



Associated General Contractors (AGC)



MURRIETA/WILDOMAR CHAMBER OF COMMERCE



January 19, 2022

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

The Honorable Jim Nielsen  
Vice Chair, Senate Budget and Fiscal Review  
1021 O Street, Room 7110  
Sacramento, CA 95814

The Honorable Phil Ting  
Chair, Assembly Budget Committee  
1021 O Street, Room 8230  
Sacramento, CA 95814

The Honorable Vince Fong  
Vice Chair, Assembly Budget Committee  
1021 O Street, Room 4630  
Sacramento, CA 95814

***Sent via email***

**SUBJECT: BUDGET PROPOSAL RE: UNEMPLOYMENT INSURANCE LOAN SUPPORT**

Dear Members:

The California Chamber of Commerce and other organizations listed below **SUPPORT** Governor Newsom's budget proposal regarding the outstanding unemployment insurance (UI) loan from the federal government. We are glad that the Governor has proposed to pay \$3 billion towards this outstanding UI debt. This payment would cover the State's responsibility for distributing fraudulent payments as well as a small but meaningful portion of the outstanding \$19.7 billion insolvency. We respectfully request for the Legislature to support the Governor's proposal for the reasons set forth below.

**Background on the UI Fund Insolvency & Payroll Tax Increases:**

California's UI program is funded exclusively by employers via state and federal taxes on wages. Employees do *not* pay any UI taxes. These employer contributions are deposited in the Unemployment Trust Fund (UI Fund) of the U.S. Treasury Department. States withdraw money from their account in the trust fund exclusively to pay UI benefits. If a state trust fund does not have adequate funds to pay benefits, as California experienced in May 2020, a loan is made from the federal fund so that all employee claims can be paid.

Generally, the contribution rate for an employer is 0.6% of wages, up to \$7,000 of wages per employee/per year, which is \$42, assuming the state is in compliance with unemployment insurance laws and the state's fund is solvent. However, if a state's UI Fund is insolvent for more than two years, that tax rate increases by 0.3% each year or \$21, until the fund becomes solvent, creating a steadily growing tax increase on the state's employers. If the fund remains insolvent for 18 years, the maximum rate is \$420 per employee per year.

**State Action and UI Fraud Both Contributed to the UI Fund's Present Insolvency:**

This pandemic created unprecedented unemployment numbers, which drained the State's UI Fund to an unprecedented level. To be clear - we do not dispute the public health need for shutdowns and limitations on many workplaces throughout the pandemic. But – in the same token – no one can dispute that these orders compelled many workplaces to shut down and made them unable to pay their employees, leading to an economy-wide surge in unemployment in early 2020. By May of 2020, California's UI Fund was depleted and falling quickly into debt, which meant California had to begin borrowing money from the federal government to pay the ongoing unemployment benefits to over a million unemployed workers.

At the same time, the rapid rise in claims for unemployment led to historic levels of fraud. According to the State Auditor's office, the Employment Development Department (EDD) was unprepared for the surge of claims and internal review processes failed to catch substantial fraud.<sup>1</sup> According to recent estimates,

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<sup>1</sup> The State Auditor's report is available here: <http://www.auditor.ca.gov/reports/2020-628.2/sections.html#section1>. Notably, it was prepared in January of 2021, and the EDD has subsequently revised estimates related to fraud, making some portions of the reports outdated.

California distributed at least \$20 billion in benefits to fraudulent claims, with an estimated \$1.3 billion coming from California's UI Fund and the remainder coming from federally funded benefits programs. Because the UI Fund is repaid by taxes on employers, California's employers will be directly responsible for the cost of EDD providing benefits to these fraudulent claims.

Notably, we appreciate the subsequent actions by the legislature to assert their oversight of EDD – including the many hearings held during the 2021 legislative session focused on speed and accuracy in processing of future claims. We also support the \$134 million allocation in the Budget to improve EDD's future performance and internal systems – but these corrective measures will not address the effect that fraud has already had in adding to our present insolvency.

The most recent estimates place the UI Fund's total debt – including fraudulent UI claims – at \$19.7 billion.<sup>2</sup>

### **The Majority of Other States Do Not Have a UI Loan and Federal Relief is Unlikely:**

Federal aid is not coming to solve California's insolvency. As a part of the two separate federal relief packages, states were given money to offset the costs of the pandemic. Many other states utilized that federal money to pay off their UI loans – including a \$7.2 billion payment by Texas. California did not expend any funds to help with the UI Fund's insolvency (not even to assist with fraud's \$1.3 billion addition). Put simply – Congress is not going to bail out California's UI Fund. Congress already gave states the funds and the option to do so – but California chose to utilize those funds elsewhere.

### **Paying Down Principal Balance Benefits the Employer Community and State:**

Because California's UI Fund will have been insolvent for two years as of January 2022, all California employers will face a per-employee tax increase of \$21 in 2023 and increasing tax increases every year thereafter. Those per-employee taxes will hit the labor-intensive fields such as restaurants, hospitality, and tourism the hardest. These are the very same industries that the pandemic has already hit the hardest, and which need support to rebuild and re-hire their workforces. More broadly, all employers in California will be disincentivized towards re-hiring when facing increasing per-employee taxes until this insolvency is paid off.

Notably, the State will also benefit from paying down this insolvency. The state is responsible for paying the interest on any outstanding UI loan from the federal government. As an example, the January Budget includes a \$470.1 million interest payment by the state to the federal government. The state can also anticipate similar (though slowly declining) interest payments in the coming years for as long as the fund remains insolvent. In other words: the sooner the debt is paid off, the sooner the state can stop paying this annual cost.

Given California has had back-to-back budget surpluses, now is the right time to use a portion of this year's surplus to help reduce the present insolvency, which will lessen the state's own future obligations while simultaneously covering the cost of UI fraud and helping minimize future tax increases on California's recovering businesses.

For these reasons, we **SUPPORT** the budget proposal regarding repaying a portion of California's existing UI loan.

Sincerely,



Robert Moutrie  
Policy Advocate  
California Chamber of Commerce  
on behalf of

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<sup>2</sup> This estimate is current as of January of 2022. Live data is available at: [https://www.treasurydirect.gov/govt/reports/tfmp/tfmp\\_advactivitiesched.htm](https://www.treasurydirect.gov/govt/reports/tfmp/tfmp_advactivitiesched.htm).

Acclamation Insurance Management Services  
Allied Managed Care  
Associated General Contractors  
California Association of Winegrape Growers  
California Attractions and Parks Association  
California Beer and Beverage Distributors  
California Building Industry Association  
California Business Properties Association  
California Cable & Telecommunications  
Association  
California Chamber of Commerce  
California Construction and Industrial Materials  
Association  
California Craft Brewers Association  
California Farm Bureau  
California Grocers Association  
California Hospital Association  
California Hotel & Lodging Association  
California League of Food Producers  
California Lodging Industry Association  
California Manufacturers & Technology  
Association  
California New Car Dealers Association  
California Pool and Spa Association  
California Restaurant Association  
California Self Storage Association  
California Sheet Metal and Air Conditioning  
Contractors, National Association  
California Staffing Professionals  
California Travel 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 Bakersfield Chamber  
Greater Coachella Valley Chamber of Commerce  
Greater Conejo Valley Chamber of Commerce  
Greater Riverside Chambers of Commerce  
Hollywood Chamber of Commerce  
Housing Contractors of California  
Inland Empire Economic Partnership  
Laguna Niguel Chamber of Commerce  
Lodi Chamber of Commerce  
Murrieta/Wildomar Chamber of Commerce  
National Federation of Independent Business  
Pleasanton Chamber of Commerce  
Plumbing-Heating-Cooling Contractors  
Association  
Rancho Cordova Area Chamber of Commerce  
Roseville Area Chamber of Commerce  
Sacramento Metropolitan Chamber of Commerce  
San Pedro Chamber of Commerce  
Santa Maria Valley Chamber of Commerce  
Southwest California Legislative Council  
Torrance Area Chamber of Commerce  
Oceanside Chamber of Commerce  
Orange County Business Council  
United Chamber Advocacy Network  
Western Electrical Contractors Association, Inc.  
Western Growers Association  
Wine Institute  
Yuba Sutter Chamber of Commerce

cc: Keely Bosler, Director, Department of Finance  
Members, Senate Committee on Budget and Fiscal Review  
Members, Assembly Committee on Budget  
Angie Wei, Legislative Affairs Secretary, Office of the Governor