



March 23, 2023

The Honorable Toni Atkins  
 Senate President pro Tempore  
 1021 O Street, Suite 8518  
 Sacramento, CA 95814

The Honorable Anthony Rendon  
 Speaker of the Assembly  
 1021 O Street, Suite 8330  
 Sacramento, CA 95814

The Honorable Nancy Skinner  
 Chair, Senate Committee on Budget and Fiscal Review  
 1021 O Street, Suite 8630  
 Sacramento, CA 95814

The Honorable Philip Ting  
 Chair, Assembly Committee on Budget  
 1021 O Street, Suite 8230  
 Sacramento, CA 95814

**SUBJECT: UI FUND DEBT ASSISTANCE IN 2023-2024 BUDGET**

***Sent via email***

Dear Senate President Pro Tem Atkins, Assembly Speaker Rendon, and Budget Chairs Skinner and Ting,

On behalf of California's over 4 million employers – big and small, rural and urban, and across all industries – we write with concern about the Governor's Budget Proposal for the 2023-2024 Budget and its removal of two pieces of promised aid related to the Unemployment Insurance fund (UI Fund) from the 2022-2023

budget. We write in particular to focus your attention on this issue in light of your upcoming hearing on March 28<sup>th</sup> covering the Employment Development Department.

### **COVID-19 and California's COVID-Response Policies Caused the UI Fund Insolvency of \$18 Billion**

COVID caused an unprecedented shutdown of California's economy, and led to consequentially unprecedented layoffs and utilization of the UI Fund. Adding to this historic drain on the fund, the Employment Development Department (EDD) proved ill-equipped for the rapid increase in claimants. After numerous oversight hearings and analyses of EDD's failings, it is clear that EDD's failings added further to the UI Fund's insolvency in two ways: (1) by failing to prevent fraud and, instead, distributing funds to fraudulent claimants;<sup>1</sup> (2) by mistakenly distributing overpayments to legitimate claimants.<sup>2</sup> Although EDD and local law enforcement have attempted to recover some of these mistaken distributions, recovery rates appear to be less than 10% of the mistaken distributions. In other words – these mistakes at EDD added to the UI Fund deficit, which is presently estimated at \$18.8 billion.

While we applaud EDD for implementing the STRIKE team's recommendations – including utilizing a digital identity verification service that meets federal standards to prevent an estimated \$125B in additional fraud - we are concerned that EDD is not committed to maintaining an investment in proven fraud prevention in the coming years. We encourage EDD to maintain strong identity verification tools at the federal IAL2 level in order to prevent fraud up front, thus protecting Californians and California businesses.

### **Businesses of All Sizes Will Face Increased Taxes Based on the UI Fund's Insolvency**

Because California's UI Fund has been insolvent now for two consecutive years, California's employers are facing annual tax increases on all businesses in the state on a per-employee basis.<sup>3</sup> Specifically, California employers will see an increase of \$21-per-employee in their payroll taxes due to the UI Fund's insolvency. In each following year, payroll taxes will continue to increase by \$21 per employee, rising to a maximum rate of \$434 per employee per year if the fund remains insolvent.

These tax increases have no exceptions for small businesses or particularly troubled industries, and will hurt the state's efforts to rebuild its workforce as we exit the pandemic. In fact, they will hit staff-heavy industries – such as restaurants – the hardest as they look to re-hire and rebuild in 2023 and beyond.

### **The 2023-2024 Budget Proposal Removed All Significant UI Fund Assistance**

Despite the urgent need for assistance – which many other states recognized regarding their own UI Funds<sup>4</sup> - California's 2023-2024 budget removed all of the UI Fund assistance promised in the 2022-2023 budget. As a refresher: despite a massive \$100 billion surplus, the 2022-2023 budget provided small aid (\$250 million in direct payment) to the UI Fund, and promised more significant aid in the coming years, comprised of:

- 1) \$750 million in direct payment to the UI Fund from the general fund to help reduce the total debt.
- 2) \$500 million for a tax rebate to prevent the tax increases caused by the UI Fund's debt from hurting small employers.

All of this aid was removed in the Governor's proposed 2023-2024 budget, leaving California's businesses facing tax increases that will only grow in the coming years and discourage hiring across the state. We

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<sup>1</sup> Though estimates of fraudulent benefits attributable to the UI Fund differ – with EDD estimating over \$1 billion, and the Legislative Analyst's Office estimating far less – the existence of fraudulent payments being distributed is not disputed.

<sup>2</sup> Notably, EDD recently signed a settlement acknowledging its distribution of mistaken overpayments and its inability to quickly identify those mistakes. However, instead of recovering those amounts, EDD agreed to waive those overpayments, further depleting the fund. See *Center for Workers' Rights v California Employment Development Department*, Case No. RG21106525, February 16, 2023 Settlement Agreement.

<sup>3</sup> Though federal law approaches the change as a reduction of a tax credit, the effect is the same – an increase in the tax burden faced by businesses.

<sup>4</sup> The following states provided aid for their UI Fund, or direct aid to employers related to their UI fund: Alaska, Arkansas, Delaware, Georgia, Hawaii, Idaho, Indiana, Iowa, Louisiana, Maine, Mississippi, Missouri, Montana, North Dakota, South Carolina, South Dakota, Tennessee, Virginia, and Wyoming.

urge you to restore *at least* the meager but important commitment to provide \$500 million in tax relief for employers in the 2023-2024 budget. Furthermore, because these tax increases will not end in 2024, we ask you to further consider two additional proposals in less impacted budget years: (1) committing future moneys to help restore the solvency of the UI Fund; and (2) ensuring that employers not be forced to repay debts caused by fraud or mismanagement on the part of EDD.

California's businesses did not cause the COVID-19 shutdown – and had no control over EDD's mistaken distribution of the employer-funded UI Funds – but now California employers are being taxed for these policies. Just as COVID-19 was a statewide public emergency and went beyond individual private employers, the cost of COVID-19 on California's UI Fund should not fall on private employers alone.

Sincerely,



Robert Moutrie  
Policy Advocate  
California Chamber of Commerce  
on behalf of

Acclamation Insurance Management Services  
Allied Managed Care  
Brea Chamber of Commerce  
California Association of Health Facilities  
California Association of Sheet Metal and Air  
Conditioning Contractors, National Association  
California Association of Winegrape Growers  
California Attractions and Parks Association  
California Beer and Beverage Distributors  
California Cotton Ginners and Growers  
Association  
California Chamber of Commerce  
California Citrus Mutual  
California Date Commission  
California Farm Bureau  
California Framing Contractors Association  
California Fresh Fruit Association  
California Grocers Association  
California Hotel & Lodging Association  
California Landscape Contractors Association  
California League of Food Producers  
California Manufacturers & Technology  
Association  
California Restaurant Association  
California Retailers Association  
California Travel Association  
California Trucking Association  
Chino Valley Chamber of Commerce  
Coalition of Small and Disabled Veteran  
Businesses  
El Dorado County Chamber of Commerce  
El Dorado Hills Chamber of Commerce  
Elk Grove Chamber of Commerce

Family Business Association of California  
Flasher Barricade Association  
Folsom Chamber of Commerce  
Greater Coachella Valley Chamber of Commerce  
Greater San Fernando Valley Chamber of  
Commerce  
Hollywood Chamber of Commerce  
Housing Contractors of California  
Lincoln Chamber of Commerce  
Murrieta/Wildomar Chamber of Commerce  
National Association of Theatre Owners  
National Federation of Independent Business  
Oceanside Chamber of Commerce  
Official Police Garages of Los Angeles  
Plumbing-Heating-Cooling Contractors  
Association of California  
Rancho Cordova Chamber of Commerce  
Residential Contractors Association  
Rocklin Chamber of Commerce  
Roseville Area Chamber of Commerce  
San Manuel Band of Mission Indians  
Santa Maria Valley Chamber of Commerce  
Shingle Springs/Cameron Park Chamber of  
Commerce  
Southwest California Legislative Council  
Torrance Area Chamber of Commerce  
Tri County Chamber Alliance  
United Chamber Advocacy Network  
Western Agricultural Processors Association  
Western Electrical Contractors Association  
Wine Institute  
Yuba Sutter Chamber of Commerce

cc: Christy Bouma, Legislative Affairs Secretary, Office of the Governor  
Joe Stephenshaw, Director, Department of Finance  
Members, Senate Committee on Budget and Fiscal Review  
Elisa Wynne, Staff Director, Senate Committee on Budget and Fiscal Review  
Members, Assembly Committee on Budget

Patrick Le, Consultant, Assembly Committee on Budget  
Members, California State Senate  
Members, California State Assembly

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