THE NEW SCHOOL Center for New York City Affairs

# Alternative to Governor Hochul's Proposed Bailout of Unemployment Insurance (UI) Trust Fund Interest: Paying Down the UI Debt and a Path to Solvency, Benefit Adequacy and Tax Fairness

Testimony before the Joint Legislative Labor and Workforce Development Budget Hearing

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## Summary

Governor Hochul's FY 2026 Executive Budget proposes to use $165 million of taxpayer dollars to pay interest payments that employers would otherwise be charged in 2025 for the NYS Unemployment Insurance (UI) trust fund debt owed to the U.S. Treasury.

**New York's UI trust fund debt was $6.4 billion as of February 20, 2025**. It has declined by only $2 billion over the past two years. In 2024, New York employers paid $3 billion in UI taxes but that was only $800 million more than the cost of UI benefits paid. At this rate it will take until 2030 to pay off the pandemic-era related debt. The additional interest over the next five years will total an estimated $400 million (assuming no recession). If the Governor's proposed 2025 bailout goes through this year, taxpayers likely would be on the hook for this additional $400 million in subsequent years.

The Governor's proposal is not even a band-aid, it's more like blowing a kiss at a serious wound. It might be a nice gesture for a fleeting moment, but it won't heal anything. **Our UI system desperately needs three things: solvency, tax fairness, and benefit adequacy.**

**Comprehensive UI financing reform is long overdue. New York should address the outstanding UI trust fund debt problem immediately to open the door for benefit improvements, and restructure regular UI financing to ensure solvency going forward. I suggest three key elements for a temporary UI debt paydown surcharge.**

1. High taxable wage base
2. Tax rate sufficient to pay down the trust fund debt by September 2028
3. Surtax exemption for small and low-wage employers who now pay very high rates

With a $100,000 taxable wage base, and a 0.5 percent tax rate, trust fund debt could be paid off in two years while providing a 100 percent surtax exemption or credit to all small- and medium-size employers of workers with wages below $60,000. The temporary surtax would raise a net of $2 billion annually which would completely pay down New York's UI debt by September 2028. Restructured regular UI taxes could then be used starting in 2026 to re-build a trust fund reserve to pay UI benefits, hopefully before the next economic downturn.

Enacting the surcharge would open the door to improving the adequacy of NY's UI benefits.

- Our maximum UI benefit of $504 has been frozen since 2019 due to the outstanding debt.
- Our benefit structure seriously lags that of all five of our neighboring states and falls further behind with each passing year it remains frozen;
- NY's UI wage replacement rate fell from 49 percent in 2001 to 38 percent last year, *below the 43 percent U.S. average*;
- New York's average weekly UI benefits are also below the national average, despite NY having the highest average wage among all states.

The current UI tax structure unfairly burdens small businesses and low-wage employers with much higher effective tax rates than highly profitable large businesses in finance, tech, media, and professional services. A much higher taxable wage base and revamped tax structure that lessens the impact of the reserve ratio experience rating method will provide small business relief and advance solvency and benefit adequacy goals while achieving UI tax fairness.

## Governor Hochul's Proposed Bailout of Unemployment Insurance Trust Fund Interest

Good afternoon, distinguished chairpersons and members of these committees. My name is James Parrott, Senior Advisor and Senior Fellow at the Center for New York City Affairs at The New School. Thank you for the opportunity to testify on the Governor's FY 2026 Executive Budget proposal. I have studied extensively the New York State and New York City economies and labor policies for the past 35 years. I would like to focus on Unemployment Insurance today.

Governor Hochul's FY 2026 Executive Budget proposes to use $165 million of taxpayer dollars to pay interest payments that employers would otherwise be charged in 2025 for the New York State Unemployment Insurance (UI) trust fund debt owed to the U.S. Treasury.[1] The chronic under-funding of UI by NYS employers meant that the UI trust fund needed to borrow over $10 billion from the U.S. Treasury to pay regular UI benefits during the height of the pandemic in 2020 and 2021. (This is separate from the roughly $100 billion in federal funding for supplemental and extended employment benefits paid to New Yorkers during that period.)

Given the extremely high rate of pandemic job dislocations, many states needed to borrow from the Treasury for UI purposes, but New York and California are the only states still dealing with substantial levels of UI debt.[2] **New York's UI trust fund debt was still $6.44 billion as of February 20, 2025**, declining by only $2 billion over the past two years. In 2024, New York employers only paid $800 million more in UI taxes than the cost of UI benefits paid last year.[3] At this rate it will take a decade (until 2030) to pay off the pandemic-era related debt and the additional interest over the next five years will total an estimated $400 million (assuming no recession).

If the Governor's proposed 2025 bailout goes through this year, taxpayers likely would be on the hook for this additional $400 million in subsequent years. Over the past three years, employers have paid $450 million in interest on UI trust fund debt.

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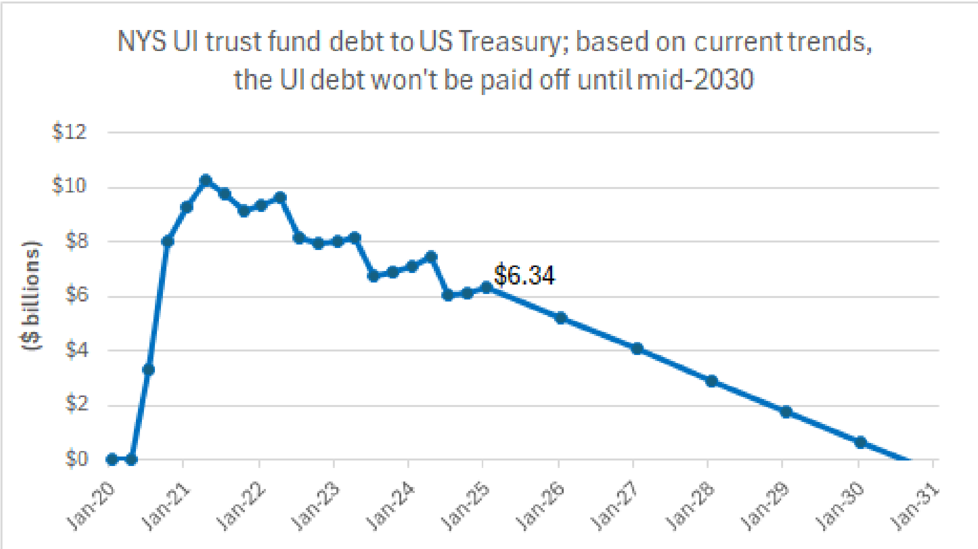
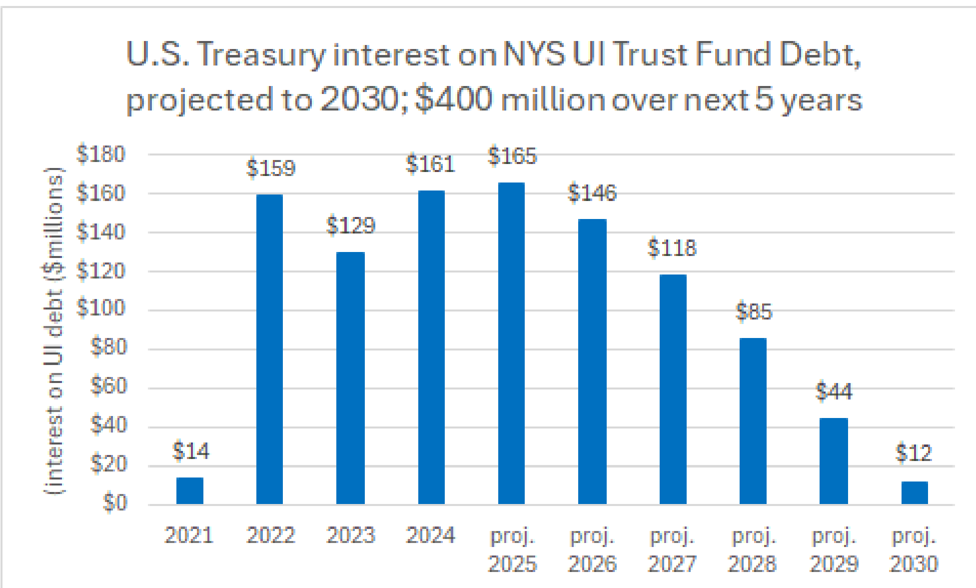
[1] Governor Kathy Hochul, FY 2026 NYS Executive Budget, Briefing Book, p. 92. https://www.budget.ny.gov/pubs/archive/fy26/ex/book/briefingbook.pdf

[2] Connecticut had a modest $88 million trust fund debt as of February 20, 2025, but has been able, unlike New York, to periodically reduce its outstanding debt in full in recent years as UI payroll taxes are received. U.S. Treasury, *Advances to State Unemployment Funds, Social Security Act Title XII*, https://fiscaldata.treasury.gov/datasets/ssa-title-xii-advance-activities/advances-to-state-unemployment-funds-social-security-act-title-xii

[3] US DOL Employment and Training Administration, *State Unemployment Insurance Trust Fund Solvency Report*, 2024. https://oui.doleta.gov/unemploy/docs/trustFundSolvReport2024.pdf




Federal UI taxes automatically rise every year there is a trust fund deficit. To speed up the repayment of borrowed UI funds, federal law reduces the tax credit on federal UI payroll taxes by 0.3 percent a year for all employers in trust fund deficit states. The net federal UI payroll tax rate, which was 0.6 percent pre-pandemic, is 1.8 percent this year and will rise to 3.3 percent in 2030 before New York's debt is paid off given current trends and assuming no recession.

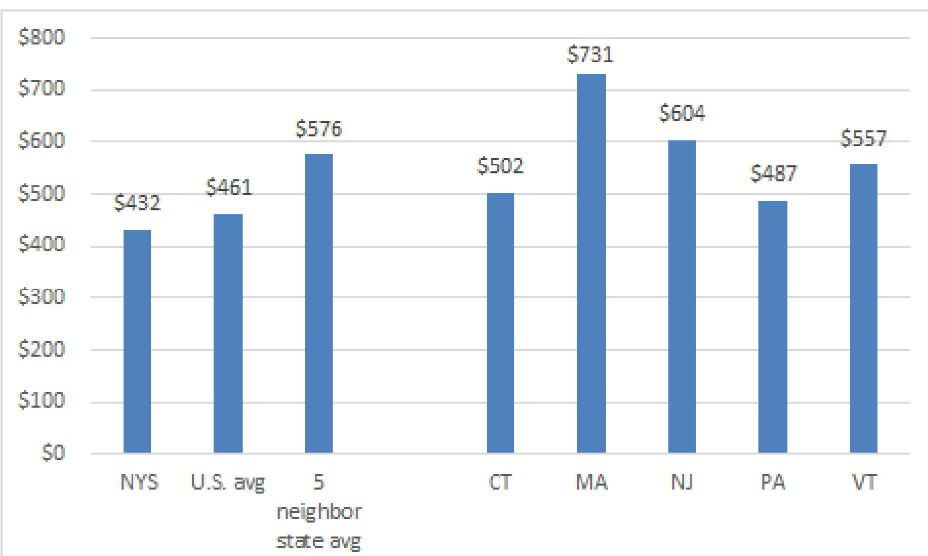
Well before the pandemic, the U.S. Labor Department had been warning New York State for years that its UI system was seriously underfunded and ill-prepared to weather even a mild recession, not to mention the unprecedented extent of unemployment caused by the pandemic.[4] The last serious New York UI financing reform in 2013 failed to increase the taxable wage base sufficiently to put the system on a sound financial footing.

### New York's frozen and lagging benefits

The persistence of New York's UI trust fund debt is a serious problem. New York's maximum UI benefit of $504 has been frozen since 2019 due to the outstanding debt.

- New York's benefit structure seriously lags that of all five of our neighboring states and falls further behind with each passing year it remains frozen;
- As the chart below shows, average weekly UI benefits for our five neighboring states were 33 percent greater than New York's at the end of 2024, and our $432 weekly average was even below the national average despite our higher cost of living;
- New York's wage replacement rate fell from 49 percent in 2001 to only 38 percent last year, also below the 43 percent national average;
- Under the 2013 reforms, NY's maximum benefit was supposed to be 46 percent of the State's average weekly wage beginning October 2024—thus, the maximum weekly benefit should be $812, 61 percent more than the current $504.

## NY's average weekly UI benefit trails the national average and all five neighboring states, Q4 2024




Source: U.S. Department of Labor, Employment and Training Administration.

[4] 1974 was the last year that NYS had an Average High Cost Multiple of at least 1.0, i.e., a sufficient UI trust fund balance to pay the average of the three highest benefit cost years over the prior twenty years. As of the first quarter of 2024, 19 states had an AHCM of at least 1.0, and an additional 20 states had an AHCM between 0.50 and 0.99. Only New York and California had negative AHCMs.

## Alternative to the Governor's Proposed Trust Fund Interest Bailout—a UI Debt Paydown Surcharge and Benefit Improvement

The Governor's proposal to pay the interest on UI debt is wrong-headed. What's needed is serious UI financing reform that includes more adequate UI benefits, not a taxpayer bailout for employers. New York needs an immediate solution to its UI trust fund debt, as well as comprehensive UI financing reform to address chronic insolvency, but also to improve benefit adequacy and overcome serious tax fairness problems.[5]

Since New York employers are not paying enough into the UI trust fund at this point to pay down the debt anytime soon, the State should institute a special UI payroll tax to expedite debt repayment. C***omprehensive UI financing reform is long overdue. New York could address the outstanding UI trust fund debt problem immediately to open the door for benefit improvements and then restructure regular UI financing to ensure solvency going forward.*** Such a strategy was recently proposed in California by the State's Legislative Analyst's Office (CA-LAO) to deal with that state's massive $21.3 billion UI trust fund debt.[6]

New York and California are both in a similar position; financing reform alone cannot pay off the federal debt and build sufficient reserves to carry either state through the next recession. A special UI tax solution is needed to deal with the debt expeditiously so that comprehensive financing reform can set New York on course for solvency within a few years and be able to provide sufficient, and adequate, UI benefits in the event of high unemployment.

UI debt retirement could be accomplished through a **UI debt paydown surtax** that would be on top of regular UI taxes. The CA-LAO proposed that California issue revenue bonds to pay down the debt immediately with the debt service paid by a UI surtax. However, the interest rate for revenue bonds would likely be higher (roughly five percent) than the interest charged by the Treasury (currently 3.127 percent). Alternatively, the debt paydown surtax could be applied on a large enough taxable wage base so that the outstanding debt could be paid down in three years.[7]

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[5] I testified on these issues two years ago. James A. Parrott, Testimony before the Joint Legislative Budget Hearing on Workforce Development, *Fixing Unemployment Insurance Financing*, Center for New York City Affairs, March 1, 2023, **h**ttps://www.centernyc.org/reports-briefs/fixing-unemployment-insurance-financing

[6] See *Fixing Unemployment Insurance*, California's Legislative Analyst's Office, December 2024.

[7] The CA-LAO report proposed that an employer-backed revenue bond pay down half of California's UI trust fund debt with the other half paid down with through a mechanism that would borrow from the state's cash reserves, with the principal and debt service paid back from California's General Fund (i.e., taxpayer dollars). The CA-LAO report states that given "the unique nature of the pandemic stay-at-home" state mandate warrants a state role in "sharing the burden of repaying pandemic UI costs". The report emphasizes that there is "no single, correct approach to determining the balance" between employer and

A major contributor to New York's perpetual UI underfunding crisis is that its taxable wage base (TWB, the portion of a worker's annual pay that is subject to UI payroll taxation) is far too low, especially since New York usually has the highest or second highest average annual wage among all 50 states. New York's TWB for 2025 is only $12,800. Under the 2013 UI legislation, it will rise to $13,000 in 2026 and thereafter be set equal to 16 percent of the state's average annual wage. This would put the 2027 level at about $16,000 and given current trends, the 2035 level would be only $20,000, a level that was *already exceeded by 19 states last year*.

## Selected states with higher UI taxable wage bases than New York

As of Q4 2024

| | UI taxable wage base |
|---|---|
| Washington | $68,500 |
| Hawaii | $59,100 |
| Oregon | $52,800 |
| Idaho | $53,500 |
| Alaska | $49,700 |
| Utah | $47,000 |
| New Jersey | $42,300 |
| North Dakota | $43,800 |
| Montana | $43,000 |
| Minnesota | $42,000 |
| Nevada | $40,600 |
| Iowa | $38,200 |
| New Mexico | $31,700 |
| North Carolina | $31,400 |
| Wyoming | $30,900 |
| Rhode Island | $29,200 |
| Oklahoma | $27,000 |
| Connecticut | $25,000 |
| Colorado | $23,800 |
| | |
| NEW YORK STATE | $12,500 |

Source: U.S. Department of Labor, Employment and Training Administration.

New York's inordinately low TWB further penalizes the state's low-wage employers, causing them to pay much higher effective UI payroll taxes relative to total wages than paid by high-wage employers, particularly those in finance and tech. The chronic insolvency of New York's UI trust fund because of its low TWB is adding 5.725 percent to the UI payroll tax rate this year. In essence, this is New York's insolvency tax, and it weighs most heavily on low-wage employers, effectively doubling (or worse) UI tax rates.[8] As a result of the insolvency tax, some New York employers are now paying UI tax rates of over 10 percent.

state government responsibility and that the legislature could opt for a different approach to burden-sharing.

[8] This 5.725 percent insolvency tax breaks down as follows: 3.0 percent on the "normal" UI tax schedule, 0.925 percent on the subsidiary schedule, and 1.8 percent for the additional FUTA credit reduction.

**Key elements of a temporary UI debt paydown surcharge**

- High taxable wage base
- Tax rate sufficient to pay down the trust fund debt by September 2028
- Surtax exemption for small and low-wage employers who now pay very high rates

With a $100,000 TWB, and a 0.5 percent tax rate, trust fund debt could be paid off in less than three years (i.e., by September of 2028 if the surtax began January 2026) while providing a 100 percent surtax exemption or credit to all small- and medium-size employers of workers with wages below $60,000. With these parameters, the surtax would raise a net (after the credit) of about $2 billion annually which would enable New York State to completely pay down its UI debt by September 2028.

Restructured regular UI taxes could then be used to start re-building a trust fund reserve, hopefully before the next economic downturn.[9] Since it is unlikely, in the event of a serious economic downturn, that the federal government would again come through with additional UI assistance, it is of paramount importance that New York State take the needed steps now to put UI financing on a sound footing.

As an inducement to ensure that comprehensive UI reform is enacted in a timely manner, legislation enacting the UI trust fund paydown surtax could specify that the surtax stays in place if comprehensive reform is not enacted before the trust fund debt is paid down.

Without an exemption or surtax credit for employers of low-and moderate wage workers, they would be shouldering additional UI taxes on top of the existing regressive tax structure. The surtax credit would cover employers of 20-25 percent of all New York workers. The exact parameters for the exemption would be set to target employers currently paying high UI taxes and would be geared to small- and medium-sized employers (say, with annual New York revenues below $250 million) and could include some workers with wages above $60,000 for employers (such as in construction) with very high UI tax rates. The surtax exemption would be phased down as wages rise to eliminate cliff effects.

The surtax would be shouldered largely by large employers and employers of high-wage workers. Such employers are highly concentrated in New York City. In 2023, the average private wage in New York City was $114,600 while it was $70,800 in the rest of the state.

[9] Paying down the debt two-to-three years sooner than without the surtax would save employers $230 million in interest charges.

**Rationale for a higher TWB and surtax exemption for low-wage employers**

The economic impact of the pandemic was severely lop-sided, with the State-mandated public health restrictions hitting hardest at "face-to-face" service industries, construction, manufacturing and retail. Some of these industries and firms have not fully recovered even though four years have passed since the worst days of the pandemic. While UI benefits were not charged to employer UI accounts during the pandemic, many of these same firms tend to have unemployment experience ratings that cause them to pay the highest UI taxes.

On the other hand, predominantly large corporations in very high-wage industries such as finance, tech, media, and professional and management services were relatively unscathed during the pandemic and able to adapt to remote operations. Few of the workers in these industries lost their jobs or pay (and they gained flexibility), and many corporations recorded large profit gains.

**Summary of the alternative UI proposal**

1. Enact a temporary (three-year) 0.5 percent UI debt paydown surtax with a $100,000 taxable wage base with exemptions targeted to employers of low- and medium-wage workers and those paying very high regular state UI tax rates.
2. Enact improvements in UI benefit adequacy, with the maximum weekly benefit set to 50 percent of the state's average weekly wage, and an increased minimum benefit. Program improvements are needed to streamline the application process and raise benefit recipiency.
3. To ensure long-term solvency and tax fairness, enact comprehensive UI financing reform with a hybrid rate that combines a reserve-building component with an hours worked variation (rather than reserve ratio) based experience rating. The combined UI rates would apply to a $100,000 taxable wage base.

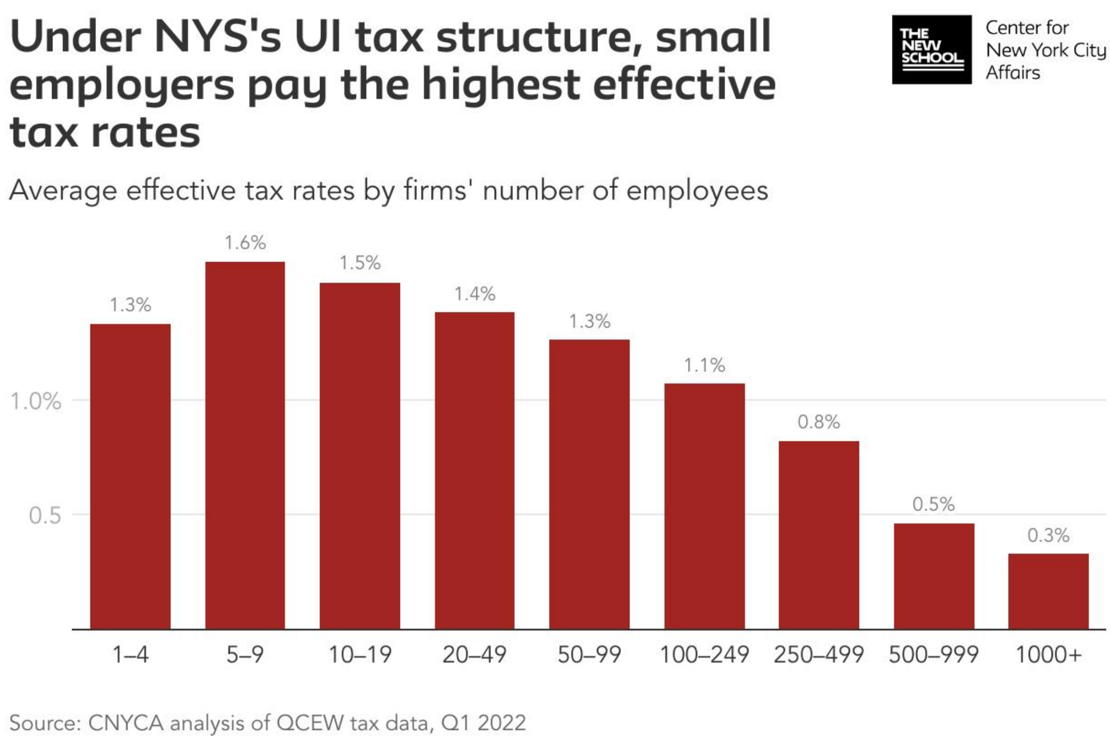
## Permanently restructuring New York's UI payroll taxes

New York's very heavy reliance on a problematic *experience rating method* in determining regular UI taxes also has a regressive impact on many small employers in low-wage industries and on employers whose work flow fluctuates over the course of a year, such as in the construction industry. The U.S. is the only country in the world that factors in an individual employer's experience rating in determining UI payroll taxes.[10] Numerous authorities

[10] Robert Pavosevich and Michael Miller, *Guidelines for the Construction and Analysis of State Unemployment Insurance Financing Structures*, U.S. Department of Labor, Office of Unemployment Insurance, 2017, p. 53. https://oui.doleta.gov/unemploy/ui_technical_assistance.asp.

recommend lessening the reliance on experience rating since it tends to pit workers against employers, leading some employers to contest UI claims since benefits charged to an employer's account often lead to higher UI taxes.[11] New York's experience rating system is based on the reserve ratio method. U.S. Department of Labor UI experts Pavosevich and Miller write that the reserve ratio method was mainly intended to be an accounting formulation for individual employer accounts and that it is ill-suited to provide a basis for an experience rating system, arguing that "it has very little to do with an employer's experience with unemployment" and that it "provides incentives that are contrary to employment stabilization and growth." [12]

The chart below shows that in 2022, small employers, e.g., those with fewer than 100 employees, generally paid UI effective tax rates (relative to total wages) that were three to four times the rates paid by large companies with 500 or more employees.




[11] E.g., see CA-LAO, *Fixing Unemployment Insurance*, "experience rating has the effect of depressing take-up of UI benefits among eligible, unemployed workers." p.3.

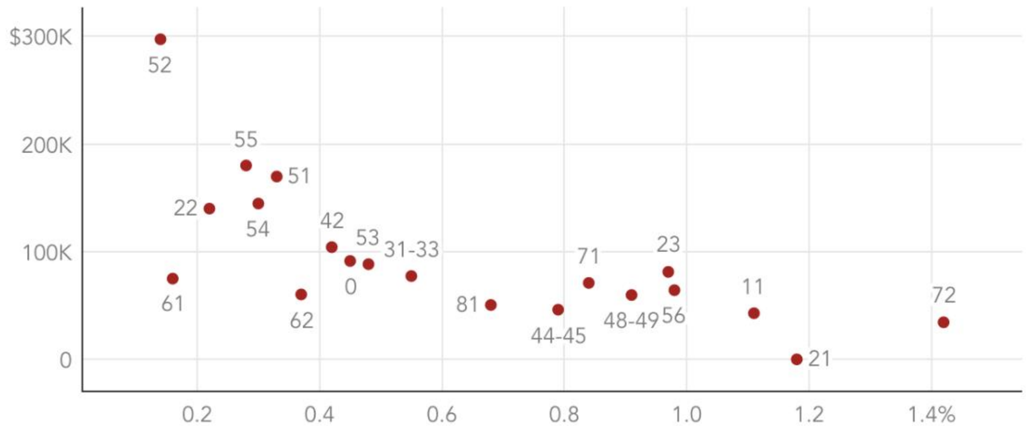
[12] Pavosevich and Miller write, "As employment grows for an individual employer so do taxable wages, so that the denominator in the reserve ratio formula gets larger and, with a constant level of existing reserves, the tax rate rises because the reserve ratio declines. This could be a disincentive to hiring. Also, when an employer builds a large positive reserve there will likely be no impact on the employer's tax rate when layoffs occur, which actually reduces the incentive to stabilize employment." *Guidelines for the Construction and Analysis of State Unemployment Insurance Financing Structures*, p. 55.

There is also a strong inverse relationship between average industry wages and effective UI tax rates. That is, industries with low average wages pay much higher effective UI tax rates (than industries including finance, information (media and tech), professional services, and

## Under NYS's UI tax structure, lower wage industries pay the highest effective tax rates

Center for New York City Affairs

Average annual wage by average UI tax rate on total wages, New York State data by private industry, Q3 2021-Q2 2022




**Note:** Numbers nearest to a point indicate corresponding NAICS industry codes, as seen in the below table.

Source: CNYCA Analysis of QCEW tax data, Q3 2021-Q2 2022

| NAICS | Industry |
|---|---|
| 0 | Total, All Private Ind's |
| 11 | Agriculture |
| 21 | Mining |
| 22 | Utilities |
| 23 | Construction |
| 31–33 | Manufacturing |
| 42 | Wholesale Trade |
| 44–45 | Retail Trade |
| 48–49 | Transportation & Warehousing |
| 51 | Information |
| 52 | Finance & Insurance |
| 53 | Real Estate and Rental & Leasing |
| 54 | Professional |
| 55 | Management of Companies and Enterprises |
| 56 | Administrative and Support and Waste Mgmt. & Remediation Serv. |
| 61 | Educational Serv. |
| 62 | Health Care & Social Assistance |
| 71 | Arts |
| 72 | Accommodation and Food Serv. |
| 81 | Other Services (except public admin.) |

management of enterprises (i.e., corporate headquarters) that have average annual wages of $150,000 or more. Not surprisingly, these high-paying industries also have fairly high concentrations of total industry employment in large companies.

To put UI on a sustainable solvency basis, New York State needs comprehensive UI financing reform that couples raising the TWB together with changing the experience rating method used to set UI tax rates. To pay benefits at the level of the average of the three highest years over the past 20 years as recommended by UI finance experts (excluding peak pandemic years of 2020 and 2021), our tax rate would need to be 9.83 percent with our current $12,800 TWB. However, if the taxable wage base was set at $100,000, the average tax rate could be reduced to 2.14 percent.[13] To address the problems that currently lead to a disproportionately higher UI tax burden on small employers and those in industries such as construction, New York should switch to an *hours worked variation* experience rating method rather than the reserve ratio method,[14] and adopt a hybrid rate structure with separate experience rating and solvency components.

## Related UI issues

Some commentators have mistakenly attributed New York's UI trust fund debt to fraud. Unfortunately, federal pandemic relief programs like the Paycheck Protection Program and Pandemic Unemployment Assistance were heavily abused by foreign-based crime rings. An unfortunate press release accompanying a State Comptroller audit dramatically exaggerated the extent of fraud related to the State's UI trust fund (the press release made up a number not found in the audit). Because the Cuomo Administration failed to modernize the New York State Labor Department's UI computer system, failures in that system early on in the pandemic not only delayed getting benefits to New Yorkers thrown out of work by the pandemic, but also led to a makeshift processing system that fraud rings exploited. The State Labor Commissioner reports that fraud and inadvertent overpayments due to the makeshift processing system in the State's UI program totaled $388 million; the Comptroller's press release erroneously cited a figure more than 25 times greater.[15] The fraud involving federally-funded Pandemic Unemployment Assistance did not add to New York's UI trust fund debt.

The State's makeshift computer processing system hastily put in place led to several instances of the inadvertent overpayment of benefits. S2025/A5015 (Krueger/Bronson) protects low-income benefits claimants who were overpaid benefits through no fault of their own from punitive

[13] Author's calculations.
[14] Josh Bivens, et.al *Reforming Unemployment Insurance: Stabilizing a System in Crisis and Laying the Foundation for Equity*, a joint report of the Center for American Progress, Center for Popular Democracy, Economic Policy Institute, Groundwork Collaborative, National Employment Law Project, National Women's Law Center, and Washington Center for Equitable Growth, June 2021, pp. 37-38.
[15] Roberta Reardon, "Commentary: New York is working on fraud, but can't solve it alone," *Times Union*, December 23, 2022.

benefits claw-backs. This legislation follows several other states in utilizing a broad standard in line with federal law in determining whether repayment of federal UI overpayments should be waived. Massachusetts, Michigan, Maryland, New Mexico, Rhode Island and other states have acted to waive almost all overpayments to residents in their states. There are thousands of low-income New Yorkers struggling to support their families while facing repayment of a debt they never anticipated and did nothing to cause. The bill will particularly aid people of color, limited English proficiency claimants, and claimants with limited technological access who are disproportionately burdened with unfair overpayments.

There is also an urgent need for New York to take effective action to ensure that giant “gig economy” corporations like Lyft, Doordash, and until recently, Uber, report their workers’ wages to the State Labor Department and pay their fair share of UI payroll taxes.[16] Scores of UI Appeals Board decisions and multiple court rulings have determined that workers for these gig companies are entitled to regular UI benefits. To allow these gig companies to remain off the hook inordinately delays UI benefits when their workers lose their jobs and shifts the UI tax liability for gig companies onto other businesses. S4477A/A5726 (Ramos/Bronson) addresses this issue.

There is also a need to address the situation of workers in academic settings who may be given “reasonable assurance” that they will be rehired after academic breaks. A5860 (Valdez) tightens the language regarding the “reasonable assurance” standard that must be met in order for a worker to not qualify for unemployment benefits.

## Conclusion

New York’s Unemployment Insurance system is in a grave crisis that will not be alleviated in any meaningful sense by the Governor’s proposed $165 million bailout of UI trust fund debt interest for this year. The trust fund debt should be addressed through a temporary debt paydown surcharge that would eliminate the debt by mid-2028.

Our state leaders should also commit to comprehensive UI financing reform that improves the adequacy of UI benefits so that the essential “automatic stabilizer” function of UI benefits can effectively moderate the severity of economic downturns. UI benefits are widely recognized as the most effective form of economic stimulus in a downturn by putting money in the hands of

[16] It took years of litigation after the employee status of Uber drivers had been determined by the UI Appeals Board and the courts for the State Labor Department to reach a settlement requiring Uber to report wages and pay into the Trust Fund. https://www.governor.ny.gov/news/governor-hochul-announces-unprecedented-settlement-agreement-between-nys-department-labor-and

unemployed workers who likely will spend the entirety of those benefits in support of their families and pump UI benefits right back into the local economy.

Considering that it is unlikely the federal government will provide supplemental UI benefits in the event of a severe downturn, it is particularly urgent that New York State act this year to re-float its sunken UI trust fund.

A comprehensive overhaul of UI payroll taxes is needed to more equitably share the burden of financing UI benefits between high- and low-wage employers. The taxable wage base should be raised and an hours worked variation experience rating method implemented in place of the current reserve ratio method that pits employers against UI claimants.