COLORADO
Department of Labor and Employment

2021 Colorado Unemployment Insurance Trust Fund Status Report

Colorado Department of Labor and Employment
August 31, 2021

As required by HB11-1288, the Colorado Department of Labor and Employment (CDLE) produces an annual report on the financial condition of the unemployment trust fund (UITF) for the Colorado General Assembly by August 31.

01

Executive Summary

Executive Summary

- Like all states, Colorado experienced unprecedented increases in jobless claims and benefit payments due to the COVID-19 crisis. The unemployment insurance trust fund (UITF) was insolvent as of August 18, 2020.
- Benefits will continue to be paid through loans from the Federal Unemployment Account. Those federal loans are interest-free through September 6, 2021.
- While there have been improvements in Colorado's economy, current payments are similar to those paid during the Great Recession.
- As a result of Senate Bill 20-207:
  - Increases in the wage base begin in 2022.
  - Solvency surcharge will be suspended in 2022.

02

Calendar Year 2020 Fund Status

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As of December 31, 2020, the unemployment insurance trust fund (UITF) was insolvent and $752.0 million had been borrowed from the Federal Unemployment Account (FUA) to pay benefits on the state unemployment program. Twelve months earlier the fund balance stood at just over $1.1 billion.

Employer contributions paid into the UITF, including those from reimbursable employers, totaled $540.9 million during 2020, nearly matching the $540.2 million paid the prior year. Despite a significant decline in employment in 2020,[1] employer contributions remained stable due to an increase in the taxable wage base to $13,600 from $13,100 the previous year and little change in the level of wages subject to UI premiums. Those two factors offset a slight reduction in the average tax rate, which dipped from 0.39 percent in 2019 to 0.37 percent in 2020.[2] Interest earnings on fund reserves totaled $12.5 million in 2020 compared with $26.1 million in 2019. The UITF does not accrue interest earnings once the fund becomes insolvent.[3]

Driven by a historically high level of pandemic-induced layoffs, over $2.4 billion in regular unemployment insurance benefit payments were distributed in 2020. In comparison, average annual benefit payments 2016 through 2019 were $420 million, while just under $2 billion was paid out in 2009 and 2010, combined, at the height of the Great Recession. Approximately 851,000 Coloradans, or 27 percent of the workforce, received at least one unemployment insurance benefit payment in 2020, compared to nearly 80,000 the prior year.[4]

1 Colorado's nonfarm payrolls contracted by 144,000, or 5.2 percent, in 2020. Over 375,000 jobs were lost in March and April, at the height of the pandemic.

2 Employer premium rates are determined by an employer's layoff history, the tax rate schedule in effect for that year, and any additional surcharges that may be in effect. The lengthy economic expansion that followed the Great Recession led to very low benefit charging against employer accounts the past few years; consequently, most Colorado businesses had shifted to the low end of the premium rate schedule by 2020.

3 The trust fund became insolvent with a zero balance on August 18, 2020. The Department began drawing on a line of credit with the United States Treasury at that time.

4 In addition to regular state unemployment, the 2020 total also includes payments from federal unemployment programs that were created through the CARES Act in response to the pandemic. This includes the Pandemic Unemployment Assistance (PUA) and Pandemic Emergency Unemployment Compensation (PEUC) programs. State Extended Benefits (SEB) triggered on in the summer of 2020 and are also included in the total count. Benefits from the PUA, PEUC, and SEB programs are paid with federal dollars and have no impact upon state trust funds.

03

Improper Payments

Improper Payments

Federal benefit entitlement programs with improper-payment rates greater than 10 percent are considered to be out of compliance with federal performance standards.[5] The Department's Benefit Accuracy Measurement (BAM) team administers the federally required BAM audit program. The BAM team reviews paid claims to determine if claims were paid properly. The Quality Assurance Team is charged with analyzing the issues, root causes, and trends related to improper payments. Based on analysis and input, it recommends strategies to detect, prevent, and deter payment errors. Improper payment data is provided to the USDOL, which tracks the improper payment rate annually based on a small sample size of paid claims within that year.

Prior to the pandemic, the improper-payment rate of 7.73 percent for the most recently completed Improper Payment Information Act (IPIA) Year of 2020 (July 2019 through June 2020) was well below the acceptable level of 10 percent. For the calendar year 2020, CDLE did not meet the federal standard. The improper-payment rate for calendar year 2020 is 30.5 percent, though some audits are still being completed.

Normally, most improper payments are the result of claimants not meeting their eligibility requirements, failing to provide information as required, providing incomplete or inaccurate information, and/or employers failing to provide information as required or providing incomplete or inaccurate information. As a result, efforts to reduce improper payments have been focused on communication and education of requirements and responsibilities as well as technology upgrades designed to gather more complete and accurate information needed to make a proper determination to pay benefits.

Since the pandemic, the root causes of improper payments shifted. The majority of overpayments are the result of CDLE paying benefits within 10 days of claim filing as mandated by the Governor's Executive Order D 2020 012 and identity theft. In order to pay benefits within 10 days, CDLE suspended adjudication of issues that would potentially deny benefits. When claims are pulled for audit, entitlement or eligibility issues are adjudicated before a determination on the propriety of the payment can be made. Based on the adjudication of the issues, several payments were determined to be improperly made. Also contributing to the rate was a spike in individuals filing claims and receiving benefits under the identities of others and other types of fraudulent claims. Once investigated, these payments were found to be made improperly.

5 An improper payment is one in which a claimant wrongly receives payment to which they are not entitled (overpayment) or is improperly denied payment to which they are entitled (underpayment). Approximately 96.4 percent of Colorado improper payments in 2020 were overpayments.

As a result of Executive Order D 2021 125, expedited payments to claimants within 10 days is no longer mandated. CDLE has returned to regular review and processing of claims prior to making payments. Additionally, CDLE has implemented and continues to enhance measures to limit identity theft.

As normal business processes resume, CDLE's new, modernized computer system will improve the accuracy and completeness of information received. Legislative changes regarding other remuneration and earnings will also positively impact the improper-payment rate moving forward.

CDLE has made significant progress toward improving the overpayment collection rate. Between 2012 and 2020, over $99.9 million in overpayments on the regular State UI program was recovered from claimants.

04

Trust Fund Outlook

Trust Fund Outlook

In the spring of 2020, Colorado experienced historically high rates of unemployment due to the COVID-19 global pandemic. The state's jobless rate skyrocketed from 2.8 percent in February 2020 to 12.1 percent just two months later, coupled with a loss of over 375,000 nonfarm payroll jobs. Since April 2020, there have been marked improvements in Colorado's labor market. As of July 2021, Colorado's unemployment rate has gradually fallen to 6.1 percent and 290,400 payroll jobs have been regained (or 77 percent of jobs lost in early 2020).

In response to the pandemic, Congress established, and has maintained, a number of federal programs to address the tremendous loss of employment throughout the nation. These programs are paid with federal dollars and have no impact upon state UI trust funds. Additionally, due to high rates of unemployment, State Extended Benefits (SEB) triggered on in Colorado in the summer of 2020, but the federal government also covered those benefit payments.[6]

Federal UI Programs Created via CARES Act	General Description of Each Federal Program	Total Colorado Benefits Paid 3/29/20 to 8/21/21
Pandemic Unemployment Assistance (PUA), set to expire September 4, 2021	Allows payment of unemployment benefits to those traditionally ineligible, like the self-employed and gig workers (maximum of 79 weeks)	$1.55 billion
Pandemic Emergency Unemployment Compensation (PEUC), set to expire September 4, 2021	Provides extended weeks of unemployment benefits once regular UI benefits are exhausted (maximum of 53 weeks)	$1.37 billion
Federal Pandemic Unemployment Compensation (FPUC), set to expire September 4, 2021	1st round of FPUC added $600 weekly additional dollars in benefit payments to all eligible UI claimants (expired July 25, 2020); 2nd round the amount was reduced to $300 per week (December 27, 2020 – September 4, 2021)	$4.46 billion

6 Typically, SEB payments are paid 50 percent by the state and 50 percent by the federal government; however, through the CARES Act 100 percent of SEB payments are covered with federal dollars. Approximately $40 million in SEB payments have been distributed since the program became active in mid-August 2020. Due to improving economic conditions, SEB triggered off at the end of November 2020. Although, roughly $10 million in benefits have been paid out since that period, due to backdating and other administrative reasons. Nearly 20,000 Coloradans received a payment through the SEB program in 2020.

04 TRUST FUND OUTLOOK

Since the end of March 2020, Colorado has paid approximately $3.2 billion in regular state unemployment payments. Weekly regular UI benefit payments peaked at $96 million in May 2020 and are currently averaging around $20 million per week. While a significant improvement, the current weekly payments are similar to the amounts paid out on a weekly basis during the Great Recession. Congress also allowed states meeting certain conditions to qualify for federal reimbursement of a claimant's first week of benefits through early September 2021.[7] Colorado has so far received nearly $260 million for payment of the first benefit week. The number of persons receiving a payment from Colorado's regular unemployment system totaled over 61,000 in July 2021 – down substantially from a year prior, when that figure exceeded 250,000, but still elevated compared to the pre-pandemic monthly average of around 21,000. Coloradans receiving a PUA benefit numbered roughly 42,000 in July, while those paid through the PEUC program approached 80,000 in total.

Colorado's unemployment insurance trust fund (UITF), which had a balance of approximately $1.1 billion before the pandemic, became insolvent on August 18, 2020. In order to pay benefits, the State began to borrow loans from the Federal Unemployment Account (FUA). To date, Colorado has borrowed $1.014 billion in federal loans. Thirteen other states and the Virgin Islands also have outstanding loan balances.[8] States whose trust funds become insolvent may borrow interest-free from FUA through September 6, 2021. Colorado will owe an estimated amount of $1.0 million - $1.5 million in interest payments on September 30, which cannot be paid with funds from the UITF.

At present, the Department is using two trust fund forecasts that will be continually updated throughout the year – one based upon a relatively strong recovery, and one predicated upon economic conditions remaining relatively subdued through 2026. The forecasts incorporate the provisions of Senate Bill 20-207 related to increases in the wage base beginning 2022, suspension of the solvency surcharge in 2021 and 2022, and the freeze in the wage base for 2021.[9] Because the economy is likely to recover in fits and starts for an extended time, the forecasts contain a large degree of uncertainty. The strong forecast assumes all jobs lost in 2020 are regained by 2022; the weak forecast assumes employment losses will not be recaptured until after 2023. In the strong growth scenario, the insured unemployment rate (IUR), a measure that reflects the degree of strain upon the trust fund, is anticipated to move from 2.25 percent in 2021 to 1.00 percent by 2024; while the IUR in the weak growth scenario is forecast to shift from 2.75 percent to 1.50 percent over the same time horizon.[10]

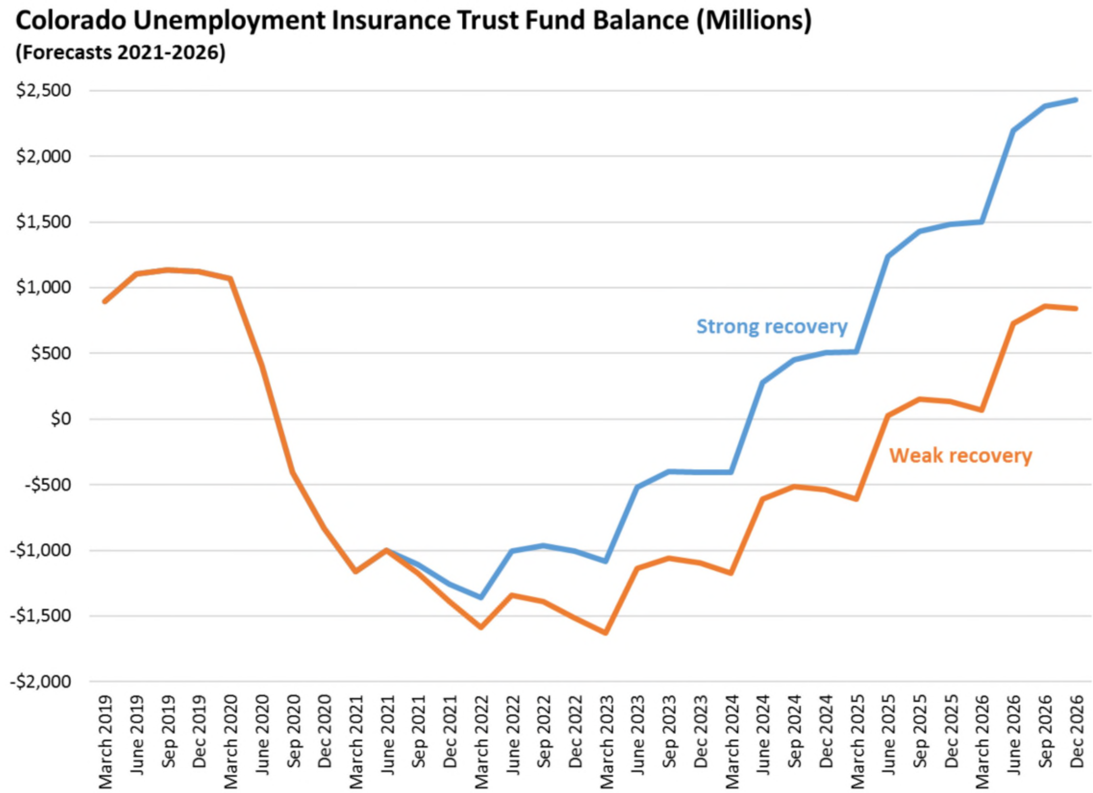
7 Because many claimants return to work quickly after having been laid-off, in most states the first week of unemployment compensation is not paid—this week is known as the waiting week. Because the number of job openings evaporated during the pandemic, the federal government is now paying for the waiting week.

8 The most recent outstanding loan balances by state can be viewed here. In late 2020, as many as twenty states had borrowed from FUA. That figure has since declined as a handful of states have paid off their outstanding loan balances either through the utilization of federal dollars made available through the CARES Act or other means. Nearly half of all states have added CARES Act funds to help bolster their UITF balances, but only a relatively small share of those states had FUA loan balances.

9 The impact of SB20-207 was covered extensively in the 2020 UITF status report. Generally, the passage of SB20-207 resolved long-standing impediments to UITF solvency by progressively increasing the taxable wage base in a manner consistent with CDLE recommendations. Absent SB20-207, the fund's long-term financial position would have remained much more precarious, with adverse consequences for employers. At the same time, the bill also provided Colorado employers significant financial relief in 2021 and 2022.

10 By contrast, the insured unemployment rate averaged 3.11 percent during 2009, the peak of the Great Recession. The insured unemployment rate can be thought of as the jobless rate for individuals covered under unemployment insurance, while the more familiar total unemployment rate measures the unemployment rate for all workers, regardless of their attachment to the unemployment insurance system.

04 TRUST FUND OUTLOOK



The number of benefit weeks paid under the regular UI program are forecast to range between 2.7 million and 3.3 million in 2021 – an improvement compared to the 7.2 million weeks paid in 2020, but within range of the level experienced at the height of the Great Recession. Under the strong forecast, benefits paid from the UITF are expected to approach $1.1 billion in 2021, before dropping below $700 million annually between 2022 and 2026, while the weak forecast adds an additional $200-$300 million in annual benefits to those totals. The trust fund would become solvent by 2024 in the strong growth scenario, and by 2026 under the weak growth scenario. However, the forecasted additional years of UITF insolvency, and the subsequent need to continue borrowing from the Federal Unemployment Account in order to pay regular state benefits, should trigger a FUTA credit reduction for employers, starting in 2022.[11] The weak forecast has the 2026 year-end fund balance reaching $840 million, while the strong forecast shows a balance of about $2.4 billion. The solvency surcharge is expected to be in effect through 2025 under the strong growth scenario, while remaining on after 2026 under the weak growth scenario. The UITF balance will need to exceed roughly $1.1 billion in order for the solvency surcharge to trigger off.[12]

11 Per the US Department of Labor (USDOL), FUTA, or the Federal Unemployment Tax Act, "authorizes the Internal Revenue Service to collect a Federal employer tax used to fund state workforce agencies…FUTA covers the costs of administering the UI and Job Service programs in all states." The FUTA tax rate of 6.0% is subject to the first $7,000 of each UI-covered employee's wages during a calendar year. However, most employers (i.e. those who pay their state unemployment taxes on a timely basis) receive an offset credit of up to 5.4% on the FUTA tax. Therefore, with the credit reduction, the FUTA tax rate is generally 0.6% on $7,000, or $42 per employee, per year. However, employers in states that have extended periods of outstanding loan balances from the Federal Unemployment Account may experience reductions in the FUTA offset credit of 5.4%. Specifically, per USDOL,"…employers in states that have an outstanding balance of advances under Title XII of the Social Security Act at the beginning of January 1 of two or more consecutive years are subject to a deduction in credits otherwise available against the FUTA tax, if all advances are not repaid before November 10 of the taxable year." Based on current forecasts, Colorado will have an outstanding loan balance on January 1, 2021 and January 1, 2022, which would trigger a FUTA credit reduction starting in 2022, as the loan balance is not expected to be repaid in full by November 10, 2022. The additional FUTA tax amount for calendar year 2022 resulting from the reduction would be due by January 31, 2023. The FUTA offset credit is reduced by 0.3% each year until there is no longer an outstanding loan balance. For 2022, that would mean an effective FUTA tax rate of 0.9% (0.6% + 0.3%) on $7,000, or $63 per employee (an increase of $21 per employee, per year). All of the revenue generated from a FUTA credit reduction is credited against the state's outstanding balance. If the revenue generated is greater than the outstanding balance, the remainder is credited back to the state's UITF.

12 Per HB11-1288, "the solvency surcharge remains in effect until the June 30 fund balance in the unemployment compensation fund is equal to or greater than 0.007 multiplied by the total wages reported by experience-rated employers for the calendar year, or for the most recent available four consecutive quarters." Based on current forecast total wage assumptions, the June 30 UITF balance, within years over the 2022-26 forecast horizon, will most likely need to exceed $1.1 billion in order for the solvency surcharge to trigger off for the following calendar year.

Supplemental Tables

Change in Colorado's Maximum Taxable Wage Base (2021-26)

Year	Maximum Taxable Wage Base	Over the Year Change
2021	$13,600	$0 (frozen, per SB20-207)
2022	$17,000	$3,400
2023	$20,400	$3,400
2024	$23,800	$3,400
2025	$27,200	$3,400
2026	$30,600	$3,400

Will the Solvency Surcharge be in Effect? (2021-26)

Year	Strong Growth Forecast		Weak Growth Forecast	
	Is the Solvency Surcharge On?	Estimated Gap in UITF Balance to Trigger Off Surcharge	Is the Solvency Surcharge On?	Estimated Gap in UITF Balance to Trigger Off Surcharge
2021	No, per SB20-207	N/A	No, per SB20-207	N/A
2022	No, per SB20-207	N/A	No, per SB20-207	N/A
2023	Yes	$2.1 billion	Yes	$2.4 billion
2024	Yes	$1.6 billion	Yes	$2.2 billion
2025	Yes	$900 million	Yes	$1.7 billion
2026	Maybe*	See comment*	Yes	$1.1 billon

*Gap between forecast UITF level and solvency surcharge trigger less than $100m
Note: this table reflects potential scenarios based on current forecasts and current law and are subject to change dependent upon new or updated information.

Will the FUTA Credit Reduction be in Effect? (2021-26)

Year	Strong Growth Forecast		Weak Growth Forecast	
	Will there be a FUTA credit reduction?	Effective FUTA tax rate	Will there be a FUTA credit reduction?	Effective FUTA tax rate
2021	No	0.6%, or $42 per emp.	No	0.6%, or $42 per emp.
2022	Yes	0.9%, or $63 per emp.	Yes	0.9%, or $63 per emp.
2023	Yes	1.2%, or $84 per emp.	Yes	1.2%, or $84 per emp.
2024	No*	0.6%, or $42 per emp.	Yes	1.5%, or $105 per emp.
2025	No	0.6%, or $42 per emp.	No*	0.6%, or $42 per emp.
2026	No	0.6%, or $42 per emp.	No	0.6%, or $42 per emp.

*As long as the outstanding loan balance is paid in full by November 10 of that year
Note: this table reflects potential scenarios based on current forecasts and current law and are subject to change dependent upon new or updated information.