

Fiscal Year 2021-2022	Business Unit 7100	Department Employment Development Department	Priority No.
Budget Request Name 7100-037-BCP-2022-GB		Program 5920	Subprogram

Budget Request Description

AB 110 - Fraudulent Claims for Unemployment Compensation Benefits: Inmates

Budget Request Summary

The Employment Development Department (EDD) requests \$2,199,000 EDD Contingent Fund and 4.6 positions in 2022-23, \$934,000 and 3.6 positions in 2023-24, and \$720,000 and 3.5 positions in 2024-25. These resources will be used to administer provisions of Assembly Bill (AB) 110 (Chapter 511, Statutes of 2021) that was recently chaptered.

Requires Legislation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Code Section(s) to be Added/Amended/Repealed	
Does this BCP contain information technology (IT) components? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <i>If yes, departmental Chief Information Officer must sign.</i>	Department CIO Rita Gass	Date 10/13/2021

For IT requests, specify the project number, the most recent project approval document (FSR, SPR, S1BA, S2AA, S3SD, S4PRA), and the approval date.

Project No.

Project Approval Document:

Approval Date:

If proposal affects another department, does other department concur with proposal? Yes No

Prepared By Jeff Loverde	Date 10/11/2021	Reviewed By Andy Bassi	Date 10/11/2021
Department Director Rita Saenz	Date 10/20/2021	Agency Secretary Natalie Palugyai	Date 10/21/2021

Department of Finance Use Only

Additional Review: Capital Outlay ITCU FSCU OSAE Dept. of Technology

PPBA Danielle Brandon	Date submitted to the Legislature 1/10/2022
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A. Budget Request Summary

The Employment Development Department (EDD) requests \$2,199,000 and 4.6 positions in 2022-23, \$934,000 and 3.5 positions in 2023-24, and \$720,000 and 3.5 positions in 2024-25 in EDD Contingent Fund. These resources will be used to administer provisions of Assembly Bill (AB) 110 (Chapter 511, Statutes of 2021) that was recently chaptered.

B. Background/History

The Governor signed AB 110 into law on October 5, 2021. AB 110 requires the Department of Corrections and Rehabilitation (CDCR) to provide the names, known aliases, birth dates, Social Security Numbers (SSN), and the booking date and expected release date, if known, of current incarcerated individuals to the EDD for the purposes of preventing payments on fraudulent Unemployment Insurance (UI) claims. AB 110 requires EDD to complete any necessary system programming or automation to monitor CDCR's inmate data and prevent payments on fraudulent UI claims by the earliest feasible date, but not later than September 1, 2023.

The EDD is responsible for administering the UI program, which provides partial wage replacement benefits to employees who lose their job through no fault of their own. The UI program operates using a federal-state partnership and was created by the federal Social Security Act. Generally speaking, eligibility for benefits requires that the claimant be able to work, available for work, seeking work, and willing to accept suitable employment. Eligible UI claimants may receive between \$40 and \$450 weekly, known as the weekly benefit amount. A worker's weekly benefit amount is determined by the wages the worker earned in the five to 18 months prior to their claim effective date.

Employers play a critical role in the UI program. Employers are responsible for reporting their employees' wages to the EDD each calendar quarter to assist in determining benefit eligibility. Employees with no reported earnings or insufficient earnings to establish a valid UI claim may not be eligible to receive benefits. Employers are also responsible for paying taxes on their employees' wages. These taxes fund UI benefit payments. An employer's tax rate is determined based on the age of the business and the rate at which their employees collect UI benefits. When an individual files a UI claim, their last employer on record receives a notice. This notice provides the employer an opportunity to protest the claim and provide information to the EDD regarding the employee's reason for separation. Employers are incentivized to contest claims filed inappropriately by former employees or workers claiming to be former employees to lower their UI costs.

In addition to the real-time input provided by employers during the claim filing process, the EDD uses data-driven techniques to prevent and detect improper benefit payments to individuals or organizations attempting to commit fraud. These include, but are not limited to:

- Quarterly Benefit Audits – This crossmatch compares wages reported by employers to detect individuals who may be collecting benefits while working and fail to report those wages. This is the most common form of fraud perpetrated against the UI program.
- National Directory of New Hires – This crossmatch enables the EDD to use new hire information provided by employers nationwide to identify claimants who may have returned to work, but have not reported their new employment to the EDD.
- Interstate Cross-Match – This crossmatch identifies individuals that may be fraudulently collecting benefits while working outside of California.

In response to the COVID-19 pandemic, Congress passed the federal CARES Act in 2020. Among other provisions, the CARES Act created the Pandemic Unemployment Assistance (PUA) program, the costs of which are fully-financed by the federal government. The PUA program intended to provide benefit payments to workers who do not qualify for traditional UI benefits, including self-employed individuals and independent contractors. Unlike traditional employees, self-employed individuals and independent contractors are not required to report their earnings to the EDD quarterly. Therefore, to determine their weekly benefit amounts, claimants initially self-attested to their eligibility for benefits, including their net-income and reason for unemployment. This program design was intended to relieve administrative burdens from state workforce agencies such as the EDD and allowed benefits to reach workers quickly. However, it also created vulnerabilities, leading to widespread fraud by national and international organized crime entities, and incarcerated individuals. In January 2021 the EDD calculated that 95 percent of all potentially fraudulent claims filed during the COVID-19 pandemic were associated with PUA claims.

The complex fraud perpetrated against the PUA program demanded state-wide attention and coordination. The Governor's Office of Emergency Services in partnership with State District Attorneys and the U.S. Attorney's Office, with EDD's participation, has served as the single point of contact related to ongoing and future fraud investigations. This task force was established on November 24, 2020, and also includes participation from the Federal Bureau of Investigation, CDCR, and the U.S. Department of Labor, among other organizations. The task force also established a joint executive level multi-agency coordination group to facilitate unified efforts, coordinate actions, and streamline statewide investigations.

When EDD became aware of fraud perpetrated by inmates against the PUA program, the Department took immediate action to collaborate with CDCR to secure data on suspected incarcerated individuals. With the support of the Governor's task force, the Attorney General exercised authority granted under Penal Code Section 11105(c)(2) to provide data to EDD's Investigation Division, which employs sworn peace officers. The Section reads in part:

(c) The Attorney General may furnish state summary criminal history information and, when specifically authorized by this subdivision, federal level criminal history information upon a showing of a compelling need to any of the following, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any other entity in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the Labor Code shall apply:

(1) A public utility, as defined in Section 216 of the Public Utilities Code, that operates a nuclear energy facility when access is needed in order to assist in employing persons to work at the facility, provided that, if the Attorney General supplies the data, the Attorney General shall furnish a copy of the data to the person to whom the data relates.

(2) A peace officer of the state other than those included in subdivision (b).

The CDCR continues to share data on incarcerated individuals with EDD each month, however, there is an understanding that a long-term data sharing agreement requires explicit authority under state law which has now been provided with the passage of AB 110.

To supplement the data received from CDCR, the EDD established a crossmatch with the California Department of State Hospitals, as well as with a vendor to review incarceration data from county jails and other applicable facilities.

C. State Level Consideration

The state's UI program has drawn significant attention due to the substantial service challenges faced during the pandemic, which are ongoing. In addition, the California State Auditor's Report dated January 28, 2021 titled *Significant Weaknesses in EDD's Approach to Fraud Prevention*

Have Led to Billions of Dollars in Improper Benefit Payments, recommended that this legislative action be taken to amend state law. AB 110 requires CDCR to provide EDD with data on incarcerated individuals to prevent improper UI benefit payments. The EDD expects this legislation would deter payments to incarcerated individuals or individuals filing for benefits on their behalf.

D. Justification

The EDD already leverages CDCR data to identify incarcerated individuals attempting to file or certify for Unemployment Insurance benefits. The current process requires manual intervention by EDD staff. To implement AB 110, the Department would establish an automated system to identify an individual's incarceration status to prevent and deter fraud. Deploying an automated solution would require a one-time cost of approximately \$3.0 million to document business requirements, complete development, conduct testing, and comply with California Department of Technology Project Approval Lifecycle requirements. EDD will use existing funds for deployment activities that occur in 2021-22. This new technical solution would require an ongoing cost of approximately \$720,000 annually for maintenance and support. The EDD would also incur administrative costs to support this effort. In the event an individual is disqualified and appeals the EDD's decision, staff would process the appeal and represent the Department at an appeals hearing, as appropriate. The costs to process and administer appeals would depend on the number of appeals filed, however, they are expected to be minimal.

AB 110 would enact the following:

- EDD is required to use CDCR data to determine if the claimant is an inmate currently incarcerated in a state prison, in order to prevent payment on fraudulent UI claims. AB 110 includes an urgency clause, but allows EDD to complete the system programming and automation efforts to implement the provisions by the earliest feasible date, but not later than September 1, 2023.
- EDD would establish an automated system to identify an individual's incarceration status to prevent and deter fraud.
- EDD would conduct state-wide staff trainings and process appeals filed by suspected incarcerated individuals, as appropriate.
- The EDD supports the need to provide ongoing authority for data sharing between EDD and CDCR. Data plays a critical role in EDD's evolving strategy to combat fraud and AB 110 would provide ready-access to a key source of information for inmate-related fraud.

E. Outcomes and Accountability

The main outcome of this proposal will be compliance with the legislatively mandated requirements of AB 110. Approving EDD's request for additional resources to enforce the provisions of AB 110 will enable EDD to automate the monitoring of CDCR's inmate data and prevent payments on fraudulent UI claims.

F. Recommendation

The EDD recommends approval of this proposal to provide the necessary funding to implement the provisions of AB 110.

BCP Fiscal Detail Sheet

BCP Title: AB 110 - Fraudulent Claims for Unemployment Compensation Benefits: Inmates

BR Name: 7100-037-BCP-2022-GB

Budget Request Summary

Personal Services

Personal Services	FY22 Current Year	FY22 Budget Year	FY22 BY+1	FY22 BY+2	FY22 BY+3	FY22 BY+4
Positions - Permanent	0.0	0.0	2.0	2.0	0.0	0.0
Positions - Temporary	0.0	4.6	1.6	1.5	0.0	0.0
Total Positions	0.0	4.6	3.6	3.5	0.0	0.0
Salaries and Wages	0	0	216	220	0	0
Earnings - Permanent						
Earnings - Temporary Help	0	471	160	147	0	0
Total Salaries and Wages	\$0	\$471	\$376	\$367	\$0	\$0
Total Staff Benefits	0	291	232	227	0	0
Total Personal Services	\$0	\$762	\$608	\$594	\$0	\$0

Operating Expenses and Equipment

Operating Expenses and Equipment	FY22 Current Year	FY22 Budget Year	FY22 BY+1	FY22 BY+2	FY22 BY+3	FY22 BY+4
5301 - General Expense	0	10	8	7	0	0
5304 - Communications	0	6	5	5	0	0
5322 - Training	0	2	12	12	0	0
5324 - Facilities Operation	0	29	23	22	0	0
5326 - Utilities	0	2	1	1	0	0
5340 - Consulting and Professional Services - External	0	1,020	157	0	0	0
5340 - Consulting and Professional Services - Interdepartmental	0	279	34	0	0	0
5344 - Consolidated Data Centers	0	10	8	7	0	0
5346 - Information Technology	0	6	16	16	0	0
5368 - Non-Capital Asset Purchases - Equipment	0	0	5	0	0	0
539X - Other	0	73	57	56	0	0
Total Operating Expenses and Equipment	\$0	\$1,437	\$326	\$126	\$0	\$0

Total Budget Request

Total Budget Request	FY22 Current Year	FY22 Budget Year	FY22 BY+1	FY22 BY+2	FY22 BY+3	FY22 BY+4
Total Budget Request	\$0	\$2,199	\$934	\$720	\$0	\$0

Fund Summary

Fund Source

Fund Source	FY22 Current Year	FY22 Budget Year	FY22 BY+1	FY22 BY+2	FY22 BY+3	FY22 BY+4
State Operations - 0185 - Employment Development Department Contingent Fund	0	2,199	934	720	0	0
Total State Operations Expenditures	\$0	\$2,199	\$934	\$720	\$0	\$0
Total All Funds	\$0	\$2,199	\$934	\$720	\$0	\$0

Program Summary

Program Funding

Program Funding	FY22 Current Year	FY22 Budget Year	FY22 BY+1	FY22 BY+2	FY22 BY+3	FY22 BY+4
5920 - Unemployment Insurance Program	0	2,199	934	720	0	0
Total All Programs	\$0	\$2,199	\$934	\$720	\$0	\$0

Personal Services Details

Positions

Positions	FY22 Current Year	FY22 Budget Year	FY22 BY+1	FY22 BY+2	FY22 BY+3	FY22 BY+4
1414 - Info Tech Spec II	0.0	0.0	2.0	2.0	0.0	0.0
TH00 - Temporary Help	0.0	4.6	1.6	1.5	0.0	0.0
Total Positions	0.0	4.6	3.6	3.5	0.0	0.0

Salaries and Wages

Salaries and Wages	FY22 Current Year	FY22 Budget Year	FY22 BY+1	FY22 BY+2	FY22 BY+3	FY22 BY+4
1414 - Info Tech Spec II	0	0	216	220	0	0
TH00 - Temporary Help	0	471	160	147	0	0
Total Salaries and Wages	\$0	\$471	\$376	\$367	\$0	\$0

Staff Benefits

Staff Benefits	FY22 Current Year	FY22 Budget Year	FY22 BY+1	FY22 BY+2	FY22 BY+3	FY22 BY+4
5150150 - Dental Insurance	0	4	3	3	0	0
5150200 - Disability Leave - Industrial	0	1	1	1	0	0
5150210 - Disability Leave - Nonindustrial	0	1	0	0	0	0
5150350 - Health Insurance	0	85	68	66	0	0
5150500 - OASDI	0	28	22	22	0	0
5150600 - Retirement - General	0	148	119	116	0	0
5150750 - Vision Care	0	1	0	0	0	0
5150800 - Workers' Compensation	0	16	13	13	0	0
5150900 - Staff Benefits - Other	0	7	6	6	0	0
Total Staff Benefits	\$0	\$291	\$232	\$227	\$0	\$0

Total Personal Services

Total Personal Services	FY22 Current Year	FY22 Budget Year	FY22 BY+1	FY22 BY+2	FY22 BY+3	FY22 BY+4
Total Personal Services	\$0	\$762	\$608	\$594	\$0	\$0