COLORADO GENERAL ASSEMBLY

JOINT BUDGET COMMITTEE

FY 2007-08 STAFF BUDGET BRIEFING

DEPARTMENT OF LABOR AND EMPLOYMENT

JBC Working Document - Subject to Change

Staff Recommendation Does Not Represent Committee Decision

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FY 2007-08 BUDGET BRIEFING
STAFF PRESENTATION TO THE JOINT BUDGET COMMITTEE

DEPARTMENT OF LABOR AND EMPLOYMENT

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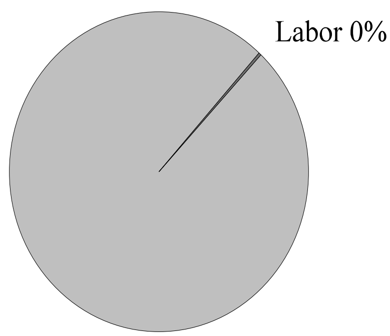
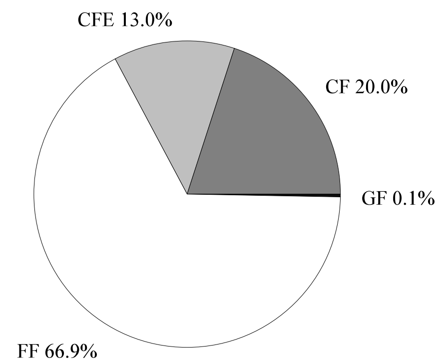


Funding Source Split FY 2006-07



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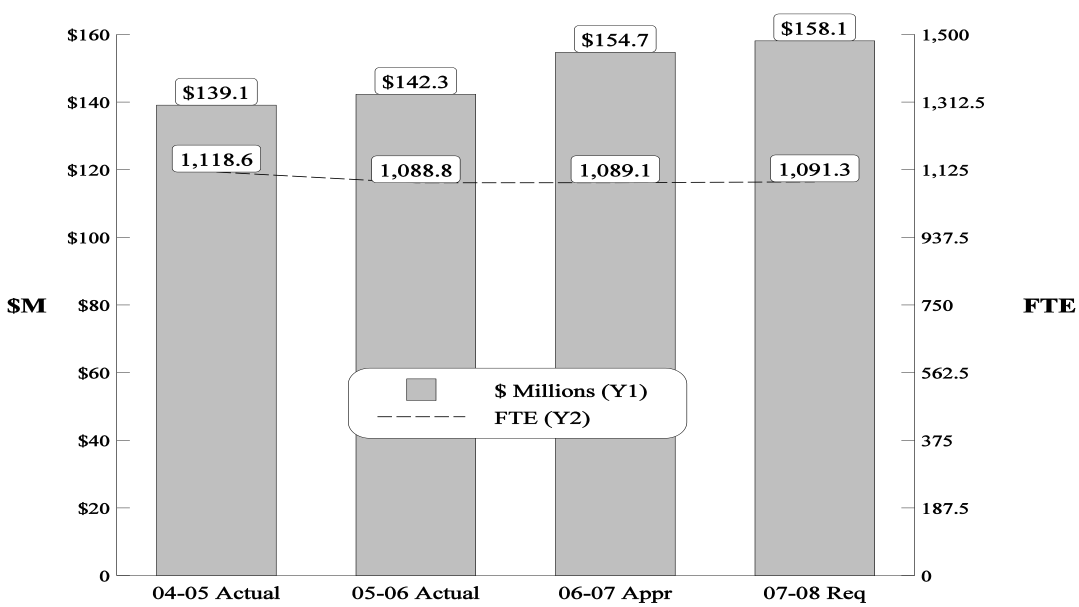

Budget History
FY 2007-08 JBC Staff Budget Briefing
DEPARTMENT OF LABOR AND EMPLOYMENT
Department Overview

Key Responsibilities

- **Executive Directors Office**
  - Performs departmental administrative functions (accounting, auditing, budgeting, data systems, and human resources).

- **Division of Employment and Training**
  - Unemployment Insurance Program ensures that unemployment taxes are collected, unemployment benefits are properly paid, and conducts audits to ensure proper payment.
  - Employment and Training Program assists job seekers with training and placement in unsubsidized employment, specifically targeting client groups such as economically disadvantaged, veterans, migrant seasonal farm workers, dislocated workers, youth, older workers, and displaced homemakers.
  - Labor Market Information Program provides labor market and economic trend information to Colorado employers and job seekers.

- **Division of Labor**
  - Administration, regulation and enforcement of labor laws concerning wage claims, minimum wage, and labor standards.

- **Division of Oil and Public Safety**
  - Tests petroleum products to verify compliance with state quality standards. Manages the State's program to clean up petroleum contamination from leaking tanks.
  - Conducts inspections of boilers and pressure vessels in all commercial buildings.
  - Reviews building plans for all public school facilities.
  - Issues explosive permits to qualified individuals.

- **Division of Workers' Compensation**
  - Workers' Compensation Program assures quick and efficient delivery of disability and medical benefits to injured workers at a reasonable cost to employers, and minimizes the necessity of litigation.
  - Special Funds Program provides medical benefits and/or payments for catastrophic injuries which occurred prior to 1981, and for workers who have become permanently disabled from two or more work related injuries prior to 1993.

Factors Driving the Budget

Unemployment Insurance (UI)

The provision of unemployment insurance services is a major component of the Department's budget. The State collects unemployment taxes which are then forwarded to Colorado's account in the trust fund maintained by the U.S. government. The condition of the economy both locally and nationally affects the degree to which unemployment insurance services are needed and how high these taxes need to be. The State maintains a fraud investigations unit, as well as collections specialists, to recapture all varieties of unemployment insurance benefit overpayments. Unemployment benefits are not appropriated. However, the funds collected and paid to the Unemployment Insurance Trust fund count toward the state TABOR limit. The potential difficulties created by interactions between the unemployment insurance system and TABOR are discussed in greater detail in issue #2. The status of the *Genesis* project, and in particular the replacement of the IT infrastructure for the UI program, will be discussed in issue #4.

Unemployment Insurance – Factors Driving the State Budget					
	FY 2002-03 Actual	FY 2003-04 Actual	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Estimate
Number of Initial Benefits Claims Established	264,234	192,419	137,785	126,647	120,918
Number of New Employer Accounts	22,895	22,268	25,073	24,387	26,292
Number of Appeals Decisions Rendered	26,128	28,466	22,778	19,804	18,805
Percentage of Cases Involving Fraud	0.8%	2.0%	2.0%	1.7%	1.0%
UI Trust Fund Revenue (TABOR revenue)	$207,644,438	$307,792,190	$483,069,661	$530,248,580	$459,300,000
UI Benefits Paid	$533,635,110	$460,797,138	$362,210,806	$305,587,789	$295,400,000
Trust Fund Ending Balance	$298,717,814	$133,879,065	$254,737,920	$479,398,710	$643,298,710

Source: CDLE Budget requests for FY 2005-06 and FY 2006-07, response to staff inquiry for FY 2006-07 estimate. UI revenue, UI benefits paid, and UI ending balance from the Department's Schedule 11s. Stated balances may not match calculated balances due to differences in state and federal closing dates.

Employment and Training

The Department provides employment and training services through the State's one-stop centers run by either the state or by counties. Under the federal Workforce Investment Act of 1998, there is a much greater emphasis on working to match employers with employees. This reflects the notion that, while a poor economy increases the number of workers seeking assistance, a strong economy increases the number of employers seeking qualified employees.

Employment and Training – Factors Driving the State Budget					
	FY 2002-03 Actual	FY 2003-04 Actual	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Estimate
Total Applicants	307,879	276,849	287,001	329,875	275,000
Total Applicants Referred to Jobs	133,699	131,896	126,301	109,115	150,000
Total Applicants Entering Employment as a Result of Services	30,791	143,926	141,400	119,944	150,000
Percent Entering Employment	10.0%	52.0%	49.3%	36.4%	54.5%

Source: CDLE Budget requests for FY 2005-06, FY 2006-07, and FY 2007-08.

Workers' Compensation, Major Medical, and Subsequent Injury

Colorado employers are required to carry workers' compensation insurance. This insurance pays medical expenses for work-related injuries, as well as partial wage replacement while the worker recovers. The Division of Workers' Compensation provides various services to support this mandate, including customer service, oversight, claims resolution, employer and employee education, and cost containment. This program's budget is driven by the number of workers injured in a given year, and the number of hearings requested by an employer/insurance company or an injured employee to determine what benefits should be provided. The Workers' Compensation program offers claims intervention, mediation, pre-hearing conferences, settlement conferences, and arbitration to assist with dispute resolution.

The Major Medical program provides benefits to workers who sustained catastrophic injuries between July 1, 1971 and June 30, 1981. There were 1,320 of these cases still open as of June 30, 2006. The Subsequent Injury program provides compensation to injured workers who have become permanently, totally disabled by more than one work-related injury prior to 1993.There were 384 open cases as of June 30, 2006. The status of the Major Medical and Subsequent Injury Funds will be discussed in more detail in issue #3.

Workers' Compensation / Major Medical & Subsequent Injury – Factors Driving the State Budget					
	FY 2002-03 Actual	FY 2003-04 Actual	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Estimate
Applications for Workers' Compensation Hearings	12,772	10,662	9,751	9,595	10,500
Hearings Held	1,572	1,579	1,145	1,166	1,035
Customer Contacts (phone calls and walk-in customers)	70,964	65,275	62,209	58,630	70,400
Employer cost savings through Premium Cost Containment	$12,114,835	$16,793,562	$19,122,759	$16,869,049	$12,000,000

Source: CDLE budget requests for FY 2005-06, FY 2006-07, and FY 2007-08.

Summary of Major Legislation

✓ **H.B. 06S-1017: (Solano/Bacon):** Requires Colorado employers to affirm the legal work status of each newly-hired employees and to maintain records. Authorizes the Division of Labor to request employers to submit documentation that they are in conformance, and further authorizes the Division to conduct random audits of employers. Appropriates $113,670 and 2.0 FTE to the Division from the Employment Support Fund for implementation.

✓ **H.B. 06-1158 (Weissmann/Tupa)**: Directs the Division of Oil and Public Safety to conduct plan reviews and inspections of buildings and structures in public schools and junior colleges for compliance with the Division's building and fire codes. Authorizes the Division to delegate this responsibility to an appropriate local building or fire department. Directs the Division of Fire Safety to certify fire inspectors and establishes requirements for certified fire inspectors. Appropriates $72,647 cash funds (Public Safety Inspection Fund) and 1.0 FTE to the Department.

✓ **H.B. 06-1343 (Crane/Keller)**: Prohibits state agencies from entering into a public contract with a contractor who knowingly employs or contracts with an illegal alien to perform work under a contract. Requires each prospective contractor, prior to executing a public contract for services, to certify that it does not knowingly employ or contract with illegal aliens, and that the contractor has participated in the Basic Pilot Employment Verification Program administered by the U.S. Department of Homeland Security. Requires the Department to receive complaints of suspected violations of the statutory requirements related to public contracts. Authorizes the Department to investigate whether a contractor is complying with the provisions of the bill. Appropriates $140,166 from the General Fund and 1.9 FTE for this purpose.

✓ **S.B. 05-39 (Taylor/Marshall)**: Declared the Petroleum Storage Tank Fund (PTSF) to be an enterprise fund exempt from TABOR limits. In FY 2005-06, appropriated $1.0 million cash funds exempt (Petroleum Tank Storage Fund) to the Division of Oil and Public Safety. Also, reduced the cash funds appropriation in FY 2005-06 from the Petroleum Tank Storage Fund by $1,881,328 and increased the cash funds exempt appropriation by an equal amount from the same source.

✓ **Various Budget Balancing Bills:** Throughout the recent budget shortfall, legislation enhanced the General Fund balance by making transfers from funds administered by the Department of Labor and Employment. During the three year period from FY 2001-02 through FY 2003-04, the General Fund was enhanced by over $300 million by such transfers. The various transfers are summarized in the following table.

Department of Labor – Budget Balancing Bills	
Bill Number	**Impact**
S.B. 05-1208 (Marshall / Veiga)	Delayed the statutory increase in the Unemployment Surcharge Rate for CY 2006. For FY 2005-06, the rate reduction was estimated to reduced the General Fund dollars needed for a TABOR refund. Because the voters approved Referendum C, no TABOR refunds will be made for FY 2005-06.
S.B. 03-296 (Reeves / Young)	For FY 2003-04, diverted one half of the unemployment surcharge tax (0.11%) to the General Fund until July 1, 2004. The other half was diverted to the Employment Support Fund. After July 1, 2004, all surcharge tax revenue was credited to the Employment Support Fund.
S.B. 03-191 (Young / Owen)	Transferred funds to the General Fund: (1) $6,000,000 from the Workers' Compensation Cash Fund; (2) $20,000,000 from the Subsequent Injury Cash Fund; (3) $140,000,000 from the Major Medical Fund; and (4) $5,400,000 from the Employment Support Fund.
H.B. 02-1478 (Young / Reeves)	Provided authority for the Governor to order that monies be transferred from the Major Medical Fund to the General Fund if revenue estimates indicated that General Fund expenditures exceeded General Fund revenues in FY 2001-02. Required that this transfer be repaid automatically July 1, 2002. In FY 2002-03, provided authority for the Governor to transfer up to $75,000,000 from the Major Medical Fund to the General Fund, if General Fund expenditures required the use of one-half or more of the reserve.
H.B. 02-1445 (Berry / Tate)	In FY 2002-03, provided authority for the Governor to transfer monies from the Employment Support Fund to the General Fund, if General Fund expenditures required the use of one-half or more of the reserve.
H.B. 02-1391 (Young / Reeves)	Transferred $4.0 million from the Petroleum Storage Tank Fund to the General Fund in FY 2001-02 (required repayment of this amount). Also, transferred $15 million from the Employment Support Fund to the General Fund in FY 2001-02.

✓ **H.B. 01-1373 (Larson / Taylor)**: Created the Division of Oil and Public Safety in the Department of Labor and Employment by combining the duties of the Office of State Inspector of Oils with the public safety functions of the Division of Labor.

- ✓ **H.B. 00-1083 (Berry / Owen):** Implemented the federal "Workforce Investment Act of 1998" by creating a system of local and regional boards, appointed by local elected officials, to deliver services that benefit employers and employees, and to receive and administer federal monies.

- ✓ **S.B. 91-218 (Norton / Neale): Creation of Division of Workers' Compensation.** Created programs and modified benefits in an attempt to control rising costs and premiums. Implemented efficient system with less litigation. Transferred Division of Labor staff concerned with workers' compensation issues.

Major Funding Changes FY 2005-06 to FY 2006-07

Action	GF	CF & CFE	Federal Funds	Total Funds	FTE
Personal Services Adjustments	$0	$844,983	$824,174	$1,669,157	0.0
Increase for Major Medical payments	$0	$1,000,000	$0	$1,000,000	0.0
Employee benefits	$0	$389,424	$509,063	$898,487	0.0
Leased Space	$0	$83,231	$109,498	$192,729	0.0
H.B. 06-1343	$140,166	$0	$0	$140,166	1.9
H.B. 06-1158	$0	$72,647	$0	$72,647	1.0
Division of Employment and Training refinance base	$0	$116,896	($116,896)	$0	0.0
Adjustments associated with the Genesis project	$0	($2,054,347)	$0	($2,054,347)	0.0
Workers' Compensation base reduction	$0	($265,088)	$0	($265,088)	(10.3)
Boiler Inspection and Public Safety base reduction	$0	($210,114)	$0	($210,114)	(3.0)

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DEPARTMENT OF LABOR AND EMPLOYMENT
Decision Items

Priority	Division: Description *[Statutory Authority]*	GF	CF *[Source]*	CFE	FF	TOTAL	FTE
1	**Executive Director's Office** Federal funding to administer the UI and Workforce programs does not include increases for state-mandated increases in the salary, health benefits, etc. Requests funding from state cash funds for state salary and benefits increases *[Articles 8-70 through 8-82, C.R.S.]*	0	1,963,384 *[Employment Support Fund]*	0	(1,963,384)	0	0.0
2	**Executive Director's Office** Funding will allow the Department to catch up with the replacements of aged IT equipment needed to put the Department on a four-year replacement cycle. *[Articles 8-70 through 8-82, C.R.S.]*	0	163,776 *[Employment Support Fund]*	17,723	61,597	243,096	0.0
NP-1	**Executive Director's Office** DPA - Multiuse Network Payments *[Section 24-30-1101 through 1105; and 24-37.5-202,203, C.R.S.]*	0	(8,066)	(1,152)	(13,829)	(23,047)	0.0
NP-2	**Executive Director's Office** DPA - Vehicle Fleet Replacement *[Section 24-30-1104 (2), C.R.S.]*	0	4,457	0	0	4,457	0.0
	Total Prioritized Requests	**0**	**2,123,551**	**16,571**	**(1,915,616)**	**224,506**	**0**

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DEPARTMENT OF LABOR AND EMPLOYMENT
Overview of Numbers Pages

The Department of Labor and Employment's FY 2007-08 request is approximately $3.3 million larger than the FY 2006-07 appropriation, an increase 2.1%. The General Fund request is $12,631 higher, an increase of 9.0%.

Requested Changes from FY 2006-07 to FY 2007-08

	FTE	General Funds	Cash Funds	Cash Funds Exempt	Federal Funds	Total
FY 2006-07 Appropriation	1,091.1	140,166	30,553,812	20,141,876	103,958,600	154,794,454
FY 2007-08 Request	1,091.2	152,797	35,730,122	20,354,462	101,870,578	158,107,959
Change	**0.1**	**12,631**	**5,176,310**	**212,586**	**(2,088,022)**	**3,313,505**
Percent Change	**0.0%**	**9.0%**	**16.9%**	**1.1%**	**(2.0)%**	**2.1%**

A more detailed view of the changes are summarized in the following table.

Requested Changes from FY 2006-07 to FY 2007-08

Line Item(s)	FTE	General Funds	Cash Funds	Cash Funds Exempt	Federal Funds	Total
Salary Survey and Performance Based Pay	0.0	$ 6,211	$1,003,007	$ 226,717	$ 1,965,686	$ 3,195,410
Health, Life, Dental	0.0	6,299	224,968	(27,360)	519,961	717,569
Program Costs, Div of Employment and Training	0.7	0	519,263	0	29,996	549,259
Shift, AED, & STD	0.0	1,596	117,477	22,152	188,307	327,936
Program Costs, Div of Labor	4.0	0	234,493	0	0	234,493
State Operations, Div of Employment and Training	5.3	0	456,495	0	(379,885)	76,610
Labor Market Information	(5.9)	0	0	0	(621,004)	(621,004)
One Stop County Contracts	(3.0)	0	0	0	(601,912)	(601,912)
Payments to Computer Center and MNT	0.0	0	(111,171)	(15,880)	(190,624)	(317,675)
Statewide Indirect Costs	0.0	0	(102,879)	(19,894)	(161,423)	(284,196)
Personal Services, Div of Public Safety	(2.0)	0	0	(1,673)	0	(1,673)
Decision Items						

Line Item(s)	FTE	General Funds	Cash Funds	Cash Funds Exempt	Federal Funds	Total
DI #1 Funding State Mandated Increases	0.0	0	1,963,384	0	(1,963,384)	0
DI #2 Asset Maintenance	0.0	0	163,776	17,723	61,597	243,096
Other	**1.0**	**$ (1,475)**	**$ 707,497**	**$ 10,801**	**$ (935,337)**	**$ (204,408)**
Total	**0.1**	**$ 12,631**	**$ 5,176,310**	**$ 212,586**	**$(2,088,022)**	**$ 3,313,505**

Fund mixes for some items were estimated because of "Bottom-line Funding".

Decision item #1 concerns funding for state-mandated increases in salaries and benefits for employees in the Unemployment Insurance and Workforce programs. Funding for the administration of these programs is based on a federal/state partnership. The costs to administer these programs continue to rise, in large part due to state-mandated increases in salaries, benefits, and other common policy areas. Federal funding for administration has not increased at the rate necessary to support these increases at the current staffing level. In order to meet the mandated increases for that portion of the cost funded with federal funds, it will eventually be necessary to reduce staffing levels. Reduced staffing levels will lead to decreased levels of service provided to clients. The Department requests authorization to pay the full amount for the following line item increases using cash funds from the Employment Support Fund (ESF):

- Salary Survey and Senior Executive Services,
- Health, Life, and Dental,
- Performance Based Pay, and
- S.B. 04-257 Amortization Equalization Disbursement.

The cash fund increase would be $1.9 million, with a corresponding reduction in federal funds for those items.

Decision item #2 concerns funding for replacement of the large volume of aged IT equipment currently in use within the Department. This equipment has accumulated as a direct result of previous years' budget cuts. The Department wishes to implement a systematic replacement cycle based on a planned four-year lifetime. Currently, 40% of personal computers and 28% of printers are more than four years old. The Department also plans to implement a 5% reduction in desktop computers, laptop computers, and printers during FY 2007-08. The Department requests an increase of $243,096 to their base appropriation in order to implement this decision. The requested amount will allow the Department to gradually shift all such assets to a four-year replacement cycle.

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriated	FY 2007-08 Request	Change Request

DEPARTMENT OF LABOR AND EMPLOYMENT
Rick Grice, Executive Director

(1) EXECUTIVE DIRECTOR'S OFFICE
(Primary functions: Performing departmental administrative functions, including accounting, budgeting, data processing and personnel management; adjudicating disputes related to unemployment insurance, labor standards, and workers' compensation)

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriated	FY 2007-08 Request	Change Request
Personal Services	10,742,482	10,875,646	11,917,467	12,203,415	
FTE	163.8	160.1	166.9	166.9	
Health, Life, and Dental	2,371,362	2,872,445	3,585,720	4,309,590	DI #1
Short-term Disability	80,749	80,658	85,017	78,478	
S.B. 04-257 Amortization Equalization Disbursement	n/a	n/a	425,087	759,554	DI #1
Salary Survey and Senior Executive Services	1,269,372	1,912,965	1,895,394	2,624,832	DI #1
Performance-Based Pay	705,387	0	0	576,787	DI #1
Shift Differential	30,073	30,873	24,058	25,663	
Workers' Compensation	471,181	415,838	452,080	473,105	
Operating Expenses	1,426,088	1,458,107	1,471,331	1,531,724	DI #2
Legal Services	440,933	440,217	524,645	521,422	
Hours	*7,253.0*	*6,830.0*	*7,741.0*	*7,694.0*	
Purchase of Services from Computer Center	1,465,318	1,411,811	1,432,635	1,138,006	
Multiuse Network Payments	105,236	112,788	111,857	88,809	DI #NP-1

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriated	FY 2007-08 Request	Change Request
Payment to Risk Mgmt. and Property Funds	150,108	57,252	118,191	164,699	
Vehicle Lease Payments	85,701	70,114	87,857	92,314	DI #NP-2
Leased Space	3,404,273	3,093,007	3,322,731	3,572,598	
Capitol Complex Leased Space	25,908	26,246	37,831	27,368	
Communication Services Payment	585	771	820	838	
Utilities	161,106	219,286	260,309	260,309	
Information Technology Asset Maintenance	549,352	819,575	553,627	553,627	
Statewide Indirect Cost Assessment	229,459	535,642	1,042,321	758,125	
Unemployment Benefits (not appropriated, non-add)	*339,095,116*	*305,587,789*	*295,400,000*	*285,400,000*	
(not appropriated pursuant to Section 8-77-104 (1), C.R.S.)			*Estimated*	*Estimated*	
					Request vs. Appropriation
TOTAL - (1) EXECUTIVE DIRECTOR'S OFFICE	23,714,673	24,433,241	27,348,978	29,761,263	8.8%
FTE	163.8	160.1	166.9	166.9	
General Fund	0	0	140,166	152,797	9.0%
Cash Funds	8,070,587	8,773,992	9,854,480	13,553,147	37.5%
Cash Funds Exempt	1,109,221	1,220,157	1,897,546	1,957,589	3.2%
Federal Funds	14,534,865	14,439,092	15,456,786	14,097,730	-8.8%

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriated		FY 2007-08 Request	Change Request
(2) DIVISION OF EMPLOYMENT AND TRAINING						
(A) Unemployment Insurance Programs						
(Primary functions: Providing temporary and partial wage replacement to unemployed workers)						
Program Costs	28,391,995	26,677,598	30,908,915		31,471,129	
FTE	420.8	440.1	440.2		440.9	
Cash Funds	800,587	4,344,391	2,934,137		3,453,400	DI #2
Federal Funds	27,591,408	22,333,207	27,974,778		28,017,729	
Genesis Project Recovery Assessment - CF	n/a	0	500,000	b/	0	
House Bill 05-1208 (Unemployment Insurance) - CF	n/a	0	n/a		n/a	
Statewide Indirect Cost Assessment - FF	0	0	0		0	
						Request vs. Appropriation
Total - (2) (A) Unemployment Insurance Programs	28,391,995	26,677,598	31,408,915		31,471,129	0.2%
FTE	420.8	440.1	440.2		440.9	
Cash Funds	800,587	4,344,391	3,434,137		3,453,400	0.6%
Federal Funds	27,591,408	22,333,207	27,974,778		28,017,729	0.2%
(B) Unemployment Insurance Fraud Program						
(Primary functions: Identifying, investigating and prosecuting individuals who attempt to receive unemployment benefits to which they are not entitled)						
Program Costs	1,359,311	1,379,758	1,411,271		1,465,780	DI #2
FTE	24.9	26.0	26.0		26.0	
Cash Funds	747,979	643,367	705,635		732,890	
Cash Funds Exempt	611,332	736,391	705,636		732,890	

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriated	FY 2007-08 Request	Change Request
Statewide Indirect Cost Assessment	0	0	0	0	
Cash Funds	0	0	0	0	
Cash Funds Exempt	0	0	0	0	
					Request vs. Appropriation
Total - (2) (B) Unemployment Insurance Fraud Program	1,359,311	1,379,758	1,411,271	1,465,780	3.9%
FTE	24.9	26.0	26.0	26.0	
Cash Funds	747,979	643,367	705,635	732,890	3.9%
Cash Funds Exempt	611,332	736,391	705,636	732,890	3.9%

b/ An add-on to the 2006 Long Bill appropriated $500,000 for FY 2005-06 for the Genesis project recovery assement and footnote 95a allowed the funds to roll forward to FY 2006-07. The appropriation is shown in the column for FY 2006-07, but is not added into the total.

(C) Employment and Training Programs

(Primary functions: Providing job placement and related services to job-seeking applicants and employers)

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriated	FY 2007-08 Request	Change Request
State Operations	12,118,441	12,376,821	12,976,302	13,052,912	
FTE	152.4	163.9	157.5	162.8	
Cash Funds	5,293,942	5,598,193	5,948,937	6,405,432	DI #2
FTE	67.7	72.8	72.2	74.6	
Cash Funds Exempt	7,915	20,356	9,600	9,600	
FTE	0.7	0.8	0.1	0.1	
Federal Funds	6,816,584	6,758,272	7,017,765	6,637,880	
FTE	84.0	90.3	85.2	88.1	
One-Stop County Contracts - FF	8,927,708	8,044,266	8,485,027	7,883,115	
FTE	20.7	19.5	22.0	19.0	
One Stop Employment Centers (Reed Act) - FF	4,446,476	0	0	0	
FTE	32.9	0.0	0.0	0.0	

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriated	FY 2007-08 Request	Change Request
Trade Adjustment Act Assistance - FF	1,205,715	1,469,320	2,389,036	2,168,983	
Workforce Investment Act - FF	34,943,169	40,805,444	39,596,680	40,634,577	DI #2
FTE	64.1	67.7	59.0	60.0	
					Request vs. Appropriation
Total - (2) (C) Employment and Training Programs	61,641,509	62,695,851	63,447,045	63,739,587	0.5%
FTE	270.1	251.1	238.5	241.8	
Cash Funds	5,293,942	5,598,193	5,948,937	6,405,432	7.7%
Cash Funds Exempt	7,915	20,356	9,600	9,600	0.0%
Federal Funds	56,339,652	57,077,302	57,488,508	57,324,555	-0.3%

(D) Labor Market Information

(Primary functions: Gathering and disseminating labor market and economic trend information)

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriated	FY 2007-08 Request	Change Request
Program Costs	1,404,587	1,559,030	2,498,767	1,877,763	
FTE	29.8	31.6	36.2	30.3	
Cash Funds	6,148	3,050	11,626	11,626	
Federal Funds	1,398,439	1,555,980	2,487,141	1,866,137	DI #2
Statewide Indirect Cost Assessment - FF	0	0	0	0	
					Request vs. Appropriation
Subtotal - (D) Labor Market Information	1,404,587	1,559,030	2,498,767	1,877,763	-24.9%
FTE	29.8	31.6	36.2	30.3	
Cash Funds	6,148	3,050	11,626	11,626	0.0%
Federal Funds	1,398,439	1,555,980	2,487,141	1,866,137	-25.0%

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriated	FY 2007-08 Request	Change Request
					Request vs. Appropriation
TOTAL - (2) DIVISION OF EMPLOYMENT AND TRAINING	92,797,402	92,312,237	98,765,998	98,554,259	-0.2%
FTE	745.6	748.8	740.9	739.0	
Cash Funds	6,848,656	10,589,001	10,100,335	10,603,348	5.0%
Cash Funds Exempt	619,247	756,747	715,236	742,490	3.8%
Federal Funds	85,329,499	80,966,489	87,950,427	87,208,421	-0.8%

(3) DIVISION OF LABOR

(Primary functions: Providing assistance and ensuring compliance with Colorado wage, youth employment and labor practice laws)

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriated	FY 2007-08 Request	Change Request
Personal Services - Cash Funds	n/a	n/a	n/a	n/a	
FTE					
Operating Expenses - Cash Funds	n/a	n/a	n/a	n/a	
Program Costs - Cash Funds	828,340	834,366	857,143	1,100,930	DI #2
FTE	11.7	12.0	12.0	16.0	
					Request vs. Appropriation
TOTAL - (3) DIVISION OF LABOR - Cash Funds	828,340	834,366	857,143	1,100,930	28.4%
FTE	11.7	12.0	12.0	16.0	

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriated		FY 2007-08 Request	Change Request
(4) DIVISION OF OIL AND PUBLIC SAFETY						
(Primary functions: Inspecting and calibrating petroleum measuring devices; evaluating clean-up actions at locations where petroleum releases have been discovered and administering the associated reimbursement program; inspecting and testing the quality of fuel products; reviewing building plans for all public school facilities; issuing explosive permits to qualified individuals; conducting annual inspections of all boilers and pressure vessels in commercial and multi-unit residential buildings)						
Personal Services	3,490,245	3,582,263	3,708,903		3,707,230	
FTE	55.8	53.3	53.3		51.3	
Operating Expenses	364,661	349,526	304,050		328,055	DI #2
Senate Bill 05-039 (Petroleum Tank Storage Fund)	n/a	0	0	a/	0	
Statewide Indirect Cost Assessment	0	892,747	1,237,527		1,237,527	
						Request vs. Appropriation
TOTAL - (4) DIVISION OF OIL AND PUBLIC SAFETY	3,854,906	4,824,536	5,250,480		5,272,812	0.4%
FTE	55.8	53.3	53.3		51.3	
Cash Funds	2,687,749	885,008	1,193,047	a/	1,110,343	-6.9%
Cash Funds Exempt	587,080	3,451,173	3,506,046	a/	3,598,042	2.6%
Federal Funds	580,077	488,355	551,387		564,427	2.4%

a/ Senate Bill 05-039 (Sen. Taylor / Rep. Marshall) increased the appropriation by $1,000,000 cash funds (Petroleum Tank Storage Fund). It also refinanced the the appropriation by $1,881,328 cash funds and increased the cash funds exempt appropriation by an equal amount from the same source. The Department's budget schedules indicate that the $1.0 million appropriation was a capital construction appropriation. However, the legislation made an appropriation to the Department's operating budget.

Note : in FY 2004-05, the Division was only appropriated 53.8 FTE.

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriated	FY 2007-08 Request	Change Request
(5) DIVISION OF WORKERS' COMPENSATION					
(A) Workers' Compensation					
(Primary functions: Assuring the quick and efficient delivery of disability and medical benefits to injured workers at a reasonable cost to employers, without the necessity of litigation)					
Personal Services	5,794,746	6,068,044	6,291,502	6,516,074	
FTE	94.9	101.8	102.0	102.0	
Operating Expenses	582,688	599,110	608,735	639,345	DI #2
Administrative Law Judge Services	2,010,744	2,206,972	2,360,059	2,431,603	
Physician's Accreditation	138,146	69,558	140,000	140,000	
Utilization Review	48,732	19,226	60,000	60,000	
Immediate Payment	0	0	10,000	10,000	
Statewide Indirect Cost Assessment	0	0	0	0	
					Request vs. Appropriation
Total - (5) (A) Workers' Compensation	8,575,056	8,962,910	9,470,296	9,797,022	3.5%
FTE	94.9	101.8	102.0	102.0	
Cash Funds	8,064,877	8,461,746	9,048,807	9,362,354	3.5%
Cash Funds Exempt	510,179	501,164	421,489	434,668	3.1%

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriated	FY 2007-08 Request	Change Request
(B) Major Medical Insurance and Subsequent Injury Funds					
(Primary functions: Providing medical benefits and compensation payments to eligible injured workers)					
Personal Services	960,870	905,562	1,209,970	1,235,182	
FTE	14.8	13.1	16.0	16.0	
Operating Expenses	77,225	72,306	93,422	88,324	DI #2
Major Medical Benefits	5,579,593	7,457,751	7,000,000	7,000,000	
Major Medical Legal Services	2,836	1,211	24,397	24,397	
Hours	*47.0*	*19.0*	*360.0*	*360.0*	
Subsequent Injury Benefits	2,624,167	2,521,755	5,200,000	5,200,000	
Subsequent Injury Legal Services	38,276	17,413	67,770	67,770	
Hours	*630.0*	*270.0*	*1,000.0*	*1,000.0*	
Medical Disaster	2,323	638	6,000	6,000	
Statewide Indirect Cost Assessment	0	0	0	0	
					Request vs. Appropriation
Total - (5) (B) Major Medical Insurance and Subsequent Injury Funds - CFE	9,285,290	10,976,636	13,601,559	13,621,673	0.1%
FTE	14.8	13.1	16.0	16.0	

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriated	FY 2007-08 Request	Change Request
					Request vs. Appropriation
TOTAL - (5) DIVISION OF WORKERS' COMPENSATION	17,860,346	19,939,546	23,071,855	23,418,695	1.5%
FTE	109.7	114.9	118.0	118.0	
Cash Funds	8,064,877	8,461,746	9,048,807	9,362,354	3.5%
Cash Funds Exempt	9,795,469	11,477,800	14,023,048	14,056,341	0.2%
					Request vs. Appropriation
GRAND TOTAL - DEPARTMENT OF LABOR AND EMPLOYMENT	139,055,667	142,343,926	155,294,454	158,107,959	1.8%
FTE	1,086.6	1,089.1	1,091.1	1,091.2	
General Funds			140,166	152,797	9.0%
Cash Funds	26,500,209	29,544,113	31,053,812	35,730,122	15.1%
Cash Funds Exempt	12,111,017	16,905,877	20,141,876	20,354,462	1.1%
Federal Funds	100,444,441	95,893,936	103,958,600	101,870,578	-2.0%

2 **All Departments, Totals** -- The General Assembly requests that copies of all reports requested in other footnotes contained in this act be delivered to the Joint Budget Committee and the majority and minority leadership in each house of the General Assembly. Until such time as the Secretary of State publishes the code of Colorado regulations and the Colorado register in electronic form pursuant to section 24-4-103 (11) (b), C.R.S., each principal department of the state is requested to produce its rules in an electronic format that is suitable for public access through electronic means. Such rules in such format should be submitted to the Office of Legislative Legal Services for publishing on the Internet. Alternatively, the Office of Legislative Legal Services may provide links on its internet web site to such rules. It is the intent of the General Assembly that this be done within existing resources.

Comment: Rules issued by the Department of Labor and Employment are available in electronic form at their Web site. The Secretary of State's Office does not yet publish the Code of Colorado Regulations or the Colorado Register in electronic form, although there are placeholders at their Web site announcing that this service will be available soon. The Office of Legislative Legal Services site provides a link to the Department of Labor and Employment Web site.

3 **All Departments, Totals –** Every Department is requested to submit to the Joint Budget Committee information on the number of additional federal and cash funds exempt FTE associated with any federal grants or private donations that are applied for or received during FY 2006-07. The information should include the number of FTE, the associated costs (such as workers' compensation, health and life benefits, need for additional space, etc.) that are related to the additional FTE, the direct and indirect matching requirements associated with the federal grant or donated funds, the duration of the grant, and a brief description of the program and its goals and objectives.

Comment: *The Governor vetoed this footnote on grounds that it violates the separation of powers, that placing information requirements on federal and private funds could constitute substantive legislation, and that it is an unfunded mandate.* The Department's budget request and budget schedules include federal funds and federally funded FTE. It is staff's understanding that federal funds are received by the Department throughout the fiscal year. As such, it is not clear if all federal funds and federally funded FTE are included in the budget request.

The 2006 Long Bill added the following footnote to the 2005 Long Bill. An update is included here on the grounds that this is the first opportunity for such a review to occur.

95a Department of Labor and Employment, Division of Employment and Training, Unemployment Insurance Programs, Genesis Project Recovery Assessment – It is the intent of the General Assembly that any unspent appropriations from this line item be available to the Department in FY 2006-07 for the Genesis Project Recovery Assessment. The Department is requested to submit, to the Joint Budget Committee, bi-monthly progress reports prepared by the Governor's Office of Innovation and Technology.

Comment: The Department has submitted the requested progress reports to the Joint Budget Committee staff.

FY 2007-08 JBC Staff Budget Briefing
DEPARTMENT OF LABOR AND EMPLOYMENT
Performance Measures

ISSUE:

Department of Labor and Employment Performance Measures

DISCUSSION:

Department Mission

Mission Statement:

> The Department of Labor and Employment's mission is to provide effective and efficient services to our customers.

In addition to this Departmental statement, each of the divisions (excluding the Executive Director's Office) has its own mission statement. The divisional statements identify at a high level the services that each division delivers, and reiterate the goals of effectiveness and efficiency.

Goals and Performance Measures

The Department's strategic plan is split into divisional sections. Each section includes substantial narrative material about the division's programs and its action plans for meeting goals. 53 different objectives are identified. There are 197 individual measurements defined that are tied back to specific objectives. Each division also defines a set of workload measurements that are not tied to specific objectives. In addition to the divisional objectives and measurements, there is a separate eight-page IT plan that cuts across divisional boundaries. All together, the strategic plan and program narrative runs to about 170 pages.

Staff Analysis

Joint Budget Committee staff reviewed the Department of Labor and Employment's performance measures submitted in the budget. Staff assessed these performance measures using the following common checklist:

1. Do the goals and performance measures correspond to the program's directives provided in statute?
2. Are the performance measures meaningful to stakeholders, policymakers, and managers?
3. Does the Department use a variety of performance measures (including input, output, efficiency, quality, outcome)?
4. Do the performance measures cover all key areas of the budget?
5. Are the data collected for the performance measures valid, accurate, and reliable?
6. Are the performance measures linked to the proposed budget base?
7. Is there a change or consequence if the Department's performance targets are not met?

As a whole, the Department's goals and objectives seem best suited to meeting the needs of internal management. This might be expected from the sheer number of individual measurements. Many of the measurements demonstrate the Department's conformance (or lack thereof) to statutory or regulatory requirements. Some of the measurements are concerned with the efficiency of processes as they would be viewed by external clients. Some measures would be of interested to policymakers – e.g., fraud detection measurements that would indicate whether fraud is a significant problem – but the overall level of detail is perhaps more than a policymaker would need or want. All of the key areas of the budget appear to be covered. Staff has no reason to believe that the presented data are not accurate or reliable.

Staff does not believe that the performance measures are linked to the proposed budget base in the sense that a policymaker would use. That is, there does not appear to be any specific evidence that different programs are evaluated and more money sought for programs that work well or less for programs that have poor results. This is generally not the Department's fault; many of the program parameters are set externally and the Department has little freedom to make modifications. At least on a small scale, the Department does seek special-purpose funds and use them to explore alternative approaches to problems.

Many of the programs conducted by the Department make use of federal funds. A variety of the measurements taken by the Department are intended to demonstrate compliance with federal requirements for such programs. To the extent that the federal government can impose sanctions on non-compliant programs, there are consequences for consistently failing to meet the measurement target. Exceeding requirements can bring added funding in some cases. Avoiding these penalties or obtaining the one-time rewards are, again, probably of greater interest to the internal managers than they are to policymakers.

The following are examples of goals and performance measures from selected programs or divisions intended to demonstrate both the good and bad aspects mentioned above.

Objective 1.8: Resolve all Unemployment Compensation appeals and hearing requests within federal program guidelines by June 30, 2006: USDOL guideline: 50% within 45 days; 80%

within 75 days; 95% within 120 days. Program guideline: 100% within 180 days.

The following table of measurements associated with this objective is reproduced from the Department's budget request. These measurements can be considered from a variety of perspectives.

		FY 04-05 Actual	FY 05-06 Actual	FY 06-07 Actual	FY 07-08 Actual	FY 08-09 Actual
Measure 1.9.1. Number of appeals and requests received	Target	2900	2584	2250	2250	2250
	Actual	2767	2238			
Measure 1.9.2 Number of appeals and requests resolved	Target	3000	2600	2300	2300	2300
	Actual	2880	2289			
Measure 1.9.3. Number resolved within 30 days	Target	600	n/a	n/a	n/a	n/a
	Actual	636(22%)	n/a	n/a	n/a	n/a
Measure 1.9.4 Number resolved within 45 days	Target	1500	2000	1840	1840	2300
	Actual	2429 (84%)	1968 (96%)			
Measure 1.9.5 Number resolved within 75 days	Target	2400	2080	2070	2070	2070
	Actual	2757 (96%)	2227 (97%)			
Measure 1.9.6 Number resolved within 120 days	Target	2940	2470	2185	2185	2185
	Actual	2830 (96%)	2278 (99.5%)			
Measure 1.9.7 Number resolved within 180 days	Target	2994	2580	2300	2300	2300
	Actual	2878 (99%)	2288 (99.9%)			
Measure 1.9.8 Number not resolved within 180 days	Target	6	2	0	0	0
	Actual	1	1			

Taken in its entirety, the table is probably most useful to an internal manager. From the table, the manager can determine that the Department is in compliance with the federal guidelines and that the Department is nearly in compliance with its own additional guideline. The manager can also tell that the Department did better in FY 2005-06 than they did the previous year, in the sense of resolving a higher percentage of cases by each date.

A policymaker would probably be concerned with only one or two of the table rows. Measure 1.9.4, the number of cases resolved in 45 days (or less), jumped from 84% to 96%. A policymaker concerned with how quickly appealed cases are resolved would be able to see that the vast majority of such cases are resolved within 45 days, and that the Department is more responsive than it was a year ago. A policymaker might also be interested in a variety of related measurements that are not included in the table. For example, what fraction of the cases are resolved in favor of the applicant? If that fraction has changed along with the increase in the percentage of cases resolved, it may be a warning that the improvements in process that led to the increase have also introduced some sort of bias for or against the clients.

With respect to this measurement, the Department also compares itself to other states within the federally-defined region of which Colorado is a part. That comparison is summarized in the following table. The information suggests that Colorado falls into the middle of the pack: after 45 days, five other states have a higher percentage of cases resolved, and five other states have a lower percentage. Staff regards the fact that the Department compares its performance to other states to be a positive indication.

	Percent of Cases Resolved in		
State	**45 days**	**75 days**	**120 days**
Colorado	86	97	99.5
Arkansas	89	98	99.9
Louisiana	55	92	99.9
Montana	75	98	100
New Mexico	82	98	100
North Dakota	97	100	100
Oklahoma	71	99	99.8
South Dakota	94	100	100
Texas	80	97	99.6
Utah	96	99	100
Wyoming	90	99	99.4

Objective 2.6 Establish partnerships with employers and other system participants to reduce the work related accident costs (severity) and increase the cumulative accident frequency reduction (number of work related accidents) as a direct result of the Premium Cost Containment and Medical Policy Programs.

		FY 04-05 Actual	**FY 05-06 Actual**	**FY 06-07 Actual**	**FY 07-08 Actual**	**FY 08-09 Actual**
Measure 2.6.1 Accident cost reductions per year	Target	$11,000,000	$12,000,000	$12,000,000	$12,000,000	$12,000,000
	Actual	$19,122,759	$16,869,049			
Measure 2.6.2 Cumulative accident cost reduction	Target	$148,000,000	$168,000,000	$185,000,000	$197,000,000	$209,000,000
	Actual	$156,458,681	$173,327,730			
Measure 2.6.3 Cumulative accident frequency reduction	Target	15,054	16,076	16,215	17,188	18,219
	Actual	15,166	15,297			

This objective demonstrates that the Division of Workers' Compensation understands the old adage that the least expensive workers' comp claim is the one from the accident that never happens. As presented, however, these measurements are ones that only an experienced internal manager could use. Staff has two specific criticisms of these measurements.

For the accident-reduction measurement, only the cumulative results are given: they represent the total of all accidents avoided since some starting point. The starting point is not specified and the annual history is not presented, so it is impossible to determine trends. In the case of cost reductions, if the starting point was many years ago, the issue of medical cost inflation would need to be considered. Saving a million dollars in medical costs today is "easier" than saving a million dollars in medical costs was ten years ago simply because of the rapid inflation of medical expenses. Some additional historical data for the cost savings is presented at a different point in the document, but there are no cross-references provided.

The measurements lack the descriptive material that someone from the outside would need to determine how the number of accidents avoided or the cost reductions from reducing the severity of accidents are estimated. Such reductions are almost always estimates, as they are answers to questions like "How many people would have lost a finger if we had not put improved safety guards on the meat cutter?" Given that these are estimates, and the methods used to make the estimates are not provided, this is perhaps the only measurement found where staff might raise the issue of accuracy.

Division of Labor, Selected Workload Measures

The Division of Labor provides a variety of workload measures. These are somewhat informal in nature, in the sense that they are not numbered and are not tied to specific objectives. A portion of these workload measures for the Division of Labor are reproduced in the table below. Staff would like to draw particular attention to the footnotes. Taken in combination with the numbers in the table, they illustrate a pronounced shift away from traditional walk-in and telephone processing of inquiries and claims and towards the use of e-mail and online information services.

		FY 04-05 Actual	FY 05-06 Actual	FY 06-07 Actual	FY 07-08 Actual	FY 08-09 Actual
Claims processed	Target	6200	7000	7500	7500	7500
	Actual	6735	7410[1]			
Telephone calls	Target	65000	65000	45000	45000	45000
	Actual	52084	41631[2]			
Walk-in traffic	Target	2000	2000	2000	2000	2000
	Actual	1700	1614			

[1]Claims processed have surged (40% increase since 03-04) due to the addition of new e-mail and online services.
[2]Calls have decreased due to an improved messaging and agency transfer system and the increased use of online services.

The division has formal (again, in the sense of being matched to an objective) measurements associated with an objective that reads "Progress toward a paperless office with... on-line wage claim capabilities." The formal measurements record the completion dates of tasks within the project; for example, that the interactive on-line wage claim capability was scheduled to be available by September 2004, but was actually delivered a month late. Staff believes that raising these informal workload measurements to formal status would be a useful improvement. Improved productivity due to automation of some or all of the process is one of the important benefits of adding an online capability. The workload measurements are a better indicator of the overall success of the effort than whether particular development tasks were completed exactly on time.

Questions for Department

Staff recommends that the Committee discuss the following questions with the Department during the FY 2007-08 budget hearing:

1. How do your performance measures influence department activities and budgeting?

2. To what extent do the performance outcomes reflect appropriation levels?

3. To what extent do you believe that appropriation levels in your budget could or should be tied to specific performance measure outcomes?

4. As a department director, how do you judge your department's performance? What key measures and targets do you used?

FY 2007-08 JBC Staff Budget Briefing
DEPARTMENT OF LABOR AND EMPLOYMENT
Unemployment Insurance and TABOR

ISSUE:

Colorado's unemployment insurance (UI) program is the source of potential long-term fiscal difficulties for the General Assembly. These difficulties are a consequence of the interaction between federal law, UI tax structures that were designed prior to the passage of TABOR, and population and wage growth in Colorado.

SUMMARY:

❑ Colorado's UI program is subject to federal requirements. The taxes that fund the program were designed and put into place before the passage of TABOR. The structure of some of these taxes do not take into account the effects of increases in population or growth in wages; such factors were historically handled by adjustments made by the General Assembly. TABOR requires that such adjustments now be submitted to a popular vote.

❑ During the most recent economic down turn, Colorado narrowly escaped having its federal UI trust fund balance "go negative." If the fund balance were to go negative, it appears the most likely outcome would require the General Assembly to cut other spending in order to meet its federal obligations while conforming with TABOR.

❑ During an economic recovery, current tax structures intended to quickly replenish the UI trust fund balance may have the effect of displacing general funds. The result of having single-purpose funds replace general-use funds would be a reduction in the flexibility of the Legislature in making funding decisions.

❑ In 1996, a referendum intended to remove the UI program from TABOR restrictions lost badly. Factors that might have affected that outcome and that have changed, or could be changed, include: (1) the State now has experience with the effects of TABOR during an economic downturn, (2) the tax rates were not nearly so far out-of-date as they are today, (3) the referendum was ambitious in the sense of moving the entire program out from under TABOR, and (4) the referendum did not make a one-for-one reduction in the TABOR revenue limits corresponding to the exempted UI revenues.

RECOMMENDATIONS:

With the intent of seeking methods to provide the Legislature with additional flexibility in making spending decisions, staff recommends that the Committee request the Department reply to the following questions at their hearing.

1. Does the Department concur with staff's analysis? Are there degrees of flexibility that have not been considered, or additional constraints that would reduce flexibility further that have not been included?

2. Can the Department suggest any solutions that do not require a vote of the people? If so, please elaborate.

3. If the General Assembly were to refer a set of proposed changes to the voters, what *statutory* changes might provide relief from the potential problems? Are statutory changes sufficient, or would *constitutional* changes be necessary?

DISCUSSION:

Colorado's UI program is a federal-state partnership. Title IX of the federal Social Security Act created a federally-supervised state-administered national unemployment insurance program. In Colorado, the program is administered by the Department of Labor and Employment. The Department is responsible for collecting UI taxes from employers and paying benefits to qualified individuals who have lost their job through no fault of their own (typically, who have been laid off, but not "for cause"). UI tax revenues are deposited into a trust fund held by the federal government for Colorado, and benefits are paid from this same fund. Unemployment insurance is intended to be a "pay forward" program: during good economic times, when there are relatively fewer layoffs, the balance in the fund tends to increase. During bad times, the fund surplus that has accumulated is drawn down.

UI benefits tend to increase over time due to wage increases. Under current statute [Section 8-73-102, C.R.S.], UI benefits paid to an individual are calculated from a formula based on their recent earnings history. Benefits in Colorado are capped at not more than 50% (or under certain circumstances, 55%) of the average weekly earnings in all covered industries. Over time, productivity gains and general inflation tend to push up the average weekly wage. This increases both the average size of the benefit calculated from the formula, and the cap on the maximum benefit. All other things being held constant, the amount of money needed to pay per-capita benefits under the current statute will increase over time due to broad increases in wages.

Basic UI tax revenues do not increase with inflation. UI benefits are paid from the revenues of a state tax applied to qualifying wages (a separate federal tax is used to pay federal administration expenses). The basic tax rates are capped in multiple different ways, none of which are indexed to a general increase in wages or to an increase in worker population. In the past, the legislature increased these caps from time to time to reflect the effects of inflation or other factors. The two most important caps are on the wage base subject to the tax and the tax rates that are applied to the wage base. Under TABOR, increasing either of these caps would constitute a tax increase, so would require approval by the voters.

In Colorado, employers pay the UI tax on the first $10,000 of wages paid to each covered worker during a calendar year. Prior to TABOR, the General Assembly increased the wage base from $7,000 in 1983 to the current $10,000 in thousand-dollar increments spaced over several years, but no adjustment has been made since 1991. The tax rate paid on this base by a particular employer varies, and is determined by two principle factors. The first of these factors is the experience rating. For each employer, the state tracks both the tax revenue that is paid by the employer and the benefits that the state pays to workers laid off by that employer. Employers with a "good" experience rating – that is, those who have paid relatively more taxes than their former employees have collected in benefits – pay taxes at a lower rate than those with a "bad" rating. The tax rate is capped at 5.4%. The average rate paid by Colorado employers is currently about 1.7%.

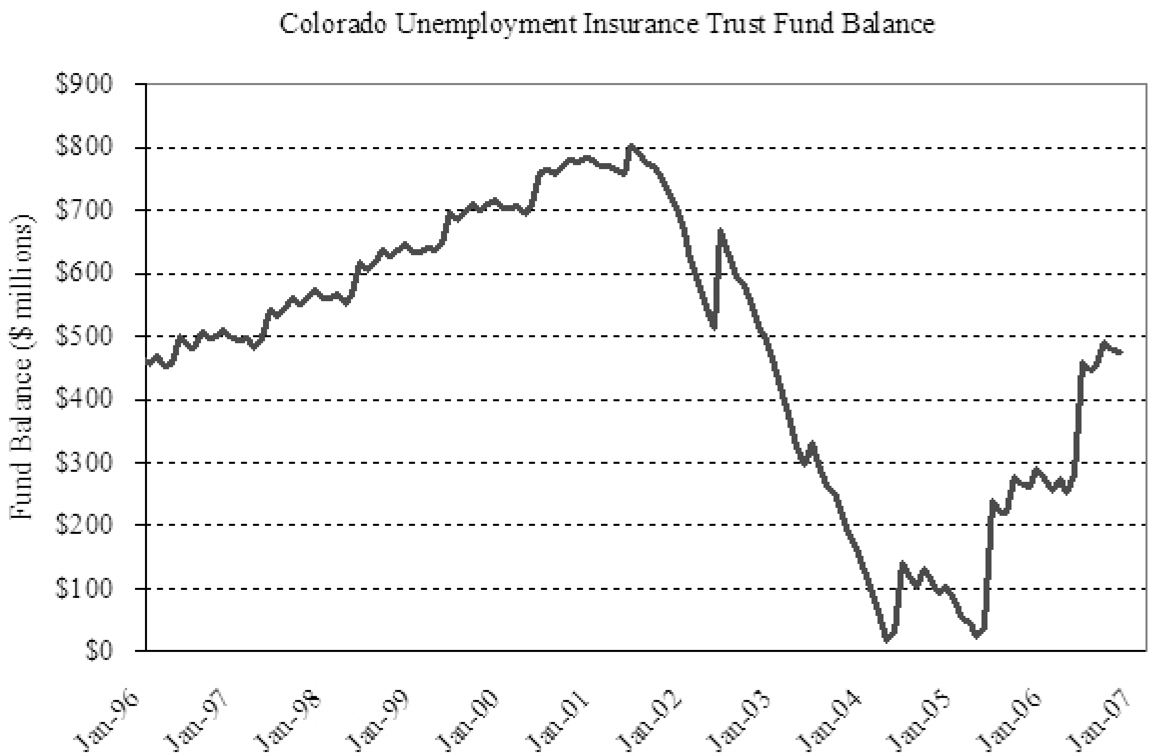
In order to keep the fund balance from growing too large, the Colorado base tax rates are also adjusted according to the size of the balance. As the size of the fund balance increases, tax rates are automatically decreased. The minimum tax levels (which still vary according to experience) are reached when the fund balance exceeds $450 million. This level was last adjusted in 1991, when it was raised from $350 million. At that time, $450 million was judged to be the "safe" amount needed to allow the fund to weather an economic downturn.

The "safe" level of 1991 is no longer adequate. During the most recent economic downturn, Colorado's unemployment insurance fund was drawn down from a high of $803 million in May 2001 to approximately $8 million in April 2004, some $795 million. The draw down is illustrated in the graph below. During that period, an additional $125 million in one-time federal Reed Act funds were credited to the Colorado trust fund, so the actual draw down exceeded $900 million. This is twice the amount that was considered adequate to carry the program through a recession when the level was last adjusted. The increase in the total amount of benefits paid during the downturn was driven by several factors: the severity of the downturn, the inflation of wages previously mentioned, and the growth of Colorado's working population. Since the level at which the minimum tax rates are reached was set, Colorado has experienced both increases in wages and substantial growth in the worker population.

Negative trust fund balances are required to be addressed. It is not uncommon for individual state trust fund balances to temporarily become negative. Colorado's fund balance was negative for a period following a recession in the early 1980s. Several states experienced negative balances during the most recent recession. In order to assure that benefits continue to be paid, federal statute requires that states with a negative balance must either borrow money from the federal government, or add money from sources other than the current UI tax revenues.

- Borrowed federal money must be repaid with interest. UI tax receipts can be used to repay the principle of such a loan, but not the interest. Most importantly, borrowing from the federal government that extended across a fiscal-year boundary would probably require voter approval under TABOR.

- When commercial interest rates were favorable, some states have chosen to sell bonds in order to raise the necessary money rather than borrow from the federal government. The

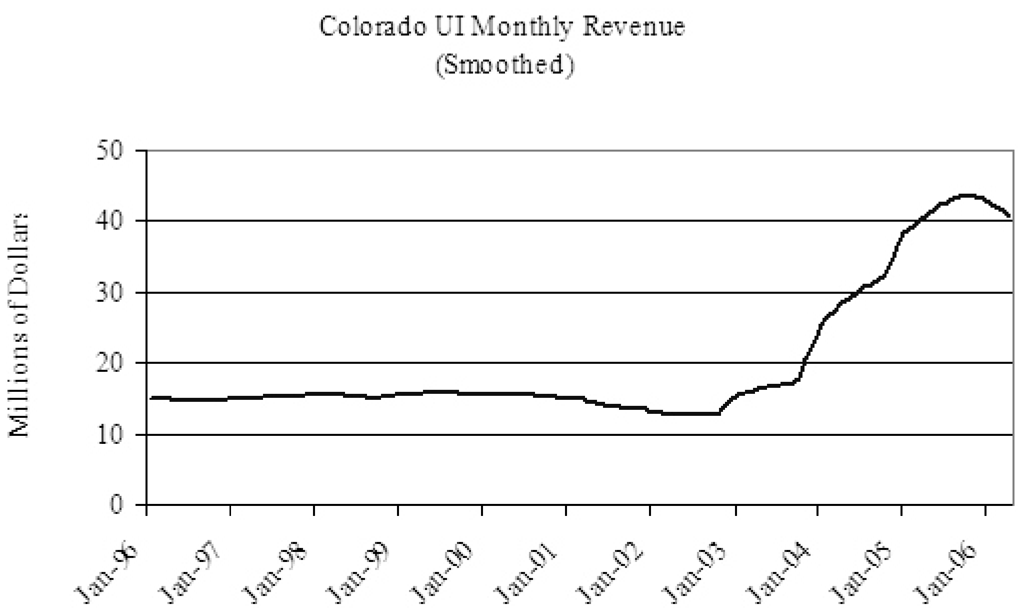


Colorado Housing and Financing Authority is authorized, under statute, to issue bonds for such a purpose, and to charge a fee to employers which would be collected by the Department and which looks very much like the current UI tax. It is unclear whether such bonds would require voter approval or not.

- The state could divert money from other spending to make up such a shortfall. Given the rapidity with which the trust fund balance can decline, the delays that may occur before an election can be held, and the possibility that voters may not approve either form of borrowing, such a diversion is likely to be needed. The problem is made worse because it is likely to occur during, or soon after, an economic downturn, when other programs are also likely to be under budgetary pressures.

During a recovery, the tax structures create different problems. As the trust fund balance falls from $450 million, the base tax rates increase. In addition to the base tax, statute provides for a solvency surcharge that is invoked when the trust fund balance falls below a certain point. The solvency surcharge is triggered when the fund balance falls below 0.9% of taxable wages. The surcharge is increased each year that the fund balance remains below that level, and then drops to zero. That is, the surcharge switches on and off, rather than making gradual or measured adjustments. The surcharge was first assessed in 2004, as the fund balance was plummeting. The surcharge will remain in place until the fund balance exceeds roughly $700 million, and will increase each year until that level is reached. Because the 0.9% level now greatly exceeds the $450 million trigger at which the base tax rates reach their minimum, in the future the surcharge will be more likely to switch on at times when the fund's solvency is not necessarily threatened.

Rapid revenue increases make it more difficult for state budget planners. Increases in the base tax rates and the switching-on of the solvency surcharge are intended to generate revenue to replenish the trust fund. The effect of these changes as the trust fund balance fell during the last downturn are shown in the figure below. For the State, such a revenue surge makes it more difficult to plan a budget constrained by the TABOR revenue limit because the surge in UI revenues will displace general funds revenue. After Referendum C expires, the displaced funds will overflow into TABOR refunds. Because of the single-purpose nature of the UI funds, the result is that the General Assembly has less flexibility in making decisions.



The on/off nature of the solvency surcharge may create unexpected surprises for budget makers. Once invoked, the solvency surcharge, by design, generates significant amounts of revenue. In FY 2005-06, the solvency surcharge generated approximately $115 million. The solvency surcharge may switch on in a somewhat unexpected fashion. For example, a sudden surge in the wage base may cause the trust fund balance to "fall" below the 0.9% level and switch on the surcharge. Similarly, a relatively minor deviation from projections may result in the surcharge failing to switch off as anticipated at the end of a year. The "loss" of $115 million in general funds would be an unpleasant surprise indeed.

A previous attempt to separate unemployment insurance from TABOR failed. In 1996, the legislature referred a constitutional amendment to the voters that would have removed TABOR requirements from the unemployment insurance program both by excluding the tax revenues from the TABOR revenue limits and by removing the requirement for voter approval of adjustments to the tax rates. Almost 71% of voters voted against that referendum. Several factors may have been working against the referendum at that time:

- The State had not been through the effects of an economic downturn with the TABOR restrictions in place.

- The base tax rate tables were not nearly as far out of date as they are today, and the solvency surcharge was less likely to switch on.

- The referendum did not reduce the TABOR revenue limit by the full amount of the then-current UI revenues. TABOR was relatively new at the time, and this aspect of the referendum may well have looked like an attempt to "game" the system.

Potentially serious problems remain unresolved. The combination of federal law, UI tax structures put into place before the passage of TABOR, the single-purpose nature of funds raised by those taxes, and increases in population and wage rates has the potential to put the General Assembly into a variety of difficult positions. With the intent of seeking additional flexibility for the Legislature, staff recommends that the Committee request the Department address the following questions at their hearing.

1. Does the Department concur with staff's analysis? Are there degrees of flexibility that have not been considered, or additional constraints that would reduce flexibility further that have not been included?

2. Can the Department suggest any solutions that do not require a vote of the people? If so, please elaborate.

3. If the General Assembly were to refer a set of proposed changes to the voters, what *statutory* changes might provide relief from the potential problems? Are statutory changes sufficient, or would *constitutional* changes be necessary?

FY 2007-08 JBC Staff Budget Briefing
DEPARTMENT OF LABOR AND EMPLOYMENT
Major Medical and Subsequent Injury Funds

ISSUE:

The Division of Workers' Compensation's Major Medical Insurance and Subsequent Injury Funds (MMIF and SIF, respectively) currently serve "many masters." The various different and in some ways conflicting use of the funds has created a degree of confusion and difficulty in managing them effectively.

SUMMARY:

❏ The funds were created in order to pay benefits to certain categories of injured and disabled workers. Revenue for these funds is raised by a surcharge on workers' compensation insurance premiums. The Director is instructed by statute to bring the funds into actuarial balance in a timely fashion. A portion of these funds have been designated as TABOR state emergency reserve funds and were recently tapped to cover the cost of fighting forest fires. During the recent economic downturn, significant amounts were transferred from these funds to the General Fund.

❏ The current TABOR emergency reserve commitments of $40 million for each fund are not well-matched to the size each of the funds would be if they were in actuarial balance. A split of $10 million for the SIF and $70 million for the MMIF would provide the same total amount for the emergency reserve but would align the individual amounts more closely to the actuarial targets for the funds. The Department has indicated in discussions with JBC staff that, for reasons regarding the different investment strategies taken for the two funds, they would prefer to keep relatively larger amounts in the MMIF.

❏ The S.B. 03-191 transfers to the General Fund raise the possibility that the surcharge is not so much a fee charged to provide a benefit or service to a specific group, but rather a general-purpose tax. A lawsuit challenging that transfer was filed, but dismissed on the grounds that plaintiffs did not have standing. The plaintiffs did not include any of the insurance companies providing workers' compensation coverage in Colorado. Among the possible consequences if the surcharge were determined to be such a tax is that it would no longer be possible to adjust the surcharge level upwards without submitting such an increase for voter approval.

❏ The MMIF is currently expected to reach actuarial balance in 2012, and the SIF shortly thereafter. The revenues that flow into these funds from the premium surcharge count against the State's TABOR revenue limit. Once balance is achieved, the surcharge rate and revenue should decrease. The General Assembly may have an interest in determining when such a reduction occurs, particularly taking into account the timing relative to the expiration of Referendum C, because the revenue decrease would free up more space for the General Fund under the TABOR revenue limit. For example, if the requirement for actuarial balance were deferred to the more distance future, the surcharge rate and revenues could be reduced immediately.

RECOMMENDATIONS:

Staff recommends that the Committee request the Department respond to the following questions at their hearing.

1. How would the Department prefer to see the TABOR emergency reserve requirements, currently $40 million to each fund, be split between the SIF and the MMIF? What concerns of the Department would be addressed by such a change?

2. What does the Department see as the possible consequences if the workers' compensation insurance premium surcharge were determined to be a tax that falls under the TABOR restrictions, rather than a fee which can be adjusted up or down?

3. What does the Department see as the possible consequences if the target of actuarial balance were pushed into the more distant future? What are the possible consequences if an earlier date than currently predicted were set as a target for balance?

DISCUSSION:

For a period, the State of Colorado assumed certain workers' compensation liabilities. Colorado requires that employers in the state purchase workers' compensation insurance to cover their employees [Section 8-44-101, C.R.S.], or optionally to self-insure if they meet the state requirements for doing so. The Subsequent Injury and Major Medical Insurance Funds were created to limit the liability of insurers of employers who hired workers that had been previously injured, or who suffered major medical expenses due to work-related injury or illness [Sections 8-46-101 and 8-46-202, C.R.S.]. By limiting liability, the state achieved a certain degree of cost containment of premiums for the required insurance. Expenses in excess of the liability limits are paid from the SIF or MMIF, depending on the exact circumstances which apply.

SIF and MMIF caseloads are essentially closed and shrinking. Subsequently, access to the funds was largely closed. No new cases were to be accepted for the MMIF after July 1, 1981. No new cases were to be accepted for the SIF for injuries after July 1, 1993, or for occupational diseases after April 1, 1994. Small numbers of new cases may still be added, in cases where disability occurs now as a result of injuries or exposure suffered prior to the cut-off dates. In practice, the caseloads are shrinking as clients die or reach lump-sum settlement agreements with the State. As of June 30, 2006, there were 1,320 active MMIF cases and 384 active SIF cases. For the twelve months prior to that date, there were no new MMIF cases added, and three new SIF cases. For those twelve months, the total MMIF caseload decreased by 22, and the SIF caseload by 18.

SIF and MMIF are funded by a surcharge on insurance premiums. In order to raise the revenues to pay the obligations of the SIF and MMIF, Colorado imposes a surcharge on workers' compensation insurance premiums. The surcharge rate is set annually by the Director of the Division of Workers' Compensation. The maximum rate is 3.25%. The current rate is 2.788%. Historical information on the rates from FY 1995-96 is shown in the following table. Revenues from the surcharge are first deposited to the SIF to cover the year's expected expenditures for administration, benefits, and settlements. The remainder of the revenues are then deposited to the MMIF. When the MMIF balance reaches "the actuarial present value of future obligations," revenues will be applied to the SIF until that fund also reaches actuarial balance. After both funds reach balance, the surcharge is to be reduced or eliminated as determined by the Director.

Rates Set on July 1 of the Year												
Fund	**1995**	**1996**	**1997**	**1998**	**1999**	**2000**	**2001**	**2002**	**2003**	**2004**	**2005**	**2006**
SIF	1.000	1.000	1.000	1.000	1.000	0.713	0.713	0.713	0.713	0.890	0.086	0.860
MMIF	2.250	2.250	2.250	2.250	2.250	1.605	1.605	1.605	1.605	1.998	1.928	1.928
Total	3.250	3.250	3.250	3.250	3.250	2.318	2.318	2.318	2.318	2.888	2.014	2.788

SIF and MMIF are designated as part of the state emergency reserve. Section 20 of Article X in the State Constitution (TABOR) requires the state to have an emergency reserve equal to 3% of its fiscal year spending. Currently, $40 million of the reserves of each of the SIF and the MMIF are designated to be a part of that emergency reserve. This creates some complications in the determination of actuarial balance, particularly for the smaller SIF. The Department makes the conservative assumption that if the fund were tapped because of an emergency, there is no guarantee that the fund would be "made whole" in subsequent years. To be in actuarial balance under that assumption means that the fund must contain both the calculated present value of future payments and an additional $40 million for the emergency reserve. For the SIF, the emergency reserve requirement is larger than the actuarial requirement.

Portions of the funds have been used for other purposes. When the SIF and the MMIF were created, the statutes contained language indicating that the funds could be used only for their designated purposes. That language was later removed. During the economic downturn, net transfers in the amounts of $31 million from the SIF and $215 million from the MMIF were made to the General Fund. Without these transfers and the state emergency reserve role, the two funds would today be in, or at least very close to being in, actuarial balance. Having achieved balance, the premium surcharge would probably have been reduced or possibly eliminated. The funds' histories as far back as 1992 are shown in the following figure.

Current fund sizes, estimates of actuarial balance. The following table reflects recent information regarding the size of the SIF and MMIF, and the most recent estimates made by a private actuarial firm of the amount needed for each to achieve balance. The estimate for the amounts needed for actuarial balance are middle values in a range provided by the private actuarial firm. Factors which

SIF and MMIF Historical Fund Balances

would affect the values include the addition of new cases in the future, the returns which can be earned on the invested funds, and the inflation rate for medical services. Because of the goal of actuarial balance, neither fund is required to meet the statutory 16.5% reserve limitation.

Fund	Balance as of June 30, 2006	Estimate of Actuarial Balance
Subsequent Injury Fund	$69,283,260	$25,601,133
Major Medical Insurance Fund	$65,502,806	$207,078,035

Various interactions between the multiple uses for the fund exist. The current situation involves multiple different purposes and guidelines for these funds, the interactions between those different purposes, and the ensuing requirements for managing the funds. Some of these interactions are relatively simple, while others are more complex. Some of the interactions may be regarded as problems, while others provide opportunities.

The current TABOR emergency reserve commitments of $40 million for each fund are not well-matched to the size each of the funds would be if they were in actuarial balance. A split of $10 million for the SIF and $70 million for the MMIF would provide the same total amount for the emergency reserve but would align the individual amounts more closely to the actuarial targets for the funds. The Department has indicated in discussions with JBC staff that, for reasons regarding the different investment strategies taken for the two funds, they would prefer to keep relatively larger amounts in the MMIF.

The S.B. 03-191 transfers to the General Fund raise the possibility that the surcharge is not so much a fee charged to provide a service or benefit to a particular group, but rather a general-purpose tax. A lawsuit challenging that transfer was filed, but dismissed on the grounds that plaintiffs did not have standing. The plaintiffs did not include any of the insurance companies providing workers' compensation coverage in Colorado. Among the possible consequences if the surcharge were determined to be such a tax is that it would no longer be possible to adjust the surcharge level upwards without submitting such an increase for voter approval.

The MMIF is currently expected to reach actuarial balance in 2012, and the SIF shortly thereafter. The revenues that flow into these funds from the premium surcharge count against the State's TABOR revenue limit. Once balance is achieved, the surcharge rate and revenue should decrease. The General Assembly may have an interest in determining when such a reduction occurs, particularly taking into account the timing relative to the expiration of Referendum C, because the revenue decrease would free up more space for the General Fund under the TABOR revenue limit. For example, if the requirement for actuarial balance were deferred to the more distance future, the surcharge rate and revenues could be reduced immediately.

Staff recommends that the Committee request the Department respond to the following questions at their hearing.

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FY 2007-08 JBC Staff Budget Briefing
DEPARTMENT OF LABOR AND EMPLOYMENT
Project *Genesis* Update

ISSUE:

The Department spent $27.9 million dollars from the appropriations for the *Genesis* IT project. The project is on hold following the termination of the contract with Accenture, the vendor selected to do the development. Two major components of the system were not completed, but three smaller components are in service (with one experiencing significant problems). The initial reasons for undertaking *Genesis* – separate databases, applications written in different languages, and aging infrastructure – still need to be addressed. The Department is currently conducting a project recovery assessment (PRA) to determine which of several choices is the best way forward. The Department estimates that they will be prepared to make a recommendation and budget request to OIT and OSPB in the Governor's Office in early February; the time frame for submitting a proposal to the Legislature remains undetermined.

RECOMMENDATIONS:

Staff recommends that the Committee request the Department respond to the following questions at their hearing.

1. What factors have changed that make it probable that the Department will be able to successfully execute the acquisition of tax and benefits IT components for the unemployment insurance program this time?

2. What have other states done differently than Colorado that allowed them to successfully acquire the components which are being considered in the reuse option?

3. When will the Department be able to advise the Joint Budget Committee as to the likely cost for procuring these components? Will the Department be able to make its formal budget request in time for the Legislature to deal with it during the upcoming session?

DISCUSSION:

***Genesis* is an effort to reengineer the unemployment tax and benefits system.** The original concept documents for the *Genesis* project were written in 1998. At that time, several problems were recognized with the IT systems supporting the unemployment insurance program: separate databases for the tax and benefits sides of the program, applications written in different languages that made ongoing support much more difficult, a general inability for the two applications to communicate, and aging mainframe infrastructure. Within the overall *Genesis* project, the State Unemployment Program E-government Resource (SUPER) system was intended to replace the previous IT infrastructure. The Department contracted with Accenture for the development of the

SUPER system. SUPER was to consist of five main components: taxes, benefits, wages, unified desktop, and benefits payment control.

Appropriations History. A total of $44.8 million has been appropriated from the Employment Support Fund over three fiscal years for the *Genesis* project, as shown in the following table. Of those appropriations, a total of $27.9 million was spent and $16.9 million was reverted. Of the $27.9 million, $24.2 million was paid to Accenture (after an $8.2 million refund made as part of the contract termination).

Fiscal Year	Appropriation
2000-01	$7,051,768
2001-02	$13,105,274
2002-03	$24,664,151
Total	$44,821,193

Delivered components. Three of the five SUPER components are in operation. The wage component is used to accept and enter new wage information into the system. The unified desktop component provides call routing, computer-telephony integration and integrated voice response functionality. The benefit payment control component provides an automated data exchange between the Department and the Department of Personnel and Administration's Central Collections for handling benefit overpayments. Some portions of the unified desktop component have not been functioning properly for the last several months; a supplemental request to replace them has been approved by OSPB, but not yet submitted to the Legislature. With respect to the tax and benefits components, the State has a significant amount of functioning computer hardware and a large pile of non-functioning source code.

The Project Recovery Assessment. The current tax and benefits systems (CATS for taxes, CUBS for benefits) remain in service because the corresponding SUPER components are not functioning. The original problems with the current systems that motivated the *Genesis* undertaking are still there: the systems use two different data bases, are written in different languages, and barely communicate with one another. The Department has undertaken a project recovery assessment in order to determine the best path forward. The PRA activity is funded by an initial appropriation of $500,000 made in an add-on to the 2006 Long Bill and a 1331 supplemental appropriation of $1,779,860 approved on June 20, 2006. JBC staff have been invited to the PRA read-out meetings. The Department is evaluating three basic options: rebuild, reuse, and rebid.

The rebuild option would start with the non-working source code for the tax and benefit components delivered by Accenture and finish that development. The evaluation of the source code and supporting documentation has uncovered a number of problems with the way that the original project was managed. The Department has experienced a great deal of difficulty in establishing the necessary linkages from code modules to use cases to business needs. In addition, the Department has found that many of its initial test cases were incomplete and many of its functional requirements were untestable. In order for this option, or for any of the three options to succeed, the Department *must* improve the quality of its system specifications.

The reuse option would acquire the tax and benefit components built by one or more other states and modify them to meet Colorado's needs. In order to encourage potential cost savings, the federal government requires that states building systems with federal dollars must, under certain conditions, make the code available to other states. The Department has evaluated several states' working systems, including those in Utah, New Mexico, and Minnesota, against Colorado's specific needs. Staff believes that these evaluations were done at a more superficial level than the rebuild evaluation of the Accenture code.

The rebid option would start over on the tax and benefit systems and have vendors submit bids for completely new versions of those components. For this option, the Department must make or obtain estimates of what they think vendors will bid for performing the work.

Project status with the Commission on Information Management. The Commission on Information Management (IMC), a part of the Governor's Office of Information Technology (OIT), provides oversight for all major IT projects undertaken by the State. The IMC maintains a dashboard summary of the projects they oversee using a green-yellow-red warning system. The *Genesis* SUPER system is currently rated red on that summary, as the project is on hold pending completion of the PRA. As of December 6, 2006, the *Genesis* PRA itself was rated yellow, indicating that the IMC has concerns about the progress that is being made.

Scheduling and size of budget requests is uncertain. The Department indicates that they should be prepared to make a recommendation from the three options to the OIT, and a corresponding budget request to OSPB, by early February. At this time, and particularly in light of the changing administration in the Governor's Office, it is difficult to say how long it may take for any recommendation and proposed budget to be modified, approved and submitted to the Legislature. Similarly, the cost estimates that have been made to this point are preliminary in nature and are *not* based on actual bids, so it is difficult to judge what the size of the eventual budget request might be. Further complicating the cost situation is the need to keep the estimates relatively secret, so that potential vendors do not find out in advance how much the State expects to have to pay.

Staff recommends that the Committee request the Department respond to the following questions at their hearing.

1. What factors have changed that make it probable that the Department will be able to successfully execute the acquisition of tax and benefits IT components for the unemployment insurance program this time?

2. What have other states done differently than Colorado that allowed them to successfully acquire the components which are being considered in the reuse option? Can the Department apply those learnings to its own procurement process?

3. When will the Department be able to advise the Joint Budget Committee as to the likely cost for procuring these components? Will the Department be able to make its formal budget request in time for the Legislature to deal with it during the upcoming session?