DEPARTMENT OF LABOR AND EMPLOYMENT
FY 2017-18 JOINT BUDGET COMMITTEE HEARING AGENDA

Thursday, December 1, 2016
1:30 pm – 3:00 pm

1:30-1:45   **INTRODUCTIONS AND OPENING COMMENTS**

1:45-2:00   **GENERAL QUESTIONS**

1 How do the workforce bills fit together? Please provide an overview of how the programs work together, what the impact on the workforce has been, and how the Department is managing the bills.

2 How is the Department measuring goals for the SMART act in general and, in particular, for the workforce management and vocational rehabilitation programs?

3 Approximately 66 percent of the Unemployment Insurance program's appropriation is federal funds, what is the source of the remaining 34 percent of the money in UI program? How has the balance of the UI Trust Fund changed over time? How has funding for the UI Trust Fund changed over time? What is the status of the revenue bonds and how long will the revenue bonds be in repayment?

2:00-2:20   **CONVEYANCE PROGRAM SOFTWARE REPLACEMENT**

4 The Division of Oil and Public Safety is more regulatory in nature. Why is the Division in the Department of Labor and Employment (CDLE)?

5 With regard to request 1 for a software replacement for the conveyance program:
   a. When the Department decided on the AMANDA software, what issues was it supposed to solve? What system did it replace and what specific processes was AMANDA supposed to fix with regard to the previous system?
   b. Is AMANDA custom designed or is it an off the shelf program?
   c. Why is the AMANDA software out of date after only six years?
   d. Is AMANDA under warranty? If not, why?
   e. What are the specific problems with the AMANDA system?
   f. What specific processes in the AMANDA systems will the newly requested software replace?
   g. What is the purpose of the new software? How will the new software be used? Is the new software mainly a scheduling tool?
   h. Did the Department submit the new software system through the JTC for approval?
   i. Should this appropriation request be included in the capital construction information technology budget?

6   Does this new software system affect public safety? Will there be an impact to public safety if the request is not approved?

7   Why is the request for the new software system going through the RFP process as opposed to the Statewide Internet Portal Authority? Did the Department look at a documented quote process?

8   Does this request require a competitive bid? Why do we need to have an RFP if OIT has already said this is preferred program?

9   Has OIT been involved in selecting the SaaS systems for this request?

10 Is AMANDA performance a part of the SMART ACT plan? Are there tangible, measurable metrics that indicate AMANDA is not working?

2:20-2:40   DIVISION OF VOCATIONAL REHABILITATION

11 Please update the JBC on the progress of establishing a plan to address the issues in vocational rehabilitation?

12 Please discuss the vision the Department has for the Division to include future mission and goals.

13 Please discuss the vacancies in the Division and why they have not been filled. Are there members of the disability community that could fill these positions? Why can't the Division find qualified individuals for this program?

14 Please provide more quantitative information on the lack of available candidates to include:
    a.   What geographical locations are the vacancies being filled from?
    b.   What educational programs is the Division recruiting from?
    c.   What are the requirements for these positions?
    d.   Are the qualifications of the positions more stringent then needed thereby preventing the Division from finding qualified candidates?

15 How do the measurements for the SMART Act in this Department compare with the SMART Act measurements the Department of Human Services (DHS) established? What were DHS' SMART Act measurements for this division? How will the measurements differ in CDLE?

16 Are the measurements from DHS still appropriate for this Division? Are there new measurements that should be added for this Division?

17 The Department breaks down the individuals being served by disability priority (eligible, service, employed, and post-employment). Please explain the differences in these priorities. Are any of these individuals counted in more than one priority area?

18 With regard to leased space and capital complex space:
   a. What, if any, percentage of funding for leased space comes from Medicaid?
   b. Is leased space receiving adequate funding from the jobs programs?
   c. Is any funding for peoples with disabilities in this Division from Medicaid?
   d. Is the Department tracking any cost savings as a result of the consolidation? If not, does the Department plan on tracking this?
   e. Do state employees, county employees, or a combination of these staff the workforce development centers?

19 Please discuss any need for residency waivers as a means to address the Division vacancies.

20 Does the Department intend to add the following measures to its SMART Act performance plan; individuals receiving services, cost per client, expenditures, account balances, independent living center use, leased space consolidation, and overall program? If not, why?

2:40-3:00   UNEMPLOYMENT INSURANCE FRAUD

21 Would it be beneficial to add a new crime to statute specifically for unemployment fraud that has a lower sentence and no prison time?

22 Please discuss the need for more FTE if the statute of limitations is extended for theft.

23 In reference to the Investigation and Criminal Enforcement section's law enforcement assists:
   a. What exactly is a law enforcement assist? Does it include serving a warrant?
   b. Why does this function have to be handled by investigators? Can other personnel, such as a county sheriff, handle these actions?
   c. Would contracting these assists out be more cost effective?
   d. Please describe the process and timeline for law enforcement assists.

ADDENDUM: OTHER QUESTIONS FOR WHICH SOLELY WRITTEN RESPONSES ARE REQUESTED

1 Provide a list of any legislation that the Department has: (a) not implemented, or (b) partially implemented. Explain why the Department has not implemented or has only partially implemented the legislation on this list. Please explain any problems the Department is having implementing any legislation and any suggestions you have to modify legislation.

2 If the Department receives federal funds of any type, please respond to the following:
   a. Please provide a detailed description of any federal sanctions or potential sanctions for state activities of which the Department is already aware. In addition, please provide a detailed description of any sanctions that MAY be issued against the Department by the federal government during FFY 2016-17.
   b. Are expecting any changes in federal funding with the passage of the FFY 2016-17 federal budget? If yes, in which programs, and what is the match requirement for each of the programs?

3   Does the Department have any HIGH PRIORITY OUTSTANDING recommendations as identified in the "Annual Report of Audit Recommendations Not Fully Implemented" that was published by the State Auditor's Office and dated June 30, 2016 (link below)? What is the department doing to resolve the HIGH PRIORITY OUTSTANDING recommendations?

    http://leg.colorado.gov/sites/default/files/documents/audits/1667s_annual_report_-_status_of_outstanding_recommendations_1.pdf

4   Is the department spending money on public awareness campaigns? What are these campaigns, what is the goal of the messaging, what is the cost of the campaign? Please distinguish between paid media and earned media. Do you have any indications or metrics regarding effectiveness? How is the department working with other state or federal departments to coordinate the campaigns?

5   Based on the Department's most recent available record, what is the FTE vacancy and turnover rate by department and by division? To what does the Department attribute this turnover/vacancy?

6   For FY 2015-16, do any line items in your Department have reversions? If so, which line items, which programs within each line item, and for what amounts (by fund source)? What are the reasons for each reversion? Do you anticipate any reversions in FY 2016-17? If yes, in which programs and line items do you anticipate these reversions occurring? How much and in which fund sources do you anticipate the reversion being?

7   [Background Information: For FY 2017-18, the Department of Law has submitted a request to change the calculation of legal services appropriations as well as the monthly billing system for legal services provided to state agencies. Specifically, the proposal would: 1) calculate the number of budgeted legal services hours for each agency as the average of actual usage in the prior three years; 2) include a two-year average of "additional litigation costs" such as court reporting, travel for depositions, expert witness costs, etc., in the appropriation for legal services (these costs are not currently included in the appropriation and are often absorbed from other personal services and operating expenses line items); and 3) convert from monthly billing based on the actual hours of service provided to monthly billing based on twelve equal installments to fully spend each client agency's appropriation.]

    Please discuss your agency's position on the Department of Law's proposed changes to the legal services system, including the potential impacts of the changes on your agency budget. That is, does your department support the proposed changes? How would you expect the changes to positively or negatively impact your department? Please explain.

8   What is the expected impact of Amendment 70 (minimum wage increase) on Department programs? Please address impacts related to state personnel, contracts, and providers of services.

9   Please provide an update on the Department's status, concerns, and plans of action for increasing levels of cybersecurity, including existing programs and resources. How does the Department work with the Cybersecurity Center in the Office of Information Technology?

10   Is the SMART Act an effective performance management and improvement tool for your Department? What other tools are you using? Do your performance tools inform your budget requests? If so, in what way?

11   Please identify how many rules you have promulgated in the past two years. With respect to these rules, have you done any cost-benefit analysis pursuant to Section 24-4-103 (2.5), C.R.S., regulatory analysis pursuant to Section 24-4-103 (4.5), C.R.S., or any other similar analysis? Have you conducted a cost-benefit analysis of the Department's rules as a whole? If so, please provide an overview of each analysis.

12   What has the department done to decrease red tape and make the department more navigable/easy to access?

13   What is the number one customer service complaint the department receives? What is the department doing to address it?

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1   **How do the workforce bills fit together? Please provide an overview of how the programs work together, what the impact on the workforce has been, and how the Department is managing the bills.**

The Colorado Workforce Development Council (CWDC) serves as a cross-agency coalition for talent development in Colorado. This coalition maps legislation to the existing work and goals of the systems, ensuring that each piece of legislation is leveraged to advance the Colorado talent pipeline, ensuring that students, job-seekers, and workers have access to education and careers, and that businesses have access to skilled talent. CWDC tracks all legislation that impacts workforce and attached is a document showing legislation where CDLE or CWDC have direct responsibility.

Through this coalition, state agency and local partners are leveraging federal and state legislation as well as grants and other programs. Here is an example of how this work serves Colorado effectively and efficiently:

- In 2014, SB14-205 charged the CWDC with creating the annual talent pipeline report, the cross agency coalition used this report to dig deep into questions about Colorado's talent landscape and explore the myths and challenges we face as a state. The first annual report, presented to the legislature on January 2, 2015 identified an agreed upon definition of "top jobs" in Colorado to better inform investments in education and training to align our programs with industry's needs for workforce, while also helping individuals make informed decisions on their investments and choices.

- Several pieces of legislation passed in 2015 and 2016 have benefited from the clarity provided by top jobs and other valuable information, in their implementation.

- HB15-1276 Skilled Worker Outreach, Recruitment and Key Training Act, provided funding recruitment of students into skilled trades occupational training; by using the top jobs list, grantees were able to demonstrate that these are not just jobs, but are good jobs that lead to careers and a path to the middle class.
- HB15-1230 Creation of Innovative Industries Workforce Development Program, using the report, CWDC and CDLE worked with six industry intermediaries to prioritize opportunities and expand the collaborative work;
- HB15-1274 Creation of Career Pathways for Students for Critical Occupations in Growing Industries, requires CWDC and partners to use the top jobs list as a starting point for industry to determine critical occupations in building out career pathways to the middle class; and
- In response to HB16-1289 Incentives To Complete Career Development Courses, we added another tier to the top jobs list to better identify entry level jobs that can lead to top jobs and great careers, and then mapped those occupations to the industry recognized credentials that are of value in pursuing these career paths, and provided a comprehensive list to high schools for integration of industry recognized credentials into their curriculum and graduation requirements.

2 How is the Department measuring goals for the SMART act in general and, in particular, for the workforce management and vocational rehabilitation programs?

In general, the department utilizes 5 overarching strategic policy initiatives as a guide for each division. These five initiatives are Customer Service, Employee Engagement and Accountability, Process Improvement, Partners and Stakeholders, and Technology. Each division creates and tracks performance measures that are linked to the performance plan.

In alignment with the strategic direction of the Colorado Workforce Development Council, Workforce Development Programs administers, oversees, disseminates funding, creates policies, and develops virtual technologies to support the statewide network of workforce centers who are primarily responsible for direct services to job seekers and employers. In CDLE's FY2017-18 Performance Plan, the Workforce Development Program's goal and measurement are:

Goal: Increase entered employment outcomes and business participation in the workforce system to support the Colorado Blueprint goal to "Educate and train the workforce of the future."
Measurement: Meet the negotiated percentage goal of persons working in the quarter immediately following receipt of workforce services.

In FY2015-16, the percentage of persons working in the quarter immediately following receipt of workforce services resulted in 64.1%; an increase of 7.6% from the prior year.

In FY2015-16, the Workforce Development Program's accomplishments include:
- Provided training, candidate screening and recruiting services to 23,140

- Provided employment and training services to 296,176 job seekers, including 26,454 veterans, and served 38,000 youth through the Governor's Summer Job Hunt.
- Connected more than 100,000 job seekers with more than 1000 employers through our virtual job fairs.
- Training initiatives for hard to serve populations; Veterans, Reemployment Services (RESEA), and Sector Partnerships National Emergency Grant (SPNEG) which serves the long-term unemployed.

The Division of Vocational Rehabilitation (DVR) provides a range of individualized vocational services to help applicants and eligible individuals with disabilities obtain, maintain or regain employment that is consistent with their strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choice. In CDLE's FY2017-18 Performance Plan, the Division of Vocational Rehabilitation's goals and measurements are:

Goal: Exceed the current Federal standard for the percent of successful employments of total cases closed.
Measurement: The current Federal standard requires 55.8% of all closed cases to yield successful employment outcomes. The Workforce Innovation and Improvement Act (WIOA) does not retain this specific metric, but DVR will continue to use it to gauge improvement from prior years.
FY 2015-16 Performance: DVR's performance improved to 65.6 %, up from 45% in FY 2014-15.

Goal: Exceed the current and proposed Federal standards for the wages of successful employment outcomes.
Measurement: The current Federal standard requires that the average hourly wages for successful employment outcomes be at least 52% of the average state hourly wage ($12.46 per hour in the current year). WIOA does not retain this metric, but instead, proposes a standard based on median wages at the second quarter of employment. DVR will retain the current metric to gauge improvement from prior years and will set an objective for the WIOA standard when it has been established.
FY 2015-16 Performance: DVR's performance improved to $11.70, up from $11.62 in FY 2014-15.

Goal: Exceed the current and proposed Federal Standards for the number successful employment outcomes. The current Federal Standard defines an employment outcome as successful if it is maintained for at least 90 days.
*Measurement:* The current Federal standard requires exceeding the prior year performance by at least one additional case closure. WIOA does not retain this metric, but instead, proposes a standard based on a measure of employment outcomes at the second and fourth quarters after employment. DVR will retain the current metric to gauge improvement from prior years and anticipates modifying this measure in upcoming years due to finalized rules promulgated by the federal Rehabilitation Service Agency in September 2016.

FY 2015-16 Performance: DVR's performance improved to 2,480, up from 1,339 in FY 2014-15.

3 **Approximately 66 percent of the Unemployment Insurance program's appropriation is federal funds, what is the source of the remaining 34 percent of the money in UI program?**

The remaining 34% is cash funds, (Cash funding breakdown: 58% coming from the Employment Support fund and 42% coming from the Unemployment Revenue Fund).

How has the balance of the UI Trust Fund changed over time?

Figure 1
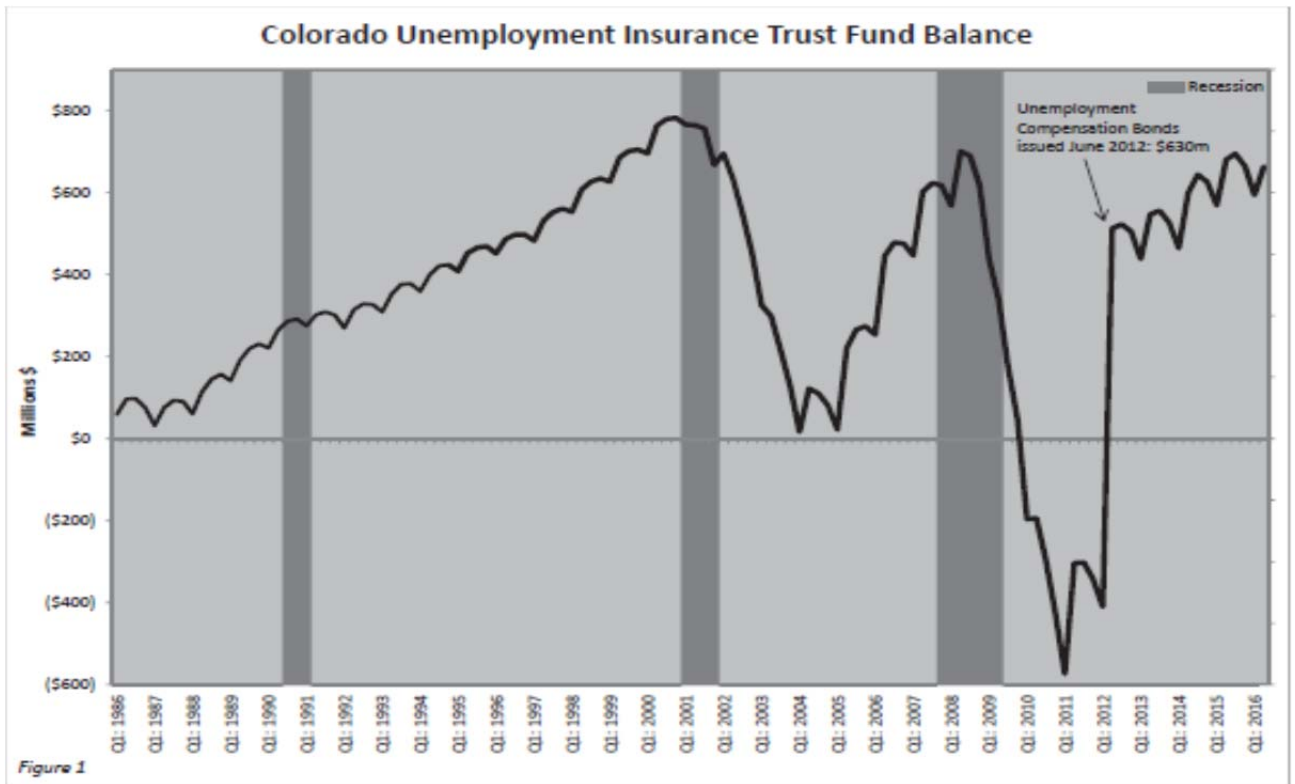
UI Trust Fund Balance

FY 2010-11	FY 2011-12*	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16
(308,499,842)	593,429,081	533,677,101	577,552,928	543,781,607	573,048,252
	UI issued revenue bonds $624,805,000				

What is the status of the revenue bonds and how long will the revenue bonds be in repayment?

The final bond payment is May 2017.

2:00-2:20 CONVEYANCE PROGRAM SOFTWARE REPLACEMENT

4 **The Division of Oil and Public Safety is more regulatory in nature. Why is the Division in the Department of Labor and Employment (CDLE)?**

In the mid 1900's, there was a consolidation of departments in state government in which many larger departments absorbed smaller departments. At that time part of the Department of Oil Inspection was merged into the CDLE, as the Oil Inspection Section (OIS). In 2001 the General Assembly, through HB01-1373, created the Division of Oil and Public Safety (OPS) within CDLE by consolidating the OIS with other CDLE public safety programs (boiler inspection, explosives, public school construction and carnival and amusement parks) that were also focused on worker protection. The purpose of this legislation was to create efficiency through consolidation of administration.

In 2007, a few years after the escalator accident at Coors Field the General Assembly established statewide regulation of conveyances through passage of the elevator and Escalator Certification Act (SB07-123), and delegated this new program to CDLE-OPS.

The consolidation of these environmental and safety programs at CDLE has proven to be very effective in protecting the health and safety of Colorado workers and citizens. OPS is viewed by partners and stakeholders at the local, state, and federal government level as one of the most successful programs in the country. This viewpoint is also shared by persons subject to OPS regulations, who have specifically cited that they wished other state agencies provided service like OPS. Part of this success relates to the way OPS engages with businesses every day, which is unmatched in other state regulatory agencies. All of the programs administered by OPS play a

significant, yet often unnoticed role in the daily lives and well-being of most Colorado citizens and businesses. OPS at CDLE truly helps "Keep Colorado Working".

5   **With regard to request 1 for a software replacement for the conveyance program:**

       a.   **When the Department decided on the AMANDA software, what issues was it supposed to solve? What system did it replace and what specific processes was AMANDA supposed to fix with regard to the previous system?**

AMANDA was supposed to serve as a configurable off the shelf Enterprise database for the Division, replacing multiple disparate legacy databases. The scope included creating a streamlined database with automated workflow processes including reporting functionality; produce outputs via automatic batch jobs such as registration confirmations, notices of violation, notices of renewal, issuance of licenses and permits, issuance of Certificates of Operation; and perform enforcement and accounting functions. AMANDA replaced a hosted subscription service called CitizenServe that the division used at the time for the new Conveyance program. CitizenServe was developed to address the needs of building departments. CitizenServe stored data but had very little functionality for invoicing, automated generation and issuance of Certificates of Operation (COs) and other outputs.

       b.   **Is AMANDA custom designed or is it an off the shelf program?**

It is an off-the-shelf, configurable product.

       c.   **Why is the AMANDA software out of date after only six years?**

There have been numerous database configuration issues including database logic and incomplete data migration. The system does not reliably provide the functionality we need. As a result, we have had to rely on workarounds in Access databases and Excel spreadsheets. In addition, the ability to support and enhance this product from the vendor as well as from OIT is limited.

       d.   **Is AMANDA under warranty? If not, why?**

The AMANDA warranty period was for one year from go live, and has expired. We have an ongoing maintenance agreement with the vendor that will expire in June 2017, unless renewed. The agreement is to fix breaks and other malfunctions, however most enhancements to the system must be performed by the vendor which is costly and time consuming.

e. **What are the specific problems with the AMANDA system?**

The system does not allow for invoicing and the payment mechanism is unstable and not user friendly; there are regular outages which cause frequent problems to the batches resulting in duplicate records and confusion to our customers; it does not allow for inspection audits, full license tracking and interfacing with peripheral devices, permit status notification to customers, notification of one document to multiple customer emails, on-line submittals from inspectors, and mobile use or robust management ad hoc reporting.

f. **What specific processes in the AMANDA systems will the newly requested software replace?**

A new system will allow the entry and tracking of devices throughout the state in the registration process; issue invoices, permits, licenses, and COs; contain an accounting module and allow for adjustments to fees; track inspections and audits of inspections; track ownership and responsible party data; enforcement for non-compliance; track installations and alterations; issue reminder notices and denial notices; and tracking of approved local jurisdiction status.

g. **What is the purpose of the new software? How will the new software be used? Is the new software mainly a scheduling tool?**

The purpose is to allow the division to carry-out the statutory requirements for the Conveyance (elevators and escalators) program. The software will allow us to enter data, track data, perform correspondence, and complete the work that is now done partially in AMANDA with the help of disparate systems such as Excel and Access. No, it is not a scheduling tool but the evaluations from OIT recommend Salesforce as a complete regulatory software package.

h. **Did the Department submit the new software system through the JTC for approval?**

No, since Information Technology requests below a $500,000 threshold are considered as a decision item and do not go through the JTC. The department did work with OIT though on this request.

i. **Should this appropriation request be included in the capital construction information technology budget?**

No per instructions, IT decision items under $500,000 that are to be completed within one-year are not part of the capital construction process.

6 **Does this new software system affect public safety? Will there be an impact to public safety if the request is not approved?**

Public safety may be impacted indirectly by this system. If not funded, there can be limits placed upon the Division's ability to effectively regulate the installation, alteration, periodic inspection and testing of conveyances (elevators and escalators), and licensing of industry personnel. For example, as safety violations are identified via inspection, notification to all responsible parties (owner and contractor) is not possible via the AMANDA batch process and therefore potentially delays the repairs that can have a direct impact on public safety.

7 **Why is the request for the new software system going through the RFP process as opposed to the Statewide Internet Portal Authority? Did the Department look at a documented quote process?**

The department is going to use the RFP process because we do not have an implementer selected but we do intend to select a vendor from the OIT implementer pool. The division wants to keep the process competitive and ultimately select the best solution at the best price. A documented quote has not been completed because the services limit is $150,000 and the timing of the quote will expire before funding would be received.

8 **Does this request require a competitive bid? Why do we need to have an RFP if OIT has already said this is preferred program?**

A competitive bid is required. The department wants to keep the vendor process competitive in order to obtain the best pricing.

9 **Has OIT been involved in selecting the SaaS systems for this request?**

Yes, OIT has been involved throughout the process. OIT believes that Salesforce, a SaaS system, is a good solution for the workflow, sustainability, and flexibility needed for future changes. OIT has also reported that this system allows for a stronger managed IT infrastructure as they will have access to the code for updates and changes.

10 **Is AMANDA performance a part of the SMART ACT plan? Are there tangible, measurable metrics that indicate AMANDA is not working?**

The current product has proven inadequate for a multitude of reasons, including design flaws and implementation issues that have necessitated the development of many "work-arounds" outside the Amanda database. The current software has unnecessary complexity that makes utilizing the database inefficient. There is also no ability to create customer invoices within the system, resulting in the need to use multiple systems in order to see a complete customer account. It is difficult for OIT to manage

incidents, create changes to the application, and manage enhancements due to numerous design flaws and configuration issues inherent as the system was delivered from the original vendor.

While significant effort has been put forth to mitigate these challenges, including engaging the vendor, these are now proving to be costly (in excess of $100,000) and unsustainable. OIT is unable to do a re-write inside of the existing application, as the State does not own the code.

2:20-2:40   DIVISION OF VOCATIONAL REHABILITATION

11   Please update the JBC on the progress of establishing a plan to address the issues in vocational rehabilitation?

Three core issues significantly influenced performance during previous years:

- Turnover at the Director position: The current director was appointed as interim director by CDHS in October 2014 and after a national search CDLE hired him as the permanent director beginning July 2016 when the division officially moved to CDLE. Currently, the Division has focused on:
    o Strategically filling vacancies in critical management and direct front-line staff positions.
    o Implementing improved management processes and controls, emphasizing accountability for client outcomes, budget controls, policy compliance, and forecasting future results.
    o Actively engaging with internal/external stakeholders with new and traditional methods to receive input, provide timely solutions for the most critical issues and increase the credibility of the Division.
    o Addressing priorities while updating policies and procedures to keep the Division in conformance to WIOA.

- Inefficient procedures were created in a push to rapidly change processes that resulted from audit findings. Improvements to the processes are being addressed with 62 out of the 64 audit findings having been resolved and subsequently cleared by the State Auditor's Office.

- Restoration of normalized pre-waitlist service patterns following transition to CDLE. The decreased service levels resulted in a reversion of federal funds in FFY 15 of $5,289,954 and an anticipated FFY 16 reversion ranging from $11 to 14 million. CDLE is working to restore both normalized service patterns and funding in FFY 17; however, in future years CDLE anticipates that increasing caseload will create the need for additional match in future years. CDLE strives to create a diversified funding structure that maximizes each state dollar, and is working to engage both governmental and non-profit agencies in partnerships to ensure a more stable mix of funding for services to the disabled that meets all applicable federal funding requirements for third-party cooperative agreements in order to avoid a wait list.

12   **Please discuss the vision the Department has for the Division to include future mission and goals.**

The mission of the Division of Vocational Rehabilitation (DVR) is to assist persons with disabilities to succeed at work and live independently. This mission is accomplished by providing individualized vocational services leading to employment outcomes that are consistent with individuals' strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choice.

The goal of DVR is to provide high quality vocational rehabilitation services while operating with fiscal responsibility, consistently exceeding federal performance standards, complying with federal requirements, and being a leader in the implementation of CDLE strategic initiatives.

Among the 57 public vocational rehabilitation programs, Colorado DVR currently falls near the median in the areas of employment, wages, and rehabilitation rate. Given the Division's current rank and the improvement programs underway, the vision of DVR should be expanded to include national leadership in RSA indicators. DVR also intends to develop future goals that more directly address preparing youth with disabilities for employment, which is one of the primary focuses of WIOA.

13   **Please discuss the vacancies in the Division and why they have not been filled. Are there members of the disability community that could fill these positions? Why can't the Division find qualified individuals for this program?**

Filling vacancies in a timely manner is a high priority for CDLE. Utilizing the LEAN process, CDLE Human Resources has decreased its time between announcement and referral from 55 days to 24 days. Currently, CDLE is prioritizing filling vacancies for direct service contacts within DVR and has filled 14 vacancies for the Rehab Counselor I position since the Division moved to CDLE, with four more posted currently. CDLE has experienced success in finding qualified individuals for the Denver Metro/Front Range areas, but has experienced smaller applicant pools in rural locations. Some positions have been announced multiple times after failed searches. CDLE sought and received a temporary out-of-state hiring waiver from DPA that is intended to expand the available pool of candidates. CDLE is going through the process of obtaining a permanent out-of-state hiring waiver. Additionally, early in 2017 CDLE will be submitting a request for DPA to do a system maintenance study on the Rehab Counselor series. These are demanding positions, often in very rural locations and it is difficult to retain people at the salary we are able to offer.

CDLE recognizes the disability community as a source of applicants. Currently, people with visually identified disabilities represent approximately13% of the DVR workforce and 11% of the entire CDLE workforce compared to a disability rate of 10.6% for the population of Colorado as a whole. It is unknown whether there are additional members of Colorado's disability community who meet the required minimum qualifications. Applicants with disabilities have the same opportunities to apply for open positions and CDLE actively targets these populations by advertising through organizations

that support people with disabilities. During the selection and hiring process, qualified applicants with disabilities receive accommodation considerations consistent with state and federal law.

14 **Please provide more quantitative information on the lack of available candidates to include:**
   a. **What geographical locations are the vacancies being filled from?**

CDLE prioritizes recruitment from the geographic location where the position will reside, as knowledge of the local community and long-term commitment to the area is important for the quality of service delivery to the clients in that area. However, job postings are available statewide and are currently available nationwide due to the current temporary state residency waiver granted by the Department of Personnel and Administration.

   b. **What educational programs is the Division recruiting from?**

CDLE posts job announcements for Rehabilitation Counselors on the nationally available website Neo.Gov, through Connecting Colorado, on Indeed.com and through LinkedIn. Job announcements are also shared with national graduate programs who specifically train rehabilitation counselors. There are approximately 95 fully accredited Rehabilitation Counseling graduate programs in the U.S. with one in Colorado, the University of Northern Colorado. Some other programs include the Utah State University, University of Arkansas at Little Rock, San Diego State University and many others to whom CDLE strategically outreaches. CDLE also sends e-mail notifications of openings to disability related organizations such as the Colorado Commission on the Deaf and Hard of Hearing, the Colorado Cross-Disability Coalition, the Colorado Center for the Blind, as well as many other national organizations.

   c. **What are the requirements for these positions?**

The Colorado Department of Personnel and Administration, Division of Human Resources, lists the minimum qualification for a Rehabilitation Counselor position as follows:

Graduation from an accredited college or university with a master's degree in rehabilitation counseling from a program fully accredited by the Council on Rehabilitation Education (CORE), vision rehabilitation therapy or orientation & mobility.

~ OR ~

Possession of a current certification in a specialty related to the job duties of the position such as a Commission on Rehabilitation Counseling Certification credential (CRCC) or Orientation and Mobility Certification and/or Vision Rehabilitation Therapy Certification from the Academy for Certification of Vision Rehabilitation and Education Professionals (ACVREP) AND one year of experience working directly with individuals who have disabilities providing services appropriate to the work assignment

~ OR ~

Graduation from an accredited college or university with a master's degree in counseling, psychology, special education, social work, behavioral science, disability studies or closely related human services field AND two years of experience working directly with individuals who have disabilities providing services appropriate to the work assignment.

> **d. Are the qualifications of the positions more stringent then needed thereby preventing the Division from finding qualified candidates?**

The Rehabilitation Counselor class was last updated in 1998 according to the Department of Personnel and Administration. At this time, federal regulations required candidates to hold a Masters' degree. The passage of WIOA removed this requirement but has allowed States the flexibility to continue to require this certification consistent with nationally established certifications for these positions.

Following the merger, CDLE has already engaged DPA in a comprehensive review of this class, which is only utilized by the Department of Labor and Employment and the Department of Human Services, in an effort to enhance the Department's ability to recruit and retain high quality counselors. Part of this review includes revisiting the educational and experience requirements at the lower levels of the counselor series.

15 How do the measurements for the SMART Act in this Department compare with the SMART Act measurements the Department of Human Services (DHS) established? What were DHS' SMART Act measurements for this division? How will the measurements differ in CDLE?

The Department of Human Services utilized one measure, the annual number of successful employment outcomes of the Division as a SMART Act measurement. This measure is being retained, but broadened as a result of changing federal regulatory guidelines as well as others was added after the transition to CDLE.

16 Are the measurements from DHS still appropriate for this Division? Are there new measurements that should be added for this Division?

CDLE is expanding metrics in the performance plan to present a broader picture of the Division's service to its clients to include average livable wages for the employment outcomes and rehabilitation rate and the number of youth served.

17   **The Department breaks down the individuals being served by disability priority (eligible, service, employed, and post-employment). Please explain the differences in these priorities. Are any of these individuals counted in more than one priority area?**

The Division's quarterly reports to the JBC do reference "Disability Priority Category", with three categories: "most significantly disabled", "significantly disabled" and "disabled"; with the differentiation of categories based on the number of functional limitations presented by the individual's disabilities along with the number and duration of required services. There are no double counts in disability priority category or case status.

The terms referenced in the question reference case status, rather than disability priorities presented in the RFI. Case status definitions follow:

Case Status Definitions:

Eligible—the individual has been determined eligible, placed into a priority category. These individuals are receiving additional evaluation and counseling/guidance services while working with a rehabilitation counselor to develop an Individualized Plan for Employment (IPE).

Service— the individual has developed and begun to execute an IPE and is actively receiving the services outlined on the plan.

Employed—the individual has secured employment and is receiving services and guidance/counseling to achieve job stability and ensure successful maintenance of the job for at least 90 days.

Post-Employment—the individual has a previous successful case closure but is working with DVR in post-employment status to receive brief and targeted services to enable job retention or re-gaining appropriate employment.

18   **With regard to leased space and capital complex space:**
    a.   What, if any, percentage of funding for leased space comes from Medicaid?

CDLE does not receive any Medicaid funding in leased space or other appropriations.

    b.   Is leased space receiving adequate funding from the jobs programs?

CDLE has requested full spending authority through the annual appropriations process and anticipates fully funding the spending authority through all available funding sources.

    c.   Is any funding for peoples with disabilities in this Division from Medicaid?

CDLE does not receive any Medicaid funding for vocational services, though DVR clients may individually qualify for medical services from Medicaid.

> **d. Is the Department tracking any cost savings as a result of the consolidation? If not, does the Department plan on tracking this?**

The Department is tracking costs of the consolidation to both programs and as a whole to the Department. The Department evaluates the benefit of consolidating offices in terms of:

- Distance between locations
- Cost and availability of funds for moves and buildouts
- ADA accommodations for clients with disabilities
- Capacity for dedicated offices to discuss confidential client health matters
- Available space for consolidation within existing locations, and
- Accessibility to public and alternative transportation

> **e. Do state employees, county employees, or a combination of these staff the workforce development centers?**

There are 10 local workforce areas in the state. Nine of the local workforce areas are staffed by county employees and include Adams County, Arapahoe/Douglas Counties, Boulder County, City and County of Denver, El Paso/Teller Counties, Jefferson/Clear Creek/Gilpin Counties, Larimer County, Mesa County, and Weld County. The 10th local workforce area is the Rural Consortium which consists of fifty-one (51) counties in the state that are divided into ten sub areas. The Rural Consortium is staffed by CDLE state staff with the exception of Broomfield County. Broomfield County is a sub area of the Rural Consortium and is staffed by county employees.

19   Please discuss any need for residency waivers as a means to address the Division vacancies.

University of Northern Colorado is the only university in the state with an accredited program for Rehabilitation Counseling, and annual graduation numbers are approximately 10 students per year. In addition, the Division offers specialized services to individuals who are deaf and/or blind that are not offered as an area of education within Colorado. Residency waivers broaden applicant pools to fill all of the statewide rehabilitation counseling needs especially in rural Colorado.

20   Does the Department intend to add the following measures to its SMART Act performance plan; individuals receiving services, cost per client, expenditures, account balances, independent living center use, leased space consolidation, and overall program? If not, why?

Currently, the Department presents these figures within its quarterly RFI to the JBC and will continue to do so. However, CDLE would like to discontinue or modify the information presented in reporting of "account balances" as CDLE practice regarding carry forward of federal funds will differ from prior practice. Per C.F.R. 34-76-707 and RSA-PD-94-05, federal funds which are obligated (encumbered) can be carried into the succeeding Federal fiscal year. This means, if the

state does not have a valid contract (encumbrance) then it cannot legitimately carry over the federal funds in into the next fiscal year. This is a change in practice from the prior department.

2:40-3:00   <u>**UNEMPLOYMENT INSURANCE FRAUD**</u>

21   **Would it be beneficial to add a new crime to statute specifically for unemployment fraud that has a lower sentence and no prison time?**

It would not be beneficial to add a new crime to statute specifically to address unemployment fraud.

The charges that are applicable in these types of cases, due to their nature, are generally Theft, Computer Crime and Making a False Statement.

Although Theft and Computer Crime can carry a jail/prison sentence, in our experience, the people who plead or are convicted of the above crimes are not sent to jail or prison. In the very few times we have seen people sentenced to jail is when a person has a very lengthy criminal history or they are pleading to our case along with other cases at the same time.

Statistically, about 99% of the people who receive convictions do NOT get jail of any kind. They usually get probation and/or a deferred judgment or a combination of both, as well as restitution that are ordered to be paid back to the Colorado Department of Labor & Employment.

22   **Please discuss the need for more FTE if the statute of limitations is extended for theft.**

We are looking to extend the statute of limitations for Making a False Statement, not Theft. Currently, the Statute of Limitations for Theft is 3 years *from date of discovery*, and the Statute of Limitations for Making a False Statement is 18 months *from date of last act.* We are looking to add the language of "from date of discovery" to Making a False Statement - specifically related to 8-81-101 (4)(a)(2).

We do not anticipate the need to add more FTE if Statute of Limitations is extended for Making A False Statement. The Department's analysis of the projected case load moving forward does indicate that the current staffing levels, including continuation of the 4.5 newly added FTE in FY 2017, would be appropriate to maintain timely handling of unemployment insurance fraud cases and potentially lowering the dollar value threshold of cases that are referred to the Investigation and Criminal Enforcement (ICE) unit.

23   **In reference to the Investigation and Criminal Enforcement section's law enforcement assists:**

    a.   **What exactly is a law enforcement assist? Does it include serving a warrant?**

A law enforcement assist consists of a law enforcement agency in Colorado (ie: local police departments, Colorado Bureau of Investigations, FBI, State Judicial, District Attorney's offices, Attorney General's office etc.), contacting our office, looking for employment and wage data on a person of interest. The law enforcement agency is attempting to locate that person for a variety of reasons, which may include a warrant for their arrest. The ICE unit merely provides the wage information to the agency to assist in their duties. Any arrests and/or warrants in these situations, would be done by that agency, not ICE.

    b.   **Why does this function have to be handled by investigators? Can other personnel, such as a county sheriff, handle these actions?**

Assists in the past have been handled mainly by the Unemployment Insurance Division's Benefit Payment Control Unit and ICE. About a year ago, it was decided that ICE would handle all law enforcement assists for a variety of reasons (ie: making sure the agency requesting the information has been vetted properly, consistency within the agency, but more importantly, ICE has the ability to keep track of all of the information provided in a database we have). The ICE unit keeps track of who we provided information to, dates, times and the exact information that was given.

Some law enforcement agencies do have access to our wage information through our Colorado Unemployment Benefits System (CUBS); however, there are several agencies that do not have access, which is why it has to be provided by the Department.

    c.   **Would contracting these assists out be more cost effective?**

The Department does not believe that contracting out these assists would be more cost effective.

This past year it was noticed that the ICE unit was providing a large amount law enforcement assists to agencies, not only in Colorado, but nationwide. In order to meet internal business needs as well as those of external partners the ICE unit streamlined our processes not only with the law enforcement agencies in CO that we still assist, but with agencies outside the state of Colorado. As a result, the ICE unit is no longer providing assists to agencies outside the state of Colorado. The Department projects that in the short run the assists will remain constant but believe there will be a decrease over time.

Further, with the ICE unit's new staffing model the majority of the law enforcement assists are now handled by two support FTE thereby allowing the investigators to concentrate on their main task of investigating and filing criminal cases.

d. **Please describe the process and timeline for law enforcement assists.**

The majority of the law enforcement assists come in through the Labor Fraud Inbox. This is an email that the Department set up, so that citizens could report allegations of unemployment fraud. The ICE unit's support staff both has access to this mail box to provide timely access to and processing of the work. These assists are typically handled within 24 hours or less upon request.

Regardless of the type of information provided to the law enforcement agency, ICE opens a new case in our database containing all of the information regarding the person the request is on, as well all the information that was provided, should it be needed in the future.

It is rare that we receive subpoenas on information we provide in assists; however, it does happen on occasion. This would be a situation in which a subpoena is issued by the agency/DA/AG handling a case, to which we provided information, (not an ICE case). By having this information saved in our database the ICE unit is able to provide testimony on exactly what we provided and to whom.

1   **Provide a list of any legislation that the Department has: (a) not implemented, or (b) partially implemented. Explain why the Department has not implemented or has only partially implemented the legislation on this list. Please explain any problems the Department is having implementing any legislation and any suggestions you have to modify legislation.**

CDLE has met all statutory deadlines for implementation of legislation. One bill, HB 16-1048, to study possible expanded opportunities for the Business Enterprise Program, requires a report to the General Assembly by January, 2017--that report will be submitted after completion of stakeholder meetings in December 2016.

2   **If the Department receives federal funds of any type, please respond to the following:**
    a. **Please provide a detailed description of any federal sanctions or potential sanctions for state activities of which the Department is already aware. In addition, please provide a detailed description of any sanctions that MAY be issued against the Department by the federal government during FFY 2016-17.**

    Unemployment Insurances expects no sanctions and is not aware of future federal budgetary actions.
    For the Division of Employment and Training, there are no current sanctions and is not aware of any sanctions that may be issued during FFY 2016-17.
    Division of Labor Standards and Statistics expects no sanctions.
    Division Oil and Public Safety expects no sanctions.
    Division Workers' Compensation – not applicable does not receive federal funds.
    Division of Vocational Rehabilitation – The Department was notified of an MOE penalty in the amount of $1,174, 669 for FFY 2015 by RSA on July 12, 2016. This amount reduced the amount of federal funding available for FFY 2017.

    b. **Are expecting any changes in federal funding with the passage of the FFY 2016-17 federal budget? If yes, in which programs, and what is the match requirement for each of the programs?**

    Unemployment Insurances expects no changes in federal funding for FFY 2016-17.

    For the Division of Employment and Training, the passage of the FFY2016-17 Continuing Resolution bill included a less than 1% rescission of funds for the WIOA programs (Workforce Innovation and Opportunity Act). This CR expires December 9, 2016. Future CRs may also contain rescissions to current funding or cuts to future awards by USDOL. There are no match requirements for the WIOA programs.

Division of Labor Standards and Statistics expects no changes in federal funding for FFY 2016-17.

Division of Oil and Public Safety expects no changes in federal funding for FFY 2016-17.

Division Workers' Compensation – not applicable does not receive federal funds for FFY 2016-17.

Division of Vocational Rehabilitation- The Department anticipates an upcoming MOE penalty due to the period of October 1, 2015 through September 30, 2016. This amount will be determined following closure of FFY 2016 scheduled to occur December 31, 2016. CDLE has been notified by the Rehabilitation Services Agency that CDLE will be responsible for submitting final balances for July 1, 2016-September 30, 2016; while the Department of Human Services will be responsible for submitting federal reports for the period of October 1, 2015-June 30, 2016. CDLE has not yet received final federal reports from DHS; however, is anticipating a federal funds reversion of between $11- $14 million. The department is anticipating submitting the final amount in its December 31, 2016 quarterly reporting to the JBC.

3 **Does the Department have any HIGH PRIORITY OUTSTANDING recommendations as identified in the "Annual Report of Audit Recommendations Not Fully Implemented" that was published by the State Auditor's Office and dated June 30, 2016 (link below)? What is the department doing to resolve the HIGH PRIORITY OUTSTANDING recommendations?**

http://leg.colorado.gov/sites/default/files/documents/audits/1667s_annual_report_-_status_of_outstanding_recommendations_1.pdf

Rec #2140-4A - The Unemployment Insurance (UI) Division changed direction in the modernization efforts in the latter part of 2015. Although there are no plans to add programming to the new system to automatically clear issues that are set, a project is underway to adjust the online systems to prevent unnecessary issues from being set, which will address the recommendation. The required questions to establish weekly eligibility will be reworded for clarity and explanations will be added to lower the number of issues set. Text changes have been identified and detailed requirements will be developed for project implementation in 2017. The UI Division also partnered with the Division of Employment and Training, Workforce Development Programs. The divisions are collaborating to update the job-search Web site that also registers a claimant for work. The site will be more user friendly and reduce the number of work-registration issues set in error.

Rec #2140-3D - The Unemployment Insurance Division changed direction in the modernization efforts in the latter part of 2015, and a renewed effort to make updates to the payment-request IVR and online system began. The text changes have been identified and detailed requirements will be developed for project implementation in 2017. The language regarding work-search requirements in all mediums (website, handbook, payment -request IVR and online application, and Customer Service Center scripts) continue to be reviewed regularly and updated as appropriate to further strengthen and

clarify the requirements for claimants. The Unemployment Insurance Division also audits claimants' work-search efforts to ensure the requirements are being met.

Rec #2015-0054A: The Department of Human Services (the Department) should strengthen controls over the Vocational Rehabilitation Program (Program) to ensure compliance with federal and state eligibility requirements and with the Program's policy manual by (a) improving the supervisory review process to ensure that counselors follow the Program's policy manual regarding case file documentation, Individualized Plan for Employment annual review, financial need analysis redetermination, timely case closure, proper data entry, and required communication.

The original implementation date from CDHS was 07/31/2014, which was moved to 08/31/2016. Implementation of a new Quality Assurance (QA) process began in April, 2016 following LEAN process reviews. Supervisors and subject-matter experts received extensive training in February and March, 2016 before beginning to review cases for quality assurance. The new QA process uses a randomized case selection on statistically based sampling which is provided to reviewers as outlined in the A Quality Working Alliance (AQWA) report from the Lean Team. QA Data Review meetings are completed on a quarterly basis with members of the Division of Vocational Rehabilitation's senior leadership team, focusing on regional, office, and counselor level trends. A QA review of the Coaching Review Tools (CRTs) has been conducted and reports provided as part of the QA quarterly meeting to ensure that actions required for a case are being completed.

Rec #2015-0054B: continuing to train Program staff on required documentation of case management activities, requirements for ongoing supervisory reviews of case management, annual review of Individualized Plan of Employment, required communication contact with clients and case closure procedures, including best practices for case management and data entry documentation

The Original implementation from CDHS was 10/31/2014, which was moved to 04/30/2017. The Division instituted a LEAN process work group that has begun work on process improvements to streamline the Division processes. Five topic areas were selected, with three sub-groups working on client contact, comparable benefits case note and the application process. Each sub-group will present its recommendations for process improvement on 11/30/16 and 12/13/16. The vacant training position was filled, and the candidate began 7/1/16. Additionally, the Division recently completed extensive and comprehensive Policy Training for all field staff focused on WIOA Changes, Quality Assurance Outcomes, and Audit Recommendation Compliance.

4   **Is the department spending money on public awareness campaigns? What are these campaigns, what is the goal of the messaging, what is the cost of the campaign? Please distinguish between paid media and earned media. Do you have any indications or metrics regarding effectiveness? How is the department working with other state or federal departments to coordinate the campaigns?**

The Colorado Workforce Development Council funded an outreach campaign focused on encouraging Colorado employers to hire hard to serve populations including veterans, ex- offenders and people with disabilities. The CWDC contracted with the Colorado Broadcasters Association (CBA) to participate in CBA's Non Commercial Supporting Advertising program (NSCA), which is designed to provide public service awareness opportunities for government and not for profit agencies.

The Hire for Colorado PSA Campaign was produced by in-house Colorado Department of Labor and Employment staff. :30 and :60 second statewide radio and TV public service awareness announcements for TV and radio were created with a call to action on hiring untapped talent pool including job seekers with disabilities. PSAs aired more than 16,000 times on radio and TV stations throughout Colorado, from April - July 2016.

Total Cost = $45,000 (CWDC Employment Support Fund)

Total Spots = 16,359

Average Monthly Value = $ 203,525.83

Total Value = $ 610,577.50

Average Return on Investment = 13 to 1

5   **Based on the Department's most recent available record, what is the FTE vacancy and turnover rate by department and by division? To what does the Department attribute this turnover/vacancy?**

Appropriated FTE Vacancy	FY 2015-16
Executive Director's Office	1.5%
Division of Unemployment Insurance	0%*
Employment and Training Division	9.2%
Division of Labor Standards and Statistics	26.0%

Division of Oil and Public Safety	0%*
Division of Workers' Compensation	7.8%
Division of Vocational Rehabilitation	N/A

* Federally funded positions created the lack of FTE vacancies.

The department wide turnover rate for FY 2015-16 was 11.3%. Based upon exit interviews of staff, 57% of employees left due to minimal career path opportunities; 38% left state employment due to salary or the state's benefits package; and 21% left due to flexibility in schedule and/or telework opportunities.

6   For FY 2015-16, do any line items in your Department have reversions? If so, which line items, which programs within each line item, and for what amounts (by fund source)? What are the reasons for each reversion? Do you anticipate any reversions in FY 2016-17? If yes, in which programs and line items do you anticipate these reversions occurring? How much and in which fund sources do you anticipate the reversion being?

In FY2015-16, the department has two line items with General Fund reversions. Merit pay for $240 and Employment Services for Veterans Pilot Program (HB15-1030) for $69,407.

House Bill 15-1030 created the Employment Services for Veterans Pilot Program effective July 1, 2015. The program includes veterans services related to job retention, mediation with employers, mentoring, and career counseling. The program is available for up to 20 veterans who have not been dishonorably discharged.

HB15-1030 required CDLE to develop a request for proposal (RFP) to solicit, through a competitive bid process, a qualified nonprofit agency to operate the program. The competitive RFP process took about 4 months and awarded to Discover Goodwill. Once Discover Goodwill was selected, it took another 2 months to write up the Statement of Work and Program development between CDLE and Goodwill. The contract was fully executed in December 2015 and Discover Goodwill had 6 months (through June 30, 2016) to spend their award.

In FY2016-17, Discover Goodwill was awarded monies for this Veterans Pilot Program and has a full year to spend the funds. As a result, the CDLE anticipates that monies will be fully spent in FY2016-17.

In the future, the department is anticipating a federal fiscal year reversion ranging from $11 – 14 million in federal funds.

7   **[Background Information: For FY 2017-18, the Department of Law has submitted a request to change the calculation of legal services appropriations as well as the monthly billing system for legal services provided to state agencies. Specifically, the proposal would: 1) calculate the number of budgeted legal services hours for each agency as the average of actual usage in the prior three years; 2) include a two-year average of "additional litigation costs" such as court reporting, travel for depositions, expert witness costs, etc., in the appropriation for legal services (these costs are not currently included in the appropriation and are often absorbed from other personal services and operating expenses line items); and 3) convert from monthly billing based on the actual hours of service provided to monthly billing based on twelve equal installments to fully spend each client agency's appropriation.]**

Please discuss your agency's position on the Department of Law's proposed changes to the legal services system, including the potential impacts of the changes on your agency budget. That is, does your department support the proposed changes?

The department is neutral on these changes.

How would you expect the changes to positively or negatively impact your department? Please explain.

The department anticipates no relative change from the current methodology compared to the proposal for non-litigated legal services matters. Where the department may have a potential issue is if a one-time hefty lawsuit skews legal litigation hours in the current year. This one time anomaly can misrepresent department need and when the Department of Law computes the prior year actuals into our future rates, our costs will go up disproportionately. If litigation costs were absorbed in the year they happen, then future year rates should not include these again.

8   **What is the expected impact of Amendment 70 (minimum wage increase) on Department programs? Please address impacts related to state personnel, contracts, and providers of services.**

There is no anticipated immediate impact to department personnel.

CDLE is likely to see an increase in phone calls due to this and potentially additional wage claims if passed. CDLE currently believes it can do this though within existing resources.

Employers are used to having the minimum wage change every Jan 1. We are assuming a potential increase in workload for a couple of reasons. 1) the hourly rate is increasing $0.99, normally less than $0.25. 2) the tipped employee is increasing from $5.29 to $6.28 ($3.02 less than hourly rate). This is a bigger increase than normal. 3) the public may be confused if the strike through of $6.85 remains and is replaced by $9.30. The states minimum wage is currently $8.31-not $6.85

The 2015 average hourly wage rate in Colorado was $24.60.

9   **Please provide an update on the Department's status, concerns, and plans of action for increasing levels of cybersecurity, including existing programs and resources. How does the Department work with the Cybersecurity Center in the Office of Information Technology?**

The department works with the Governor's Office of Information Technology (OIT) Office of Information Security (OIS) in a number of ways. All current CDLE employees attend quarterly Cyber Security training provided by OIS. In addition all new employees attend OIS new employee security training. Also CLDE follows the OIT project governance process in which all new IT systems and enhancements to existing systems have a System Security Plan (SSP) put in place which is reviewed and approved by OIS. As part of this project governance, each system involved has a security vulnerability review conducted by OIT and any issues identified are remediated before the project is closed. This security vulnerability program is administered by OIS.

10   **Is the SMART Act an effective performance management and improvement tool for your Department? What other tools are you using? Do your performance tools inform your budget requests? If so, in what way?**

The Colorado Department of Labor and Employment (CDLE) takes performance management to a more granular level. CDLE populates the SMART Act required Performance Plan with information from CDLE's strategic plan. CDLE rolled out its strategic plan in November 2011. Within the plan are five strategic initiatives including Customer Service, Employee Engagement and Accountability, Technology, Process Improvement, and Partner and Stakeholder Relationships. Each of these initiatives builds on one another to deliver an exceptional customer experience to Coloradans. Each initiative is measurable and has measurable strategies that are tracked at the department, division and individual employee levels. To foster employee ownership and accountability of our initiatives at every level, we have employee committees for each initiative with a goal of sharing best practices, reviewing successes and identifying new opportunities. Our initiatives and strategies inform our business decisions including any budget requests.

11   **Please identify how many rules you have promulgated in the past two years. With respect to these rules, have you done any cost-benefit analysis pursuant to Section 24-4-103 (2.5), C.R.S., regulatory analysis pursuant to Section 24-4-103 (4.5), C.R.S., or any other similar analysis? Have you conducted a cost-benefit analysis of the Department's rules as a whole? If so, please provide an overview of each analysis.**

CDLE Division	Number of Rules	Cost Benefit	Regulatory Analysis
Labor Standards and Statistics	5	No	Yes, all 5

Oil and Public Safety	8	No	No
Workers' Compensation	9	No	No
Unemployment Insurance	2	Yes, for 1	No
Division of Vocational Rehabilitation	Division not at CDLE during the past two years		

In the previous two years (November 2014 - November 2016), the Division of Labor and Statistics has promulgated the following rules (in chronological order):

* Minimum Wage Order Number 31 (promulgated Fall 2014, effective January 1, 2015)

* Wage Protection Act Rules (promulgated Fall 2014, effective January 1, 2015)

* Minimum Wage Order Number 32 (promulgated Fall 2015, effective January 1, 2016)

* Minimum Wage Order Number 33 (promulgated Fall 2016, effective January 1, 2017)

* Repeal of Employment Verification Law rules (promulgated Fall 2016, effective January 1, 2017)

For all above-mentioned rules, no cost-benefit analysis was requested pursuant to C.R.S. § 24-4-103(2.5). For all above-mentioned rules, a regulatory analysis was prepared pursuant to C.R.S. § 24-4-103(4.5). Please see attached addendum.

Since January 1, 2015 the Division of Workers' Compensation has promulgated 9 rules In that time, we have not been required to perform any cost-benefit analysis. We've also not had any requests for a regulatory analysis under 24-4-103, however OLLS has started requiring a regulatory analysis with each rule. Three of our rules have been promulgated since the new requirement was imposed. The Divisions rules have been on the premium surcharge, fee schedule (allowable reimbursements), and medical treatment guidelines.

The Employment and Training Division does not promulgate rules.

The Division of Vocational Rehabilitation has not promulgated any new state-level rules in the past two years. The Division is currently working to promulgate rules to reflect the transition to the Department of Labor and Employment as well as final regulations that became effective on September 19, 2016.

12 **What has the department done to decrease red tape and make the department more navigable/easy to access?**

Division of Unemployment Insurance
• Improved timeliness of claims processing and appeals
• Expanded Internet Self Service applications
• Implemented a Division-wide cross training model
• Launched statewide audit education training program and added an Unemployment Insurance Audits Program Navigator to act as a resource to the business community
• Developed industry specific Auditors to allow for focus and in depth understanding of varying business models within Colorado's employment environment
• Worked collaboratively with labor and employer advocate stakeholders to develop draft rules to clarify Worker Classification guidelines

Division of Worker's Compensation
• $22 million saved by Colorado employers through free, division-certified risk management programs
• Detected more than 600 disputes between medical providers and insurers totaling over $1 million (at no cost to the parties involved)
• Successfully migrated the entire legacy mainframe database to a modern, cloud-based system (on time, and under budget)

Division of Oil and Public Safety
• Introduced legislation to provide petroleum tank owners with incentives to go beyond regulatory requirements to minimize releases
• Completed LEAN project to reduce the complexity of the Notice of Violation in the Petroleum Program
• Implemented new Amusement Ride requirements based on industry recommendations

Division of Labor Standards and Statistics
• Reorganized to reduce management staff and increase by 70% the number of Compliance Investigators providing direct service to Coloradans filing wage and hour claims;
• Introduced new claim investigation and appeal adjudication processes necessary to implement the Colorado Wage Protection Act of 2014

13 **What is the number one customer service complaint the department receives? What is the department doing to address it?**

In April 2012, CDLE rolled out its customer satisfaction survey. After the first quarter the survey was evaluated to determine a benchmark and targeted areas for improvement with the result of 50% customer satisfaction and areas for improvement that included:

- Timeliness on service delivery;
- Consistency among staff; and
- Website navigation.

CDLE redesigned its website based on customer feedback and analytics and improved its internet self-service applications, trained and cross-trained staff, and improved internal processes to affect timeliness. Customer Satisfaction went from 50% in FY2011-12 to 97% in FY2015-16.

Implementation Status of Talent Development Legislation Recently Passed Provided by the Colorado Workforce Development Council through a cross agency policy and legislative working group.

Subset of legislation specific to CDLE & CWDC

[WP] indicates that it was in the Workforce Package of Bills 2016 Legislation:

HB16-1114 Repeal Duplicate Reporting Requirements for Employers

Problem: State and Federal laws both require employers to ensure that employees are legally eligible for employment.

Solution: The bill eliminates current employment verification standards that require employers in Colorado to attest that they have verified the legal work status of each employee and to submit documentation to the division of labor at CDLE.

Funds Allocated, FTE Provided: $0, 0 FTE

Status: Division of Labor Standards and Statistics has repealed regulatory provisions consistent with this statute, effective January 1, 2017.

HB16-1198 Computer Courses Fulfill Graduation Requirements

Problem: Computer science and computer coding skills are widely recognized as valuable assets in the current and future job market, but many high school students are not taking computer science and coding courses because they do not count toward Colorado's graduation requirements.

Solution: The bill encourages school districts to count a computer science or coding course as fulfilling a graduation requirement in mathematics or science. It directs the state board of education to include knowledge and skills in computer science when revising curricula, and it creates and maintains a resource bank of models.

Funds Allocated, FTE Provided: $0, 0 FTE for CDLE

Status: CDE is working with the Compute Colorado Taskforce in partnership with CWDC, CTA and Colorado STEM to implement this bill. The Compute Colorado Taskforce has been active for 1 year and last met on 11/4/16 to get an update on progress to date and to decide what workgroups would be established to continue the work going forward. Special focus was given to the current computer science standards work in process and CDE provided questionnaires to collect input and feedback for inclusion in their statewide listening tour.

Implementation Status of Talent Development Legislation Recently Passed Provided by the Colorado Workforce Development Council through a cross agency policy and legislative working group.

HB16-1267 Colorado Veterans' Service-To-Career Pilot Program

Problem: Providing quality training, employment and wrap-around services to veterans is a state priority.

Solution: The bill created the Colorado veterans' service-to-career pilot program. CDLE will select one or more workforce centers that may contract with a nonprofit agency to administer the program. Workforce centers selected by the department (with the nonprofit agency if selected) develop and expand programs to provide workforce development-related services specifically tailored to the unique needs and talents of veterans, spouses, and other eligible participants. WIOA funds must be used first for eligible participants.

Status: CDLE Employment and Training Division completed the competitive award process and the three participating workforce centers (Arapahoe/Douglas Works!, Pikes Peak Workforce Center, Larimer County Workforce Center) will begin work in early December.

Funds Allocated, FTE Provided: $500,000 Cash Fund: $25,000 operations, $475,000 grants. .2 FTE (hired)

Performance Measures: The program's success will be measured through gainful employment and participation in skills training or educational programs for veterans, spouses, and eligible participants.

HB16-1287 CDLE Pre-apprenticeship & Apprenticeship Study [WP]

Problem: Apprenticeship programs are a valuable career path, but there are many perceived and possibly real barriers to creating and sustaining apprenticeship programs.

Solution: The bill directs the Colorado Department of Labor and Employment to study ways to increase the use of apprenticeship programs by Colorado businesses and to make a report and recommendations based on the study which is due July 1, 2017.

Funds Allocated, FTE Provided: $0; 0 FTE

Status: Initial research on USDOL registered apprenticeships has begun, CDLE division directors are focusing on Workers Compensation and Unemployment Insurance specific issues, as well as labor laws and other potential issues.

Implementation Status of Talent Development Legislation Recently Passed Provided by the Colorado Workforce Development Council through a cross agency policy and legislative working group.

HB16-1288 Industry Infrastructure Grant Program [WP]

Problem: In order to meet the current and future workforce needs, businesses must become not only consumers of a talented workforce but also producers of that talent pipeline.

Solution: The bill created a matching grant program within the Colorado Workforce Development Council to fund nonprofit entities to assist industry associations to define industry competencies and collaborate to facilitate training and education in the classroom and the workplace to support businesses in becoming centers of learning.

Funds Allocated, FTE Provided: $300,000 General Funds to be awarded to grantees, 0 FTE

Status: CWDC is working through contracting at CDLE to solicit applications for the award(s), requests are expected to post by December 10th, with awards made before December 30th.

HB16-1289 Incentives To Complete Career Development Courses -- Career Success Pilot Program [WP]

Problem: Colorado's graduation guidelines offer industry recognized credentials as one way to meet graduation requirements, but schools have limited resources and lack of information about which credentials are of value.

Solution: The bill creates a pilot program wherein school districts receive a $1,000 bonus for each high school student who {1} earns an industry certification tied to an in-demand job, {2} finishes a rigorous workplace training program tied to key industry needs, or {3} successfully completes a Computer Science AP course.

Funds Allocated, FTE Provided: $1,000,000 to Department of Education for incentives, 0 FTE

Status: CWDC worked with CDE, CCCS-CTE to utilize the top jobs criteria and match top jobs to certificates currently being offered in school districts, additional certificates were added to from national credential lists. CWDC worked with Colorado Succeeds to vet the list with business and published the approved credentials in the 2016 Talent Pipeline Report Appendices. As no additional staff resources were provided by the legislation, CDE is working within existing staff resources to implement this program and is drafting guidance to assist local school districts with implementation and outline how these efforts can be braided with other policies. The guidelines and MOU, along with programs/courses completed data, will be due to CDE by June 30, 2017 for the 2016-17 school year. CDE plans to have the MOU and other information available on the CDE website by January, 2017. CDE will work with CWDC and CDHE to

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consider future updates to the eligible credential list and establish a process for ongoing input from business and industry, to be updated as appropriate in the Annual Talent Pipeline Report.

HB16-1302 Workforce Innovation & Opportunity Act [WP]

Problem: The reauthorization of the federal Workforce Investment Act as the new Workforce Innovation and Opportunity Act in 2014 caused misalignment with the Colorado statute for implementation of these laws.

Solution: The bill aligns state statute with the federal Workforce Innovation and Opportunity Act, of 2014.

Funds Allocated, FTE Provided: $0. 0.0 FTE

Status: The bill required the creation of a marketing and outreach committee to review terminology used, and adjust as possible. The committee work is complete.

SB16-077 Employment First For Persons With Disabilities

Problem: Colorado does not have, nor has it been determined that it should have, an Employment First Policy that would facilitate increased integrated employment options for people with the most significant disabilities.

Solution: The bill creates task force to create a long term strategy for employment of people with disabilities incorporating employment first strategies; with the state rehab council (housed in DVR) to lead the departments of ed, higher ed, HCPF, CDHS and CDLE as well as a host of enumerated external stakeholders to create this strategy by November 2017.

Funds Allocated, FTE Provided: $0. 0.0 FTE

Status: DVR staff working to assist the Colorado State Rehabilitation Council with implementation, including recruitment of participants for the Employment First Advisory Partnership (EFAP) committee which will develop a strategic plan by January, 2018.

HB16-1082 Area Vocational Schools to Technical Colleges

Problem: The name area vocational schools does not reflect the quality of technical education they provide.

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Solution: Changes the name of area vocational schools to area technical colleges and adds representation for area technical colleges to the Concurrent Enrollment Board and State Workforce Development Council. The bill also adds technical colleges to the list of school types that can receive funding from the CO Energy Research Institute and the CO Opportunity Scholarship Initiative.

Funds Allocated, FTE Provided: $0, 0 FTE

Status: Implemented

HB16-1048 Business Enterprise Program for Blind Entrepreneurs

Problem: Opportunities for blind entrepreneurs are limited

Solution: The bill requires expansion of BEP opportunities for blind vendors at higher education institutions, the department of corrections, the department of natural resources and the Colorado State Fair, including review of the bid processes, scaling of operations and resulting revenues streams and training opportunities.

Funds Allocated, FTE Provided: $0, 0 FTE

Status: Initial meeting with higher ed completed November 2016. A meeting has been requested with Department of Corrections, expected to occur the week of December 5, 2016. The report due to the legislature will be drafted and submitted by 01/01/17.

SB16-093 Transfer State Independent Living Facilities to CDLE

Problem: DVR was transferred to CDLE but the SILC was left at CDHS

Solution: The bill transfers the oversight of independent living services for persons with disabilities from the department of human services to the department of labor and employment as of July 1, 2016, and creates an office of independent living services to oversee the duties.

Funds Allocated, FTE Provided: Program costs appropriation = $206,065 GF with 4.0 FTE. Independent Living Services appropriation = $6,963,800 GF.

Status: Independent Living Services are integrated within DVR at CDLE. The rule for expanded funding was promulgated in CDHS rules. CDHS rules are planned to be transferred to CDLE in January 2017.

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SB16-179 Unemployment Insurance Classification

Problem: The process for determination of independent contractors is not clear

Solution: The bill requires CDLE to develop guidance for employers on the statutory factors specified that determine the classification; clarify the process by which an employer or individual may submit further information in response to a determination by the department and prior to an appeal; establish an individual to serve as a resource for employers on certain classification and audit matters; establish internal methods to improve consistency between auditors; and establish an independent review of a portion of audit and appeal results at least twice a year to monitor trends and make improvements to the audit process.

Funds Allocated, FTE Provided: $36,750 GF and 0.5 FTE, Navigator position filled.

Status: Labor and Employer Stakeholder groups have jointly met, and are close to consensus on language for proposed rules to provide clarity on worker classification under CESA. The Department has amended audit close out letters to clarify the process to have further information considered in an audit prior to an appeal. The Unemployment Insurance Navigator position is filled and working with businesses on audit cases in which there are questions on the path to resolution, proper classification of workers, or clarification on the audits/ settlement process. Finally, the Department has taken steps to improve training and consistency among the auditors and developed a bi-annual independent analysis to objectively report on trends and improvements.

2015

HB15-1030 Employment Services for Veterans Pilot Program

Problem: Veterans may need extra assistance to obtain and retain employment

Solution: The bill requires the department of labor and employment to administer an employment services for veterans pilot program, which must provide follow-along job services for up to 20 veterans including: Job retention services; Mediation services between the employer and the employee; Job mentoring skills and guidance to employees; and Advice and support concerning career advancement. The department is required to use a competitive request for proposal process to select a local nonprofit agency to contract with to implement and operate the program. The program is repealed January 1, 2018.

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Funds Allocated, FTE Provided: $157,950 general fund, $15,950 administration, 142,000 contract, .3 FTE (hired)

Status: Discover Goodwill in Colorado Springs was selected as the vendor for the program and is providing financial literacy classes, job coaching, and retention support to their participants as well as support to the family members of the Veterans.

Performance Measures: 20 veterans served (100% of goal); 18 veterans employed. Staff support and supportive services kept veterans in jobs when they faced barriers to employment (vehicle accidents on the job, domestic violence situations, separations/divorces and lack of driver's licenses).

HB15-1170 Increasing Postsecondary and Workforce Readiness [WP]

Problem: Colorado students should demonstrate strong readiness to enter the workforce or pursue postsecondary education upon graduation from high school.

Solution: The bill clarifies that the state board of education will issue career and technical education authorizations based on the qualifications that the state board for community colleges and occupational education adopts. The bill creates the position of postsecondary and workforce readiness statewide coordinator (statewide coordinator). The statewide coordinator is responsible to the state workforce development council (council) in the department of labor and employment.

Funds Allocated, FTE Provided: $95,266; $1,000 for IT, $94,266. 1.0 FTE at CWDC shared with CDE

Status: DHE and CDE staff collaborated throughout the 2015-16 school year to refine the postsecondary data provided by DHE for the Bill's reporting requirements. CWDC and CDE jointly hired the statewide coordinator in December 2015 and she has worked in partnership with school districts and employers throughout the state to promote career pathway development and support the implementation of postsecondary and workforce readiness programs, including integration with CareerWise Colorado for youth apprenticeship opportunities.

HB15-1230 Creation of Innovative Industries Workforce Development Program - [WP]

Problem: Work experience is a critical factor in an individual's ability to obtain employment and financial barriers limit the ability of companies to provide experience to students.

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Solution: The Innovative Industries Workforce Development Program was created to reimburse companies in specific industries for payroll and related costs associated with internships. Funding was made available to support up to seven industry intermediaries in their efforts to recruit companies to take on interns and establish regular internships.

Funds Allocated, FTE Provided: $597,525 general fund; $520,000 awards, $77,525 administration 1.3 FTE (1.0 program coordinator at WDP; .3 industry coordinator at CWDC)

Status: The first report on activities in FY16 was submitted to the legislature on November 1, 2016. Through October 31, 2016, the program has supported 137 completed internships with an average hourly wage of $14.71 in the following industries: Aerospace, Advanced Manufacturing, Bioscience, Construction, Electronics, Energy & Natural Resources, Engineering, and Information Technology. The CWDC contracted with six trade associations and has formed a coalition which will be used to collaborate on work-based learning opportunities, including but not limited to this legislation.

Performance Measures: 137 individuals have completed internships, with an average hourly wage of $14.71

HB15-1270 Authorization for Local Education Providers to Operate Pathways in Technology Early College High Schools [WP]

Problem: More than 70% of the top jobs in Colorado require some level of experience in the STEM fields and some type of education beyond a high school diploma.

Solution: This bill Authorizes the operation of a limited number of pathways in technology early college high schools (p-tech schools) in the state. Such schools allow students to graduate from high school with a high school diploma and an industry-recognized associate degree in applied science that focuses on science, technology, engineering, and mathematics. P-tech schools must collaborate with a community college and one or more businesses.

Funds Allocated, FTE Provided: $0, 0 FTE for CDLE

Status: COMPLETE: Three schools were approved and announced in early 2016: Adams 12; James Irwin Charter School; St. Vrain Valley. There is always a potential for additional schools to be approved. CDE will be measuring the school's performance. More information: http://www.cde.state.co.us/postsecondary/p-tech

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HB15-1274 Creation of Career Pathways for Students for Critical Occupations in Growing Industries [WP]

Problem: Industry driven career pathways do not exist for all of the in-demand and growing industries in Colorado.

Solution: Based upon the model developed for creating the manufacturing career pathway, the bill directs the state workforce development council to coordinate multiple agencies and industries in the design of industry-driven career pathways for critical occupations in growing industries. The state council will work with partners through the talent pipeline work group to define critical occupations and growing industries. The first 3 career pathways will be in construction and related skilled trades, information technology, and healthcare.

Funds Allocated, FTE Provided: $477,988 general fund; $200K to CDHE for online tool, $86,960 to CCCS, $191,038 to CWDC; 2.5 FTE (1.5 at CWDC and 1.0 at CCCS)

Status: The IT industry career pathway was developed during fiscal year 16 and the data captured from businesses throughout the state has been analyzed and released in the Tech Talent Forums Report as well as utilized to build career pathway maps housed on careersincolorado.org, which was developed as a result of this bill. Activities are currently underway to build career pathway systems and maps for healthcare and construction. Those industries will be completed by the fall of 2017.

HB15-1275 Measures to Support Concurrent Enrollment in Career and Technical Education Programs [WP]

Problem: The practice of enrolling high school students in college-level courses while still in high school has yielded positive results in graduation rates and credential attainment, yet work based learning experiences such as apprenticeships and internships have not been incorporated into programs.

Solution: This bill requires the creation of a set of standard recommendations to advise and assist local education providers in creating cooperative agreements to include coursework related to apprenticeship programs and internship programs as options within a concurrent enrollment program

Funds Allocated, FTE Provided: $0, 0 FTE to CDLE

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Status: COMPLETE: Tuition Assist. Program (Aug 2015 CCHE Agenda Item); COMPLETE: Concurrent Enrollment Report - DHE has identified a method of capturing numbers for apprenticeships and internships in the concurrent enrollment counts. DHE will work to educate our data partners at IHEs on how to code these courses. Due to a time lag in our reports, it will be several years before these counts are reported in our CE report. Additionally, CDE and CDHE have collaborated with the Concurrent Enrollment Advisory Board (CEAB) to develop and distribute a guidance document to assist in integration of apprenticeships and internships into Concurrent Enrollment.

HB15-1276 Skilled Worker Outreach, Recruitment and Key Training Act -- the WORK Act [WP]

Problem: In-demand industries require a skilled workforce, yet training programs for these industries struggle to attract students.

Solution: The WORK Act creates a grant program to support marketing and outreach efforts for the direct recruitment of and outreach to prospective Career and Technical Education students. Entities that can apply for funds include community colleges, area vocational schools, and local district colleges that have high-need industry certificate programs. The Act allows for approximately $3.2 million to be awarded each year for three years, with a focus on skilled trades training programs.

Funds Allocated, FTE Provided: $3,300,000; $3,135,000 for awards, $165,000 for administration, 2 FTE allowed but only 1 hired for WDP as program coordinator. Administrative funds appropriated did not cover the cost of the FTE for the CWDC therefore it will not be filled.

Status: One grant cycle was completed in the Spring of 2016 and the grantees have begun their marketing efforts. A total of $2 Million has been distributed to date, with $4.2 Million available in the second grant cycle which closed on November 28, 2016 and will be awarded in December 2016; any funds not awarded in December will go into a third cycle to be awarded by April 2017.

Performance Measures: 806 participants recruited, 530 new program enrollees, 137 program completers, 86 program completers employed.