leary & Eberts, 2008, pp. 5-6). However, the ES currently performs activities in the one-stop-shops that are paid by state grants under titles 1 and 3 of the WIOA. The three funding streams (adult, dislocated worker and youth) for title 1 are separate and all have different formulas. The common thread among these formulas is that the federal level transfers funds to the state level, where the governor retains a portion of the funds (the 'governor's reserve') and distributes the rest to the local WDBs according to a formula similar to that used to disburse federal funds to the states (for the formulae see Table 6). The formula for the division of funds to the local WDBs is essentially the same as the one for the division of state funds, but does not include the governor's reserve. Local WDBs can, with the governor's approval, transfer 100% of the local fund allocation for adult and dislocated worker activities among each other.[51] So, despite the fragmented funding streams of the WIOA, both the states – through the governor's reserve – and the local level have a great deal of budget flexibility.

Table 6 Division of WIOA title 1 funds for 'Adult' and 'Dislocated Worker' Employment and Training Activities. Source: Bradley 2015: 25-26.

	Adult Employment & Training Activities	Dislocated worker Employment & Training Activities
Factors that determine funds allotted to states	1/3 is allotted on the basis of each state's relative share of total unemployment in areas of substantial unemployment	1/3 is allotted on the basis of each state's relative share of total unemployment
	1/3 is allotted on the basis of each state's relative share of excess unemployment	1/3 is allotted on the basis of each state's relative share of excess unemployment
	1/3 is allotted on the basis of each state's relative share of economically disadvantaged adults	1/3 is allotted on the basis of each state's relative share of long-term unemployment
Funds retained by the governor or "governor's reserve"	Maximum 15% of state allotment for state-wide employment & training activities[52]	Maximum 15% of state allotment for state-wide Dislocated Worker Activities and maximum 25% for rapid response activities. In sum not more than 40% of state allotment

SNAP E&T is funded differently; the states can receive funds in two manners, either through direct federal payments for certain activities (paid 100%) or through the reimbursement of state costs (50% of the costs are reimbursed). The former is fairly limited; the total sum of funds in 2015 was $90 million with another possible $20 million for states who pledged to serve all ABAWDs (Chite, 2014, p. 101).[53] This was divided over the states according to a formula that is based on the number of SNAP

[51] Cf. WIOA section 133(b)(4).
[52] The use of the 'governors reserve' is subject to federal legislation, which includes a list of requirements that must be in place in order to receive funds as well as a list of activities that are eligible to receive funds.
[53] Cf. 7 US Code § 2025.

beneficiaries in a state that are eligible for SNAP E&T.[54] Most states spend this allotment completely on job search activities and referrals (Lower-Basch, 2014, p. 2). Therefore, the states make use of the federal SNAP E&T reimbursement of 50% for ALMPs for SNAP beneficiaries. This source of funding is open-ended, but in order to make use of it, the states must draw up a plan with a proposed budget for USDA FNS.

In this section we have covered a short history of activation in the US, a description of the governance framework, the different types of direct linkages between benefit schemes and ALMP delivery and, finally, funding of the different activation programmes. The next section will go into the concern for institutional moral hazard in the US regulation of unemployment.

[54] Cf. 7 CFR 273.7(d)(1)(i).

4. Concern for institutional moral hazard

Institutional moral hazard plays an important role in the American regulation of unemployment. However, at first sight this statement might not seem applicable to UI since states finance regular UI benefits themselves. In other words, states do not have an 'insured risk' when it comes to regular UI, and they have the option of referring that caseload to federally-financed activation centres. Therefore, the federal level leaves it to the states to regulate the relationship between UI benefits and activation. Nonetheless, the governance of regular UI includes some elements through which the federal level influences state behaviour. The FUTA requirements determine which administrative provisions a state includes in order to be eligible for administration grants. States must show that their federally financed administrations work in accordance with federal guidelines and performance levels for quality and timeliness.[55] Furthermore, the experience-rating requirement posed by the federal government ensures that states combat moral hazard at the level of employers. Because employers would be subject to a higher tax rate, they are discouraged from abusing fairly relaxed employment protection regulation. This is an interesting feature, and is unique to the US vis-à-vis the other cases we examine – and perhaps even vis-à-vis all other OECD countries. Experience rating entails a different viewpoint on institutional moral hazard concerning UI than in the other cases we examine for in study, which is probably connected with the low American employment protection. Finally, the US federal government is very concerned with institutional moral hazard regarding the state UI trust fund accounts. Because the states are able to borrow from the federal government, the FUTA also incorporates elements that prevent the federal level from becoming structurally liable for state benefit costs. A negative UI trust fund balance implies redistribution since the federal level finances the negative balance and (under certain conditions) provided interest-free loans (GAO, 2015, pp. 13-14). The aforementioned automatic FUTA credit reductions (Table 2) are a sophisticated financial mechanism that ensures repayment of state loans to the federal level.[56] The reduction of the FUTA tax credit for businesses results in a higher tax rate for businesses in states that carry over loans for more than one year, which also puts political pressure on state governments to repay the loans from within.

The moment that EB and EmB come into play, federal concerns increase. States have some perverse incentives to avoid initiating EB if possible, because EB also entails a fiscal burden for state governments (who generally pay 50% of the benefit costs, with the exception of the period of 2008-2013). Not initiating EB would result in less effective stabilisation, which is one of the aims of the EB scheme. The triggers, legislated by the federal government (Table 7 in the appendix), prevent states from not initiating EB. In other words, this type of institutional moral hazard is addressed through federal requirements for state laws.[57] Due to the increased budgetary involvement of the federal

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[55] Indicators include: First Payment Promptness, quality measures, detection rates of overpayment, average number of ongoing appeals, and a re-employment measure. However, every indicator except for the re-employment rate has a federal predetermined level that must be achieved. See here for an overview of reporting requirements.

[56] The FUTA responsibility mechanisms are not out of concern for the financial health of the states. In fact, the states are free to borrow on the open market to finance their UI shortfalls. The federal government does not intervene, nor does it impose any additional requirements or conditions if states chose to do so.

[57] Until halfway through the 1980s it was possible for states to opt-out of or exit EB early under certain circumstances. This endangered the stabilisation effects of the extensions of benefits to prevent state costs. This form of institutional moral hazard was first negated by reversing the order of EB and EmB (EmB was placed first so that the federal government would bear the brunt of the extension costs) and later by scrapping the possibility to opt-out of EB (Nichols & Needels, 2006, p. 16)

government in times of EB and EmB (especially during the recent crisis), the federal government also became more involved in regulating activation efforts of the state relating to the extended UI caseload. The mandatory job search and activation requirements in the post-2008 era, during which unemployment rates soared (the benefit duration reached 99 weeks at one point due to EB and EmB, cf. GAO, 2015), can be seen as an immediate federal concern for institutional moral hazard. In other words, federal concern for institutional moral hazard in the UI system is focussed on EB and EmB schemes, on the re-insurance of regular UI in the form of federal lending to state UI trust fund accounts and on the moral hazard on the side of employers.[58]

There is also the potential for institutional moral hazard in the most important of US benefits examined here: SNAP. Due to the state flexibility in the administration of SNAP, especially from categorical eligibility and later BBCE, states have a potentially large influence on the SNAP caseload. Since the onset of the financial crisis, states have *en masse* opted to implement BBCE. They can transfer SNAP eligibility to their TANF caseload by delivering very minimal TANF noncash benefits. In practice these noncash benefits include the provision of a toll-free telephone service, flyers, notice on TANF applications, brochure distribution and even pregnancy prevention information (because preventing out-of-wedlock pregnancies is one of the official goals of TANF) (for a complete overview cf. Falk & Aussenberg, 2014, pp. 8-11).

Nonetheless, it was the federal government that expanded traditional categorical eligibility to BBCE and then promoted this to the states in 2000.[59] On the other hand, the federal government stipulated that BBCE is only applicable to programmes that enforce a limit that is 200% of the federal poverty line.[60] Secondly, due to the way SNAP benefits are calculated, providing benefits to individuals with a higher income than allowed in federal regulations would mean only very marginal benefits.

In 2012, the combined increase in cost and caseload led the federal government to initiate an investigation into the consequences of BBCE and find options to adjust SNAP administration (GAO, 2012). This signalled federal awareness of the potential institutional moral hazard. However, the investigation showed that the BBCE and state options have contributed very little to the increase in budgetary effort and the rise in caseload; instead, both the crisis and federal policies (such as the encouragement to apply for SNAP and the increase in its benefit levels) have been the most important factors (GAO, 2012, pp. 15-19, 39-40). The potential for institutional moral hazard, thus, is recognised by the federal government,[61] but the combination of federal regulations, the way in

[58] It is possible that these attempts at reducing the possibilities for institutional moral hazard created pressures which led to a new form of institutional moral hazard: the reduction of regular benefit duration by states. Since 2011, nine states reduced the duration of regular benefits from 26 to between 12 and 25 weeks – with 20 being the most common. This implies that beneficiaries will receive (federally funded) EB and EmB earlier. However, because the duration extended benefits are dependent on the duration of regular benefits, it is unclear whether this actually resulted in higher costs for the federal government (GAO, 2015, pp. 34-37). Furthermore, it is unclear whether the actions of these states resulted in a shift in caseload from UI to benefits such as TANF or SNAP (GAO, 2012). In other words, the actions of the states might simply be the result of a combination of increased UI costs and the incentive effect of FUTA . In fact, officials from some of the states cited the depletion of the state trust fund accounts as the causal factor (GAO, 2015, p. 16).

[59] Cf. 65.225 Rules & Regulations Federal Register 70134, 70160 and 70198.

[60] Cf. 65.225 Rules & Regulations Federal Register 70160, 701601, 70198 and 70199.

[61] Moreover, historical precedence shows that the awareness of potential institutional moral hazard vis-à-vis categorical eligibility has existed for a long time: during the late 1970s categorical eligibility was abolished for just this reason and later reinstated.

which benefits are calculated and the current use of BBCE by states do not (at the moment) result in a significant increase in caseload or costs.

According to the authors, the extra costs of BBCE are not the greatest danger of state flexibility for SNAP. Instead, they argue that the greatest danger is to the integrity of the SNAP programme; states do not apply monitoring and programme criteria rigorously enough, which leads to situations in which households report changes in their incomes too late or where some households wrongly receive free school meals. The analysis suggests that BBCE lead to more payment errors by states (GAO, 2012, p. 33). The issue of erroneous payments by states has long been on the federal government's radar. To prevent this, states are subject to a quality control process. They are obliged to review a random sampling of the SNAP caseload in their state and report so-called 'error-rates'. The USDA FNS then samples a subsection of the state's reviews to verify the results. The states with the lowest and most improved rates receive bonuses and states with the highest rates receive penalties. The states thus have the incentive to report low error rates. A recent review by the USDA inspector general indicates that states have actively undermined the quality of the quality control system (USDA OIG, 2015). It seems that institutional moral hazard in SNAP manifests itself mainly in the quality control process rather than in the manipulation of the size of the caseload due to BBCE.

From the institutional moral hazard perspective, there are two important differences between UI and SNAP on one hand and TANF on the other. Firstly, (contrary to regular UI benefits) under TANF, federal dollars are used to finance benefits. Secondly, contrary to federal involvement in SNAP, EB and EmB, TANF financing is a block grant. The lump-sum payment inherent to block grant funding prevents states from manipulating federal costs. Moreover, TANF incentivises states to limit their caseloads and control expenditure. This is unsurprising given the fact that TANF replaced AFDC specifically out of concern for moral hazard – both individual and institutional. "States will no longer have the promise of increased federal funds as an incentive for greater outlays of state dollars" (Hoke, 1998, p. 120).

The federal government tries to counteract incentives for states to reduce their own spending on 'SA' by enforcing mandatory maintenance of spending (MoE). The federal government also introduced work requirement levels that states must achieve. The work requirements are the following: states must achieve a 50% participation rate for all families that receive TANF benefits and a 90% rate for 2-parent families that receive TANF benefits.[62] Federal legislation determines what activities count towards activity rates and which families are exempt from being counted.[63] Even more importantly, the work requirements and the MoE interact: the better the performance for work requirements the lower the MoE actually is (Brown, 2012, pp. 6-7).[64] The standard level of MoE spending is 80% of pre-TANF (reference year: 1994) social spending. Under certain conditions this rate can be either reduced or increased (

Table 4). Not achieving these work requirements can result in additional financial penalties ranging from 5% to 21% of the total TANF block grant.[65]

[62] Cf. 42 US Code § 607.
[63] Cf. footnote **Error! Bookmark not defined.**.
[64] Cf. 42 US Code § 609.
[65] Cf. 42 US Code § 609. However, these penalties have not been enforced since the period of 2007 to at least 2013 (Falk, 2013b, p. 19).

Table 4. Conditions and requirements per level of MoE spending

Amount of MoE spending as a percentage of pre-TANF 1994 spending		Conditions and requirements
Reduced	75%	Achieve minimum work requirements of 50% for all families and 90% for 2-parent families.
Standard	80%	To receive its federal TANF funds, a state must generally spend state funds in an amount equal to at least 80 percent of the amount it spent on welfare and related programs in the fiscal year 1994.
Increased	100%	To receive contingency funds (emergency funding), a state must expend 100 percent of that fiscal year relative to the 1994 amount.

States are required to report their efforts on a monthly basis. This reporting includes the information necessary to calculate participation rates (reporting also includes output indicators, cf.

Table 5). The bulk of these reports, however, concern the amount of families on TANF benefits and their personal details as well as what the states have spent their funds on. This information provides the basis for annual reporting to congress by the Secretary of Labour. So although direct institutional linkages between TANF and the workforce development system are comparatively limited, the US federal government shows concern for institutional moral hazard in different ways. Open-ended funding (AFDC) to states for administering federal programmes has been replaced by block grant funding (TANF) for state-run programmes. The federal government thereby reduced incentives for states to increase social spending. The new TANF scheme includes work requirements, monthly reporting and financial incentives, which are all ways in which concern for moral hazard has been institutionalised.

Table 5 Indicators for monthly TANF reporting by states. Source: 42 US Code. 611

Information	Indicator type
Details of families on TANF benefits	Input
Number of families on TANF	Input
Information necessary to calculate participation rates	Output
Use of funds for administration	Input
Use of funds for programmes	Input

Finally, there is the (mostly) federally financed system of activation and workforce development: the WIOA (and SNAP E&T, cf. infra), which is implemented by the states. As with extended UI benefits and TANF, the federal level is directly concerned with the way that states utilise federal dollars. As said, the WIOA dictates the creation of two types of WDB: one at each the state and local level. The state level determines, to a large degree, the form and role of the local WDB, which in turn governs the one-stop-shops and the local strategy. In some of the other cases we examine, decentralisation entails flexibility in the way lower levels of government utilise predetermined governance systems. In the American case, the states do not only have leeway in the implementation of activation but also in the design of its governance system. It is hard to overestimate the flexibility and autonomy American states have in activation as a result of the WIOA. Nevertheless, the WIOA is federally funded and

since many of the benefits are also (partially) federally funded, it is not surprising that the American federal government has mechanisms to influence the behaviour of the states regarding activation.

In order to be eligible for federal WIOA funding, states must develop a state plan. The federal government poses several mandatory requirements that must be adopted in the plans, including a performance management system based on federally determined primary performance indicators (cf. **Error! Reference source not found.**) as well as potential additional indicators that can be proposed by the states.[66] Local WDBs are also obligated by federal legislation to develop a plan. The federal level reviews the state plans and the state level reviews the local plans. The performance of states is measured using the primary performance indicators (cf. **Error! Reference source not found.**), but the actual levels that states must achieve are negotiated by both the state and federal level. These targets concern the performance of the first two years covered in the USP, while years 3 and 4 are negotiated based on the performance of the first two years. The negotiations are based on four factors: "(1) the relative levels across states, (2) the application of an objective statistical model developed by the Secretaries of Labour and Education that helps make adjustments for actual economic conditions and characteristics of program participants, (3) the impact of agreed-upon levels on promoting continuous improvement in performance and ensuring optimal return on investment, and (4) the extent to which the adjusted levels of performance assist states in meeting performance goals set by the Secretaries of Labour and Education" (Bradley, 2015, p. 34).[67] Contrary to the WIA, in which the states (and localities) had to negotiate levels of performance as well, the WIOA prescribes the use of a statistical adjustment model to assist in setting performance levels objectively.[68] "In practice, this means an individual state sets its performance goals based on the relative (to other states) economic conditions and characteristics of participants and revises its performance levels at the end of a program year based on the actual economic conditions and characteristics of participants served" (Bradley, 2015, p. 34).

Table 9 Primary performance indicators for WIOA programmes (such as: adult and dislocated worker services and the ES). Source: Bradley 2015: 33, WIOA Section 116(b)(2)(A).

Description of primary indicator	Type of indicator
The percentage of program participants who are in unsubsidized employment during the second quarter after exit from the program	Outcome
The percentage of program participants who are in unsubsidized employment during the fourth quarter after exit from the program	Outcome
The median earnings of program participants who are in unsubsidized employment during the second quarter after exit from the program	Outcome
The percentage of program participants who obtain a recognized postsecondary credential (or secondary school diploma or equivalent) during participation or within one year after program exit	Outcome
The percentage of program participants who are in an education or training program that leads to a recognized postsecondary credential or employment and who are achieving measurable skill gains toward such a credential or employment	Output
The indicators of effectiveness in serving employers established by the Secretaries of Labour and Education	T.b.a.

The WIOA maintains most of the WIA regulations concerning "state and local failure to meet performance measures" (National Skills Coalition, 2014, p. 8), but eliminates the option for incentive grants (US DOL, 2015). This entails that financial incentives for performance only include penalties. If a state fails to meet its targets for the first year it will be offered technical assistance. If the failure continues in the consecutive years, the state's funds (the governor's reserve) will be slashed by 5%

[66] Until July 2016, the old WIA performance management system remains in force. Cf. Bradley 2013 for an excellent discussion.
[67] Cf. WIOA Section 116(b)(3)(A)(v).
[68] Cf. WIOA Section 116(b)(3)(A)(viii).

"until such date Secretary of Labour or the Secretary of Education, as appropriate, determines that the State meets such State adjusted levels of performance and has submitted such reports for the appropriate programme years".[69] If localities fail to meet their targets for the first year, the governor provides technical assistance. However, if they fail to meet their targets for the third consecutive year the governor can appoint a new local WDB, prohibit certain one-stop-shop partners or service delivery agents or take any other significant action he finds appropriate.[70] Additionally, the governor can, by using non-federal funds, establish pay-for-performance contracts. In other words, local WDBs can still be incentivised with bonuses.

The WIOA, thus, changes with WIA's performance management in the following ways: planning under the WIOA is more comprehensive, it unifies performance indicators for all programmes, it expands them to include more precise indicators and indicators that cover a longer period of time, it adopts a statistical analysis model for the negotiation of performance levels and it abolishes incentive grant payments for states. These changes follow concerns that the performance accountability system of the WIA was not functioning as well as it could be, specifically in that it promoted incentives for cream skimming (D'Amico, et al., 2004, pp. I-15, 16, II-7). Furthermore, evidence showed that, under the WIA, states engaged in "strategic behaviour or 'gaming' to improve measured performance" (Barnow & King, 2005, p. 47). Changes to performance accountability in employment and training services have a long history. When the Manpower Development Training Act replaced the Comprehensive Employment and Training Act in 1973, it included elements to prevent cream skimming. Additionally, the Comprehensive Employment and Training Act was amended midway out of concerns that the programme was used to substitute state and local funds with federal funds. The Job Training Partnership Act included a larger role for states in monitoring localities, and it furthermore introduced rewards and sanctions for performance and a statistical analysis model to prevent cream skimming – something that was abolished in the WIA and then reintroduced in the WIOA (D'Amico, et al., 2004, pp. II-7). In other words, when it comes to WIOA and its predecessors, institutional moral hazard has been an important factor in (the shaping of) its multi-tiered governance.

Concerning SNAP E&T, the federal level also displays concern for institutional moral hazard. States are obligated to assess claimants' eligibility for SNAP E&T programmes; they cannot assume eligibility on the basis of SNAP or TANF recipiency. Furthermore, states must continue to monitor the eligibility of beneficiaries during SNAP E&T services. Additionally, states cannot receive reimbursements for SNAP E&T services beyond what the general public would pay for these services, and the federal level (USDA FNS) monitors states to ensure that they do not supplant existing funding for education and training programmes with SNAP E&T funding (Lower-Basch, 2014, p. 5). Furthermore, the federal level incentivises states to pledge to serve all ABAWDs with an additional total of $20 million in grants. States are also subject to a performance review of their SNAP E&T services, which can include output and outcome indicators.[71] Finally, the federal level conducts a periodic assessment of state SNAP E&T services.[72]

[69] Cf. WIOA Section 116(f)(1)(A-B).
[70] Cf. WIOA Section 116(g)(1) and (2)(A).
[71] The indicators are to be determined by the Secretary of Agriculture; however, federal legislation proposes several indicators, cf. 7 US Code 2025 (h)(5)(B).
[72] Cf. 7 US Code 2025 (h)(5)(C).

This section analysed the concern for institutional moral hazard in the US regulation of unemployment. Although it manifests in a different way compared to some of the other cases we examined, the concern is present in UI (and its extensions), SA and activation.

5. Analytical grid

Table 6 Analytical grid United States. Source: own compilation.

		Unemployment benefits (Unemployment Compensation)	Activation of individuals with unemployment benefits (WIOA)	Unemployment-related SA: TANF	Activation of individuals with TANF benefits (WIOA)	Unemployment-related SA: SNAP	Activation of individuals with SNAP benefits (SNAP E&T)
1	Degree of decentralisation (i.e. extent of flexibility on lower level) w.r.t. design of the policy: - Formal regulation - Policy goals	High decentralisation States are primarily responsible for unemployment compensation, but in order to benefit from federal financial support (indirectly, via FUTA, and directly, in the case of EB and EmB), state regulation and policy setting must comply with federal conditions.	High decentralisation Federal funding is linked to conditions w.r.t. state regulation and policy setting. Policy goals are federally defined but negotiated and supplemented by state level.	High decentralisation Federal level poses conditions for state regulation and policy setting in order to receive federal funding.	High decentralisation Federal level poses conditions for state regulation and policy setting in order to receive federal funding. Policy goals are federally defined but negotiated and supplemented by state level.	High centralisation The federal level designs the system but provides some options to the states to influence some parameters such as eligibility.	High decentralisation The federal level prescribes a policy menu and outlines the policy goals. The states design their own programmes according to these federal guidelines, which are also subject to federal approval.
2	Degree of decentralisation (i.e. extent of flexibility on lower level) w.r.t. implementation of the policy	High decentralisation	Total decentralisation	Total decentralisation	Total decentralisation	Medium decentralisation The federal level and the states jointly administer the system. States have some options to adjust administration.	Total decentralisation
3	Budgetary responsibility	States and the federal level States: regular benefits and half of the extended benefits (but, in the recent recession, temporary full federal funding). Federal: compensates the employers for state taxes by FUTA, but FUTA Credit Reduction System aims to ensure state fiscal responsibility. Federal: state and federal administration	Federal level WIOA spending is fully federal.	States and the federal level States: MoE spending. Federal: block grants to states. Currently the division of costs is around 40% of state spending and 60% of federal spending.	Federal level WIOA spending is fully federal.	Federal level Benefits are fully federally financed. Only administration costs are equally shared due to federal reimbursement of 50% of the state's administration costs.	States and federal level A small dotation is completely federally funded, the majority of funds are provided by the states with 50% reimbursed by the federal government.

		costs, half of extended benefit costs, fully responsible for emergency benefits. Federal: temporary support for regular UI, via a loan system.					
4	Budgetary transfers between levels of governments?	Yes On a permanent basis concerning administration purposes, on a temporary basis via the 'loan system' for regular UI (see text for further comment)	Yes	Yes	Yes	Marginal Only 50% of the state's administration costs are reimbursed, otherwise there are no transfers.	Yes
5	Structural redistribution? (measured on a per capita basis)	Yes Structural differences in caseloads (however, redistribution mainly occurs in times of EB and EmB)	Yes Funding is calculated on the basis of state shares in total unemployed. Unemployment caseloads show structural differences between the states.	Yes The distribution of funds is partially calculated on the basis of historical (AFDC) spending patterns. Supplemental grants are implemented to mitigate the fiscal impact of disproportional negatively affected states. Funding on a per capita basis still differs structurally between states.	Yes Funding is calculated on the basis of state shares in total unemployed. Unemployment caseloads show structural differences between the states.	**	**
6	Political or managerial decentralisation/delegation?	Political decentralisation	Political decentralisation	Political decentralisation	Political decentralisation	Political decentralisation	Political decentralisation
7	Indicators used in the monitoring of lower level performance by higher level (on the basis of: input, output and outcome)?	??	Outcome (in WIOA plans)	Mostly input, also some output	Outcome (in WIOA plans)	Output (quality control measures)	Output and outcome
8	Is a system of 'minimum requirements' applied?	Yes The federal level imposes an administrative framework.	Yes The federal level imposes a broad administrative governance model, but does not prescribe a system of minimum requirements concerning	Yes The federal level imposes a broad administrative governance model. This includes mandatory reporting, setting up of additional	Yes The federal level imposes a broad administrative governance model. States must apply mandatory activation requirements for TANF recipients.	Yes States must comply with federal regulations. The states are provided with some options to deviate from this slightly. Additionally,	Yes States must design their programmes according to federal guidelines, they must assess eligibility of participants according to federal legislation

			interventions. Mandatory activation requirements must be applied by states for persons receiving EB and EmB.	programmes and some benefit eligibility criteria. Requirements for the use of federal TANF funds are stricter than for MoE.		states are obliged to conduct quality control reviews according to a detailed federal system.	and they must comply with federal reporting requirements.
9	Are performance-based sanctions/rewards applied by the higher level at the lower level?	Yes Non-compliance with federal framework or a continued deficit can result in financial sanctions (non-payment or increased federal tax rates).	Yes Financial sanctions (and incentives for localities) for state and local performance (in WIOA plans) and financial sanctions for non-compliance with framework.	Yes Based on work participation requirements: direct cuts in grants; also indirect: through increased levels of mandatory state spending.	Yes Financial sanctions (and incentives for localities) for state and local performance (in WIOA plans) and financial sanctions for non-compliance with framework.	Yes Bonuses are awarded for lowest and most improved error rates, penalties are awarded to highest error rates.	No
10	Conclusion from 5-6-7: perception of, concern about, and approach to problems of institutional moral hazard?	Yes Concern for institutional moral hazard is apparent in UI, SA and activation. In UI, institutional moral hazard relates to the possibility for states to borrow funds and to the extension of benefits. This has been addressed through automatic repayment of state deficits, federal legislation that enforces the use of extended benefits and through additional requirements for activation during extension of benefits. In SA, concern for institutional moral hazard is clearly present in the transition of open-ended funding systems to a conditional block grant model. Furthermore, in SNAP the potential for moral hazard exists with regard to the the quality of payments made by states with federal funds. This seems to be addressed by a bonus/malus system. Finally, there has been a long tradition of reforms in multi-tiered education and training policies to prevent moral hazard. Currently, the WIOA includes a performance management system based on federal indicators, the levels of which are partially determined on the basis of statistical analysis.					
11	Conclusions from 5-6-7: approach to principal-agent problems	n.a.					
12	Contribution to macroeconomic stabilisation by the benefit system	Low (Dolls *et al*)					

**The redistribution effects of SNAP have not been calculated due to time constraints.

7. Conclusion

The US regulation of unemployment is characterised by significant autonomy for the states. For all benefit programmes (UI, SNAP and TANF) and activation (WOIA and SNAP E&T), states are responsible for adopting these programmes in their own legislation. The federal government exerts influence on these state-run programmes by attaching conditionality to federal funding. In practice, the federal government focusses more on providing guidelines for the design of programmes – the extent of which varies between UI, SNAP (E&T), TANF and the WIOA – but does not legislate and implement most of the programmes itself. This is a source for great state autonomy and, therefore, for heterogeneity in programme design and governance systems.

Concerns about individual and institutional moral hazard were important drivers of US welfare reform in the 1990s, notably in the transition from Aid to Families with Dependent Children (AFDC) to Temporary Assistance for Needy Families (TANF), but also for employment and training policy reforms, currently legislated in the WIOA. In the domain of unemployment insurance (UI), the FUTA implements a sophisticated balance between certain forms of interstate solidarity organised at the federal level and fiscal accountability for UI at the state level; hence, FUTA can be seen as a financial mechanism to prevent the institutional moral hazard that is a corollary of this solidarity. However, a number of factors make the US case quite different from the other cases we examine and call for a different understanding of the role of moral hazard in the US context: apart from the impact of welfare reform in the 1990s, the US is characterised by a limited generosity of UI benefits, by a system to fight moral hazard with employers (experience rating), and by an overarching approach to 'workforce development' that aims to promote activation and training in all states, but without a link to specific benefit schemes at the individual level. The block grant system that characterises the federal funding of TANF, the limited generosity of UI, experience rating and the existence of FUTA may explain why institutional moral hazard does not currently seem high on the political agenda, despite some important elements of interstate 'solidarity' at the federal level. Simultaneously, the block grant system and ‘workforce development’ imply federal concerns with regard to the effectiveness and efficiency of state policies, for which specific solutions have been developed. Finally, when federal dollars are used directly to finance UI benefits, the federal government shows more concern for activation and enacts legislation that links benefits to job search requirements.

Appendix

Table 7. Federal Extended Unemployment Compensation scheme triggers. Source: Code of Federal Regulations, title 20 (5) section 615.12

	Standard trigger	Optional trigger #1	Optional trigger #2
Insured unemployment rate	5%	6%	6,5%
Structural unemployment rate	120% for 13 weeks	-	110% for 13 weeks
Reference Period	Same period in past 2 years	-	Same period in either of the two previous years

Figure 1. The flow of funds between revenue-generating levels of government, the federal-state unemployment compensation programme and federal unemployment trust funds. Source: US DOL: 16

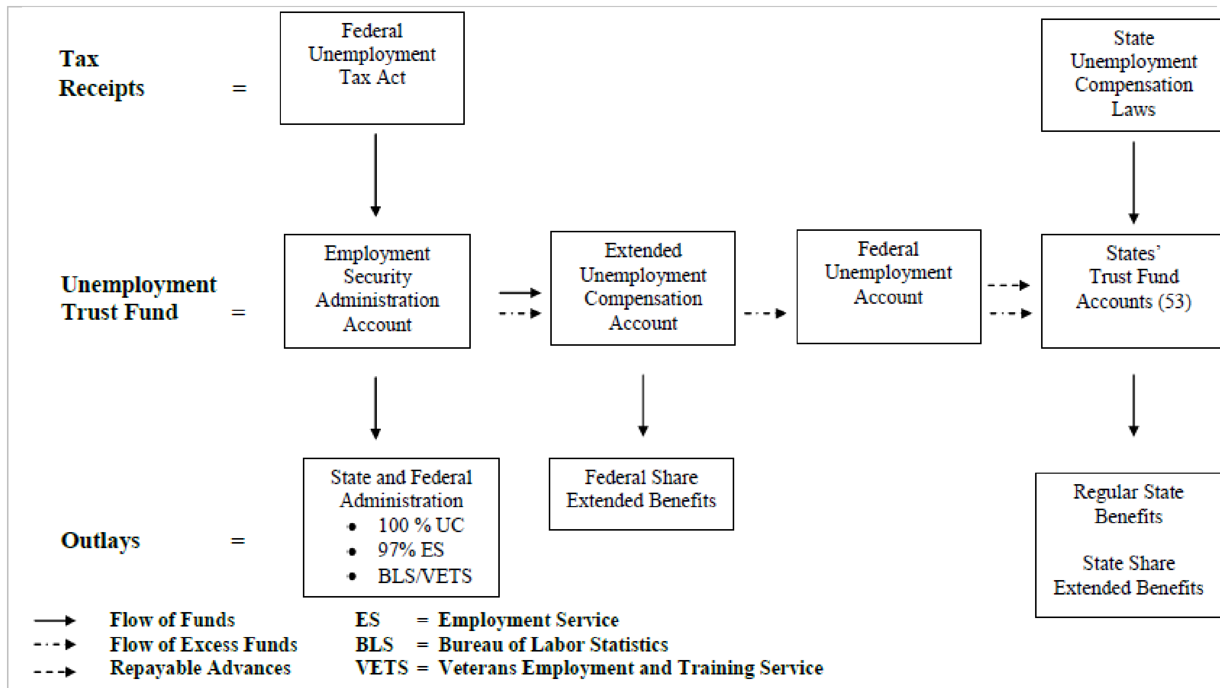


Table 8. Federal requirements for states' claims for federal funds concerning the costs of the administration of the states' UC programmes. Source: 42 US Code (7) §503

Requirement	Substance	Penalty
Administration provisions	The use of funds, methods of administration, reporting	No certification, Suspension of payments
Cooperation with federal agencies	The states must make their records available to federal labour market agencies such as the Railroad Retirement Board[73]	No certification
Disclosure of unemployment compensation information	The states must disclose unemployment records to other benefit agencies (most notably the Food Stamp programme)	Suspension of payments
Disclosure of wage information	The states must disclose wage information to the agencies in charge of child support	Suspension of payments
Income and eligibility verification system	The income and eligibility verification system of states must comply with 42 USC (7) § 1320b–7	

[73] Several occupations such as railroad workers and postal workers are federal occupations, and the state does not administer their benefits. In order to work congruently with federal benefits, however, they must provide such agencies with their records.

Recovery of unemployment benefit payments	The method of how states should recover benefits	
Disclosure to Secretary of DHHS of wage and unemployment compensation claims information	Quarterly reporting of wage and claim information to the DHHS	Suspension of payments
Provide access to State employment records	States must make their employment records available to the DHUD	Suspension of payments
Engage in worker profiling	Profile claimants, refer them to labour market services and collect follow-up information	Suspension of payments
Transfer of experience rating upon transfer of business	Transfer experience rating records when employers move employees among businesses owned by the same holding	

Table 9. Conditions for additional tax credit and approval of state laws (FUTA). Source: 26 US Code (23), § 3303 and § 3304, USDOL 2013

Compensation is paid through public employment offices or other approved agencies
All of the funds collected under the state programme are deposited in the trust funds
All of the money withdrawn from the state trust fund account is used to pay compensation, to refund amounts erroneously paid into the fund, or for other specified activities
Compensation is not denied to anyone who refuses to accept work because the job is vacant as the direct result of a labour dispute, or because the wages, hours, or conditions of work are substandard, or if, as a condition of employment, the individual would have to join a company union or resign from or refrain from joining any bona fide labour organisation
Compensation is paid to employees of state and local governments and Indian tribes
Compensation is paid to employees of FUTA tax exempt non-profit organisations, including schools and colleges, who employ 4 or more workers in each of 20 weeks in the calendar year
Payment of compensation to certain employees of educational institutions operated by state and local governments, non-profit organisations, and Indian tribes is limited during periods between and within academic terms
State and local governments, non-profit organisations, and Indian tribes are permitted to elect to pay regular employer contributions or finance benefit costs by the reimbursement method
Compensation is not payable in two successive benefit years to an individual who has not worked after the beginning of the first benefit year
Compensation is not denied to anyone solely because the individual is taking part in an approved training programme
Compensation is not denied or reduced because an individual's claim for benefits was filed in another state or Canada and the state participates in arrangements for combining wages earned in more than one state for eligibility and benefit purposes
Compensation is not denied by reason of cancellation of wage credits or total benefit rights for any cause other than discharge for work-connected misconduct, fraud, or receipt of disqualifying income
Extended compensation is payable under the provisions of the Federal-State Extended Unemployment Compensation Act of 1970
Compensation is not denied solely on the basis of pregnancy or termination of pregnancy
Compensation is not payable to a professional athlete, between seasons, who has a reasonable assurance of resuming employment when the new season begins
Compensation is not payable to an alien unless the alien was in a specified state – such as legally authorised to work – at the time services were performed
The benefit amount of an individual is reduced, under certain conditions, by that portion of a pension or other retirement income (including Social Security and Railroad Retirement income) which is funded by a base period employer
Wage information in the agency files is made available, upon request and on a reimbursable basis, to the state agency administering Temporary Assistance to Needy Families; and wage and UC information to the Secretary of Health and Human Services for the purposes of the National Directory of New Hires
Any interest required to be paid on advances is paid in a timely manner and is not paid, directly or indirectly (by an equivalent tax reduction in such state), from amounts in such state's trust fund account
Federal individual income tax is deducted and withheld if a claimant so requests
Reduced tax rates for employers are permitted only on the basis of their experience with respect to unemployment

Table 10. Most prominent federal eligibility and conduct requirements for TANF programmes. Source: 42 US Code (7) § 604 and 608

Use funds for cash benefits or ways that accomplish such purposes as described (e.g. through the provision of heating and/or cooling costs of houses)
Eligibility requirements for clients (most prominent: families with dependent children and an income of below 200% of the poverty line)
Code of conduct for parents: Cooperating in establishing paternity; Families must assign support rights to the state; Teenage parents must attend school/training; Teenage parents must live in adult-supervised households
No assistance for more than 5 years (60 months) (20% of the caseload can receive so-called hardship extensions)
Funds may be used for administration costs but not more than 15% of the grant may be used

Funds may be carried over to two other programmes (social services and elder justice and/or childcare and development) to a maximum of 30% of the grant
Funds may be used to operate a placement programme or to provide job placement vouchers
Funds may be used for implementation of an electronic benefit system
Funds may be used for the establishment of individual development accounts for clients
A state may provide services through contracts with charitable, religious, or private organisations
States must develop an individual responsibility plan for their clients & asses employability (within 90 days)

Table 11. Requirements for American state plans for TANF SFAG block grants. Source: 42 US Code (7) § 602

1. **Outline of the family programme**	The subdivision of tasks of state agencies
	Set work requirements for parents and caretakers
	Ensure work activity compliance
	Restrict the use of personal information to ensure privacy
	Establish goals to prevent out of wedlock-pregnancies
	Establish education/courses on statutory rape
	Establish good access to cash benefits
	Establish ways for beneficiaries to extract their benefits with the least amount of costs
2. Operate a child support enforcement programme	
3. Operate a foster care and adoption assistance programme	
4. Certify the administration of the programme and consult with involved local agencies	
5. Certification that the State will provide Indians with equitable access to assistance	
6. Certification of standards and procedures to ensure against programme fraud and abuse	
7. Optional certification of standards and procedures to ensure that the State will screen for and identify domestic violence	

Table 12. MOE spending requirements. Source: 45 CFR § 263.2, 263.4, Brown 2012.

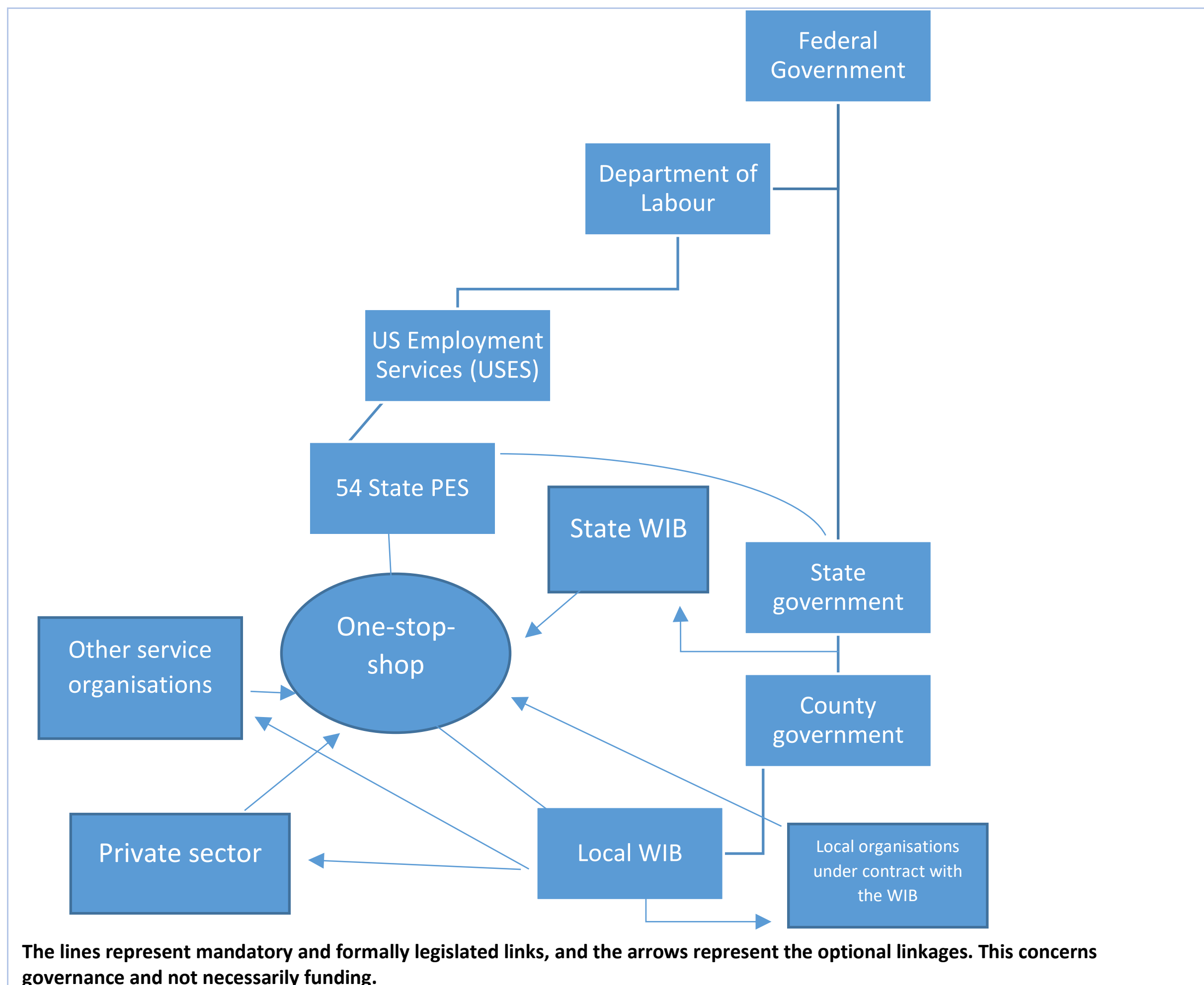
MOE spending counts if paid to:	Families who include a child living with his or her custodial parent or other adult caretaker relative (or a pregnant woman)
	Families who meet the financial criteria, such as income and resources limits, established by a state for the particular service or assistance as described in its TANF plan. Each state is required to prepare and provide a biennial TANF plan describing its programs to HHS.
MOE spending counts if paid for:	Cash assistance
	Child care assistance
	Educational activities to increase self-sufficiency, job training and work (except for activities or services that a state makes generally available to its residents without cost and without regard to their income)
	Certain administrative costs
	Other activities considered in keeping with a TANF purpose

Table 13 Basic state TANF grants in US$, as % of total funds for basic TANF grants and the state population as % of total population. Source: Falk 2013a, US Census Bureau http://www.census.gov.

	Basic TANF grant in millions US$	Basic state grant as % of total amount of funds for basic grants	State population as % of total population for the period 2000-2009
Alabama	93,3	0,6	1,5
Alaska	63,6	0,4	0,2
Arizona	222,4	1,3	2,0
Arkansas	56,7	0,3	0,9
California	3733,8	22,6	12,1
Colorado	136,1	0,8	1,6
Connecticut	266,8	1,6	1,2
Delaware	32,3	0,2	0,3
District of Columbia	92,6	0,6	0,2
Florida	562,3	3,4	6,0

Georgia	330,7	2	3,1
Hawaii	98,9	0,6	0,4
Idaho	31,9	0,2	0,5
Illinois	585,1	3,5	4,3
Indiana	206,8	1,3	2,1
Iowa	131,5	0,8	1,0
Kansas	101,9	0,6	0,9
Kentucky	181,3	1,1	1,4
Louisiana	164	1	1,5
Maine	78,1	0,5	0,4
Maryland	229,1	1,4	1,9
Massachusetts	459,4	2,8	2,2
Michigan	775,4	4,7	3,4
Minnesota	268	1,6	1,7
Mississippi	86,8	0,5	1,0
Missouri	217,1	1,3	2,0
Montana	45,5	0,3	0,3
Nebraska	58	0,4	0,6
Nevada	44	0,3	0,8
New Hampshire	38,5	0,2	0,4
New Jersey	404	2,5	2,9
New Mexico	126,1	0,8	0,6
New York	2442,9	14,8	6,5
North Carolina	302,2	1,8	3,0
North Dakota	26,4	0,2	0,2
Ohio	728	4,4	3,9
Oklahoma	148	0,9	1,2
Oregon	167,9	1	1,2
Pennsylvania	719,5	4,4	4,2
Rhode Island	95	0,6	0,4
South Carolina	100	0,6	1,4
South Dakota	21,9	0,1	0,27
Tennessee	191,5	1,2	2,0
Texas	486,3	2,9	7,8
Utah	76,8	0,5	0,9
Vermont	47,4	0,3	0,2
Virginia	158,3	1	2,6
Washington	404,3	2,5	2,1
West Virginia	110,2	0,7	0,6
Wisconsin	318,2	1,9	1,9
Wyoming	21,8	0,1	0,2
Total	16488,6	100	100

Figure 2 The default governance model of WIA. Source: Eberts 2009: 126, O'Leary & Eberts 2008: 24-25, Barnow & King 2005: 16.



The lines represent mandatory and formally legislated links, and the arrows represent the optional linkages. This concerns governance and not necessarily funding.

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