



Legislative Council Staff
Nonpartisan Services for Colorado's Legislature

Final Fiscal Note

Drafting Number:	LLS 23-0852	Date:	May 24, 2023
Prime Sponsors:	Sen. Zenzinger; Kirkmeyer Rep. Bird; Sirota	Bill Status:	Signed into Law
		Fiscal Analyst:	Erin Reynolds 303-866-4146 Elizabeth Ramey 303-866-3522

Bill Topic: UNEMPL INSURANCE PREMIUMS ALLOCATION FEDERAL LAW COMPLIANCE

Summary of Fiscal Impact:	<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

Budget package bill. The bill modifies unemployment insurance premiums and surcharges to bring the Employment Support Fund into federal compliance. The bill will divert funds beginning in FY 2023-24.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the enacted bill. The bill was recommended by the Joint Budget Committee as part of its FY 2023-24 budget package.

**Table 1
State Fiscal Impacts Under SB 23-232**

		Budget Year FY 2023-24	Out Year FY 2024-25	Out Year FY 2025-26
Revenue		-	-	-
Expenditures		-	-	-
Diversion¹	Employment Support Fund	(\$51,060,988)	(\$22,130,316)	(\$22,529,994)
	UI Trust Fund	\$51,060,988	\$22,130,316	\$22,529,994
	Net Diversion	\$0	\$0	\$0
Other Budget Impact	TABOR Refund ¹	(\$51,060,988)	(\$22,130,316)	not estimated

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, the bill will reduce the diversion of funds to the ESF by an estimated \$51.1 million in FY 2023-24, \$22.1 million in FY 2024-25, and \$22.5 million in FY 2025-26 with this revenue instead credited to the Unemployment Compensation Fund.¹

¹ 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

Fiscal Year	Expenditures	Revenue	Reserve	Cap	Diversion to UCF
FY 2022-23*	\$38,960,871	\$51,453,813	\$66,792,323	\$68,453,813	-
FY 2023-24**	\$40,908,914	\$57,677,579	\$83,560,988	\$32,500,000	\$51,060,988
FY 2024-25**	\$42,954,360	\$66,872,176	\$56,417,816	\$34,287,500	\$22,130,316
FY 2025-26**	\$45,102,078	\$69,346,447	\$58,531,869	\$36,001,875	\$22,529,994

* 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 and subsequent fiscal year figures reflect estimated expenditures from the ESF, assume a 5 percent growth rate each year, and reflect the new cap established in this bill.

Other Budget Impacts

TABOR refunds. The bill is expected to decrease the amount of state revenue required to be refunded to taxpayers by \$51.1 million in FY 2023-24 and \$22.1 million in FY 2024-25. A forecast of state revenue subject to TABOR is not available beyond FY 2024-25. This estimate assumes the March 2023 Legislative Council Staff 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.

Effective Date

The bill was signed into law by the Governor and took effect May 1, 2023.

State and Local Government Contacts

Joint Budget Committee Staff

Labor