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To: Chairman Sarlo, Vice-Chairwoman Cunningham & Members of the Senate  
Budget & Appropriations Committee

From: Christopher Emigholz, NJBIA Chief Government Affairs Officer

Date: March 21, 2023

RE: **NJBIA Testimony on Proposed New Jersey's FY2024 State Budget –  
"Down Payment Towards Competitiveness"**

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Good morning! My name is Christopher Emigholz, and I am the Chief Government Affairs Officer for the New Jersey Business & Industry Association (NJBIA). On behalf of our member companies that make NJBIA the largest business association in our state, thank you for the opportunity to speak with you today regarding Governor Murphy's recently proposed FY2024 (FY24) State Budget.

While the FY24 state budget is far from perfect, it is the most pro-business state budget Governor Murphy has proposed, and it represents the ***beginning of a down payment towards greater economic competitiveness***. That first step toward competitiveness is most embodied by Governor Murphy's decision to allow the temporary corporation business tax (CBT) surtax to sunset at the end of 2023, as it is scheduled per current law, and not propose any new taxes or fees, and we implore you, our State Legislature, to maintain both provisions in this state budget that you are beginning to review today.

NJBIA asks you to consider this budget through the lens of competitiveness because a more economically attractive New Jersey means job growth, stronger wages and benefits, more businesses choosing to locate and expand here and greater state revenues without the need to increase taxes. These are goals the business community and Legislature all share. In a massive \$53.1 billion state budget, there are decisions that impact competitiveness throughout – both for better and worse.

- ***Down Payment Towards Competitiveness***
- ***Fiscal Responsibility Today Leads to Competitiveness Tomorrow***
- ***More Needed for Small Business Competitiveness***
- ***Concern About Unsustainable Spending Growth Hurting Future Competitiveness***

***Down Payment Towards Competitiveness:***

This budget fortunately includes several elements that start us on a road to greater competitiveness. ***Sunsetting the temporary CBT surtax within the FY24 state budget is the right thing to do***, and NJBIA thanks Governor Murphy for including that down payment toward competitiveness in his proposed budget. New Jersey has had the highest corporate income tax rate in the nation since 2018 (11.5%) thanks to the CBT surtax. (*As seen in the tax map below*). In that time, states like Pennsylvania, Connecticut, New Hampshire, and 12 others have taken steps to decrease their top

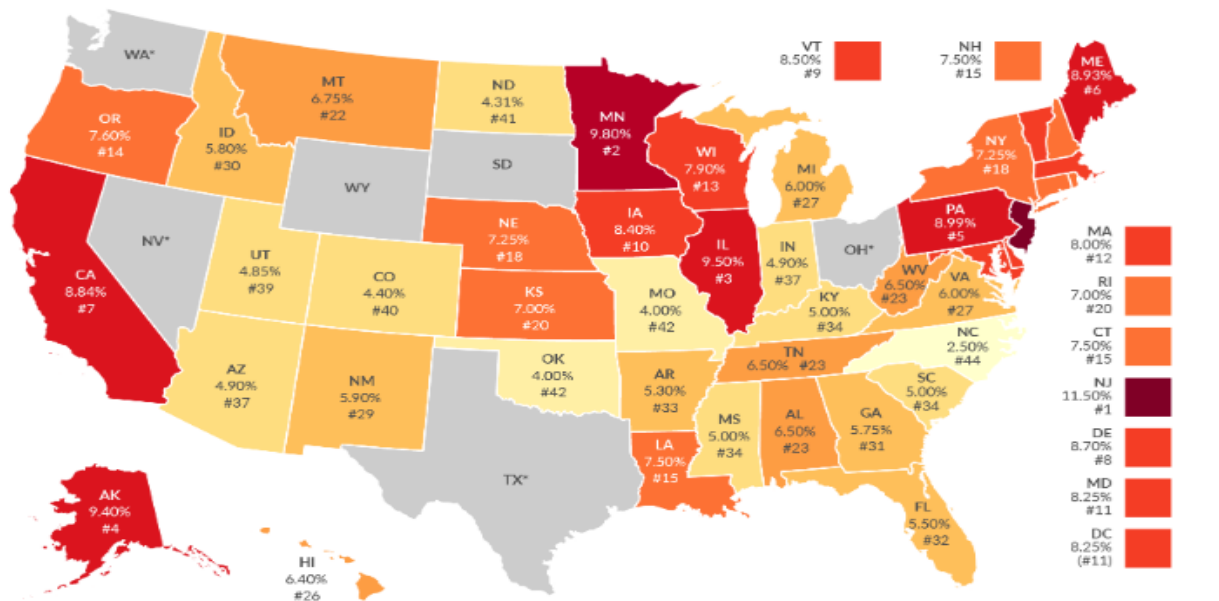
corporate income tax rate. In fact, over that span, only one state increased their top corporate income tax rate.

Governors from both political parties, including neighboring Democrats in Pennsylvania, Josh Shapiro and Tom Wolf, have taken steps to reduce their CBT in reaction to evidence that doing so can boost economic growth, jobs, productivity and wages to offset direct but short-term revenue losses. Pennsylvania is in the first year of a multi-year plan to cut its corporate tax in half from the second highest in the nation at 9.99% last year to 4.99% in 2031, which would be below average among states.

Sunsetting the surtax will only take New Jersey from worst in the nation to fourth worst. Meanwhile, we know that decades of academic research has shown how taxes on corporate income are ultimately passed on to workers in the form of lower wages. It is not about whether some large successful companies can afford to pay the highest tax in the nation. It is about the massive number of jobs those employers provide and the impact on competitiveness from having the highest CBT in the nation and what it means for those jobs. NJBIA requests that the temporary CBT surtax stays temporary and goes away this year as scheduled. We also ask for your consideration, as you look to the future, to make this a great first step toward a longer-term CBT reform that will make New Jersey more attractive for employers.

## How High are Corporate Income Tax Rates in Your State?

Top Marginal Corporate Income Tax Rates as of January 1, 2023



Note: In addition to regular income taxes, many states impose other taxes on corporations such as gross receipts taxes and franchise taxes. Some states also impose an alternative minimum tax and special rates on financial institutions.

\*Nevada, Ohio, Texas, and Washington do not have a corporate income tax but do have a gross receipts tax with rates not strictly comparable to corporate income tax rates. Delaware, Oregon, and Tennessee have gross receipts taxes in addition to corporate income taxes, as do several states like Pennsylvania, Virginia, and West Virginia, which permit gross receipts taxes at the local (but not state) level.

Connecticut has historically charged a 10% surtax on a business's tax liability if it has gross proceeds of \$100 million or more, or if it files as part of a combined unitary group. This surtax expired on January 1. Legislators have extended the surtax in the past and will decide whether to do so again this session.

Illinois' rate includes two separate corporate income taxes, one at a 7% rate and one at a 2.5% rate. In New Jersey, the rates indicated apply to a corporation's entire net income rather than just income over the threshold. A temporary and retroactive surcharge is in effect from 2020 through 2023, bringing the rate to 11.5% for businesses with income over \$1 million.

Sources: Tax Foundation; state tax statutes, forms, and instructions; Bloomberg Tax.

Top State Marginal Corporate Income Tax Rates

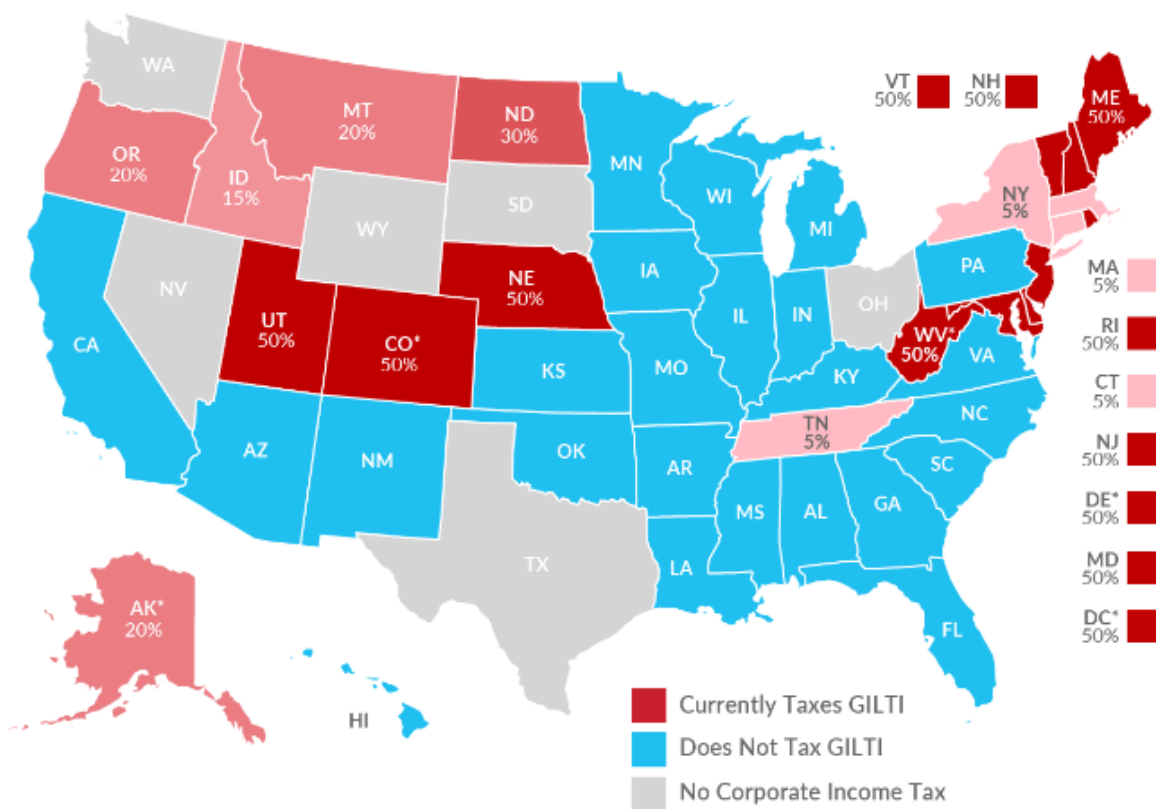


It is also the right thing to do to propose a state budget with ***no new taxes or fees directly included in the budget***. Strong natural revenue growth, the largest surplus in state history, continued historic increases in school funding and maintaining a full pension payment all point to no need for additional taxes, and the business community appreciates that. A stable and predictable tax environment is important for economic growth and will lead to further natural revenue growth over time. The attached 2023 Regional Business Climate analysis developed by NJBIA shows that we just cannot afford any more taxes in our already worst-in-the-region tax climate.

Continuing the tax relief theme, Governor Murphy committed on page 24 of the Budget-in-Brief to the NJBIA-supported ***CBT reform legislation that will provide GILTI (foreign income) tax relief*** while shifting to the Finnigan method (instead of Joyce) for combined reporting calculations. It also makes New Jersey more competitive regarding the tax treatment of net operating losses (NOLs). This bill has been introduced in the Assembly as A-5323 (Pintor Marin) and is expected to be introduced in the Senate soon. The state tax map below shows that New Jersey is currently uncompetitive when it comes to how we treat foreign income versus most other states, and this proposed legislation will improve that dramatically. NJBIA looks forward to supporting that bill and getting it done over the next few months.

## Twenty States and the District of Columbia Continue to Tax GILTI

State Taxation of Global Intangible Low-Taxed Income (as of May 20, 2021)



(\*) Taxes GILTI but has not yet issued guidance.

Sources: State statutes and guidance; Bloomberg Tax; Tax Foundation research.

NJBIA also supports the ***pro-growth spending*** in the proposed FY24 in the three areas of: 1) workforce development, 2) infrastructure and 3) innovation. These types of spending are win-wins for employees and employers. They will help our economy get back to higher-paid, sustainable jobs that produce things as opposed to the economy we have unfortunately slipped into with lower-paid and more volatile service jobs.

NJBIA is happy to see ***workforce development investments*** such as the massive \$832 million increase in school aid plus \$109 million more for preschool, which is both important for the future workforce and for property tax relief. We also support the \$30 million in federal funds for high-impact tutoring and other academic recovery programs to counter pandemic learning loss. Increasing Tuition Assistance Grants (TAG) by \$15 million is also a great investment. NJBIA also supports the \$5 million increase in funding from the Workforce Development Partnership Fund for a new total of \$27.5 million to invest in job training.

On the workforce development and innovation side, NJBIA asks you to maintain and hopefully increase state funding for our ***community colleges' successful Career Pathways and Basic Skills Training*** programs that have been funded in prior budgets. We request an ***additional \$1 million to support the cell and gene therapy biomanufacturing workforce development needs*** of the pharmaceutical industry in the state. Similarly, we also want to see funding maintained or increased for the successful ***NJMEP*** program. NJBIA also requests a ***\$1 million appropriation to support the new robotics law*** that will help get our next generation of workers into STEM and more technical jobs like manufacturing, A-2455 (Benson, Huttie, DeAngelo)/S-2204 (Greenstein, Oroho), that unanimously passed two years ago, but remains unfunded. Also, for workforce development and innovation, NJBIA requests an additional ***\$1 million for the Secretary of State's Office per S-1754 (Beach/Testa) to launch a marketing/branding campaign on innovation and why manufacturing jobs are great jobs.***

For ***infrastructure investments***, NJBIA is supportive of increased clean water investments in the budget as well as the reduced shift from NJ Transit's capital funds. We also support the new \$100 million Boardwalk Fund to support shore towns investing in their boardwalks, as well as the \$40 million investment for improved IT infrastructure for our unemployment insurance (UI) systems and the Motor Vehicle Commission. NJBIA also supports the additional \$5 million for the Shore Protection Fund. The proposed housing and urban investments in the FY24 budget are also important pro-growth spending that should be preserved.

To support ***innovation***, we were excited to see \$15 million added to last year's \$50 million invested in Strategic Innovation Centers. NJBIA also supports more than \$50 million in added resources to grow the green economy including reducing NJ Transit funding from Clean Energy Fund. The \$20 million for manufacturing initiatives is also great pro-innovation spending.

Lastly on the pro-growth investments, NJBIA also seeks a ***comprehensive plan from the Legislature and Governor Murphy on the best use for the remaining federal ARPA funds.*** The state has a transformational opportunity in front of us because of this money, and NJBIA believes that a plan to optimize its use focused on one-time spending in the already mentioned pro-growth areas of workforce development, infrastructure and innovation will improve our economy for generations to come. Examples like further investment in training for the healthcare workforce, clean water infrastructure, broadband and/or college laboratories could all stimulate our economy for years to come. NJBIA has been disappointed with the lack of strategic planning behind the first ARPA uses

in prior budgets, and we hope for a more deliberative and organized process during the upcoming FY24 budget discussions.

### **Fiscal Responsibility Today Leads to Competitiveness Tomorrow:**

The proposed FY24 state budget continues some of Governor Murphy's recent fiscally responsible budget initiatives, and these will eventually relieve budget stress so the state could have more resources for competitiveness reforms in the future. This includes the ***third straight 100% pension payment and largest in state history at \$7.1 billion (supported by NJBIA)***. As for the ***\$10 billion ending surplus***, this is more challenging. Proponents will say this level of surplus is responsible to prepare for a possible economic downturn amidst national and global economic uncertainty, but critics will point out that it represents taxes that were unnecessarily collected and now not being used. The answer probably lies somewhere in the middle. Granted, a bigger cushion will be helpful to avoid tax increases and spending cuts if there is an economic downturn coming up, but \$10 billion may be oversized.

Additionally, Governor Murphy announced that he was making an additional \$2.35 billion deposit in the ***Debt Defeasance and Prevention Fund*** that NJBIA has supported for a three-year total of \$11 billion into that fund. In February, Treasury announced that it defeased about \$1 billion in school construction debt from money already in this fund, and the fund has also been used to allocate about \$3.5 billion toward capital projects. When combined, a total of \$3.2 billion in bonds have now been defeased with net savings to the taxpayers of about \$1.2 billion. When revenues are coming in higher than anyone expected, NJBIA believes this is an appropriate use of that overperformance.

NJBIA is also pleased to see a proposed budget that will spend less money than it collects, ***eliminating the structural imbalance*** that has stubbornly persisted in recent years. Last year's FY23 state budget proposed to spend \$1.7 billion more than the revenues it was expected to collect, and the signed FY23 budget still expected to have \$200 million more in expenditures than revenues. The FY22 budget also proposed to spend more than it brought in. The FY24 budget responsibly proposes \$700 million more in revenue than appropriations, ending that structural imbalance for the time-being.

### **More Needed for Small Business Competitiveness:**

Despite NJBIA's support of several features of the FY24 budget, we are concerned that there is ***not nearly enough proposed tax relief for small businesses***. The surtax sunset will greatly help our corporate competitiveness, but it does not support our struggling small businesses that are still trying to recover from the pandemic amidst inflation, supply chain issues and workforce shortages. NJBIA proposes two initiatives to specifically support small businesses and address their rising costs:

- ***Small Business UI Payroll Tax Relief***
- ***Property Tax Relief for Small Business***

NJBIA was disappointed that legislation to reduce unemployment insurance (UI) payroll tax increases that passed the Assembly and almost passed the Senate was held up last June. Further concerning is the fact that we are one of the minority of states that did not use federal relief funds to replenish the state's UI trust fund. Additionally, as of March 9, 2023, just five states, including New Jersey, still have advance authorizations from the federal government to support their state unemployment trust fund. This shows our state is not out of the UI woods yet, and on July 1, 2023, UI payroll taxes will increase again for almost every employer in New Jersey for the third straight year. UI taxes will be up nearly

\$1 billion for all employers after this third year of the phased-in tax increase is complete. Additionally, NJBIA's research shows that New Jersey employers face one of the highest maximum unemployment insurance tax contributions of any state in our region. ***NJBIA strongly requests that the Legislature provide UI tax relief before this next increase hits in just a few short months.***

The FY24 budget proposes another \$2 billion for the new ANCHOR property tax relief, but that program specifically excludes businesses. That is tough to understand when businesses pay about half of the property taxes in New Jersey, which are the highest in the nation, and property taxes represent the largest tax paid by business taxpayers. ***NJBIA requests an expansion of ANCHOR to include small businesses and manufacturers*** and looks forward to working with the Legislature to make this happen. Also on the property tax side, ***NJBIA requests the continuation of the Energy Tax Receipts funding restoration*** in last year's FY23 budget that helped all property taxpayers including businesses.

Where will we find the resources to support these requests? We suggest utilizing some of the \$10 billion surplus. These are wise investments that are needed now and will reap economic return from those businesses that we can assist today. Their ability to have these resources means further investment into their businesses instead of further costs to pay taxes. This type of investment in our New Jersey businesses, along with the CBT sunset will send a strong message that we care about our employers and the jobs they create each and every day.

### **Concern About Unsustainable Spending Growth Hurting Future Competitiveness:**

NJBIA continues to be concerned about the ***rapid spending growth*** in recent state budgets and in the FY24 budget. The proposed \$53.1 billion in spending is \$2.5 billion, or about 5%, higher than last year and \$18.4 billion, or 53%, higher than the last budget before Governor Murphy took office just six years ago. (The total Murphy budget increase can be slightly softened if the shift in Energy Tax Receipts from off-budget to on-budget several years ago is considered.)

That rapid growth may not be sustainable without future tax increases that could reverse any down payment towards competitiveness that this FY24 budget makes. Towards that, NJBIA supports any efforts to pursue ***structural reforms*** that reduce spending such as public employee benefit reforms and local government shared services and consolidations. NJBIA understands that a significant portion of the increases have been due to pension and school aid increases. But we also know that a very large portion of the increase is unrelated to necessary and responsible spending. Discretionary spending needs to be tempered, and all spending should be reduced where possible.

### **Conclusion:**

While New Jersey's budget is currently in a unique, strong cash position with a historically large surplus and strong revenue performance, it is critical that the state advance appropriate competitiveness reforms to ensure the FY24 budget truly is a "***Down Payment Towards Competitiveness.***" Where can we eliminate or reduce the competitive disadvantages that New Jersey businesses face versus those in our neighbor states as depicted in the 2023 Regional Business Climate graphic below and the maps above? If we advance the above tax relief recommendations, in addition to the investments in

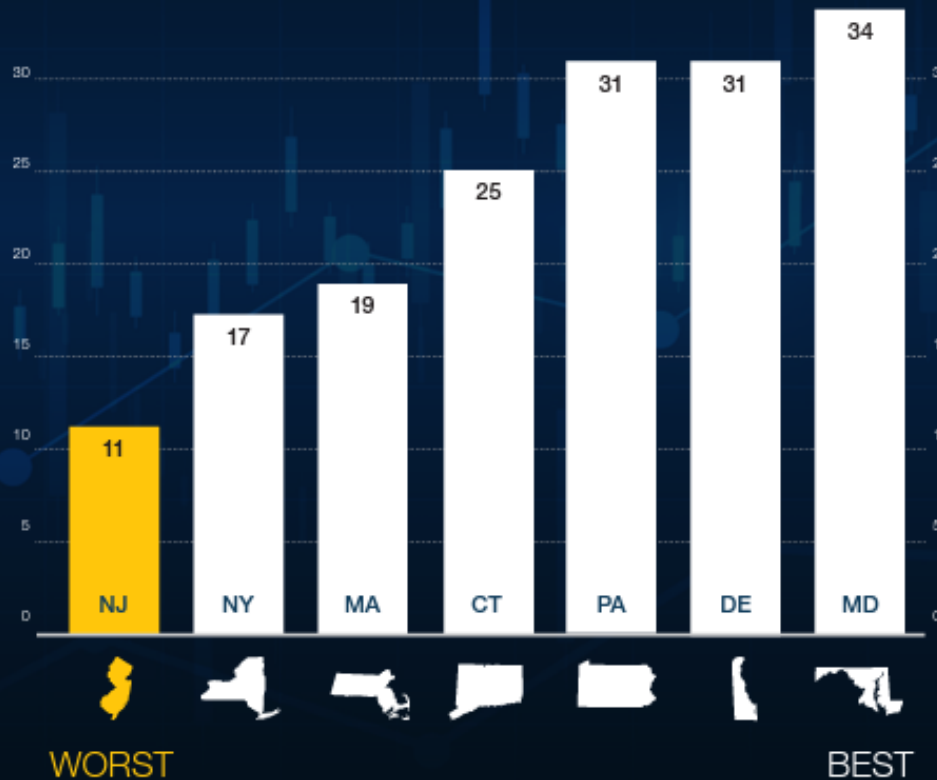
workforce development, infrastructure and innovation, we will have a state budget that properly prioritizes competitiveness and well positions New Jersey to be a job creation leader.

Thank you for considering NJBIA's perspective on the FY24 state budget. We look forward to working with all of you over the next few months to keep the CBT surtax sunset, keep new taxes out of this budget, and better focus this budget on supporting our small business community. Please email Christopher Emigholz at [cemigholz@njbja.org](mailto:cemigholz@njbja.org) to further discuss any of NJBIA's budget points.

# 2023 Regional Business Climate

*New Jersey Remains Worst in Region*

Overall Regional Business  
Climate Score



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# 2023 Regional Business Climate

## An NJBIA State Level Analysis

**METHODOLOGY:** NJBIA tracked six individual business costs and metrics – minimum wage rate, top income tax rate, top corporate tax rate, sales tax rate, property taxes as a percentage of personal income, and the maximum unemployment insurance tax contribution per employee – and compared New Jersey's rates with those of Connecticut, Delaware, Maryland, Massachusetts, New York and Pennsylvania.

NJBIA scored the regional rates from 1 (least competitive in the region) to 7 (most competitive). Overall, the higher the total points, the more competitive a state is. New Jersey's cumulative regional business climate score was 11 after totaling the six categories, ranking seventh in the region. Maryland scored the highest at 34.

### 2023 Regional Rates

■ HIGHEST ■ LOWEST

State	Minimum Wage Rate	Top Income Tax Rate	Top Corporate Tax Rate	State Sales Tax Plus Avg. Local Rate**	Property Tax Paid as a % of Personal Income	Maximum UI Contribution Per Employee***	Overall Regional Business Climate Score
Maryland	\$13.25	5.75%	8.25%	6.00%	2.66%	\$892.5	34
Delaware	\$11.75	6.60%	8.70%	0.00%	1.86%	\$1,189.0	31
Pennsylvania	\$7.25	3.07%	8.99%	6.34%	2.71%	\$993.0	31
Connecticut	\$14.00*	6.99%	7.50%	6.35%	4.20%	\$1,020.0	25
Massachusetts	\$15.00	9.00%	8.00%	6.25%	3.37%	\$2,433.0	19
New York	\$14.20	10.90%	7.25%	8.52%	4.36%	\$1,188.0	17
New Jersey	\$14.13	10.75%	11.50%	6.60%	4.80%	\$2,122.8	11

\* Will increase to \$15 effective June 2023.

\*\* Combined rate, as measured by the Tax Foundation, accounts for states where local sales taxes are applied in addition to state rates.

\*\*\* Calculated by multiplying each state's taxable wage base and maximum tax rate.

#### Sources:

- United States Department of Labor, State Minimum Wage Laws Database
- Tax Foundation. (2022). 2023 State Business Tax Climate Index
- State Government Websites

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