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Reforming New York’s Unemployment Insurance System

New York must make several improvements to the UI system this year:

- 1) New York must pay off all outstanding debt to the federal government and return the UI trust to solvency, a prerequisite for all other reforms;
- 2) New York must increase benefits to *at least* the level they would have risen to if not for the federal UI debt outstanding (and preferably higher, covering a higher share of worker wages);
- 3) New York must reform the UI tax base, which has caused the program to be chronically insolvent for decades, so that the UI system is more sustainably funded; and,
- 4) New York must expand coverage to self-employed workers, gig workers, and others not currently covered under the UI program.

This memo discusses each of these four needed improvements including options for creating a more robust UI program in New York.

I. Proposals to pay off outstanding UI debt to federal government

New York’s unemployment insurance system has been frozen in time since the start of the pandemic due to large outstanding loans from the federal government, known as its “Title XII Loan Balance.” New York’s loan as of December 2024 was \$6.2 billion. The only other state with a significant outstanding Title XII loan is California, which has an outstanding balance of \$20 billion. Without paying off these outstanding loans, New York cannot raise its maximum benefit and is unlikely to extend coverage to workers currently not eligible for the program. Because these changes are both timely and necessary, the *State must prioritize paying down this debt as soon as possible.*

Options for paying down the UI debt include:

- New York has accumulated \$34 billion in fiscal reserves and uncommitted funds over the past five years. Some share of these reserve funds could be used to pay down the UI debt while still maintaining a substantial reserve. In fact, a large share of these reserves come from the federal funding during the Covid-19 pandemic that many other states have used to pay off UI debt.ⁱ
- New York could use its current year surplus of \$3.5 billion and next-year’s surplus of \$1.8 billion to pay down some of the UI debt. These surpluses are currently being used to fund the governor’s “Inflation Refund” and “Middle Class Tax Cut”—costly expenditures for the State that will deliver little tangible benefit to New Yorkers. Ensuring the solvency of the State’s UI trust and improving benefits would prove far more beneficial for working New Yorkers and would promote state economic stability in these highly uncertain times.

- New York could reform the employer payroll tax to increase revenue. This change could be made temporarily but realistically should be made alongside permanent reforms to solve the chronic insolvency, discussed in Section III of this memo. The current UI tax structure unfairly burdens small employers and employers in volatile industries such as construction, while placing a relatively lower burden on large employers as well as firms in sectors such as finance and technology, which face less cyclicalities in their business.

II. Increase maximum benefit to *at least 50 percent of 2024 average weekly wage*

For benefits to be restored to a sustainable level for workers, New York must first pay off its UI debt (discussed above) *and must clarify legislative language to ensure the benefit is returned to its original schedule (at minimum).*

- State law requires the maximum benefit to freeze when the State does not have enough reserves in the UI trust, held with the federal government. Thus, the 2020 recession caused New York not only to go into steep debt, but to see a freeze in the planned rise to the UI maximum weekly benefit. Table 1 lays out the legislated maximum benefit, assuming a solvent system, against the actual realized maximum benefit over the past 8 years. Figure 1 depicts the actual historical benefit against the benefit that would have occurred if the UI trust had remained solvent. In 2019, the maximum benefit was determined to be \$504 (36 percent of the average weekly wage, which was \$1,400). Over the past five years, the benefit has remained frozen at \$504, due to the state law that says that when the UI trust doesn't meet a mandated reserve requirement, then the maximum benefit will not increase.^{1,2}
- Current law leaves ambiguous how the maximum benefit will change once the UI program is returned to solvency and meets its federally mandated reserve requirement. Thus, legislation must clarify that once the UI debt is paid and the trust fund returned to at least its minimum reserve requirement, the *maximum benefit should be restored to the level it would have been had no freeze occurred (\$808 per week in 2024).*³ Legislation proposed in the Assembly "One House" makes this clarification.
- The UI program's maximum benefit is notably lower than peer and neighbor states. For example, New Jersey's maximum benefits is \$854 per week, Massachusetts's is \$1,033 per week, Connecticut's is \$796 per week, and Pennsylvania's is \$613 per week. See figure 2.
- Eventually, the benefit rate should be raised above 50 percent of a worker's previous wages. At current rates, the benefit is so low that the program cannot serve its safety-net function. For instance, an out-of-work individual who had been working full time and making \$40,000 in

¹ The law reads "the maximum benefit amount shall not be increased in accordance with the schedule set forth in paragraph (a) of this subdivision in any year in which the balance of the fund is determined by the commissioner to not have reached or exceeded thirty percent of the average high cost multiple."

³ Current law states: "If, following such suspension of an increase in the maximum benefit amount, the commissioner shall determine, on at least one day between April first and June thirtieth that the balance of the fund is greater than such thirty percent average high cost multiple, then the maximum benefit amount shall increase to the percentage for the year previously scheduled to be established pursuant to paragraph (a) of this subdivision had the increase not been suspended and increased annually thereafter in accordance with the schedule set forth in paragraph (a) of this subdivision."

annual earnings will receive only \$385 as their weekly UI payment (keyed to 50 percent of their annual earnings, or \$20,000). This is about \$9.60 on an hourly basis, significantly below the New York State minimum wage and not enough to pay for basic needs.

III. Reform tax base to permanently end chronic insolvency

New York's unemployment insurance program has been chronically underfunded for decades.ⁱⁱ The UI funding mechanism needs reform to end this chronic insolvency.

The primary change that should be made to the State's UI tax mechanism is an expansion of the taxable wage base. Currently, employers only pay tax on the first \$12,800 of employee wages. This creates both injustice and instability of the system. The taxable wage base should be adjusted to include 100 percent of wages paid by New York employers. Doing so could be paired with a decrease in the tax rate paid to about 1 percent on average while still significantly increasing the revenue from the tax.

Because only the first \$12,800 of an employee's wages are subject to the UI tax, low wage workers and their employers are taxed at implicitly higher rates, making the tax very regressive. For example, the wages of employees making less than \$50,000 per year are taxed at a maximum of 2.7 percent, whereas the wages of an employee making over \$150,000 per year are taxed at a maximum of 1.4 percent. By adjusting the taxable wage base to include 100 percent of all employee wages, the new tax would be far less regressive, though would still not be considered "progressive." The new tax would be considered a "flat" tax, applying the same rate (or very similar rates) to all employees.

The current UI tax uses an "experience rating" to determine an employer's UI tax rate; employers who have smaller balances in the UI account or who have paid out more in UI claims than they have taken in in tax revenue will be taxed at higher rates. The experience rating structure could be preserved under FPI's proposed reform to the UI tax scheme, however, rates would need to be scaled down so that their average across employers is equal to approximately 1 percent. This could be done using a simple multiplier that scales the current schedule of experience-rated tax rates. The scaling factor should be determined each year by the DOL commissioner such that the overall average tax rate nears 1 percent and sufficiently raises funds to cover UI needs.

Table 2 compares the current state UI tax system to this proposed change, demonstrating the benefit of increasing the tax base.

IV. Expand coverage to all state workers

Many of the most important reforms to UI that the State can make are through expanding the program to cover more workers. There is no principled explanation for why our UI program does not cover all workers in the State—and, in fact, increasing the scope of covered workers would increase the capacity of the state economy to weather downturns and disruptions.

There are numerous existing proposals to extend UI coverage to more workers, including:

- The Unemployment Bridge Program (S173/A3582): A proposal to expand UI to cover undocumented workers, self-employed workers, cash economy workers, and people who are in re-entry;ⁱⁱⁱ
- UI for education workers: A proposal to expand UI coverage to school support staff, such as custodial staff and cafeteria staff, who lose their jobs during summer months while school is out^{iv};
- UI for striking workers: a proposal to extend UI benefits to workers who are on strike or are locked out of work due to an ongoing labor dispute^v.

Each of these proposals is essential for achieving comprehensive UI coverage of all workers in New York.

V. Figures and Tables

Figure 1. Unemployment insurance maximum weekly benefit, actual historical amount vs. amount if system had stayed solvent

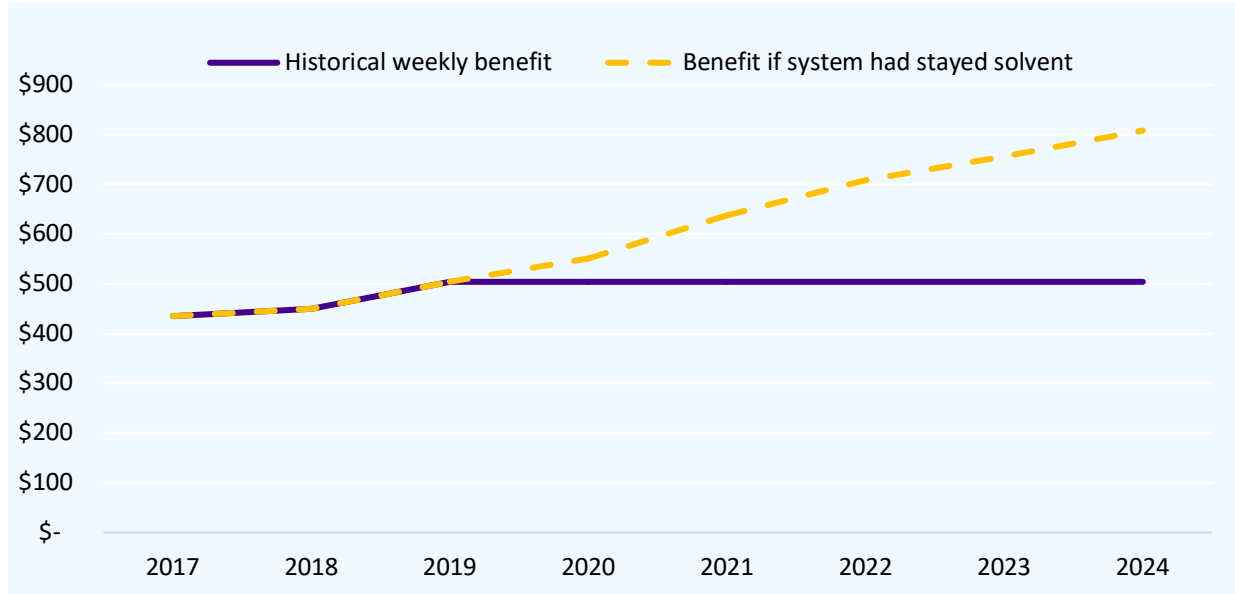


Table 1. Unemployment insurance maximum benefit, according to New York State law vs. realized amount

	Statute, assuming solvency	Statutory amount, assuming solvency	Actual historical benefit
2017	\$ 435	\$ 435	\$ 435
2018	\$ 450	\$ 450	\$ 450
2019	36% Average Weekly Wage	\$ 504	\$ 504
2020	38% Average Weekly Wage	\$ 551	\$ 504
2021	40% Average Weekly Wage	\$ 638	\$ 504
2022	42% Average Weekly Wage	\$ 709	\$ 504
2023	44% Average Weekly Wage	\$ 756	\$ 504
2024	46% Average Weekly Wage	\$ 808	\$ 504
2025	48% Average Weekly Wage		
2026	50% Average Weekly Wage		
2027	50% Average Weekly Wage		
2028	50% Average Weekly Wage		

Figure 2. Unemployment insurance maximum weekly benefit in NY and peer states

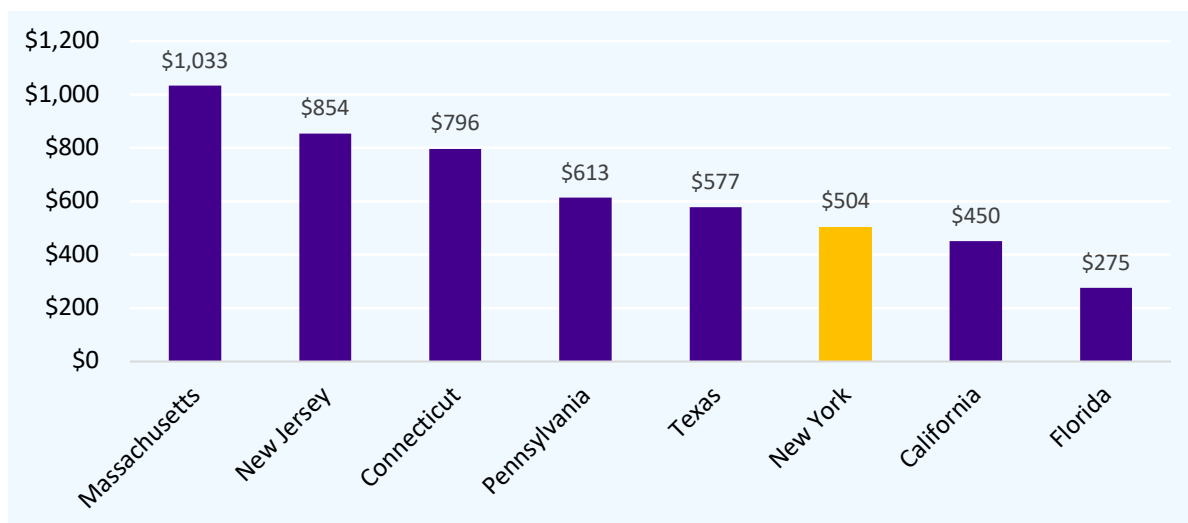


Table 2. Current UI tax scheme in NY vs. FPI reform proposal

Quarterly averages, 2005:Q1-2024:Q4	Current UI tax scheme	Proposed UI tax scheme
Total UI benefits paid	\$ 1,079,505	\$ 1,079,505
Total wages paid by taxable employers	\$ 146,558,171	\$ 146,558,171
Total Taxable wages	\$ 24,618,933	\$ 146,558,171
Percent of total wages (paid by taxable employers) that are taxed	16.8%	100.0%
UI revenue raised	\$ 917,697	\$ 1,465,582,189
Average tax rate on taxable wages (across employers)	3.84%	1.00%
Regressive, Flat, or Progressive?	Regressive	Flat
Max tax rate on employee earning \$50K	2.7%	1.00%
Max tax rate on employee earning \$100K	1.4%	1.0065%

Figure 3. New York unemployment insurance tax revenue and benefit payments (thousands)

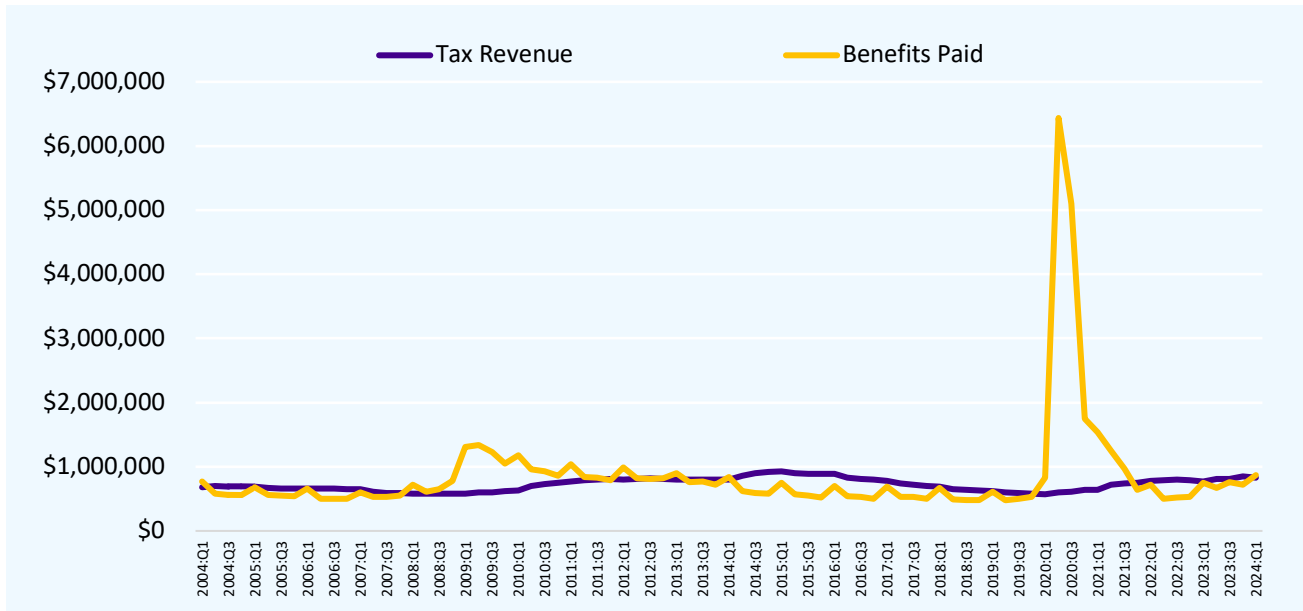
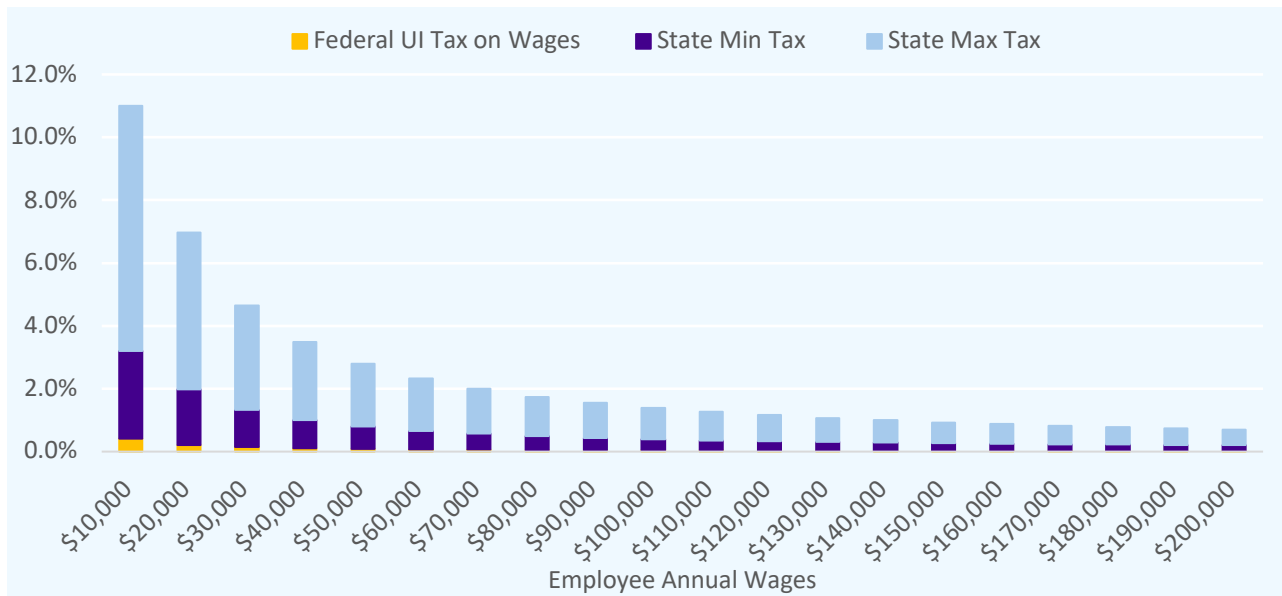


Figure 6. UI tax rates on employee wages by wage level



ⁱ Tax Foundation, “States Have \$95 Billion to Restore their Unemployment Trust Funds—Why Aren’t They Using It?” (September 2021), <https://taxfoundation.org/state-unemployment-trust-funds-2021/>.

ⁱⁱ <https://cbcny.org/research/options-address-nys-unemployment-insurance-trust-fund-debt>

ⁱⁱⁱ <https://fundexcludedworkers.org/>

^{iv} <https://www.epi.org/publication/k12-support-staff-summer-ui/>

^v <https://www.nelp.org/insights-research/unemployment-insurance-for-striking-workers/>