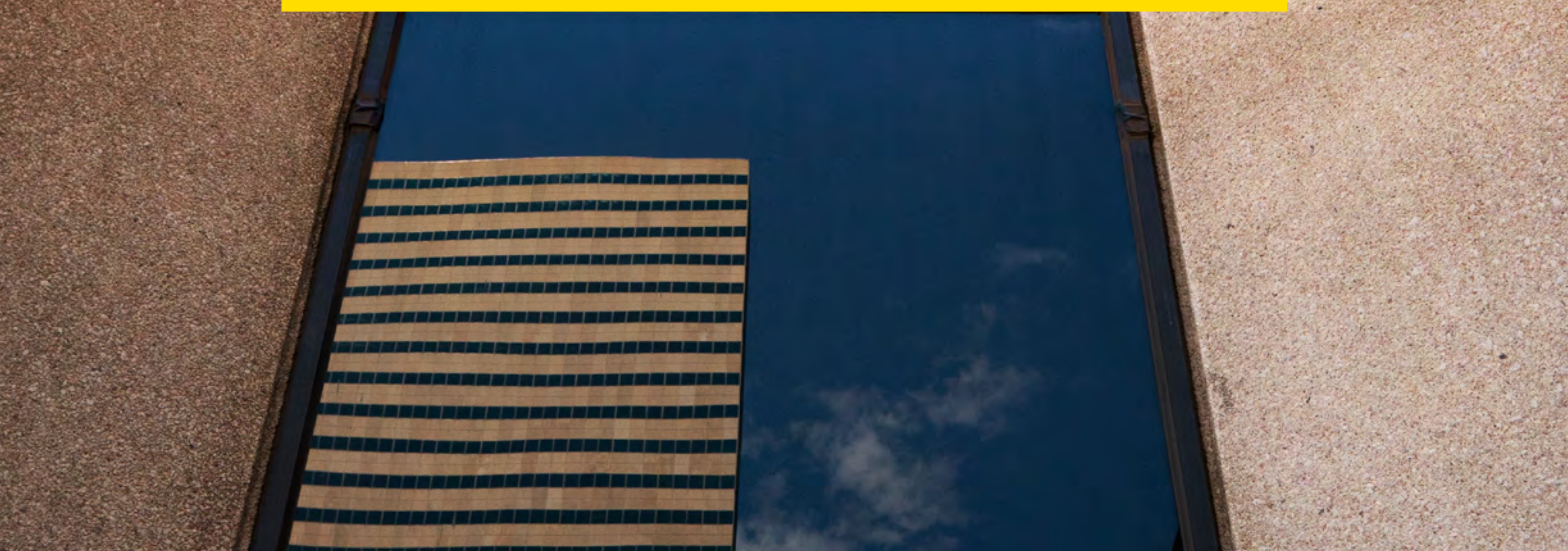
2022

Colorado Unemployment Insurance

Trust Fund Status Report

Colorado Department of Labor and Employment
August 31, 2022

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



01
Executive Summary

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- Colorado's existing Title XII loan balance, which peaked at $1.014 billion in April 2021, is set to be paid off by early November 2022.
- The rapid recovery in Colorado's labor market has driven weekly UI benefit payment amounts to pre-pandemic levels.
- As a result of Senate Bill 20-207:
    - Increases in the wage base began in 2022.
    - Solvency surcharge was suspended in 2022.
- As a result of Senate Bill 22-234:
    - $580 million in ARPA funds used toward paying down some of the Title XII loan balance.
    - $20 million in ARPA funds set aside for future payments owed on Title XII interest accruals.
    - Solvency surcharge suspended in 2023.
    - The UITF's path to solvency was significantly accelerated and was done so without additional costs to Colorado employers.
- The trust fund balance is anticipated to range between $1.6-$2.7 billion by the end of 2027 under continuing conditions of economic growth.
- While the solvency surcharge was legislatively turned off for 2023, it remains on through 2025 under strong and moderate growth scenarios.

02

Calendar Year 2021 Fund Status

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Trust fund reserves, which surpassed $1.1 billion at the end of 2019, were quickly depleted by the sharp and unprecedented rise in job loss due to the pandemic. As of December 31, 2021, the unemployment insurance trust fund (UITF) was insolvent and $1.013 billion had been borrowed, in the form of Title XII loans from the Federal Unemployment Account (FUA), to pay benefits on the state unemployment program. This was an increase of $261 million in the outstanding borrowing balance from twelve months earlier, which stood at $752.0 million. However, all additional borrowing during 2021 occurred between January and April.[1]

Employer contributions paid into the UITF, including those from reimbursable employers, totaled $662.3 million during 2021, exceeding the $540.9 million paid the prior year. The increase was due to a rapidly improving economy[2] and employers shifting to a higher rate schedule in 2021.[3] The solvency surcharge for employers was legislatively turned off in 2021 and 2022 through Senate Bill 20-207 and had no impact on employer contributions received. The average tax rate for employers changed little in 2021, moving to 0.42 percent from 0.37 percent in 2020.[4] Interest earnings totaled $0 in 2021, as the UITF does not accrue interest earnings once the fund becomes insolvent.[5]

Driven by a historically high level of pandemic-induced layoffs, $953.1 million in regular unemployment insurance (UI) benefit payments were distributed in 2021, though down substantially from the $2.4 billion paid out in 2020. In comparison, average annual benefit payments from 2016 to 2019 were $420 million, while just under $2 billion were disbursed in 2009 and 2010, combined, at the height of the Great Recession. Approximately 593,000 Coloradans received at least one UI benefit payment in 2021, compared to over 851,000 the prior year. The Colorado Department of Labor and Employment (CDLE) estimates that a little over one million distinctive individuals in Colorado were paid a UI benefit between March 2020 and the end of 2021, representing one-third of the state's pre-pandemic labor force.[6]

1 Incoming employer contributions were sufficient to cover benefit payments from May to December 2021, thus negating the need for additional Title XII loans.

2 Colorado's nonfarm payrolls increased by 92,900, or 3.5 percent, in 2021. By February 2022, Colorado had recovered the 374,500 jobs that were lost in March and April 2020, at the height of the pandemic. Additionally, the total level of employer wages subject to UI premiums rose 7.7 percent in 2021 compared to 2020, despite the taxable wage base being frozen at $13,600 due to the passage of Senate Bill 20-207 in mid-2020.

3 Employers moved from the 0.008 to 0.011 rate schedule (third lowest out of seven rate schedules) in 2020 to the 0.000 to 0.004 rate schedule (second highest) in 2021. The 2021 rate schedule was determined by the UITF balance on June 30, 2020 as a share of total wages reported by employers for calendar year 2019.

4 Employer premium rates are determined by an employer's history, the 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 through 2019; consequently, most Colorado businesses had shifted to the low end of the premium rate schedule by 2020. That distribution was mainly unchanged during the pandemic due to Executive Order D 2020 012, which stipulated that no benefit charges related to the COVID-19 pandemic would be chargeable to premium paying employer accounts.

5 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.

6 In addition to regular state unemployment, the 2020 and 2021 totals also include payments from federal unemployment programs that were created through the CARES (Coronavirus Aid, Relief, and Economic Security) 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 fall of 2020 and are also included in the total counts. Benefits from the PUA, PEUC, and SEB programs were paid with federal dollars and had no impact upon state trust funds.

03
Trust Fund Outlook

Trust Fund Outlook

LABOR MARKET UPDATE

Over two years have passed since the start of the COVID-19 pandemic, and both Colorado and the U.S. have experienced rapid improvements in their labor markets. By February 2022, Colorado had recovered all 374,500 nonfarm payroll jobs lost in early 2020. Recent data shows that all but two of the state's eighteen industry sectors have regained at least 95 percent of lost jobs. Through July 2022, Colorado's jobless rate has fallen to 3.3 percent, just above the February 2020 pre-pandemic mark of 2.8 percent, while the U.S. unemployment rate returned to pre-pandemic levels in July and stands at a 50-year low. The state's unemployment rate, which peaked at 11.8 percent in May 2020, took only twenty-six months to reach a level of 3.3 percent – a recovery nearly two and a half times faster than during the Great Recession.

While Colorado and U.S. labor markets are returning to pre-pandemic levels, the economy may face significant headwinds due to the recent rise in inflation. Current year-over-year changes in the Consumer Price Index (CPI) are the highest in 40 years, driven mainly by steep increases in energy, shelter, and food costs.[7] In response to rising costs, the Federal Reserve, who sets U.S. monetary policy, has aggressively moved interest rates higher in order to make the cost of borrowing more expensive, which subsequently will reduce demand for goods and services and cool an overheated economy.[8] Historically, it has been difficult for the Federal Reserve to substantially raise interest rates without causing an eventual recession and downturn in labor market activity.

BENEFIT PAYMENT TOTALS FOR FEDERAL AND STATE UNEMPLOYMENT INSURANCE (UI) PROGRAMS

In response to the pandemic, Congress established a number of federal programs to address the tremendous loss of employment in the nation in 2020: Pandemic Unemployment Assistance (PUA), Pandemic Emergency Unemployment Compensation (PEUC), and Federal Pandemic Unemployment Compensation (FPUC). These programs are paid with federal dollars and have no impact upon state UI trust funds. Per the American Rescue Plan, the federal programs expired on September 4, 2021, but continued to pay out to claimants after that date due to backdating, removal of fraud holds, and other administrative reasons. Additionally, due to high rates of unemployment, State Extended Benefits (SEB) triggered on in Colorado in the fall of 2020, but the federal government also covered those benefit payments.[9] Approximately $42 million in SEB benefits have been paid to Colorado claimants.

7 CPI data are produced the Bureau of Labor Statistics and can be viewed here. More in depth analysis on the potential impact of inflation on the U.S. and state economies can be viewed in the June 2022 forecasts from the Office of State Planning and Budgeting and Legislative Council Staff.

8 The Federal Reserve has a dual mandate: 1) Low and stable prices (two percent annual growth in inflation is desired target); and 2) maximum employment (generally, anyone who wants a job, can get a job). For a summary of Federal Reserve meetings and policy decisions, visit this link.

9 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. Due to improving economic conditions, SEB triggered off at the end of November 2020. Although, roughly $13 million in benefits have been paid out since that period, due to backdating and other administrative reasons. Approximately 25,000 Coloradans have received a payment through the SEB program since mid-2020.

Federal UI Programs Created via CARES Act	General Description of Each Federal Program	Total Colorado Benefits Paid 3/29/20 to 8/6/22
Pandemic Unemployment Assistance (PUA)	Allows payment of unemployment benefits to those traditionally ineligible, like the self-employed and gig workers (maximum of 79 weeks)	$1.6 billion
Pandemic Emergency Unemployment Compensation (PEUC)	Provides extended weeks of unemployment benefits once regular UI benefits are exhausted (maximum of 53 weeks)	$1.5 billion
Federal Pandemic Unemployment Compensation (FPUC)	1st round of FPUC added $600 weekly 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)	$4.7 billion

Since the end of March 2020, Colorado has paid nearly $3.7 billion in regular state unemployment payments. Of the $3.7 billion in regular state unemployment benefits paid out over that period, $3.2 billion (86.5 percent) were distributed between the end of March 2020 and early August 2021. During the past 52 weeks since then, weekly regular benefit payments have swiftly dropped from around $20 million to less than $8 million. Current weekly payments are similar to the amounts paid out on a weekly basis in 2019, prior to the pandemic. Congress also allowed states meeting certain conditions to qualify for federal reimbursement of a claimant's first week of benefits through early September 2021.[10] Colorado has received approximately $267 million for payment of the first benefit week. The number of persons receiving a payment from Colorado's regular unemployment system totaled only 12,000 in July 2022 – down substantially from a year prior, when that figure exceeded 61,000, as well as compared to the pre-pandemic monthly average of around 21,000. Nearly 300,000 Coloradans were paid regular UI benefits in May 2020, which represented the single-month peak during the pandemic.

10 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 covered any payments made during the waiting week.

BORROWING, REPAYMENT OF LOANS, AND INTEREST

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 from the Federal Unemployment Account (FUA), in the form of Title XII loans. To date, Colorado's borrowing total peaked at $1.014 billion in federal loans. Twenty-one other states and the Virgin Islands also had outstanding loan balances at some point over the past two and a half years.[11]

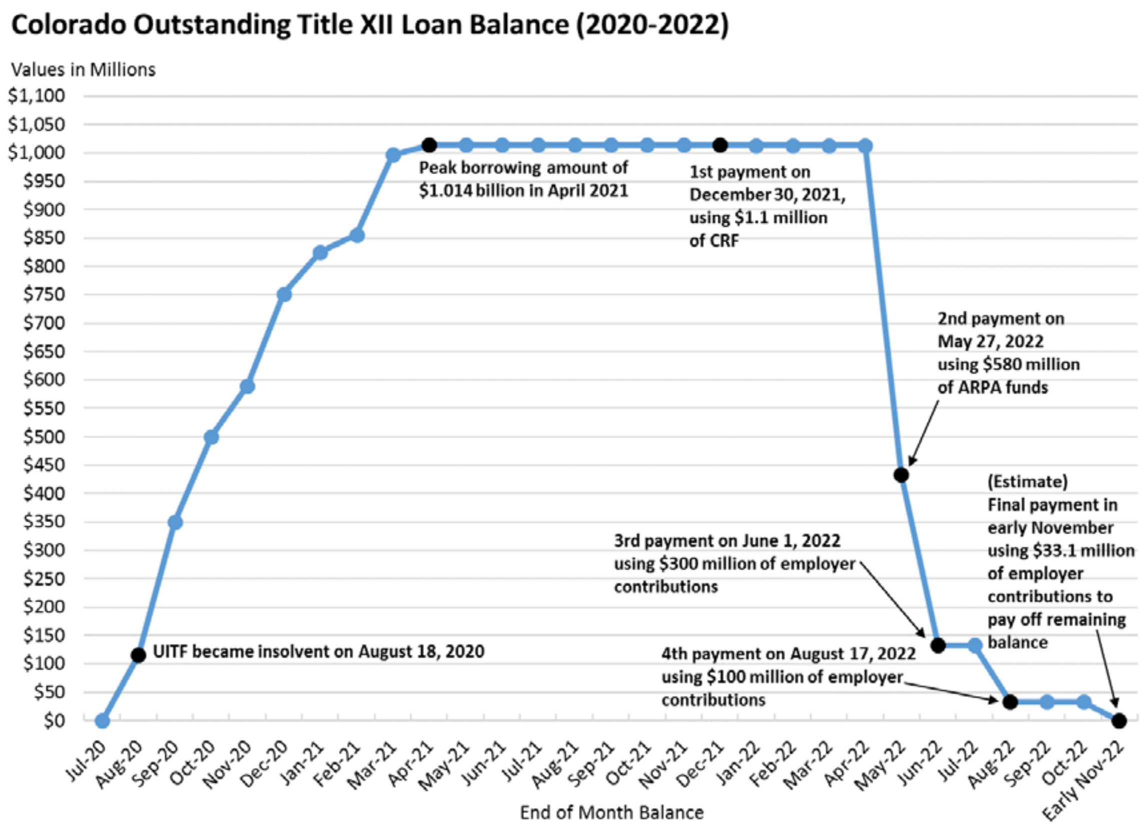
Currently, Colorado has made four separate payments toward paying down the principal owed on the Title XII loans. A small payment of just under $1.1 million was made on December 30, 2021, with available Coronavirus Relief Funds (CRF). A large transfer of $580 million was deposited on May 27, 2022, which utilized funds from the American Rescue Plan Act of 2021 (ARPA) made available through the passage of Senate Bill 22-234.[12] Colorado is one of at least thirty-five states to have used pandemic federal funds to either pay down outstanding Title XII loans or bolster UITF balances. The Department has also made two additional payments toward reducing the remaining Title XII loan balance, which used unemployment premium contributions that have been received from employers since April 2022. The first payment occurred on June 1 and was for $300 million, while a second payment totaling $100 million took place on August 17. With the four separate payments, Colorado's present outstanding loan balance is approximately $33.1 million. CDLE is planning one more payment in early November, which should pay off the remaining loan balance. If the entire loan is paid by the close of business on November 9, Colorado will avoid triggering a FUTA credit reduction for employers.[13]

States whose trust funds became insolvent were able to borrow interest-free from FUA through September 6, 2021, with interest accruing on outstanding balances after that date. Colorado owed $1,518,884 in Title XII interest on September 30, 2021, which was paid with CRF. The Department estimates that approximately $13 million in Title XII interest will be owed on September 30, 2022, which will be paid with ARPA funds made available through the passage of Senate Bill 22-234. Additionally, any potential Title XII interest owed on September 30, 2023 will also be paid with those remaining ARPA funds.

11 Recent and historical outstanding Title XII loan balances by state can be viewed here.

12 Through Senate Bill 22-234, $600 million in ARPA funds were made available for the "repayment of federal advances, and interest on such advances." CDLE used $580 million of that total to pay down some of the outstanding Title XII loan balance and set aside the remaining $20 million for future payments owed on Title XII interest accruals.

13 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." Colorado had an outstanding loan balance on January 1, 2021 and January 1, 2022, which triggered a potential FUTA credit reduction if the loan balance is not repaid in full before 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.



SENATE BILL 22-234 AND FINANCIAL RELIEF TO EMPLOYERS

Senate Bill 22-234 provided financial relief to employers in a few ways. As mentioned in the prior section, $580 million in federal funds were used to pay down some of the state's outstanding Title XII loan balance. This significantly accelerated the UITF's path to solvency and was done so without additional costs to Colorado employers.[14] CDLE estimates that absent the utilization of the $580 million in ARPA funds, and other additional funding sources like private bonding, mid-2024 would have been the earliest the outstanding Title XII loan balance would have been paid in full.[15]

Additionally, future payments owed on Title XII interest accruals would have been paid through a separate assessment to employers, had the $20 million in ARPA funds not been made available and set aside to cover those costs.

Finally, Senate Bill 22-234 legislatively turned off the solvency surcharge that would have triggered on in 2023. CDLE estimates that Colorado employers would have paid approximately $200-$250 million in additional contributions had the solvency surcharge been in effect for 2023.

14 The $580 million in ARPA funds essentially represented an entire year's worth of employer contributions. In 2020, employers paid $540.9 million in contributions that went into Colorado's unemployment insurance trust fund.

15 An insolvent UITF over that time horizon would have triggered multiple FUTA credit reductions and kept employers on the deficit rate schedule for at least one additional year.

COLORADO UNEMPLOYMENT INSURANCE TRUST FUND FORECAST (2022-27)

At present, the Department is using three trust fund forecasts that reflect varying levels of economic growth over the forecast horizon (strong, moderate, and weak). The forecasts incorporate the provisions of Senate Bill 20-207 related to increases in the wage base beginning 2022 and Senate Bill 22-234 related to the suspension of the solvency surcharge in 2023.

In a strong growth scenario, the insured unemployment rate (IUR)[16], a measure that reflects the degree of strain upon the trust fund, is anticipated to range between 0.75 and 1.00 percent from 2022 to 2027. The IUR range in the moderate growth scenario is forecast between 0.90 and 1.25 percent, while slightly higher in the weak growth forecast (1.15 to 1.50 percent).

The number of benefit weeks paid under the regular UI program are forecast to fall to just under one million in 2022 – a vast improvement compared to the 7.2 and 2.8 million weeks paid in 2020 and 2021, respectively. Under the strong growth forecast, benefits paid from the UITF are expected to total around $400 million in 2022 and range between $500 and $800 million annually from 2023 to 2027. The increase compared to 2022 is due to continued growth in wages and UI covered employment. The moderate growth forecast increases those annual benefit totals by about $100 million, while the weak growth forecast adds around $200 million per year.

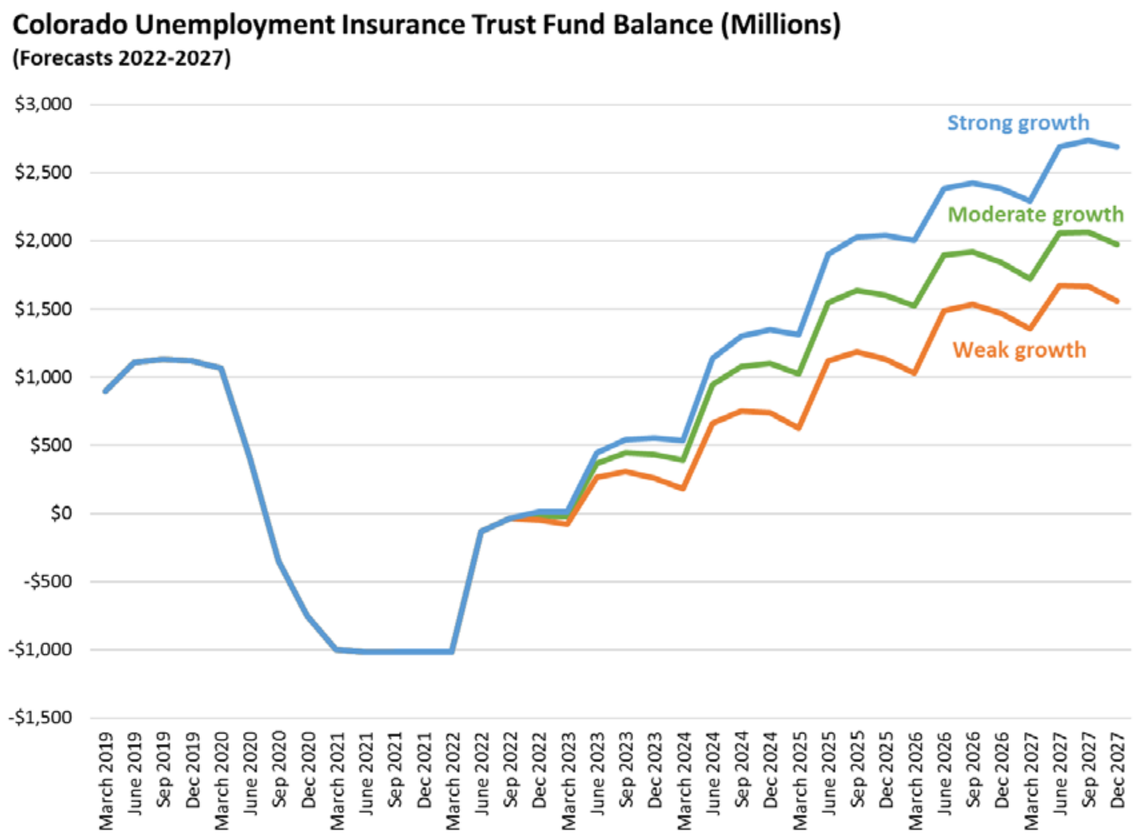
The trust fund would become solvent by 2023 in all three forecast scenarios. Year-end fund balances for 2027 range between $1.6 billion (weak growth forecast) and $2.7 billion (strong growth forecast). Those fund balances would roughly mirror reserve, or solvency, ratios of 0.9 and 1.2 percent, respectively. The reserve ratio, one metric to assess the health and solvency adequacy of a state's UI trust fund[17], was 0.9 percent in Colorado prior to the pandemic and last exceeded 1.0 percent in 2001. Employers in Colorado shift to the lowest rate schedule when the reserve ratio reaches 1.4 percent on June 30 of any year.[18] While the solvency surcharge was legislatively turned off for 2023, it remains on through 2025 under strong and moderate growth scenarios, and through 2026 in the weak growth forecast. The UITF balance will need to exceed roughly $1.2 billion in order for the solvency surcharge to trigger off.[19]

16 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.

17 Simply, the reserve ratio is a calculation of the UI trust fund balance on June 30 as a proportion of total wages reported by employers subject to standard premium rates for the prior calendar year.

18 Colorado's current standard premium rate schedule was established through House Bill 11-1288. The rate schedule can be viewed on page 71 of the Colorado Employment Security Act (CESA). The UITF is considered fully solvent for purposes of Colorado's premium rate structure when the reserve ratio reaches 1.4 percent.

19 Per House Bill 11-1288, "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 2023-27 forecast horizon, will most likely need to exceed $1.2 billion in order for the solvency surcharge to trigger off for the following calendar year.



UNEMPLOYMENT INSURANCE TRUST FUND STRESS TEST FORECASTS (2023-27)

While the trust fund balance is anticipated to range between $1.6-$2.7 billion by the end of 2027 under continuing conditions of economic growth, it is important to also consider what may happen to the fund if the economy contracts again. To this end, the Department models various recession scenarios that serve as stress tests of the fund and show the extent of its vulnerability to economic downturns.

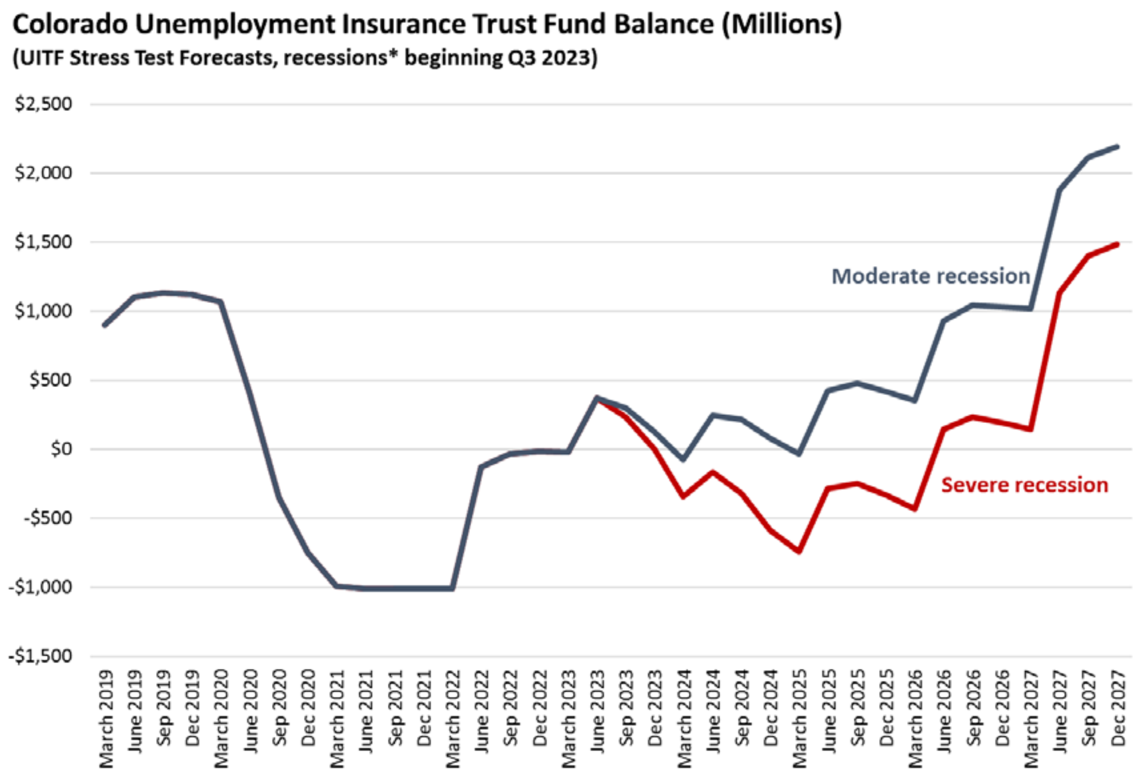
To gauge the fund’s response to economic recessions, CDLE looked at two scenarios in which the economy contracts beginning mid-2023. These forecasts provide a general idea of how the fund would react to a slump similar to the 2001 recession as well as a deep and more protracted event like the Great Recession.

Under the moderate mid-2023 recession scenario, the fund experiences brief periods of insolvency that would require small levels of borrowing (less than $100 million) in order to continue paying benefits. The fund would be intermittently solvent through mid-2025 and employers would remain on either the deficit or 0.000 to 0.004 rate schedules until 2027. Additionally, the solvency surcharge would be in effect from 2024 to 2027.

03 TRUST FUND OUTLOOK

The severe mid-2023 recession forecast leads to extended periods of insolvency for the fund, requiring substantial amounts of borrowing that would peak around $750 million by early 2025.[20] The fund would be marginally solvent through mid-2027 and employers would remain on either the deficit or 0.000 to 0.004 rate schedules though the forecast horizon. The solvency surcharge would likely be in effect through 2028.

One key factor that helps reduce the impact of a recession on the trust fund in these stress test forecasts is the increase of the wage base through 2026. Per Senate Bill 20-207, the wage base will grow in increments of $3,400 annually, moving from $13,600 in 2021 to $30,600 in 2026.[21] While the impact of Senate Bill 20-207 was covered extensively in the 2020 UITF status report, generally, its passage resolved long-standing impediments to UITF solvency by progressively increasing the wage base in a manner consistent with CDLE recommendations. Absent Senate Bill 20-207, the fund's long-term financial position would have remained much more precarious, with adverse consequences for employers.



*Note: a moderate recession would be roughly equivalent to the early 2000s recession in severity, while a severe recession would similarly mirror the Great Recession in severity .

20 For reference, approximately $1.1 billion in Title XII loans were borrowed by Colorado in response to the Great Recession, while borrowing amounts peaked at $1.0 billion during the COVID-19 pandemic.

21 Beginning in 2027, the wage base will be adjusted by the change in average weekly earnings for UI-covered employees.

04
Improper Payments

Improper Payments

Improper payments are defined as *the overpayment or underpayment of unemployment benefits*. States with improper payment rates greater than 10 percent are considered to be out of compliance with federal performance standards. Improper payment compliance has become a national issue as a result of the pandemic; currently only 5 states are in compliance with a rate of below 10 percent. No states are below 8% and some states have rates at 50% or above.

CDLE's improper payment rate in 2021 was 31.86 percent, though the most recent available data demonstrates that the improper payment rate is trending down. The improper payment rate decreased to 23.32 percent for the 12-month period of April 2021 through March 2022.

There were a number of causes for Colorado improper payments during calendar year 2021:

- State UI programs were inundated with fraudulent claims during the pandemic. CDLE identified nearly 1.3 million potentially fraudulent claims for unemployment benefits since the pandemic began.
- In order to expedite payments to the unprecedented number of unemployed Colorado workers impacted by the pandemic, CDLE suspended our typical adjudication process (along with other states) and paid claims before they could be fully processed.Through normal processing, it was determined that some of these claimants were not eligible for unemployment.
- For the first time in the history of the UI program, Congress enacted five different UI programs, all with overlapping eligibility. This means claimants could have been retroactively disqualified from one program, in favor of another, creating a new overpayment.

CDLE is working diligently to bring our improper payment rate down and come back into compliance. Our efforts to curb improper payments include:

- Since May of 2021, all benefit recipients have been required to prove their identity online prior to receiving benefits. CDLE's use of secure identity verification software has drastically curbed the ability of fraudsters to steal UI benefits.
- CDLE is in the process of a full overhaul of our fraud detection and prevention technologies, and expects the new systems to deploy in late 2022.
- To date, CDLE has confirmed $34,589,062 in fraudulent payments made, $679,585,592 confirmed fraudulent payments **prevented** due to anti-fraud efforts, and $46,457,537.45 suspected fraudulent benefits recovered through investigative efforts. CDLE continues to investigate and refer pandemic era cases for prosecution.
- Following the expiration of federal flexibility, CDLE has returned to our pre-pandemic adjudication methods and is now processing all claims before payment.
- CDLE has two teams entirely dedicated to addressing improper payments. The Benefit Accuracy Measurement (BAM) team reviews claims to determine if they were paid properly. The Quality

Assurance Team analyzes the issues, root causes, and trends related to improper payments and recommends strategies to detect, prevent, and deter payment errors.

- In January of 2021, CDLE launched MYUI+ as a modernized benefit payment system, and is moving forward with modernizing the employer services system. A fully modernized UI system will allow greater transparency into the benefit process, and provide a number of tools to ensure lower improper payments.