



WAGE NONPAYMENT IN COLORADO: WORKERS LOSE \$750 MILLION PER YEAR

An analysis of nonpayment of legally owed wages to Colorado workers.

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Coloradans are losing an estimated \$750 million a year in pay and benefits from nonpayment of lawfully owed wages, a Colorado Fiscal Institute analysis of national data and trends shows.

More than 500,000 workers are affected in Colorado, many of them in construction jobs and in the hotel and food service industry.

These numbers are based on a national study and on survey data that for the first time sheds light on the magnitude of loss to workers from employers underpaying wages or denying benefits justly owed. In addition to analyzing the survey results, CFI used data from the U.S. Department of Labor and the U.S. Census Bureau to calculate the extent of nonpayment of wages in Colorado.

There are laws against such wage nonpayment, but only a small fraction of violations are reported because the victims often don't know their rights, don't know what they can do about it or can't afford the legal fees to get the pay they're owed.

Wage nonpayment hurts all Coloradans, not just the affected workers. That's because it results in \$25 million to \$47 million in lost tax revenue — money that is needed to pay for schools and other important services — and the loss of \$5 million to the state Unemployment Insurance Fund.

How Does Wage Nonpayment Happen?

Wage nonpayment can occur in a number of different forms.

- **Nonpayment of wages:** when employers don't pay employees for all or some hours worked, or neglect to pay them in a timely manner.
- **Underpayment of wages:** when an employer pays workers less than was promised or less than the state or federal minimum wage, or when workers are denied wages for overtime.
- **Misclassification of employees:** when an employee is falsely labeled as an "independent contractor" by an employer in order to avoid requirements to pay minimum wage or overtime, to avoid other employment laws, or to avoid paying worker's compensation, unemployment insurance and income tax. This can also take place when, for example, a regular employee is called a "salaried manager" to avoid paying that worker overtime. The term "independent contractor" is only meant to apply to those paid directly by clients, like physicians, lawyers, dentists and contractors who do not work under others who hire, fire, supervise or pay them.
- **Deduction violations:** when an employer lowers workers' pay by making illegal deductions from paychecks. An example might be unlawfully charging workers — through pay deductions — for the use of tools, materials or transportation necessary to do their jobs.
- **Tipped job abuse:** when employees whose pay includes tips are paid less than legally mandated, when an employer forces tips to be shared with managers or when an employer unlawfully shares a worker's tips.

The Ripple Effect of Wage Nonpayment

The more money people make, the more they spend. That spending drives the economy. So not lawfully paying workers can ripple across the economy.

The most direct impact is on the victims of wage nonpayment and their families. Employers failing to deliver on promised wages can severely harm low-wage workers who meticulously plan out their family budget every month in order to get by.

Local businesses are hurt too — denied income that would flow from the additional spending of workers' earnings had they been properly paid for their work. Honest businesses who comply with the law are put at a disadvantage by unscrupulous competitors who engaged in wage nonpayment.

Finally, the public at large is affected by wage nonpayment because the practice reduces tax revenue used for public services. This means either that taxes on others must be increased or services reduced.

Other Research on Wage Nonpayment

Recent reports, based on more sophisticated worker surveys than had been used previously, have begun to shine a spotlight on the prevalence of wage nonpayment. *Broken Laws, Unprotected Workers*¹, a survey of low-wage workers conducted in 2009 in New York, Los Angeles and Chicago, found that a quarter of low-wage workers were being paid less than the required minimum wage, two-thirds experienced meal or break violations and three out of four were underpaid or not paid at all for overtime work.

Most striking was that 68 percent of those low-wage workers surveyed experienced at least one pay-related violation in their previous week of work. The low-wage workers experiencing wage nonpayment who were surveyed \$51 a week on average or \$2,634 a year — that's 10 percent to 15 percent of their total earnings.

Other researchers have begun investigating wage nonpayment at the state level. The Iowa Policy Project estimated that wage nonpayment costs low-wage Iowa workers \$600 million a year. Annually, it also costs Iowa \$45 million in unpaid tax revenue and \$14 million in lost revenue for the state's unemployment fund.²

*All Work and No Pay*³, an investigation of wage nonpayment among day laborers in New Jersey, found that 54 percent of those surveyed suffered at least one instance of an employer paying them less than promised in the past year. And 48 percent had at least one instance in the past year of not being paid at all.

Researchers in Florida found that in the Miami-Dade County and Palm Beach areas alone, workers experienced 3,350 wage violations totaling more than \$3.5 million dollars over a 19-month period.⁴

¹Bernhardt et alia (2009) *Broken Laws, Unprotected Workers: Violations of Employment and Labor Laws in America's Cities*. National Employment Law Project.

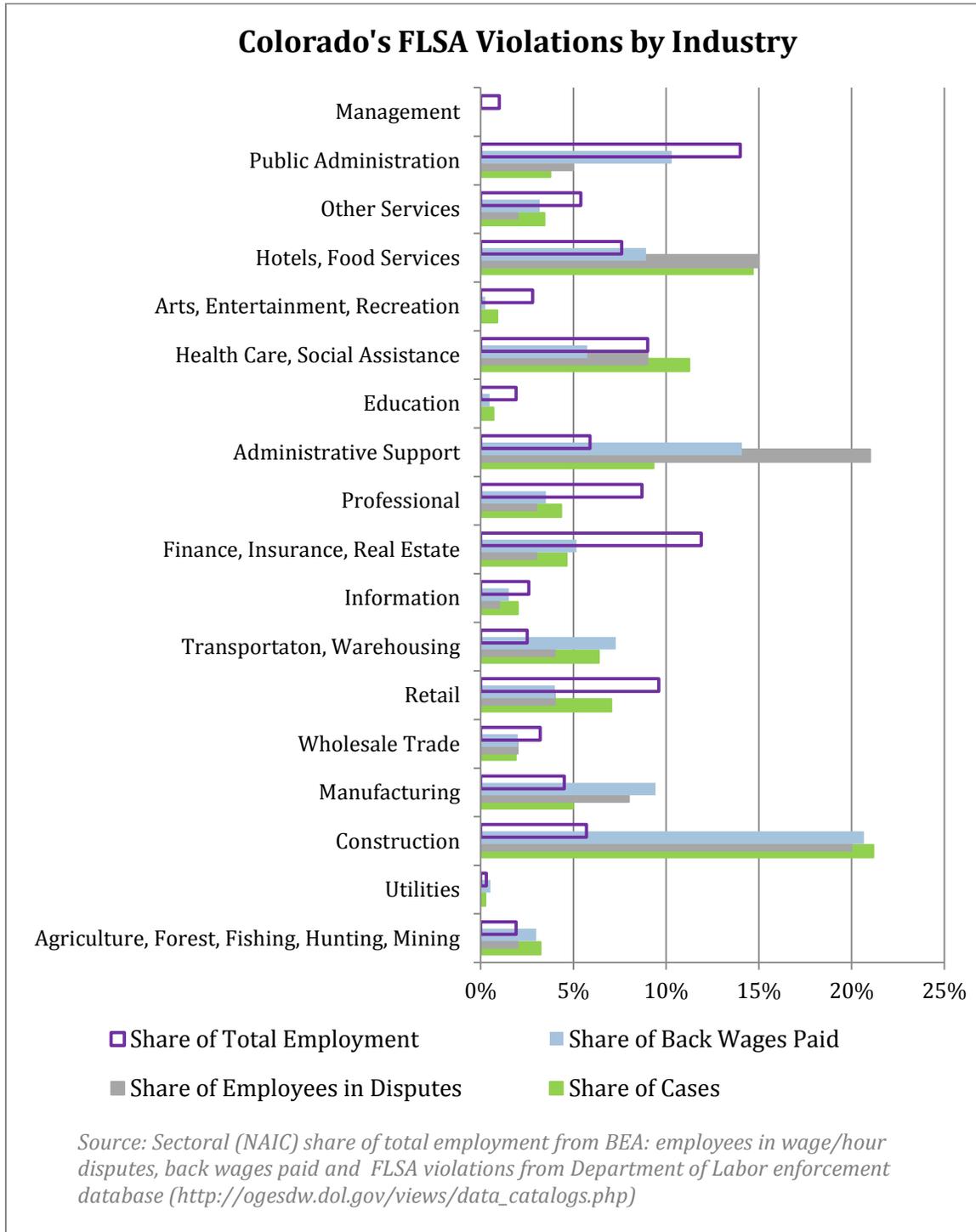
² <http://www.iowapolicyproject.org/2012docs/120827-wagenonpayment.pdf>

³ <http://law.shu.edu/ProgramsCenters/PublicIntGovServ/CSI/loader.cfm?csModule=security/getfile&PageID=177699>

⁴ <http://acwtff.files.wordpress.com/2012/09/fact-sheet-wt-report.pdf>

Only a Fraction of Wage Nonpayment is Reported

As the graphic below shows, Colorado workers in a variety of types of jobs are victims of wage nonpayment, according to Fair Labor Standards Act, or FLSA, claims since 2007. The hollow purple bar shows each sector's share of employment in Colorado. The colored bars show the sector's share of FLSA violations, workers involved in each case and back wages paid.



The two hardest-hit sectors are construction and hotel/food service. Making up 5.7 percent of total employment in Colorado, the construction industry accounts for 21.2 percent of FLSA violations. The hotel/food service industry accounts for 14.7 percent of wage and hour compliance cases and 7.6 percent of Colorado employment. Administrative support (which includes waste management), transportation and warehousing, health care and social assistance and manufacturing industries all have a higher share of FLSA cases than their share of state employment.

The cases that get reported are only the tip of the iceberg, since most wage nonpayment goes without being reported but doesn't go without impact.

Prevalence and Impact of Wage Nonpayment in Colorado

An estimate of the dollar amount of wage nonpayment and the number of workers affected by nonpayment in Colorado can be extrapolated by using state workforce numbers and applying those to the rate of wage nonpayment found in a 2009 study of wage nonpayment in New York, Los Angeles and Chicago. Our analysis uses the lowest estimated rates of wage nonpayment from the study.

Costs of Wage Nonpayment in Colorado	
Colorado nonfarm workforce (a)	2,309,467
Portion of CO workers below poverty wage (b)	31.8%
Number of CO workers below poverty wage	734,832
Share of low-wage CO workers experiencing wage nonpayment (c)	68%
Estimated number of CO workers experiencing wage nonpayment	499,686
Wage nonpayment per worker (10 percent of earnings) (d)	
annual	\$1,500
weekly	\$30
Estimated statewide cost of wage nonpayment (annual)	\$ 749,529,000
(a) BLS Total Nonfarm Employment 2012 (b) CFI analysis of ACS PUMS data 2012 using \$23,492 as poverty wage (c) Extrapolation Rate from Broken Laws, Unprotected Workers: Violations of Employment and Labor Laws in America's Cities (Bernhardt et al., NELP 2009) (d) Low end estimate from ibid. assumes an average wage of \$15,000	

Of Colorado workers, 31.8 percent earn at or below the poverty line (\$23,492 dollars for a family of four). With a Colorado workforce that has 2.3 million workers, the number of low-wage workers totals 734,832. If this vulnerable group experiences wage nonpayment similar to the rate estimated in the 2009 three-city study, 500,000 workers in Colorado are victims of wage nonpayment every year. If anything, this estimate undercounts victims of wage nonpayment, because we used the low-range estimates from the 2009 study. The statewide impact would be \$750 million in unpaid wages in Colorado every year. Giving this figure some context, the total amount of wages and salaries paid to Colorado workers in 2012 was roughly \$110 billion.

In addition to the direct effect of \$30 a week of lost wages for low-income working Coloradans, there is also a loss to the public in the form of unpaid tax revenue. We can't know exactly where that money goes that isn't paid to the workers. Some of that money will leave the state instead of being re-spent in Colorado by local workers. Some of the money won't be reported. Some of the money will end up in the pockets of other workers and will be spent in the Colorado economy. We do know that of all types of workers, low-wage workers spend the highest percentage of their income in the local Colorado economy. Hence, the effect of lost unpaid wages to low-wage Coloradans has the biggest impact on spending and sales tax. Because of this uncertainty, we provide a range of possible tax losses.

The \$750 million in lost pay to low-wage workers translates into \$5.2 million in lost income tax for the state and between \$20 million and \$42 million in lost sales tax revenue for Colorado. In addition, there are also lost contributions to Colorado's unemployment insurance fund. An estimated \$5 million is not paid to the UI fund because of wage nonpayment each year in Colorado. There also is lost tax revenue to the federal government that isn't estimated here.

Tax Impact of Wage Nonpayment in Colorado Each Year	
Unpaid Wages	\$ 749.5 million
Lost Sales tax (a)	\$ 20 million- 42 million
Lost Income Tax (b)	\$ 5.2 million
Total Lost Tax Revenue in Colorado	\$ 25.2 - 47.2 million
Lost Employer Contributions to Unemployment Insurance (c)	\$ 5 million
(a) Based on the percentage of income that low wage workers pay in state and local sales tax from ITEP's "Who Pays? A Distributional Analysis of the Tax Systems in All 50 States" (b) Based on the percentage of income that low-wage workers pay in state income tax from <i>ibid.</i> (c) Based on a 0.68% employer contribution rate to UI of total wages in Colorado from U.S. Department of Labor	

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