



**Legislative Council Staff**

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**Fiscal Note**

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| <b>Drafting Number:</b> LLS 21-0928           | <b>Date:</b> May 4, 2021   |
| <b>Prime Sponsors:</b> Sen. Rodriguez; Hansen | <b>Bill Status:</b> Senate Business  |
| Rep. Benavidez; Gonzales-Gutierrez            | <b>Fiscal Analyst:</b> Erin Reynolds   303-866-4146<br>Erin.Reynolds@state.co.us |

**Bill Topic:** **CDLE UNEMPLOYMENT INSURANCE DIVISION ENTERPRISE**

|                                  |   |  |
|----------------------------------|---|--|
| <b>Summary of Fiscal Impact:</b> | <input checked="" type="checkbox"/> State Revenue     | <input checked="" type="checkbox"/> TABOR Refund |
|                                  | <input checked="" type="checkbox"/> State Expenditure | <input type="checkbox"/> Local Government        |
|                                  | <input checked="" type="checkbox"/> State Diversion   | <input type="checkbox"/> Statutory Public Entity |

The bill creates the Left-behind Workers Program in the Division of Unemployment Insurance in the Colorado Department of Labor and Employment for the purpose of providing unemployment assistance relief payments to individuals regardless of immigration status. The bill creates an ongoing state diversion, expenditure increase, and decrease in state revenue subject to TABOR.

**Appropriation Summary:** For FY 2021-22, the bill requires an appropriation of \$26.7 million to the Department of Labor and Employment.

**Fiscal Note Status:** The fiscal note reflects the introduced bill.

**Table 1  
State Fiscal Impacts Under SB 21-233**

|                     |                           | <b>Budget Year<br/>FY 2021-22</b> | <b>Out Year<br/>FY 2022-23</b> |
|---------------------|---------------------------|-----------------------------------|--------------------------------|
| <b>Revenue</b>      |                           | -                                 | -                              |
| <b>Expenditures</b> | Cash Funds                | \$26,747,430                      | \$34,434,211                   |
|                     | Centrally Appropriated    | \$88,570                          | \$37,789                       |
|                     | <b>Total Expenditures</b> | <b>\$26,836,000</b>               | <b>\$34,472,000</b>            |
|                     | <b>Total FTE</b>          | <b>5.0 FTE</b>                    | <b>2.0 FTE</b>                 |
| <b>Diversion</b>    | Cash Funds                | (\$26,836,000)                    | (\$34,472,000)                 |
|                     | Cash Funds                | \$26,836,000                      | \$34,472,000                   |
|                     |                           | <b>\$0</b>                        | <b>\$0</b>                     |
| <b>TABOR Refund</b> |                           | -                                 | -                              |

## **Summary of Legislation**

The bill creates the Left-behind Workers Program in the Division of Unemployment Insurance (UI) in the Colorado Department of Labor and Employment (CDLE) for the purpose of providing unemployment assistance relief payments to individuals regardless of immigration status. The CDLE is required to contract with a third-party administrator to administer the program.

**Eligible individuals.** Eligible individuals are defined as individuals who:

- have separated from employment through no fault of their own;
- received income from employment during a qualified base period; and
- are not eligible for and have not received UI benefits due to immigration status.

**Unemployment assistance relief payments.** The program will pay eligible individuals unemployment assistance relief payments at a rate of 55 percent of their average weekly wage for the base period for a maximum of 13 weeks during their period of unemployment.

**Left-behind Workers Fund.** The Left-behind Workers Fund consists of 0.0785 percent of each employer's premium, to be appropriated to CDLE on an annual basis by the General Assembly, and allocated to the third-party administrator.

Beginning in 2023 and as adjusted for inflation, if the Left-behind Workers Fund exceeds \$50.0 million, the employer premium must not be assessed until the fund falls below such limit. If the fund falls below \$0.5 million, the third-party administrator must suspend relief payments until the balance of the fund is at least \$0.5 million.

**Third-party administrator.** The third-party administrator will:

- provide outreach to unemployed individuals who may be eligible for unemployment assistance relief payments through the program;
- screen applicants for unemployment assistance relief payments to determine if each applicant is an eligible individual; and
- make unemployment assistance relief payments to eligible individuals.

CDLE will allocate funding to the third-party administrator which will provide unemployment assistance relief payments to eligible individuals. The third-party administrator may begin making unemployment assistance relief payments to eligible individuals on or before February 1, 2022.

**Enterprise status.** The bill moves the Employment Support Fund and creates the Left-behind Workers Fund, with both funds under the UI division enterprise.

## **Background**

Employers pay premiums on total payroll, regardless of an employee's immigration or work authorization status; however, employees without legal status may not collect unemployment assistance relief payments.

**State Revenue**

While the bill does not increase or decrease state revenue, it exempts state revenue to the Employment Support Fund from TABOR. Under the current UI forecast, these amounts are estimated to be \$38.4 million in FY 2021-22 and \$49.1 million in FY 2022-23.

**State Diversion**

Beginning in FY 2021-22, 0.0785 percent of employer premiums will be diverted from the Unemployment Compensation Fund to the Left-behind Workers Fund. Using current UI forecast, these amounts are estimated to be \$26.8 million in FY 2021-22 and \$34.5 million in FY 2022-23.

**State Expenditures**

The bill increases state expenditures in the CDLE by \$26,836,000 and 5.0 FTE in FY 2021-22 and \$34,472,000 and 2.0 in FY 2022-23 from the Left-behind Workers Cash Fund. These costs are shown in Table 2 and detailed further below.

**Table 2  
 Expenditures Under SB 21-233**

| <b>Cost Components</b>                    | <b>FY 2021-22</b>   | <b>FY 2022-23</b>   |
|---|---------------------|---------------------|
| <b>Department of Labor and Employment</b> |                     |                     |
| Personal Services                         | \$426,276           | \$196,607           |
| Operating Expenses                        | \$6,750             | \$2,700             |
| Capital Outlay Costs                      | \$31,000            | -                   |
| Computer Programming                      | \$41,400            | -                   |
| Unemployment Assistance Relief Program    | \$26,242,004        | \$34,234,905        |
| Centrally Appropriated Costs <sup>1</sup> | \$88,570            | \$37,789            |
| <b>Total</b>                              | <b>\$26,836,000</b> | <b>\$34,472,000</b> |
| <b>Total FTE</b>                          | <b>5.0 FTE</b>      | <b>2.0 FTE</b>      |

<sup>1</sup> Centrally appropriated costs are not included in the bill's appropriation.

**Department of Labor and Employment.** In FY 2021-22, the CDLE requires 5.0 FTE, including one-time 3.0 FTE to provide technical support for program implementation, and system requirements, programming, and testing for multiple system interfaces, and ongoing 2.0 FTE for program administration and third-party contracting oversight. These costs do not include MyUI+ computer programming, nor do they include enforcement costs. These costs, and any other ongoing administration costs for the CDLE, will be addressed through the annual budget process once the third-party administrator contract is in place.

**Unemployment Assistance Relief Program—administration and payments.** After CDLE's expenditures, it is estimated that there will be \$26.2 million in FY 2021-22 and \$34.2 million in FY 2022-23 available for third-party administration costs and unemployment assistance relief.

Assuming that the total undocumented population in Colorado is around 180,000 individuals, with 65 percent of those individuals in the workforce, and factoring in a 10 percent unemployment rate, this results in 11,700 undocumented workers qualified for unemployment assistance relief each year. Assuming an average weekly wage of \$520 for this population, with 55 percent available for wage replacement under the bill, and an average of 6 weeks claimed, this totals \$20.1 million in relief payments per year. Actual relief payments in a given year will vary based on the factors listed above.

**TABOR refunds.** The bill decreases state revenue subject to TABOR by an estimated \$38.4 million in FY 2021-22 and \$49.1 million in FY 2022-23 from moving the Employment Support Fund under the UI Enterprise. For FY 2022-23, the March 2021 LCS forecast projects revenue to fall short of the TABOR limit by \$28.6 million, or 0.2 percent of the limit. If actual revenue exceeds the limit, the bill will decrease the amount required to be refunded to taxpayers from the General Fund in FY 2023-24. If the bill causes revenue to fall below the limit by \$30 million, it will trigger a transfer of up to \$30 million from the Unclaimed Property Trust Fund to the Housing Development Grant Fund under current law enacted in House Bill 19-1322.

**Centrally appropriated costs.** Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 2.

## **Effective Date**

The bill takes effect July 1, 2021.

## **State Appropriations**

For FY 2021-22, the bill requires an appropriation of \$26,747,430 from the Left-behind Workers Cash Fund to the Department of Labor and Employment, and 5.0 FTE.

## **State and Local Government Contacts**

|                |                        |          |     |
|----------------|------------------------|----------|-----|
| Counties       | Information Technology | Labor    | Law |
| Municipalities | Personnel              | Treasury |     |