



Legislative Council Staff
Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated March 27, 2023)

Drafting Number: LLS 23-0852 Date: March 31, 2023
Prime Sponsors: Sen. Zenzinger; Kirkmeyer; Rep. Bird; Sirota Bill Status: Senate Second Reading
Fiscal Analyst: Erin Reynolds | 303-866-4146 erin.reynolds@coleg.gov

Bill Topic: UNEMPLOYMENT INS PREMIUMS ALLOCATION FED LAW COMPLIANCE

- Summary of Fiscal Impact:
[X] State Revenue [X] TABOR Refund
[X] State Expenditure [ ] Local Government
[X] State Diversion [ ] Statutory Public Entity

Budget package bill. The bill modifies unemployment insurance premiums and surcharges to bring the Employment Support Fund into federal compliance. It also refinances certain appropriations in the Department of Labor and Employment to use cash funds rather than General Fund. It will shift funds beginning in FY 2023-24.

Appropriation Summary: For FY 2023-24, the bill moves an appropriation from the General Fund to a cash fund, resulting in no net change to the amount appropriated.

Fiscal Note Status: The revised fiscal note reflects the introduced bill. The bill was recommended by the Joint Budget Committee as part of its FY 2023-24 budget package. It has been updated to clarify language related to the diversion of funds.

Table 1
State Fiscal Impacts Under SB 23-232

Table with 4 columns: Category, Sub-category, Budget Year FY 2023-24, and Out Year FY 2024-25. Rows include Revenue, Expenditures (General Fund, Cash Funds, Total Expenditures), Diversion (Employment Support Fund, Unemployment Compensation Fund, Net Diversion), and Other Budget Impacts (TABOR Refund, General Fund Reserve).

1 In FY 2023-24, the bill results in a one-time credit of unemployment insurance premiums from the ESF to the UCF. The bill reduces a diversion of funds from the UCF to the ESF for FY 2024-25 and all later years. Premiums credited to the UCF are TABOR-exempt enterprise revenue. Estimates assume the March 2023 LCS forecast. The JBC has opted to budget to the OSPB revenue forecast, which would anticipate a different budget impact than shown here.

## **Summary of Legislation**

To comply with federal Unemployment Tax Act requirements, the bill reduces employer Unemployment Insurance (UI) premium rates by 10 percent across all rates in the standard premium rate schedule. The reduction is offset by a corresponding increase to a new support surcharge rate. The bill also establishes shares of the support surcharge allocated annually to the Employment Support Fund (ESF), to the Employment and Training Technology Fund, and to the Benefit Recovery Fund.

The bill changes the cap on the amount of money in the ESF at the end of any state fiscal year, from an amount calculated based on a portion of the employer premium plus \$17 million, to a total of \$32.5 million in FY 2023-24. The amount of money in the fund in excess of \$32.5 million that would otherwise be deposited in the ESF is instead diverted to the Unemployment Compensation Fund, commonly referred to as the UI Trust Fund, beginning at the end of FY 2023-24 and each year thereafter, with the cap to be adjusted annually in future fiscal years based on changes in average weekly earnings.

The bill expands the authorized use of money in the Title XII Repayment Fund to allow the UI Division in the Department of Labor and Employment (CDLE) to use the money for costs associated with bonds or notes issued by the division, including interest on the bonds or notes. Finally, the bill eliminates the requirement for employers to submit premium reports to the UI Division and instead requires employers to submit wage reports.

## **State Revenue**

The bill is not estimated to change state revenue in the short-term. While the bill modifies employer premium and surcharge amounts, the net employer contribution amount is unchanged. The bill also shifts revenue credited to the ESF, the Benefit Recovery Fund, the Employment and Training Technology Fund, and the Unemployment Compensation Fund. In the long-term, if revenue to the ESF is consistently transferred to the Unemployment Compensation Fund, it may reduce employer contributions as the fund balance increases more quickly than currently forecasted; however, these impacts will depend on many factors and have not been estimated.

## **State Diversion**

Under current law, a percentage of unemployment premiums is diverted into the ESF, rather than the Unemployment Compensation Fund, up to a cap established under Senate Bill 22-234. This bill lowers the reserve cap for the ESF, which reduces the amount of funding diverted to the ESF and instead diverts funding back into the Unemployment Compensation Fund. Based on the March 2023 Legislative Council Staff Economic and Revenue Forecast and the provisions of this bill, the bill will reduce the diversion of funds to the ESF by an estimated \$50,161,451 in FY 2023-24 and \$21,185,802 in FY 2024-25, with this revenue instead credited to the Unemployment Compensation Fund.<sup>1</sup>

---

<sup>1</sup> The Joint Budget Committee has opted to budget to the Office of State Planning and Budgeting's revenue forecast. The OSPB forecast includes different UI revenue estimates than the LCS forecast, which will result in a different year-end diversion for FY 2023-24.

Table 2 below shows anticipated revenue to, and expenditures from, the ESF over the current and budget fiscal years in order to estimate the amount by which the ESF will exceed the bill’s cap. At the end of each future fiscal years, the state treasurer is required to credit any revenue that would put the ESF over the cap to the Unemployment Compensation Fund.

**Table 2**  
**Employment Support Fund Diversion Under SB 23-232**

<b>Fiscal Year</b>	<b>Expenditures</b>	<b>Revenue</b>	<b>Reserve</b>	<b>Cap</b>	<b>Diversion to UCF</b>
FY 2022-23*	\$38,960,871	\$51,453,813	\$66,792,323	\$68,453,813	-
FY 2023-24**	\$40,908,914	\$57,677,579	\$82,661,451	\$32,500,000	<b>\$50,161,451</b>
FY 2024-25	\$42,954,360	\$66,872,176	\$55,473,302	\$34,287,500	<b>\$21,185,802</b>

\* FY 2022-23 figures reflect preliminary CDLE expenditure accounting. LCS revenue estimates incorporate increases in the chargeable wage base under SB 20-207. FY 2022-23 reflects the existing ESF cap under SB 22-234.

\*\* FY 2023-24 figures reflect estimated expenditures from the ESF, including the \$899,537 expenditure in this bill, but excluding other pending legislation, and assume a 5 percent growth rate from FY 2023-24. FY 2023-24 reflects the new cap established in this bill.

## State Expenditures

The bill shifts expenditures from the General Fund to the ESF in the amount of \$899,537 in FY 2023-24, and \$944,514 in FY 2024-25. This amount is based on funding for the following 2022 bills that received General Fund appropriations and are eligible for ESF funds:

- [Senate Bill 22-161](#) – Wage Theft Employee Misclassification Enforcement;
- [Senate Bill 22-230](#) – Collective Bargaining for Counties; and
- [Senate Bill 22-210](#) – License Supplemental Health Care Staffing Agencies.

The bill shifts appropriations for these bills, including \$433,209 for SB 22-161, \$466,328 for SB 22-230, and \$189,368 for SB 22-210. It is assumed that expenditures will grow by 5 percent in future years.

## Other Budget Impacts

**TABOR refunds.** The bill is expected to decrease the amount of state revenue required to be refunded to taxpayers by \$50.2 million in FY 2023-24 and \$21.2 million in FY 2024-25. This estimate assumes the March 2023 LCS revenue forecast and calculations of UI premiums credited to the ESF under the bill. The bill diverts UI premiums that would be deposited to the ESF under current law to the TABOR-exempt Unemployment Compensation Fund, thereby reducing forecasted expectations for cash fund revenue subject to TABOR. Decreased cash fund revenue will increase the amount of General Fund available to spend or save.

**General Fund reserve.** Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve. Based on this fiscal note, the bill is expected to decrease the amount of General Fund held in reserve by the amounts shown in Table 1, increasing the amount of General Fund available for other purposes.

## **Effective Date**

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

## **State Appropriations**

For FY 2023-24, the bill requires and includes the following appropriations to the Department of Labor and Employment:

- a reduction of \$899,537 from the General Fund; and
- an increase of \$899,537 from the Employment Support Fund.

## **State and Local Government Contacts**

Joint Budget Committee Staff

Labor