

Unemployment Insurance Taxes Paid for Undocumented Workers in NYS

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IN THE MIDST OF A PANDEMIC, THERE HAS BEEN A GROWING CALL for undocumented immigrants, who make up five percent of the New York State labor force,¹ to be covered by some form of unemployment insurance. What is often overlooked in discussions of unemployment insurance is the extent to which undocumented immigrants are already part of paying into the existing system, even when they are excluded from collecting benefits.

Unemployment Insurance is supported in each state by an Unemployment Insurance Trust Fund. In New York, as in all states, the trust fund is financed by a tax that employers pay to the state and supplemented by a smaller tax they pay to the federal government. Both taxes are paid on a per-employee basis, and both benefit the state fund.²

This report estimates for the first time the amount of the contribution that is derived from the employment of undocumented immigrants, and finds that over the past 10 years **\$1.4 billion was paid in Unemployment Insurance taxes in New York based on the work of undocumented immigrants**. In the United States as a whole, adding all states and the District of Columbia together, \$13 billion was paid in Unemployment Insurance taxes. The analysis was conducted for the Fiscal Policy Institute by the Institute on Taxation and Economic Policy (ITEP). Data for other states and Washington, D.C., are shown in Figure 2, on page 5.

There were on average 597,000 undocumented immigrants employed in the New York State labor force over this period, according to an estimate of the Migration Policy Institute.³ When undocumented workers are paid on the books, even if by using a Social Security number that was not issued to them, their employers pay the same unemployment insurance taxes as for other employees—despite the fact that these workers can almost never receive unemployment benefits.⁴

To estimate the amount paid on behalf of these workers, the report assumes that half of the undocumented workers have employers that pay the taxes, conservatively following the approach taken by the National Academy of Science with other taxes. The analysis uses the average amount employers paid per employee for unemployment insurance over the 10-year period, which is \$442 per year in New York, and the \$42 per year maximum payment to the federal program.

Since unemployment insurance funds are built up over periods of economic expansion, we report the 10-year total, which represents the period since the end of the Great Recession.

\$1.4 Billion Paid in Unemployment Insurance Taxes on Behalf of New York’s Undocumented Workers in the Past 10 Years

	Unauthorized Workers Employed in the Labor Force (average 2012-16)	Federal UI Tax (avg. per year, per employee)	State UI Tax (avg. per year, per employee)	Contributions to Federal Trust Fund 2010-2019	Contributions to State Trust Funds 2010-2019	Total Contributions to Unemployment Insurance Trust Funds 2010-2019
United States	7.0 Million	\$42	\$368	\$1.5 Billion	\$12 Billion	\$13 Billion
New York	597,000	\$42	\$442	\$126 Million	\$1.3 Billion	\$1.4 Billion

FIG. 1 Estimates provided to the Fiscal Policy Institute by the Institute on Taxation and Economic Policy, based on estimates of undocumented immigrants in the labor force from the Migration Policy Institute. Assumes employers paid federal and state unemployment insurance taxes on behalf of 50 percent of undocumented workers. See methodology for details.

The \$1.4 billion collected in unemployment insurance taxes for New York over this 10-year period is on top of the estimated \$1.1 billion in New York state and local sales, property, and income taxes undocumented immigrants pay annually, as reported in a prior ITEP analysis.⁵ And, it is in addition to the taxes derived from undocumented immigrants at the federal level, which has previously been estimated as a net \$12 billion on an annual basis to the Social Security Trust Fund and \$3 billion to the Medicare Trust Fund in addition to federal personal income tax contributions.⁶

A State Fund to Provide Relief for Undocumented Workers

The COVID-19 crisis has put Unemployment Insurance systems around the country under an unprecedented strain, as millions are forced out jobs by an economy that is on “pause.” The existing system, in New York as in other states, was not built to sustain this kind of pressure. To shore up the current system, the federal government has provided aid that temporarily raises the level of benefits and more fully including a wide range of workers and people who are self-employed.

However, both new federal aid and the existing unemployment system exclude undocumented immigrants. As reported in the Fiscal Policy Institute’s recent report, “Unemployment Relief: Including All of New York’s Workers,” to cover undocumented immigrants for eight months with the minimum benefit currently afforded other workers, \$750 per week, would cost \$1.4 billion if 10 percent of those in the labor force access the system on average each month, and \$3.5 billion if 25 percent do so.

New York State should step in where the federal government has fallen short. California, with support from a consortium of foundations called the Grantmakers Concerned with Immigrants and Refugees, has created a fund of \$125 million to help undocumented workers with a one-time payment. New York City, has a \$20 million fund to give one-time support to undocumented immigrants funded by the Open Society Foundations, and a growing number of other areas have similar programs providing one-time relief. New York State should lead the way with a government-sized program that provides a weekly payment while they are unemployed. The program will have to be distinct from Unemployment Insurance to avoid running into conflict with federal government rules, but the fund can be separately financed by the state and parallel to what other workers receive in this crisis.

One day, immigration reform will be needed to fix our dysfunctional immigration system and to allow undocumented immigrants to gain a pathway to legal status. In the meantime, undocumented immigrants face the same challenges as other workers. It does not serve the public interest to make it financially impossible for undocumented immigrants to stay home when needed to protect individual or public health and well-being. Payments for unemployment insurance have been going into the system on behalf of many of these workers. Now, in this time of crisis, is the time for an unemployment insurance system that serves all of New York's workers.

By David Dyssegaard Kallick

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Recommendations

- New York should create a fund to provide undocumented immigrants with the equivalent of the minimum amount of Unemployment Insurance, to ensure that undocumented workers can afford to stay home at a time when millions are unemployed and it is in the interest of the society that many places of business remain closed.
- The work of undocumented immigrants has contributed \$1.4 billion in unemployment insurance taxes over the past 10 years. The federal government is taking care of other workers; New York State should step up to fill the gap and help undocumented workers.

Methodology

New York's unemployment insurance system, like those in other states, is funded by a small employer-side payroll tax (called unemployment taxes) paid by employers on behalf of employees annually. There is also a federal unemployment insurance tax which is six percent of the first \$7,000 of each employee's wages, maxing out at \$42 per employee. The federal tax goes to support state workforce agencies, including the state unemployment insurance fund.

Employers pay this tax on behalf of all employees regardless of immigration or work authorization status. We estimate that about half of undocumented immigrants are working on the books, and that their employers are therefore paying into the unemployment insurance trust fund. This follows the approach of the National Academy of Sciences study on fiscal impacts of immigrants with regard to other taxes paid.⁷ The National Academy's report cites a series of studies showing between 50 and 75 percent of undocumented immigrants paying income taxes (using an Individual Taxpayer Identification Number), having payroll taxes withheld (using a Social Security number that was not issued to them), or both. We stay at the lower end of the estimate range in assuming 50 percent have unemployment insurance taxes paid by employers.

To approximate the *average* number of undocumented workers in the labor force in New York over the past 10 years, The Fiscal Policy Institute relies on a data analysis undertaken by the Institute on Taxation and Economic Policy (ITEP). The ITEP analysis starts with data from the Migration Policy Institute estimating the number of undocumented immigrants in the labor force in New York based on data from 2012-2016, roughly the middle of the 10-year period.⁸ Of the 597,000 undocumented immigrants in the labor force over that period, we assume that about half had unemployment insurance taxes paid on their behalf. (It is worth noting that the number of undocumented immigrants has been declining since about 2007 in the United States and in New York, so the number of undocumented workers in the state today is considerably lower today than in 2010.)

Unemployment insurance tax rates and average employer contributions per employee vary by state, and for each employer based on a number of factors. The ITEP analysis looks at the average employer contribution per employee to the New York Trust Fund for each year between 2010 and 2019, drawn from the Department of Labor's State Unemployment Insurance Tax Measures Reports for 2010-2019.⁹ The federal contribution is a national maximum. The federal and state amounts are then multiplied by the number of undocumented workers in the state, and then multiplied by 50 percent under the assumption described above that about half of the undocumented immigrants work for employers that are paying into the fund. The fund is used to benefit workers in each state, so the report sums the state and the federal funds in New York to reflect what is paid to benefit New York's workers.

\$13 Billion Paid in Unemployment Insurance Taxes on Behalf of Undocumented Workers in the U.S. in the Past 10 Years

State	Unauthorized Workers Employed in the Labor Force (average 2012-16)	Federal UI Tax (avg. per year, per employee)	State UI Tax (avg. per year, per employee)	Contributions to Federal Trust Fund 2010-2019	Contributions to State Trust Funds 2010-2019	Total Contributions to Unemployment Insurance Trust Funds 2010-2019
AL	39,000	\$42	\$219	\$8,190,000	\$42,763,500	\$50,953,500
AZ	122,000	\$42	\$194	\$25,620,000	\$118,340,000	\$143,960,000
AR	40,000	\$42	\$343	\$8,400,000	\$68,620,000	\$77,020,000
CA	1,855,000	\$42	\$437	\$389,550,000	\$4,052,247,500	\$4,441,797,500
CO	103,000	\$42	\$323	\$21,630,000	\$166,345,000	\$187,975,000
CT	69,000	\$42	\$607	\$14,490,000	\$209,622,000	\$224,112,000
DE	14,000	\$42	\$316	\$2,940,000	\$22,162,000	\$25,102,000
DC	19,000	\$42	\$284	\$3,990,000	\$26,980,000	\$30,970,000
FL	406,000	\$42	\$202	\$85,260,000	\$410,466,000	\$495,726,000
GA	222,000	\$42	\$228	\$46,620,000	\$253,413,000	\$300,033,000
HI	23,000	\$42	\$505	\$4,830,000	\$58,086,500	\$62,916,500
ID	19,000	\$42	\$458	\$3,990,000	\$43,567,000	\$47,557,000
IL	316,000	\$42	\$487	\$66,360,000	\$769,618,000	\$835,978,000
IN	55,000	\$42	\$269	\$11,550,000	\$73,975,000	\$85,525,000
IA	24,000	\$42	\$409	\$5,040,000	\$49,068,000	\$54,108,000
KS	40,000	\$42	\$286	\$8,400,000	\$57,200,000	\$65,600,000
KY	27,000	\$42	\$316	\$5,670,000	\$42,714,000	\$48,384,000
LA	39,000	\$42	\$155	\$8,190,000	\$30,244,500	\$38,434,500
MD	164,000	\$42	\$339	\$34,440,000	\$278,144,000	\$312,584,000
MA	113,000	\$42	\$606	\$23,730,000	\$342,503,000	\$366,233,000
MI	75,000	\$42	\$474	\$15,750,000	\$177,637,500	\$193,387,500
MN	54,000	\$42	\$425	\$11,340,000	\$114,804,000	\$126,144,000
MS	14,000	\$42	\$153	\$2,940,000	\$10,717,000	\$13,657,000
MO	33,000	\$42	\$252	\$6,930,000	\$41,580,000	\$48,510,000
NE	23,000	\$42	\$170	\$4,830,000	\$19,561,500	\$24,391,500
NV	80,000	\$42	\$480	\$16,800,000	\$192,080,000	\$208,880,000
NJ	344,000	\$42	\$672	\$72,240,000	\$1,156,184,000	\$1,228,424,000
NM	31,000	\$42	\$333	\$6,510,000	\$51,630,500	\$58,140,500
NY	597,000	\$42	\$442	\$125,370,000	\$1,321,161,000	\$1,446,531,000
NC	206,000	\$42	\$321	\$43,260,000	\$331,145,000	\$374,405,000
OH	64,000	\$42	\$293	\$13,440,000	\$93,664,000	\$107,104,000
OK	53,000	\$42	\$239	\$11,130,000	\$63,255,500	\$74,385,500
OR	74,000	\$42	\$691	\$15,540,000	\$255,744,000	\$271,284,000
PA	83,000	\$42	\$613	\$17,430,000	\$254,602,500	\$272,032,500
RI	16,000	\$42	\$656	\$3,360,000	\$52,480,000	\$55,840,000
SC	55,000	\$42	\$267	\$11,550,000	\$73,590,000	\$85,140,000
TN	75,000	\$42	\$195	\$15,750,000	\$73,350,000	\$89,100,000
TX	959,000	\$42	\$279	\$201,390,000	\$1,337,325,500	\$1,538,715,500
UT	52,000	\$42	\$232	\$10,920,000	\$60,346,000	\$71,266,000
VA	175,000	\$42	\$204	\$36,750,000	\$178,587,500	\$215,337,500
WA	143,000	\$42	\$487	\$30,030,000	\$348,133,500	\$378,163,500
WI	55,000	\$42	\$409	\$11,550,000	\$112,530,000	\$124,080,000
US	7,003,000	\$42	\$368	\$1,470,630,000	\$11,880,673,000	\$13,351,303,000

FIG. 2 Estimates provided to the Fiscal Policy Institute by the Institute on Taxation and Economic Policy, based on estimates of undocumented immigrants in the labor force from the Migration Policy Institute. Assumes employers paid federal and state unemployment insurance taxes on behalf of 50 percent of undocumented workers. See methodology for details. Alaska, Maine, Montana, New Hampshire, North Dakota, South Dakota, Vermont, West Virginia and Wyoming are not included in the analysis due to sample size.

End Notes

¹ Estimate of the undocumented share of the labor force comes from an analysis from the Center for Migration Studies, based on American Community Survey 2017 data. See <http://data.cmsny.org/>.

² The federal tax also benefits some other aspects of the state workforce agencies, such as job service programs. See <https://oui.doleta.gov/unemploy/uitaxtopic.asp>.

³ Undocumented labor force participation data come from the Migration Policy Institute analysis of U.S. Census Bureau data from the pooled 2012-16 American Community Survey and the 2008 Survey of Income and Program Participation, drawing on a methodology developed in consultation with James Bachmeier of Temple University and Jennifer Van Hook of The Pennsylvania State University, Population Research Institute. The 2012-2016 data are used to stand in for the average over the 10-year period from 2010 to 2019. Today, the number of undocumented immigrants in the state is estimated to be considerably lower in New York State, as in the nation. According to a different analysis by the Center for Migration Studies, for example, the number of undocumented immigrants in the labor force in New York State is estimated to be 530,000 in 2017 and 489,000 in 2018.

⁴ Undocumented immigrants are not eligible to receive Unemployment Insurance benefits. The few exceptions are some undocumented immigrants, such as DACA recipients or those with Temporary Protected Status, who have work authorization. Even some immigrants who have work authorization currently do not qualify for benefits if they lacked work authorization during the “base period” when their employer paid into the system.

⁵ “Economic Contribution, Taxes Paid, and Occupations of Unauthorized Immigrants in New York State,” Fiscal Policy Institute, March 2, 2017. That analysis is based on the 2014 tax year. The Fiscal Policy Institute report draws from the national report by Lisa Christensen Gee, Matthew Gardner, Misha E. Hill, and Meg Wiehe, “Undocumented Immigrants’ State & Local Tax Contributions,” Institute on Taxation and Economic Policy, March 2017.

⁶ Social Security contributions are reported in Stephen Goss et al, “Effects of Unauthorized Immigration on the Actuarial Status of the Social Security Trust Funds,” Social Security Administration, April 2013. Medicare contributions are estimated as between \$2.2 and \$3.8 billion between 2000 and 2011, in Leah Zallman et al, “Unauthorized Immigrants Prolong the life of Medicare’s Trust Fund,” *Journal of General Internal Medicine*, January 2016, pp. 122-127, available at: <https://link.springer.com/article/10.1007/s11606-015-3418-z#citeas>.

⁷ In this estimate, we follow the National Academy of Sciences, *The Economic and Fiscal Consequences of Immigration* (Washington, DC: National Academy of Sciences Press, 2017), p. 314. The National Academy of Sciences study cites as support for its estimate a 2007 report from the Congressional Budget Office, “The Impact of Unauthorized Immigrants on the Budgets of State and Local Governments,” (Washington, DC: Congressional Budget Office, 2007).

⁸ See note above. Data are available at <https://www.migrationpolicy.org/programs/us-immigration-policy-program-data-hub/unauthorized-immigrant-population-profiles>.

⁹ “State Unemployment Insurance Tax Measures Report, 2019,” U.S. Department of Labor, Office of Unemployment Insurance, <https://oui.doleta.gov/unemploy/pdf/sigmeasures/sigmeasuitaxsys19.pdf>.