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Bill Memo for Draft Legislation: Unemployment Insurance Financing Reform

New York State's unemployment insurance system pays weekly benefits to workers who have become unemployed through no fault of their own, and it funds these benefits by requiring employers to make regular contributions to the state's unemployment insurance trust.

Unemployment insurance is a classic form of social policy designed to stabilize the economy, especially in economic downturns, by preventing temporarily unemployed workers from falling into poverty. New York State's current system of unemployment insurance contributions is too underfunded to serve these purposes, however. The state's trust has been consistently insolvent since 1974 because it relies on a tax that produces far too little revenue while also unfairly burdening employers of low wage workers and employers in volatile industries. This long-term structural insolvency of the UI system requires the state's trust to borrow from the federal government to pay unemployment claims in recessionary periods, leading to higher tax rates and interest obligations to the federal government. The state's outstanding debt to the federal government has also triggered a freeze in the benefit level under state law, making the benefit insufficient to keep households out of poverty. Even in normal economic circumstances, however, the state's unemployment trust is unable to fund an adequate benefit level that serves the economic stabilization and safety-net purposes of the policy.

This legislation reforms New York State's unemployment insurance contribution system to achieve the following aims: 1) it raises sufficient revenue to pay adequate benefits to unemployed workers; 2) it improves tax fairness by making the UI tax less regressive and decreasing the UI tax burden on small businesses; and 3) it simplifies the administration of the UI system.

Summary of Provisions:

Section 1 amends section 518 of the labor law to defines "wages" for purposes of determining contributions to the unemployment insurance trust as all wages for years beginning in 2026, and repeals the parts of the definition that limits "wages" for purposes of unemployment insurance contributions to 16 percent of the state's average annual wage.

Sections 2 through 8 amend the labor law to add new definitions required for the financing scheme proposed in the bill, including "payroll", "annual payroll", "computation date", "qualifying period", "average decline quotient", and "reserve rate".

“Average decline quotient” is a measure computed by the department of labor that determines the amount by which an employer’s payroll has decreased over the prior three-year period.

“Reserve rate” is an indicator of the fund balance required to cover benefit obligations, determined as a share of total payroll of employers require to contribute to the unemployment insurance trust fund.

Section 9 amends section 570 of the labor law to delete the reference to section 577, and section 10 amends the labor law to repeal section 577. Section 577 of the labor law imposes a subsidiary tax that is rendered unnecessary by the reforms contained in this bill.

Section 11 replaces section 581 of the labor law in its entirety with a scheme for prescribing employer contribution rates based on an “experience rating” that is determined by an employer’s change in payroll over time. An employer’s contribution rate is determined based on a formula the accounts for the cost of benefits paid out of the fund, the employer’s experience rating, and the reserve rate of the fund.

The purpose of the experience rating is to impose a relatively higher contribution rate on those employers that are responsible for more layoffs. However, the bill replaces the current experience rating system on individual employer accounts, which is excessively burdensome and creates a perverse incentive for employers to contest unemployment claims, thereby undermining the policy purposes of the unemployment insurance system.

Experience ratings are determined by sorting employers into rate classes, as shown in Column A in the table below, based on their relative declines in payroll in the percentage ranges shown in Column B. That is, employers in the bottom 5 percent of employers based on declining payroll are in rate class 1, the next 5 percent of employers with the lowest declines in payroll are in rate class 2, and so on.

	Cumulative annual payroll		
Column A	Column B		Column C
Rate class	At least	But not less than	Experience factor
1	0	5	0.40
2	5	10	0.45
3	10	15	0.50
4	15	20	0.55
5	20	25	0.60
6	25	30	0.65
7	30	35	0.70
8	35	40	0.80
9	40	45	0.90
10	45	50	1.00
11	50	55	1.00

12	55	60	1.10
13	60	65	1.20
14	65	70	1.30
15	70	75	1.35
16	75	80	1.40
17	80	85	1.45
18	85	90	1.50
19	90	95	1.55
20	95	100	1.60
21	100		1.65

An employer's contribution rate is determined by multiplying its experience rating times the average benefit cost rate, plus a solvency adjustment surcharge. The average benefit cost rate is a ratio of the amount of benefits paid to workers over the total wages paid by employers required to contribute to the system. The solvency adjustment surcharge applies in the event that the reserve rate falls below one percent and is equal to the difference between one percent and the reserve rate.

In the event that the trust fund balance rises in excess of the reserve rate, an employer receives a solvency adjustment credit to reduce their contribution.

Section 12 amends the labor law by adding a new section 581-e that imposes a tax rate of 5.4 percent on employers who are significantly delinquent in paying their contributions.

Section 13 amends section 581-b of the labor law to adjust the contribution rate to the re-employment service fund from 0.075 percent to 0.0125 percent, reducing the rate to proportionally adjust for the application of the contribution rate to all wages.

Section 14 provides that the act shall take effect immediately, subject to approval by the U.S. department of labor.