VERMONT
DEPARTMENT OF LABOR

Unemployment Insurance Trust Fund Report

January 31, 2021

To: The Honorable Phil Scott, Governor
Senate Committee on Economic Development, Housing & General Affairs
Senate Committee on Finance
House Committee on Commerce and Economic Development
House Committee on Ways & Means

From: Michael Harrington, Commissioner 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 monies 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 recession. The cause of the economic downturn is a global health pandemic commonly referred to as COVID-19. The level of disruption associated with COVID-19 is staggering. As it relates to this report, there are two important notes which will be themes throughout:

- Until the global health pandemic is under control, long-term economic recovery cannot begin.
- The nature of this economic downturn that was precipitated by a pandemic has rendered some traditional economic metrics more difficult to interpret, and therefore forecast, than usual.

Considering these two notes, the goal of this report is to present an update on the status of the VT Unemployment Insurance Trust Fund. The end of the report includes forecasted data about the near-term health of the UITF. The future-looking data elements will be different from past annual reports as the focus will be more narrowly defined to the inflows and outflows of money directly related to the UITF. Additional federally funded benefit programs are out of scope for this report as they are covered by federal dollars.

[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.

Due to the level of uncertainty related to even the shortest of time horizons, this stripped-down approach was deemed necessary to facilitate the completion of this annual update. All other topics of interest can be addressed separately, upon request, outside of this report (e.g., policy proposals, federal benefit support programs, etc.).

Implications of the Above Notes:
Typically, the unemployment rate plays a key role in any UITF forecast; however, it will not be part of this year's discussion (except to clarify why the measure is not helpful to this forecast during COVID-19). Instead, a more holistic approach to modeling the possible benefit charges assessed to the UITF needed to be designed.

The total cost of benefits outlined in this report represents only the benefits paid that directly impact the State's trust fund and does not include benefit costs associated with reimbursable federal programs, such as Extended Benefits, Pandemic Emergency Unemployment Compensation, and Federal Pandemic Unemployment Compensation.

Special Note: This report is based on the best available data at the time of issuance. Calendar year 2020 data, which includes claims associated with the public health emergency, is still being processed, so all 2020 data represented in this report should be considered preliminary and, in some cases, estimated.

Summary of the "Grand Bargain"

The laws surrounding Vermont's unemployment insurance program 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 this reform effort was to balance the rules and regulations governing employers and UI claimants, and the eventual impact certain employment actions have on the State's Trust Fund. 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

[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.

by $2,000 to $15,600. In 2019, the taxable wage base resumed indexing and was increased to $16,100. The third trigger is effective upon return to Tax Rate Schedule I at which time the taxable wage base drops by an additional $2,000 in the following year. Migration to Tax Rate Schedule I occurred in 2020, which reduced the taxable wage base to $14,100 in 2021. No indexing occurs in the year in which the second and third triggers are met.

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

Additional 2010 Reforms Relating to UI Claimants:

- Modified 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 times their weekly benefit amount (roughly 26 weeks) or 46% of the base period wages, <u>whichever is less</u>.
- Capped maximum benefit penalty for a worker found to have separated from his or her last employer due to misconduct at 23-weeks.
- Excluded use of 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, and again in 2020 to $531 per week.
- Increased the maximum number of weeks that a claimant can be disqualified when determined a claimant was discharged for cause.
- Established that severance pay shall always be considered disqualifying remuneration.
- Implemented a one-week waiting period with an effective date of July 1, 2012. This waiting period did not change the WBA a claimant would 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 statute that defines and determines the calculation of "disregarded earnings."

Recent Changes to Unemployment Insurance

During the 2014 legislative session, the Disregarded Earnings statute 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. Under this statute, the Department disregards 50% of an individual's earnings during a week in which they are filing for benefits. This allows the claimant to continue to collect partial unemployment while also returning to part-time work, as reported earnings can lower a claimant's weekly 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, and to some extent less claimant-friendly, as most eligible UI claimants could earn more money filing for partial unemployment with the 50% disregard rather 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. This temporary adjustment to the UI Program is set to expire on March 31, 2021 unless extended by the General Assembly.

Finally, multiple UI programs were created under the federal CARES Act to be administered by the Vermont Department of Labor. Although these programs are fully federally funded and do not have an immediate impact on the UITF balance or the UITF projections, it is important to acknowledge the programs as they are administered by the Department and have an impact on the Department's capacity to effectively administer the regular UI Program.

Pandemic Emergency Unemployment Compensation

The original CARES Act provides for an additional 13 weeks of UI benefits for individuals who exhausted their original 26 weeks of UI benefits. This program is called the Pandemic Emergency Unemployment Compensation Program (PEUC). The PEUC Program is fully federally funded and must be exhausted before an individual moves into another authorized extension program. The PEUC Program first became effective for the benefit week ending April 4, 2020. With the CARES Act extension, the PEUC Program was extended for an additional 11 weeks effective with the week ending January 02, 2021. In total, an individual may receive an additional 24 weeks of UI benefits under the PEUC Program after exhaustion of an individual's regular UI entitlement. This Program is set to expire with the week ending March 13, 2021 with a phase out period through April 10, 2021.

State Extended Benefits

Due to the State meeting certain economic factors (see 21 V.S.A. §§ 1421-1427), the State triggered onto State Extended Benefits (EB) and then High Extended Benefits (High EB) during calendar year 2020. This extension program provided an additional 13 to 20 weeks of UI benefits. To receive this benefit, an individual must have exhausted their regular UI entitlement and the original 13 weeks of the PEUC Program. State EB and High EB were fully federally funded under the CARES Act and the Program expired with the week ending December 19, 2020. Individuals who exhausted their eligibility for the State EB Program where then made eligible for the 11-week extension of the PEUC Program once the CARES Act extension was passed. The first payable benefit week for the PEUC extension was January 02, 2021.

Pandemic Unemployment Assistance

The Pandemic Unemployment Assistance (PUA) Program was authorized by the CARES Act and provides unemployment benefits to individuals who were impacted by the COVID-19 pandemic and who were otherwise ineligible for the traditional UI Program. Most individuals that were eligible for the PUA Program were either self-employed and independent contractors, or who were not monetarily eligible for regular UI. This Program provided an initial round of benefits for up to 39 weeks, as long as the individual filing for benefits met one of the 11 PUA qualifying scenarios. With the extension of the CARES Act, the Program was extended by an additional 11 weeks, providing a total of 50 weeks of eligibility for PUA claimants. This Program is set to expire with the week ending March 13, 2021 with a phase out period through April 10, 2021.

Federal Pandemic Unemployment Compensation

The Federal Pandemic Unemployment Compensation (FPUC) was an enhanced benefit that increased a claimant's weekly benefit amount for weeks when the program was in effect. Initially, the increased amount was an additional $600 per week for weeks ending April 4, 2020 through July 25, 2020. This program was extended by the CARES Act albeit at a reduced amount. The second round of FPUC provides an additional $300 dollars per week for claims filed for weeks ending January 2, 2021 through week ending March 13, 2021. The additional benefit is provided to all UI claimants, including those filing under the programs listed above.

Lost Wage Assistance

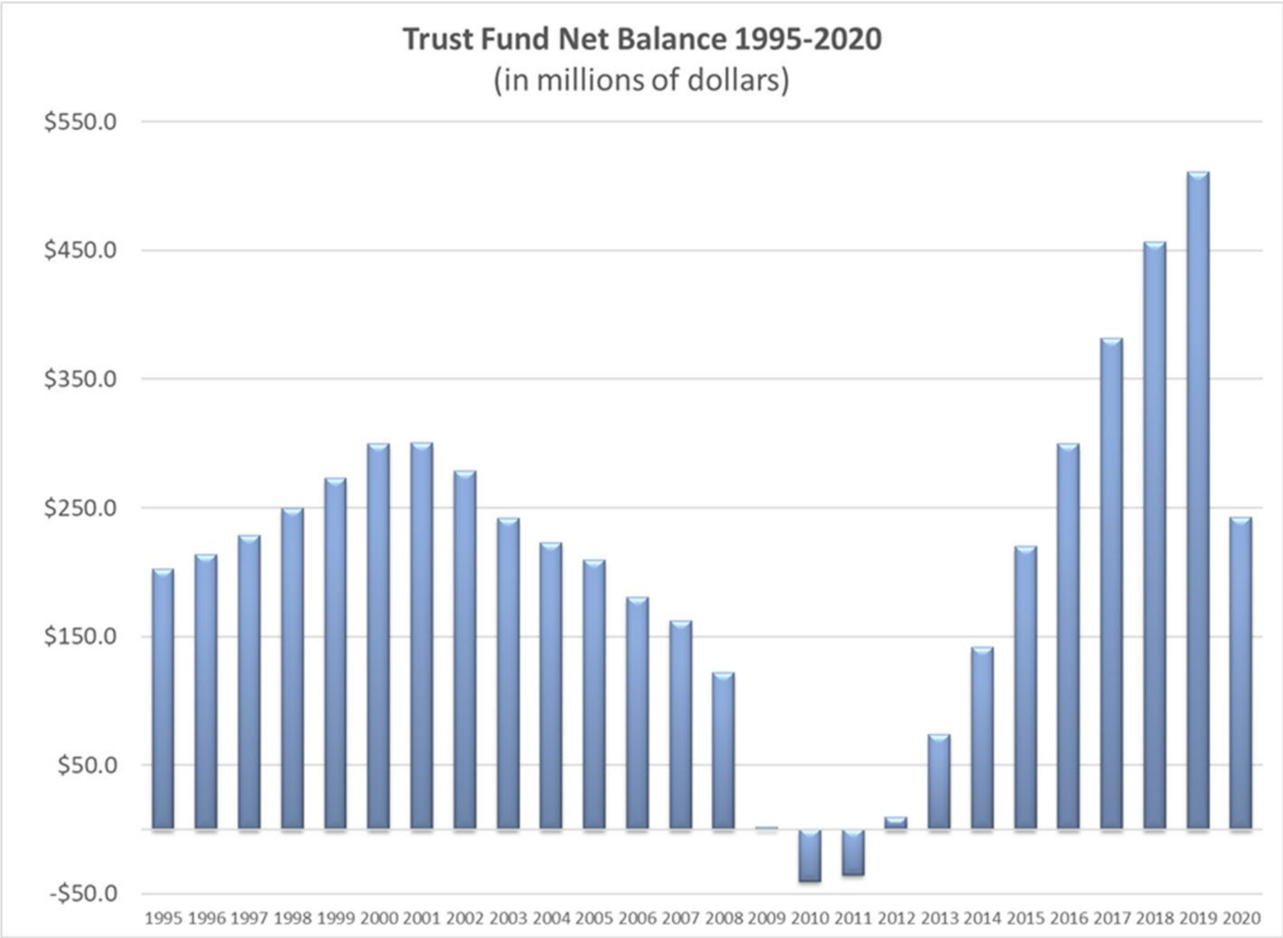
The Lost Wages Assistance (LWA) Program supplemented UI payments with an additional $300 dollars for weeks ending August 1, 2020 through September 5, 2020. This was a FEMA (Federal Emergency Management Agency) program authorized by the President following the expiration of the original FPUC benefit. Unlike the FPUC benefit however, the LWA benefit was only available to claimants who received an underlying weekly benefit amount of $100 dollars or more. This LWA benefit expired on December 27, 2020 and the Department stopped taking LWA certifications at that time.

Vermont Short Term Supplemental Benefit

The Vermont Short Term Supplemental Benefit was authorized by the General Assembly in September of 2020. This short-term program provided a supplement of $100 dollars per week to all UI claimants for five weeks in October from the week ending October 3, 2020 through October 31, 2020. This program utilized Coronavirus Relief Fund dollars.

Recent History of the UI TF Balance

From the period of 2001 to 2010, Vermont's UITF annual debits exceeded its credits. As depicted in the 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 federal loan known as 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 (e.g., the Grand Bargain) 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. The year 2020 started with an estimated preliminary UITF balance of $510.9 million (see below). After a long year of battling the COVID-19 public health emergency, the ending UITF balance for the 2020 calendar year is estimated to be $242.7 million.



January 2021 Model Forecast

As mentioned in the Technical Notes section at the start of this report, there is tremendous uncertainty surrounding the economy. Any 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 fall of 2021 will represent a positive step forward towards recovery;
- the winter of 2021-2022 will be a pause to health and economic progress;
- the spring of 2022 will represent the complete end to pandemic related economic disruptions and the beginning of full-scale economic recovery.

The level of contributions to the UITF 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 (10-year retrospective) and the current fund balance. There are five tax rate schedules outlined in 21 V.S.A. § 1326, with "Schedule V" as the highest. In July 2020, the tax rate schedule migrated from Schedule III to Schedule I (the lowest of the five schedules). Based on a historic level of benefit payouts in CY2020 (preliminary estimate $387.4 million), it is expected that the tax rate schedule will go from the lowest schedule (I) to the highest (V) by July 2021. Assuming the benefit payout amount in 2020 stays the high-water mark, the chart below provides general guidance about the necessary size of the UITF to migrate to lower schedules.

Estimated UI TF Balance Needed for Tax Rate Schedule

Tax Rate Schedule	UI TF Balance
I	> $968.5M
II	$774.8M < $968.5M
III	$581.1M < $774.8M
IV	$387.4M < $581.1M
V	< $387.4M

Notes: in 2020 dollars; placeholder for July 2021 determination.

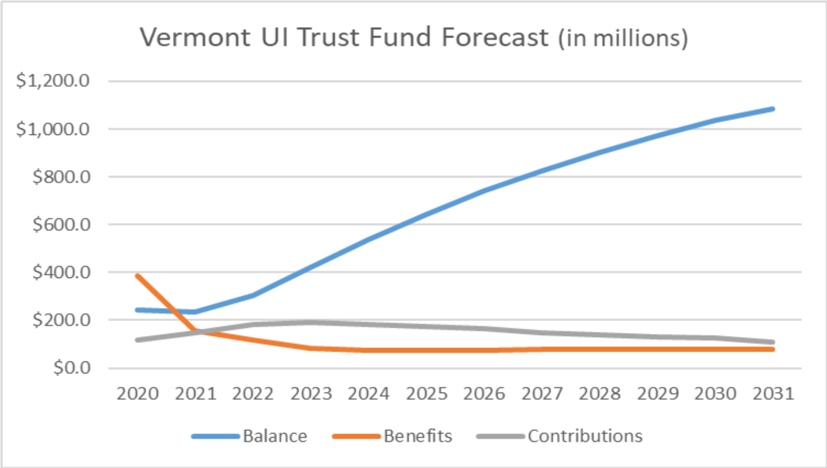
Unemployment Insurance Trust Fund Forecast - 2020-2031 Jan-2021

		CLAIMANTS		EMPLOYERS		
	UI TF Balance	Benefits Paid	Maximum Weekly Benefit	Contributions	Tax Rate Schedule	Taxable Wage Base
Year	[a]	[b]	[c]	[d]	[e]	[f]
2020	$241.7	$387.4	$531	$117.3	I	$16,100
2021	$234.8	$158.3	$550	$146.6	V	$14,100
2022	$305.1	$118.8	$569	$183.3	V	$14,600
2023	$420.0	$83.1	$589	$190.6	V	$15,100
2024	$536.0	$74.8	$610	$181.1	IV	$15,600
2025	**$643.4**	$75.6	$631	$172.0	IV	$16,100
2026	$743.0	$76.3	$653	$163.4	**III**	$16,700
2027	$826.0	$77.1	$676	$146.3	III	**$14,700**
2028	$902.2	$77.9	$700	$138.9	II	$15,200
2029	**$972.1**	$78.6	$725	$132.0	II	$15,700
2030	$1,035.8	$79.4	$750	$125.4	**I**	$16,200
2031	$1,084.3	$80.2	$776	$110.1	I	**$14,200**

Notes
[a] in millions of dollars as of the end of the year; includes interest
[b] in millions of dollars; does not include benefits paid by federal USDOL
[c] amount adjusted every July
[d] in millions of dollars
[e] annual determination effective in July
[f] annual determination effective in January

The above table details the key components of the UITF forecast. The note section highlights important information about the data presented including the timeline for information to be updated. There are two groups of highlighted boxes – blue and green. These are meant to help the reader follow how the UITF adjusts its rate of contributions based on current statute. Using the blue highlight as an illustrative example, the UITF is forecasted to have a year-end balance of $643.4 million in 2025. This year-end balance will determine the tax rate schedule set the following year (projected to be tax rate schedule III). With the return to tax rate schedule III, the taxable wage base will decrease by $2,000 in the following year. The green boxes highlight this same process except with the return to tax rate schedule I which would also trigger another $2,000 decrease to the taxable wage base in the following year.

The graph below presents the three most important columns from the chart above – the year-end balance of the UITF, the projected level of benefits paid out of the UITF, and the projected amount of contributions received by the UITF. The contributions line illustrates how contributions are increased to replenish the fund but as the fund balance becomes larger, the level of contributions decreases.



Forecast Risks

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

- **National and international economic uncertainty due to a global pandemic:** the U.S. economy is in the fledging stages of an economic recovery. For this recovery to continue and gain strength, the global health concern will need to be controlled.