Unemployment Insurance Study Committee

Background on UI Laws in Other States

September 14, 2021

Outline

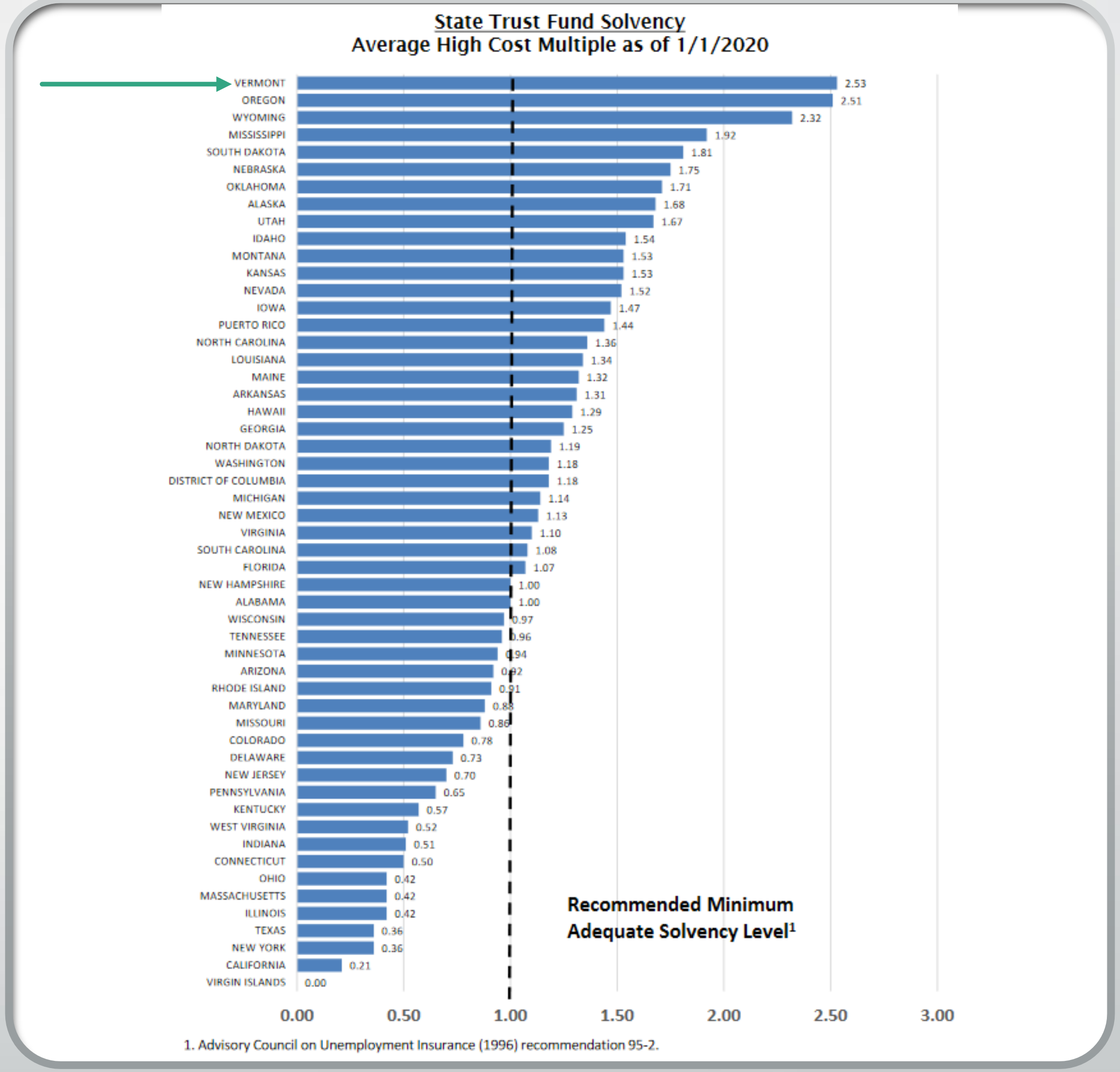
- UI Trust Fund Solvency
- UI Benefits
- Waiver and Reduction of Periods of Disqualification and Benefit Overpayments
- Reimbursable Employers

Average High Cost Multiple as a Measure of UI Trust Fund Solvency

- USDOL frequently uses the Average High Cost Multiple (AHCM) to analyze the solvency of a state's trust fund.
- AHCM = (Trust Fund Balance /Total Wages) / (Average High Cost Rate)
  - Average High Cost Rate is the average of the three highest annual benefit cost rates in the last twenty years (or a period including three national recessions, if longer).
  - This is intended to reflect potential future high benefit costs while minimizing the impact of a single especially high year (such as 2020).
  - USDOL considers an AHCM of 1.0 to be an adequate level of solvency.

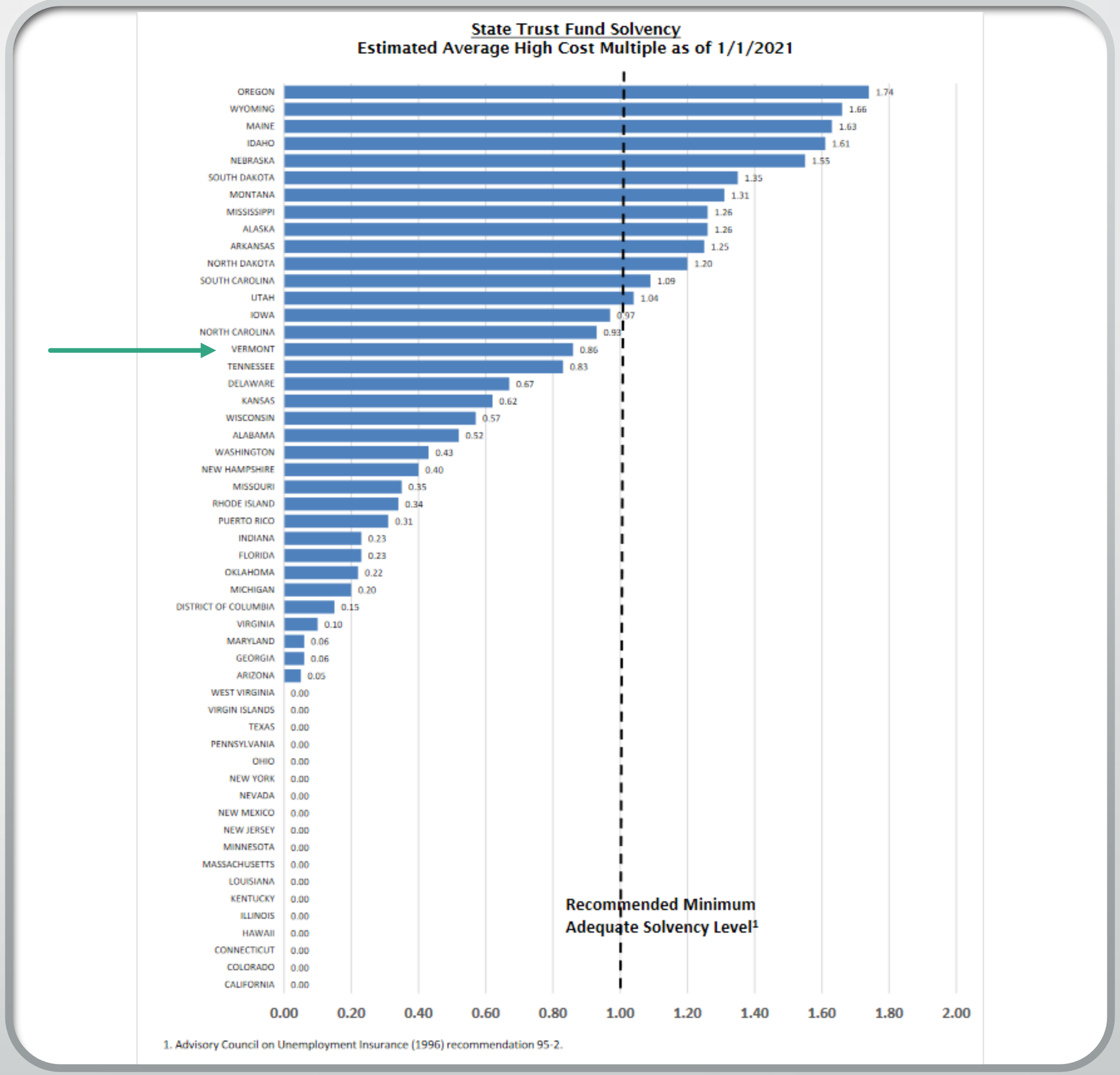
Trust Fund Solvency on January 1, 2020

- Vermont's UI Trust Fund had the highest Average High Cost Multiple in the U.S. before the COVID-19 Pandemic began.



Trust Fund Solvency on January 1, 2021

- Like many other states, Vermont's UI Trust Fund was significantly diminished by the unprecedented levels of unemployment during the Pandemic



Historical Relationship Between Pre-Recession AHCM and Borrowing

Source: USDOL	Average High Cost Multiple	2.0+	1.75-1.99	1.50-1.74	1.25-1.49	1.00-1.24	0.75-0.99	0.50-0.74	<0.5	1.0+	<1.0	TOTAL
1974-76	# of States	12	7	5	6	5	6	6	4	35	16	51
	# of Loans	0	2	2	2	3	6	6	4	9	16	25
	% with Loans	0%	29%	40%	33%	60%	100%	100%	100%	26%	100%	49%
1980-84*	# of States	2	0	5	7	10	5	6	16	24	27	51
	# of Loans	0	0	1	2	6	3	6	15	9	24	33
	% with Loans	0%	0%	20%	25%	60%	60%	100%	94%	36%	89%	65%
1990-92	# of States	2	4	7	9	10	8	7	5	32	20	52
	# of Loans	0	0	0	0	0	1	2	3	0	6	6
	% with Loans	0%	0%	0%	0%	0%	13%	29%	60%	0%	30%	12%
2001-04	# of States	5	2	5	8	10	12	7	4	30	23	53
	# of Loans	0	0	0	0	1	2	2	3	1	7	8
	% with Loans	0%	0%	0%	0%	10%	17%	29%	75%	3%	30%	15%
2008-10	# of States	0	2	4	3	10	8	5	21	19	34	53
	# of Loans	0	1	0	0	5	5	5	20	6	30	36
	% with Loans	0%	50%	0%	0%	50%	63%	100%	95%	32%	88%	68%

Important Factors to Remember When Comparing UI Financing Systems

- Multiple factors to consider:
  - Taxable wage base
    - Varies greatly from state to state
      - Federal taxable wage base is $7,000.00
      - All states have a TWB that is equal to or greater than the federal TWB
  - Tax Schedule
  - Experience Rating System
  - UI Benefit Structure
  - State Economic Factors

The Role of Taxable Wage Base in UI Trust Fund Solvency

- Variations in the taxable wage base can have a significant impact on the tax rate required to generate sufficient contributions for solvency
  - 5% tax on a wage base of $15,000.00 results in $750.00 in contributions
  - 2% tax on a wage base of $37,500.00 also results in $750.00 in contributions
- Taxable wage bases range from $7,000.00 to around $50,000.00 depending on the State.
- Vermont’s taxable wage base is currently $14,100.00
  - Indexed to the percentage increase in the State Average Weekly Wage
  - Decreases by $2,000.00 following a reduction in tax rates to Schedule III and Schedule I

The Role of a Tax Schedule in UI Trust Fund Solvency

- A tax system with multiple tax schedules raises taxes to replenish a UI Trust Fund when the balance is low and reduces tax rates when the Fund has achieved an adequate balance.
- For states that use multiple tax schedules, the number can vary significantly.
- Vermont, for example, has five tax schedules.
- In contrast, Rhode Island has nine tax schedules

Comparison of VT and RI Tax Schedules

Vermont

Tax Schedule	Min. Rate	Med. Rate (10 of 20)	Max. Rate
I	0.4%	2.3%	5.4%
II	0.6%	2.9%	5.9%
III	0.8%	3.5%	6.5%
IV	1.1%	3.8%	7.7%
V	1.3%	4.4%	8.4%

Rhode Island

Tax Schedule	Min. Rate	Med. Rate (14 of 28)	Max. Rate
A	0.21%	2.6%	7.4%
B	0.4%	2.8%	7.8%
C	0.5%	3.0%	8.2%
D	0.6%	3.2%	8.6%
E	0.7%	3.5%	9.0%
F	0.9%	3.7%	9.4%
G	1.1%	4.0%	9.7%
H	1.2%	4.2%	9.8%
I	1.2%	4.6%	10.0%

UI Tax Rates: An Alternative Approach

- Missouri has a single tax schedule for regular employers that is adjusted when the balance of its UI Trust Fund drops to certain levels.

Balance Less Than:	Balance Equal to or Greater Than:	Percentage Increase in UI Tax Rates
$450,000.00	$400,000.00	10%
$400,000.00	$350,000.00	20%
$350,000.00		30%

Experience Rating Systems

- Vermont utilizes a benefit ratio formula to determine experience rating
  - 19 states utilize a benefit ratio formula
  - Benefit ratio equals benefits charged divided by employer's payroll
- A reserve ratio formula is used by 28 states and D.C.
  - Reserve ratio equals (contributions minus benefits charged) divided by employer's payroll
- A benefit-wage ratio is used by two states
  - Benefit-wage ratio is determined by looking at the proportion of an employer's benefit wages to total taxable wages
- Alaska uses a payroll variation plan, which looks at decline in an employer's payroll from quarter to quarter

Important Factors to Consider When Comparing UI Benefits

- Wage Replacement Rate
- Maximum Benefit Amount
- Indexing for Inflation
- Dependent Allowances
- State Economic Factors

Wage Replacement Rates

- 11 states have a wage replacement rate of 50%, the remaining states have rates that are either below or above that amount.
  - Examples of high wage replacement rates include Oregon at 65%, New Jersey at 60%, and Georgia and Hawaii at approx. 61.9%.
  - A significant number of states have wage replacement rates that are between 50% and 52%.
  - Vermont’s wage replacement rate is approximately 57.8%.

Maximum Benefit Amounts and Indexing for Inflation

- Maximum weekly benefits range from a low of $235.00/week in Mississippi to a high of $855.00 in Massachusetts
- Many states index the maximum weekly benefit amount to the state average weekly wage.
  - Ranges from 47.6% in Texas to 70% in Hawaii.
- In other states, the maximum benefit is a fixed amount set by statute.
- Indexing the maximum weekly benefit to the SAWW prevents the erosion of benefits over time, but means that maximum weekly benefit amounts are strongly influenced by state economic factors and the method for calculating the SAWW.
  - For example, 66.67% of the SAWW in South Carolina is $326.00, while in Pennsylvania it is $583.00.
- Vermont's maximum weekly benefit is currently $583.00 and is indexed at 57% of the SAWW.

Dependent Allowances

- 13 states provide a dependent allowance in addition to regular UI benefits
- Dependent allowances are calculated by various methods, including:
  - Fixed amount per dependent;
  - Percentage of a claimant's weekly benefit amount; and
  - Increases in the wage replacement formula for claimants with dependents.
- Dependent allowances are capped based on various factors, including:
  - Number of dependents;
  - Percentage of weekly benefit amount; and
  - Maximum weekly benefit.

Authority to Waive or Reduce a Period of Disqualification for Fraud

- Penalties for an individual who obtains benefits based on fraud vary from state to state.
  - Most, but not all, states impose a period of disqualification.
  - Most, but not all, states also provide for a potential criminal penalty, including fines, imprisonment, or both.
  - All states impose a fine equal to at least 15% of the amount of benefits that were fraudulently obtained.

Authority to Waive or Reduce a Period of Disqualification for Fraud

- Few, if any, states provide authority to reduce a period of disqualification.
- Several states allow the disqualification to lapse after a certain period of time.
  - Georgia:
    - "Forfeiture of all unpaid benefits for any weeks of unemployment subsequent to the date of the finding by the Commissioner . . . shall apply to any unpaid benefits to which the person would otherwise be entitled during the remainder of the calendar quarter in which said finding is made and . . . during a period of the next four calendar quarters following the calendar quarter in which such finding is made . . .." Ga. Code Ann. § 34-8-255(a)(4).
  - Rhode Island:
    - "An individual who has been convicted . . . of knowingly or fraudulently making a false statement, or knowingly or fraudulently misrepresenting a material fact, with intent to defraud the employment security fund of any benefit or to wrongfully obtain or increase any . . . shall be disqualified from receiving benefits for a period of one year following that conviction." 28 R.I. Gen. Laws Ann. § 28-44-24(a).

Authority to Waive or Reduce Amount of Overpayment

- Many states provide authority to waive or reduce liability for the amount of an overpayment if the claimant is not at fault.
  - Virginia:
    - "The Commission shall waive the requirement to repay the overpayment after an individual case review if (i) the overpayment was made without fault on the part of the individual and (ii) requiring repayment would be contrary to equity and good conscience." Va. Code Ann. § 60.2-633(A).
  - Massachusetts:
    - "The commissioner may waive recovery of an overpayment made to any individual, who, in the judgment of the commissioner, is without fault and where, in the judgment of the commissioner such recovery would defeat the purpose of benefits otherwise authorized or would be against equity and good conscience." Mass. Gen. Laws Ann. ch. 151A, § 69(c).
- Vermont does not provide the Commissioner with express authority to waive or reduce liability for the amount of an overpayment.

Payment Options for Reimbursable Employers

- States have two systems for the reimbursement of chargeable benefits:
  - Payment of chargeable benefits on a monthly or quarterly basis; and
  - Payment of a percentage of the reimbursable employer's payroll with an additional payment or refund at the conclusion of the year to ensure that the employer has paid the full amount of the benefits attributed to that employer.
- In Vermont, reimbursable employers are billed on a quarterly basis, but may request to pay a percentage of their payroll.

Attribution of Benefits to Reimbursable Employers

- Vermont is one of 34 states (plus D.C.) that charges benefits to employers based on the proportion of a claimant's base period wages that the employer paid.
  - This system places responsibility on the employer(s) whose wages are the basis for the amount of benefits a claimant is entitled to receive.
  - In a somewhat similar approach, two states charge benefits to the employer who paid the largest portion of base period wages.
- Seven states charge benefits to the claimant's most recent employer.
  - This system places responsibility for benefits paid on the employer that is responsible for the claimant's unemployment.
- Six states charge benefits in inverse order of employment.
  - This system places responsibility on both the employer responsible for the claimant's unemployment and those whose wages are the basis for the amount of benefits a claimant is entitled to receive.

Any Questions?