VERMONT

DEPARTMENT OF LABOR

Unemployment Insurance Trust Fund Report

January 31, 2022

To: The Honorable Phil Scott, Governor
Senator Michael Sirotkin, Chair, Senate Economic Development, Housing & General Affairs
Senator Anne Cummings, Chair, Senate Finance
Representative Michael Marcotte, Chair, House Commerce and Economic Development
Representative Janet Ancel, Chair, House Ways & Means

From: Vermont Department of Labor

Introduction

In partnership with the U.S. Department of Labor's Employment and Training Administration (ETA), the Vermont Department of Labor (VDOL or Department) maintains a statistical model used for forecasting Vermont's Unemployment Insurance (UI) Trust Fund (TF) net[1] balance. This analytical tool is effective in long-run assessments of the overall flow of monies into and out of the UITF. It is also useful in determining the incremental impact of proposed policy changes.

This report and accompanying analysis of the UITF is completed in fulfillment of State law. "On or before January 31 of each year, the Commissioner (of labor) shall submit to the Governor and the Chairs of the Senate Committee on Economic Development, Housing and General Affairs and on Finance and the House Committees on Commerce and Economic Development and on Ways and Means a report covering the administration and operation of this chapter during the preceding calendar year. The report shall include a balance sheet of the moneys in the Fund and data as to probable reserve requirements based upon accepted actuarial principles, with respect to business activity, and other relevant factors for the longest available period." 21 V.S.A. § 1309.

Technical Notes

As of the date of this report, the Vermont and United States' economies are in a period of slow, steady recovery from the recent recession precipitated by a global health pandemic. Even after nearly two years, the continued level of disruption in all facets of daily living due to COVID-19 is readily apparent. There is still much uncertainty surrounding this economic recovery. Any continued form of economic recovery will depend on an abatement to the global health concerns related to COVID-19. For this forecast, it is **assumed** (not projected) that:

- the winter of 2021-2022 will be a pause to health and economic progress;
- the spring of 2022 will represent a transition from a pandemic to an endemic and the beginning of a more robust economic recovery.

It should also be noted that benefits are modeled as total cost at the state level to the UITF. This does not equal total benefits paid out by VDOL as some benefits that are paid by VDOL are ultimately covered by a reimbursement to VDOL from the federal government. Federally funded benefit programs are out of scope for this report as they are covered by federal dollars and do not impact the state trust fund.

[1] The ETA UITF model currently functions as a 'net' concept in that the individual UI accounts (loan account, cash account, etc.) are rolled up into a net concept. Out of model analysis is necessary to decipher model results.

This report is based on the best available data at the time of issuance. Calendar year 2021 data is still being processed so all 2021 data in this report are estimated.

Summary of the "Grand Bargain"

The laws surrounding UI were overhauled in the 2010 legislative session due to Vermont's diminishing, and ultimately negative, UITF balance. These changes are frequently referred to as the "Grand Bargain." The foundation of the reform's effort was to balance the impacts to employers and UI claimants. The largest impact to employers was the increase in the employers' taxable wage base. The taxable wage base was increased from $8,000 to $10,000 in 2010; to $13,000 in 2011; and to $16,000 in 2012. For this measure, the General Assembly created three triggers that tied future adjustments of the taxable wage base to economic factors. The first provided for the taxable wage base to index upward annually by the same percentage as the annual average wage once the UITF had a balance greater than zero and all Title XII loans were repaid.[2] Indexing of the taxable wage base commenced January 1, 2015 with an increase in the taxable wage base from $16,000 to $16,400. The taxable wage base increased to $16,800 in 2016, $17,300 in 2017, and to $17,600 in 2018. The second trigger took effect upon return to Tax Rate Schedule III in 2018 when the taxable wage base was reduced by $2,000 to $15,600. In 2019, the taxable wage base resumed indexing and was increased to $16,100. The third trigger took effect upon return to Tax Rate Schedule I in 2021 when the taxable wage base was reduced by $2,000 to $14,100. No indexing occurs in the year in which the second and third triggers are met. In January 2022, the taxable wage base resumed indexing and was increased 9.8% to $15,500.

Taxable Wage Base	
2009	$8,000
2010	$10,000
2011	$13,000
2012	$16,000
2013	$16,000
2014	$16,000
2015	$16,400
2016	$16,800
2017	$17,300
2018	$17,600
2019	$15,600
2020	$16,100
2021	$14,100
2022	$15,500

Additional 2010 Reforms Relating to Employers:

- Increased late filing penalties from $35 to $100, and provided that employer accounts could not be relieved when untimely or inaccurate reporting led to an overpayment of benefits.
- Establishment of a misclassification penalty of up to $5,000 for each improperly classified worker. In addition, provided that an employer found to have misclassified workers would also be prohibited from contracting with the State for up to three years.

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[2] Vermont had borrowed $77.7 million from the U.S. Department of Labor through a Title XII loan between February 2010 and April 2011. The VDOL repaid the federal loan in full by July 1, 2013; 18 months ahead of the earliest projected pay-off date.

- Shortened time period for timely reporting of new hire information from 20 to 10 days.

Additional 2010 Reforms Relating to UI Claimants:

- Modification to the maximum benefit amount payable in a benefit year. The new formula established that a claimant would be eligible for an amount equal to 26 weeks times their weekly benefit amount or 46% of the base period wages, <u>whichever is less</u>.
- Capped maximum benefit amount (to 23 weeks) for a worker found to have separated from his or her last employer due to misconduct.
- Exclusion of usable wages for claimants found to have caused their own separation from employment due to gross misconduct (as determined by the Department).
- Capped the weekly benefit amount (WBA) at $425 and tied the annual adjustment of the maximum weekly benefit amount (MWBA) to economic factors.
    - When the UITF balance is greater than zero and all Title XII loans repaid, the MWBA will be adjusted by a percentage equal to the percentage change during the preceding calendar year in the statewide average weekly wage. As projected, indexing commenced in July 2014.
    - Effective the first Sunday in July, upon return to Tax Rate Schedule III, the MWBA for all new initial claims will be equal to 57% of the statewide annual average weekly wage, returning the MWBA to its position prior to the reform relative to the average wage. This occurred in 2018 when the MWBA was set to $498 per week. The indexing of the MWBA, as described above, resumed in 2019 with an increase to $513 per week.
- Increase in the maximum number of weeks that can be disqualified when it has been determined a claimant was discharged.
- Established that severance pay shall always be considered disqualifying.
- Implemented a one-week waiting period with an effective date of July 1, 2012. This waiting period did not change the WBA a claimant will receive but did delay the payment of their first week of benefits. The required one-week waiting period ended on July 1, 2017.

In addition to these measures, the Vermont Department of Labor also established a work search requirement for individuals with a return-to-work date greater than 10 weeks. As a result of these changes, both employers and UI claimants have shared in Vermont's unemployment insurance reform. While these represent the most substantial changes to UI laws, there have been more recent adjustments, including an increase in the statutory Disregarded Earnings.

Recent Changes to Unemployment Insurance

During the 2014 legislative session, the Disregarded Earnings was increased from 30% to 50% of an individual's weekly wage. This provision is designed to encourage UI claimants to accept less than-full-time jobs while remaining eligible for at least a portion of their unemployment benefits.

In calendar year 2020, substantial amendments were made to the UI Program. Beginning in July 2020, the Short-Time Compensation Program, otherwise known as STC, was placed in a period of dormancy. With the increase in the Disregarded Earnings mentioned above, the STC Program became redundant as most eligible UI claimants could earn more money filing traditional partial UI utilizing the 50% disregard than being on an approved STC plan.

More importantly, in 2020 the State made substantial changes to UI eligibility to combat the COVID-19 pandemic. In Act 91 of the 2020 legislative session, the UI Chapter was amended to allow individuals to quit a job because of a COVID-19 qualifying scenario, including because the individual was diagnosed with COVID-19 or was asked to quarantine at the recommendation of a healthcare provider, the individual needed to care for a family member that was diagnosed or was asked to quarantine at the recommendation of a healthcare provider, the individual was placed in an unreasonable risk of exposure at the place of employment, or the individual needed to care for a child under the age of 18 because the child's school or child care had closed due to a public health emergency related to COVID-19. The provisions in Act 91 also provided for charge relief to employers due to layoffs related to COVID-19.

In Act 51 of the 2021 legislative session, the provisions outlined above in Act 91 were extended to allow for continued expansion of program eligibility for COVID-19 related separations. The expanded UI eligibility provisions expired on September 30th, 2021, the quarter after the expiration of Governor Scott's State of Emergency declaration. In addition, in order to protect against significant increases to employer UI tax contributions, the Department relieved employers of all 2020 benefit charges and allowed for continued charge relief for 2021 benefit charges for employers that applied for relief and attested that the claimant separation was related to COVID-19 and the employer offered the individual reemployment within a reasonable time of the end of the COVID-19 related separation reason. Finally, in computing the annual tax rate schedule, the Department was directed to remove calendar year 2020 from the calculation due to the significant disruption of COVID-19 related claims. This resulted in the 2021 tax rate schedule being set at Schedule III instead of Schedule V. Although this did slightly mitigate the impact of the UI tax increase on employers, many businesses across

Vermont still saw a significant increase in UI tax rates due to the Schedule increase with many employers' tax rates doubling.

In addition, the Department was directed to provide an additional $25-dollar supplemental benefit to UI claimants beginning in October 2021 and lasting until $100 million in supplemental benefits was paid out. After the passage of Act 51, the Department was informed by the U.S. Department of Labor (USDOL) that the design of the supplemental benefit was out of compliance with federal program requirements. As such, the Department has no intention of implementing this supplemental benefit as currently designed in Act 51.

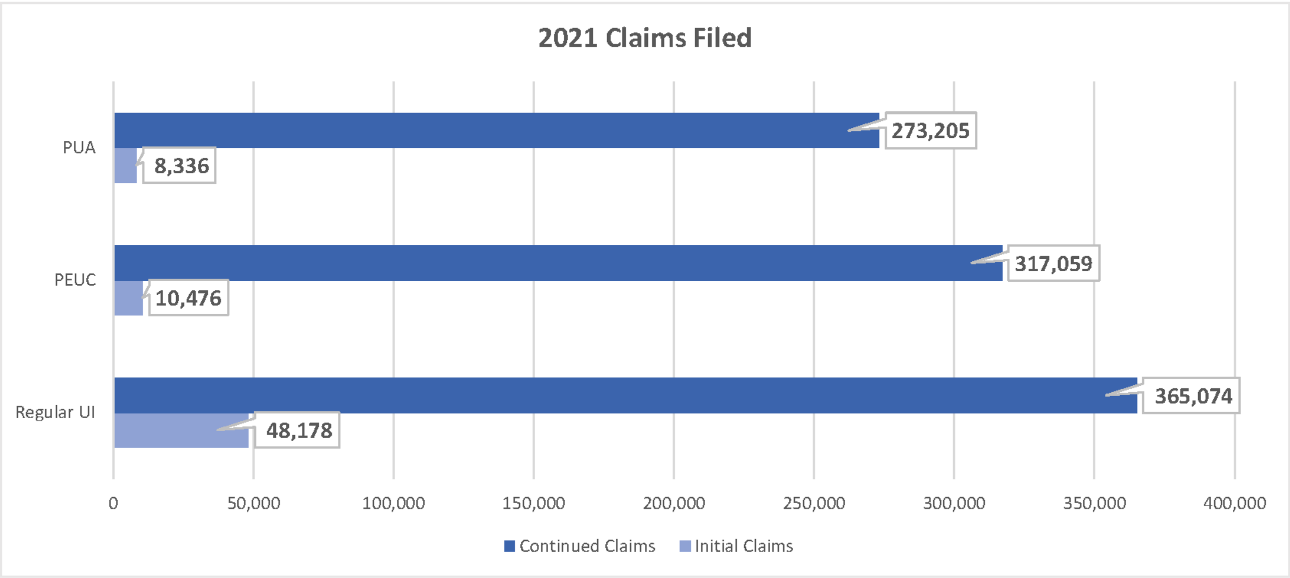
Lastly, the Department continued administration of the additional federal CARES Act related programs in response to the COVID-19 pandemic. The federal PEUC (Pandemic Emergency Unemployment Compensation), PUA (Pandemic Unemployment Assistance), and FPUC (Federal Pandemic Unemployment Compensation) programs were extended through the week ending September 4th, 2021.

Reminder regarding federal programs:
PEUC — The PEUC program authorized an additional 49 weeks of benefits to individuals who exhaust regular UI.

PUA — The PUA program authorized up to 79 weeks of unemployment benefits to individuals who were impacted by the COVID-19 pandemic and who were otherwise ineligible for the traditional UI Program.

FPUC — The FPUC program provided an additional $300 per week (originally $600 per week) to individuals who were eligible and received benefits under one of the above unemployment insurance programs.

2021 UI Statistical Information



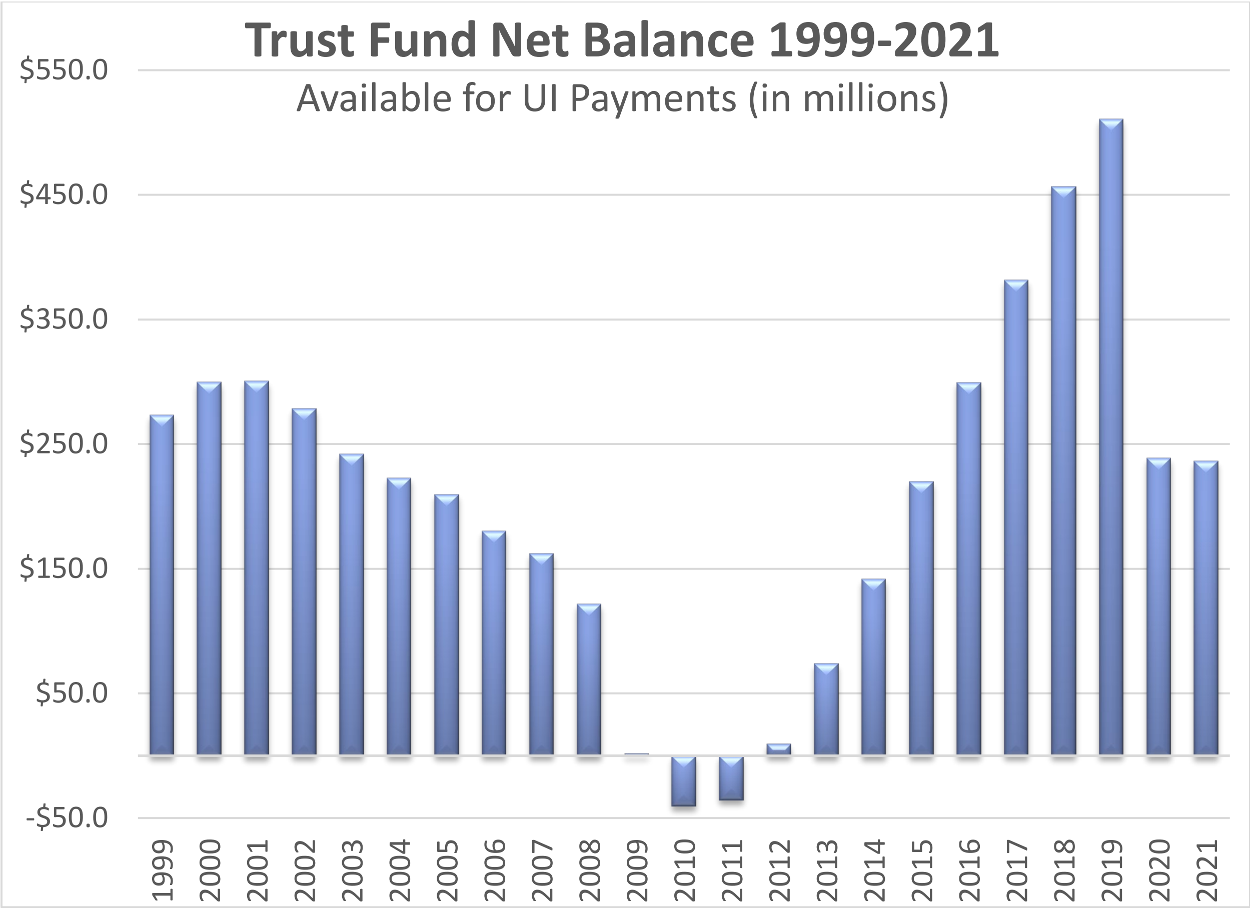
UI Program	Initial Claims Filed	Continued Claims Filed	Number of Payments Made	Total Dollars Paid Out
Regular UI	48,178	365,074	269,508	$108,529,004.00
PEUC	10,476	317,059	*The information provided above is preliminary data until annual reports are completed and is subject to change.*	
PUA	8,336	273,205		

Unemployment Insurance Field Audits	
Individual Claim Investigations	≈ 600
Individual Misclassification Investigations	298
Employer Audits Completed	78

*** It is important to note that the Department UI field auditors were assigned to claims processing throughout calendar year 2020 and the first half of calendar year 2021. The staff helped in reviewing and processing tens of thousands of claims during that period for proper UI eligibility and potential fraud.*

Recent History of the UI TF Balance

From the period of 2001 to 2010, Vermont's UITF's annual debits exceeded their credits. As depicted in graph below, the State went from having a positive UITF balance in 2001 of $300.4 million to a negative balance of -$40.6 million by 2010. This required the State to borrow money from the U.S. Federal Government and cover its debts through a Title XII loan. The Title XII loan amount increased to $77.7 million in 2011 due to a shortage of cash in the first quarter of that year. Due to the changes in the State's UI laws (see section on the "Grand Bargain" above) and improved economic conditions, 2011 was net positive in that more cash was collected in contributions than was paid out in the form of UI benefits. This was the first time since 2001 that the UITF had experienced a net positive contribution to benefit ratio. This positive accrual trend established in 2011 continued annually through 2019. 2020 started the year with an estimated preliminary UITF balance of $510.9 million. Ultimately, this balance would be a local high as early 2020 saw the start of a significant economic downturn caused by COVID-19. With a year-ending balance of $238.7 million, CY2020 saw a decline of $272.1 million or 53.3% from the UITF. While this is a significant reduction, the State of Vermont neither borrowed money nor added federal relief monies to the UITF. It is believed that 19 states have at some point borrowed federal money and over 30 states had added federal relief money directly into their state trust funds. Current estimates put Vermont's UITF year-ending balance for CY2021 at $236.7 million which would be a net decline of $2.1 million or 0.9% over the most recent twelve months.



January 2021 Model Forecast

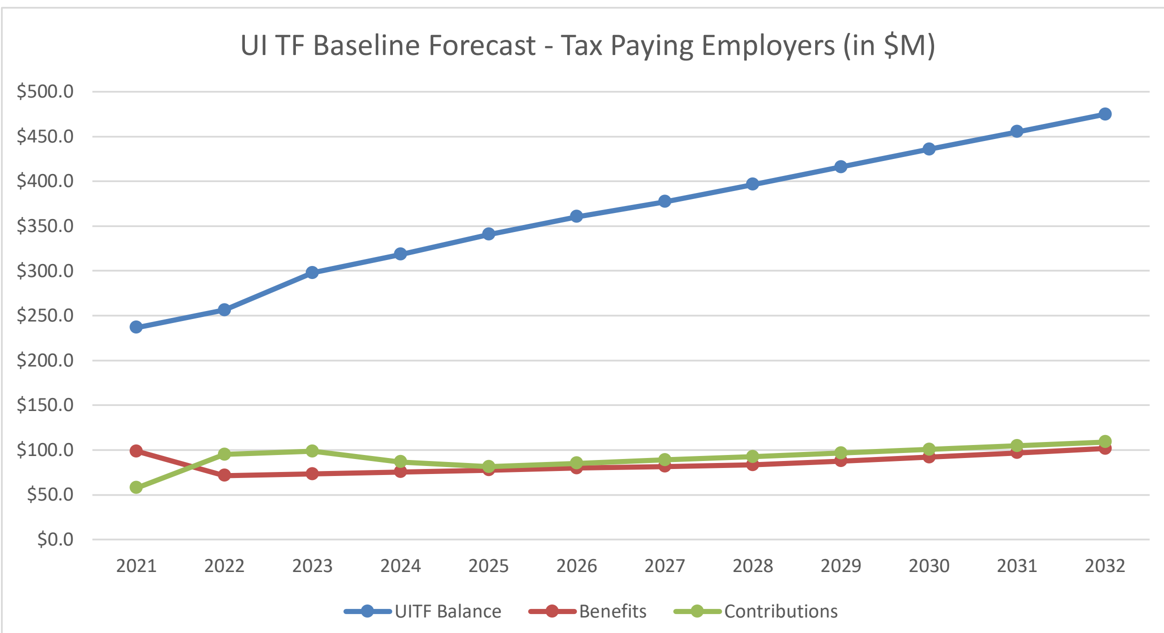
The level of contributions is governed by the tax rate schedule in effect for Vermont employers. The tax rate schedule is determined annually in July via a calculation considering both the historical utilization of the fund and the current fund balance. There are five tax rate schedules – level five or "V" is the highest. In July 2020, the tax rate schedule migrated from tax rate schedule III to tax rate schedule I - the lowest of the five. Based on a historic level of benefit payouts in CY2020 (~$387.4M), the tax rate schedule would have gone from the lowest tax rate schedule (I) to the highest (V) in July 2021 but for legislative intervention. As described above, the annual tax rate schedule calculation can now ignore CY2020 which in 2021 resulted in tax rate schedule III going into effect. The forecast below captures this legislative change and the overall health of the trust fund.

BASELINE - Unemployment Insurance (UI) Trust Fund (TF) Forecast - excludes Reimbursables Jan-22

Year	Maximum Weekly Benefit	Regular Benefits ($M)	Taxable Wage Base	Tax Rate Schedule	Total Contributions ($M)	End of Year UITF Balance ($M)
	[a]		[b]	[a]		[c]
2020	$531	$387.4	$16,100	I	$83.4	$238.7
2021	$583	$98.6	$14,100	III	$57.8	$236.7
2022	$595	$71.4	$15,500	II	$95.1	$256.3
2023	$619	$73.3	$15,800	II	$98.5	$297.9
2024	$643	$75.4	$16,400	I	$86.6	$318.4
2025	$666	$77.6	$14,400	I	$81.4	$340.6
2026	$689	$79.7	$14,900	I	$85.1	$360.3
2027	$713	$81.5	$15,400	I	$88.8	$377.0
2028	$735	$83.3	$15,900	I	$92.6	$396.4
2029	$758	$87.5	$16,400	I	$96.5	$416.1
2030	$781	$92.0	$16,900	I	$100.5	$435.7
2031	$805	$96.7	$17,400	I	$104.7	$455.3
2032	$830	$101.6	$17,900	I	$108.9	$474.8

Notes:
[a] annual determination in July
[b] annual determination in January
[c] includes interest

Prepared by E&LMI, VDOL



Forecast Risks

Changes to federal or state UI laws: The attached forecast is based on current law – both federal and state. Should these laws change, this forecast will have to be reevaluated.

National and international economic uncertainty: The U.S. economy is on a path of slow, steady economic recovery but deeper economic disruptions related to COVID-19 or other underlying economic factors are possible. Current economic conditions are in a state of flux. A prime example: inflation levels in the U.S. are reporting nearly 40-year highs. Threats of international entanglements also present areas of concern for the forecast.