JOINT
BUDGET
COMMITTEE

SUPPLEMENTAL BUDGET REQUESTS
FY 2023-24

DEPARTMENT OF LABOR AND EMPLOYMENT

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

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DEPARTMENT OF LABOR AND EMPLOYMENT

DEPARTMENT OVERVIEW

The Colorado Department of Labor and Employment (CDLE) administers eight divisions. A brief description of each division and its functions is provided below.

EXECUTIVE DIRECTOR'S OFFICE

Provides administrative and technical support for the Department's divisions and programs including accounting, budgeting, and human resource functions and houses the special purpose State Apprenticeship Agency, the Office of Future of Work, and the Office of New Americans.

DIVISION OF UNEMPLOYMENT INSURANCE

Collects unemployment insurance premiums and surcharges from employers, administers the payment of unemployment insurance benefits to individuals who become unemployed through no fault of their own, and conducts audits and investigations to ensure proper payment of premiums and benefits.

DIVISION OF EMPLOYMENT AND TRAINING

- *Workforce Development Centers* assist job seekers and employers with job training and placement including: job listings, computer and internet access, career counseling and training, recruitment and referral services, tax credits for employers, and training reimbursement for employers. CDLE directly administers the rural consortium while the rest are locally administered by the county and funded by CDLE.
- The *Colorado Workforce Development Council* provides workforce policy recommendations, designates local workforce investment areas, coordinates the delivery of workforce development programs, and reviews the allocation of federal Title I funds for adult employment and training activities and for youth activities.
- The *Office of Just Transitions* supports coal workers, employers, and communities through the transition of decreases in coal production in Colorado.

DIVISION OF LABOR STANDARDS AND STATISTICS

- *Labor Standards* administers employment and labor laws pertaining to wages paid, hours worked, minimum wage, labor standards, child labor, employment-related immigration laws, and working conditions. It also conducts all union agreement elections, certifies all-union provisions, and investigates and mediates allegations of unfair labor practices.
- *Labor Market Information* produces information on labor market trends including unemployment rates, industry trends, and employee compensation by region and industry.

DIVISION OF OIL AND PUBLIC SAFETY

Establishes and enforces rules, regulations, and statutes that govern amusement rides and devices, explosives, boilers, conveyances, fuel products, underground and aboveground petroleum storage tanks, cleanup of petroleum spills, and reimbursement of cleanup costs to qualifying storage tank owners/operators. The Division includes the Underground Damage Prevention Safety Commission and Fund, which includes enforcement oversight for Colorado 811.

DIVISION OF WORKERS' COMPENSATION

Regulates the workers' compensation industry in Colorado. Oversees workers' compensation injury claims and compliance, mediates disputes, and administers the Medical Disasters (injuries prior to 1971), Major Medical (injuries from 1971-1981), and Subsequent Injury (more than one industrial injury or injury at more than one employer) Insurance Programs.

DIVISION OF VOCATIONAL REHABILITATION

Oversees vocational rehabilitation programs to enable individuals with disabilities to participate in the workforce. These programs include Vocational Rehabilitation Services, School-to-Work Alliance Program, Vocational Rehabilitation Mental Health Services, Independent Living Services, Business Enterprises Program for Individuals who are Blind, and the Business Enterprises Program.

DIVISION OF FAMILY AND MEDICAL LEAVE INSURANCE

Oversees the State Family and Medical Leave Insurance program. The Division consists of five primary operating branches: Employer Services and Program Integrity, Product and Technical Operations, Consumer Success, Case Management, and Appeals.

SUMMARY: FY 2023-24 APPROPRIATION AND RECOMMENDATION

Department of Labor and Employment: Recommended Changes for FY 2023-24	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2023-24 Appropriation						
Long Bill (S.B. 23-214)	$404,053,995	$31,852,323	$152,198,025	$24,238,463	$195,765,184	1,705.2
Other legislation	4,231,661	3,237,364	744,297	0	250,000	19.2
Current FY 2023-24 Appropriation:	**$408,285,656**	**$35,089,687**	**$152,942,322**	**$24,238,463**	**$196,015,184**	**1,724.4**
Recommended Changes						
Current FY 2023-24 Appropriation	$408,285,656	$35,089,687	$152,942,322	$24,238,463	$196,015,184	1,724.4
S1 ESF restructure	0	0	0	0	0	0.0
S2 Work based learning incentive roll forward	0	0	0	0	0	0.0
S3 Digital navigator program roll forward	0	0	0	0	0	0.0
R8 DVR adjustment to EFI approp	0	0	0	0	0	0.0
Non-prioritized requests	(803,863)	(101,859)	(374,645)	(9,701)	(317,658)	0.0
Recommended FY 2023-24 Appropriation:	**$407,481,793**	**$34,987,828**	**$152,567,677**	**$24,228,762**	**$195,697,526**	**1,724.4**
Recommended Increase/(Decrease)	**($803,863)**	**($101,859)**	**($374,645)**	**($9,701)**	**($317,658)**	**0.0**
Percentage Change	(0.2%)	(0.3%)	(0.2%)	(0.0%)	(0.2%)	0.0%
FY 2023-24 Executive Request	**$383,982,693**	**$34,987,828**	**$129,068,577**	**$24,228,762**	**$195,697,526**	**1,724.4**
Request Above/(Below) Recommendation	($23,499,100)	$0	($23,499,100)	$0	$0	0.0

Request/Recommendation Descriptions

S1 ESF restructure [Legislation Required]: The request includes a proposal to reduce the TABOR impact of revenue on the General Fund by $52.5 million in FY 2023-24 and $23.5 million in FY 2024-25 and ongoing. This impact would decrease the TABOR refund payment in each year by these amounts, and some of the pieces of the proposal require legislation to implement. Staff recommends denial of the request.

The proposal includes the following:

1. Shifting $10.0 million in Unemployment Insurance (UI) administrative appropriations currently supported by federal funds to the Employment and Training Technology Fund, and reallocating those federal funds towards other UI administrative costs currently funded by the Employment Support Fund (ESF);
2. Lowering the cap on the Employment Support Fund from $32.5 million to $3.5 million;
3. Creating a new Workforce Services Fund within the UI enterprise and transferring $13.5 million in workforce development related appropriations from the Employment Support Fund to the Workforce Services Fund; and
4. Adjusting the allocation of the support surcharge revenue and reserve caps for the relevant funds.

S2 Work based learning incentive roll forward: The request includes roll-forward authority on $2.8 million General Fund, including support for 2.0 FTEs, appropriated to the Department through S.B. 22-140 (Expansion of Experiential Learning Opportunities), for the Work-Based Learning Incentive Program. The bill appropriated $3.0 million General Fund to the Department in FY 2022-23 with authority to use the funds through FY 2023-24. Due to administrative delays, the Department will not be able to expend the funds before the end of FY 2023-24, and is requesting extended spending authority on the unspent funds through FY 2024-25. Staff recommends approval of the request.

S3 DIGITAL NAVIGATOR PROGRAM ROLL FORWARD: The request includes roll-forward authority on $1.9 million General Fund, including support for 1.0 FTE, appropriated to the Office of Future of Work within the Department through S.B. 22-140 (Expansion of Experiential Learning Opportunities), for the Digital Navigator Program. The bill appropriated $2.0 million General Fund to the Department in FY 2022-23, with authority to use the funds through FY 2023-24. Due to contracting and administrative delays, the Department will not be able to expend the funds before the end of FY 2023-24, and is requesting extended spending authority on the unspent funds through FY 2024-25. Staff recommends approval of the request.

R8 DVR ADJUSTMENT TO EFI APPROPRIATION: The request includes a net-zero reallocation of FTE within the Division of Vocational Rehabilitation (DVR) to provide clarification on federal match funding in the Long Bill. This was submitted in the Department's initial November budget request, and staff feels this is appropriate to address during the supplemental budget process as it corrects a technical error in the FY 2023-24 Long Bill. The request is to move 4.0 FTE in the Employment First Initiative line item to the Personal Services line item, as a technical change to ensure DVR is reporting accurate funding amounts eligible for the federal match. Staff recommends approval of the request as well as (1) removal of the (M) notes on the lines in the Division; (2) adding footnotes to these lines indicating the federal match rate; and (3) amending the letternotes on these lines to identify the correct federal funding source.

STATEWIDE COMMON POLICY SUPPLEMENTAL REQUESTS

NON-PRIORITIZED REQUESTS: The request includes a total decrease of $803,863 total funds, including $101,859 General Fund, for statewide common policy requests. The staff recommendation is pending Committee action on common policies. Detail is provided in the table below.

NON-PRIORITIZED REQUESTS						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
SNP Risk management	$303,540	$39,711	$139,107	$3,890	$120,832	0.0
SNP OIT Real time billing	(1,044,491)	(136,619)	(478,690)	(13,370)	(415,812)	0.0
DPA Annual fleet supplemental	(62,912)	(4,951)	(35,062)	(221)	(22,678)	0.0
TOTAL	**($803,863)**	**($101,859)**	**($374,645)**	**($9,701)**	**($317,658)**	**0.0**

S1 STATEWIDE ARPA ROLL FORWARD: The request includes a change to statutory language to ensure the remaining amount of the State Family and Medical Leave Insurance (FAMLI) Premium prepay is reverted by June 30, 2024 so it can be reallocated by September 30, 2024. This would be more appropriately considered a reversion rather than a roll forward. House Bill 22-1133 (Family and Medical Leave Insurance Fund) transferred an initial $57.0 million in ARPA funds into the FAMLI Fund and this amount was reduced by $35.0 million in S.B. 23-234 (State Employee Insurance Premiums) in order to reflect the cost of State FAMLI premiums for just FY 2022-23 and FY 2023-24. It was assumed a portion of this prepay would revert, and staff agrees that the reversion needs to be reallocated before the ARPA spending deadline. *ARPA-related supplemental requests will be discussed in more detail at a later date and may be included in separate legislation.*

PRIORITIZED SUPPLEMENTAL REQUESTS

S1 ESF RESTRUCTURE

	REQUEST	RECOMMENDATION
TOTAL	**($23,499,100)**	**$0**
FTE	0.0	0.0
General Fund	0	0
Cash Funds	(23,499,100)	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 Executive Branch indicates this request meets supplemental criteria as data that was unavailable during the original appropriation, stating that after the passage of S.B. 23-232 it evaluated the structure of the UI enterprise and the support surcharge and learned more about its impact on state revenue. Staff does not believe this request qualifies under supplemental criteria. S.B. 23-232 originated as a Departmental request, so the idea that the Executive Branch did not have the data to understand the impact of that request does not seem valid. The Executive Branch also identifies this as a technical issue to align expenditures from the ESF with intended uses, however current expenditures from the ESF align with statutorily allowable uses, so there is no technical error to correct.

DEPARTMENT REQUEST: The Department's request includes a proposal to reduce the TABOR impact of revenue on the General Fund by $52.5 million in FY 2023-24 and $23.5 million in FY 2024-25 and ongoing. This impact would decrease the TABOR refund payment in each year by these amounts, and requires legislation to make the following proposed changes:

1. Shifting $10.0 million in Unemployment Insurance (UI) administrative appropriations currently supported by federal funds to the Employment and Training Technology Fund, and reallocating those federal funds towards other UI administrative costs currently funded by the Employment Support Fund (ESF);
2. Lowering the cap on the Employment Support Fund from $32.5 million to $3.5 million;
3. Creating a new Workforce Services Fund within the UI enterprise and transferring $13.5 million in workforce development related appropriations from the Employment Support Fund to the Workforce Services Fund; and
4. Adjusting the allocation of the support surcharge revenue and reserve caps for the relevant funds.

STAFF RECOMMENDATION: Staff recommends that the Committee deny the request based on its failure to meet supplemental criteria as well as the lack available data to complete the necessary analysis for the Committee and General Assembly to be fully informed about the impacts of the proposal. Additionally, staff has the following recommendations:

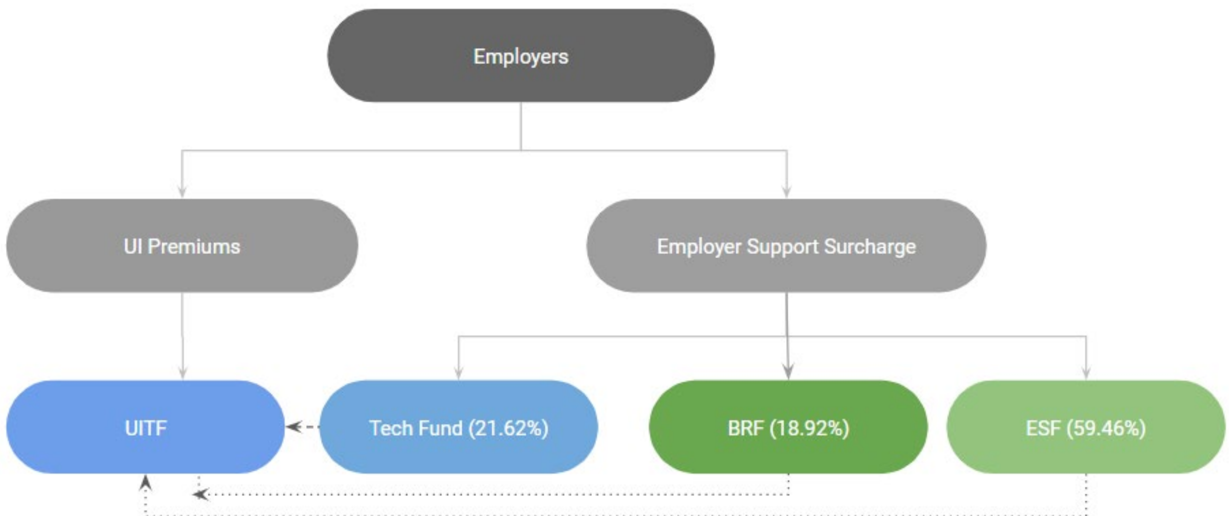
- The Committee and General Assembly do not make large adjustments to the UI program and funding structures immediately after coming into federal compliance and making a number of technical adjustments to the program in the last few years.
- If the Committee would like to pursue this as a JBC bill as part of the Long Bill package, staff requests permission to begin working with Legislative Legal Services and the Department on a draft now in order to present that during the figure setting process.

- If there is a bill this session that creates a new workforce services fund, staff strongly recommends that the fund is not continuously appropriated and remains subject to annual appropriation by the General Assembly.
- If there is a bill this session that reduces the cap on the ESF, staff strongly recommends that the cap does not jeopardize maintaining sufficient reserves in the ESF in the event of a recession.

Staff Analysis:

Background

The Unemployment Insurance (UI) Program is a federal-state partnership that supports statewide unemployment insurance benefits. Employers pay premiums into the Unemployment Compensation Fund, also referred to as the Unemployment Insurance Trust Fund (UITF), which pays out UI benefits. The UITF is an enterprise, and revenue to the fund is TABOR-exempt and continuously appropriated to the Department for the purpose of paying out benefits. Employers also pay a support surcharge alongside UI premiums, with dedicated percentages of the surcharge allocated to a number of other funds detailed in the table below.



Employment Support Fund (ESF)

The Employment Support Fund (ESF) is a cash fund that receives 59.5 percent of the support charge rate on UI premiums paid by employers, however it lies outside of the UI enterprise. The ESF was created to support the Department and strengthen UITF solvency. It has traditionally been used to invest in employment-related services in local workforce centers and community partners, state employment and training programs, and labor standards and relations activities, which are all identified as allowable uses of the fund in Section 8-77-109, C.R.S. Per S.B. 23-232 (Unemployment Insurance Premiums Allocation Federal Law Compliance), any amounts collected that would put the ESF reserve above $32.5 million are redirected to the UITF within the UI enterprise, and are thus TABOR-exempt.

Employment and Training Technology Fund (Tech Fund)

The Employment and Training Technology Fund (Tech Fund) was created to support employment and training automation initiatives. The fund receives 21.6 percent of the support charge rate on UI premiums paid by employers. Any amounts collected for the Tech Fund are TABOR-exempt, and if above $7.0 million are redirected to the UITF.

BENEFIT RECOVERY FUND (BRF)

The Benefit Recovery Fund (BRF) is a cash fund that receives 18.9 percent of the support charge rate and lies outside of the UI enterprise. The BRF provides grants to a third-party administrator to provide recovery benefits to eligible individuals. Any amounts collected for the BRF above $15.0 million are redirected to the UITF.

1. TECH FUND APPROPRIATION REALLOCATION

The Department has identified $10.0 million in IT costs related to UI administration that are currently supported by federal grants, and it is proposing moving these costs to the Tech Fund. The federal grants would then be used to cover UI administration personnel costs that are currently paid out of the ESF. This would require an increase in spending authority of $10.0 million from the UI Tech fund on an ongoing basis, and would decrease TABOR-revenue impacts by $10.0 million, thereby reducing the TABOR refund by the same amount. The proposal is laid out in the diagram below.

The Department states this reallocation includes the following adjustments:

- Move Deloitte M&O (cloud-based system) to Tech fund ($12.0-$14.0 million);
- Move 70-80 tech-related tools that are currently funded by ESF to the Tech Fund ($7.0 million);
- Move fraud-related tools currently funded by federal grants to the Tech Fund ($2.0-3.0 million); and
- Shift personnel costs for 26.0 FTEs related to technology and automation ($2.3 million).

Staff believes this portion of the proposal would be the most relevant for the Committee to consider during the figure setting process. The proposal would align technical expenditures with an existing and potentially more appropriate fund source, thereby better utilizing the Division's funding. If the Committee wanted to pursue this portion of the request, it would not require a JBC bill, however staff believes it would require further details from the Department on the exact expenditures being reallocated. Staff does not recommend pursuing this change at this time without further details from the Department and greater fiscal and legal analysis to ensure compliance with statute and enterprise requirements.

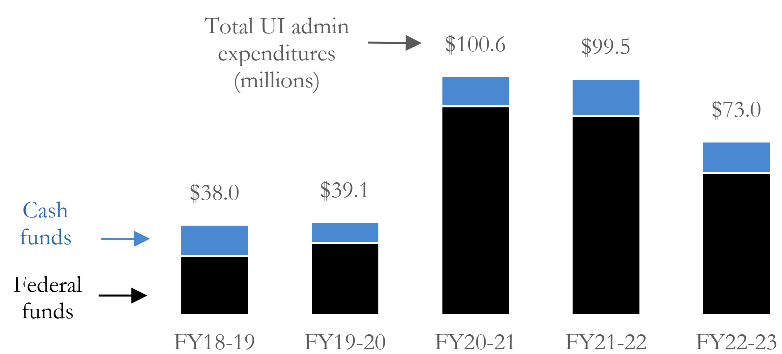
2. EMPLOYMENT SUPPORT FUND CAP REDUCTION [REQUIRES LEGISLATION]

The Department is proposing lowering the cap on the ESF from $32.5 million to $3.5 million, with any revenue collected that would put the fund's reserve above that amount redirected to the UITF. This is estimated to reduce revenues collected under TABOR by $29.0 million in FY 2023-24 and reduce the TABOR payment by the same amount. If approved this would leave the ESF with a 15.0 percent reserve.

The expenditures that would remain in the ESF under the proposal are for the Executive Director's Office (EDO) and the Division of Labor Standards and Statistics (DLSS). The Department states these two streams of expenditures are less volatile than UI technology expenditures, which is why the cap can be reduced. The Department states that workforce service and UI technology expenses are more volatile as they are related to broader economic cycles and fluctuating labor market trends. Staff agrees with this assessment, however remains unclear on the exact expenditures being reallocated and where the UI administrative costs would fall. If any portion of UI administrative costs are still coming out of the ESF, then staff would not recommend lowering the cap.

Staff is very concerned about lowering reserves within the ESF. The ESF funds administrative costs of the UI program, and in case of a recession, if the ESF reserve was depleted the UI program would be entirely dependent upon increased federal funding for additional administrative costs. Administrative UI expenditures are shown in the table below. While the federal government provided significantly more funding for administrative costs during the COVID-19 pandemic, and it is unlikely the federal government would abandon the state in the case of a recession, there can still be timing issues regarding receiving the federal funding and responding to the State's UI needs.

UI administration expenditures are driven by recessions and are dependent on the funding the federal government makes available.



Staff does not recommend reducing the cap for FY 2023-24 or FY 2024-25. This could be a consideration in the future, however staff recommends waiting to adjust the cap until:

- UI administration expenditures normalize down post-pandemic; and
- The chargeable wage base levels created in S.B. 20-207 (Unemployment Insurance) are reached in 2026, giving the Department and economic and fiscal legislative staff more clarity on what support surcharge revenue will look like in the future.

3. Workforce Services Fund Creation [Requires Legislation]

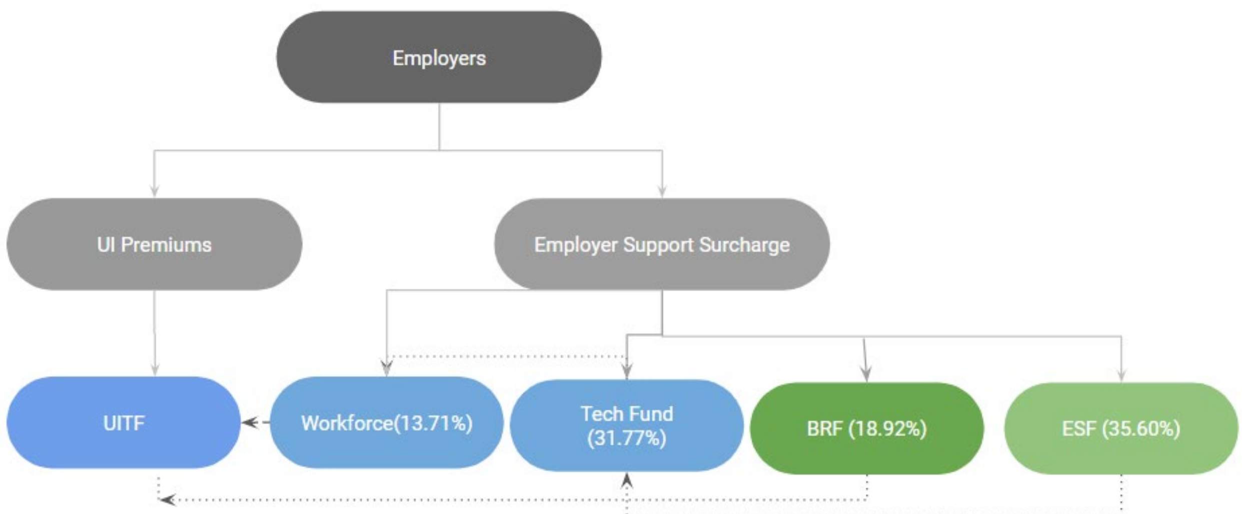
The Department is proposing to create a new Workforce Services Fund within the UI enterprise that would absorb the ESF expenditures currently under the Division of Employment and Training. The key difference between this new fund and the existing ESF fund is that revenue to the new fund would be TABOR-exempt. The Department states this would align fund expenditures with its intended use and make exempt and non-exempt funds more clear. As proposed, this would reduce ESF non-exempt revenue by $13.5 million annually by shifting those expenditures to the exempt Workforce Services Fund, and reduce the TABOR refund by the same amount.

The General Assembly previously made the decision to have UI premiums and benefit payments exempt from TABOR, and administrative UI revenue and costs that are paid from the ESF not exempt from TABOR. The General Assembly can always decide to make more of the administrative UI expenditures exempt under TABOR, but staff feels that this is a policy change that may be beyond the appropriate scope of a JBC bill.

Staff disagrees with the Executive Branch's statement that expenditures from the ESF are not aligned with the intended uses of the fund, as staff defines the intended uses of the fund as those outlined in statute. The Department uses the ESF to offset funding deficits for program administration including information technology initiatives; to further support programs to strengthen unemployment fund solvency; and to fund labor standards, labor relations, and the Colorado works grievance procedure, all allowable uses under statute (Section 8-77-109, C.R.S.). Again, the General Assembly may choose to change the allowable uses of the fund, however that would be a political decision not a technical adjustment.

4. Support Surcharge Reallocation and Cap Adjustment [Requires Legislation]

To reflect these proposed changes, the support surcharge allocations and the fund caps would need to be adjusted. The ESF reserve cap would be lowered to $3.5 million on $23.5 million in expenditures, for a reserve of about 14.9 percent. The Tech Fund cap would increase from $7.0 million to $13.2 million for a reserve of about 50.0 percent of expenditures. The new Workforce Fund would have a reserve cap of $6.8 million, also 50.0 percent of expenditures. The support surcharge would be redistributed in the amounts shown in the chart below.



Use of Reduced Revenue Impact on General Fund

The Executive Branch states that the current funding structure does not maximize the impact of enterprise status and this proposal does so. The Executive Branch also states the reduced TABOR revenue impact, or General Fund savings as it is being referred to, has been accounted for in the overall budget. The savings are not tied to any specific expenditures, but are part of the budget balancing strategy laid out in the Governor's November 1st budget letter. The annual decreased revenue impacts are laid out in the table below.

Governor's ESF Budget Balancing Proposal Reduced Annual TABOR Revenue Impacts		
	FY 23-24	FY 24-25
Lower ESF cap	($29,000,000)	-
Refinance Tech Fund/federal funds	($10,000,000)	($10,000,000)
Create Workforce Services Fund	($13,500,000)	($13,500,000)
Total	**($52,500,000)**	**($23,500,000)**

STAFF RECOMMENDATION

Staff recommends denial of the request for the following reasons:

- The request does not meet supplemental criteria; and
- The request does not include sufficient details of the proposal, data collection and analysis supporting the proposal, and understanding and consideration of the impacts of the proposal.

With the UI program only just coming into federal compliance, and S.B. 20-207, S.B. 23-232, and S.B. 23-234 requiring a number of fiscal, technical, and procedural changes for the program, staff believes any further changes to the UI system would merit more long-term data and analysis underlying any proposed changes. Though staff believes there may be room for a conversation about aligning technological expenditures with the Tech Fund during the figure setting process, staff would likely recommend denial of the other portions of this proposal at that time given the current level of information and analysis within the request. Additionally, staff has the following recommendations:

- The Committee and General Assembly do not make large adjustments to the UI program and funding structures immediately after coming into federal compliance and making a number of technical adjustments to the program in the last few years.
- If the Committee would like to pursue this as a JBC bill as part of the Long Bill package, staff requests permission to begin working with Legislative Legal Services and the Department on a draft now in order to present that during the figure setting process.
- If there is a bill this session that creates a new workforce services fund, staff strongly recommends that the fund is not continuously appropriated and remains subject to annual appropriation by the General Assembly.
- If there is a bill this session that reduces the cap on the ESF, staff strongly recommends that the cap does not jeopardize maintaining sufficient reserves in the ESF in the event of a recession.

S2 WORK BASED INCENTIVE ROLL FORWARD

	REQUEST	RECOMMENDATION
TOTAL	**$0**	**$0**
FTE	0.0	0.0
General Fund	0	0
Cash Funds	0	0
Federal Funds	0	0

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? **YES**

[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 believes this request meets supplemental criteria as an unforeseen contingency and staff agrees with this rationale. The initial legislation required the Department to set up a new program, so it seems reasonable that not all information was available when the legislation passed and the Department ran into unforeseen contingencies in setting up the program.

DEPARTMENT REQUEST: The Department requests roll forward authority on $2.8 million General Fund, including support for 2.0 FTEs, appropriated to the Department through S.B. 22-140 (Expansion of Experiential Learning Opportunities), for the Work-Based Learning Incentive Program. The bill appropriated $3.0 million General Fund to the Department in FY 2022-23, with authority to use the funds through FY 2023-24 without further appropriation. Due to administrative delays the Department will not be able to expend the funds before the end of FY 2023-24, and is requesting extended spending authority on the unspent funds through FY 2024-25.

STAFF RECOMMENDATION: Staff recommends approval of the Department's request for roll forward spending authority through FY 2024-25.

STAFF ANALYSIS:

SENATE BILL 22-140 (EXPANSION OF EXPERIENTIAL LEARNING OPPORTUNITIES)

Senate Bill 22-140 required the Department, in collaboration with the Business Experiential-Learning Commission and multiple state departments, to create a program that provides monetary incentives to employers who create work-based learning opportunities for adults and youth by January 1, 2023. The Department was directed to select employers and at least two program intermediaries through an application process. The intermediaries were then directed to facilitate work-based learning opportunities through incentive payments made directly to employers for technical assistance, business coaching, and other types of support. The bill appropriated $3.0 million General Fund to the Department in FY 2022-23 with roll-forward spending authority through FY 2023-24.

The Department reports that all legislative requirements are being met, including the framework for both a direct employer application and the recruitment and contract of five intermediaries to administer the program. The Department has set up a process to direct payments to both contracted intermediaries and approved businesses. The Department also states the reporting framework is in place and data is being collected and organized. The Department reports that early results are showing there are 216 businesses active in the program, opening up work-based learning to 481 participants. Of these, there are 124 youth, 331 adults, 12 participants over 50 years old, 6 people with disabilities, and 4 veterans.

PROGRAM DELAYS

The Department has spent $731,852 of the $3.0 million appropriated, however indicates that all funding is obligated and spending is ramping up. The Department reports the program had an extended startup time due to the complicated nature of defining and setting up a direct application and going through the RFP process to find intermediaries to contract with. The Department ran into unforeseen delays in the following areas:

- The procurement contract process with the intermediaries took longer than expected early in 2023;
- The first iteration of the program was very detailed and the intermediaries gave feedback that it would be difficult to administer, so the program was updated with a simplified approach; and
- The funds have been encumbered for businesses that will not complete programs until May or June 2024, driving tight deadlines for reimbursement in the 2023-24 fiscal year.

EXPENDITURE PLANS

The Department states that all of the remaining $2.8 million General Fund has been obligated: the direct application is fully encumbered and the five intermediaries are expected to fully expend the $2.2 million that has been contracted out to them. The issue is the funding may not be fully expended by the end of June 2024, so the Department is asking for the ability for the intermediaries to fully expend the obligated funds by the end of FY 2024-25.

S3 DIGITAL NAVIGATOR PROGRAM ROLL FORWARD

	REQUEST	RECOMMENDATION
TOTAL	**$0**	**$0**
FTE	0.0	0.0
General Fund	0	0
Cash Funds	0	0
Federal Funds	0	0

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? **YES**

[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 believes this request meets supplemental criteria as an unforeseen contingency and staff agrees with this rationale. The initial legislation required the Department to set up a new program, so it seems reasonable that not all information was available when the legislation passed and the Department ran into unforeseen contingencies in setting up the program.

DEPARTMENT REQUEST: The Department requests roll forward authority on $1.9 million General Fund, including support for 1.0 FTE, appropriated to the Office of Future of Work within the Department through S.B. 22-140 (Expansion of Experiential Learning Opportunities), for the Digital Navigator Program. The bill appropriated $2.0 million General Fund to the Department in FY 2022-23, with authority to use the funds through FY 2023-24 without further appropriation. Due to contracting and administrative delays the Department will not be able to expend the funds before the end of FY 2023-24, and is requesting extended spending authority on the unspent funds through FY 2024-25.

STAFF RECOMMENDATION: Staff recommends approval of the Department's request for roll forward spending authority through FY 2024-25. Staff believes that due to the current delays, there is a chance that this program will require roll forward authority in the future in order to fully expend the initial General Fund appropriation.

STAFF ANALYSIS:

SENATE BILL 22-140 (EXPANSION OF EXPERIENTIAL LEARNING OPPORTUNITIES)

By January 1, 2023, S.B. 22-140 directed the Office of Future of Work in the Department to create a statewide digital navigator program with the work-based learning program to address digital inequities. The program is directed to conduct outreach, provide technology and literacy support, connect target populations to resources, and offer several other resources outlined in the bill. The digital navigator providers are selected through an application process run by the Office and must partner with a public entity or nonprofit to qualify. The bill appropriated $2.0 million General Fund in FY 2022-23 for the program with roll-forward spending authority through FY 2023-24.

The Department indicates it is meeting all the legislative requirements put forth in the original legislation including: creating a statewide digital navigator program on or before January 1, 2023, selecting at least one administering entity to administer the program, deploying digital navigators to perform the duties specified in the bill, working collaboratively with partners as specified in the bill, sharing outcomes of the program with partners, and collecting data on the program.

PROGRAM IMPLEMENTATION

The Office hired a Digital Navigator Program Administrator to execute the program in March 2023, and through an interagency agreement, allocated $1.7 million of the funds to ServeColorado. ServeColorado is in the Lieutenant Governor's Office, which administers AmeriCorps in Colorado, and the funding was allocated to ServceColorado in order to match AmeriCorps funding. Additionally, Comcast has contributed $600,000, including in kind and financial support, for the two-year period of this program.

ServeColorado administers AmeriCorps Colorado programs using federal funds. For each AmeriCorps program, organizations that apply are required to provide a match for the federal funds they are seeking. The Department states the goal with the interagency agreement was to allow organizations that were awarded funds to use the $1.7 million from S.B. 22-140 as the match for this program so that the applicants would not have to provide that out of organizational budgets, allowing greater distribution of funds. This would also allow for the $1.7 million to support more digital navigators across the state because of the AmeriCorps funding provided to the grantees.

After two rounds of grant competitions, only two grantees were awarded a total of $658,560 of the $1.7 million encumbrance, which will result in 27 digital navigators across the state. With the approximately $1.1 million remaining, the Department is planning to partner with the Colorado Rural Workforce Consortium and community-based organizations to deploy 19 temporary digital navigators across the state. The temporary positions have been approved by HR and the Office is beginning the process of recruitment and placement for these positions. The positions will work for up to nine months in communities, and at the end of the pilot program, the Department will explore using federal funds from the Digital Equity Act to support the continuation of the program based on the evaluation of the pilot.

PROGRAM DELAYS

The program encountered two barriers that delayed implementation. First, there were contracting and recruitment delays as a result of working with a city agency. Second, this program required developing an entirely new service model for ServeColorado because the legislation had specific requirements which were not in alignment with the typical AmeriCorps model. As a result of these delays, members are still actively being recruited for the two Serve Colorado grantees and drawdown of funds is expected to begin in January and February 2024.

Unfortunately, the administrative burden of operating an AmeriCorps program, even without the match requirement, was too great for many organizations to be awarded a grant from ServeColorado. The $1.7 million is not expected to be fully spent because only two AmeriCorps programs were awarded grants after two rounds of applications. These two programs are The Learning Source and Loveland Public Library, which were awarded grants that included a total of $658,560.

Additionally, both grantees have struggled with delays in starting the programs due to challenges in hiring and coordination of contracts with ServeColorado. The Learning Source has recruited 8.5 of their expected 20 members and is projected to spend approximately $175,000 of the funds. Loveland Public Library has recruited 2.2 of the 7 members and is projected to spend approximately $51,000. This will result in a total of $226,000 spent across the two grantees by the end of FY 2023-24 which leaves $1.5 million left to spend.

EXPENDITURE PLANS

To spend the remaining funds, the Department plans to:

- Allow the two grantees to fully spend down the year one grants ($432,000);
- Provide matching funds as part of the continuation grants to operate Digital Navigator AmeriCorps programs for a second year, pending a successful evaluation of the first year of the program (anticipated $100,000-$150,000);
- Hire temporary digital navigators to serve at rural workforce centers and community based nonprofit organizations in the Front Range (up to $1.0 million for 19 navigators to serve full-time for six months); and
- Continue to fund the Digital Navigator Program Administrator position to support all digital navigators in the state and manage the temporary digital navigators (approximately $140,292).

R8 DVR ADJUSTMENT TO EFI APPROPRIATION

	REQUEST	RECOMMENDATION
TOTAL	**$0**	**$0**
FTE	0.0	0.0
General Fund	0	0
Cash Funds	0	0
Federal Funds	0	0

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria?	**YES**
[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: This request is based on a technical error made in the FY 2023-24 Long Bill that affects the accuracy of an (M) note in the Division of Vocational Rehabilitation's section of the budget.

DEPARTMENT REQUEST: The request includes a net-zero reallocation of FTE within the Division of Vocational Rehabilitation (DVR) to provide clarification on federal match funding in the FY 2023-24 Long Bill. This request was submitted in November, and staff feels this is appropriate to address during the supplemental budget process as it corrects a technical error in the FY 2023-24 Long Bill. The request is to move 4.0 FTE in the Employment First Initiative line item to the Personal Services line item as a technical change to ensure DVR is reporting accurate funding amounts eligible for the federal match.

STAFF RECOMMENDATION: Staff recommends approval of the request as well as (1) removal of the (M) notes on the line items in the Division; (2) adding footnotes to these line items indicating the federal match rate; and (3) amending a letternote on one of these line items to identify the correct federal funding source.

STAFF ANALYSIS:

REQUEST

The Department is requesting a net-zero reallocation of FTE within DVR to provide clarification on federal match funding in the FY 2023-24 Long Bill. The request is to move 4.0 FTE in the Employment First Initiative line item to the Personal Services line item. This is because all other FTE in the Employment First line item are ineligible for the federal match rate in their funding, and the General Fund in this line item currently has an (M) notation. These other FTE in the line are programmatic, funded temporarily for two years, and the funding that supports them is ineligible for the federal DVR match. Adjusting the location of the match-eligible Employment First FTE is a technical change to ensure the Division's Long Bill section is accurate and that the FTE are located where they make the most sense programmatically for the Division.

(M) NOTES AND THE FEDERAL VR MATCH RATE

According to the headnotes of the Long Bill, where an (M) note occurs next to a General Fund appropriation it indicates that the appropriation is used to support a federally supported program and is the maximum amount of General Fund that may be expended in that program. If the federal funding for that program increases, the (M) noted General Fund is decreased by the increased amount. If the federal funding decreases, the (M) noted General Fund is decreased proportionally. The (M) notes are utilized in scenarios where a match is uncertain and the General Assembly wants to appropriate funding only if the federal match comes through.

Vocational rehabilitation program services are funded through a 78.7 percent federal funds to 21.3 percent state funds rate based on federal statute. This is a straight match, so anytime the State allocates more funding for eligible services, the federal funding increases proportionally. Because VR funding is a straight match dictated by federal legislation, staff does not believe the (M) note is necessary in this instance. The Division already provides extensive reporting on funding it receives, program metrics, and service outcomes, and staff believes the intent of placing an (M) note on the relevant line items could be similarly achieved through a footnote, which would also reduce administrative burden for the Division.

FEDERAL FUNDING SOURCES

Vocational Rehabilitation programs receive funding from two federal sources: Section 110 and Section 603 funds. There is an historical error in the FY 2023-24 Long Bill which incorrectly identifies one of these sources as Section 203 rather than Section 603 vocational rehabilitation funds. Staff is requesting permission to update the letternote in the Division with the correct federal funding source.

RECOMMENDATION

Staff recommends the Committee:

- Approve the Department's request to move 4.0 FTE and the associated funding from the Employment First Initiative line item to the Personal Services line item;
- Remove the three (M) notes within the Division and replace these with footnotes identifying the match rate and indicating which funds are not applicable for the match rate if necessary; and
- Update the letternote in the Division which reflects an inaccurate federal funding source.

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 REQUESTS	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROP. FUNDS	FEDERAL FUNDS	FTE
S1 Statewide ARPA roll forward	$0	$0	$0	$0	$0	0.0
DPA Annual fleet supplemental	(62,912)	(4,951)	(35,062)	(221)	(22,678)	0.0
SNP Risk management	303,540	39,711	139,107	3,890	120,832	0.0
SNP OIT Real time billing	(1,044,491)	(136,619)	(478,690)	(13,370)	(415,812)	0.0
DEPARTMENT'S TOTAL STATEWIDE SUPPLEMENTAL REQUESTS	**($803,863)**	**($101,859)**	**($374,645)**	**($9,701)**	**($317,658)**	**0.0**

STAFF RECOMMENDATION: The staff recommendation for this request is pending Committee action on common policy supplementals. Staff asks permission to include the corresponding appropriations in the Department's supplemental bill when the Committee acts 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. *ARPA-related supplemental requests will be discussed in more detail at a later date and may be included in separate legislation.*

STAFF ANALYSIS: The statewide ARPA roll forward request includes a change to statutory language to ensure the remaining amount of the State Family and Medical Leave Insurance (FAMLI) Premium prepay is reverted by June 30, 2024 so it can be reallocated by September 30, 2024. This would be more appropriately considered as a reversion rather than a roll forward.

House Bill 22-1133 (Family and Medical Leave Insurance Fund) transferred an initial $57.0 million in ARPA funds into the FAMLI Fund, this amount was reduced by $35.0 million in S.B. 23-234 (State Employee Insurance Premiums) in order to reflect the cost of State FAMLI premiums for just FY 2022-23 and FY 2023-24. Currently there is $7.3 million left of the prepay in the FAMLI Fund and there will be an estimated $1.3 to $1.5 million left unspent at the end of FY 2023-24. In S.B. 23-234, it was assumed a portion of this prepay would revert, however there was not language added to ensure the reversion was reallocated before the spending deadline and staff agrees that this needs to be added to ensure compliance with federal spending requirements. The Executive Branch has not indicated what the plan is for the reverted amount.

APPENDIX A: NUMBERS PAGES

Appendix A: Numbers Pages

	FY 2022-23 Actual	FY 2023-24 Appropriation	FY 2023-24 Requested Change	FY 2023-24 Rec'd Change	FY 2023-24 Total w/Rec'd Change
DEPARTMENT OF LABOR AND EMPLOYMENT					
Joe Barela, Executive Director					
R8 DVR adjustment to EFI approp					
(7) DIVISION OF VOCATIONAL REHABILITATION AND INDEPENDENT LIVING SERVICES					
(A) Vocational Rehabilitation Programs					
Personal Services	17,838,554	18,488,806	0	290,744	18,779,550
FTE	223.7	223.7	0.0	4.0	227.7
General Fund	3,800,289	3,999,300	0	63,382	4,062,682
Cash Funds	0	0	0	0	0
Reappropriated Funds	0	0	0	0	0
Federal Funds	14,038,265	14,489,506	0	227,362	14,716,868
Employment First Initiatives	273,886	577,959	0	(290,744)	287,215
FTE	4.0	5.8	0.0	(4.0)	1.8
General Fund	63,382	350,597	0	(63,382)	287,215
Cash Funds	0	0	0	0	0
Reappropriated Funds	0	0	0	0	0
Federal Funds	210,504	227,362	0	(227,362)	0
Total for R8 DVR adjustment to EFI approp	18,112,440	19,066,765	0	0	19,066,765
FTE	227.7	229.5	0 .0	0 .0	229.5
General Fund	3,863,671	4,349,897	0	0	4,349,897
Cash Funds	0	0	0	0	0
Reappropriated Funds	0	0	0	0	0
Federal Funds	14,248,769	14,716,868	0	0	14,716,868

	FY 2022-23 Actual	FY 2023-24 Appropriation	FY 2023-24 Requested Change	FY 2023-24 Rec'd Change	FY 2023-24 Total w/Rec'd Change
S1 ESF Restructure					
(2) DIVISION OF UNEMPLOYMENT INSURANCE					
Program Costs	96,162,027	76,527,050	(10,000,000)	0	76,527,050
FTE	484.7	496.7	0.0	0.0	496.7
General Fund	0	0	0	0	0
Cash Funds	12,246,865	15,828,543	(10,000,000)	0	15,828,543
Reappropriated Funds	0	0	0	0	0
Federal Funds	83,915,162	60,698,507	0	0	60,698,507
(3) DIVISION OF EMPLOYMENT AND TRAINING					
One-Stop Workforce Center Contracts	19,987,352	20,929,564	(13,499,100)	0	20,929,564
FTE	36.0	36.0	0.0	0.0	36.0
General Fund	0	0	0	0	0
Cash Funds	9,488,409	9,897,639	(13,499,100)	0	9,897,639
Reappropriated Funds	0	0	0	0	0
Federal Funds	10,498,943	11,031,925	0	0	11,031,925
Total for S1 ESF Restructure	116,149,379	97,456,614	(23,499,100)	0	97,456,614
FTE	520.7	532.7	0 .0	0 .0	532.7
General Fund	0	0	0	0	0
Cash Funds	21,735,274	25,726,182	(23,499,100)	0	25,726,182
Reappropriated Funds	0	0	0	0	0
Federal Funds	94,414,105	71,730,432	0	0	71,730,432

	FY 2022-23 Actual	FY 2023-24 Appropriation	FY 2023-24 Requested Change	FY 2023-24 Rec'd Change	FY 2023-24 Total w/Rec'd Change
S2 Work-based learning incentive roll-forward					
(3) DIVISION OF EMPLOYMENT AND TRAINING					
One-Stop Workforce Center Contracts	19,987,352	20,929,564	0	0	20,929,564
FTE	36.0	36.0	0.0	0.0	36.0
General Fund	0	0	0	0	0
Cash Funds	9,488,409	9,897,639	0	0	9,897,639
Reappropriated Funds	0	0	0	0	0
Federal Funds	10,498,943	11,031,925	0	0	11,031,925
Total for S2 Work-based learning incentive roll-forward	19,987,352	20,929,564	0	0	20,929,564
FTE	36 .0	36 .0	0 .0	0 .0	36 .0
General Fund	0	0	0	0	0
Cash Funds	9,488,409	9,897,639	0	0	9,897,639
Reappropriated Funds	0	0	0	0	0
Federal Funds	10,498,943	11,031,925	0	0	11,031,925

	FY 2022-23 Actual	FY 2023-24 Appropriation	FY 2023-24 Requested Change	FY 2023-24 Rec'd Change	FY 2023-24 Total w/Rec'd Change
S3 Digital navigator program roll-forward					
(1) EXECUTIVE DIRECTOR'S OFFICE					
Office of Future Work	116,314	2,059,956	0	0	2,059,956
FTE	0.9	3.3	0.0	0.0	3.3
General Fund	116,314	2,059,956	0	0	2,059,956
Cash Funds	0	0	0	0	0
Reappropriated Funds	0	0	0	0	0
Federal Funds	0	0	0	0	0
Total for S3 Digital navigator program roll-forward	116,314	2,059,956	0	0	2,059,956
FTE	0.9	3.3	0 .0	0 .0	3.3
General Fund	116,314	2,059,956	0	0	2,059,956
Cash Funds	0	0	0	0	0
Reappropriated Funds	0	0	0	0	0
Federal Funds	0	0	0	0	0
Totals Excluding Pending Items					
LABOR AND EMPLOYMENT					
TOTALS for ALL Departmental line items	391,598,151	408,285,656	(23,499,100)	0	408,285,656
FTE	1,344.5	1,724.4	0 .0	0 .0	1,724.4
General Fund	21,454,722	35,089,687	0	0	35,089,687
Cash Funds	146,172,703	152,942,322	(23,499,100)	0	152,942,322
Reappropriated Funds	6,056,792	24,238,463	0	0	24,238,463
Federal Funds	217,913,935	196,015,184	0	0	196,015,184