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Memorandum

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TO: Interested Persons

FROM: Louis Pino, Senior Economist, 303-866-3556

SUBJECT: Funding Structure for Colorado's Unemployment Insurance Program

Summary

Unemployment insurance (UI) provides temporary, partial wage replacement to workers who have lost their jobs through no fault of their own. Each state in the United States administers its own unemployment insurance program and policies vary by state. The Division of Employment and Training within the Colorado Department of Labor and Employment (CDLE) administers the state program for Colorado.

Contents

The following provides an overview of Colorado's UI program funding structure, an overview of regular UI benefits, and an overview of additional UI benefits under the 2020 federal Coronavirus Aid, Relief, and Economic Security Act, also known as the CARES Act.

Colorado's UI benefits program is funded by premiums and surcharges paid by Colorado employers. Additional benefits under the CARES Act are funded by the federal government.

Unemployment Insurance Program Funding

Colorado employers paying wages of at least $1,500 or employing at least one person for any part of 20 weeks during the calendar year are required to pay UI premiums. These premiums are the primary funding source for the state UI benefits program. These premiums are credited to the Unemployment Insurance Trust Fund (UITF). There are several factors for calculating an employer's UI premium rate. First, an employer's "experience rating" affects their UI premium. Employers who have laid off very few or no employees in recent years have high positive experience ratings and tend to pay lower UI premiums, while employers who have laid off a large percentage of their employees have lower ratings and tend to pay higher premiums. Appendix A shows the UI premium schedule.

Second, the UITF ending-balance on June 30 of each year determines the premium rate schedule for all employers. If the UITF becomes more solvent (i.e., the ratio of the fund balance to benefits paid increases), all employers move to a lower premium rate schedule. Conversely, employers shift to a higher premium rate schedule when the fund balance falls relative to benefits paid. Finally, in addition to the UI premium, a solvency surcharge rate is assessed on employers when the UITF year-end balance falls below 0.5 percent of total statewide private wages. Solvency surcharge rates are also shown in Appendix A. The solvency surcharge was last assessed on Colorado employers in 2013.

To determine the amount of UI premium owed, each employer's combined premium rate is multiplied by an employee's chargeable wage base. In 2020, the chargeable wage base in Colorado is $13,600. For example, if an employer's combined experience rate is 1.7 percent, an employer would pay $231.20 each year per employee.

Federal borrowing when the UITF becomes insolvent. If the balance of the UITF falls below zero, the state is federally required to borrow money from the federal UI Trust Fund to cover required benefit payments.

TABOR status of revenue to the UITF. Revenue to the UITF has not been subject to the constitutional provision known as TABOR since FY 2009-10. However, revenue to the Employment Support Fund, which receives a portion of the UI premium surcharge, is still subject to TABOR. The Employment Support Fund is the primary source of funding for administration and information technology in the Labor Standards division within the Colorado Department of Labor and Employment.

UITF Insolvency during the 2007-09 Recession

Until the 2011 legislative session, the funding structure for Colorado's UI program had remained largely unchanged since 1999. As a result of high levels of unemployment and layoffs during the 2007-09 recession, the UITF became insolvent at the start of 2010. This caused the rates charged to businesses to increase to the maximum allowable levels in 2011. By federal law, when the balance of the UITF falls below zero, states are required to borrow money from the federal UITF to cover required benefit payments. To continue to meet UI benefit payment obligations, the state began borrowing from the federal UITF in mid-January 2010. After a year of loans offered interest free, the state made its first interest payment on loans outstanding in September 2011. During the summer of 2011, businesses were charged a special interest assessment to pay for this interest payment.

In order to restore the UI fund balance to a desired level of solvency and repay outstanding federal loans, the Colorado Housing and Finance Authority issued $640 million in bonds on behalf of the Colorado UITF in 2012. The proceeds were used to pay back all outstanding federal loans with the remaining balance deposited into the UITF. On June 28, 2012, the UITF had paid all remaining federal debt. The principal was repaid through a bond principal surcharge assessed against employers and incorporated into their base UI premium rate beginning in 2013 and lasting until 2017.

House Bill 11-1288. House Bill 11-1288 was passed to bring the UITF into solvency sooner, to maintain a healthier fund balance, and to avoid higher assessment rates during future economic downturns.

Under the bill, starting in 2012, the wage base increased from the first $10,000 paid to an employee to the first $11,000 and was annually indexed to the average weekly wage growth. Prior to the passage of the bill, the wage base was fixed at the first $10,000 for each employee. Additionally, the bill created a new rate schedule (Appendix A) for employers depending on the on UITF ending balance.

Standard Unemployment Insurance Program Benefits

The following provides an overview of the process for filing for standard Colorado UI benefits.

Eligibility. To be eligible for unemployment benefits, an individual must:

- have lost a job through no fault of his or her own;
- have earned at least $2,500 in wages;
- be at least 18 years old; and
- be able to provide proof that he or she is lawfully present in the United States.

Claiming benefits. Eligible individuals must first file a claim with CDLE. Claims typically take four to six weeks to process. CDLE verifies the applicant's information and circumstances with the applicant's previous employer, and considers any vacation, severance, pension, workers' compensation, military or federal wages, or 401(k) benefits the applicant has received, as well as any work done by the applicant in other states.

Receiving benefits. Once the claim is approved, the recipient must request payment every two weeks. Payments may be deposited onto a prepaid debit card or directly deposited into the recipient's bank account. The benefit amount is calculated by one of two formulas; the formula that calculates the highest weekly benefit amount is used. Recipients can receive benefits for up to 26 weeks. If it is determined that benefits should not have been paid, the recipient is required to repay the benefits, regardless of what caused the overpayment. Overpayment may result from a reversal of a previous award or incorrectly reported information, among other causes.

Maintaining eligibility. To continue to receive benefits, recipients must meet certain requirements, including:

- actively seeking work and recording the search on a log;
- being available to begin work immediately if offered a job;
- reporting hours worked and wages earned; and
- registering with a local workforce center within four weeks of filing a claim.

Filing an appeal. If a recipient disagrees with a decision made by CDLE, he or she may submit an appeal within 20 days of the decision, and a hearing may be scheduled to review the decision. The hearing decision may be appealed to the Industrial Claim Appeals Office, where a panel reviews the case and makes a final decision. Additional appeals take place through the Colorado Court of Appeals. Recipients may continue to request payment while the appeal is ongoing.

Additional Benefits under the Federal CARES Act

On March 27, 2020, the Federal Coronavirus Aid, Relief, and Economic Security Act, also known as the CARES Act, was signed into law. In addition to other economic stimulus programs, the CARES Act provides federal funding to each state's unemployment insurance programs to pay out additional benefits to individuals who have become unemployed for COVID-19-related reasons. These benefits are fully funded by the federal government, and the CARES Act includes funding for state agencies to administer the additional UI benefits.

The CARES Act provides the following additional UI benefits:

- extends eligibility for individuals who would have been ineligible for regular UI benefits, including self-employed workers, "gig" workers, and independent contractors;
- entitles each covered individual to the amount he or she would have normally received under the state's unemployment insurance program, plus an additional $600 per week for up to four months; and
- extends the time period during which the individual remains unemployed for COVID-19, related reasons up to 39 weeks.

State UI administrators will be required to issue the additional payments and have the option of adding the additional benefits to an already existing unemployment benefit check, or processing two separate checks.

Eligibility. Due to the stay-at-home order and other requirements intended to control the spread of COVID-19, CDLE enacted emergency rules relaxing some of the eligibility requirements for UI benefits. More information on eligibility can be found on the CDLE website:

https://www.colorado.gov/pacific/cdle/news/state-labor-department-releases-emergency-rules-paid-sick-leave-covid-19

Appendix A
UI Premium and Solvency Surcharge Rate Schedules, UI Premium Rates

			2020 Rates	2015, 2016, 2017, 2018, and 2019 Rates	2013 and 2014 Rates			
	Ratio of the UITF Balance to Total Private Wages							
Employer Experience Rating	0.014 or Greater	0.011 to 0.014	0.008 to 0.011	0.006 to 0.008	0.004 to 0.006	0.000 to 0.004	0.000 to Deficit	Solvency Surcharge Rate*
+20 or more	0.51%	0.56%	0.58%	0.62%	0.66%	0.71%	0.75%	0.100%
+18 to +19	0.57%	0.62%	0.64%	0.69%	0.73%	0.78%	0.82%	0.150%
+16 to +17	0.58%	0.63%	0.65%	0.70%	0.74%	0.79%	0.84%	0.150%
+14 to +15	0.61%	0.67%	0.69%	0.75%	0.80%	0.86%	0.91%	0.150%
+12 to +13	0.66%	0.72%	0.75%	0.82%	0.88%	0.95%	1.01%	0.150%
+10 to +11	0.75%	0.83%	0.87%	0.94%	1.02%	1.10%	1.18%	0.175%
+8 to +9	0.95%	1.05%	1.10%	1.20%	1.30%	1.40%	1.50%	0.275%
+6 to +7	1.16%	1.29%	1.35%	1.48%	1.60%	1.73%	1.86%	0.375%
+4 to +5	1.38%	1.54%	1.61%	1.77%	1.92%	2.07%	2.23%	0.475%
+2 to +3	1.93%	2.14%	2.25%	2.47%	2.69%	2.91%	3.13%	0.725%
+0 to +1	2.71%	3.02%	3.17%	3.48%	3.79%	4.10%	4.41%	1.100%
Unrated	2.96%	3.26%	3.42%	3.73%	4.03%	4.34%	4.65%	1.350%
-0 to -1	3.46%	3.86%	4.06%	4.47%	4.87%	5.27%	5.68%	1.425%
-2 to -3	3.68%	4.12%	4.33%	4.76%	5.19%	5.62%	6.06%	1.525%
-4 to -5	3.91%	4.37%	4.60%	5.06%	5.52%	5.98%	6.44%	1.625%
-6 to -7	4.14%	4.62%	4.87%	5.35%	5.84%	6.33%	6.82%	1.725%
-8 to -9	4.36%	4.88%	5.14%	5.65%	6.17%	6.68%	7.20%	1.825%
-10 to -11	4.59%	5.13%	5.40%	5.95%	6.49%	7.03%	7.58%	1.925%
-12 to -13	4.81%	5.39%	5.67%	6.24%	6.81%	7.38%	7.96%	2.025%
-14 to -15	5.04%	5.64%	5.94%	6.54%	7.14%	7.74%	8.34%	2.125%
-16 to -17	5.27%	5.89%	6.21%	6.83%	7.46%	8.09%	8.72%	2.225%
-18 to -19	5.49%	6.15%	6.48%	7.13%	7.79%	8.44%	9.10%	2.325%
-20 to -21	5.72%	6.40%	6.74%	7.43%	8.11%	8.79%	9.48%	2.425%
-22 to -23	5.94%	6.66%	7.01%	7.72%	8.43%	9.14%	9.86%	2.525%
-24 to -25	6.17%	6.90%	7.27%	8.01%	8.75%	9.49%	10.23%	2.625%
-25 or more	6.28%	7.03%	7.40%	8.15%	8.90%	9.64%	10.39%	2.700%

**The solvency surcharge is triggered "on" when the UITF balance falls below an amount equal to 0.5 percent of total statewide private wages. Section 8-76-102.5 (3), C.R.S.*