HB 724

Department of Legislative Services

Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 724 (Delegate Charkoudian)
Economic Matters

Unemployment Insurance Modernization Act of 2023

This bill generally expands the overall size of the State's unemployment insurance (UI) program by increasing employee benefits and increasing employer taxable wages. Under the bill, employee benefits and employer taxable wages are based on average wages, which vary year-to-year. The bill also extends the employer earned rating period from three years to five years and establishes collateral requirements for "investment funds," as defined, subject to specified enforcement mechanisms. The bill has multiple effective dates for the various changes, described below. **The bill generally takes effect January 1, 2024.**

Fiscal Summary

State Effect: The Maryland Department of Labor (MDL) can generally implement the bill with existing budgeted resources. State expenditures to reimburse the Unemployment Insurance Trust Fund (UITF) increase significantly beginning in FY 2026, as discussed below. State finances are also affected beginning in FY 2026, due to the tax treatment of UI benefits and employer taxes. Assumptions and additional context for these effects are discussed below.

UITF Effect: Nonbudgeted UITF revenues increase by $88.0 million in FY 2025, escalating to $624.1 million in FY 2028, and significantly thereafter. Nonbudgeted UITF expenditures increase by $182.3 million in FY 2026, escalating to $448.4 million in FY 2028, and significantly thereafter. Assumptions for this estimate are discussed below.

($ in millions)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
NonBud Rev.	$0	$88.0	$275.8	$489.6	$624.1
NonBud Exp.	$0	$0	$182.3	$330.5	$448.4
Net Effect	$0.0	$88.0	$93.5	$159.1	$175.7

Local Effect: Meaningful. Local governments are affected in much the same way as the State government, as employers and recipients of tax revenues, as discussed below.

Small Business Effect: Meaningful.

Analysis

Bill Summary/Current Law:

Changes to Employee Benefits

Effective July 1, 2025: Changes to employee benefits, some of which are phased in, are shown in **Exhibit 1**. Estimated dollar amounts are shown in **Exhibit 2**. Actual amounts will depend on wage growth and what percentages the Secretary chooses to use in 2025 and 2026.

Changes to Employers' Taxable Wages

Effective January 1, 2024: The taxable wage base for employers is increased from $8,500 to a percentage of the average annual wage (AAW) for employees in the State applicable to the rate of contribution. The Secretary of Labor must annually set the taxable wage base as an increasing percentage of the AAW of employees in the State until the taxable wage base is 25% of the AAW beginning in 2027. Estimated dollar amounts are shown in Exhibit 2 and are based on the same wage growth assumptions. Actual amounts will depend on wage growth and what percentages the Secretary chooses to use during the phase-in period.

For any calendar year beginning on or after January 1, 2025, the rate table in effect for a calendar year may not shift more than two tables from the rate table in effect for the immediately preceding calendar year if the shift would result in a higher earned rate of contribution. (For example, Table A can only shift to Table B or Table C the following year, instead of as far as Table F.)

Effective July 1, 2025: The general three-year lookback period used for determining an employer's benefit ratio is increased to four years. A related change is made to increase an alternative lookback period from two years to three years. As under current law, the benefit ratio is calculated by adding chargeable UI benefits during the stated time period and dividing by the taxable wages for the same period. The benefit ratio, along with the applicable tax table, is used to determine employer taxes.

Effective July 1, 2026: The four-year lookback period is increased to five years. A related change is made to extend an alternative lookback period to four years.

Exhibit 1
Changes to Employee Benefits and Employer Taxable Wages under the Bill

Current Law	The Bill	Effective Date of Provision
WBA is $50 to $430 per week. Generally, amounts equate to 1/24 of high quarter wages in base period.	Minimum WBA is 15% of State AWW. Maximum WBA must increase annually to reach 66.6% of AWW by 2027. WBA is 1/24 of high quarter wages in base period.	7/1/2025
Dependent allowance is $8, limit of five. Cannot increase maximum WBA.	Dependent allowance is 25% of minimum WBA, limit of five. Cannot increase maximum WBA.	7/1/2025
The first $50 in weekly wages is disregarded for determining WBA.	50% of the claimant's WBA is disregarded for determining WBA.	7/1/2025
Taxable wage base is $8,500.	Taxable wage base must increase annually to reach 25% of AAW by 2027.	1/1/2024

AAW: average annual wage (in covered employment)
AWW: average weekly wage (in covered employment)
WBA: weekly benefit amount

Source: Department of Legislative Services

Exhibit 2
Illustrative Dollar Amounts[1] by Calendar Year

	2024	2025[2]	2026	2027
Effective AWW	N/A	$1,515	$1,550	$1,585
Minimum WBA	$50	$230	$235	$240
Maximum WBA[2]	$430	$635	$835	$1,055
Dependent Allowance	$8	$55	$60	$60
Maximum Income Disregard	$50	$320	$420	$530
Employer Taxable Wage Base	$8,500[3]	$12,335	$16,220	$20,615

AAW: average annual wage (in covered employment)
AWW: average weekly wage (in covered employment)
WBA: weekly benefit amount

[1]All dollar amounts shown are rounded to the nearest $5 and are for illustrative purposes only. AWW in future years is based on the 2021 AWW of $1,337, with annual growth rates ranging from 2.3% to 5.6%. Actual WBA will depend on wage growth. The prior-year AWW is used for the calculations each year.

[2]The Secretary of Labor must annually increase the maximum WBA and the employer taxable wage base before ongoing percentages apply in 2027. For the maximum WBA, this estimate assumes a linear increase from approximately 30% wage replacement under current law beginning July 1, 2025. For the taxable wage base, this estimate assumes a linear increase from approximately 11% of AAW under current law beginning in 2025.

[3]The estimate does not assume a taxable wage base increase in 2024, although the bill does not preclude such an increase.

Source: Department of Legislative Services

Investment Fund Collateral Requirements

Effective January 1, 2024: Each investment fund must, as collateral (1) execute and submit to the Secretary a surety bond or (2) deposit with the Secretary an irrevocable letter of credit, money, or security. Both options are subject to Secretary approval. A related change is made to employer contribution and employment reports requiring identification of whether an employer is a portfolio company and information on the relevant investment funds.

"Investment fund" means a hedge fund or private equity fund, as defined under federal law, that individually or together own a minimum of 30% of a portfolio company whose debt ratio is more than 500% during the rating year. "Portfolio company" means an employing unit owned by one or more investment funds. Other terms are defined, and related requirements are established, such as the minimum and maximum dollar amounts of the collateral, which is based on prior rates of contribution by each portfolio company.

The Secretary must review the amount of collateral each year to determine the sufficiency of the collateral and take steps to have the collateral increased if necessary. The collateral may be used by the Secretary to satisfy unpaid contributions, interest, and penalties through processes described in the bill.

Unemployment Insurance Program – Generally

For a general overview of the State UI program, see the **Appendix – Unemployment Insurance.**

State Fiscal Effect: The bill significantly increases employee benefits and employer taxes/reimbursements under the State UI program. Taxable wages are assumed to begin increasing January 1, 2025, although the bill does not preclude an increase in 2024. Employee benefits begin increasing July 1, 2025. These changes affect MDL as the program administrator, the State as an employer, income tax revenues, and UITF, as discussed below.

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MDL advises that administrative costs associated with the changes in the bill are approximately $50,000 in fiscal 2024 for a one-time programming expense. This estimate assumes existing federal funding is sufficient for implementation; if not, additional above-base federal funding will be provided for any allowable expense. Absent federal funding, general funds are required.

State as an Employer

The State, as an employer, reimburses UITF dollar-for-dollar for UI benefits paid to former employees on a quarterly basis and has historically reimbursed approximately 1.3% of State UI benefits paid. As the bill increases UI benefits beginning July 1, 2025, State expenditures for reimbursements increase significantly beginning in fiscal 2026. Under the estimated benefit increases discussed in the UITF effect below, State expenditures for reimbursements increase by $2.4 million in fiscal 2026, $4.3 million in fiscal 2027, and $5.8 million in fiscal 2028. **This estimate should be viewed as preliminary.**

Income Tax Revenues

UI benefits are taxable income, although not all Maryland UI benefits paid show up on Maryland tax returns, for a variety of reasons. The bill significantly increases UI benefits, which increases State (and local) government revenues. However, increased employer contributions to UITF also decrease employer federal income taxes (as a deductible expense), which reduces State and local income tax revenues. The net effect on State (and local) government finances from increasing both UI benefits and employer taxes is unknown at this time, however, given the magnitude of the changes, it could be significant beginning in fiscal 2026. The effect on local highway user revenues (LHURs) depends on the extent of corporate income tax revenue changes.

UITF Effect: Broadly, nonbudgeted UITF revenues increase beginning in fiscal 2025 and nonbudgeted UITF expenditures increase beginning in fiscal 2026, concurrent with assumed and required changes to employer taxes and employee benefits, as shown in **Exhibit 3**. These estimates are based on multiple assumptions about employer taxes and employee benefits under the bill and cannot account for unknown economic shocks.

A consultant analysis conducted by the Upjohn Institute as a follow-up to a UI system reform study required by Chapters 45 and 46 of 2021 forms the basis of this estimate. The consultant analysis was originally shared with the Department of Legislative Services (DLS) by MDL, although it was conducted at the request of a member of the General Assembly. **This estimate should be viewed as preliminary**. Among other inputs and assumptions, this estimate is based on the following:

- Dollar amounts for wages, weekly benefit amounts (WBAs), taxable wage base, etc. are those shown in Exhibit 2 above, including the timing of each;
- Overall increases in UITF expenditures reflect both increased WBAs and increased benefit duration. The primary driver of UITF expenditures is the maximum WBA;
- Overall increases in UITF revenues reflect both the increases to taxable wage base and increased reimbursements from government and nonprofit employers. The estimate does not reflect any revenue changes associated with changes to employer benefit ratios, both in their actual amounts and in their four- and five-year calculation periods under the bill going forward. Extending the lookback period would generally be expected to spread out employer tax increases due to chargeable benefits over additional years, but it can also increase taxes for some employers;
- Baseline UITF revenues and expenditures are from the follow-up Upjohn analysis. That baseline generally reflects an ongoing “steady state” in Table A with expenditures slightly outpacing revenues in the out-years as average benefits increase but taxable wages remain flat;
- This estimate does not include any effect of the collateral requirements for investment companies under the bill, although they potentially increase UITF revenues beginning as early as fiscal 2024; and

- As this estimate assumes a steady state and Table A, it does not reflect any changes due to the two-table movement limit under the bill in the event of a recession. However, in such a case, UITF revenues from employer taxes would increase more slowly than under the current system since it takes three years to reach Table F from Table A under the bill. If there were to be insufficient fund balance at any point to pay benefits, a loan from the U.S. Department of Labor would be required. Depending on the solvency of UITF, the loan may be interest-free, or not. Interest payments would be made with general funds.

Exhibit 3
Unemployment Insurance Trust Fund Revenues and Expenditures
Fiscal 2024-2028
($ in Millions)

	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Additional UITF Revenues	$0.0	$88.0	$275.8	$489.6	$624.1
Additional UITF Expenditures	0.0	0.0	182.3	330.5	448.4
Net Effect	**$0.0**	**$88.0**	**$93.5**	**$159.1**	**$175.7**
Baseline UITF Revenues	$477.0	$418.5	$426.5	$435.5	$444.0
Baseline UITF Expenditures	$375.0	$405.0	$447.5	$488.5	$545.5
Total UITF Revenues	$477.0	$506.5	$702.3	$925.1	$1,068.1
Total UITF Expenditures	$375.0	$405.0	$629.8	$819.0	$993.9

UITF: Unemployment Insurance Trust Fund

Note: This estimate should be viewed as preliminary. Numbers may not sum to total due to rounding.

Source: Upjohn Institute; Department of Legislative Services

Local Fiscal Effect: Local government reimbursements to UITF for employee UI benefits paid increase significantly beginning in fiscal 2026. The amount is unknown at this time but should approximate the overall UI benefit increases under the bill.

Local government revenues are affected, potentially significantly, from changes associated with enhanced UI benefits and employer taxes beginning in fiscal 2026. The effect on LHURs depends on the extent of corporate income tax revenue changes. The amount is unknown at this time.

Small Business Effect: Small businesses pay significantly higher State UI taxes beginning in fiscal 2025 (assuming no change to the taxable wage base in 2024) due to the increased taxable wage base. Going forward, enhanced UI benefits may also increase some employer benefit ratios, which will further increase UI taxes for those employers. Benefit ratios will also be determined over additional years going forward, which will lengthen the effect of any benefit charges on employer taxes; some employers will benefit from that change while others – such as those with no other benefit charges – will not.

While not considered small businesses for purposes of fiscal and policy notes, small nonprofit employers must reimburse UITF for the cost of increased UI benefit payments under the bill beginning in fiscal 2026.

Additional Comments: DLS notes that the four- and five-year lookback periods for employer experience ratings under the bill do not conflict with employer UI tax relief provided under Chapter 39 of 2021 (The RELIEF Act).

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 670 (Senator Rosapepe) - Finance.

Information Source(s): Maryland Department of Labor; Department of Budget and Management; Montgomery County; Maryland Municipal League; Upjohn Institute; Department of Legislative Services

Fiscal Note History: First Reader - February 19, 2023
js/ljm

Analysis by: Stephen M. Ross

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

Appendix – Unemployment Insurance

Program Overview

Unemployment Insurance (UI) provides temporary, partial wage replacement benefits of up to $430 per week to individuals who are unemployed through no fault of their own and who are willing to work, able to work, and actively seeking employment. Both the federal and state governments have responsibilities for UI programs. Generally, funding for the program is provided by employers through UI taxes paid to both the federal government for administrative and other expenses and to the states for deposit in their UI trust funds. Using federal tax revenues, the UI program is administered pursuant to state law by state employees. The Maryland Department of Labor's (MDL) Division of Unemployment Insurance administers the State's UI program.

Each state law prescribes the tax structure, qualifying requirements, benefit levels, and disqualification provisions. These laws must, however, conform to broad federal guidelines.

Employer Contributions

Most Maryland employers pay State UI taxes, although State and local governments and some nonprofit organizations reimburse the Unemployment Insurance Trust Fund (UITF) for claims paid in lieu of paying taxes. Therefore, for most Maryland employers, the State UI tax rate is a function of:

- the employer's specific unemployment claims history; and
- the applicable tax table, which is based on the State's UITF balance and applies to most taxable employers.

Exhibit 1 shows the range of State UI taxes a typical employer owes based on the tax table in effect; there are other rates for new employers and in other limited circumstances. State UI taxes and reimbursements are typically due quarterly; however, Chapter 39 of 2021 allows employers with fewer than 50 employees to defer 2021 State UI tax payments or reimbursements until January 31, 2022, and authorized the Secretary of Labor to offer a similar deferment in 2022. The Act, in conjunction with a 2020 executive order, also prevented UI *claims* made during the COVID-19 pandemic from increasing an employer's taxes, although employers still paid broadly higher rates under Table F in 2021 and Table C in 2022 and will continue to do so under Table C in 2023.

Exhibit 1
Tax Tables and Applicable Employer Tax Rates

	As of Sept. 30, if the Trust Fund Balance, As a Percentage of Taxable Wages		Trust Fund Balance ($ in Millions)		Then Next Year's Tax Rates Range from…			Annual Tax Per Employee (Rate x $8,500)		
Tax Table	**Exceeds**	**Up to**	**Exceeds**	**Up to**	**No Claims**	**Single Claim**	**Up to**	**No Claims**	**Single Claim**	**Up to**
A	5.00%	N/A	$1,038.2	N/A	0.30%	0.60%	7.50%	$25.50	$51.00	$637.50
B	4.50%	5.00%	$934.4	$1,038.2	0.60%	0.90%	9.00%	51.00	76.50	765.00
C	4.00%	4.50%	$830.5	$934.4	1.00%	1.50%	10.50%	85.00	127.50	892.50
D	3.50%	4.00%	$726.7	$830.5	1.40%	2.10%	11.80%	119.00	178.50	1,003.00
E	3.00%	3.50%	$622.9	$726.7	1.80%	2.60%	12.90%	153.00	221.00	1,096.50
F	0.00%	3.00%	$0.0	$622.9	2.20%	3.10%	13.50%	187.00	263.50	1,147.50

Notes: Fund balance threshold dollar amounts are based on the 2021 taxable wage base and are subject to modest changes each year. A "single claim" represents the tax rate applicable to the lowest possible rate associated with nonzero (.0001 to .0027) benefit ratios. Taxes are applied to the first $8,500 earned by each employee, each year; compensation less than that amount reduces taxes owed accordingly.

Table F was in effect in 2021 due to the COVID-19 pandemic; prior to that, Table A had been in effect since 2016. Table C is in effect in 2022 and 2023 pursuant to Chapter 73 of 2021, which also resulted in an $830 million infusion of federal funds into the trust fund in 2021. A preexisting State law requiring a federal solvency goal to be met prior to moving to a tax table with lower rates will again apply beginning in 2024. The federal solvency goal, which is designed to ensure the State's ability to pay claims during periods of high unemployment, is approximately $1.4 billion.

As of January 1, 2023, the trust fund balance was $1.5 billion.

Source: Department of Legislative Services

Benefit Payments

Generally, the weekly benefit amount a claimant is eligible for is based on the quarterly wages that the claimant was paid for covered employment in the calendar quarter of the claimant's base period in which those wages were highest. The base period is the first four of the last five completed calendar quarters immediately preceding the start of the benefit year, or, if the individual does not qualify under that definition, the four most recently completed calendar quarters immediately preceding the start of the benefit year.

Weekly benefit amounts range from $50 to $430 per week, based on earnings in the base period. There is also a dependent allowance of $8 per dependent, for up to five dependents, although the allowance cannot raise the weekly benefit amount above $430. The first $50 of any wages earned by an individual receiving UI benefits in a given week is disregarded for purposes of calculating the weekly benefit amount, after which the benefit payment is reduced dollar for dollar. These amounts do not adjust for inflation. Generally, during a benefit year, a claimant is entitled to 26 times the claimant's weekly benefit amount. During periods of high unemployment, extended benefits may also be available.

2021 Legislation Enhanced and Required Evaluation of the State Unemployment Insurance System

The unprecedented volume of claims and benefit payments due to COVID-19 strained the State UI system to its limit, which raised numerous concerns about the system's ability to effectively meet the needs of claimants and employers. Consequently, during the 2021 legislative session, the General Assembly required several system reforms, including an MDL-led study regarding various longer-term reforms.

Broadly, the new laws (1) required Table C to apply in 2022 and 2023; (2) made administrative changes to assist employers in paying their taxes, specifically allowing them to defer payments under certain circumstances; (3) exempted certain UI benefit payments from being subject to the State income tax; (4) temporarily modified benefit calculations to assist claimants working on a part-time basis; (5) made system administrative changes that must be implemented by MDL; and (6) enhanced the State's work sharing program, which allows an employee to continue working at reduced hours and obtain UI benefits under certain circumstances.