WEST VIRGINIA LEGISLATIVE AUDITOR

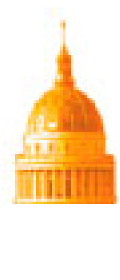
PERFORMANCE EVALUATION AND RESEARCH DIVISION

Preliminary Performance Review

Unemployment Compensation Division

The Unemployment Compensation Trust Fund Is Nearing Insolvency, which Raises the Issue of Placing a Mechanism in Statute that would Automatically Adjust the Wage Base to Avoid Having to Use Emergency Measures

Unemployment Compensation Division Meets Federal Performance Standards; Payments Are Accurate and Timely



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John Sylvia
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May 15, 2005

The Honorable Edwin J. Bowman
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The Honorable J.D. Beane
House of Delegates
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Charleston, West Virginia 25305-0470

Dear Chairs:

Pursuant to the West Virginia Sunset Law, we are transmitting a Preliminary Performance Review of the Unemployment Compensation Division, which will be presented to the Joint Committee on Government Operations on Sunday, May 15, 2005. The issues covered herein are "The Unemployment Compensation Trust Fund is Nearing Insolvency, which Raises the Issue of Placing a Mechanism in Statute that would Automatically Adjust the Wage Base to Avoid Having to Use Emergency Measures;" and "Unemployment Compensation Division Meets Federal Performance Standards; Payments are Accurate and Timely."

We transmitted a draft copy of the report to the Unemployment Compensation Division on April 29, 2005. The Division opted not to have an exit conference. We received the agency response on May 5, 2005.

Let me know if you have any questions.

Sincerely,

John Sylvia

John Sylvia

JS/wsc

Joint Committee on Government and Finance

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Executive Summary

Issue 1: The Unemployment Compensation Trust Fund Is Nearing Insolvency, which Raises the Issue of Placing a Mechanism in Statute that would Automatically Adjust the Wage Base to Avoid Having to Use Emergency Measures.

Because the taxable wage base is fixed by law, the Legislature has historically managed trust fund insolvency through emergency one-time statutory amendments.

The disadvantage of using an emergency procedure is that the Legislature may be forced to impose a solvency tax on employers and employees during poor economic conditions, which would worsen economic conditions.

West Virginia's wage base for the unemployment tax has been fixed at the first $8,000 of salary per worker since 1981, yet weekly unemployment benefit payments have increased 189% since then. Consequently, the Unemployment Compensation Trust Fund is nearing insolvency, and, according to the Division, could be bankrupt by 2008. Because the taxable wage base is fixed by law, the Legislature has historically managed trust fund insolvency through emergency one-time statutory amendments. This emergency procedure has resulted in the state borrowing as much as $308 million from the federal unemployment compensation system during the 1980's, issuing bonds, and imposing a solvency tax on employees and employers to repay the federal loans. The disadvantage of using an emergency procedure is that the Legislature may be forced to impose a solvency tax on employers and employees during poor economic conditions, which would worsen economic conditions. Furthermore, the unemployment tax is regressive by nature. Allowing a flexible wage base would reduce the regressivity. Also, maintaining a fixed wage base creates the inequity of many high salary employers receiving more benefit payments than they pay in unemployment taxes. In fact, for the most recent year, 49% of total benefits paid were charged to companies that paid only 27% of the total unemployment tax. This inequity would be reduced by allowing automatic statutory authority that would raise the wage base. **The Legislative Auditor recommends that the Legislature should consider placing a mechanism in statute that would automatically adjust the wage base, instead of making emergency adjustments to the statute when the trust fund reaches insolvency.**

Issue 2: The Unemployment Compensation Division Meets Federal Performance Standards; Payments Are Accurate and Timely.

The Unemployment Compensation Division has met 74 out of 81 Tier I federal performance standards since 1998. The seven that were missed resulted in Corrective Action Plans. For 2003, the Division's average rank for Tier I measures was 15th in the nation. For Tier II measures in 2003, the Division had an average national rank of 20th in the nation. **The Unemployment**

Compensation Division's performance in Tier I and Tier II measures indicates that the Division operates effectively and efficiently in important areas.

The proper payment rate is significant because it is an indicator of the accuracy of the Division in benefit determinations. Since 1993, the Division has not ranked lower than 4th in the nation in terms of the proper payment rate.

Furthermore, within UI PERFORMS, the proper payment rate is one of the most important measures. The proper payment rate is significant because it is an indicator of the accuracy of the Division in benefit determinations. Since 1993, the Division has not ranked lower than 4th in the nation in terms of the proper payment rate. Furthermore, the state has collected over 57% of all overpayments to claimants since 1998. In addition, according to information provided by the Unemployment Compensation Division, West Virginia is 10th in the nation in non-fraud overpayment recovery and 28th in fraud overpayment recovery. Within the bordering states, West Virginia is 1st in non-fraud overpayment recovery and 3rd in fraud overpayment recovery.

Recommendations

1. *The Legislature should consider placing a mechanism in statute that would automatically adjust the unemployment wage base.*

2. *The Legislative Auditor recommends that the Unemployment Compensation Division be continued.*

Review Objective, Scope and Methodology

This Preliminary Performance Review of the Unemployment Compensation Division is required and authorized by the West Virginia Sunset Law, Chapter 4, Article 10 of the West Virginia Code.

Objective

The objective of this review was to determine if the Unemployment Compensation Division is meeting federal performance measures. Further, this review sought to identify options that would increase the solvency of the Unemployment Compensation Trust Fund.

Scope

This report uses unemployment compensation data from calendar years 1998 through 2004. In addition, the review also uses UI PERFORMS Annual Reports from calendar years 1998 through 2003. Some historical data are included for comparison purposes.

Methodology

The Legislative Auditor used UI PERFORMS Annual Reports to determine if the Division is complying with federal performance standards. Furthermore, the Legislative Auditor also obtained documents regarding unemployment compensation financing, including the *2004 Comparison of State Unemployment Laws* published by the federal Department of Labor, *Topics in Unemployment Financing* by Wayne Vroman*, and Failing the Unemployed* published by the Economic Policy Institute. This review also involved analyzing federal and state unemployment financial data to determine the effects of a flexible wage base.

Issue 1

The Unemployment Compensation Trust Fund Is Nearing Insolvency, which Raises the Issue of Placing a Mechanism in Statute that would Automatically Adjust the Wage Base to Avoid Having to Use Emergency Measures

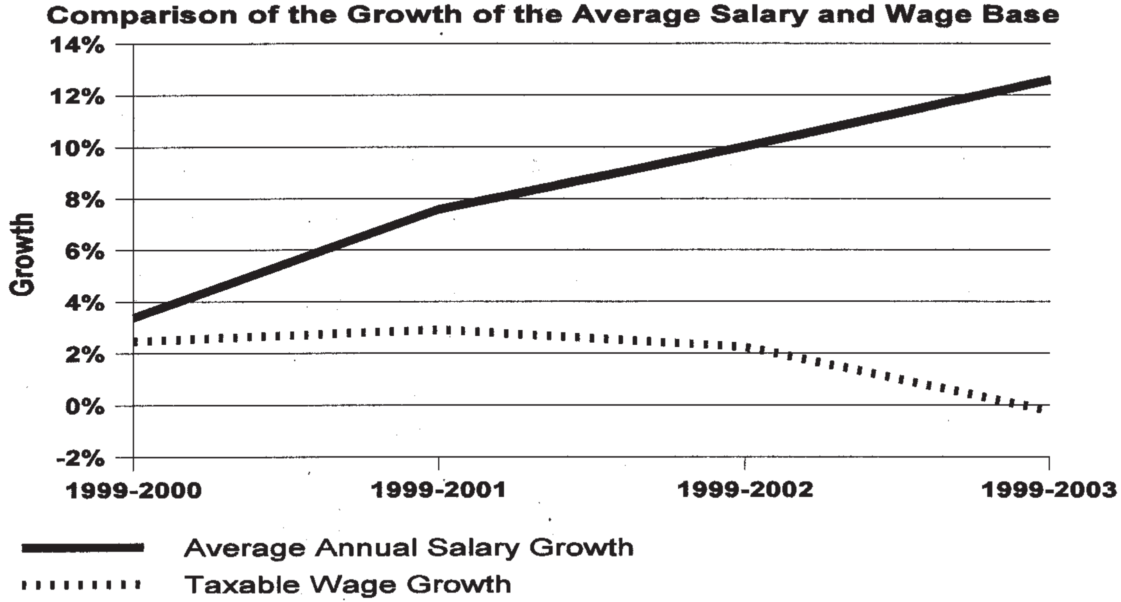
Issue Summary

The Unemployment Compensation Trust Fund is nearing insolvency, and, according to the Unemployment Compensation Division, could be bankrupt as early as 2008.

West Virginia's wage base for the unemployment tax has been fixed at the first $8,000 of salary per worker since 1981, yet weekly unemployment benefit payments are allowed by law to increase depending on the annual growth in salaries. The combination of a flat tax base and rising salaries can lead to an imbalance between revenue and benefit payment, which is illustrated in Figure 1. As a result, the Unemployment Compensation Trust Fund is nearing insolvency, and, according to the Unemployment Compensation Division, could be bankrupt as early as 2008. Because of a lack of statutory flexibility of the wage base, the Legislature has historically managed trust fund insolvency through emergency one-time statutory amendments. This emergency procedure has resulted in the state borrowing as much as $308 million from the federal unemployment compensation system during the 1980's, issuing bonds and imposing a solvency tax on employees and employers to repay the federal loans.

Figure 1

Comparison of the Growth of the Average Salary and Wage Base



The Legislative Auditor recommends that the Legislature consider placing a mechanism in statute that would automatically adjust the trust fund, instead of making emergency adjustments to the statute when the trust fund reaches insolvency. The disadvantages of the current system are:

Waiting until the trust fund is insolvent could result in the Legislature imposing a solvency tax on businesses and workers during poor economic conditions, which would worsen economic conditions.

1. Waiting until the trust fund is insolvent could result in the Legislature imposing a solvency tax on businesses and workers during poor economic conditions, which would worsen economic conditions.

2. The lack of flexibility in the statute maintains and possibly increases the current regressivity of the unemployment tax.

3. The lack of flexibility in the statute could force the state to borrow money from the federal Unemployment Compensation System, which could possibly result in the issuance of bonds to repay the loans.

4. Companies with high salaries tend to charge more in benefits than they pay in taxes.

Thirty-three (33) states have some form of flexibility in statute by which automatic adjustments are made to trust fund balances without the need for emergency statutory amendments. Twenty-five (25) states have a solvency tax in place in which an additional assessment is triggered only when the trust fund reaches a certain value. Eighteen (18) states have a flexible wage base in statute that ensures that taxable wages keep pace with average annual state wages. Ten (10) states have both mechanisms in statute.

Borrowing culminated in 1984 with $308 million in federal loans.

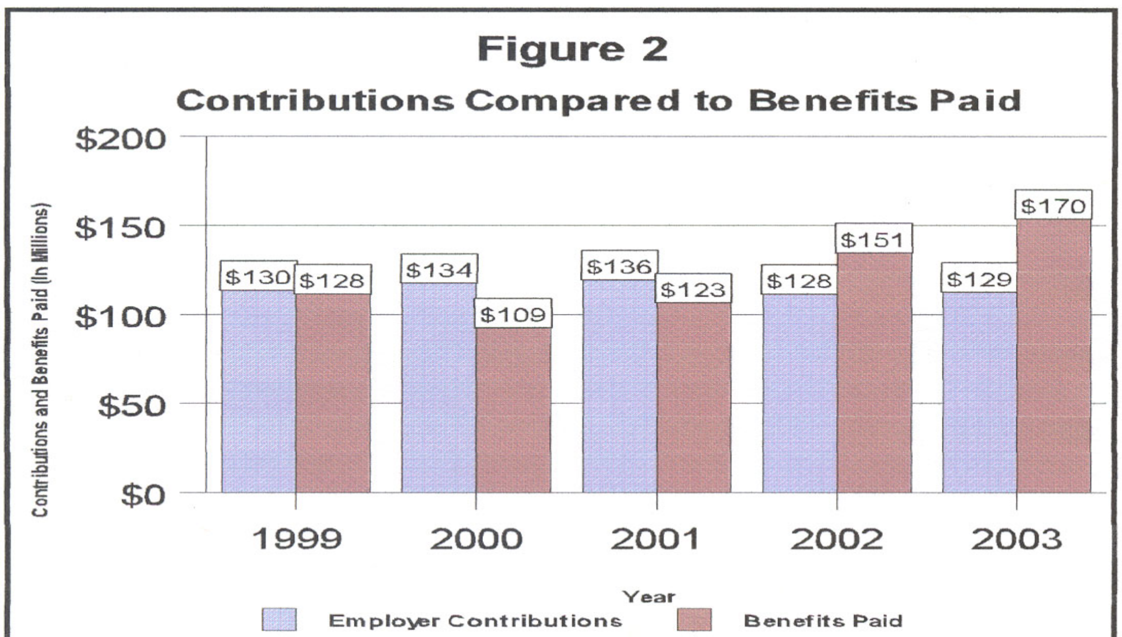
The Trust Fund Is Nearing Insolvency

In 1987, West Virginia's Unemployment Compensation Trust Fund experienced a crisis. The state had experienced high unemployment and flat tax revenues since 1980. As a result, the state was forced to borrow money from the federal government to pay benefits. The borrowing culminated in 1984 with $308 million in federal loans. The economic situation in West Virginia improved beginning in 1984. However, the recovery was not sufficient to repay federal loans and rebuild the trust fund reserves. Thus, in order to repay the federal loans, the sale of bonds was authorized. The Legislature then charged an additional assessment at the rate of 0.35% on employers and employees to repay the bond debt. Since the 1980s, West Virginia has experienced several years of economic stability. However, the Unemployment Compensation trust fund is nearing insolvency again. Unemployment contributions have been relatively flat for the last five years (see Figure 2), and, when combined with increased benefit payouts in 2002 and 2003, significantly reduced the trust fund balance. **Flat unemployment contributions are a direct result of a fixed taxable wage base, while increasing benefit payments are a result of increasing salaries and benefit amounts increased by statute.** In addition, decreasing solvency is indicated in the drop in the average high cost multiple from 2002 to 2003.

Unemployment contributions have been relatively flat for the last five years (see Figure 2), and, when combined with increased benefit payouts in 2002 and 2003, significantly reduced the trust fund balance.

In addition to the Legislative Auditor's concern about insolvency, the Unemployment Compensation Division is also concerned. According to the Unemployment Compensation Division's 2005 State Quality Service Plan:

> *Our Trust Fund balance decreased from $207 million in March 2003, to $165 million in March 2004 due to high payout of unemployment benefits and no increase in employer contributions. Our Average High Cost Multiple Trust Fund Solvency rate decreased to .47 years.*
>
> *Since March 2004, our benefits paid have decreased by 18% compared to the same period in the previous year. While this lower payout of benefits will slow the decreasing Trust Fund Balance, this will not resolve our Trust Fund problem in the future.*



Source: Federal Department of Labor and the Unemployment Compensation Division.

The Average High Cost Multiple[1] (AHCM), dropped from a high of 0.57 years in 2002 to 0.47 years in 2003.

Currently, one indicator shows that West Virginia's unemployment trust fund is nearing insolvency. The Average High Cost Multiple[1] (AHCM), dropped from a high of 0.57 years in 2002 to 0.47 years in 2003. According to the Department of Labor, West Virginia currently ranks 34th in the nation in terms of solvency. In addition, West Virginia's AHCM is below the national median of 0.64 years. Although the statistics show West Virginia may be in a better financial situation than bordering states, there is a concern. According to an excerpt from the 2004 House of Representatives' Committee on Ways and Means' Greenbook[2]:

> *States with average high cost multiples of at least 1.0 have reserves that could withstand a recession as bad as the worst one they have experienced previously.*
>
> *States with average high cost multiples below 1.0 may face greater risk of insolvency during recessions.*

Therefore West Virginia's AHCM of 0.47 years is not satisfactory given that a high cost multiple below 1.0 indicates the state is at an increased risk of insolvency.

The Use of Solvency Taxes in Other States

According to the Department of Labor, West Virginia currently ranks 34th in the nation in terms of solvency.

There are currently 37 states that allow for flexibility in the unemployment tax code to prevent insolvency. These states use two main methods in their unemployment compensation statutes. The first and most widely used method is a solvency tax. A solvency tax is a tax *"assessed on employers when the balance in a state's unemployment fund falls below a specified level."* Currently, twenty-five states allow for a solvency tax. **Of the 25 states that solvency tax, 14 states have higher high cost multiples than WestVirginia**,

[1]*According to the federal Department of Labor, the Average High Cost Multiple is the calendar year Reserve Ratio (or "TF as % of TW") divided by the Average High Cost Rate. The average high cost rate is the average of the three highest calendar benefit cost rates in the last 20 years (or a period including threerecessions, if longer). Benefit cost rates are benefits paid (including the state's share of extended benefits but excluding reimbursable benefits) as a percent of total wages in taxable employment.*

[2]*According to the Committee on Ways and Means, the Greenbook "...presents background material and statistical data on the major entitlement programs and other activities within the Committee's jurisdiction. Information on major social programs outside the Committee's jurisdiction is also included.*

indicating that those states are more solvent. Appendix B lists all 25 states that have solvency taxes, the amount of thetax, when the tax is assessed, and the state's high cost multiple. A 2001 report by the Florida Senate Committee on Commerce and Economic Opportunities explored the solvency of its state's Trust Fund and the use of the solvency tax. The report's final recommendation stated:

> *Committee staff recommends that, if, as this report predicts, the trust fund's balance falls below the 4 percent tax trigger within the next year, causing an automatic tax increase on employers, the Legislature should observe that the tax increase is neither arbitrary nor capricious,* ***but is the self correcting mechanism that has ensured the UC trust fund's solvency for more than four decades.*** (Emphasis added)

The chief argument against flexible financing is that the timing of...tax increases hurts...employers....Businesses undergo tax increases before they have fully recovered from the recession.

However, a solvency tax is not necessarily the best option for a state to pursue. According to Wayne Vroman of the Urban Institute:

> *The chief argument against flexible financing is that the timing of...tax increases hurts...employers....Businesses undergo tax increases before they have fully recovered from the recession.*
>
> *Two additional arguments can be made against relying on flexible financing should also be noted. First, a state may implement flexible financing but the provisions may not be strong enough to prevent insolvency. Flexible tax provisions, for example, simply may not generate enough additional revenue in time to counteract the effects of a serious recession....Second, there may not be enough political will to let strong flexible financing operate as intended. When the time comes, the state's executive and/or its legislature might decide to nullify the automatic response to satisfy preferences of claimants or businesses, or both. Without a large trust fund reserve, a state may find it needs large-scale loans. The result may be a legislated, discretionary, pay-as-you-go response brought in during a crisis, rather than the automatic pay-as-you-go response advocated by proponents of flexible financing.* [3]

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[3] *Wayne Vroman, Topics in Unemployment Insurance Financing, The Urban Institute, Washington, D.C., 1998, pp. 71-72.*

The Use of Flexible Taxable Wage Bases in Other States

West Virginia's taxable wage base of $8,000 has not been changed since 1981. Furthermore, from 1981 to 2004, the maximum weekly benefit amount increased 189% from $194 to $366.

The second method of statutory flexibility is allowing for flexible taxable wage base[4]. The federal government does not place a limit on the taxable wage base, but it requires that the taxable wage base cannot be less than $7,000. Currently, 18 states have flexible wage bases. In these states, the taxable wage base adjusts annually to keep pace with the state's average annual wage. The median wage base for states with flexible wage bases is $21,150 while the median for fixed wage base states is $8,000. Furthermore, the 15 highest wage bases in the country are all indexed wage bases. **West Virginia's taxable wage base of $8,000 has not been changed since 1981. Furthermore, from 1981 to 2004, the maximum weekly benefit amount increased 189% from $194 to $366.** Appendix C lists all of the states that have a flexible wage base, how it is computed, the period of time used for the computations, and the state's high cost multiple.

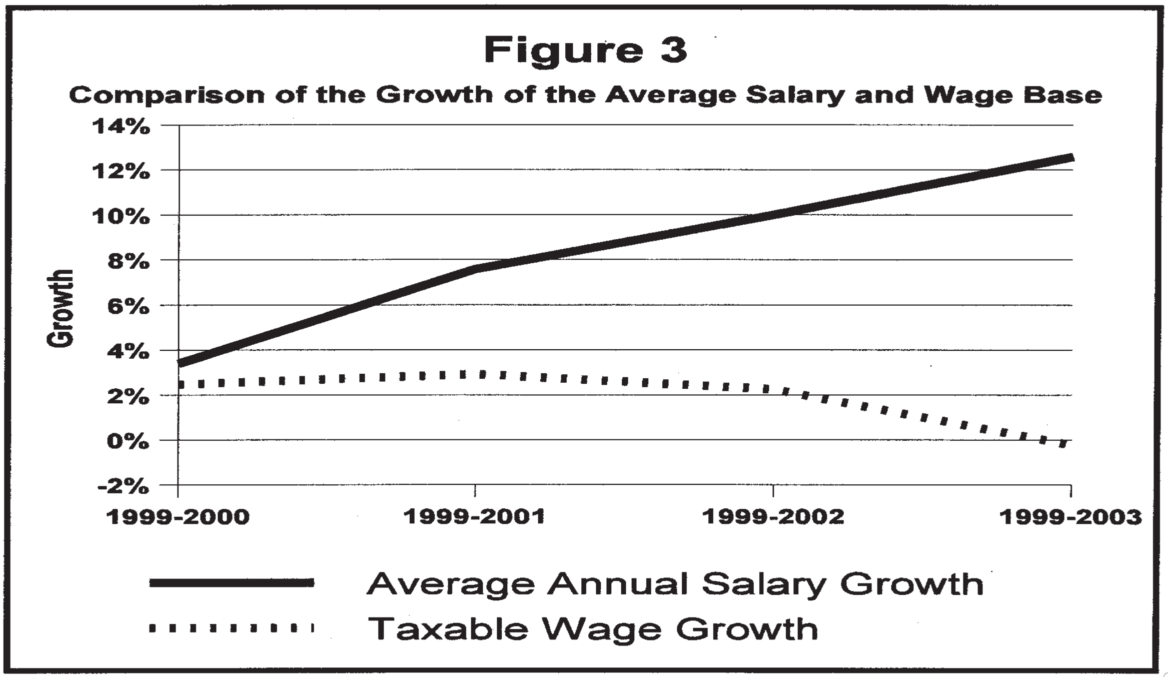
Figure 3 demonstrates how the fixed wage base has not allowed taxable wages to keep pace with salaries. As the graph indicates, salaries continue to rise, while taxable wages do not. This creates an opportunity for insolvency. According to the Economic Policy Institute's report entitled Failing the Unemployed:

As nominal wages increase so too should the taxable wage base. If the wage base is not increased, benefit payments will increase while the tax revenues remain stagnant. Paving the way for trust fund insolvency. Additionally, a higher proportion of the tax burden is shifted onto lower income workers and their employers.[5]

An indexed wage base would allow the unemployment tax to keep pace with salaries. By allowing taxes to adjust with salaries, the fund is more likely to remain solvent. Consequently, this would eliminate the need for a solvency tax and emergency action by the Legislature. **Therefore, the Legislature should consider implementing a flexible wage base, in order to prevent insolvency.**

[4] *According to the federal Department of Labor, the taxable wage base is defined as "the maximum amount of wages paid to an employee by an employer during a tax year which are subject to UI taxes. Wages above this amount are not subject to tax."*

[5] *Maurice Emsellem, Failing The Unemployed: A state by state examination of unemployment insurance sytems, Economic Policy Institute, Washington, D.C., 2002, p.12.*



Furthermore, indexing the wage base to the average state wage generally increases solvency. According to Wayne Vroman:

> *Tax based indexing has been consistently used in 18 UI programs since 1986. Those programs have significantly higher tax bases and much higher wage proportions when compared with other UI programs. The indexed programs maintained their average taxable wage proportions during 1986-1996, but those proportions dropped markedly in non-indexed programs.*
>
> *From the comparative analysis of indexed and non-indexed states come three conclusions:*
>
> a. *UI Programs with indexed tax bases were more successful than non-indexed ones in maintaining their tax capacity (potential taxes as a percentage of total covered wages). The differences in average tax capacity for indexed and non-indexed programs...grew from 24 percent in 1986 to 38 percent in 1996.*
>
> b. *Tax-base indexing is associated with higher trust fund reserves, as measured by reserve*

ratio multiples. In both 1989 and 1996, the average RRM was about 50 percent higher in indexed than non-indexed states.

c. *A regression analysis found that tax-base indexing significantly helped states maintain trust fund reserves during recessions. Clearly, tax-base indexing offers both short and long term advantages in maintaining trust fund reserves.* **(Vroman, p. 97)**

The Regressive Nature of Unemployment Insurance Tax

The smallest payroll group paid an effective tax rate of 1.41% of its total payroll while the highest payroll group paid an effective tax rate of 0.75%.

Unemployment insurance tax is regressive in nature, meaning that the effective tax rate decreases as payroll increases. Consequently, companies with lower payrolls have higher tax payments as a percentage of total payroll. One cause of the regressivity is the fixed $8,000 wage base. The low wage base means that employers of low-wage workers pay taxes on a higher percentage of their salaries than companies with higher payrolls. **However, regressivity can be reduced by a flexible taxable wage base.** A higher wage base would increase the portion of salaries subject to the unemployment tax, thus companies with higher wages would pay more in taxes.

An analysis of tax and payroll data for calendar year 2004 shows that West Virginia's unemployment tax is regressive (see Table 1). The smallest payroll group paid an effective tax rate of 1.41% of its total payroll, while the highest payroll group paid an effective tax rate of 0.75%. The effective tax rate is total taxes paid divided total payroll for a calendar year.

Table 1
Unemployment Taxes Paid as a Percentage of Total Payroll for all Taxpayers Combined for Calendar Year 2004

Payroll Group	Tax Paid	Total Payroll	Tax Paid/Total Payroll
$200,000 or Less	$21,213,722	$1,499,890,562	1.41%
$200,001 to $400,000	$10,961,127	$1,030,440,343	1.06%
$400,001 to $600,000	$7,389,231	$744,605,556	0.99%
$600,001 to $800,000	$5,665,089	$578,281,108	0.98%
$800,001 to $1,000,000	$4,563,580	$486,040,027	0.94%
$1,000,001 Or More	$80,240,362	$10,667,503,719	0.75%

Source: Calculations based on information provided by the Unemployment Compensation Division.

For calendar year 2004, $58 million, or 49%, of all benefits went to payroll groups that had more benefits charged than taxes paid.

Benefits Charged Exceed Taxes Paid for Several Payroll Groups

For calendar year 2004, $58 million, or 49%, of all benefits went to payroll groups that had more benefits charged than taxes paid (see Table 2). This is up from 44.46% identified in a 2001 report by the Legislative Auditor's Office. However, the percentage of taxes paid for this group also increased from 22.09% in 2000 to 27.05% in 2004.

Table 2
Payroll Groups That Have More Benefits Charged Than Taxes Paid for Calendar Year 2004 By Tax Rate

Tax Rate	Benefits Charged/Tax Paid	Benefits Charged	Tax Paid
2.1%	121.36%	$260,662	$214,788
2.5%	100.62%	$306,737	$304,846
2.7%	185.59%	$261,163	$140,717
3.1%	111.07%	$281,802	$253,709
3.7%	218.99%	$9,506,982	$4,341,319
4.5%	128.13%	$4,290,767	$3,348,872
6.5%	104.22%	$294,408	$282,486
7.5%	112.94%	$4,615,141	$4,086,201
8.5%	172.77%	$38,365,435	$22,206,658
Total for Payroll Groups With Benefits Charged Exceeding Taxes Paid	165.39%	$58,183,097	$35,179,596
Total for All Tax Payers	91%	$118,730,217	$130,033,112
Payroll Groups With Benefits Charged Exceeding Taxes Paid Divided By All Tax Payers		49.00%	27.05%

Source: PERD analysis based on Unemployment Compensation Division data.

Furthermore, in 2004 several payroll groups had more benefits charged than taxes paid. This occurs mostly from high salary payroll groups as a result of the low fixed wage base ($8,000) and their relatively high salaries. **Therefore, given that the largest payroll group accounted for the majority of benefit payments and had the highest salaries, a flexible wage base would help reduce the number of groups whose benefits charged exceed taxes paid.**

Table 3
Comparison of Payroll Groups Whose Benefits Charged Exceeded the Taxes Paid for Calendar Year 2004

Payroll Group	Taxes Paid	Benefits Paid	Number of Claimants	Average Salary	Percentage of Total Benefits Received
$200,000 or less	$5,871,381	$7,975,811	7,269	$12,120	14%
$200,001 to $400,000	$3,192,145	$5,338,267	4,072	$18,664	9%
$400,001 to $600,000	$2,191,622	$3,473,479	2,505	$21,027	6%
$600,001 to $800,000	$1,291,509	$2,393,450	1,645	$19,890	4%
$800,001 to $1,000,000	$1,248,066	$1,733,557	1,238	$24,448	3%
$1,000,001 or more	$21,384,872	$36,961,796	21,560	$30,010	64%

Source: Unemployment Compensation Division.

Conclusion

There are 18 states that allow a flexible wage base, 14 of which are more solvent than West Virginia.

The Unemployment Compensation Division has made a significant effort in increasing the trust fund balance. However, increasing benefit payouts without increasing employer contributions could make the fund insolvent by 2008. Statutory mechanisms exist that prevent a trust fund from becoming insolvent. The two most prevalent ways are solvency taxes and flexible wage bases. West Virginia has neither. A flexible wage base shifts based on the previous year's wages. There are 18 states that allow a flexible wage base, 14 of which are more solvent than West Virginia. The other, more prevalent method, is a solvency tax. A solvency tax is an additional assessment that is triggered when the trust fund falls below certain levels. There are 25 states that use a solvency

There are 25 states that use a solvency tax, 14 of which are more solvent than West Virginia. Overall, of the 33 states that utilize either method, 22 have a higher High Cost Multiple than West Virginia.

tax, 14 of which are more solvent than West Virginia. Overall, of the 33 states that utilize either method, 22 have a higher High Cost Multiple than West Virginia. **Therefore, the Legislative Auditor concludes that West Virginia should consider a flexible wage base in order to prevent insolvency.** Furthermore, a flexible taxable wage base would also alleviate the other disadvantages of the current system:

1. Waiting until the trust fund is insolvent could result in the Legislature imposing a solvency tax on businesses and workers during poor economic conditions, which would worsen economic conditions.

2. The lack of flexibility in the statute maintains and possibly increases the current regressivity of the unemployment tax (see Table 8).

3. The lack of flexibility in the statute could force the state to borrow money from the federal Unemployment Compensation System, which could possibly result in the issuance of bonds to repay the loans.

4. Companies with high salaries tend to charge more in benefits than they pay in taxes.

A flexible wage base would help reduce the number of groups whose benefits charged exceed taxes paid.

A flexible taxable wage base would also correct imbalances within the unemployment tax system. The unemployment tax is regressive in nature, meaning that the effective tax rate decreases as payroll increases. As a result, companies with small payrolls or salaries pay taxes on a larger portion of total payroll or individual salaries than companies with large payrolls and salaries. A flexible wage base would help correct this situation. The amount of taxes paid by companies with large payrolls would increase, thus reducing the regressivity. Furthermore, in 2004 several payroll groups had more benefits charged than taxes paid. This occurs mostly from high salary payroll groups as a result of the low fixed wage base ($8,000) and their relatively high salaries. **Therefore, a flexible wage base would help reduce the number of groups whose benefits charged exceed taxes paid.**

Recommendation

1. *The Legislature should consider placing a mechanism in statute that would automatically adjust the unemployment wage base.*

Issue 2

The Unemployment Compensation Division Meets Federal Performance Standards; Payments Are Accurate and Timely.

Issue Summary

In 1995, the federal Department of Labor (DOL) established a performance based system for managing unemployment insurance called UI PERFORMS. Subsequently, in 1999, the DOL created Tier I and Tier II performance measures as a part of UI PERFORMS. Tier I performance measures have standardized criteria while Tier II performance measures do not. As of 2003, West Virginia's Unemployment Compensation Division ranked well overall in both Tier I and Tier II measurements. **The Unemployment Compensation Division's performance in Tier I and Tier II measures indicates that the Division operates effectively and efficiently in important areas.**

The Division has not ranked lower than 4th in the nation in terms of the proper payment rate since 1993.

Within UI PERFORMS, the proper payment rate is one of the most important measures. The proper payment rate is significant because it is an indicator of the accuracy of the Division in benefit determinations. The Division has not ranked lower than 4th in the nation in terms of the proper payment rate since 1993. Furthermore, the state has collected over 57% of all overpayments since 1998. This compares favorably at the regional and national level. According to information provided by the Unemployment Compensation Division, West Virginia is 10th in the nation in non-fraud overpayment recovery and 28th in fraud overpayment recovery. Within the bordering states, West Virginia is 1st in non-fraud overpayment recovery and 3rd in fraud overpayment recovery.

Performance At The National Level

In 1995, the federal Department of Labor introduced a performance management system called UI PERFORMS[5]. At the center of UI PERFORMS are the State Quality Service Plan (SQSP) and performance measures. The State Quality Service Plan is prepared on a yearly basis. It is a blueprint for the state to follow throughout the year. The SQSP has two main functions. First, the SQSP helps the state plan on how to satisfy grant requirements. Second,

[5]*According to the federal Department of Labor, UI PERFORMS is the name given to the management system developed by the federal and state partners who together are responsible for operating and overseeing the state-federal Unemployment Insurance system.*

the SQSP allows the state to establish performance objectives. The performance objectives center around the Tier I and Tier II performance measures. According to the U.S. Department of Labor:

> *There are 10 key "Tier I" measures. Federal-state partners agreed that Tier I measures represent highly significant areas of activity in the UI system, such as making benefit payments and collecting taxes promptly. All Tier I measures have uniform national performance criteria that represent minimally acceptable performance. They attempt to represent key dimensions of benefits, tax, appeals and trust fund management.*

West Virginia has passed 74 out of 81 performance measures since 1998.

Anytime a state fails to meet a Tier I criterion, that state must submit a Corrective Action Plan (CAP). In addition, a state may also submit a Continuous Improvement Plan (CIP) for Tier I and Tier II measures it desires to improve. According to the federal Department of Labor:

The Division's average ranking for Tier I performance measures is 15th in the nation.

> *Supporting a continuous improvement environment, the SQSP allows for the optional submission of CIPs which focus on performance that is not deficient, but for which a State and Regional Office see the opportunity to attain an enhanced goal in service delivery. States, on their own initiative, or as a result of negotiations initiated by the Regional Office, are encouraged to prepare CIPs for Tier II measures, or Tier I measures above base requirements. The preparation of such plans may be useful to indicate new goals or State program emphasis. Such CIPs are considered part of the SQSP.*

West Virginia has passed 74 out of 81 performance measures since 1998. The seven performance measures that were not met resulted in CAPs. Furthermore, as of calendar year 2003, West Virginia ranked in the top ten in the nation in eight Tier I measurements and number one in the nation in three measurements (see Table 4). The Division's average ranking for Tier I performance measures is 15th in the nation.

Table 4 Tier 1 Performance Measures For Calendar Year 2003				
Area	**Criterion**	**West Virginia**	**National Average**	**National Rank**
First Payment Timeliness				
Intra-State Payments: 14/21 Days	87.0%	89.7%	89.7%	25
Intra-State Payments: 35 Days	93.0%	98.3%	96.5%	8
Interstate Payments: 14/21 Days	70.0%	81.4%	81.7%	30
Interstate Payments: 35 Days	78.0%	95.0%	93.3%	16
All First Payments: 14/21 Days	90.0%	88.7%	89.2%	32
All First Payments: 35 Days	95.0%	98.2%	96.4%	8
Non-Monetary Determinations Timeliness				
Non-Separation Determination: 14 Days	80.0%	92.6%	64.2%	1
Separation Determination: 21 Days	80.0%	97.8%	68.0%	1
Lower Authority Appeals Timeliness				
Decisions within 30 days of filing	60.0%	75.6%	56.6%	14
Decisions within 45 days of filing	80.0%	92.5%	74.9%	14
Decisions within 90 days of filing	95.0%	99.0%	92.1%	17
Higher Authority Appeals Timeliness				
Decisions within 45 days of filing	50.0%	84.8%	67.4%	10
Decisions within 75 days of filing	80.0%	98.4%	87.0%	10
Decisions within 150 days of filing	95.0%	99.7%	97.1%	17
Benefit Quality Measures				
Non-Monetary Determination Scoring Greater Than 80%	75.0%	86.9%	71.2%	8
Lower Appeals Scoring Greater Than or Equal To 85%	80.0%	100.0%	95.1%	1
Status Determinations				
Determinations made in 90 days	60.0%	88.0%	82.4%	14
Determinations made in 180 days	80.0%	93.1%	89.9%	12
Source: UI PERFORMS 2003 Annual Report.				

The remaining set of performance measures are Tier II measures. According to the Department of Labor:

> *There are over 50 "Tier II" performance measures, covering a slightly greater range of activity than Tier I measures. Although most are not as significant as "Tier I" measures, some are but do not have criteria because the measure does not have the same meaning in every state (e.g., benefit payment accuracy.) There are no required criteria for Tier II performance measures.*
>
> *Although many Tier II measures cover dimensions of performance as significant as Tier I measures, states may differ enough in these areas that the measures have varying meanings from one state to another. Thus, the Department issued no national criteria for these measures.*

As of 2003, West Virginia ranked in the top ten in the nation in nine Tier II measurements and first regionally in 13 areas.

The Division's average ranking for Tier II performance measures is 20th in the nation.

As of 2003, West Virginia ranked in the top ten in the nation in nine Tier II measurements and first regionally in 13 areas. Although there is no set criteria for Tier II measurements, states may submit Continuous Improvement Plans to raise Tier II performance. West Virginia has submitted seven CIPs for Tier II measures since 1998. The Division's average ranking for Tier II performance measures is 20th in the nation (see Table 5).

Table 5 Tier II Performance Measures for Calendar Year 2003			
Area	**West Virginia**	**National Average**	**National Rank**
Non-Monetary Determination Timeliness			
Intra-State Non-Separation Determinations: 14 Days	74.8%	72.4%	26
Intra-State Separations Determinations: 21 Days	98.3%	89.0%	8
Combined Wage Claims			
Wage Claim Transfer Timeliness: 3 Days	97.3%	89.4%	16
Wage Claim Billing Timeliness: 30 Days	99.0%	91.3%	34
Wage Claim Reimbursements Timeliness: 30 Days	95.0%	93.6%	34
Continued Claims			
Payments Made Within 14 Days	95.9%	94.3%	23
Payments Made Within 21 Days	98.8%	97.0%	9
Benefit Payment Control			
Fraud Overpayment Recovery Rate	46.2%	50.0%	28
Non-Fraud Overpayment Recovery Rate	60.8%	50.3%	10
Status Determinations			
Determinations Made Within 90 Days	65.2%	72.6%	38
Determinations Made Within 180 Days	76.8%	84.0%	45
Report Delinquency- Contributory Employers			
Percentage of Reports Secured	98.1%	94.4%	6
Percentage of Reports Resolved	102.0%	98.7%	8
Report Delinquency- Reimbursing Employers			
Percentage of Reports Secured	99.1%	96.2%	10
Percentage of Reports Resolved	99.9%	98.4%	18
Collections			
Percentage of Tax Due Paid Timely	92.0%	91.9%	29
Field Audit			
Percentage of Contributory Employers Audited	2.7%	2.0%	3
Annual Percentage of Total Wages Audited	2.3%	1.5%	4

Area	West Virginia	National Average	National Rank
Cash Management			
Ratio of average daily clearing account balance to daily transfer to Trust Fund	.0237	.025	44
Benefit Accuracy			
Proper Payment Rate	98.0%	90.6%	2
Source: UI PERFORMS 2003 Annual Report.			

Benefit Payments Are Made Promptly and Accurately

The Unemployment Compensation Division has consistently ranked in the top four in the nation in terms of payment accuracy since 1993.

The Unemployment Compensation Division has consistently ranked in the top four in the nation in terms of payment accuracy since 1993. According to UI PERFORMS, the proper payment rate *"is the combined ratio estimate of total dollars properly paid to total dollars paid, expressed as a percentage."* The high proper payment rate indicates that the Division makes accurate benefit determinations. For calendar year 2002, West Virginia's underpayment rate was 0.8%, which is comparable to the national average of 0.7%. However, for 2002, West Virginia's overpayment rate was 3.2%, a slight increase from 2.8% in 2001. However, despite the increase, West Virginia was one of the five lowest states in the nation, and well below the national average of 9.1%. According to the federal Department of Labor, the leading cause of overpayment was the individual's benefit year earnings[6].

As of calendar year 2003, West Virginia paid 98% of all claimants within 35 days from the ending of the first compensable week.

The Unemployment Compensation Commission not only pays individuals accurately, but promptly. Prompt payments reduces financial hardships an individual may experience. As of calendar year 2003, West Virginia paid 98% of all claimants within 35 days from the ending of the first compensable week. This ranks West Virginia 1st regionally and 8th nationally in timeliness of payments.

Information Exchanges Help Prevent Overpayments

The Unemployment Compensation Division has data exchanges with 39 separate entities, including federal, state, and local governments (see Table 6). The purpose of the data exchanges is to ensure individuals report accurate information to the Unemployment Compensation Division. Individuals are allowed to earn a certain amount of money without losing benefits. However, once weekly income exceeds a certain point, the additional income is deducted

[6]*Benefit year earnings include the salary, unreported earnings, SSI, pension, severance pay, and vacation.*

from an individual's maximum weekly benefit amount. Furthermore, the Division has the responsibility of deducting child support payments and repayments for the over-issuance of food stamps from an individual's benefit check. Data exchanges serve to ensure that the information an individual reports is accurate as well as ensuring that any deductions are made.

Table 6
Examples of Data Exchanges with the Frequency of Updates

Entity	Frequency of Updates
Workers' Compensation	Monthly
Child Support Enforcement Division	Weekly
Department of Corrections	Weekly
Social Security Administration	Monthly

Source: Unemployment Compensation Division.

Fraud/Non-Fraud Overpayment Recovery Is Adequate

According to the 2004 Governor's Annual Report, the Unemployment Compensation Division collected over $300,000 in fraud related overpayments and over $1 million in non-fraud overpayments.

According to information provided by the Unemployment Compensation Division, West Virginia is 10th in the nation in non-fraud overpayment recovery and 28th in fraud overpayment recovery. Regionally, West Virginia is 1st in non-fraud overpayment recovery, and 3rd in fraud overpayment recovery. In addition, according to the 2004 Governor's Annual Report, the Unemployment Compensation Division collected over $300,000 in fraud related overpayments and over $1 million in non-fraud overpayments.

West Virginia consistently collects approximately 57% of overpayments. However, the remaining 42% may not be easily collected. The DOL has established that there are limitations on the ability of states to identify and collect overpayments. First, the ability to detect and establish overpayments are limited. According to the DOL, approximately 67% of overpayments are readily detectable, and that *"establishing and recovering overpayments are expensive activities, and...*[state unemployment] *agencies are unwilling to establish many small overpayments they deem too small to be worth attempting to recover."* Second, once an overpayment is detected and established, the agency must initiate steps to recover or attempt to recover the overpayment. However, not all overpayments are recoverable. According to a report from the Department of Labor, nationally, *"approximately $480 million out of the $2.3 billion, or 21%, of the overpayments could not be recovered due to finality, potential hardship, and other causes."*

Tables 7 and 8 show the overpayment recovery rates for fraud and non-fraud incidents.

Table 7
Fraud Overpayment Recovery Rate

Year	State Results	National Results
1998	41.4%	50.9%
1999	64.5%	54.2%
2000	62.4%	54.1%
2001	63.9%	59.1%
2002	49.1%	52.1%
2003	46.2%	50.0%

Source: 1998-2003 UI PERFORMS Annual Reports.

Table 8
Non-Fraud Overpayment Recovery Rate

Year	State Results	National Results
1998	50.3%	56.1%
1999	65.9%	57.3%
2000	61.9%	56.7%
2001	64.5%	54.3%
2002	58.1%	45.5%
2003	60.8%	50.3%

Source: 1998-2003 UI PERFORMS Annual Reports.

Conclusion

As of calendar year 2003, West Virginia led the nation in 3 areas, ranked in the top ten in 8 areas, and had an average national rank of 15th in Tier I measures.

The federal Department of Labor is responsible for national-level administration of the unemployment insurance system and has put forth a set of performance measures known as UI PERFORMS. These performance measures are broken down into Tier I and Tier II. Tier I measures are the only group for which the DOL has set criteria. Anytime a state does not meet a federal criterion, that state must submit a Corrective Action Plan (CAP). West Virginia has submitted seven CAPs since 1998. Furthermore, as of calendar year 2003, West Virginia led the nation in 3 areas, ranked in the top ten in 8 areas, and had an average national rank of 15th in tier I measures. In addition to performing well in Tier I measures, West Virginia performs well in Tier II measures. In 2003, West Virginia ranked in the top ten in nine areas, first regionally in 13 areas, with an average ranking of 20th in the nation in Tier I measures.

In 2003, West Virginia ranked in the top ten in nine areas, first regionally in 13 areas, with an average ranking of 20th in the nation in Tier I measures.

In addition to satisfactory national performance, West Virginia has a consistently high proper payment rate. The accuracy that the Division demonstrates benefits both claimants and the Division. First, claimants benefit by receiving the correct amount, without worrying about owing money or being owed money. Second, the Division benefits by not wasting staff and time on identifying and recovering overpayments. Furthermore, when the Division does identify overpayments, they are also efficient in recouping the overpayments. West Virginia is 10th in the nation in non-fraud overpayment recovery and 28th in fraud overpayment recovery. In addition to making accurate payments, the Division also pays claimants promptly. As of calendar year 2003, West Virginia paid 98% of all claimants within 35 days from the ending of the first compensable week.

Recommendation

2. The Legislative Auditor recommends that the Unemployment Compensation Division be continued.

Appendix A: Transmittal Letter

WEST VIRGINIA LEGISLATURE

Performance Evaluation and Research Division

Building 1, Room W-314
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0610
(304) 347-4890
(304) 347-4939 FAX

John Sylvia
Director

April 29, 2005

Daniel Light, Director
Unemployment Compensation Division
112 California Avenue
Charleston, West Virginia 25305-0112

Dear Director Light:

This is to transmit a draft copy of the Preliminary Performance Review of the Unemployment Compensation Division. This report is scheduled to be presented during the May 15th to 17th interim meeting of the Joint Committee on Government Operations. We will inform you of the exact time and location once the information becomes available. It is expected that a representative from your agency be present at the meeting to orally respond to the report and answer any questions the committee may have.

If you would like to schedule an exit conference to discuss any concerns you may have with the report, please notify us between April 29, 2005 and May 4, 2005. We need your written response by noon on Friday, May 6, 2005, in order for it to be included in the final report. If your agency intends to distribute additional material to committee members at the meeting, please contact the House Government Organization staff at 340-3192 by Thursday, May 12, 2005 to make arrangements.

We request that your personnel not disclose the report to anyone not affiliated with your agency. Thank you for your cooperation.

Sincerely,

John Sylvia

John Sylvia

Joint Committee on Government and Finance

Appendix B

Appendix B States Uses of Solvency Taxes			
State	**Amount of Tax**	**When Tax is Assessed**	**HCM[1]**
Alaska	-0.4% to 1.1%	The negative portion (-0.1% to -.04) is assessed when the Reserve Rate is at least 3.3%. The positive (0.0% to 1.1%) portion is assessed when the Reserve Rate is less than 3.3%.	0.80
Arkansas	-0.1% to 0.8%	The negative 0.1% is assessed when fund balance is greater than 5% of total payrolls during the preceding calendar year. The 0.8%is assessed when the fund balance is less than 0.4% of total payrolls during the preceding calendar years.	0.16
California	1.15% of ER's rate in schedule	Whenever the balance in the Unemployment Fund on September 30 of any calendar year is less than 0.6 percent of the wages in employment, subject to this part, paid during the 12-month period ending on the computation date.	0.13
Colorado	0.001% to 0.054%	When the UI Trust Fund balance, on any June 30, is equal to, or less than nine-tenths of one percent of the total wages reported by all ratable Colorado employers for the calendar year or the four-consecutive quarters prior to the last computation date.	0.18
Delaware	0.2%-.7%	When the fund balance is at certain levels, there is a corresponding supplemental assessment.	1.49
Illinois	0.7% for 2004 0.9% for 2005 0.8% for 2006 and 2007 0.6% for 2008 0.4% for 2009 0.4% to 0.55% for 2010 and after.	Each year.	0.17
Maryland	0.1% to 2.0%	When fund balance on September 30 of a given year is below 4.7% of the previous year's taxable wages.	0.56
Massachusetts	0.3% to 0.9%	If fund balance is insufficient to either pay benefits or to repay federal loans. The rate is based upon the Employer Account Reserve Percentage.	0.03
Mississippi	1.0%	Fund's reserve rate below 4%.	1.83

Missouri	Rates increase 10% to 30% plus.	When fund is below $300 million, 10%, when below $250 million, 20%, when below $200 million, 30%	NA
New Hampshire	0.5%	When commissioner determines emergency exists.	1.37
New Jersey	The employer's contribution rate is increased by a 10% basic rate. 0.3% to 0.6% + 20% basic rate for rated employers.	When Reserve Ratio is less than 1%. The Reserve Ratio is " calculated by dividing the balance of the unemployment trust fund as of the prior March 31 by total taxable wages reported to the controller by all employers as of March 31 with respect to their employment during the last calendar year. When the trust fund balance is less than 7% taxable wages the additional tax rate varies according to the trust fund balance.	0.57
New York	0.525% to 0.925%	Each year.	NA
Ohio	0.025% to 0.2% plus additional Percentage determined by formula and depending on level of trust fund.	When fund is 15% or more below minimum safe levels. "Minimum safe level means an amount equal to two standard deviations above the average of the adjusted annual average unemployment compensation benefit payment from 1970 to the most recent calendar year prior to the computation date, as....To determine the adjusted annual payment of unemployment compensation benefits, the director first shall multiply the number of weeks compensated during each calendar year beginning with 1970 by the most recent annual average weekly unemployment compensation benefit payment and then compute the average and standard deviation of the resultant products. "	0.27
Oklahoma	In proportion to the employer's total tax liability as of the last completed quarter for the current calendar year and shall not exceed 33 1/3% per taxable year.	The surcharge is assessed when the fund balance for any quarter will not be $25 million, the Commission shall assess and collect a surcharge for that calendar quarter in an amount sufficient to keep the balance at $25 million.	0.85

Pennsylvania*	-1.5% 4.0% 8%	When the trigger percentage is 150% or higher. When the trigger percentage is at least 110%, but less than 125% When the trigger percentage is at least 95%, but less than 110%. When the trigger percentage is at least 75%, but less than 95%. When the trigger percentage is at least 50%, but less than 75%. When the trigger percentage is less than 50%.	0.18
Rhode Island	0.3% quarterly	Whenever the amount in the employment security fund available for benefits, net of obligations owed to the federal government, is less than zero at the end of the second month in any calendar quarter, every employer subject to the contribution provisions of this chapter shall be required to pay a surtax of three-tenths of one percent (.3%) of the individual employer's taxable wages for the calendar quarter, in addition to any other contribution which the employer is required to make under any other provision of this chapter.	0.56

South Carolina	(a) 0.1%, if the statewide reserve ratio is less than two percent but not less than one and nine-tenths percent; (b) 0.2%, if the statewide reserve ratio is less than one and nine-tenths percent but not less than one and eight-tenths percent; (c) 0.3%, if the statewide reserve ratio is less than one and eight-tenths percent but not less than one and seven-tenths percent; (d) 0.4%, if the statewide reserve ratio is less than one and seven-tenths percent but not less than one and six-tenths percent; (e) 0.5%, if the statewide reserve ratio is less than one and six-tenths percent but not less than one and five-tenths percent; (f) 0.6%, if the statewide reserve ratio is less than one and five-tenths percent but not less than one and four-tenths percent; (g) 0.7%, if the statewide reserve ratio is less than one and four-tenths percent.	The tax is assessed when the state wide reserve ratio is less than 2%. A statewide reserve ratio must be computed once each year by adding to the total unemployment compensation fund on June thirtieth all contributions and interest received on or before July thirty-first and dividing the result so obtained by the sum of the total wages reported by contributing employers on their contribution reports received by the commission during the twelve-month period ending September thirtieth of the current year.	0.60
South Dakota	0.1% to 1.5% depending on the trust fund balance.	When fund below $11 million. The actual rate increase depends on the balance of the trust fund.	0.64

Texas	The deficit tax rate for a calendar year is the lesser of: (1) the rate computed by multiplying the deficit ratio, as computed under Section 204.064, by the sum of the employer's general tax rate, the replenishment tax rate, and the deficit tax rate for the previous calendar year; or (2) two percent.	When trust fund balance is below the greater of $400 million or 1% of the total taxable wages for the four calendar quarters ending the preceding June 30.	NA
Virgin Islands	-0.5% to 2.4%	Each year.	1.87
Virginia	0.2%	When the fund balance factor is 50% or less. The fund balance factor is net assets compared with the adequate balance. The adequate balance is determined by the following method: "for the twenty-year period ending July 1 of the year of determination, the highest ratio of benefits divided by total wages of three separate consecutive four-quarter periods shall be averaged and multiplied by 1.38 to determine the fund adequacy multiplier. The fund adequacy multiplier shall be multiplied by the total wages for the year in question to determine the "adequate trust fund balance" for that year.	0.27
Washington	0.0% to 0.2% depending on the commissioner's decision.	If the trust fund would provide less than six months of benefits.	0.51
Wisconsin*	0.05% to 0.85% depending on the employer's contribution rate.	Each year.	0.56

Wyoming	Up to 1.25%	1. If the fund balance on October 31 of the year immediately preceding the calendar year for which the contribution rate is being computed is less than three and one-half percent (3½%) of the total payrolls reported to the department by September 30 for that year ending June 30, a positive fund balance adjustment factor shall be computed. The adjustment factor shall be computed annually to the fourth decimal by dividing the total reported taxable payrolls for the year ending June 30 of the year immediately preceding the calendar year for which the contribution rate is being computed, into a sum equal to twenty-five percent (25%) of the difference between the amount in the fund on October 31 of the same year and five percent (5%) of the total payrolls for that year ending June 30. The adjustment factor shall be effective until the fund balance on October 31 of the year immediately preceding the effective date of the contribution rate equals three and one-half percent (3½%) or more of the total payrolls for that year ending June 30. 2. If the fund balance on October 31 of the year immediately preceding the calendar year for which the contribution rate is being computed exceeds four percent (4%) of the total payrolls reported to the department by September 30 for that year ending June 30, a negative fund balance adjustment factor shall be computed. The negative adjustment factor shall be computed annually to the fourth decimal by dividing the total reported taxable payrolls for the year ending June 30 of the year immediately preceding the calendar year for which the contribution rate is being computed, into a sum equal to twenty-five percent (25%) of the difference between the amount in the fund as of October 31 of the same year and four percent (4%) of the total payrolls for that year ending June 30. The adjustment factor shall be effective until the fund balance on October 31 of the year immediately preceding the effective date of the contribution rate is equal to or less than four percent (4%) of the total payrolls for that year ending June 30.	1.33

[1] *High Cost Multiple*
Source: Department of Labor's Comparison of State Unemployment Insurance Laws, 2004.

Appendix C

Appendix C State's Use of Flexible Wage Bases			
State	**Wage Base Computed As**	**Period of Time Used**	**HCM[1]**
Alaska	75% of state's average annual wage rounded to nearest $100	Preceding 12 months ending June 30.	0.80
Hawaii	100% of state's average annual wage rounded to nearest $100	Preceding 12 months ending June 30.	1.53
Idaho	100% of the state's average annual wage rounded to nearest $100 or the amount of taxable wage base specified in the Federal Unemployment Tax Act (FUTA), whichever is higher.	Second preceding calendar year.	0.42
Iowa	66 2/3% of the state's average weekly wage, multiplied by 52, or the federal taxable wage base; rounded to the higher $100.	Preceding calendar year.	1.04
Louisiana	Depends on fund balance; It could be $7,000, $7,700, or $8,500.		1.25
Minnesota	60% of state's average annual wage rounded to nearest $1,000.	Preceding calendar year.	NA
Montana	80% of state's average annual wage rounded to nearest $100 or the amount of taxable wage base specified in the Federal Unemployment Tax Act (FUTA).	Preceding calendar year.	1.36
Nevada	66 2/3% of state's average annual wage rounded to nearest $100.	Preceding calendar year.	0.79
New Jersey	28 times the state's average weekly wage; rounded to higher $100.	Preceding calendar year.	0.57
New Mexico	60% of state's average annual wage rounded to higher $100.	Preceding 12 months ending June 30.	2.61
North Carolina	50% of state's average annual wage rounded to nearest $100 or the federally required wage base, whichever is higher.		0.01
North Dakota	70% of state's average annual wage rounded to nearest $100.	Preceding 12 months ending June 30.	0.43

Appendix C State's Use of Flexible Wage Bases			
State	**Wage Base Computed As**	**Period of Time Used**	**HCM[1]**
Alaska	75% of state's average annual wage rounded to nearest $100	Preceding 12 months ending June 30.	0.80
Hawaii	100% of state's average annual wage rounded to nearest $100	Preceding 12 months ending June 30.	1.53
Idaho	100% of the state's average annual wage rounded to nearest $100 or the amount of taxable wage base specified in the Federal Unemployment Tax Act (FUTA), whichever is higher.	Second preceding calendar year.	0.42
Iowa	66 2/3% of the state's average weekly wage, multiplied by 52, or the federal taxable wage base; rounded to the higher $100.	Preceding calendar year.	1.04
Louisiana	Depends on fund balance; It could be $7,000, $7,700, or $8,500.		1.25
Minnesota	60% of state's average annual wage rounded to nearest $1,000.	Preceding calendar year.	NA
Montana	80% of state's average annual wage rounded to nearest $100 or the amount of taxable wage base specified in the Federal Unemployment Tax Act (FUTA).	Preceding calendar year.	1.36
Nevada	66 2/3% of state's average annual wage rounded to nearest $100.	Preceding calendar year.	0.79
New Jersey	28 times the state's average weekly wage; rounded to higher $100.	Preceding calendar year.	0.57
New Mexico	60% of state's average annual wage rounded to higher $100.	Preceding 12 months ending June 30.	2.61
North Carolina	50% of state's average annual wage rounded to nearest $100 or the federally required wage base, whichever is higher.		0.01
North Dakota	70% of state's average annual wage rounded to nearest $100.	Preceding 12 months ending June 30.	0.43

Appendix D: Agency Response

Joe Manchin III
Governor

Donald H. Pardue
Acting Commissioner

West Virginia Bureau of Employment Programs
• Job Service • Labor Market Information
• Unemployment Compensation •
an equal opportunity/affirmative action employer

May 4, 2005

RECEIVED
MAY 05 2005
PERFORMANCE EVALUATION AND RESEARCH DIVISION

John Sylvia
Director
West Virginia Legislature
Performance Evaluation and Research Division
Building 1, Room W-314
1900 Kanawha Boulevard, East
Charleston, WV 25305-0610

Dear Mr. Sylvia:

In reference to your letter dated April 29, 2005, I reviewed a draft copy of the Preliminary Performance Review of the Unemployment Compensation Division.

I agree with the report findings and will not be submitting a written response.

Representatives will be scheduled to attend the presentation before the Joint Committee on Government Operations.

It was a pleasure working with the employees of the Performance and Research Division in this process.

Please contact me if you have questions or require additional information.

Sincerely,

Daniel Light

Daniel Light
Director

DLL/emk

pc: Donald Pardue
Brian Armentrout

Unemployment Compensation Division
112 California Avenue, Charleston, West Virginia 25305-0112 * http://www.wvbep.org/BEP/