



The “Fair Share for Health Care Act” and New York’s Labor Market

by Dr. Aaron S. Yelowitz, University of Kentucky

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Abstract

New York’s so-called “Fair Share for Health Care Act” imposes a pay-or-play health insurance mandate on firms with 100 or more employees. These firms employ more than 70 percent of New York’s workforce, and would be subject to a tax as high as \$3 per hour for covered workers. As a consequence, a firm employing a full-time, full-year worker could be subject to an additional annual labor cost of as much as \$6,000.

This study has four goals. First, I describe the major legislative provisions of the health insurance mandate, along with the likely economic impact. A firm could react to the mandate by adjusting hiring practices, relocating out of New York, raising output prices, reducing the quality of their product, accepting lower profitability, or going out of business. Previous economic work suggests wage shifting is a likely response. When such an offset is not possible (due to New York’s minimum wage of \$6.75 per hour), the mandate is likely to destroy jobs. Layered on top of the textbook “supply-and-demand” analysis, New York’s law creates a “hiring notch.” For many firms, labor costs go up dramatically from hiring the 100th employee, which creates a strong incentive for firms to fire workers, consolidate part-time jobs into full-time jobs, or stunt growth in order to stay below the 100-employee threshold.

Next, I document current health insurance arrangements in New York. After documenting these trends, I model the provisions of the health-insurance mandate and estimate the coverage and cost impact. Although advocates state that 450,000 workers in New York would be affected by the legislation, this estimate counts only uninsured workers. The law also impacts

nearly 3 million *insured workers*. These workers can be insured through their own employer, a spouse’s plan, directly purchased insurance, Medicaid, Medicare, or Champus/Tricare. For all of them—especially those in the latter five groups—the employer costs from the mandate are substantial, yet there is minimal impact on the uninsured. Even for workers covered by their own firm, the employer costs would still go up since many employers currently contribute less than \$3 per hour for health coverage.

Consistent with the claims of the advocates, I find New York’s mandate covers 466,000 uninsured workers, yet this coverage is less than one-third of the all uninsured workers. At the same time, the cost to employers from the mandate is at least \$5.7 billion, and could be as high as \$9.2 billion, translating into a cost of at least \$12,000 per newly-insured worker. The reason why this cost is so high is that the majority of the expense falls onto workers that already have private insurance coverage.

Lastly, I assess the possible labor market adjustments. Credible economic studies suggest that much of the employer cost will be shifted to workers in the form of lower wages. For those close to the minimum wage, wage shifting is not possible and employment losses ensue. The estimates suggest that between 37,000 and 65,000 low-wage workers will lose their jobs. I also examine the impact of the hiring notch. For firms with 75 and 125 employees—representing just one percent of all establishments in New York—I find that another 32,000 workers will lose their jobs in the first year of implementation. In total, employment losses in excess of 69,000 jobs are likely from New York’s employer mandate.

The “Fair Share for Health Care Act” and New York’s Labor Market

1. Introduction

As state policymakers struggle to deal with rising healthcare costs and increasing numbers of uninsured, they consider various policy interventions. Prompted by Maryland’s veto override of a “Wal-Mart bill,” many states are now exploring employer pay-or-play mandates. These mandates usually require large employers to either offer health insurance or pay a tax. Although legislation has been proposed in dozens of states in 2006, New York’s recent bill, the so-called “Fair Share for Health Care Act,” is particularly noteworthy because it targets firms with 100 or more employees and requires a tax as high as \$3 per hour. In contrast, Maryland’s bill only affected firms with 10,000 or more employees and required healthcare spending of 8 percent of payroll.

The goal of this study is to explore how New York’s bill will affect health insurance coverage and the labor market. To do so, the analysis utilizes two data sets and arrives at estimates on coverage, costs, and employment loss. The remainder of the study is organized as follows. Section 2 highlights some of the most important aspects of New York’s employer mandate, and discusses the likely economic responses. Section 3 describes the Current Population Survey data, and shows the current health insurance arrangements in New York. Section 4 models New York’s legislation and estimates the coverage and cost to business. Section 5 explores the labor market impact. Section 6 concludes.

2. Economic Responses to New York’s Employer Mandate

2.1 Major Provisions of New York’s “Fair Share for Health Care Act”

Recent legislation in New York (S. 7090/A. 0583), dubbed the “Fair Share for Health

Care Act,” was introduced by State Senator Nick Spano (Republican—Yonkers) and Assemblyman Richard Gottfried (Democrat—Manhattan) on behalf of the Working Families Party.¹ This bill applies to employers with 100 or more employees and imposes a pay-or-play health insurance mandate. Firms of this size employ more than 70 percent of New York’s workforce.² If passed this year, the health insurance mandate would be enforced starting January 1, 2007.³

Although the concept of New York’s pay-or-play is straightforward—pay for health insurance or pay a tax—the details of the law are more complex, and in some cases, open to varied interpretations. First, New York’s law imposes a **\$3 per hour tax** to pay for healthcare costs, and then raises the tax annually with healthcare inflation.⁴ The tax applies to full-time employees, part-time employees, seasonal employees and temporary employees.⁵ The tax is paid on all hours of work, including hours in excess of 40 hours per week.⁶ The tax is also paid for teenage seasonal workers, who are likely covered under a parent’s health insurance plan.⁷ As a consequence of the tax, a firm employing a full-time, full-year worker could be subject to an additional annual labor cost as costly as \$6,000. This legislative language also means that many firms who are already providing adequate health insurance would also have to pay the tax, because the typical employer contribution is less than \$3 per hour. For example, Rockland Business Association CEO and President Al Samuels recently stated:

“There are many good health plans that cost about \$3,700 a year per employee. At \$3 an hour for a 50-week year, the cost of this tax would be \$6,000. For a company with 100 employees that differential would be \$230,000.”⁸

Second, this health insurance tax can be offset (up to 100 percent) with actual employer contributions to healthcare.⁹ This *offset* in healthcare costs occurs on a county-by-county basis, not statewide. Thus, a firm could not use healthcare contributions in New York City to offset healthcare costs in Albany.¹⁰ As discussed in the fifth point, the offset provisions in the bill are far from complete.

Third, there is *no guarantee that an employee will get employer coverage*. The New York bill does not require the firm to offer coverage to any particular employee or the employee's dependents; instead the firm can pay the tax. If the employee is unable to receive health benefits from any other source, the employee and his or her dependents could get subsidized government care.¹¹ Although the employee can receive government coverage, the employee's premium contribution to this subsidized government healthcare is not explicitly stated.

Fourth, employers with *100 or more workers* in the state of New York are "covered firms" and required to pay the tax. Firms with 99 or fewer employees in the state are "uncovered" and exempt from the tax.¹² Although not specifically spelled out, provisions like this often use a simple headcount.¹³ This creates an obvious incentive to consolidate part-time jobs into full-time jobs to get below the 100-employee threshold. Regardless of firm size, companies in manufacturing or agriculture are exempt from the employer mandate.¹⁴

Finally, all lower-paid employees are covered under the bill, but *some higher-paid employees are excluded*. The "Fair Share for Health Care Act" states that a: "'Covered employee' means any employee of a covered employer except one who is both employed in a bona fide executive, administrative or professional capacity and making in excess of six hundred dollars per week."¹⁵

The fact that higher paid employees are more likely to have health insurance cover-

age and more generous employer contributions means that by excluding them, the employer's obligation for lower-paid employees could go up. To illustrate, imagine that one lower-paid employee works part-time (1,000 hours per year) and does not receive health insurance, while another higher-paid employee works full time (2,000 hours per year) and receives \$7,000 of health insurance paid completely by the employer. If the higher-paid earned more than \$31,200 per year and was in an executive, administrative or professional job, then the extra \$1,000 in employer contributions could not be used to offset the lower-paid worker's tax. Thus, the tax would be \$3,000 rather than \$2,000 in this example.

2.2 Economic Responses—Wages, Employment, Prices, and Notches

The economics literature offers general guidance on the labor-market impact of employer mandates. The most discussed methods of adjustment are shifting wages, reducing employment and increasing prices. This section borrows heavily from my previous analysis of California's Health Insurance Act of 2003 in Yelowitz (2003, 2004).

In a seminal paper, Summers (1989) presents an analysis of mandated benefits. Mandated benefits such as New York's pay-or-play bill create a tax-benefit linkage. He points out that "mandated benefits represent a tax at a rate equal to the difference between the employers cost of providing the benefit and the employee's valuation of it, not a rate equal to the cost of the employer of providing the benefit." A simple supply-and-demand analysis of the labor market reveals that to the extent that employees value employer-provided health insurance from New York's mandate, they will be willing to accept lower wages. In the extreme where workers value the health insurance at the full cost of providing it, the economic costs of such a pay-or-play mandate will be fully passed onto workers in the form of lower wages, and

there will be no job loss. When employees value health insurance at less than its full cost, however, employers will not be able to fully offset the costs of health insurance with lower wages, and there will be some amount of job loss.

The study that provides the closest analog to the possible wage-shifting effects of New York's "Fair Share for Health Care Act" is Gruber (1994). Gruber studied several state and federal laws that mandated comprehensive childbirth benefits in health insurance policies, and therefore substantially raised the cost of insuring women of childbearing age. He finds shifting of the costs of the mandates from the employer to the employee in the form of lower wages on the order of 100 percent. Thus, he provides strong evidence that firms will lower wages (when possible) to "pay" for the mandate.

The possibility of wage shifting, especially in the long run, significantly changes the cost interpretation of New York's mandate. Although the costs to employers initially go up, this cost is now passed onto workers in the form of lower wages or reduced wage growth. In the short run, nominal wages might be "sticky" and unlikely to adjust downward; over the longer term, however, real wage growth is likely to slow.

There are two impediments to full wage-shifting. The first is the employee's valuation of the benefit. Some workers will certainly not value the employer coverage from New York's legislation very much. Some recipients of government healthcare would have had that insurance crowded out by employer-provided health insurance. For these enrollees, the additional value of employer health insurance over their current health plan is surely quite small and it will be more difficult for employers to pass along the cost of the mandate in the form of lower wages. The same is also probably true for the uninsured that are eligible for, but not participating, in Medicaid (assuming that non-participating eligibles know they can

qualify for the program). It is also likely that some of the uninsured—especially younger, healthier adults—do not put a very large valuation on health insurance relative to its cost. In addition, a significant number of New York workers *already* have employer insurance through their spouse—for them, it is hard to see why they would place much of premium on having coverage in their own name.

The second impediment is the minimum wage. Summers (1989, p. 181) notes that if there is a binding minimum wage, then "wages cannot fall to offset employers' cost of providing a mandated benefit, so it is likely to create unemployment." Employers of low-wage workers would not be able to shift the full burden of New York's employer mandate onto their employees. Wage shifting would have been constrained for some employees due to the New York's minimum wage of \$6.75 per hour. Operating under this constraint, employers are faced with a similar situation to an increase in the minimum wage and will likely adjust employment levels.

Although adjusting wages and employment are the most obvious economic responses, several other possibilities exist. These possibilities include higher prices, lower quality, lower profits, firm relocation, or going out of business. The most discussed of these possibilities is higher prices. If product markets are not competitive, it might be the case that firms are able to raise prices, passing along the costs of the mandate to consumers. The ability of firms to raise prices is likely to be quite limited, however. The reason is because New York's mandate imposes relatively high costs on a small number of large firms (with 100 or more employees) and no costs on small firms (with 1 to 99 employees). Data from the 2003 County Business Patterns ("CBP") shows that nearly 98 percent of firms are exempt due to their small sizes, yet they impose discipline in pricing in product markets.¹⁶ Although the ability to pass along the higher health insurance costs in

the form of higher prices varies by industry and market rather than statewide (as is illustrated by the CBP data), it is unlikely that all firms in a particular industry will fall exclusively into the large or small grouping. Thus, there is likely to be significant competitive pressure on prices in all industries.

Finally, New York's mandate would create a "hiring notch"—a large jump in costs by hiring one more employee—through its different requirements based on firm size. The cutoff in the legislation means that for a firm that was not previously providing health insurance, it would have to provide and/or pay more for health insurance for all of its employees by hiring the 100th worker. The costs are potentially large, though there is little published work examining such hiring notches.¹⁷ Consider a firm that employed only full-time workers, did not offer (and/or contribute) toward insurance premiums, and was contemplating hiring the 100th worker. This firm would face a marginal cost to its healthcare bill of \$600,000, because it would now have to pay \$3 per hour for healthcare for *all* of its employees. Even if the firm contributed \$4,000 per year already, it would face a "hiring notch" of \$200,000—a substantial disincentive to hiring another worker. Thus, in addition to the typical disemployment effect from raising the minimum wage, the "hiring notch" of New York's employer mandate presents important barriers to growth for certain firms and also creates unintended incentives for firms to downsize or consolidate part-time jobs.

3. Who are New York's Uninsured?

3.1 The Current Population Survey¹⁸

The primary dataset used in the analysis is the 2005 March Current Population Survey ("CPS") Annual Social and Economic Survey (U.S. Department of Commerce, Bureau of the Census, 2005). The March CPS Annual Social

and Economic Survey ("ASEC") was formerly called the Annual Demographic Survey.

The CPS is useful as a source of estimates of the insured and uninsured populations at the state level. According to the Census Bureau, the March CPS is perhaps the most widely used source of data on health insurance coverage in the United States.¹⁹ It is the official source of estimates used to allocate federal funding to states for the State Children's Health Insurance Program ("SCHIP"), which amounted to \$3.7 billion in Federal Fiscal Year 2002. The March CPS provides reliable estimates of the net change in the number of uninsured people from one year to the next.

The CPS is recognized as a credible and widely respected survey. It currently surveys nearly 80,000 households for the March supplement, and asks questions that specifically address issues of health coverage and health insurance. It is administered by the Bureau of the Census for the Bureau of Labor Statistics and has been conducted for more than 50 years.²⁰ The response rate for the March survey is exceptionally high for a voluntary, household-based survey.²¹ The sample is scientifically selected to represent the civilian noninstitutional population. The Census Bureau states that the CPS sample provides estimates for the nation as a whole and serves as part of model-based estimates for individual states and other geographic areas. The CPS is conducted by telephone and in person (and thus includes residences without telephones).

The March 2005 CPS ASEC surveys 210,648 people across the nation (76,447 households), and 9,442 people in New York (3,473 households). When appropriately weighted, I derived a population count of 291,156,238 for the United States for 2004, and a population count for New York of 19,049,164. The count for New York exactly matches published Census tabulations, while the count for the United States appears to be subject to a trivial amount

of rounding error.²² Unless otherwise noted, all estimates are based on the weighted data.

In general, using the CPS would be problematic for constructing state-level estimates. Fortunately, the New York sample is sufficiently large to overcome these concerns. State-level estimates of the uninsured in the annual March CPS are typically unreliable due to small state sample sizes. Approximately 2,000 to 3,000 unweighted households are needed in a state sample to generate reliable estimates of sub-populations (such as uninsured children below 200 percent of the poverty line).²³ New York had nearly 3,500 households in 2004.

The ASEC asks detailed questions about health insurance and work behavior for the entire previous calendar year. Health insurance status is asked for all household members; the survey includes questions about employer-provided health insurance, private health insurance, and government insurance. The CPS does not directly ask people whether they are uninsured. The survey asks about coverage of specific types of insurance and respondents who answer no to all of the categories are considered uninsured. The March 2005 CPS asks about health insurance coverage in 2004. The March CPS asks respondents about coverage at any time during the preceding calendar year so being uninsured reflects lack of health insurance throughout the calendar year. In the analysis that follows, I use health insurance definitions identical to those of the Census Bureau.²⁴

Employment information is elicited for all household members over the age of 15. The survey includes questions on usual hours worked per week, annual earnings, weeks worked per year, industry, occupation and firm size for all adults. Typically, a single CPS respondent reports for everyone in the household, although telephone call-backs to obtain particular items of information known only by someone else in the household is fairly common.²⁵

The CPS also provides state- and county-level geographic identifiers, as well as

demographic information for all respondents on age, education, race, ethnicity, gender, marital status, and immigrant status. It also provides sufficient information to identify family relationships across household members.

The Census Bureau also provides imputations for a number of variables that are of policy interest, including the fungible value of Medicare and Medicaid, the employer's contribution for health insurance, and state and federal income tax liabilities. The analysis will make use of the employer contribution imputations.²⁶

3.2 Health Insurance Arrangements in New York

The analysis examines health insurance arrangements in New York for the calendar year 2004. As Table 1 shows, 14.2 percent of the population—or 2.7 million people—were uninsured. This percentage—which is around 1.5 percentage points below the national average—ranks New York 26th out of the 50 states and Washington D.C. Although New York does not appear to be a leader or laggard on a national basis, it does trail most of its neighbors. Vermont (ranked 7th), Connecticut (ranked 13th), Massachusetts (ranked 15th), and Pennsylvania (ranked 16th) all fare better than New York. Only New Jersey (ranked 33rd) insures a lower percentage of its residents.

4. New York's Employer Mandate—Cost and Coverage Estimates

4.1 Coverage Estimates

Table 2, based on the CPS, reveals that in 2004, there were 9.7 million workers in New York.²⁷ Roughly 83 percent of these workers already have a source of health insurance coverage, and the likelihood of being insured is much higher at large firms compared to smaller firms. For example, only 12 percent of workers who work in firms with 100 to 499 employees are uninsured, while 21 percent of workers in firms with 10 to 24 employees are uninsured. Based on the details of New York's legisla-

tion, I computed the number of “covered workers.” These are workers who are in firms with 100 or more employees (with the exception of manufacturing or agriculture). It also excluded workers who are earning more than \$600 per week and in an executive, administrative, or professional occupation.²⁸ My algorithm for imputing coverage shows that 466,459 uninsured workers would be covered under the employer mandate. This number is very similar to estimates put out by advocates of the bill. For example, Bob Master, State Co-Chair of the Working Families Party, recently stated “More than 450,000 uninsured New Yorkers who work full-time for large employers will get health care.”²⁹ It is important to note that less than one-third of uninsured workers are covered by the bill.

Mr. Master’s quote neglects the fact that nearly 3 million insured workers are also affected by the mandate. As will be seen, these insured workers dramatically raise the cost of the legislation. Table 3 shows the current source of insurance coverage (if any) for covered workers. The first column breaks out workers into uninsured, private only, government only, and private and government coverage.³⁰ The second column breaks out workers into more detailed categories (and it is possible for a worker to have more than one source of coverage). Focusing on this second column, relatively few covered workers—less than 10 percent—utilize Medicaid. This coverage would be “crowded-out” by the employer mandate, but the state of New York would not realize the full savings because the Federal government matches state Medicaid spending dollar for dollar.³¹ More than 160,000 individuals receive Medicare or Champus/Tricare—both government programs that are federally financed. For these recipients, it is not clear that New York’s mandate improves their insurance coverage. Table 3 also shows that nearly 600,000 workers have employer-based coverage, but not in their own name. Most of this coverage is surely from a spouse, but could also

include younger individuals covered under a parent’s plan. As with these other groups, there is little clear benefit from the legislation, yet employers would still owe the \$3 per hour tax.

4.2 Cost Estimates

Next, I computed cost estimates under two scenarios. The reason for this is that the CPS identifies individuals, not firms. Because of this, computing the dollar amount that a firm could offset a worker’s obligation is unclear. Under the first scenario, I assume no offset. For example, if a worker is uninsured, on government insurance, covered through a directly purchased plan, or covered by a spouse, I assume that the hourly tax is \$3 per hour. If the worker does have employer-provided insurance, I estimate the worker’s obligation using the CPS imputation for employer contributions to health insurance along with annual hours of work. This gives the current hourly employer contribution to health insurance.

The top part of Table 4 shows the results of this exercise. For those in the “Uninsured” and “Government only” categories, the cost is imputed as \$3 per hour. For those in the “Private only” category, the cost is \$1.41 per hour (meaning that the employer is currently contributing \$1.59 per hour). A similar number emerges in the “Private and Government” category. Next, this hourly cost is covered into an annual per-worker cost by multiplying by average annual hours. The annual costs per worker range from \$1,742 for “Private and Government” workers (due to their low annual work hours) up to \$4,593 for “Uninsured” workers. Across all covered workers, the mandate amounts to a \$1.75 per hour tax and a \$2,672 annual cost per worker. Finally, these annual per-worker costs are multiplied by the total number of covered workers. The results are striking. The cost for the uninsured is approximately \$2.1 billion and the total cost for all workers is nearly \$9.2 billion. When converted into the cost per newly-insured worker, it is nearly \$20,000. The reason why the mandate

is so costly is that it imposes burdensome requirements on many workers who already have insurance. As such, it is a very expensive way of covering the uninsured.

One problem with the above estimates is that they ignore the fact that firms can offset healthcare costs for some covered workers with spending on other covered workers. This may not be a severe problem because of the fact that these cost offsets must be done on a county-by-county basis and the fact that many workers in higher-paying executive, administrative, and professional occupations are excluded from the offset calculation.

Addressing this issue with the CPS is difficult due to the fact that the data does not identify a worker's firm. The CPS does, however, identify firm size, industry, and class of worker (private, government, self-employed, etc.). Although it is impossible to compute costs on firm-by-firm basis, I was able to create an industry-wide average for hourly employer contributions for healthcare spending. To compute this average, I extracted all workers in the Northeast and Midwest regions in the CPS, and kept only workers with non-imputed values for work status, firm-size, class of worker, industry, occupation, weeks worked, hours worked, earnings, and health insurance. From this "clean" sample of workers, I kept workers who would be "covered workers" if they lived in New York. Then, based on 265 industry categories, 3 firm size categories (100 to 499 employees, 500 to 999 employees, and 1000-plus), and 7 class-of-worker categories, I computed this hourly spending measure and merged it to the appropriate workers in the New York sample. I then assigned the greater of the industry-wide contribution or the worker's own employer contribution. Thus, the cost estimates are necessarily smaller.

The results of this exercise are shown in the second panel. Under these assumptions, the hourly cost per worker is \$1.08 across all workers; the hourly costs range from \$0.91 for

"Private only" workers to \$1.75 for "Government only" workers. Even with the cost offset, however, the total costs of the legislation are greater than \$5.7 billion; the costs to the uninsured alone are nearly \$1.2 billion. The cost per newly insured worker is still more than \$12,000 per year.

5. Labor Market Effects

5.1 Wage Shifting and Employment Loss due to the Minimum Wage

The evidence from Gruber (1994) suggests that a likely response to the New York's employer mandate is shifting of the employer's obligation back onto workers in the form of lower real wages. Although the previous literature on mandated benefits does provide guidance on the possibility of wage shifting, such wage shifting is unlikely for those near the minimum wage. Some workers in New York have hourly wages close enough to the minimum wage of \$6.75 per hour that employers will be unable to shift the costs back onto them, even if such workers value the mandated benefit fully.

In studying the effect on increases in mandated wage levels, Neumark (1995) found that current employees were often displaced by more skilled individuals attracted by higher wages. Lang (1995) found wage hikes shift "employment towards teenagers and students... [T]he competition from [these] higher quality workers makes low-skill workers worse off." Neumark and Wascher (2000) convincingly reevaluate Card and Krueger's (1994) study of minimum wages in New Jersey, and using payroll data find an employment elasticity of -0.22 in the fast food industry. Yelowitz (2005) evaluated the \$8.50 citywide minimum wage in Santa Fe, New Mexico and found significant effects on the labor market. After adjusting the estimates for the fact that not all employees were covered by the ordinance, he finds an employment elasticity of -0.24. In a prominent survey of labor economists, Fuchs, Krueger,

and Poterba (1998) find that the mean estimate of the employment elasticity for teenagers is -0.21 , and the median is -0.10 . All of these findings suggest that in the absence of full wage shifting, there is a strong possibility of layoffs as a result of New York's legislation, especially for low-skill workers.

To examine the possibility of job loss, I use the Neumark and Wascher (2000) elasticity estimate of -0.22 . To compute the employment loss, I assumed full wage shifting until the minimum wage and disemployment effects thereafter. This scenario shifts as much of New York's employer mandate onto the worker as possible in the form of lower wages, and only to the extent that wages would have to be shifted below the New York minimum wage of \$6.75 would employment losses ensue. For example, if the total mandated cost were \$2,080 for a worker, then this would translate into a \$1.00 per hour shift in wages. If the worker earned, \$7.50 per hour, only 75 cents of this mandate could be passed along in the form of lower wage; the remaining 25 cents is analogous to a minimum wage increase (where the percent change in wages is 25 cents divided by \$6.75, or 3.7 percent). I apply the Neumark and Wascher (2000) employment elasticity to this percentage to compute the employment losses.

Table 5 shows the results of this exercise, under both the scenario of no-cost-offsets and industry-wide cost-offsets. The estimates suggest that between 37,000 and 65,000 low-wage workers will lose their jobs. Between 9,300 and 17,600 of these workers were previously uninsured, so in addition to lacking insurance, these individuals now also lack a job. Roughly half of those who lose their job are low-wage workers who already had employer insurance. Given the coverage effect—466,000 uninsured workers—these job loss numbers suggest a large cost in terms of jobs for a modest rise in insurance coverage. The table also converts the job loss numbers (which are a simple headcount) into full-time equivalent job loss by assuming

a full-time full-year job corresponds to 2000 hours per year. Between 23,000 and 41,000 FTE jobs are lost due to the mandate.

The job loss calculations presented in Table 5 are probably too low, because many employees (e.g., those with government coverage or employer coverage through a spouse) likely value the mandated coverage at far less than 100 percent. For these workers—even if they are not close to the minimum wage—this \$3 per hour tax will cause additional job loss. The numbers here also ignore the “hiring notch” at 100 employees—an issue to which I turn next.

5.2 Hiring Notches

New York's employer mandate dramatically raises the cost of hiring the 100th employee. I am not aware of any convincing work on hiring notches, due in part to the lack of quality data. Most data sets—such as the CPS—identify individuals rather than firms, and offer (at most) coarse information on firm size. For example, near the hiring notch, the CPS breaks out firm size into “50 to 99” and “100 to 499.” Using this information is unsatisfactory because firms near 50 employees or 499 employees are likely unaffected by the notch.

As a solution to this problem, I obtained business lead data from Complete Financial Marketing. Their data identifies businesses by name, location, industry, and most importantly, gives exact firm size.³² In New York, there are 728,437 unique establishments in the data; excluding companies with headquarters in New York, there are 726,951 establishments.³³ Since most of the companies headquartered in New York report firm sizes far in excess of 100 employees, they are not terribly relevant for the hiring notch analysis. Figure 1 compares counts of businesses of different sizes in the County Business Patterns data from 2003 and the business lead data. Table 6 presents additional categories. The main finding is that for firms between 20 and 999 employees, the two data sets are remarkably similar. For very small

firms and very large firms, the business lead data overestimates the number of firms. Since the hiring notch analysis focuses on firms around 100 employees, however, these overcounts will not matter for the analysis.

Figures 2a and 2b show the distribution of firms and workers in the business lead data in intervals of five, from 75 to 125 employees. There is a clear spike in the 100 to 104 category, which represents rounding at 100 employees. In each of these very fine intervals, however, there are always hundreds, or even thousands of firms. Thus, the possibility of the hiring notch to affect employment is a real possibility.

Given the lack of empirical work on hiring notches, I made the following assumptions about a firm's behavior with respect to New York's employer mandate. First, if the firm was anywhere above 99 employees, it would cut back to 99 to avoid the costly mandate. Thus a firm at 125 employees would lay off or consolidate 26 part-time jobs. A firm at 100 employees would lay off or consolidate 1 part-time job. Second, I assumed that firms would have experienced 1 percent employment growth per year. In 2005, New York's job growth was 0.9 percent, so this assumption is reasonable.³⁴ Figure 3 illustrates the total job loss due to the hiring notch under these assumptions, for

years one through three by firm size grouping. As Table 7 shows, another 32,000 workers lose their jobs in the first year of implementation, and this increases to 40,000 jobs by the third year. The table also shows job loss when the growth rate is changed to 0.5 percent and 1.5 percent. When added to the low-end job loss estimate due to the minimum wage, total employment loss exceeds 69,000 during the first year of the employer mandate.

Conclusions

New York's so-called "Fair Share for Health Care Act" modestly increases insurance coverage of workers, but this comes with substantial job loss and other labor market adjustments. Approximately 466,000 uninsured workers are covered under the bill's provisions, at a cost in excess of \$12,000 per newly insured worker. In total, before other economic adjustments, the total employer obligation is in excess of \$5.7 billion, and could be as high as \$9.2 billion. Job loss will occur for workers who are near New York's minimum wage of \$6.75 as well as for workers who are firms near the 100-employee threshold. The low-end job loss estimate exceeds 69,000 during the first year of the mandate; the high-end job loss estimate is nearly 100,000 jobs.

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Endnotes

1. See http://www.rocklandbusiness.org/newsletter/mar27_healthcare3dollarsNewsletter.html.
2. Author's tabulation of the March 2005 Current Population Survey.
3. S. 7090, pages 5–6, lines 54–55 and lines 1–2: “Covered employers’ obligation to pay the assessment provided for under this article shall commence with the first tax year beginning on or after January first of the year after this section shall have become a law.”
4. S. 7090, page 4, lines 11–14: “Beginning in the first year after this section takes effect, the fair share assessment rate shall be three dollars per hour. The commissioner shall adjust the fair share assessment rate annually to reflect changes in the cost of health care.”
5. S. 7090, page 3, lines 27–29: “‘Employee’ means any individual who works in the state for an employer for wages, salary, or other compensation on a full-time, part-time, seasonal, or temporary basis.”
6. To the extent it is possible, firms have an incentive to reduce reported hours and increase *reported* wage rates, while holding earnings constant. This would reduce the firm’s tax obligation, since the tax is a function of hours, not wages or earnings. This incentive would be very strong if the firm decided to “pay” rather than “play.”
7. S. 7090, page 4, lines 9–11: “The annual assessment shall be determined by multiplying the fair share assessment rate by the total number of hours worked in the state by covered employees of the covered employer each tax year.”
8. See http://www.rocklandbusiness.org/newsletter/mar27_healthcare3dollarsNewsletter.html.
9. S. 7090, page 4, lines 22–24: “A covered employer required to pay the assessment may claim a credit against the assessment in the amount of the employer’s total health care expenditures made during the same tax year.”
10. S. 7090, page 4, lines 29–33: “The total credit a covered employer may claim for health care expenditures made for covered employees employed in each county or families of such employees may not exceed the product of the fair share assessment rate and the total number of hours worked by those employees employed in that county that year.”
11. S. 7090, page 6, lines 15–20: “Monies in the fund shall be used to provide subsidized health care coverage to covered employees, and families of such employees, of covered employers under article forty-nine-A of the public health law, who do not have health care benefits from any other source, pursuant to law specifically referring to the use of the fair share for health care fund.”
12. S. 7090, page 3, lines 23–26: “Covered employer means any employer that employs one hundred or more employees, as determined under subdivision three of section forty-nine hundred twenty-four of this article, or any employer that provides building service work for a large building.”
13. S. 7090, page 5, lines 15–18: “Whether an employer qualifies as a covered employer for a given tax year shall be determined based on the average number of employees that the employer

- employed in the state during the preceding tax year, as determined pursuant to regulations promulgated by the commissioner.”
14. S. 7090, page 4, lines 54–56: “Any covered employer whose employees in the state are chiefly engaged in manufacturing or agriculture shall be exempt from this article and the assessment imposed under it.”
 15. S. 7090, page 3, lines 19–22. If the higher-paid employee represents a net saving to the firm’s healthcare obligation, the firm has an incentive to re-label such an employee as *not* being in an executive, administrative or professional capacity. If the higher-paid employee represents a net cost, the opposite is true.
 16. See County Business Patterns, 2003, Table 2, page 3, available from <http://www.census.gov/prod/2005pubs/03cbp/cbp03-34.pdf>.
 17. The only relevant work that I am aware of relates to hours-of-work thresholds, not employment-thresholds. When Hawaii implemented a pay-or-play mandate, it had an hours-of-work threshold of 20 hours per week. Thurston (1997) found the percentage of Hawaiian workers employed less than 20 hours per week (and thus exempt from the law) was significantly higher than the national average.
 18. The description of the CPS is very similar to that in Yelowitz (2003, 2004).
 19. See <http://www.census.gov/hhes/hlthins/hlthinsintro.html>.
 20. See <http://www.bls.census.gov/cps/over-main.htm>.
 21. The CPS has a large percentage of in-person interviews that improves coverage and reliability and leads to a very high response rate. Interviewers used laptop computers to administer the interview, asking questions as they appear on the screen and directly entering the responses obtained. Households are interviewed eight times over the course of sixteen months. During the first and the fifth interviews, an interviewer usually visits the sample unit. Almost all of the remaining interviews are conducted by telephone. Even though the CPS is a voluntary survey, the March interview of recent years has between 92 and 93 percent of the eligible households providing basic labor force information, and between 80 and 82 percent of the eligible households completing the ADS supplement. For the March 2002 basic CPS, the nonresponse rate was 8.3 percent. The nonresponse rate for the March supplement was an additional 8.6 percent, for a total supplement nonresponse rate of 16.2 percent. See <http://www.bls.census.gov/cps/ads/1995/sdacodes.htm>, <http://www.bls.census.gov/cps/ads/1995/smethovr.htm>, and http://www.bls.census.gov/cps/ads/2002/S&A_02.pdf for additional discussion.
 22. See http://pubdb3.census.gov/mac-ro/032005/health/h06_000.htm.
 23. Because of the expansion in the CPS in recent years, some of the concerns about sample size have diminished. See http://www.ahrq.gov/chip/content/target_population/CPS_adv_and_limits.htm for some concerns researchers had with earlier versions of the March supplement. Almost all states in the CPS currently have sample sizes in excess of 1,000 households.
 24. The CPS explicitly asks about private insurance coverage, employer-based coverage, employer-based in one’s own name, direct privately-purchased insurance, Medicare, Medicaid, and Champus. It defines uninsured as not being in any of the other

categories. The health insurance definitions can be found at <http://www.census.gov/hhes/hlthins/hlthinsvar.html>. If the CPS respondent has employer-provided insurance in his or her own name, an imputed employer contribution ranging from \$0-\$9999 is given. In addition, information on premium cost sharing is provided: “Did ...’s former or current employer or union pay for all, part, or none of the health insurance premium?”. The CPS also asks explicitly whether the plan was a single or family plan, and identifies the dependents in the household are covered under the family plan.

25. See <http://www.bls.census.gov/cps/ads/1995/sdacodes.htm>.

26. The Census Bureau estimates employer contributions through a model developed from a statistical match of the March CPS and the 1977 NMCES. The March supplement collects information on the number of persons who were covered at any time during the previous calendar year by a health insurance plan obtained through an employer or union. The supplement also collects information on whether the employer paid for all, part, or none of the cost of the plan. The best data source available for measuring the amount employers contribute to health plans was the 1977 NMCES. The survey had a relatively large sample size and included data on contributions that were obtained by conducting interviews with the employers of persons who were in the household portion of the NMCES sample. The procedure for estimating the value of employer contributions for people and families on the March 1993 CPS data file involved several steps. First, an enhanced NMCES data file was prepared by adding two variable not on the original file. The two variables were total earnings during the year and usual hours worked per

week. The variables were created by statistically matching NMCES and CPS using the appropriate demographic and economic variables that were available from both sources. The match made it possible to assign the earnings and full-time/part-time variables to the NMCES file. Second, the enhanced NMCES was used to estimate a model that related employer contributions to a set of explanatory variables. The variables chosen were ones that are also available on the CPS file. The list of variables included (1) type of plan (family or individual), (2) proportion of the cost paid for by the employer (part or all), (3) level of earnings, (4) type of worker (full-time or part-time), (5) industry, (6) occupation, (7) sector (private or government), (8) region, (9) residence, (10) personal characteristics such as age, race, marital status and education. Third, the model was run on the March 1993 CPS file to obtain estimates of the amount of employer contributions for each worker whose employer paid all or part of the cost of his or her health plan. The model was run after deflating 1992 earnings to 1977 dollars. The estimates produced by this model were then inflated to 1992 estimates by multiplying the 1977 level estimates by the 1977 to 1992 change in firm contributions per covered. (U.S. Department of Commerce, Bureau of Census, 1993).

27. Work is defined as an answer yes to either of these CPS questions: “Did you work at a job or business at any time during 2004?” or “Did you do any temporary, part-time, or seasonal work even for a few days during 2004?”. As noted in Section 2, New York’s mandate would apply to any individual who affirmatively answered either of these questions.

28. This final screen—based on occupation—is open to some interpretation. Using the 23

CPS occupation codes for “Occupation of longest job by major groups,” I classified the following occupational classes as uncovered: Management occupations, Business and Financial Operations occupations, Computer and Mathematical occupations, Architecture and Engineering occupations, Life, Physical, and Social Sciences occupations, Community and social services occupations, Legal occupations, Education, Training, and Library occupations, Arts, Design, Entertainment, Sports, and Media occupations, and Healthcare Practitioner and Technical occupations. The following occupations were classified as covered by the health insurance mandate: Healthcare Support occupations, Protective Service occupations, Food Preparation and Serving related occupations, Building and Grounds Cleaning and Maintenance occupations, Personal Care and Service occupations, Sales and Related occupations, Office and Administrative Support occupations, Farming, Fishing, and Forestry occupations, Construction Trades and Extraction occupations, Installation, Maintenance, and Repair occupations, Production occupations, Transportation and Material moving occupations, and Armed Forces and Military specific occupations. Note that some of these occupations—related to agriculture—will be excluded by industry, however.

29. See http://www.senatorspano.com/press_archive_story.asp?id=13033.
30. Since the CPS asks about insurance coverage during the entire calendar year, it is possible for a person to transition from one insurance source (such as Medicaid) to another (such as employer-provided coverage). Thus, the “private and government” grouping could be sequential, rather than simultaneous.
31. See page 15–19 of http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_green_book&docid=f:wm006_15.pdf.
32. The figures reveal that there is a substantial amount of rounding for firm size at numbers that end in zero or five.
33. For some companies—especially ones headquartered in New York—the employment count appears to include employees outside of the state. When these headquarter companies are excluded, I arrive at an employment count of 8,489,511, which is very close to the total non-farm employment of 8,449,300 reported in February 2006 by the New York Department of Labor.
34. See http://www.empirecenter.org/2006/03/ny_trails_us_jo.php.

Table 1	Insurance Coverage in New York, 2004									
	Uninsured		Private Coverage		Government Coverage		Private and Government Coverage		Total	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Full population	2,704,533	14%	10,646,168	56%	3,575,171	19%	2,123,292	11%	19,049,164	100%
Aged 0 to 17	395,858	9%	2,684,810	58%	1,236,156	27%	287,473	6%	4,604,297	100%
Aged 18 to 22	247,622	19%	771,456	60%	186,707	14%	84,824	7%	1,290,609	100%
Aged 23 to 29	599,093	34%	928,732	52%	215,959	12%	44,057	2%	1,787,841	100%
Age 30 to 39	561,965	21%	1,774,702	66%	300,236	11%	55,869	2%	2,692,772	100%
Aged 40 to 49	437,149	15%	2,131,224	72%	322,443	11%	89,585	3%	2,980,401	100%
Aged 50 to 64	430,020	13%	2,219,024	69%	387,028	12%	181,656	6%	3,217,728	100%
Aged 65 plus	32,826	1%	136,220	6%	926,642	37%	1,379,828	56%	2,475,516	100%

Source is author's tabulation of the March 2005 Current Population Survey.

Table 2	Insurance and Coverage Effects by Firm Size					
	Insured	Number of insured workers covered under law	Uninsured	Percent Uninsured	Number of uninsured workers covered under law	Covered as a percentage of uninsured
Under 10	1,533,865	0	597,487	28	0	0
10 to 24	736,943	0	195,102	21	0	0
25 to 99	980,036	0	229,542	19	0	0
100 to 499	1,236,487	699,327	162,085	12	130,315	80
500 to 999	532,965	306,753	78,640	13	63,812	81
1000+	3,089,121	1,951,726	348,423	10	272,332	78
Total Workers	8,109,417	2,957,806	1,611,279	17	466,459	29
Total Covered Workers	3,424,265					

Source is author's tabulation of the March 2005 Current Population Survey.

Table 3 How are workers covered by the law currently insured?

Uninsured	466,459	Uninsured	466,459
Private only	2,502,752	Private coverage	2,689,465
Government only	268,341	Employer-based	2,590,086
Private and government	186,713	Employer-based own	2,003,838
		Direct purchase	126,660
		Medicaid	320,111
		Medicare	120,401
Total	3,424,265	Champus or Tricare	47,825

Source is author's tabulation of the March 2005 Current Population Survey. In total, there were 9,720,696 workers in New York in 2004.

Table 4 Statutory Cost of Law (not accounting for offsets from other covered employees)

	Number of Covered Workers	Average Hourly Cost	Average Annual Cost	Total Cost
Uninsured	466,459	\$3	\$4,593	\$2,142,580,061
Private only	2,502,752	\$1.41	\$2,284	\$5,717,221,597
Government only	268,341	\$3	\$3,598	\$965,476,696
Private and Government	186,713	\$1.38	\$1,742	\$325,208,675
Total	3,424,265	\$1.75	\$2,672	\$9,150,488,722
Cost per newly-insured worker	\$19,616.92			

Statutory Cost of the Law (accounting for industry-wide offset)

Uninsured	466,459	\$1.64	\$2,556	\$1,192,380,221
Private only	2,502,752	\$0.91	\$1,503	\$3,761,300,887
Government only	268,341	\$1.75	\$2,063	\$553,622,636
Private and government	186,713	\$0.96	\$1,314	\$245,393,908
Total	3,424,265	\$1.08	\$1,680	\$5,752,696,715
Cost per newly-insured worker	\$12,332.70			

Source is author's tabulation of the March 2005 Current Population Survey. Some workers in second column may be in more than one category. Nearly 600,000 workers already have employer coverage, but through a spouse. The law imposes an additional cost on these workers with no commensurate benefit.

Table 5	Job loss under New York legislation, assuming an employment elasticity of -0.22		
Job loss with no offsets, assuming full wage shifting/valuation to NY minimum wage			
	Coverage	Job Loss	FTE Job Loss
Uninsured	466,459	17,623	12,579
Private only	2,502,752	32,490	20,212
Government only	268,341	12,254	7,161
Private and government	186,713	2,731	1,218
Total	3,424,265	65,098	41,171
Job loss with industry-wide offsets, assuming full wage shifting/valuation to NY minimum			
Uninsured	466,459	9,379	6,764
Private only	2,502,752	19,311	12,206
Government only	268,341	6,789	3,871
Private and government	186,713	1,691	871
Total	3,424,265	37,170	23,712

Source is author's tabulation of the March 2005 Current Population Survey.

The industry-wide average creates average hourly healthcare spending by the firm based on industry, firm size, and class-of-worker. Following the logic of New York's Fair Share for Health Care Act, the hours and employer contributions for all covered workers were added up within an industry/firm size/class-of-worker group. Then the average, industry-wide hourly contribution on healthcare was computed. The greater of the industry-wide contribution or the worker's own employer contribution was used in the second panel.

Industry-wide averages use 265 industry categories, along with class of worker (Private, Federal, State, Local, Self-employed incorporated—yes, Self-employed incorporated—no or farm, and without pay), and firm size (under 10, 10-24 employees, 25-99 employees, 100-499 employees, 500-999 employees, and 1000+ employees). Due to sample size considerations, all workers in the Northeast and Midwest were used to compute these averages, and were weighted by their CPS sample weight. Firms/individuals that were exempt (*e.g.*, having firm size of less than 100 employees, or being in manufacturing or agriculture, or being an uncovered employee) were assigned an average hourly cost of \$0. The numbers above are for covered workers only.

Table 6	Comparison of firm counts in CBP and Business Leads Data in New York		
Firm Size	Number of firms	Number of firms	Ratio
1 to 4	426,657	300,632	1.42
5 to 9	129,849	86,652	1.50
10 to 19	68,924	55,552	1.24
20 to 49	40,363	36,999	1.09
50 to 99	13,438	12,5	1.07
100 to 249	8,053	7,167	1.12
250 to 499	1,953	2,069	0.94
500 to 999	814	807	1.01
1000+	943	521	1.81
Data Source	Business Lead Data	County Business Patterns, 2003	

Source is author's tabulation of business lead data from <http://www.completefinancialmarketing.com/> and County Business Patterns data, available from <http://www.census.gov/prod/2005pubs/03cbp/cbp03-34.pdf> , Table 2, page 3.

Table 7	Assessing the “employment notch” at 100 employees		
	Job growth of 0.5%	Job growth of 1%	Job growth of 1.5%
Job loss due to hiring notch in year 1	30,301	32,348	34,408
Job loss due to hiring notch in year 2	32,358	36,510	40,702
Job loss due to hiring notch in year 3	34,439	40,733	47,180

Source is author's tabulation of business lead data from <http://www.completefinancialmarketing.com/> .

Figure 1: Comparison of Business Lead Data to 2003 County Business Patterns

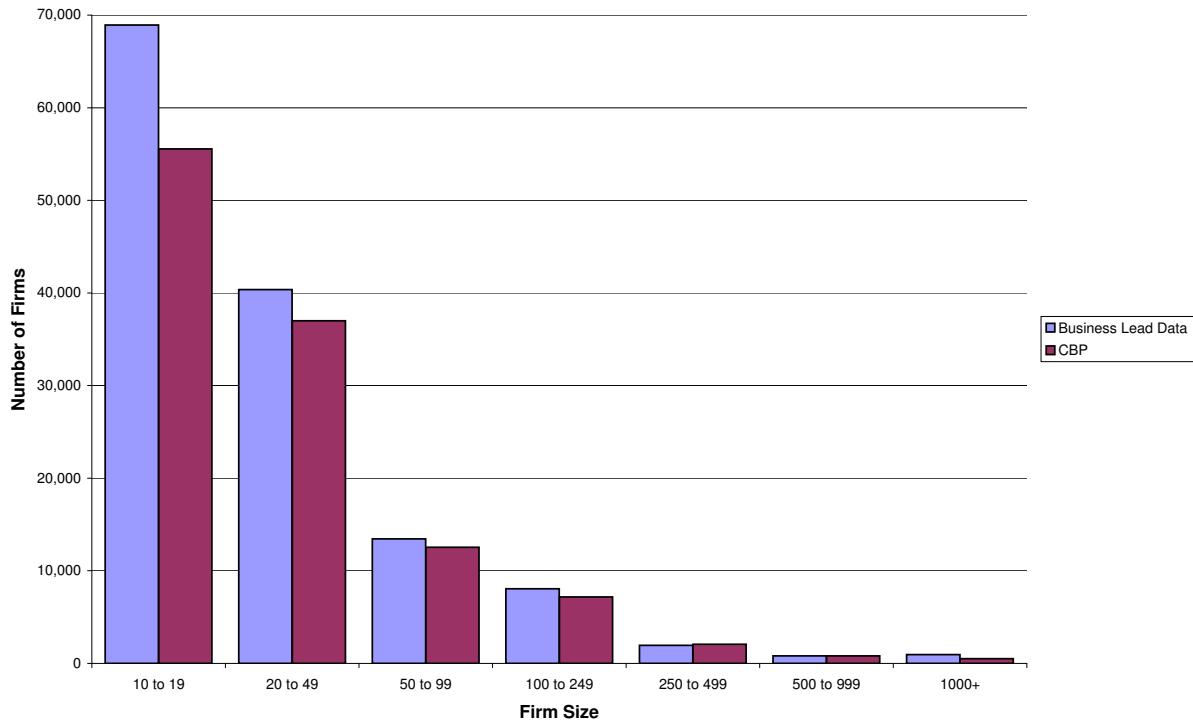


Figure 2a: Firm size distribution in New York for firms between 75 and 125 employees

(Source of data is author's tabulation of business lead data from Complete Financial Marketing)

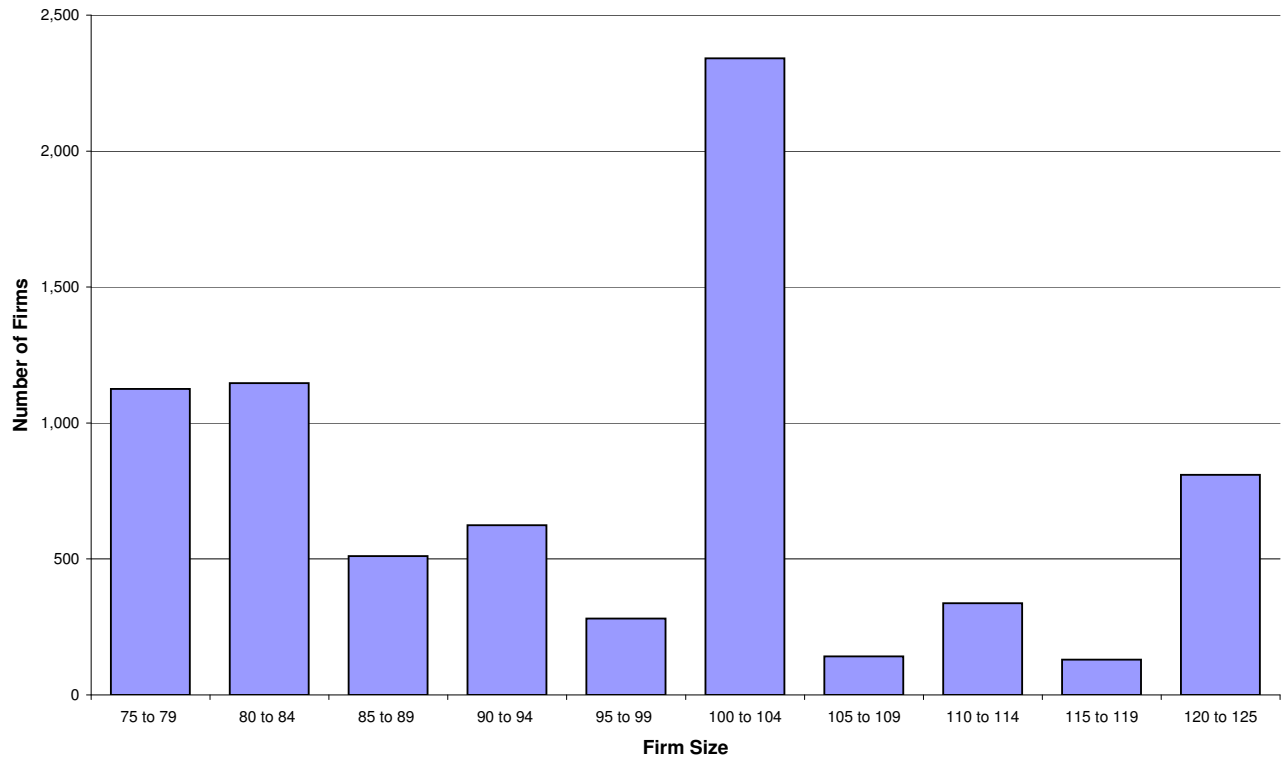


Figure 2b: Employment in New York for firms between 75 and 125 employees
 (Source of data is author's tabulation of business lead data from Complete Financial Marketing)

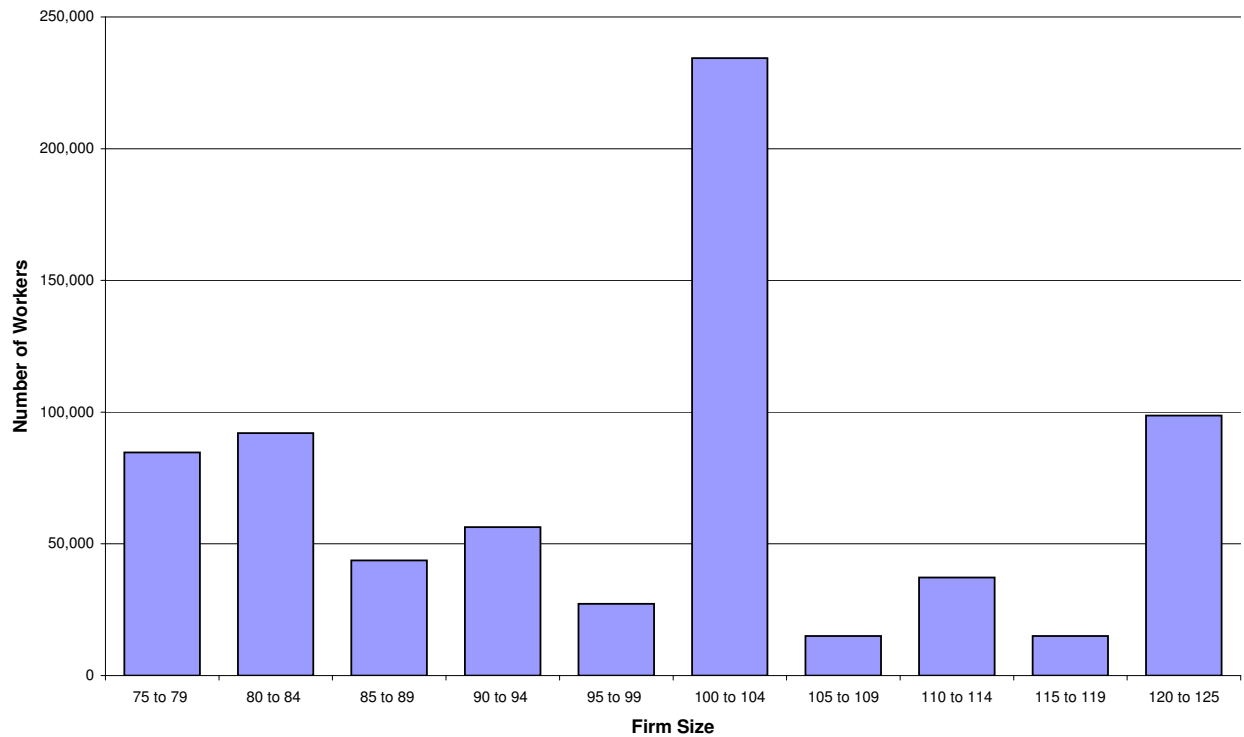
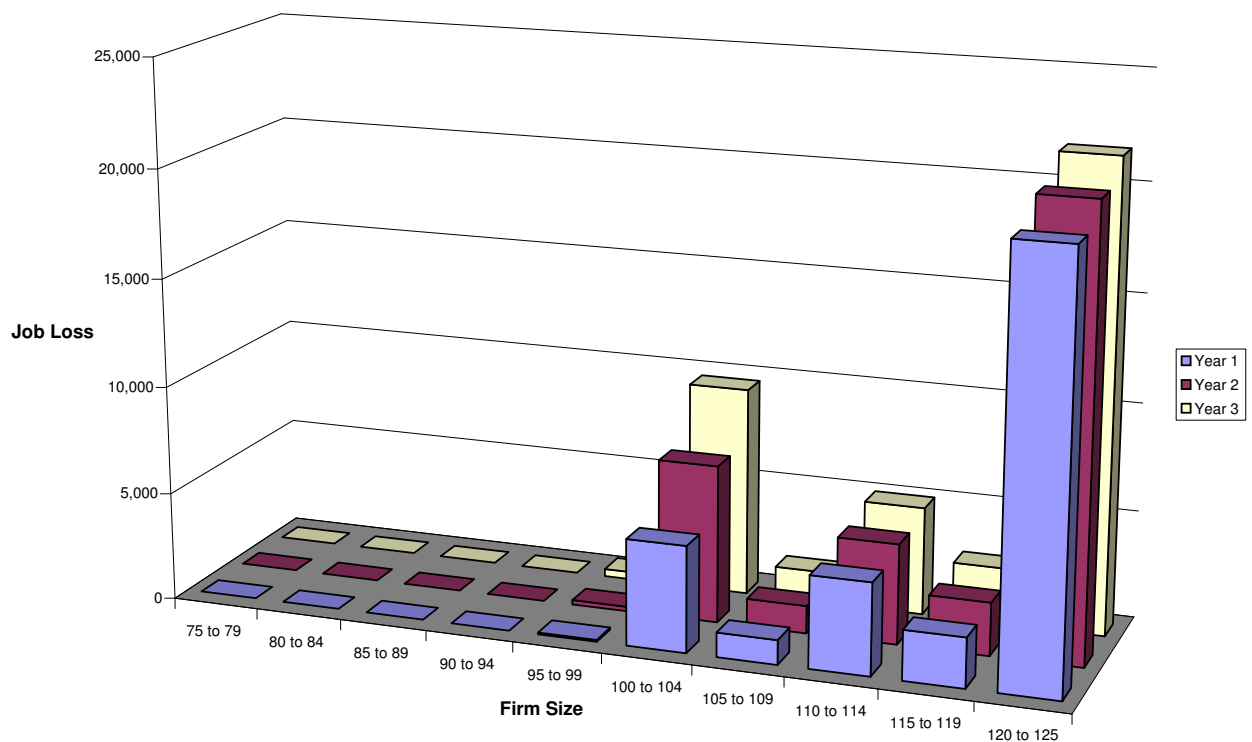


Figure 3: Job losses due to "hiring notch" at 100 employees
 Assumes 1% job growth per year



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