

# JOINT BUDGET COMMITTEE



## SUPPLEMENTAL BUDGET REQUESTS FY 2020-21

### DEPARTMENT OF LABOR AND EMPLOYMENT

JBC WORKING DOCUMENT - SUBJECT TO CHANGE  
STAFF RECOMMENDATION DOES NOT REPRESENT COMMITTEE DECISION

PREPARED BY:  
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# CONTENTS

Department Overview .....	1
Summary: FY 2020-21 Appropriation and Recommendation .....	1
Request/Recommendation Descriptions .....	1
Prioritized Supplemental Requests .....	2
S1 Colorado’s Plan for Workforce and Economic Recovery (Legislation Required).....	2
Department Request: .....	2
Staff Recommendation:.....	3
Staff Analysis: .....	3
Statewide Common Policy Supplemental Requests .....	10
Staff Recommendation:.....	10
Numbers Pages .....	11

# DEPARTMENT OF LABOR AND EMPLOYMENT

## DEPARTMENT OVERVIEW

The Department of Labor and Employment is responsible for administering unemployment insurance programs, supporting the state's system of one-stop workforce centers and workforce development programs, enforcing the state's labor laws, regulating workers' compensation insurance, administering vocational rehabilitation programs, and inspecting a variety of industries from retail fuel locations to amusement park rides.

## SUMMARY: FY 2020-21 APPROPRIATION AND RECOMMENDATION

DEPARTMENT OF LABOR AND EMPLOYMENT: RECOMMENDED CHANGES FOR FY 2020-21						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
<b>FY 2020-21 APPROPRIATION</b>						
HB 20-1360 (Long Bill)	\$273,448,021	\$21,714,537	\$81,583,758	\$9,699,764	\$160,449,962	1,283.1
Other legislation	(7,746,418)	(3,220,210)	(74,446)	(3,311,564)	(1,140,198)	7.6
<b>CURRENT FY 2020-21 APPROPRIATION:</b>	<b>\$265,701,603</b>	<b>\$18,494,327</b>	<b>\$81,509,312</b>	<b>\$6,388,200</b>	<b>\$159,309,764</b>	<b>1,290.7</b>
<b>RECOMMENDED CHANGES</b>						
Current FY 2020-21 Appropriation	\$265,701,603	18,494,327	\$81,509,312	\$6,388,200	\$159,309,764	1,290.7
S1 Colorado's plan for workforce and economic recovery	0	0	0	0	0	0.0
NPS1 Annual fleet supplemental true-up*	(2,750)	0	0	0	(2,750)	0.0
<b>RECOMMENDED FY 2020-21 APPROPRIATION:</b>	<b>\$265,698,853</b>	<b>\$18,494,327</b>	<b>\$81,509,312</b>	<b>\$6,388,200</b>	<b>\$159,307,014</b>	<b>1,290.7</b>
<b>RECOMMENDED INCREASE/(DECREASE)</b>	<b>(\$2,750)</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>(\$2,750)</b>	<b>0.0</b>
Percentage Change	(0.0%)	0.0%	0.0%	0.0%	(0.0%)	0.0%
<b>FY 2020-21 EXECUTIVE REQUEST</b>						
Request Above/(Below) Recommendation	\$25,000,000	\$0	\$25,000,000	\$0	\$0	0.0

\*Reflects the request, pending Committee common policy decision.

### REQUEST/RECOMMENDATION DESCRIPTIONS

**S1 COLORADO'S PLAN FOR WORKFORCE AND ECONOMIC RECOVERY (LEGISLATION REQUIRED):** The Department requests \$25.0 million General Fund for job training services for displaced workers to be provided via new legislation that would transfer this amount into a cash fund. The proposal is that the Workforce Development Council would distribute these funds via grants to one-stop workforce centers that apply and are approved for funding. The grants would support local staff and training services including: occupational skills training, on-the-job training, apprenticeships, incumbent worker training, skill upgrading and retraining, entrepreneurial training, and adult education and family literacy services when needed. This initiative requires legislation, both for any funds

transferred, and, in staff’s opinion, to provide the necessary statutory authority for the program. Staff recommends that the Committee consider sponsoring a bill to provide this statutory authority and make associated transfers or appropriations.

**COMMON POLICY REQUEST (ANNUAL FLEET SUPPLEMENTAL):** The request includes a reduction of \$2,750 federal funds. The request will be considered as part of the Committee’s common policy process.

**PRIORITIZED SUPPLEMENTAL REQUESTS**

**S1 COLORADO’S PLAN FOR WORKFORCE AND ECONOMIC RECOVERY (LEGISLATION REQUIRED)**

	REQUEST	RECOMMENDATION
<b>TOTAL</b>	<b>\$25,000,000</b>	<b>\$0</b>
FTE	0.0	0.0
General Fund	25,000,000	0
Cash Funds	0	0
Federal Funds	0	0

**Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria?** **NO**  
 [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]

**Explanation:** The Department submitted this request under the criterion: "Data Which Was Not Available When the Original Appropriation Was Made". The Department did not provide further justification but simply stated that the criterion was “new information regarding the Governor’s supplemental stimulus package and emergency response”. For purposes of applying the criteria used to screen supplemental requests, JBC Staff do not consider the fact of the Governor’s stimulus request "new data". Staff does believe that statewide unemployment, though not offered by the Department as a justification, provides a basis for distributing resources sooner rather than later; however, as also discussed in more detail below, this initiative requires separate legislation and therefore cannot be addressed as a regular supplemental appropriation.

**DEPARTMENT REQUEST:** The Department requests \$25.0 million General Fund for job training services for displaced workers. The proposal is to distribute \$25.0 million in funding through the state’s 57 workforce centers and related nonprofit organizations to provide training services including: occupational skills training, on-the-job training, apprenticeships, incumbent worker training, skill upgrading and retraining, entrepreneurial training, and adult education and family literacy services when needed.

The request reports that in program year FY 2019-20, 5,078 individuals participated in intensive training programs through the workforce centers, with 73% of those subsequently finding employment. The request proposes to provide assistance to an additional 6,000 Coloradans seeking to upskill and/or complete and industry-recognized credential in the next two years. The Department, in collaboration with the Colorado Workforce Development Council would distribute the funds to local one-stop workforce centers through a competitive grant process.

The request is for legislation to make an associated General Fund transfer of \$25,000,000 into a cash fund for gifts, grants, and donations managed by the Colorado Workforce Development Council and to provide \$25.0 million in related cash funds spending authority for the Council.

**STAFF RECOMMENDATION: Staff does not recommend the request as submitted but does recommend that the JBC sponsor legislation related to the new program and provide an appropriation or transfer as part of the bill.** The Department has already included a request for legislation to transfer \$25.0 million into a cash fund. Staff does not believe that a transfer into the specified cash fund would be an appropriate use of this fund under existing law and also does not believe that there is adequate statutory authority detailing how such funds would be used. Staff thus recommends new legislation that would both provide the necessary statutory authority, including specifying key components of the program, and provide associated funding. **Staff recommends the Committee authorize staff to begin working with the Department on a bill draft to implement and further refine this proposed program.**

#### STAFF ANALYSIS:

*ADDITIONAL DETAIL ON PROPOSAL:* In response to staff questions, the Department provided the following additional detail on the proposal. Colorado Workforce Development Council (CWCD) staff anticipate developing two requests for proposal that would be used to distribute the funds.

**Grants to Workforce Development Boards:** The first RFP will make \$22,000,000 available to the 10 local workforce boards in the state. Local boards will choose if they want to respond and compete for the funds as an individual local workforce area, as a partnership of multiple areas (such as the four boards in the Denver metropolitan areas submitting a single proposal), or not to compete for the funds. The awards to the local boards would allow for the recruitment and enrollment of participants for 18 months, with a total performance period of 24 months. (During the final six months, the organizations could expend funds on individuals previously enrolled, but not on new participants.)

This timeline allows for local workforce areas to enroll participants in training programs that lead to industry recognized credentials and do not exceed 12 months in length. Eligible credentials include, but are not limited to, all of the programs and offerings on the Career Development Incentive Program list. Additional training options will be considered if they map to the occupations included in the Top Jobs list in the Talent Pipeline Report.

Once these funds are awarded to the local workforce areas, the statements of work will be added into the existing contractual agreements between CDLE, specifically the Employment and Training Division, and funds will be drawn down following the same process used for federal funding and Employment Support Fund dollars (a rapid reimbursement method, where workforce centers demonstrate the expenditure and may be immediately reimbursed by the State).

**Grants to Community Based Organizations:** The second Request for Proposals will offer \$3,000,000 to community-based organizations which work in partnership with local workforce boards. The timeline will be the same and the criteria for selecting awardees will be as similar as possible. Dedicating a portion of the funds to community-based organizations will allow for focused recruitment of targeted populations. Once awardees are determined, the CWDC will establish contracts directly with the recipients and disburse the funds on a quarterly basis.

**Use of Funds:** Funds would be used to hire staff to manage the program, pay the training costs for industry-recognized credentials, and provide wraparound worker supports to help workers complete the training.

*Training:* Activities would be similar to the activities funded by the Dislocated Worker Program and Adult program under the federal Workforce Innovation and Opportunity Act (WIOA). These programs served 3,419 individuals in FY 2018-19 at a cost of \$14,086,126 (\$4,120 per person served).

Based on numbers of unemployed job-seekers, the Department anticipates that up to 6,000 additional individuals could be served. The Department assumes a cost of \$4,166 per client, including administrative overhead, to incorporate additional costs to maintain or add support staff for the new customer.

*Administrative costs:* The Department anticipates allowing up to 10.0 percent of funds to be used for administrative activities at the state and local level, but could allow some flexibility based on the reasonableness of costs included in the proposals (unless the General Assembly desires a hard cap).

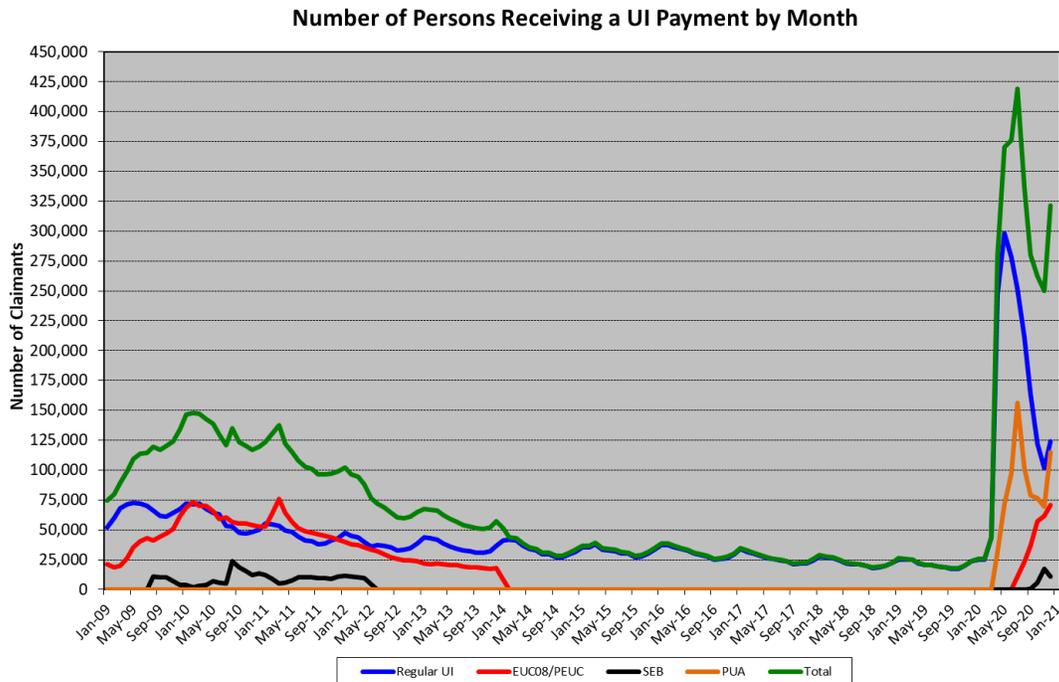
**Timeline and Assumptions:** The Department provided the following estimate of expenditures by fiscal year. *This schedule is based on the assumption that supplemental funding would be authorized by February 1, allowing up to \$5.0 million to be expended in FY 2020-21. Based on delays in the General Assembly’s schedule, staff believes it is unlikely that more than \$1 to \$2 million will be expended in FY 2020-21, with the vast majority of expenditures moving into FY 2021-22 and FY 2022-23 based on two-year grants.* The Department estimates that it will require 12 weeks from approval by the General Assembly to enrollment of any participants, based on the time required to draft an RFP, have applicants respond, determine awards, and have grantees roll out their program (and staff believes even this may be optimistic). *Staff notes that a different allocation process, e.g., in part via formula, could speed the process.*

<i>Local Workforce Areas</i>	Overall	Estimated Expenditures by Fiscal Year		
		FY21	FY22	FY23
Amount to be Awarded	\$22,000,000	\$4,400,000	\$14,300,000	\$3,300,000
Expected Number of Grant Awards	5			
Average Award Size	\$4,400,000.00			
Individuals Served	5280	1056	3432	792
Cost per participant	\$4,166.00			

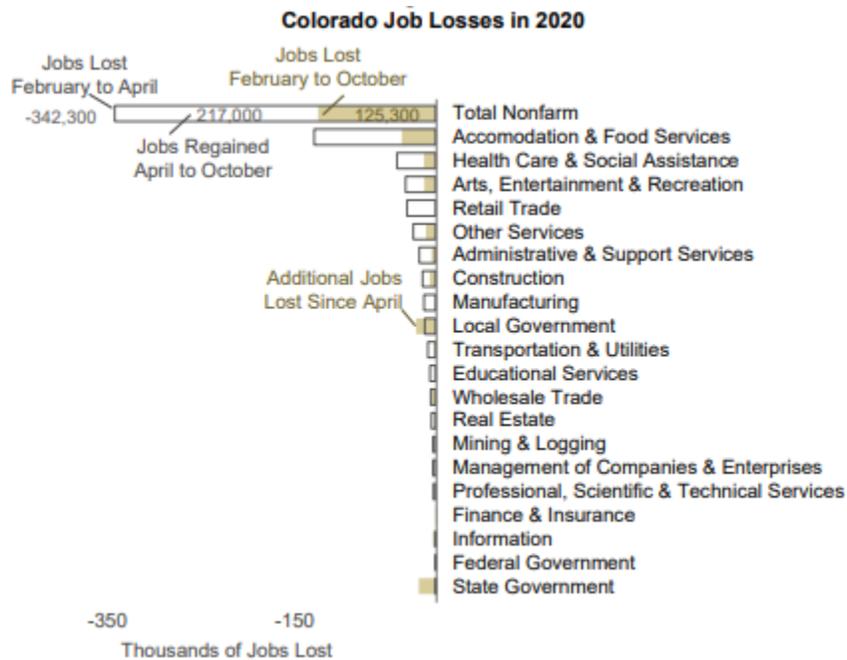
<i>Community Based Organizations</i>	Overall	Estimated Expenditures by Fiscal Year		
		FY21	FY22	FY23
Amount to be Distributed	\$3,000,000	\$600,000	\$1,950,000	\$450,000
Expected Number of Grant Awards	12-15			
Average Award Size	\$200,000 - 250,000			
Individuals Served	720	144	468	108
Cost Per Participant	\$4,166.00			

*GENERAL RECOMMENDATION - NEED FOR SERVICES:* **Broadly speaking, staff believes that given the pandemic and associated unemployment, additional funding for worker retraining is appropriate and needed, and the State’s existing network of workforce centers, along with select nonprofits that specialize in this area and target particular populations (e.g., people with disabilities), are the appropriate mechanism for distributing related resources.** Staff also concurs that such retraining should be focused on “top jobs”, i.e., jobs for which there is clear demand and a decent wage available, as well as responsive to the needs and opportunities in particular local economies.

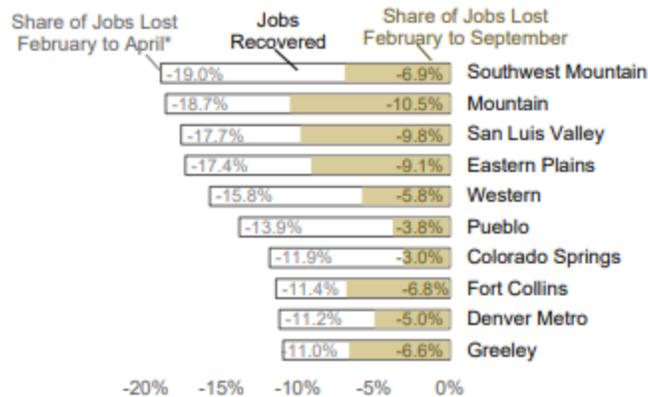
**Unemployment in Colorado:** Colorado’s unemployment rate was 6.4 percent in November 2020 (the last official federal posting). *The number of Coloradan receiving unemployment insurance benefits, including federal benefits, topped 320,000 in December 2020.* Given the scale of unemployment, even this initiative will only serve a small fraction of those who are unemployed and seeking work (6,000 funded for training), though clearly not all workers will be interested in retraining, and some of the current level of unemployment will naturally decline as the pandemic subsides.



Source: Colorado Unemployment Benefits Systems



Source: U.S. Bureau of Labor Statistics with Legislative Council Staff calculations. Data are seasonally adjusted.



Source: BLS and Legislative Council Staff Calculations

\*For Eastern Plains and San Luis Valley, jobs lost through May.

Source: Legislative Council Staff December 2020 Economic Forecast

**Existing Service Network:** Most individuals who apply for unemployment benefits are required to register on the “Connecting Colorado” network, the state’s electronic bulletin board for job seekers and job listings, and to demonstrate that they are actively involved in job search activities. This electronic system is tied to the state’s brick-and-mortar system of 57 One-stop Centers.

Colorado’s 57 workforce centers are located in the 10 designated local workforce areas to which the State distributes state and federal funds. Nine of the workforce areas are managed by counties, while the tenth is a rural consortium area that is managed by the State. Training services are funded through the Workforce Innovation and Opportunity Act (WIOA) federal funds shown in this department, as well as Pell Grants, partner programs, and other state and local grants. The workforce centers serve more than 300,000 job seekers each year, but the vast majority of job seekers receive only in-person or online (Connecting Colorado) resource and referral services. A much smaller number (3,187 in FY 2018-19) receive more intensive job-training support such as:

- Occupational skills training
- On-the job training
- Apprenticeships
- Incumbent worker training
- Skill upgrading and retraining
- Entrepreneurial training; and
- Adult education and family literacy services.

The data below provide basic background on the funding and services of the workforce centers. The table below is based on actual FY 2018-19 data (the most recent available) that shows the dollars distributed by the State to workforce centers and individuals for general “resource and referral” and more targeted services. Note that in FY 2020-21, the General Assembly increased the state cash funds appropriation by \$2,000,000. Staff therefore anticipates that FY 2020-21 state funding, before the requested supplemental and/or any additional federal stimulus funding, will represent 22-25 percent of total funding for the program.

FY2018-19 WORKFORCE CENTER FUNDING AND SERVICES		
	AMOUNT	INDIVIDUALS SERVED
<u>Resource &amp; Referral Support</u>		
State CF - Employment Support Funds	\$7,829,126	
Federal Funds - Wagner Peysner	10,021,124	
Subtotal - Resource and Referral Support	<b>\$17,850,250</b>	<b>200,314</b>
<u>Federal Funds - WIOA for Intensive Services</u>		
Adult	7,397,094	3,095
Dislocated Worker	6,102,421	1,237
Youth	7,952,674	2,612
Subtotal - Targeted Services (WIOA)	<b>\$21,452,189</b>	<b>6,944</b>
Individuals receiving training funds (subset of targeted)		<b>3,187</b>
<b>Total Funding</b>	<b>\$39,302,438</b>	

As noted by the Department in its hearing responses, *the increase in unemployed workers has translated to an increase in demand for workforce services. Thus far, this has been for the electronic registry, as opposed to requests for staff-assisted services, but this seems likely to change over time, particularly as the pandemic subsides.*

	Date Range: 3-15-19 to 11-15-19	Date Range: 3-15-20 to 11-15-20	% Change
All Job Seekers	130,849	373,960	+285%
Received Staff-Assisted Services	90,692	77,330	-15%
Received Self-Service	40,157	296,630	+738%

Data reported to federal authorities indicates that Colorado’s system is relatively successful in outcomes for adult and dislocated workers, with between 75.0 and 80.00 percent of program participants entering employment after training in program year 2018-19. A recent audit by the Office of the State Auditor, Workforce Innovation and Opportunity Act, November 2020 ([https://leg.colorado.gov/sites/default/files/documents/audits/1930p\\_workforce\\_innovation\\_and](https://leg.colorado.gov/sites/default/files/documents/audits/1930p_workforce_innovation_and)

[\\_opportunity\\_act\\_2020.pdf](#)) does not appear to have uncovered major problems with the program, but the audit highlighted the need to further investigate whether individuals who receive training become employed in the field for which they trained.

*NEED FOR ADDITIONAL LEGAL AUTHORITY:* As indicated in the request, the Department is requesting legislation to transfer funds into a cash fund so that the money may be spent over time. This would require legislation. Beyond this, JBC staff believes that additional statutory authority is required for this program. **The Office of Legislative Legal Services concurs.**

Considerations are as follows:

- The Department proposes that \$25.0 million be transferred into a fund currently used by the Workforce Development Council for donations based on statutory authority at **24-46.3-101 (8), C.R.S.** that specifies that ...”the state council shall seek other federal, state, and private grants, gifts and donations to fund state council special duties, demonstration projects and initiatives”. It also points to statute specifying that the General Assembly may appropriate General Fund to the Council for purposes in Part 46.3 of Title 24. **Staff does not believe authority to receive and expend gifts, grants, and donations is adequate to support this request; and the authority to make General Fund appropriations applies to the statutory provisions in Title 24, Part 46.3, which do not include a program to distribute state General Fund grants to workforce development regions and nonprofits for workforce training.**
- The Office of Legislative Legal Services also notes that, **for deposit of state appropriations, if desired, a new statutorily-authorized fund must be created.** The fund created by the Controller for receipt and expenditure of custodial funds, referenced in the request, is not sufficient.
- The Department indicates that funds would be used in a manner similar to federal WIOA funds used by the Workforce Development network. The State’s workforce development center system is authorized in 8-83-101 et. seq.(Employment and Training Division) and includes provisions at 8-83-219 regarding intensive services, i.e., training services such as those the Department seeks to implement. However, this section of **statute refers strictly to the use of federal funds.**
- Section 8-77-109(2)(a)(I) specifies that the state **Employment Support Fund "may be used to offset funding deficits for program administration"** for activities that includes Article 83 of Title 8. The General Assembly appropriates funds from this source annually to support workforce development center activities. These state funds are distributed to workforce centers on a formula basis, like the federal funds. However, the **statute does not address use of General Fund for this purpose.**

*BENEFITS OF NEW LEGISLATION:* New legislation will provide an opportunity for the State to clarify the extent to which the program it is pursuing does and does not differ from federal provisions regarding use of funds by workforce development programs:

- **Allocation of Funds:** The Department and Governor’s Office indicate that their intent is to distribute the funds requested throughout the State. A formula distribution might do this more efficiently. However, (1) counties indicate that existing distribution formulas may not be

satisfactory; and (2) some counties face technical challenges in accepting additional state funds due to TABOR. If a county has not received voter permission to override provisions of TABOR that require the county to treat an intergovernmental transfer from the state as revenue subject to TABOR, and if it is approaching its TABOR revenue cap, it may not be able to accept additional state funds without triggering a TABOR refund of local tax dollars. The Department has proposed distribution of funds via grants as a potential solution, with the expectation that county collaboratives and funding for nonprofits may provide a work-around. However, **new legislation will at least enable the General Assembly to establish its intent to distribute funds statewide and may allow the General Assembly to explore solutions that allow all regions to benefit, such as a combination of grants and formula distribution.**

- **Additional Flexibility:** The Department and local agencies' practice has been to treat state Employment Support Funds as more flexible than federal WIOA funds, although the statutory basis for this is uncertain. State and county workforce center staff indicate that they are similarly interested in using state funds from this initiative in ways that are more flexible than existing federal provisions for use of WIOA. Such flexibility is likely to be useful and appropriate during recovery from the pandemic, through some limits will likely be needed to achieve certain outcomes. **New legislation will enable the General Assembly to clarify the additional flexibility that may be helpful, the limits of such flexibility, and the Workforce Development Council and Department's authority to establish flexibility and limits through contracts with providers.**
  - State staff have highlighted a desire to use more funding for temporary subsidized employment (i.e., paying worker salaries for an initial period to help them gain experience and make them more valuable to employers) but this is not always allowed under the federal act.
  - Counties indicated that they are not allowed to use federal training dollars for workers who are considered to still be "attached" to work or to provide "incumbent worker training", but many workers who are unemployed due to COVID may still be classified as temporary layoffs and therefore ineligible for training funds, and in some cases it may be valuable to assist both a worker and a small business by providing incumbent worker training.
  - Both state and county staff have noted that WIOA requires training providers be selected from the Eligible Training Provider List (ETPL). Qualifying for the ETPL is apparently a relatively complex and time consuming process, and in some cases counties and the state believe the best training available may be through an employer. Most employers are not listed on the ETPL.
- **Outcomes and Reporting:** The federally-authorized workforce system includes various performance requirements. However, a recent report by the Office of the State Auditor has indicated that additional data on whether individuals receiving training funds become employed in a field related to their training would be valuable. New legislation could incorporate requirements to ensure that the impact of the new initiative (including any new flexibility) is adequately tracked.

*POSSIBLE CONTINGENCY - ADDITIONAL FEDERAL SUPPORT:* The state’s workforce system has been significantly affected over the last five years by declines in federal support. This reflects both the fact that overall funding for workforce activities have been flat or declining at the federal level and that Colorado’s economy has been particularly strong compared to other states. Thus far, none of the federal stimulus bills that have been enacted have targeted additional funding for workforce training, and funding for federal FY 2020-21 is essentially flat compared to prior years. However, given the new administration at the federal level, this could change. In the past, economic downturns have been tied to increases in funding for these programs at the federal level. The General Assembly will simply need to continue to track federal support and, if appropriate, make later adjustments to state support.

## STATEWIDE COMMON POLICY SUPPLEMENTAL REQUESTS

These requests are not prioritized and are not analyzed in this packet. The JBC will act on these items later when it makes decisions regarding common policies.

DEPARTMENT'S PORTION OF STATEWIDE SUPPLEMENTAL REQUEST	TOTAL	GENERAL FUND	CASH FUNDS	REAPPROP. FUNDS	FEDERAL FUNDS	FTE
Annual Fleet Supplemental	(\$2,750)	\$0	\$0	\$0	(\$2,750)	0.0
<b>DEPARTMENT'S TOTAL STATEWIDE SUPPLEMENTAL REQUESTS</b>	<b>(\$2,750)</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>(\$2,750)</b>	<b>0.0</b>

**STAFF RECOMMENDATION:** The staff recommendation for this request is pending Committee action on common policy supplementals. Staff will include the corresponding appropriation in the Department's supplemental bill based on Committee action on common policy supplementals. If staff believes there is reason to deviate from the common policy, staff will appear before the Committee at a later date to present the relevant analysis.

*JBC Staff Supplemental Recommendations - FY 2020-21  
Staff Working Document - Does Not Represent Committee Decision*

**Appendix A: Numbers Pages**

	FY 2019-20 Actual	FY 2020-21 Appropriation	FY 2020-21 Requested Change	FY 2020-21 Rec'd Change	FY 2020-21 Total w/Rec'd Change
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**DEPARTMENT OF LABOR AND EMPLOYMENT**  
**Joe Barela, Executive Director**

**S1 Colorado's Plan for Workforce and Economic Recovery**

**(3) DIVISION OF EMPLOYMENT AND TRAINING**

Workforce Development Council	<u>1,111,952</u>	<u>1,114,551</u>	<u>25,000,000</u>	<u>0</u>	<u>1,114,551</u>
FTE	6.8	7.5	0.0	0.0	7.5
General Fund	629,196	596,343	0	0	596,343
Cash Funds	0	0	25,000,000	0	0
Reappropriated Funds	214,277	518,208	0	0	518,208
Federal Funds	268,479	0	0	0	0
<b>Total for S1 Colorado's Plan for Workforce and Economic Recovery</b>	1,111,952	1,114,551	25,000,000	0	1,114,551
<i>FTE</i>	<u>6.8</u>	<u>7.5</u>	<u>0.0</u>	<u>0.0</u>	<u>7.5</u>
General Fund	629,196	596,343	0	0	596,343
Cash Funds	0	0	25,000,000	0	0
Reappropriated Funds	214,277	518,208	0	0	518,208
Federal Funds	268,479	0	0	0	0

*JBC Staff Supplemental Recommendations - FY 2020-21*  
*Staff Working Document - Does Not Represent Committee Decision*

	FY 2019-20 Actual	FY 2020-21 Appropriation	FY 2020-21 Requested Change	FY 2020-21 Rec'd Change	FY 2020-21 Total w/Rec'd Change
<b>Totals Excluding Pending Items</b>					
<b>LABOR AND EMPLOYMENT</b>					
<b>TOTALS for ALL Departmental line items</b>	259,484,377	265,701,603	25,000,000	0	265,701,603
<i>FTE</i>	<u>1,246.6</u>	<u>1,290.7</u>	<u>0.0</u>	<u>0.0</u>	<u>1,290.7</u>
General Fund	25,263,544	18,494,327	0	0	18,494,327
Cash Funds	79,466,275	81,509,312	25,000,000	0	81,509,312
Reappropriated Funds	7,334,929	6,388,200	0	0	6,388,200
Federal Funds	147,419,629	159,309,764	0	0	159,309,764