SB 23-232

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated March 31, 2023)

Drafting Number:	LLS 23-0852	**Date:**	April 5, 2023
Prime Sponsors:	Sen. Zenzinger; Kirkmeyer Rep. Bird; Sirota	**Bill Status:**	House Appropriations
		Fiscal Analyst:	Erin Reynolds | 303-866-4146 erin.reynolds@coleg.gov

Bill Topic: **UNEMPLOYMENT INS PREMIUMS ALLOCATION FED LAW COMPLIANCE**

Summary of Fiscal Impact:

☒ State Revenue
☒ State Expenditure
☒ State Diversion
☒ TABOR Refund
☐ Local Government
☐ 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 eliminates the use of the Employment Support Fund for certain labor-related purposes beginning in FY 2025-26. The bill will shift funds beginning in FY 2023-24.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The revised fiscal note reflects the reengrossed 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	General Fund	-	-	at least $3,155,180
	Employment Support Fund	-	-	at least ($3,155,180)
	Total Expenditures	**-**	**-**	**$0**
Diversion[1]	Employment Support Fund	($51,060,988)	($22,130,316)	($25,685,174)
	UI Trust Fund	$51,060,988	$22,130,316	$25,685,174
	Net Diversion	**$0**	**$0**	**$0**
Other Budget Impact	TABOR Refund[1]	($51,060,988)	($22,130,316)	not estimated
	General Fund Reserve	-	-	$473,277

[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. On June 30, 2025, the bill repeals the ability to use the ESF to fund labor standards, labor relations, and the Colorado Works grievance procedure.

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 $51.1 million in FY 2023-24, $22.1 million in FY 2024-25, and $25.7 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***	$41,946,898	$69,346,447	$61,687,049	$36,001,875	**$25,685,174**

** 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 FY 2024-25 figures reflect estimated expenditures from the ESF, assume a 5 percent growth rate each year, and reflect the new cap established in this bill.*
**** FY 2025-26 figures include $3.2 million in current ESF labor standards funding to be refinanced with General Fund under the bill.*

State Expenditures

Beginning FY 2025-26, the bill shifts expenditures for labor standards, labor relations, and the Colorado Works grievance process from the ESF to the General Fund. The amount that will shift to General Fund is estimated at $3,155,180. This estimate is based on FY 2023-24 expenditures growing by 5 percent year over year.

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 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 increase the amount of General Fund held in reserve by the amounts shown in Table 1, decreasing 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 and Local Government Contacts

Joint Budget Committee Staff	Labor