# National Association of State Workforce Agencies (NASWA)

# UI Trust Fund Solvency Survey

Summary Document of State Responses

December, 2009

# State Unemployment Insurance (UI) Solvency Survey Results

All 50 states and Puerto Rico responded to the NASWA UI Trust Fund Solvency Survey.

**Question # 1)** *Has legislation been proposed in your State regarding UI trust fund solvency? This could be legislation that has already been enacted or pending legislation.*

- Of the 51 state programs surveyed, 8 indicated legislation regarding UI trust fund solvency had either been introduced or enacted in their state during the 2009 legislative session. The chart below provides links to each state's solvency legislation and gives an update on the status of the legislation.

| State | Legislation | Status of Legislation |
|---|---|---|
| Arkansas | SB 429 | Enacted |
| California | AB 1298; SB 222 | Pending in the State Legislature |
| Florida | SB 810 | Enacted |
| Indiana | HB 1379 | Enacted |
| New Hampshire | SB 129 | Enacted |
| Tennessee | HB 2324 | Enacted |
| Vermont | HB 442 | Enacted |
| West Virginia | SB 246 | Enacted |

- Several follow-up questions (directed only at the eight respondents who indicated legislation had recently been enacted or introduced in their state legislatures) attempted to discern how the state legislation addressed UI solvency.

**Question # 2)** *Does the legislation include an increase in the taxable wage base? Or an increase in the effective tax rates on employers?*

- All of the eight states in which solvency legislation had recently been enacted or introduced indicated the solvency legislation increases the state taxable wage base.
- Legislation enacted in New Hampshire increases the taxable wage base in phases over the course of several years. New Hampshire's taxable wage bases are scheduled to be $10,000 in 2010, $12,000 in 2011 and $14,000 in 2012.

- Legislation enacted in Tennessee increases the taxable wage base from $7,000 to $9,000, and makes the increase retroactive to the beginning of 2009.
- Legislation in three of the eight states (AR, IN and VT) requires the specified increases in the taxable wage bases to occur in full in 2010. Arkansas' taxable wage base will increase from $10,000 to $12,000; Indiana's taxable wage base will increase from $7,000 to $9,500; and Vermont's taxable wage base will increase from $8,000 to $10,000.
- Both of the bills introduced in California would require full implementation of the increases in the taxable wage base. The first bill (AB 1298) would increase the taxable wage base from $7,000 to $16,600, beginning in 2009, and in subsequent years, the taxable wage base would be the greater of $16,600 or one-third of the annual state average weekly wage. The second bill (SB 222) would increase the taxable wage base from $7,000 to $21,000, effective immediately upon enactment.
- Legislation enacted in Florida will temporarily increase the taxable wage base from $7,000 to $8,500 beginning in 2010 and remaining in place until 2014.
- Legislation enacted in West Virginia will temporarily increase the State taxable wage base from $8,000 to $12,000 (effective the 2nd quarter of 2009); the taxable wage base will remain at $12,000 until trust fund levels increase to a specified amount at which point the taxable wage base will decline to $ 9,000 and thereafter be indexed annually to annual wages.

**Question # 3)** *Does the legislation include an increase in the effective tax rates on employers? Does the legislation revise the State tax schedule trigger? Does the legislation increase tax rates on employers with poor experience?*

- Of the eight states in which solvency legislation had recently been enacted or introduced, four states (AR, FL, IN and NH) reported the solvency legislation increases the effective tax rates on employers.
- Legislation enacted in Florida, New Hampshire and Tennessee revises the state tax schedule trigger.
- Legislation enacted in Indiana and New Hampshire increases taxes on employers with poor experience.

**Question # 4)** *Does the legislation restrict benefit eligibility or reduce benefit amounts?*

- Of the eight states in which solvency legislation had recently been enacted or introduced, three states (AR, NH and WV) indicated the solvency legislation restricts benefits in some way.
- Legislation enacted in Arkansas restricts eligibility for certain claimants discharged for misconduct.
- Legislation recently enacted in New Hampshire implements a one-week waiting period for new claims filed in 2010.
- Legislation enacted in West Virginia restricts benefit eligibility in minor instances of quits due to medical issues or work stoppages.

**Question # 5)** *Did your State enact a Solvency Tax in 2009?*

- None of the 51 state programs surveyed reported their state legislature enacted a solvency tax in 2009.
- Of the 51 state programs surveyed, seven states (AR, CA, CT, FL, HI, MA and SD) indicated tax rates in their state are currently adjusted on employers due to a solvency tax already in state law.
- Arkansas law includes a solvency tax based on the level of trust fund reserves; the amount of the solvency tax is now at its highest level (.8%) and will remain at this level for 2010.
- An emergency solvency tax exists in California which adds a 15% surcharge to an employer's tax rate on the highest tax schedule; the surcharge was enacted in 1993 and is currently in effect.
- The solvency tax currently in effect in Florida activates when the level of reserves in the trust fund falls below 4 percent of annual taxable payrolls.
- In Hawaii, a solvency tax will go into effect in 2010. It will automatically increase the State taxable wage base from $13,000 to $37,800 and establish a higher tax rate schedule.
- The solvency tax currently in effect in Massachusetts is annually deducted from employer account balances and credited to a solvency account. The annual assessment is based on a reserve percentage of the solvency account calculated annually by dividing the solvency account balance on a calculation date by total taxable payrolls. As the assessment is deducted from employer accounts before experience rating, it is taken into account when calculating experience rates.
- South Dakota law includes a solvency tax based on the level of trust fund reserves calculated at the end of each quarter. It triggered on at 1.5% beginning October 1, 2009 and is projected to be in effect through June 30, 2010.

**Question #6)** *Will the tax rate schedule in your State increase in 2010?*

- Of the 51 state programs surveyed, 28 states (AK, AL, AZ, CO, GA, HI, IA, ID, IL, KS, MA, MD, ME, MN, MT, ND, NE, NH, NJ, NY, OH, OR, PA, PR, VA, VT, WI and WY) indicated the tax schedule in their state will see an increase in 2010 compared to the same period one year earlier.
- All 27 states, except Georgia, indicated the increase in the tax schedule is automatic (based on the level of reserves in the trust fund); Georgia will see a discretionary increase in the State tax schedule implemented at the option of the Commissioner of Labor.

**Question # 7)** *Is your State currently at the highest tax rate schedule?*

- Of the 51 state programs surveyed, 10 states (CA, CT, DE, KY, MI, MO, NC, RI, SC and TN) indicated their state was currently at the highest tax rate schedule.

**Question #8)** *Does current State law (or proposed legislation) require claimants to serve a waiting period before receiving benefits?*

- While this information was available from the US Department of Labor as of July 2009, this question was included in the survey to determine whether other states enacted a waiting period recently.
- Of the 51 state programs surveyed, 39 states said they require claimants to a serve a waiting period before receiving benefits; New Hampshire recently enacted a waiting week.
- The states that do not require claimants to serve a waiting period before receiving benefits are: CT, DE, GA, IA, KY, MD, MI, NV, NJ, VT, WI and WY.

**Question #9)** *Has legislation been introduced in your State that would improve UI integrity?*

- Of the 51 state programs surveyed, three states (NV, OR and TN) indicated their state legislation included UI integrity provisions.
- Legislation was enacted in Nevada (AB 84) that gives the State the authority to disqualify claimants who have committed UI fraud until they make full restitution in cash (as opposed to always allowing offset against benefits due). It further establishes graduated cash penalties and restricts prior wages used fraudulently from being transferred to other states for use in combined wage claims.
- Two forms of UI integrity legislation were enacted in Oregon; the first holds employers personally liable for unpaid UI tax debt (HB 2201), the second attempts to reduce the

number of fraudulent employment schemes originated for the sole purpose of re-qualifying for benefits (HB 2203).

- Legislation enacted in Tennessee (SB 1201) further defines "misconduct" for benefit disqualifications and requires any person who fraudulently receives unemployment benefits to repay the amount of benefits received plus a civil penalty equal to the overpayment.

**Question #10)** *Does current State law (or proposed legislation) include a provision that freezes benefit amounts as a function of trust fund solvency? i.e. some states freeze benefit levels when the tax rate schedule increases.*

- Of the 51 state programs surveyed, four states (ID, KY, OK and WV) freeze or adjust indexed benefit increases in response to a general increase to UI tax rates or a low level of reserves in the UI trust fund.
- Idaho law (Title 72, Chapter 13) does not freeze benefit amounts but adjusts them in conjunction with tax rates – when tax rates rise, the maximum benefit declines; when tax rates decrease, the maximum benefit rises.
- Legislation in Kentucky freezes the weekly benefit amount (WBA) if the level of reserves in the State trust fund falls below a specified level.
- Legislation was enacted in West Virginia (SB 246) this year that requires a benefit freeze to remain in effect until the level of trust fund reserves increases to a specified level.

**Question #11)** *Compared to State unemployment tax revenue estimated to be collected in 2009, by what percent does the State project unemployment tax revenue will increase in 2010?*

- Of the 44 state programs that responded to this question, 35 states estimated the level of UI tax revenue collected in 2010 would surpass the level collected in 2009; with a median projected contribution level increase of 27.5%.
- The projected contribution level increases ranged from 2.5% to 600%.
- Only two states (NM and NV) indicated their contribution level was projected to decrease in 2010, and eight states (AK, CO, DE, ME, MS, ND, TX and WY) were unsure of their projected contribution level for 2010.
- See attached page for state-by-state projected contribution levels for 2010.

**Conclusion:** The NASWA UI Trust Fund Solvency survey shows a total of 35 states will be seeing a UI tax increase on employers from 2009-2010. See the final page of this document for a listing and explanation of the types of tax increases faced by each state.

| STATE | Projected Contribution Level Increase for 2010 | STATE | Projected Contribution Level Increase for 2010 |
|---|---|---|---|
| ALABAMA | 90% | MONTANA | 71% |
| ALASKA | N/A | NEBRASKA | 150% |
| ARIZONA | 40% | NEVADA | -5% |
| ARKANSAS | 4% | NEW HAMPSHIRE | 106% |
| CALIFORNIA | 17% | NEW JERSEY | 40% |
| COLORADO | N/A | NEW MEXICO | NEGATIVE |
| CONNECTICUT | 18.3% | NEW YORK | 11% |
| DELAWARE | N/A | NORTH CAROLINA | 0% |
| DISTRICT OF COLUMBIA | - | NORTH DAKOTA | N/A |
| FLORIDA | 59% | OHIO | 4% |
| GEORGIA | 7.5% | OKLAHOMA | 5% |
| HAWAII | 600% | OREGON | 43% |
| IDAHO | 115% | PENNSYLVANIA | 14.8% |
| ILLINOIS | 13% | PUERTO RICO | 4.0% |
| INDIANA | - | RHODE ISLAND | 6.5% |
| IOWA | 50% | SOUTH CAROLINA | - |
| KANSAS | 100% | SOUTH DAKOTA | 140% |
| KENTUCKY | 2.5% | TENNESSEE | - |
| LOUISIANA | 20% | TEXAS | N/A |
| MAINE | N/A | UTAH | 27.5% |
| MARYLAND | 75% | VERMONT | 23% |
| MASSACHUSETTS | 40.4% | VIRGINIA | 78.1% |
| MICHIGAN | 0% | WASHINGTON | 50% |
| MINNESOTA | 12% | WEST VIRGINIA | 0% |
| MISSISSIPPI | N/A | WISCONSIN | 18.8% |
| MISSOURI | 5.7% | WYOMING | N/A |

N/A = Not Available

# 2010 State UI Tax Increases:

## 35 States will be seeing some form of UI tax increase in 2010

| | Indexed Taxable Wage Base | 2010 Taxable Wage Bases | |
|---|---|---|---|
| Alabama | | $8,000 | Increased Tax Rate |
| Alaska | Yes | $32,700 | Increased Tax Rate |
| Arizona | | $7,000 | |
| Arkansas | | $12,000 | Increased Taxable Wage Base |
| California | | $7,000 | |
| Colorado | | $10,000 | Increased Tax Rate |
| Connecticut | | $15,000 | |
| Delaware | | $10,500 | |
| District of Columbia | | $9,000 | |
| Florida | | $8,500 | Increased Taxable Wage Base |
| Georgia | | $8,500 | Increased Tax Rate |
| Hawaii | Yes | $34,900 | Increased Tax Rate and Taxable Wage Base |
| Idaho | Yes | $33,300 | Increased Tax Rate |
| Illinois | | $12,300 | Increased Tax Rate |
| Indiana | | $9,500 | Increased Taxable Wage Base |
| Iowa | Yes | $24,000 | Increased Tax Rate |
| Kansas | | $8,000 | Increased Tax Rate |
| Kentucky | | $8,000 | |
| Louisiana | | $7,700 | Increased Tax Rate and Taxable Wage Base |
| Maine | | $12,000 | Increased Tax Rate |
| Maryland | | $8,500 | Increased Tax Rate |
| Massachusetts | | $14,000 | Increased Tax Rate |
| Michigan | | $9,000 | Increased Tax Rate |
| Minnesota | Yes | $26,000 | Increased Tax Rate |
| Mississippi | | $7,000 | |
| Missouri | | $12,500 | |
| Montana | Yes | $25,100 | Increased Tax Rate |
| Nebraska | | $9,000 | Increased Tax Rate |
| Nevada | Yes | $26,600 | |
| New Hampshire | | $10,000 | Increased Taxable Wage Base and Rate |
| New Jersey | Yes | $28,900 | Increased Tax Rate |
| New Mexico | Yes | $20,800 | |
| New York | | $8,500 | Increased Tax Rate |
| North Carolina | Yes | $19,300 | |
| North Dakota | Yes | $23,700 | Increased Tax Rate |
| Ohio | | $9,000 | Increased Tax Rate |
| Oklahoma | Yes | $14,200 | |
| Oregon | Yes | $31,300 | Increased Tax Rate |
| Pennsylvania | | $8,000 | Increased Tax Rate |
| Puerto Rico | | $7,000 | |
| Rhode Island | | $19,000 | Increased Taxable Wage Base |
| South Carolina | | $7,000 | |
| South Dakota | | $10,000 | Solvency Tax |
| Tennessee | | $9,000 | Increased Taxable Wage Base, Tax Schedule at Highest Rates |
| Texas | | $9,000 | |
| Utah | Yes | $27,800 | |
| Vermont | | $10,000 | Increased Taxable Wage Base |
| Virgin Islands | Yes | $22,100 | |
| Virginia | | $8,000 | Solvency/Socialized Cost Tax |
| Washington | Yes | $35,700 | |
| West Virginia | | $12,000 | Increased Taxable Wage Base and Indexation of Taxable Wage Base |
| Wisconsin | | $12,000 | Increased Tax Rate |
| Wyoming | Yes | $21,500 | Increased Tax Rate |

Increase in UI Taxes

*Source: National Association of State Workforce Agencies (NASWA)*