JOINT
BUDGET
COMMITTEE

STAFF BUDGET BRIEFING
FY 2020-21

DEPARTMENT OF LABOR AND EMPLOYMENT

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

PREPARED BY:
AMANDA BICKEL, JBC STAFF
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JOINT BUDGET COMMITTEE STAFF
200 E. 14TH AVENUE, 3RD FLOOR · DENVER · COLORADO · 80203
TELEPHONE: (303) 866-2061 · TDD: (303) 866-3472
https://leg.colorado.gov/agencies/joint-budget-committee

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DEPARTMENT OF LABOR AND EMPLOYMENT

DEPARTMENT OVERVIEW

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

- Executive Director's Office
  - Provides administrative and technical support for Department's divisions and programs including accounting, budgeting, and human resource functions.
- Division of Unemployment Insurance
  - Collects unemployment insurance premiums and surcharges from employers; administers the payment of unemployment insurance benefits to claimants; and conducts audits and investigations to ensure proper payment of premiums and benefits.
- Division of Employment and Training
  - The Division of Employment and Training administers the following programs:
    - *Workforce Development Centers* assist job seekers with job training and placement. Workforce Centers provide a variety of free services to assist job seekers and employers including: job listings; computer and internet access; career counseling and training; recruitment, pre-screening, and referral services; tax credits for employers; and training reimbursement for employers.
    - The *Workforce Development Council* provides workforce policy recommendations; designates local workforce investment areas; coordinates the delivery of workforce development programs; and reviews the allocation of federal Title 1 funds for adult employment and training activities and for youth activities.
- Division of Labor Standards and Statistics
  - Administers employment and labor laws pertaining to wages paid, hours worked, minimum wage, labor standards, child labor, employment-related immigration laws, and working conditions. It also conducts all union agreement elections, certifications of all-union provisions, and investigates and mediates allegations of unfair labor practices.
  - The *Labor Market Information* sub-division provides annual and monthly information on general labor market trends including unemployment rates, industry trends, and employee compensation by region and industry.
- Division of Oil and Public safety
  - Establishes and enforces rules, regulations, and statutes that govern amusement rides and devices; explosives; boilers; conveyances; fuel products; underground and aboveground petroleum storage tanks; cleanup of petroleum spills; and reimbursement of cleanup costs to qualifying storage tank owners/operators.
- Division of Workers' Compensation
  - Oversees workers' compensation injury claims and compliance, mediates disputes, and administers the Medical Disasters (injuries prior to 1971), Major Medical (injuries from

1971-1981), and Subsequent Injury (more than one industrial injury or injury at more than one employer) Insurance Programs.

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

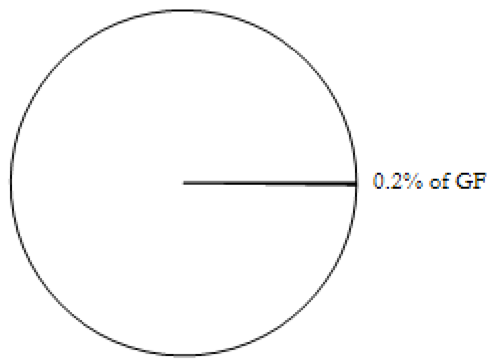
DEPARTMENT BUDGET: RECENT APPROPRIATIONS

Funding Source	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21 *
General Fund	$21,380,958	$19,475,174	$25,519,883	$24,674,935
Cash Funds	72,525,276	80,841,770	82,643,259	80,668,060
Reappropriated Funds	9,515,450	7,521,018	10,092,733	9,851,631
Federal Funds	145,439,550	151,711,122	153,713,234	154,905,200
TOTAL FUNDS	**$248,861,234**	**$259,549,084**	**$271,969,109**	**$270,099,826**
Full Time Equiv. Staff	1,279.8	1,280.6	1,292.8	1,293.6

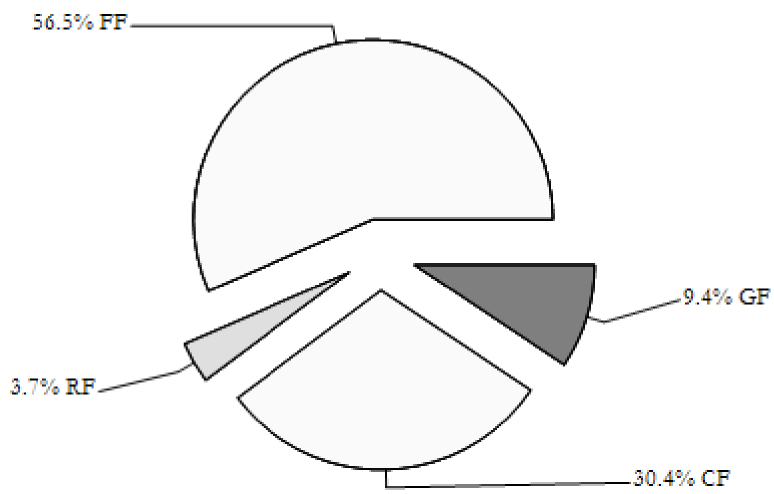
*Requested appropriation.

DEPARTMENT BUDGET: GRAPHIC OVERVIEW

Department's Share of Statewide General Fund

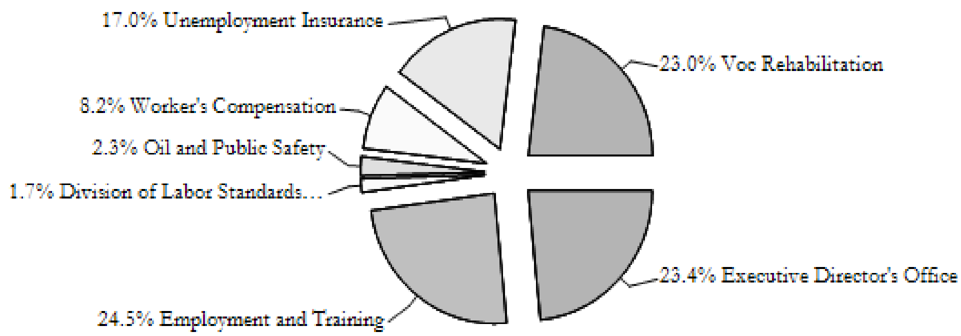


Department Funding Sources

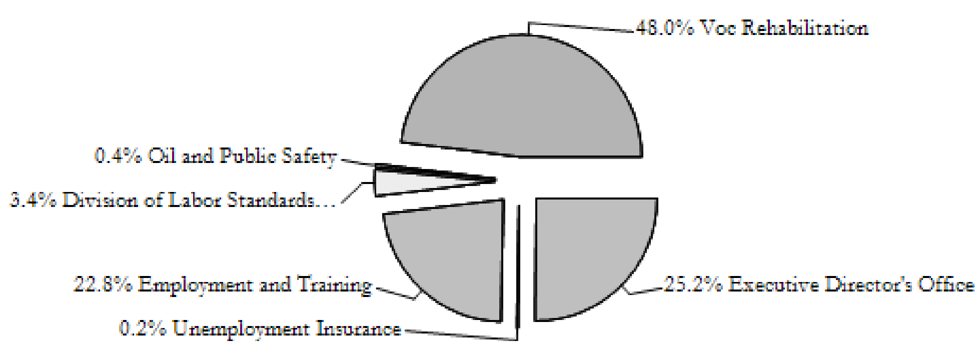


All charts are based on the FY 2019-20 appropriation.

Distribution of Total Funds by Division



Distribution of General Fund by Division



All charts are based on the FY 2019-20 appropriation.

GENERAL FACTORS DRIVING THE BUDGET

WORKFORCE DEVELOPMENT PROGRAMS

These programs provide employment services for businesses and job training and placement services for job seekers through a network of state- and county-run one-stop workforce centers. Although most activities are supported with federal funds not subject to appropriation by the General Assembly, a portion is covered by state-appropriated cash funds.

In addition, in recent years the General Assembly has created various targeted workforce development programs in this division that receive state General Fund appropriations. Employment and training programs account for 24.5 percent of the total Department appropriations and 22.8 percent of its General Fund appropriations in FY 2019-20.

The Department's FY 2019-20 budget was largely driven by changes associated with the out-year impact of state workforce development programs authorized in 2018 legislation and the authorization of new programs through 2019 legislation.

UNEMPLOYMENT INSURANCE PROGRAMS

The Unemployment Insurance Programs (UI Programs) provide temporary compensation to individuals who are laid off through no fault of their own. The appropriation for UI Programs in the Long Bill reflects the cost of administering the UI Programs. Pursuant to Section 8-77-104 (1), C.R.S., the funds used to pay benefits are not subject to appropriation by the General Assembly and do not appear in the Long Bill. Unemployment Insurance claims are paid from the Unemployment Insurance Trust Fund (UITF), which is derived from premiums paid by Colorado employers but resides in the federal treasury. The federal Unemployment Insurance Program maintains the UITF in conjunction with the State.

The appropriation for administering the UI Programs accounts for 17.6 percent of the Department's FY 2018-19 appropriation. Over 70 percent of this is federal funds, while most of the balance is cash funds derived from a portion of employers' unemployment insurance premiums.

Economic cycles drive the demand for this program. In a healthy economy, the number of claims is lower, resulting in fewer benefits being paid. This both reduces the demand for state administrative activities and builds up the balance of the UITF. During challenging economic times, the number of claims and benefits paid increases, increasing administrative costs and reducing the balance of the UITF. As of June 2019, the cash fund balance in the UITF was $1.14 billion.

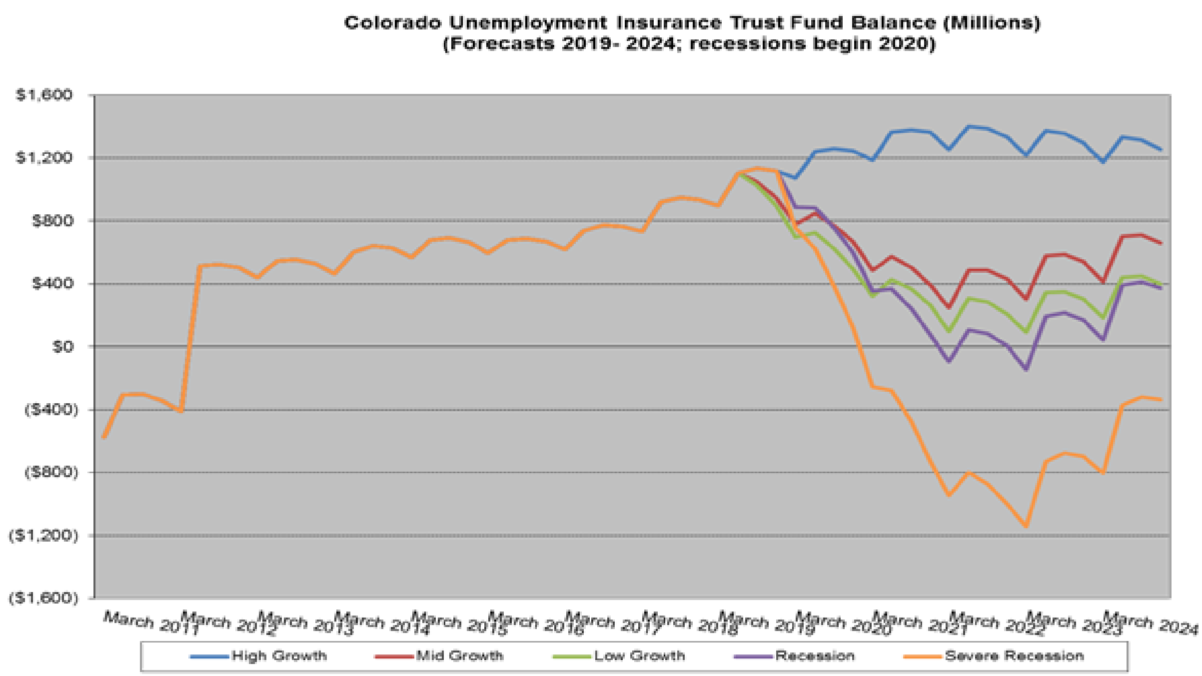
In recent years, the General Assembly has devoted substantial resources to updating UI information technology systems, and the FY 2019-20 budget for this division includes significant new information technology operating costs.

UI Benefit Payments for FY 2010-11 to FY 2018-19			
Fiscal Year	Benefit Payments	Change from Previous Year	Percent Change from Previous Year
FY 2010-11 Actual	$761,771,730	($301,534,755)	
FY 2011-12 Actual	883,986,486	122,214,756	16.0%
FY 2012-13 Actual	708,295,673	(175,690,813)	-19.9%

UI Benefit Payments for FY 2010-11 to FY 2018-19			
Fiscal Year	Benefit Payments	Change from Previous Year	Percent Change from Previous Year
FY 2013-14 Actual*	746,155,963	37,860,290	5.4%
FY 2014-15 Actual	540,022,887	(206,133,076)	-27.6%
FY 2015-16 Actual	512,011,850	(28,011,037)	-5.2%
FY 2016-17 Actual	482,342,410	(29,669,440)	-5.8%
FY 2017-18 Actual	409,108,000	(73,234,410)	-15.2%
FY 2018-19 Estimated	374,723,625	(34,384,375)	-8.4%
* Federal Emergency Unemployment Compensation ended			

Unemployment Insurance Trust Fund Solvency: During FY 2009-10 the UITF became insolvent which resulted in Colorado borrowing funds from the federal Unemployment Trust Fund. Pursuant to H.B. 12S-1002 (Unemployment Insurance Revenue Bonds), the Department issued bonds to finance the federal debt in order to avoid a federal tax credit reduction for Colorado employers. Colorado employers were obligated to pay assessments for the principal owed on the federal debt. This solvency surcharge ended when bonds were issued in 2013 to cover the debt, but employers were required to pay a bond principal surcharge. This surcharge ended when the bonds were paid off in May 2017.

Statute at Section 8-72-102(3), C.R.S., requires that the Department provide an annual report to the General Assembly on the health of the UITF. *The 2019 report indicates that while the UITF remains solvent under current growth conditions, it will become insolvent within a year under moderate-to-severe recession conditions.* During the last recession, the Fund went insolvent and the State ultimately issued bonds to pay necessary obligations for workers. Employers were required to pay a surcharge of 20 to 25 percent until the bonds were paid off in May 2017.



The following are some key findings from the Department's *2019 Colorado Unemployment Insurance Trust Fund Summary Report*:

- "At $1.1 billion, the June 30, 2019 fund balance is nearly $400 million below the level necessary to meet the U.S. Department of Labor's current solvency recommendation by year-end 2019." "The USDOL recommends that all state trust funds reach an average high cost multiple(ACHM) of at least 1.0 by 2020." An ACHM of 1.0 indicates that the fund has enough reserves to pay benefits for a year at recession levels. "The 2019 ACHM for Colorado is estimated to by 0.79 and is expected to decrease to about 0.68 by 2024."

- "Dependent upon the timing, severity, and duration of the next recession, the trust fund may again become insolvent and borrowing will be required to make legally obligated benefit payments. This will inflict substantial costs to employers in the form of surcharges, administrative costs, and interest expenses. This will take effect at the same time the premium rate schedules shift to their highest levels, thereby compounding the financial stress upon employers."

- Colorado's current taxable wage base (the base to which UI charges are applied) is $13,100. "Had the taxable wage base been maintained at parity with the 1988 base (47 percent of average annual earnings) the wage base would now be over $28,000."

- "**CDLE recommends increasing the taxable wage base beginning 2021.**"

Despite the recommendations in its report, the Department has indicated to staff that adjusting the base for UI wage premiums is not part of its legislative agenda for 2020. The Department was unable to reach agreement with employers when it entered into negotiations several years ago and has apparently taken no further action on this issue.

WORKERS' COMPENSATION

Colorado employers are required to carry workers' compensation insurance to pay for medical expenses incurred during the treatment of work-related injuries and for partial wage replacement. The Division of Workers' Compensation provides services to support this mandate including customer service, claims resolution, employer and employee education, and cost containment programs. The budget for the Division of Worker's Compensation is driven by the number of workers injured in a given year and the number of hearings requested by an employer, insurance company, or injured worker 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. These administrative activities are supported by cash fund surcharges on workers' compensation premiums that are subject to appropriation by the General Assembly.

The Division also administers the Major Medical and Subsequent Injury programs, which provide benefits to individuals injured at work. The Major Medical program is available to industrial workers who sustained catastrophic injuries between 1971 and 1981. The Subsequent Injury program is designed to compensate employers for hiring an individual who has an existing partial disability. The injury must have been sustained before 1993 for traumatic injuries and before 1994 for occupational diseases. Funds for both programs are continuously appropriated pursuant Sections 8-46-202 (1)(c) and 8-46-101 (4)(b), C.R.S., respectively, and expenditures are dependent on claims processed during the fiscal year.

DIVISION OF VOCATIONAL REHABILITATION AND INDEPENDENT LIVING CENTERS

On July 1, 2016 the Department of Labor and Employment began administering services previously provided by the Department of Human Services in the newly created Division of Vocational Rehabilitation and Independent Living Services. This division, created in FY 2016-17, consists of two subdivisions: (A) Vocational Rehabilitation Programs and (B) Office of Independent Living Services.

(A) Vocational Rehabilitation Programs assist individuals whose disabilities result in barriers to employment or independent living with attaining and maintaining employment and/or independent living. At any of the 43 field and satellite offices located throughout the state, rehabilitation counselors work with clients to assess their needs and identify appropriate vocational rehabilitation services. Most vocational rehabilitation program services are subject to a prescribed match rate of 78.7 percent federal funds to 21.3 percent non-federal funds.

(B) The Office of Independent Living Services distributes funding to the nine Independent Living Centers in Colorado that provide services to individuals with significant disabilities. The goal of independent living services is to provide individuals with the resources and skills to live independently in the community. Funding for independent living services is primarily state General Fund.

This division accounted for 23.0 percent of the Department's total appropriations and 48.0 percent of its General Fund appropriations in FY 2019-20. The budget for this division has been affected in the past by the demand for vocational rehabilitation services. However, in the last few years, the budget has been driven more by discretionary decisions of the General Assembly to add or reduce General Fund support, the willingness of school districts and other entities to provide the match required for federal vocational rehabilitation funds, and the size of the annual federal grant available.

SUMMARY: FY 2019-20 APPROPRIATION & FY 2020-21 REQUEST

DEPARTMENT OF LABOR AND EMPLOYMENT	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2019-20 APPROPRIATION:						
SB 19-207 (FY 2019-20 Long Bill)	270,584,244	24,423,131	82,605,146	9,842,733	153,713,234	1,289.0
Other legislation	1,384,865	1,096,752	38,113	250,000	0	3.8
TOTAL	**$271,969,109**	**$25,519,883**	**$82,643,259**	**$10,092,733**	**$153,713,234**	**1,292.8**
FY 2020-21 REQUESTED APPROPRIATION:						
FY 2019-20 Appropriation	$271,969,109	25,519,883	$82,643,259	$10,092,733	$153,713,234	1,292.8
R1 Expand access to work based learning	1,200,000	0	1,200,000	0	0	0.0
R2 My Colorado Journey	750,000	750,000	0	0	0	0.0
R3 School to Work Alliance Program	(191,617)	0	0	(191,617)	0	0.0
R4 Federal Social Security reimbursements	(178,043)	0	0	0	(178,043)	0.0
R5 Business Enterprise Cash Fund spending authority	(200,000)	0	(200,000)	0	0	0.0
R6 0.5 Percent statewide provider rate increase	35,698	34,004	0	0	1,694	0.0
NP1 Annual fleet vehicle request	564	0	564	0	0	0.0
NP2 FY 20-21 OIT budget request package	19,851	994	14,197	0	4,660	0.0
NP4 Paid family leave	545,397	33,965	205,957	0	305,475	0.0
Annualize prior year budget action	(2,650,822)	2,508	(2,650,690)	0	(2,640)	0.3
Annualize prior year legislation	(712,959)	(1,429,314)	249,772	250,000	216,583	0.5
Centrally appropriated line items	(487,352)	(237,105)	(794,999)	(299,485)	844,237	0.0
TOTAL	**$270,099,826**	**$24,674,935**	**$80,668,060**	**$9,851,631**	**$154,905,200**	**1,293.6**
INCREASE/(DECREASE)	($1,869,283)	($844,948)	($1,975,199)	($241,102)	$1,191,966	0.8
Percentage Change	(0.7%)	(3.3%)	(2.4%)	(2.4%)	0.8%	0.1%

R1 EXPAND ACCESS TO WORK BASED LEARNING: The Department requests an increase of $1.2 million cash funds from the Employment Support Fund for FY 2020-21 for training and supportive service costs for work-based learning opportunities and to develop new work-based learning opportunities with businesses. The initiative would distribute $100,000 to each of the State's ten local workforce boards with an additional $200,000 total available to the boards for initiatives related to increasing the early childhood educator workforce. The initiative would serve between 240 and 1,200 individuals based on subsidies of $1,000 to $5,000 per client. The subsidies would be provided to clients and/or businesses to cover costs of childcare, travel, work equipment and other supports not covered by employers and to provide incentives for businesses to offer paid work-based learning experiences.

R2 MY COLORADO JOURNEY: The Department requests $750,000 General Fund in FY 2020-21 to support the further develop, maintenance, and success of My Colorado Journey, an online platform that will provide personalized information to Coloradans to help them make better career and education planning decisions.

The Colorado Workforce Development Council has been leading a multi-agency task for comprised of the Department of Higher Education, the Department of Labor and Employment, and the Department of Human Services to envision and develop My Colorado Journey. The website will replace College in Colorado, a counseling tool used by some school districts for which federal funding ended on June 30, 2019.

The new website has been in discussion and development for the last two years, and the initial tool, which is now live at www.mycoloradojourney.com, has thus far been funded through grants. The Department received $2.3 million in grant support in FY 2019-20 and has $1.4 million in commitments for FY 2020-21.

The website is being developed and targeted for the use of counseling professionals in schools, county workforce centers, and county departments of human services. The vision for this new website is that it will incorporate a cross-departmental "databank" that will ultimately enable the State to track the impact of education and training of Coloradoans on their employment and earnings.

Although the request is for a single year of funding, it appears that ongoing funding of $1.2 to $1.5 million will be required from participating departments and/or the General Fund.

JBC Staff recommends that the Committee refer this decision item to the Joint Technology Committee for its input.

R3 SCHOOL TO WORK ALLIANCE PROGRAM : The Department requests a decrease of $191,617 reappropriated funds from school districts for the School to Work Alliance Program (SWAP) line item to more accurately reflect anticipated spending based on actual expenditures. SWAP currently serves 97 districts and 3,525 special education students (out of the 26,902 special education students in grades 9-12). The Department has continuous spending authority for these reappropriated funds pursuant to Section 8-84-105 (b.5).

R4 FEDERAL SOCIAL SECURITY REIMBURSEMENTS: The Department requests a reduction of $178,043 in federal fund for the Federal Social Security Reimbursements line item in FY 2020-21 and ongoing. This reduction reflects an anticipated decrease in revenue in federal Social Security Reimbursement for the Ticket to Work Program. These funds are included in the Long Bill for informational purposes only.

R5 BUSINESS ENTERPRISE CASH FUNDS SPENDING AUTHORITY: The Department requests a reduction of $200,000 in FY 2020-21 and ongoing for the Business Enterprise Program Cash Fund to more accurately reflect the level of actual expenditures for the program. The Department has consistently reverted spending authority in each of the last three fiscal years, so the request reflects "right sizing" of spending authority without unduly constraining the program should expenditures rise unexpectedly in FY 2020-21.

R6 0.5 PERCENT STATEWIDE PROVIDER RATE INCREASE: The Department requests $35,698 total funds, including $34,004 federal funds in FY 2020-21 for services provided by the nine independent living centers across the state. This aligns with a proposed statewide provider rate increase of 0.5 percent.

NP1 ANNUAL FLEET VEHICLE REQUEST: The request includes the Department's share of the Department of Personnel's annual fleet vehicle request.

NP2 FY 20-21 OIT BUDGET REQUEST PACKAGE. The request includes the Department's share of the Governor's Office of Information Technology's budget package adjustments.

NP4 PAID FAMILY LEAVE: The request includes a proposed statewide common policy increase for paid family leave.

ANNUALIZE PRIOR YEAR BUDGET ACTION: The request includes the second- and later-year impact of prior year budget actions.

ANNUALIZE PRIOR YEAR BUDGET ACTION						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2019-20 NP1 DPA postage increase	$79,000	$0	$79,000	$0	$0	0.0
FY 2019-20 NP7 Employment First request	11,766	2,506	0	0	9,260	0.3
Annualize FY 2013-14 and FY 2015-16 UI technology initiatives	(2,313,988)	0	(2,313,988)	0	0	0.0
FY 2019-20 R5 Replacement of legacy field audit system for UI	(410,000)	0	(410,000)	0	0	0.0
Annualize prior year salary survey	(17,600)	2	(5,702)	0	(11,900)	0.0
TOTAL	**($2,650,822)**	**$2,508**	**($2,650,690)**	**$0**	**($2,640)**	**0.3**

ANNUALIZE PRIOR YEAR LEGISLATION: The request includes the following adjustments for the second-year impact of prior year legislation.

ANNUALIZE PRIOR YEAR LEGISLATION						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
SB 18-200 Eliminate PERA Unfunded Liability	$441,498	$41,380	$183,535	$0	$216,583	0.0
HB 19-1210 Local Government Minimum Wage	75,689	0	75,689	0	0	1.0
SB 19-085 Equal Pay for Equal Work	48,245	48,245	0	0	0	0.6
HB 19-1314 Just Transitions	2,594	2,594	0	0	0	0.2
HB 15-1230 Innovative Industry Workforce Development	(605,407)	(605,407)	0	0	0	(1.3)
HB 19-1107 Employment Support Job Retention Services	(500,000)	(750,000)	0	250,000	0	0.5
SB 19-188 Family and Medical Leave Insurance	(165,488)	(165,488)	0	0	0	(0.5)
HB 19-1025 Limits of Job Criminal Inquiry	(9,452)	0	(9,452)	0	0	(0.1)
SB 19-171 Apprenticeships and Vocational Technical Training	(638)	(638)	0	0	0	0.1
TOTAL	**($712,959)**	**($1,429,314)**	**$249,772**	**$250,000**	**$216,583**	**0.5**

CENTRALLY APPROPRIATED LINE ITEMS: The request includes adjustments to centrally appropriated line items.

CENTRALLY APPROPRIATED LINE ITEMS						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
Salary survey adjustment	$1,774,154	$110,488	$659,891	$10,079	$993,696	0.0
Health, life, and dental adjustment	775,017	69,098	80,501	(1,166)	626,584	0.0
Leased space adjustment	187,166	12,611	75,451	0	99,104	0.0
CORE adjustment	121,447	0	38,992	0	82,455	0.0
AED adjustment	77,124	21,643	(23,733)	(1,824)	81,038	0.0
SAED adjustment	77,124	21,643	(23,733)	(1,824)	81,038	0.0
Indirect cost assessment adjustment	51,479	0	59,045	0	(7,566)	0.0
Short-term disability adjustment	2,116	704	(998)	(58)	2,468	0.0
Capitol Complex leased space adjustment	2,080	0	2,080	0	0	0.0
Shift differential adjustment	233	0	0	0	233	0.0
Payments to OIT adjustment	(3,133,831)	(468,505)	(1,442,878)	(302,688)	(919,760)	0.0
PERA Direct Distribution	(150,605)	(64)	(85,071)	(2,004)	(63,466)	0.0
Workers' compensation adjustment	(107,424)	(4,297)	(30,079)	0	(73,048)	0.0
ALJ adjustment	(98,073)	0	(98,073)	0	0	0.0
Legal services adjustment	(44,047)	0	0	0	(44,047)	0.0
Payment to risk management / property funds adjustment	(21,312)	(426)	(6,394)	0	(14,492)	0.0
TOTAL	**($487,352)**	**($237,105)**	**($794,999)**	**($299,485)**	**$844,237**	**0.0**

ISSUE: FAMILY AND MEDICAL LEAVE INSURANCE

Pursuant to S.B. 19-188, the Family and Medical Leave Insurance Task Force has been meeting to develop recommendations that will be submitted to the General Assembly January 8, 2020. This issue discusses the work of the Task Force to-date.

SUMMARY

- Senate Bill 19-188 (Winter & Williams, Gray & Duran) concerns the creation of a family and medical leave insurance (FAMLI) program. As introduced in 2019, the bill would have created the program in the Department of Labor and Employment to provide partial wage replacement benefits to eligible individuals. As *enacted* in 2019, it created a 15-member Task Force to study the issue and make recommendations to the General Assembly by January 8, 2020.
- The Task Force has thus far agreed on a range of program parameters to send to an actuary and has made a number of decisions based on a majority vote. The most significant of these is to recommend that FAMLI be implemented as a social insurance program similar to the unemployment insurance system (as was proposed in the introduced version of S.B. 19-188), rather than as an employer mandate with minimum benefits (similar to the Worker's Compensation System). The Governor specifically requested that the Task Force consider the employer mandate model.
- There are substantial differences of opinion on the Task Force and, as a result, the General Assembly should expect to receive a report on January 8, 2020 that includes both majority Task Force recommendations and minority positions.
- Analyses developed pursuant to the bill are required to presume that the program will be established by July 1, 2020, the revenue stream (employee/employer insurance premiums) will begin on January 1, 2023, and the program will start paying benefits on January 1, 2024.
- If the General Assembly moves ahead with a program similar to that described in S.B. 19-188 as introduced, it will be creating a new social insurance program with revenue of approximately $1.0 billion per year that is a TABOR enterprise administered by the Department of Labor and Employment. Front-end costs, to be financed by bonds, would include approximately $40 million for a new computer system, among other expenditures. Based on the experience of other states, premiums are likely to be in the range of 1.0 percent of salaries up to a capped amount.

RECOMMENDATION

Since FAMLI legislation is anticipated to be introduced during the 2020 session, staff encourages the Committee to discuss the Task Force's progress thus far and the Department's role in administering a potential program. In particular, the Committee may wish to consider the amount and form of legislative oversight.

- If this legislation moves forward, should administrative elements of the FAMLI program be subject be subject to appropriation, even if the program is authorized by the General Assembly as a TABOR enterprise?

DISCUSSION

S.B. 19-188 FAMILY AND MEDICAL LEAVE INSURANCE

Senate Bill 19-188 (Winter & Williams, Gray & Duran) concerned the creation of a family and medical leave insurance (FAMLI) program. As introduced in 2019, the bill would have created the program in the Department of Labor and Employment to provide partial wage replacement benefits to an eligible individual:

- who takes leave from work to care for a new child or a family member with a serious health condition;
- because the eligible individual is unable to work due to the individual's own serious health condition or because the individual or a family member is the victim of abusive behavior; or
- due to certain needs arising from a family member's active duty military service.

As *introduced* and initially amended, the bill created the FAMLI division as a state enterprise (excluded from state TABOR caps), required the new division to collect premiums from employers, pay benefits to claimants and adopt related rules, established the scale of the benefit and the framework for setting premiums, and allowed for certain opt-ins and opt-outs of the program.

The bill specified that employee and employee premiums would begin January 1, 2023 with the benefit available beginning January 1, 2024. The fiscal note indicated that start-up costs, including to build the necessary IT infrastructure, would be funded from bond revenue of $110 million in FY 2020-21, and that the program would be funded on an ongoing basis from annual premium revenues estimated at $1.1 billion.

During the course of the 2019 legislative session, the bill was scaled back so that the program could be studied further. As outlined in the legislative declaration for the final bill:

> "This Part 3 prepares for the implementation of a paid family and medical leave program in the state by completing a thorough analysis of paid family and medical leave programs by experts in the field, the establishment of a family and medical leave implementation task force, and actuarial and third-party studies."

As the bill was ultimately *adopted* by the General Assembly and signed, it:

- Created a 15 member task force to make recommendations on a paid family and medical leave program
- Required the Department of Labor and Employment to contract for at least three local and national experts in the field to develop recommendations on program parameters.
- Required the Department of Labor and Employment to analyze the feasibility of contracting with a third party to administer parts of the program
- Required the Department to contract for an actuarial study of the initial recommendations made by the task force
- Required the Department of Public Health and Environment to provide a study on the health impacts of the program

The enacted bill specified the following timeframes:

July 1, 2019 – the task force must be appointed.
October 1, 2019 – the CDLE will provide the results of the third-party feasibility analysis, the expert recommendations, and a report from CDPHE detailing the health benefits related to paid family and medical leave to the task force. The task force will accept public comments regarding the administration and establishment of a paid family and medical leave program.
November 1, 2019 – the task force will make an initial recommendation on a family and medical leave program and provide the recommendation to the actuary contracted by the CDLE.
December 1, 2019 – the CDLE will provide the results of the actuarial analysis to the task force for consideration.
January 8, 2020 – the task force will report its final recommendation on a paid family and medical leave program to the General Assembly and the Governor.

All analyses developed pursuant to the bill were required to presume that the program would be established by July 1, 2020, the revenue stream would begin on January 1, 2023, and that the program would start paying benefits on January 1, 2024.

FAMLI Task Force

As required by the legislation, appointing authorities appointed the members of the Task Force by July 1, 2019, and the Department of Labor and Employment has contracted for the required reports as well as arranged for a facilitator and other supports for the Task Force. A website includes all Task Force materials as well as links to recorded meetings:
https://sites.google.com/state.co.us/famli/home?authuser=0

Task Force members:
Trish Sullivan, Private Employer, Steamboat Ski & Resort
Judith Marquez, Worker Advocate, 9 to 5
Terra McKinnish, Labor Economist, University of Colorado
Lydia Waligorski, Domestic Violence Organization, Violence Free
Kevin Duncan, Higher Education, CSU Pueblo
Edwin Zoe, Private Employer, Zoe Ma
Jared Make, Worker Advocate, A Better Balance
Kathy White, State Policy Organization, Colorado Fiscal Institute
Sandra Parker Murray, Organized Labor, CWA Quad 7
Diana Petrak, Worker Advocate, Colorado Policy Pathways
Dana Hagood, Private Insurer, Human Resources Regional
Stacey Campbell, Private Employer, Campbell Litigation
Hadley Manning, Health Advocacy, Independent Women's Forum
Non-voting: Romona Gomoll, Executive Director, Colorado Department of Personnel and Administration; and Joe Barela, Executive Director, Colorado Department of Labor and Employment

Progress thus far: Senate Bill 19-188 asks the Task Force to provide recommendations for legislation on 16 different parameters: purpose of leave, eligibility to take leave, definition of family, job protection, duration of leave, amount of wage replacement, maximum weekly replacement amount, program funding structure, program implementation, role of third-party vendors on program sustainability, solvency of fund, portability of benefits, sustainability of program, interaction with other benefits, and timeline.

The Task Force met July 16, August 27, September 16, September 26, October 8, October 15, and October 17 and is scheduled to meet again on November 12 and again in December as it works toward the January 8, 2020 deadline for submitting a recommendation to the General Assembly. A an actuary's report is expected in early December.

Many of the meetings, particularly at the outset, were contentious and focused on procedural issues such as the level of majority that would be required to move forward on issues. Nonetheless, by the end of the October 17 meeting, the group was able to narrow down parameters for a "low" and a "high" model that could be used by the contracted actuary, AMI Risk Consultants of Miami. Meetings in November addressed decisions that were not tied to the actuary's work. Remaining meetings will address the Task Force's response final recommendations, taking the actuary's figures into account. There may be one or more minority positions on the Task Force's recommendations, if it is unable to reach consensus.

INPUT TO THE COMMITTEE

There are currently fully implemented paid family and medical leave programs in California, New Jersey, Rhode Island, and New York. Washington State, Massachusetts, Washington DC, and Oregon are in the process of implementing programs, while Connecticut and Oregon just passed new laws in 2019. Because of the activities in other states, particularly California's, which was established in 2004, there is considerable data from which to draw as the Task Force explores program options. Furthermore, a number of states have operated state-run temporary disability insurance programs since the 1940s.

EXPERT REPORTS: As required, the Department contracted with three separate entities for recommendations on establishing a paid family leave program: the University of Minnesota Institute for Women's Policy Research, the University of Denver, and the Urban Institute. Some other common findings.

- *Current lack of access to paid family leave and legally-protected unpaid leave for many workers*. All of the studies noted that low income workers are least likely to have access to short-term disability or paid family leave. Several of the reports cited 2017 research from the Pew Research Center that found that 14 percent of workers said they were unable to take leave when they needed or wanted to in the past two year, and that this was true of 30 percent of workers with household incomes under $30,000.[1]

- *Workers, families, and the public benefit from paid leave programs.* All of the studies cited research emphasizing the benefits of these programs in a wide array of areas including reduced worker turnover and child and family health outcomes. In addition, a required report from the *Colorado Department of Public Health and Environment* found that there was strong evidence between paid family and medical leave and decreased infant mortality (10-13 percent decline), increased breastfeeding, increased immunizations, and increased maternal mental health, with moderate to limited impact in various other health outcome areas.

- *The cost of implementing these programs in other states has generally been less than 1.0 percent of worker wages*, with taxes not applied to wages over a certain amount. (Rhode Island's is at 1.1% of the first

[1] https://www.pewsocialtrends.org/2017/03/23/americans-widely-support-paid-family-and-medical-leave-but-differ-over-specific-policies/

$71,000 in wages.) States have taken a range of different approaches with respect to the share of premiums charged to the worker versus the employer. Economists speaking to the panel have noted that who *actually* pays depends upon other economic factors, such as the supply and demand for labor, with workers typically shouldering the financial impact.

- *None of the states that have implemented a Family and Medical Leave Program have had problems with solvency.* The University of Denver study provided a more quantitatively-based analysis. This study projected:
    - A utilization rate of 5-7 percent, based on the experience of California, New Jersey, and Rhode Island and a weighted average duration of leave of 11.4 weeks
    - Projected costs and revenues in the range of $1.0 billion per year, with estimates above and below this depending upon specific program parameters assumed. Even applying high utilization assumptions, DU anticipates that premiums will not need to exceed 0.678% of wages.
    - Various models demonstrating program solvency under a variety of premium structures.
    - The report also noted that firms with less than 10 employees represent 78.1 percent of all Colorado employers but only determine 9.5 percent of state payroll. This is relevant to whether small firms are exempted from contributions and to what extent this affects solvency.

- Most states administer the program through a state agency; though New York, a more recent entrance, has instead chosen to expand its private marketplace and allow employers to contract with the 27 companies offering paid family leave plans. *The reports all recommended using the State as the primary administrator, with third-party vendors used only for select design and implementation elements, such as information technology.*

- A California study found that lack of knowledge about the benefit led to a high percentage of workers going without leave, even if they had access. This was particularly common for low-income workers. So, *all the reports argue that funding for outreach is important.*

- All states have included child, parent, spouse, domestic partner, and grandparent in their definition of family, while some have used more expansive definitions such as "any person with whom the employee has close association that is the equivalent of a family relationship" (New Jersey). *The reports generally recommended broad definitions of "family".*

- The studies appear to have similar recommendations on benefits, reflecting the experiences of other states or the policy recommendations that led those states to recently structure new programs in similar ways. These experiences, in turn, inform the parameters that Colorado has sent to the actuary. *These recommendations include providing for at least 12 weeks of leave and a progressive benefit structure in which the lowest income workers receive the greatest wage replacement.*

PUBLIC COMMENT: More than 900 public comments were submitted, and these are too numerous to summarize here. However, comments were submitted by those both supportive of the program and opposed to it based on their personal experience, as well as by experts and organizations with advocacy positions and technical background on these types of programs. The Governor submitted public comment, as well, which is discussed further below.

Task Force Decisions thus Far on Benefit Parameters

The Task Force's recommendations are due to the General Assembly January 8, but the group has been working through the 16 areas in which it is supposed to make recommendations and has taken votes that help to clarify its direction. As part of its process, the Task Force has decided that in areas in which it is unable to reach consensus, it will include both majority and minority opinions.

"High" and "Low" Options Sent to Actuary: Task Force members initially hoped to send the actuary a large number of program alternatives, instead of the single alternative envisioned in S.B. 19-188. Once the actuary indicated that it would not be possible to address a large number of variables, the Task Force agreed to narrow its options to a "high model" and a "low model", so as to be able to share a range of potential costs with the General Assembly. The table below summarizes the models to which the actuary has been asked to respond. For a number of parameters, Task Force members agreed that a single parameter should be considered for both high and low models. For other parameters, members have requested that the actuary provide additional information, to the extent feasible, on additional provisions (e.g. related to the definition of family member and providing an extended leave option for parental bonding with a new child).

	Low Model	High Model
Coverage (both models): Coverage for bonding with new child; care of family members; military service related leave; own disability; domestic violence, sexual assault, stalking; organ donation		
"Family member" definition (both models): Actuary asked to submit information as feasible on cost and utilization rate data for definition of family member that includes child, parent, domestic partner, grandchild, grandparent, sibling, parent in law, blood relation, close association, family member's domestic partners.		
Self-employed (both models): Non-mandatory opt-in option for self-employed.		
Leave duration:		
Family Leave (per event maximum)	6 weeks	14 weeks
Medical Leave (per event maximum)	6 weeks	15 weeks
Combined in 52 weeks (maximum)	12 weeks	28 weeks
Extended bonding (high model only): Actuary asked to provide cost for additional 12 weeks of new-child bonding as a separate cost item if possible.		
Earnings threshold to become eligible to participate in program	$5,000	$300
Wage Replacement percentage (both models): Washington State Model - • If earnings less than 50% of statewide average weekly wage, 90 percent of worker's average weekly wage. • For others, 90 percent of average weekly wage up to 50% of average weekly wage plus 50 percent of employee's average weekly wage that exceeds this up to a cap. • Benefit capped at 95 percent of the statewide average weekly wage (approximately $1,000/week)		
Cap on premium collections above the following annual wages:	$90,000	$132,900 (Soc. Sec. base)
Employer exemption from premium:	Employers with 15 or fewer employees pay 50% of the premium	No exemptions - all employers participate
Employer opt-out for equivalent benefit (both models): Allow employers with equivalent private plans to opt out of state plan.		

On November 12, the Task Force took additional votes as follows.

Payment of premiums by employee or shared by employer/employee: The group is split on whether the benefit should be reflected as entirely paid by the employee or shared between employee and employer. The CU labor economist who serves on the panel has argued that, regardless of the formal designation between employee and employer, employees will actually bear the burden of the benefit.

TREATMENT OF "LIKE" EMPLOYER BENEFITS: The Task Force voted 12-1 that "like" benefits (such as short-term disability) should run concurrently with any state benefit, while employees should not be required to take "non-like" leave, such as annual leave and sick leave, concurrently with the paid leave benefit.

GOVERNOR LETTER AND PINNACOL ASSURANCE PROPOSAL

With the exception of New York's, the family and medical leave act programs that have been launched in recent years have been state-run programs. The expert reports and presentations to the FAMLI Task Force have thus focused primarily on a state-run option.

GOVERNOR LETTER: On September 26, 2019, the Governor submitted a letter to the FAMLI Task Force. As outlined in the letter:

> "It is my view that the task force would be well served to consider a third option: requiring employers above a certain size to provide a defined minimum paid-leave benefit to employees, which an employer could choose to administer either by itself or through insurance provided through the private market."

PINNACOL INITIAL PROPOSAL: On October 17, 2019, Pinnacol Assurance presented a proposal to the FAMLI Task Force outlining a private-sector approach to implementing a statewide family leave program.

Pinnacol's proposal was based on the Colorado Worker's Compensation approach. Specifically:

- The State would establish a "core" benefit package which all employers would be required to provide.
- Private insurance would offer insurance packages based on these core benefits, which employers could choose to expand on, based on the interests of their employees. Employers would have a choice of insurance companies or could self-insure. The State would designate a carrier of last resort to ensure no company is denied coverage.
- Insurance companies would set the rates for the "core" package based on the ages and genders of group members and, ultimately, the experience rating of each insured group. (Pinnacol subsequently revised this portion of its proposal.)
- Program oversight, as for Worker's Compensation, would be provided by the Department of Labor and Employment and the Department of Revenue's Division of Insurance.

Pinnacol noted that national carriers, as well as Pinnacol, are interested. Packages would be quite similar to current short term disability insurance. Among the advantages highlighted by Pinnacol were portability, since the core benefit would be consistent, flexibility, speed to market, and no financial risk to the state, given substantially lower start-up costs. Pinnacol subsequently revised a portion of its proposal--but only did so after the Task Force had voted on the issue.

TASK FORCE VOTE: On November 12, the Task Force voted 8 in favor, 3 opposed, and 1 abstaining to support a social insurance model for the program, *i.e.*, a system in which the Department of Labor and Employment (or potentially a third-party administrator) would collect fees from employees/employers and distribute benefits. Task Force members worried that the Pinnacol-proposed approach would lead to discrimination against workers of particular ages and sexes. In addition, some noted that the market-based approach would not lend itself to the redistributive elements embedded in a state-run social insurance policy.

PINNACOL REVISED PROPOSAL: Later on November 12, 2019, after the Task Force had voted, a Pinnacol spokesperson explained during public comment that Pinnacol was revising its proposal. Upon consideration and based on discussion with other carriers, it had determined that pricing should be done on an industry basis, rather than an individual business basis, so as to avoid inappropriate discrimination and pressure on employees not to take leave. It noted that, upon consideration, there was no reason to believe that an employer's experience with leave-taking in a given year would be predictive of leave taking in the future. Pinnacol also noted that short-term disability is currently priced on sex and age and there is no data indicating that this has led to discrimination.

PROGRAM ADMINISTRATION

Senate Bill 19-188 required that the Department of Labor and Employment to conduct a study analyzing the feasibility of contracting with a third party to administer parts of a paid family and medical leave program for all employees. The Department was required to consider whether doing so would be cost-effective in the short-term and long-term, while assuring efficient and high quality program administration, as compared to if the state administers all aspects of the program.

The Department issued a Request for Information seeking information from a potential third-party administrator. It received one response to the RFI and indicated that had limited information from states with emerging and existing paid family and medical leave programs. It concluded that:

- A state-administered model would result in significant short-term costs and risks to the state as a result of launching the necessary technology platform. However, a state-administered model would ensure that any technology and processes are built to the exact specifications of any state legislation and might reduce long-term costs in administration.
- Use of third-party model would significantly reduce the state's short-term costs of launching technology and infrastructure. However, significant variation from existing federal family, medical and short-term disability laws would increase the short-term cost of using a third-party vendor. In addition, there would likely be costs for the State to track and enforce overpayment/improper payment cases, since this would not be within the third-party's capability.
- In a private market model, where the state or a third party would be insurer of last resort, the state felt it would have the costs and risks associated with a state administered model.

Decisions about program administration will be made during Task Force final meetings December 2 and December 17.

ISSUES FOR THE JBC'S CONSIDERATION

If this program moves forward, it will greatly expand the responsibilities of CDLE and, if the social insurance model is used, give CDLE direct administrative oversight of a new $1.0 billion social insurance program. Senate Bill 19-188, as it came to the Senate Appropriations Committee in 2019, created a new division in the Department of Labor and Employment with responsibility for the program and created the Family and Medical Leave Insurance Fund, which was to consist of premiums paid and revenues from revenue bonds issued to support program start-up. As reflected in the language below, all money in the Fund was to be continuously appropriated to the Department for all purposes associated with the program.

> "Money in the fund may be used only to pay revenue bonds; to reimburse employers who pay family and medical leave insurance benefits directly to employees in accordance with section 8-13.3-308 (5)(a); to reimburse members of the family and medical leave insurance advisory board in accordance with section 8-13.3-317 (4); and to pay benefits under, <u>and to administer, the program pursuant to this part 3, including technology costs to administer the program and outreach services developed under section 8-13.3-305 (5)</u>. Interest earned on the investment of money in the fund remains in the fund. Any money remaining in the fund at the end of a fiscal year remains in the fund and does not revert to the general fund or any other fund. <u>State money in the fund is continuously appropriated to the division for the purpose of this section</u>. The general assembly shall not appropriate money from the fund for the general expenses of the state. *[S.B. 19-188 bill language as bill was referred to Senate Appropriations Committee]*

The Committee may wish to discuss with the Department whether all elements of the program, including administration, should be continuously appropriated. **While the Unemployment Insurance Trust Fund (used to pay benefits) is off budget, state funding for administration of the UI program is <u>on</u> budget and thus much more subject to legislative oversight. A number of entities that are classified as enterprises are still subject to annual appropriation.** This includes appropriations for higher education institutions.

The two models currently being discussed for the FAMLI program both follow program models currently administered by CDLE. The state-run social insurance version of FAMLI that was in the introduced version of S.B. 19-188 (and appears to be the path the Task Force is now following) closely resembles the CDLE's Unemployment Insurance Program. The alternative suggested by the Governor resembles the Worker's Compensation Model administered by CDLE**. The budget hearing may provide a useful forum for JBC members to explore the strengths, weaknesses, and costs of the two models from an administrative perspective.**

If the social insurance approach is used, CDLE will need to construct a new information technology system. **The estimated cost of such as system, based on responses and a Request for Information, as reflected in a Legislative Council Staff Fiscal Note, is approximately $40 million.** CDLE has had a troubled history with information technology systems and is still in the process of redoing its unemployment insurance system at a cost of $57 million. Staff encourages the Committee to discuss with the Department the status of rolling out its UI System and how any lessons learned from that would influence construction of a new IT system for family and medical leave insurance.

ISSUE: EMPLOYMENT AND TRAINING AND REQUEST R1

The Department's R1 request would add $1.2 million from the Employment Support Fund to support work-based learning initiatives at state workforce centers, with $200,000 of the total focused on addressing the shortage of early childhood educators.

SUMMARY

- Colorado's workforce development system, like that of other states, locally operated workforce centers that provide labor exchange services to potential employers and employees, as well as more intensive services for workers with more obstacles to employment.
- Colorado's local workforce development programs received allocations of over $38 million in state and federal funds for FY 2019-20. Of the total, over 20 percent is state funding from the Employment Support Fund.
- National evaluations of federally-funded employment and training programs reflect mixed results. Some programs appear to be cost-effective, while others are not. Apprenticeships are one of the forms of job training that are consistently found to be cost-effective.
- The Department's R1 request would add $1.2 million from the Employment Support Fund to support work-based learning initiatives at state workforce centers, with $200,000 of the total focused on addressing the shortage of early childhood educators.

RECOMMENDATION

- Consider sponsoring legislation that would provide explicit authority for the General Assembly to appropriate Employment Support Funds to the Department to implement and evaluate work-based learning and other targeted evidence-based initiatives through the workforce development center system. Such legislation would enable the Department to develop guidelines and funding distribution procedures determined by the State (as opposed to federal) authorities.

- Discuss how the Department's proposal with respect to early child care educators is coordinated with the large number of other legislative and executive branch proposals to increase the number of early childhood educators.

DISCUSSION

BACKGROUND: THE EMPLOYMENT AND TRAINING SYSTEM

The Division of Employment and Training provides services to businesses and potential employees to increase labor participation in the state. **The 54 state and county run one-stop centers (also known as workforce centers and American job centers) offer job search assistance, additional job training, and classes to improve interview and resume skills to job seekers**. Services at the centers, which are located throughout the State, are free to job seekers and employers, with the goal of matching qualified job seekers with employers. The State supports an on-line job search board (ConnectingColorado.com) and on-line resources, as well as in person services at workforce centers.

Workforce centers in the state's largest counties are operated by the counties themselves. **The following counties have entered into contract with the State to operate their own centers: Adams, Arapahoe (with Douglas), Boulder, Denver, El Paso (with Teller), Jefferson (with Gilpin and Clear Creak), Larimer, Mesa, and Weld. All other counties are included in a Rural Consortium group** served by state-staffed regional workforce centers.

As outlined in Section 8-83-101, C.R.S. *et seq.,* Colorado law has been structured to align with the State's responsibilities under the federal Workforce Innovation and Opportunity Act. State law specifically indicates that "the state accepts the provisions of the federal act, as amended…and this state will observe and comply with the requirements of the federal act…" [Section 8-82-104(3), C.R.S.]

State workforce centers are subject to policy guidance from local workforce development boards, which consist of local businesses, representatives of local educational entities, community-based organizations, and economic development agencies.

Consistent with federal funding streams and requirements, workforce centers provide:

- **General resource and referral services** designed to match job seekers and businesses that are available to everyone in the community (so-called "core" or Wagner-Peyser services); and

- **Intensive/Targeted Services for certain adults, dislocated workers and youth**: More in-depth services targeted at those struggling to find employment. This includes both counseling services and funding for training for those facing more significant obstacles, such as low-income individuals, those with disabilities, and those laid off due to industrial downsizing who may have difficulty moving to a new occupation.

Statute specifies:

- That Colorado's workforce areas will *receive federal funding allocations based on a formula* approved by state and federal authorities including, at the time it was approved, the Joint Budget Committee. [Section 8-83-223, C.R.S.] At present, Employment Support Funds are also allocated based on a formula that is aligned with the allocations for federal funds. JBC staff is not aware of a proposed allocation formula being forwarded to the JBC, but has been told that the formula has not been adjusted in many years.

- That the Employment Support Fund, which derives from a portion of Unemployment Insurance Premiums, shall be used, among other purposes *"to offset funding deficits for program administration, including information technologies, under the provisions of articles 70 to 83 of this title…"*[Section 8-77-109, C.R.S.] There is no definition of "funding deficits", but, in practice, state Employment Support Fund money is simply used to support programs that are structured around federal guidelines and funding requirements.

FUNDING FOR THE EMPLOYMENT AND TRAINING SYSTEM AND PEOPLE SERVED: The FY 2019-20 Long Bill shows the major federal and state funding sources supporting the state's workforce system and related department administration. The vast majority of funds are allocated to workforce regions. The Department reports that a**llocations to county workforce regions in FY 2019-20 totaled $38,180,846 in FY 2019-20, reflecting updated federal funds allocation information.**

EMPLOYMENT AND TRAINING DIVISION MAJOR STATE CASH FUNDS APPROPRIATIONS AND FEDERAL FUNDS ESTIMATES IN THE FY 2019-20 LONG BILL				
FUNDING SOURCE	TOTAL GRANT OR APPROPRIATION	DEPARTMENT ADMINISTRATION	COUNTY-RUN AND STATE-ADMINISTERED RURAL WORKFORCE CENTERS, OTHER	PURPOSE
Federal Wagner Peyser Grant	$10,914,395	$154,371	$10,760,024	Formula allocation to the State for workforce center labor exchange services
State Employment Support Fund	10,666,630	2,837,504	7,829,126	State cash funds from UI Premiums. Supports both state administration and workforce center activities.
Federal Workforce Innovation and Opportunity Grant Funds (WIOA)	26,366,616	1,318,331	25,048,285	Supports workforce center operations and related accountability, employment and training activities
Totals	**$47,947,641**	**$4,310,206**	**$43,637,435**	

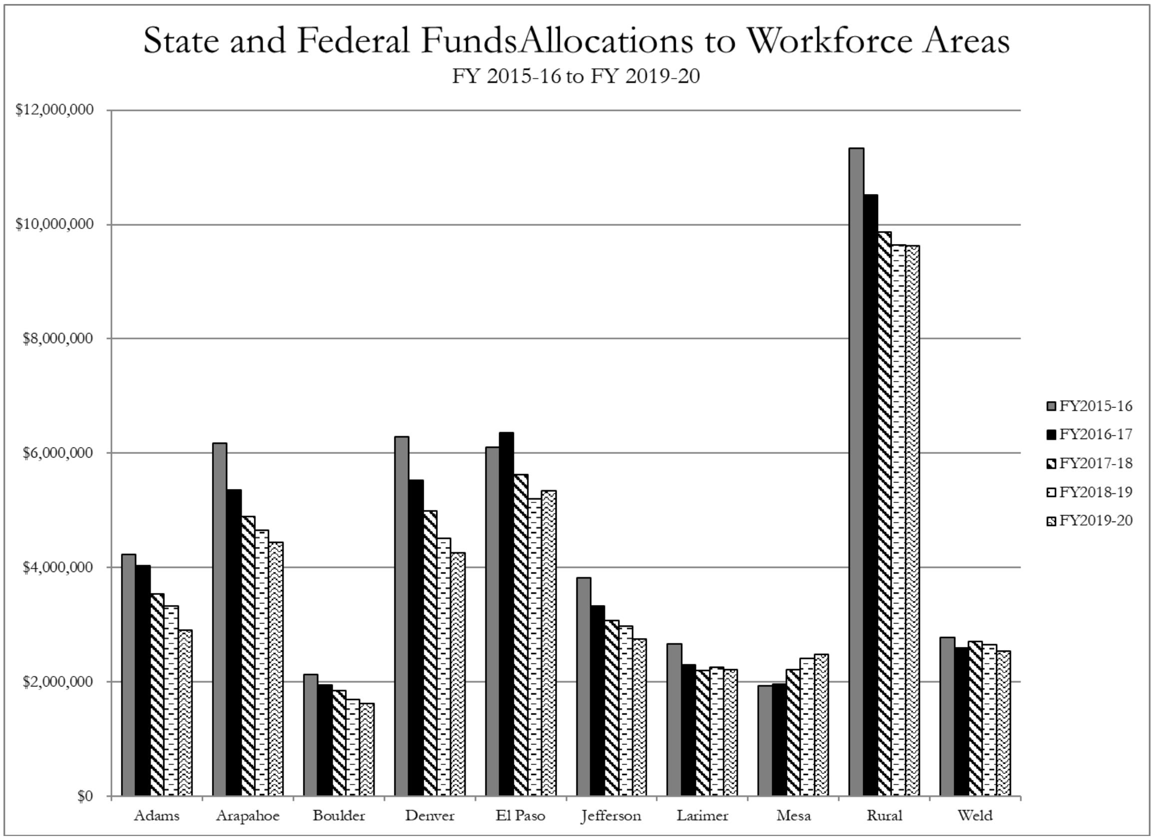
Federal funds allocations to the State for workforce activities have fallen significantly in recent years for several reasons:

- Overall flat or declining federal funding for employment and training since the end of the recession. A General Accounting Office report that summarizes a wide range of employment and training programs indicates that funding for the Department of Labor programs addressed in this issue fell over 52 percent between the height of the recession in 2009 and 2017, with similar reductions in individuals served.[2]
- Reductions to Colorado's share of federal funding in light of Colorado's exceptionally low unemployment rates. Federal formula allocations to the State are based on each state's unemployment rate and related metrics. For the period from FY 2015-16 to FY 2018-19, federal funding for employment and training services for the nation as a whole have remained relatively flat and in the $1.7 billion range,[3] but Colorado's allocation has declined significantly over this period.
- State funding has essentially been held flat since the recession.

The chart below shows the decline in Colorado's allocation by workforce area over the last five years of federal Wagner-Peyser, federal WIOA, and state Employment Support Funds. **As shown, since**

[2] U.S. Government Accountability Office, Employment and Training Programs: Department of Labor Should Assess Efforts to Coordinate Services Across Programs, Released March 2019. https://www.gao.gov/products/GAO-19-200
[3] FY 2020 Congressional Budget Justification, Employment and Training Administration, Training and Employment Services. https://www.dol.gov/sites/dolgov/files/general/budget/2020/CBJ-2020-V1-03.pdf

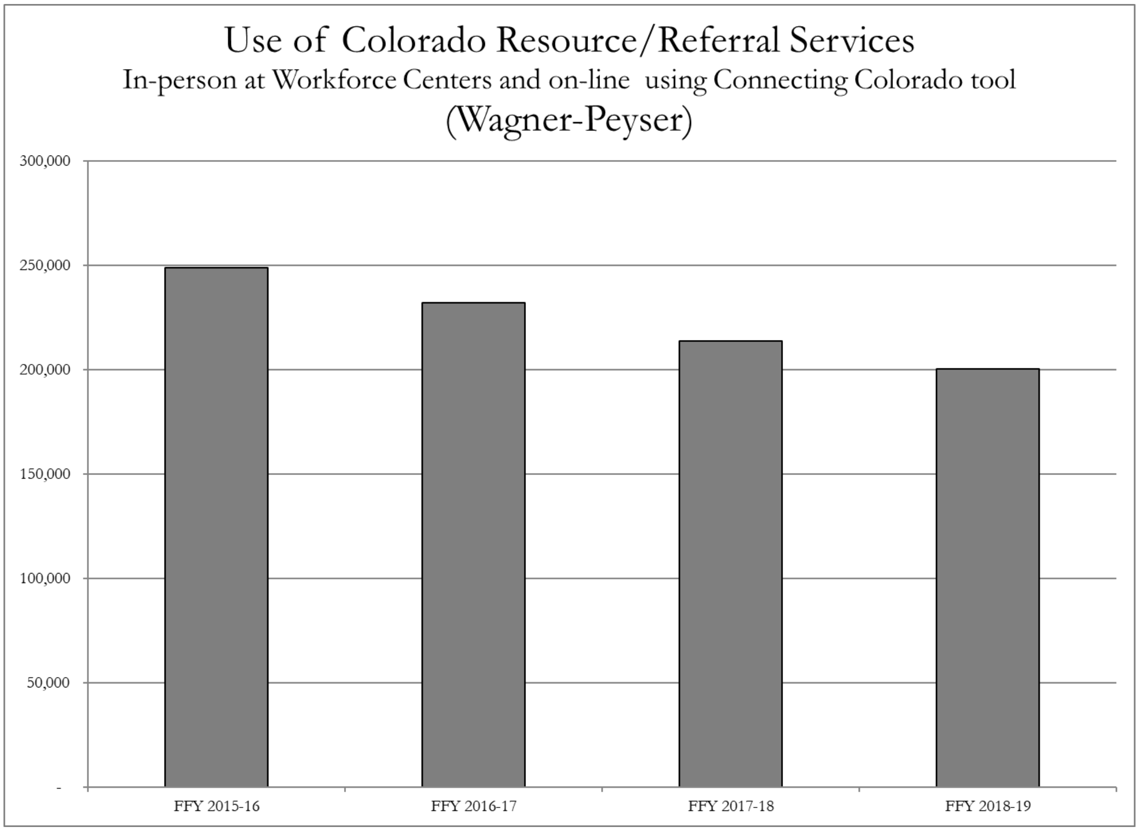
FY 2015-16, total allocations to workforce areas have declined by 20.0 percent, from $47.4 million to $38.2 million, reflecting the decline in federal support.

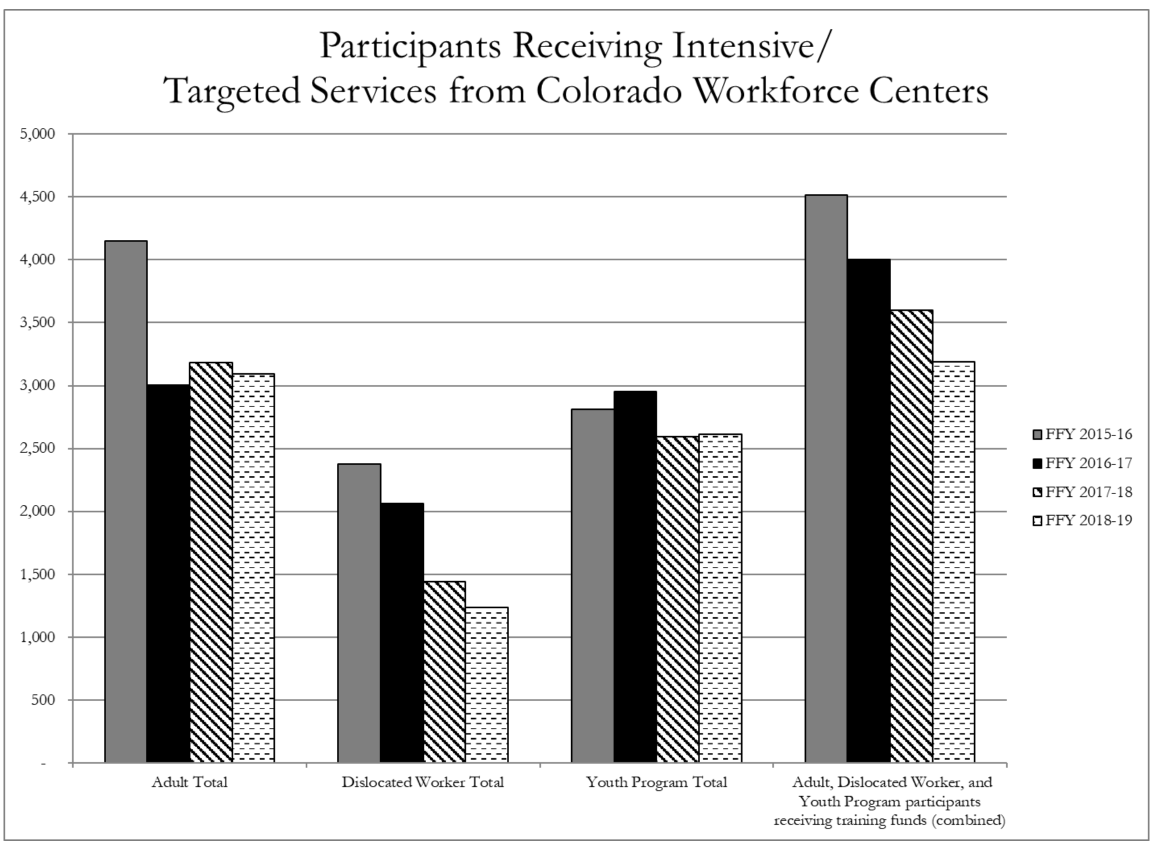


The funding declines align with declines in individuals served. This reflects declines in demand (particularly for Wagner/Peyser resource and referral services) but also reflect reduced availability of funding and resulting prioritization of individuals who may receive more intensive services.

In the most recent year for which data is available:

- There were 200,314 visits reported to resource and referral services at Colorado workforce centers, including multiple visits by the same individual.
- 6,944 individuals received more intensive services through the adult, dislocated worker, and youth programs.


Use of Colorado Resource/Referral Services
In-person at Workforce Centers and on-line using Connecting Colorado tool
(Wagner-Peyser)
300,000
250,000
200,000
150,000
100,000
50,000
-
FFY 2015-16
FFY 2016-17
FFY 2017-18
FFY 2018-19


Participants Receiving Intensive/
Targeted Services from Colorado Workforce Centers
5,000
4,500
4,000
3,500
3,000
2,500
2,000
1,500
1,000
500
-
Adult Total
Dislocated Worker Total
Youth Program Total
Adult, Dislocated Worker, and Youth Program participants receiving training funds (combined)
FFY 2015-16
FFY 2016-17
FFY 2017-18
FFY 2018-19

The table below summarizes **cost per client and outcome data** included in annual federal reports for Colorado for FY 2017-18.[4]

Federal FY 2018 WIOA Expenditure and Performance Data Colorado Training and Career Services Expenditures and Outcomes				
Workforce Center Program	Participants*	Federal Funds Expended	Federal Cost per Participant	Resulting Employment Rate
Adult Program	3,189	$7,268,095	**$2,279**	**78.2%**
Dislocated Worker Program	1,438	9,522,137	**6,622**	**79.3%**
Youth Program	2,607	7,639,064	**2,930**	**69.1%**
Resource/Referral (Wagner-Peyser)*	74,492	11,096,224	**149**	**61.2%**
Total	**81,726**	**$35,525,520**	**$435**	

Source: U.S. Department of Labor, Employment and Training Administration, Workforce Innovation and Opportunity Act, Performance Reports https://www.doleta.gov/performance/results/AnnualReports/annual_report.cfm

Note: Assuming state funds merely added to costs and not numbers served, total costs per participant are approximately 25 percent higher.

*The federal government annual performance report defines Wagner-Peyser participants for purposes of this table as those using staff-supported services at workforce centers. As a result, the total Wagner-Peyser clients reported in this chart is less than half the number reported in the chart above.

Costs and Benefits of Public-supported Employment and Training

The evidence on the impact of government-run job training programs is mixed and, not surprisingly, dependent upon the type of intervention provided. For example, in in 2016, the U.S. Department of Labor contracted with Mathematic Policy Research and several partner organizations to develop nationally generalizable estimates of the impacts and cost-effectiveness of federal intensive and training services on customers' employment and earnings, and examine how the programs were implemented nationwide. The study used a randomized model to evaluate adult and dislocated worker programs, two of the nation's largest public funded employment and training programs (and two that are implemented in Colorado by workforce centers). The study found that *intensive services (counseling) was cost-effective and increased client earnings by 7 to 20 percent, but that evidence suggested that training, the most resource-intensive support provided, did not have a positive impact and appeared to represent a net cost to both taxpayers and customers 30 months after study enrollment.*[5] The researchers suggested that this reflected weaknesses in the types of training provided and recommended that *"policymakers should continue to invest in staff assistance, but look for effective training approaches."*

Since this study, innovations included in the federal Workforce Innovation and Opportunity Act have sought to increase coordination among the dozens of programs operated by multiple federal agencies, to reorient programs so that they are more driven by business and industry needs, and to collect better data on program impacts.

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[4] Note that this table reflects federal funds only and uses a different definition of "participant" than some of the data reported above.

[5] Mathematica, Workforce Investment Act Adult and Dislocated Worker Programs Gold Standard Evaluation, Prepared for U.S. Department of Labor, Employment, and Training Administration. https://www.mathematica.org/our-publications-and-findings/projects/wia-gold-standard-evaluation

Apprenticeships are one of the few types of federal-supported training in which there seems to be consistent agreement on the return on investment and broad support across the political spectrum6. Apprenticeships combine paid on-the-job training with classroom instruction to prepare workers for skilled careers. While the apprenticeship model is most closely associated with the construction trades, where it has been in use for centuries, in recent years there have been significant efforts to expand the model to other types of employment, ranging from computer programming to healthcare, and to move to models where an apprentice's advancement is based on competency evaluation, rather than solely time on the job. A 2012 study commissioned by the federal Department of Labor found that *registered apprenticeship participants had substantially higher earnings than nonparticipants, with overall career earnings of nearly $100,000 more than similar nonparticipants* and the benefits are much larger than the costs, although female apprentices recommended some changes to promote women's success.[7]

The federal government Office of Apprenticeships, under which certifies and monitors Colorado apprenticeship programs, has supported Colorado efforts to grow the apprenticeship model in the State, including through a $1.8 million Department of Labor grant received in 2016 (ApprenticeshipUSA State Operations Grant), extended for three years, to help expand the state's apprenticeship infrastructure. Federal documents indicate that in 2018, Colorado had 6,315 registered apprenticeships, including 3,617 new apprenticeships, in 181 active programs that were recognized by federal authorities.

The Department has expressed interest in expanding work based learning opportunities. *Work based learning incorporates apprenticeships but also other forms of training such as internships and subsidized employment. There is less evidence available on the impact of these initiatives than there is on registered apprenticeships per se.*

The Division reports that it operates eight work-based learning programs, most of which are funded by General Fund or federal grants.

- Four of the programs were established by the General Assembly to target specific sectors and industries, including the Skilled Worker Outreach, Recruitment and Key Training Act, the Innovative Industry Workforce Development, and the Hospitality Career Secondary Education Grant Program. These programs generally target particular industry sectors or services.

- Apprenticeship initiatives, as noted above, have been supported by federal grants. The Department has also used some Federal Wagner-Peyser and WIOA Title I funds to support work based training.

Request R1

The Department requests $1,200,000 cash funds from the Employment Support Fund to increase work-based learning opportunities, with a particular focus on equity issues and particularly in the early childhood care and education field. The Department specifically requests:

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6 https://apprenticeship.workforcegps.org/resources/2017/08/29/12/43/Expanding-Apprenticeship-Return-on-Investment-ROI,

7 Mathematica, An Effectiveness Assessment and Cost-Benefit Analysis of Registered Apprenticeships in 10 States, July 2012
https://wdr.doleta.gov/research/FullText_Documents/ETAOP_2012_10.pdf

- $1,000,000 to be *equally divided* in amounts of $100,000 to the state's network of ten workforce areas to support work-based learning programs.
- $200,000 to be allocated on a competitive basis to workforce areas based on proposals for boards that explicitly plan to support work-based learning activities to address the shortage of early childhood education professional.

The request notes:

- Current funding levels are insufficient to cover training and supportive service costs for work-based learning opportunities.
- Work-based learning is a key strategy for filling the "middle skills" gap in Colorado. While the unemployment is low, there are ongoing concerns about the mismatch between workers' skills and the specific skills businesses need.
- High quality, paid work-based learning opportunities including apprenticeships, on-the-job training, and internships, offer numerous benefits for job seekers and businesses. People who complete apprenticeships can expect to earn an average annual income of approximately $60,000.
- Historically, work-based learning opportunities, especially apprenticeships, have been less accessible to women and people of color. Only 7% of registered apprentices are women.
- Small businesses face challenges to making work-based learning opportunities available to prospective employees, due to the training time required.
- Colorado is experiencing a shortage of early childhood care and education professionals, and work-based learning supports can be used to address this. The Governor's Office estimates that the state needs an additional 8,500 early childhood professionals to provide sufficient child care capacity for children ages 0-3.

The Department indicates that allocations to counties would include funding for the following:

1 *Subsidies for client support services:* Subsidize the cost of childcare, travel, work equipment and other supports not covered by employers in an apprenticeship or work-based learning experience during the three months of placement, up to $1,000 per participant. Subsidize wages or training costs for underrepresented populations of up to $5,000 per individual for the first six months of employment.

2 *Expand collaboration between workforce system and businesses*: conduct targeted outreach to businesses to develop new apprenticeships, internships, and on-the-job training.

3 *Provide incentives for businesses to offer paid work-based learning experiences.* Subsidize wages and/or training cost up to $5,000 per individual (based on the size of the business) for up to six months to offset the cost of training in new technologies. Businesses would pay the remaining portion of wages.

PROJECTED OUTCOMES:

- The Department's request indicates that there are currently 1,239 individuals engaged in work based learning opportunities supported through the State. Of those served in FY 2018-19, 861 (69% of the total) completed and entered employment.

- **If funds are used for the lower cost support services ($1,000 per person), the initiative would serve 1,200 additional people. If funds are used for $5,000 wage subsidies, the request would serve 240. The actual number served would presumably fall somewhere within that very large range.**
- **Baseline outcomes (those currently reported to federal authorities) indicate that in FY 2018-19 69 percent of individuals participating in work based learning completed the training and entered employment.** The Department would track increases and decreases.
- The Department would also track a variety of other federal and other metrics related to women and minorities enrolled in the programs, percentages of participants completing and employed afterwards, retention after six months, and businesses involved. The list of metrics did not address pre- and post- earnings.

STAFF OBSERVATIONS

- In general, s**taff supports Department efforts to promote work-based learning opportunities for individuals who face barriers to employment.** This is the population that receives intensive services through the federal and state workforce center network and continues to be a population that requires support to improve employability and skills, even in a period of low statewide unemployment. *Workforce center administrators confirm that funding in this area is a high priority for them and has proven to be a highly effective strategy for finding good jobs for hard-to-serve populations.*

  As described above, the funds would serve anywhere from 240-1,200 individuals. At the high cost/fewer people end of the spectrum ($5,000 per person served), **the cost would be similar to the state's contribution per student FTE per year at a public institution of higher education.** While this is clearly a substantial amount of funding, it's not unreasonable if it successfully creates employment and higher wages for individuals with significant barriers to employment. *Staff encourages the Committee to discuss with the Department how it will ensure programs are evidence-based and its plans to evaluate program impacts.*

- **Legislation suggested.** The current state workforce statutes are designed to align with the federal program and reflect allocations to workforce centers that are supposed to follow specific state and federally approved formulas. Furthermore, the state funding that is provided from the Employment Support Fund is specifically identified as intended to "offset funding deficits for program administration" for the state's federally-aligned statutes. **The Department is proposing to allocate funds among workforce centers in a manner that differs from the allocation formulas developed through statutory guidelines for federal funds. It also indicates that it would like to use funds in ways that fall outside federal restrictions for use of federal workforce funds.** Its request specifically notes that federal Wagner-Peyser and Title I guidelines provide limited flexibility to fund a wage-match with employers.

  In light of the above factors, staff believes that if the General Assembly wishes to pursue the work based learning initiatives outlined in this request and exert more control on how these funds are used, the JBC should consider sponsoring legislation to create a program for targeted state workforce development initiatives, including work based learning, and specify that the Employment Support Fund money (and possibly the General Fund) may be used for such initiatives subject to available appropriation. To-date, the General Assembly has authorized a number of programs, supported by the General Fund, that support work-based learning opportunities related to particular industries. New legislation that enabled the State to sponsor such opportunities across multiple industries might help the state rationalize a system of state-sponsored, evidence-based work-based learning initiatives.

- **Available funds for the initiative.** The long-term availability of these funds is uncertain. Although the Department has proposed this as an ongoing initiative, in a recession, the State may need to redirect more funds to basic workforce resource-referral operations and less to targeted training initiatives such as work-based learning. As described in a subsequent issue, the Department has not thus far provided a clear analysis of long-term Employment Support Fund needs.

- Staff also notes that the state's workforce center program is currently undergoing a **performance audit from the Office of the State Auditor**, which will be completed June 30, 2019. Particularly with this in mind, staff believes there is some value to clearly segregating new funding for specific state-intended uses.

- Finally, staff notes that with respect to funding for early childhood provider training, **the State has submitted a large number of potentially overlapping early childhood educator requests in multiple departments.** The Early Childhood and School Readiness Commission is also sponsoring a bill targeted in part at training for providers. The Committee should explore with the Department how this request might interact with these many other pieces of legislation and initiatives and whether this proposal could be integrated with these other initiatives.

ISSUE: EMPLOYMENT SUPPORT FUND CAP

Current law requires a portion of unemployment insurance premiums be deposited to the Employment Support Fund up to a statutory cap. The Department has not been complying with the provisions of the cap as it is interpreted by legislative staff, and staff recommends the cap be clarified.

SUMMARY

- Current law requires a portion of unemployment insurance premiums be deposited to the Employment Support Fund (ESF), which receives revenue of over $34 million per year. This fund partially supports unemployment insurance administration, employment and training programs, labor standards programs, and the Executive Director's Office.
- Unemployment insurance premium revenue that is deposited in the ESF is counted in state fiscal year spending under TABOR. Most unemployment insurance premiums (over $500 million per year) are deposited to the Unemployment Insurance Trust Fund (UITF), which is a TABOR enterprise.
- Current law caps the total revenue that may be deposited to the ESF, but the Department has not been complying with the cap as it is interpreted by legislative staff. As a result, revenue above the cap has been counted as TABOR state spending and is being kept in ESF reserves.
- If the cap is clarified so that amounts above the ESF cap in any fiscal year are diverted to the UITF, revenue to the UITF could increase by $1 to $2 million per year, while revenue to the ESF would decline by the same amount. A corollary impact would be to increase available General Fund revenue by $1 to $2 million per year if the State is at its TABOR spending cap. This is because a reduction in the total revenue included in TABOR state spending reduces General Fund TABOR refunds to taxpayers.

RECOMMENDATION

- Staff recommends that the Committee sponsor legislation to clarify the cap on the Employment Support Fund.

- If a cap is maintained, the Committee should ensure that amounts above the cap are diverted to the Unemployment Insurance Trust Fund, consistent with the intent reflected in current law. The Committee could choose to "recapture" amounts above the cap that were deposited in prior years, if desired. Any amounts diverted would benefit the Unemployment Insurance Trust Fund, while reducing amounts available in the Employment Support Fund. When the State is at its TABOR spending cap, diverting amounts above the cap to the Unemployment Insurance Trust Fund will <u>also</u> benefit the General Fund. Staff anticipates that the fiscal impact of diverting funds could range from $1 to $5 million in the first year, depending upon whether the legislation captures Employment Support Fund amounts above the cap from prior years.

- The Committee should also explore with the Department whether or not a cap is appropriate, as another alternative is to simply uncap the ESF or establish a different cap. Staff has repeatedly asked the Department to outline what it sees as the level of reserve required in the ESF and the level of expenditure required in a recession but has not received a response. It is difficult to determine whether or not revenue to the Employment Support Fund should or should not be capped without this type of analysis.

DISCUSSION

EMPLOYMENT SUPPORT CASH FUND

The Employment Support Fund (ESF) is derived from a portion of state unemployment insurance premiums paid by employers. The first 0.0011 assessed as part of each employer's UI premium is applied to this Fund up to a cap, described below. Revenue into the Fund was $34.1 million in FY 2018-19. Annual expenditures ($30.9 million in FY 2018-19) support the Department's Unemployment Insurance, Employment and Training, and Labor Standards Divisions. Revenue into this Fund and a related Employment Training and Technology Fund (which receives $10.0 million per year) together represented 7.1 percent of state revenue from unemployment insurance premiums in FY 2018-19. The remainder of unemployment insurance premium revenue is deposited in the Unemployment Insurance Trust Fund and is used to pay benefits to workers who lose their jobs through no fault of their own.

This revenue supports administration of several core functions of the Department of Labor and Employment. Statute specifies that the Employment Support Cash Fund may be appropriated "to offset funding deficits for program administration, including information technology initiatives, under the provisions of articles 70 to 83 of [title 8] and to further strengthen unemployment fund solvency… and to fund labor standards, labor relations, and the Colorado works grievance procedure under the provisions of articles 1 to 6, 9, 10, 12 and 13 of [title 8] and section 26-2-716 (3)(b), C.R.S." **Staff thinks of this fund as the Department's "General Fund" for purposes of helping to support the Department's labor standards enforcement, unemployment insurance, and employment and training programs.**

EMPLOYMENT SUPPORT CASH FUND REVENUE AND EXPENDITURES				
	CASH REVENUE *	% CHANGE	CASH EXPENDITURE	% CHANGE
FY 2007-08	$22,317,733		$20,565,094	
FY 2008-09	19,979,502	-10.5%	26,072,328	26.8%
FY 2009-10	14,195,000	-29.0%	26,662,372	2.3%
FY 2010-11	18,646,546	31.4%	26,906,069	0.9%
FY 2011-12	19,307,097	3.5%	24,373,160	-9.4%
FY 2012-13	25,723,693	33.2%	24,756,627	1.6%
FY 2013-14	27,098,622	5.3%	24,465,442	-1.2%
FY 2014-15	31,186,641	15.1%	26,133,033	6.8%
FY 2015-16	30,770,737	-1.3%	24,996,044	-4.4%
FY 2016-17	32,599,820	5.9%	25,776,299	3.1%
FY 2017-18	34,383,319	5.5%	27,962,337	8.5%
FY 2018-19	34,106,535	-0.8%	30,938,526	10.6%
CAAGR		*3.9%*		*3.8%*

* The statutory revenue calculations for the Employment Support Fund have changed over time, so the revenue generated prior to FY 2012-13 may not be comparable to the revenue generated under recessionary conditions in future years.

Employment Support Cash Fund - Appropriations and Expenditures		
	FY 2018-19	FY 2019-20
Executive Director's Office	$9,301,028	11,838,774
Unemployment Insurance	4,600,420	5,431,588
Employment & Training	10,470,603	10,666,630
Labor Standards	1,303,544	1,409,906
Total - Appropriated	**$25,675,595**	**29,346,898**
	8.3%	14.3%
Additional Expended (various CF)	5,262,931	
Total - Expended	**30,938,526**	
	10.6%	

DEPARTMENT PRACTICE APPEARS TO BE INCONSISTENT WITH STATUTORY PROVISIONS REGARDING MANAGEMENT OF THE EMPLOYMENT SUPPORT FUND

During discussions with the Department last year, it came to staff's attention that the Department was not managing the Fund in a manner that appeared to be consistent with the plain language of statute. Based on further consultation with the Office of Legislative Legal Services and the Department, **staff recommended that the Committee sponsor legislation to clarify the existing statutory language and to adjust the FY 2018-19 cap to correct an error in the Fund's management in FY 2017-18.**

The current statutory language at 8-77-109(1)(b)(I) reads as follows:

> There is hereby established the employment support fund. This fund consists of the first 0.0011 assessed as part of each employer's premium under section 8-76-102.5 (3)(a) or the amount expended from the employment support fund in the year prior to July 1, 2011, adjusted by the same percentage change prescribed in section 8-70-103 (6.5), whichever is less. The division must transfer to the unemployment compensation fund amounts in excess of the amount expended from the employment support fund in the year prior to July 1, 2011, adjusted each year by the same percentage change prescribed in section 8-70-103 (6.5).In addition, revenues to pay nonprincipal-related bond costs for bonds issued under section 29-4-710.7, C.R.S., or section 8-71-103 (2)(d) may be added to amounts assessed under this section. The division may transfer any moneys in the employment support fund to the unemployment bond repayment account created in section 8-77-103.5 to pay nonprincipal-related bond costs for bonds issued under section 29-4-710.7, C.R.S., or section 8-71-103 (2)(d). The employment support fund is not included in or administered by the enterprise established pursuant to section 8-71-103 (2).

In sum:

- **Revenue** into the ESF is capped.
- Any amounts above the cap must be transferred to the Unemployment Insurance Trust Fund.
- The amount of the cap consists of FY 2010-11 expenditures *from* the ESF, inflated each year by the increase in average weekly wages.
- Revenue to pay nonprincipal-related bond costs is excluded from the cap.

Legislative staff versus Department interpretations:

- JBC and OLLS staff believe the most straightforward interpretation is that this caps **annual revenue** into the Fund.[8]
- The Department of Labor and Employment has instead been reading this as a cap on annual **spending** from the Employment Support Fund and has been managing the fund accordingly.
- While Department staff have verbally agreed that the language in the statute seems to refer to a revenue cap rather than an expenditure cap, the Department does not appear to have modified its practice.
- **Because the Department has treated the cap as a spending cap, instead of a revenue cap, it has received and kept funds in the ESF that staff believes should have spilled over into the Unemployment Insurance Trust Fund.**

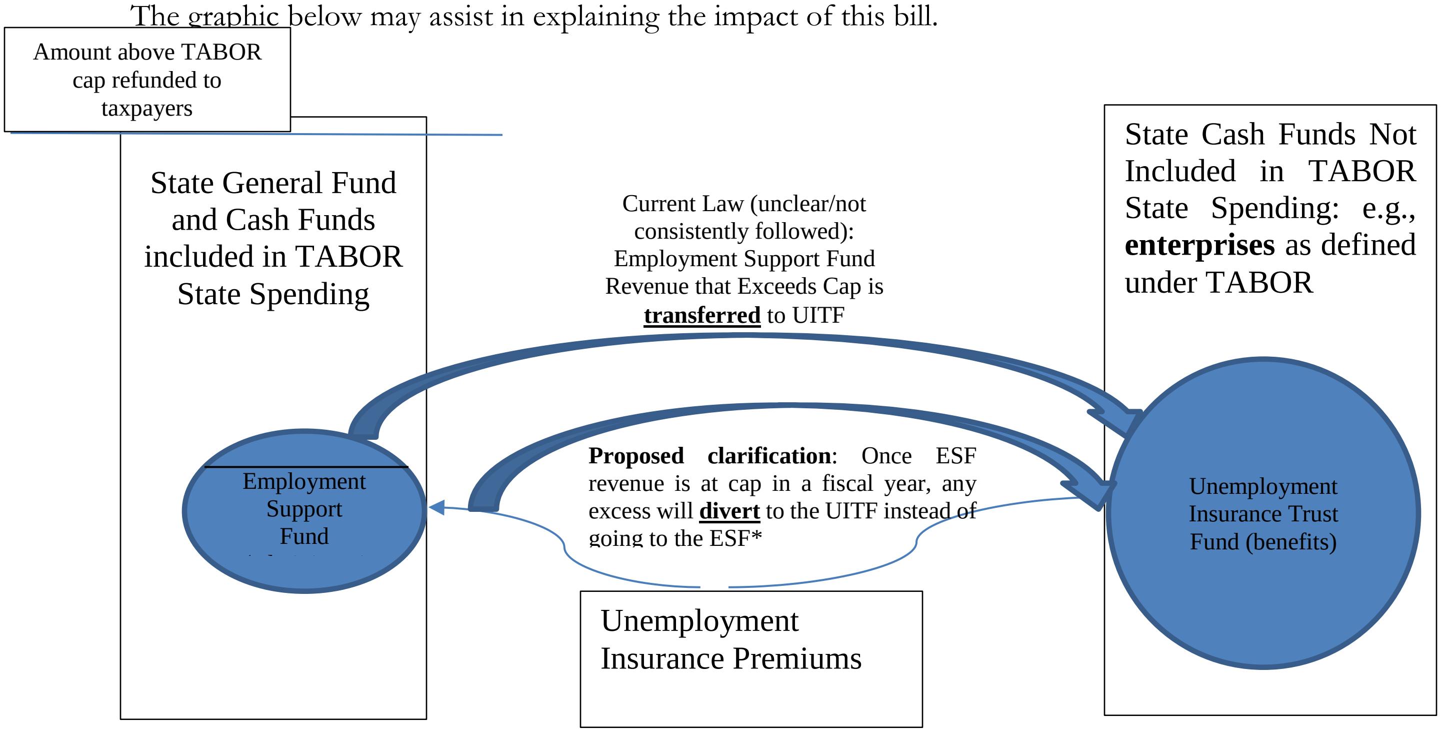
During the 2019 legislative session, the JBC requested a bill draft that would have clarified the language in the existing statute. However, in part due to changes in the revenue forecast that indicated that the state would be below the TABOR cap, the Committee chose not to carry the bill. **Staff recommends the Committee consider carrying a version of the bill during the 2020 session.**

TABOR issues:

- Revenue into the ESF is considered part of the State's overall revenue subject to the Taxpayers Bill of Rights (TABOR). In contrast, revenue into the Unemployment Insurance Trust Fund is considered *exempt* from TABOR, because the General Assembly has deemed the Unemployment Insurance Trust Fund an enterprise under TABOR.
- In other words, if unemployment insurance premium revenue goes into the ESF, it is counted as state revenue subject to TABOR limits. If the same UI premium revenue goes into the Unemployment Insurance Trust it is not counted as state revenue subject to TABOR limits.
- When State has reached its TABOR cap, every extra dollar that goes into the ESF instead of the Unemployment Insurance Trust Fund effectively increases the General Fund refund due to taxpayers under TABOR. Thus, depositing funds directly into the UITF rather than the ESF increases the General Fund that may be retained by the State when the State is at its TABOR cap.

[8] The language plainly addresses revenue, though OLLS notes that there are some options on how the revenue cap is applied, i.e., does it cap annual revenue or have some relationship to fund balances?

The graphic below may assist in explaining the impact of this bill.



Note: Graphics do not reflect the relative scale of spending/revenue shown

*In addition, the staff recommendation *corrects* a Department error in not transferring excess FY 2017-18 revenue as required under current law by reducing the FY 2018-19 cap on a one-time basis.

If the Committee wishes to maintain a cap on the Employment Support Fund, staff continues to recommend a statutory change to:

- Clean up the statutory language, so that any question about whether this is an annual revenue cap is alleviated.
- Consider making a one-time adjustment to lower the ESF cap by the amount that should have been transferred to the Unemployment Insurance Trust Fund in FY 2017-18 and FY 2018-19. This appears to be the cleanest way to correct the FY 2017-18 and FY 2018-19 errors, now that books for these years are closed.
- **Outcomes:**
    - **If the Committee takes action to "take back" amounts deposited in the ESF in prior years above the cap, staff anticipates that this could have a positive impact to the Unemployment Support Fund and the General Fund of $3 to $5 million in FY 2019-20 or FY 2020-21.**
    - **If the Committee does not "look back" to correct prior years, the impact would likely be in the $1.0-$2.0 million range.**
    - **If state revenue falls so that the State is not at its TABOR spending cap, the change would still increase revenue to the Unemployment Insurance Trust Fund and reduce revenue to the Employment Support Fund but would not affect the General Fund.** The one-time adjustment to correct FY 2017-18 and FY 2018-19 could be applied in FY 2019-20 or FY 2020-21 at the Committee's discretion.

Employment Support Fund: Impact of Applying Revenue Cap						
	Revenue	Expenditure	Cap based on 2011 Expenditure + Wage Rate Increase	Add Estimated Bond Revenue	Revised cap with bond revenue	Estimated Cap versus Revenue Revenue (Above)/Below cap
FY 2010-11	18,646,546	26,906,069				
FY 2011-12	19,307,097	24,373,160	27,607,966		27,607,966	8,300,869
FY 2012-13	25,723,693	24,756,627	28,474,857	954,693	29,429,550	3,705,857
FY 2013-14	27,098,622	24,465,442	28,677,028	954,693	29,631,721	2,533,099
FY 2014-15	31,186,641	26,133,033	29,738,078	954,693	30,692,771	(493,870)
FY 2015-16	30,770,737	24,996,044	30,567,770	954,693	31,522,463	751,726
FY 2016-17	32,599,820	25,776,299	30,839,824	954,693	31,794,517	(805,303)
FY 2017-18	34,383,319	27,962,337	32,135,096		32,135,096	(2,248,223)
FY 2018-19*	34,106,535	30 938 526	32,938,474		32,938,474	(1,168 061)

*Cap may be revised pending additional data on the wage base increase.

Observations

- This is a **very technical issue, and that the total dollars involved are quite limited**. Fiscal Year 2018-19 revenue to the Employment Support Fund did not increase at the rate projected. As described above, the impact is likely to be in the $1 to $2 million range per year.
- **Staff remains concerned that the Department has not complied with a statutory requirement that amounts above a specific cap be deposited in the Unemployment Insurance Trust Fund.**
- While the Department originally indicated that it would present a proposal for an alternative cap this year, it now appears that it is instead pushing to uncap the fund and make the Employment Support Fund an enterprise. As discussed further below, staff does **not** recommend making the Employment Support Fund an enterprise.
- **Staff continues to believe this issue should be cleaned up one way or another.**
- **It appears to staff that the existing statutory cap is fairly reasonable, given the recent history of expenditures**. However, the Department has been increasing expenditures in recent years and, currently, is requesting an increase of $1.2 million from the ESF for a Work Based learning initiative. **Clearly, the State's ability to fund additional initiatives in CDLE with ESF cash funds will be somewhat curtailed if the cap on the ESF is enforced.**

Other Considerations - Missing Information, TABOR Enterprise, Mechanics

Revenue and Expenditure Projections - Missing Information

- **Staff has repeatedly asked the Department to outline what it sees as the level of reserve required in the Employment Support Fund and the level of expenditure required in a recession but has not received a response.** It is difficult to determine whether or not revenue to the fund should or should not be "capped" without this type of analysis.

- **As currently formulated, staff believes revenue to the Employment Support Fund should be relatively stable and is likely to fall no more than 10 percent in a recession.** The Department has previously modeled for staff a decline of 9.0 percent over two years under recessionary conditions. The wage base on which the Employment Support Fund is calculated is low ($13,100), so, even in a lower-wage environment, only a small portion of the working population will fall below that wage base. The bigger impact would be in the area of total employment. However, even in the Great Recession, total employment fell only 6.0 percent. **To address a future recession, staff anticipates that the Department might be able to justify a reserve of 25-30 percent of expenditures assuming declining revenue and flat expenditures. As of the end of FY 2018-19, it was in that range.**

	Cash Balance	Expenditures	Difference	Size of Reserve
FY 2018-19	38,782,197	30,938,526	7,843,671	25%

- **It is more difficult for staff to project expenditure needs for future years, particularly in a recession.** Based on the experience during the Great Recession, it does not appear that expenditures from the Employment Support Fund increased substantially. Under recessionary conditions, <u>federal</u> support for administering unemployment and training programs has historically increased substantially. *It is not clear to staff whether the relatively stable expenditures from the Employment Support Fund during the Great Recession were inadequate.* The Department's long range plan does not address this.

- **A large increase to the taxable wage base for Unemployment Insurance could significantly increase revenue to the Employment Support Fund if the Employment Support Fund is uncapped.** It does not appear that a change to the UI taxable wage base is likely in 2020 but such a change should be a consideration for future years.

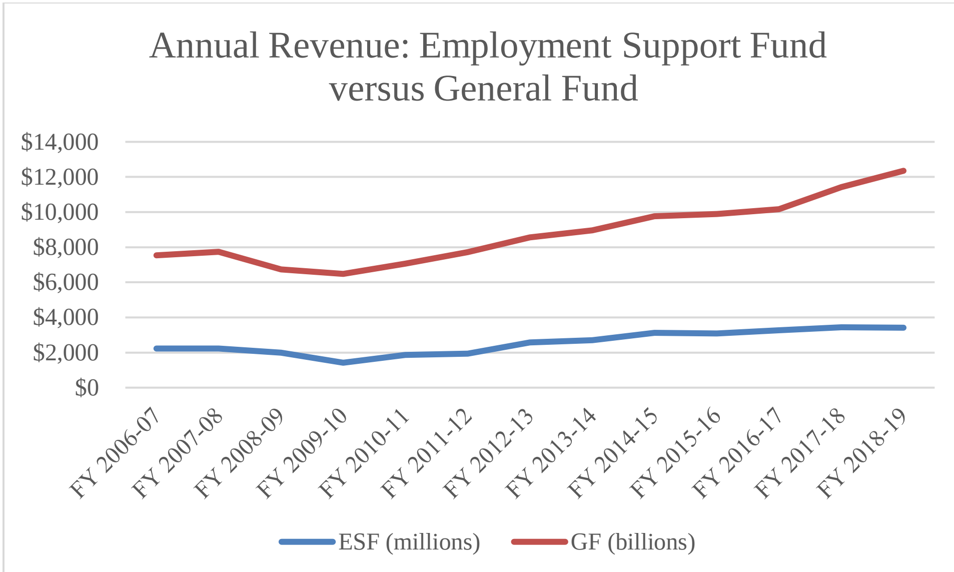
TABOR Enterprise

The Department and OSPB indicate that they have been considering whether the ESF should become a TABOR "enterprise" as the Unemployment Insurance Trust Fund already is. **Based on information currently available, staff does not recommend this.**

- Based on provisions in Article X, Section 20 of the State Constitution, when an entity becomes a TABOR enterprise, all of the revenue associated with the enterprise is typically removed from the base for purposes of calculating total state revenue subject to TABOR. Because of this, when deciding whether or not it is desirable to create a new enterprise, **the General Assembly generally focuses on whether the revenue stream for the proposed enterprise is growing faster or slower than general tax revenue**. If a revenue stream grows faster than general tax revenue, the General Assembly may want to consider placing the revenue stream under an "enterprise" structure, because a rapidly growing cash fund may drive refunds of general tax revenue.

- **The compound average annual rate of increase in the Employment Support Fund since FY 2012-13 (the last time the statute was changed) is 4.8 percent, while the compound average annual rate of increase in General Fund subject to the TABOR cap is 6.3 percent**

over the same period. In light of this, staff does not see a near-term benefit to moving the ESF under the enterprise structure that exists for the rest of the Unemployment Insurance Trust Fund.



Mechanical Calculations: Should the Committee choose to sponsor legislation to clarify the Employment Support Fund cap, the Department has recommended that the cap should be inflated for each fiscal year based on the average weekly wage increase for the prior calendar year. So, for example, if the increase in the average weekly wage for calendar year 2018 was 2.0 percent, the FY 2019-20 ESF revenue cap would increase 2.0 percent.

Appendix A: Numbers Pages

	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	Request vs. Appropriation

DEPARTMENT OF LABOR AND EMPLOYMENT
Joe Barela, Executive Director

(1) EXECUTIVE DIRECTOR'S OFFICE

The Executive Director's Office provides administrative and technical support for department divisions and programs including accounting, budgeting, and human resources functions.

	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	Request vs. Appropriation
Personal Services	9,807,933	8,820,329	9,657,288	9,984,511	
FTE	104.2	103.6	110.7	110.7	
General Fund	184,074	207,225	230,411	240,893	
Cash Funds	4,523,213	4,634,406	4,803,992	4,977,274	
Reappropriated Funds	162,366	166,480	171,093	175,375	
Federal Funds	4,938,280	3,812,218	4,451,792	4,590,969	
Health, Life, and Dental	10,787,604	5,267,059	12,324,761	13,099,778	
General Fund	643,805	656,794	794,942	864,040	
Cash Funds	3,663,663	4,550,060	4,531,156	4,611,657	
Reappropriated Funds	46,354	60,205	64,454	63,288	
Federal Funds	6,433,782	0	6,934,209	7,560,793	
Short-term Disability	145,768	66,018	134,288	136,404	
General Fund	8,345	7,020	7,791	8,495	
Cash Funds	51,203	57,954	51,733	50,735	
Reappropriated Funds	1,139	1,044	833	775	
Federal Funds	85,081	0	73,931	76,399	

Appendix A: Numbers Pages

	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	Request vs. Appropriation
S.B. 04-257 Amortization Equalization Disbursement	3,922,337	1,948,345	3,950,245	4,027,369	
General Fund	222,024	207,188	229,128	250,771	
Cash Funds	1,412,254	1,710,348	1,521,481	1,497,748	
Reappropriated Funds	30,190	30,809	24,700	22,876	
Federal Funds	2,257,869	0	2,174,936	2,255,974	
S.B. 06-235 Supplemental Amortization Equalization Disbursement	3,922,337	1,948,345	3,950,245	4,027,369	
General Fund	222,024	207,188	229,128	250,771	
Cash Funds	1,412,254	1,710,348	1,521,481	1,497,748	
Reappropriated Funds	30,190	30,809	24,700	22,876	
Federal Funds	2,257,869	0	2,174,936	2,255,974	
PERA Direct Distribution	0	0	2,186,326	2,035,721	
General Fund	0	0	126,840	126,776	
Cash Funds	0	0	842,254	757,183	
Reappropriated Funds	0	0	13,568	11,564	
Federal Funds	0	0	1,203,664	1,140,198	
Salary Survey	1,493,915	1,266,615	2,577,526	1,774,154	
General Fund	84,504	134,693	149,289	110,488	
Cash Funds	537,420	1,111,892	991,325	659,891	
Reappropriated Funds	11,508	20,030	20,209	10,079	
Federal Funds	860,483	0	1,416,703	993,696	

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	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	Request vs. Appropriation
Merit Pay	677,814	0	0	0	
General Fund	42,317	0	0	0	
Cash Funds	231,117	0	0	0	
Reappropriated Funds	4,805	0	0	0	
Federal Funds	399,575	0	0	0	
Paid Family Leave	0	0	0	545,397	
General Fund	0	0	0	33,965	
Cash Funds	0	0	0	205,957	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	305,475	
Shift Differential	13,339	0	13,177	13,410	
General Fund	0	0	0	0	
Cash Funds	0	0	0	0	
Reappropriated Funds	0	0	0	0	
Federal Funds	13,339	0	13,177	13,410	
Workers' Compensation	617,729	892,165	620,340	512,916	
General Fund	11,210	22,187	22,187	17,890	
Cash Funds	170,874	247,718	172,244	142,165	
Reappropriated Funds	0	0	0	0	
Federal Funds	435,645	622,260	425,909	352,861	
Operating Expenses	1,454,414	1,664,479	1,869,488	1,895,558	
General Fund	17,066	17,065	17,065	17,065	
Cash Funds	766,076	773,502	784,435	810,505	
Reappropriated Funds	0	0	0	0	
Federal Funds	671,272	873,912	1,067,988	1,067,988	

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	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	Request vs. Appropriation
Legal Services	838,308	943,481	1,057,906	1,013,859	
General Fund	80,188	115,122	110,860	110,860	
Cash Funds	193,920	195,605	313,651	313,651	
Federal Funds	564,200	632,754	633,395	589,348	
Payment to Risk Management and Property Funds	146,076	169,782	158,059	136,747	
General Fund	6,880	7,209	7,211	6,785	
Cash Funds	38,799	41,319	38,388	31,994	
Reappropriated Funds	0	0	0	0	
Federal Funds	100,397	121,254	112,460	97,968	
Vehicle Lease Payments	167,291	159,052	198,169	198,733 *	
General Fund	10,829	11,446	16,607	16,607	
Cash Funds	119,232	122,959	120,584	121,148	
Reappropriated Funds	0	0	0	0	
Federal Funds	37,230	24,647	60,978	60,978	
Leased Space	5,317,854	5,745,464	6,238,857	6,426,023	
General Fund	396,230	408,117	420,361	432,972	
Cash Funds	2,370,665	2,441,785	2,515,039	2,590,490	
Reappropriated Funds	0	0	0	0	
Federal Funds	2,550,959	2,895,562	3,303,457	3,402,561	
Capitol Complex Leased Space	48,710	35,134	34,995	37,075	
General Fund	5,125	5,125	5,125	5,125	
Cash Funds	22,267	21,009	21,009	23,089	
Reappropriated Funds	0	0	0	0	
Federal Funds	21,318	9,000	8,861	8,861	

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	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	Request vs. Appropriation
Payments to OIT	11,197,407	12,287,049	17,063,445	13,949,465 *	
General Fund	2,525,615	2,710,698	3,886,824	3,419,313	
Cash Funds	4,644,471	4,889,369	7,899,116	6,470,435	
Reappropriated Funds	384,102	302,688	302,688	0	
Federal Funds	3,643,219	4,384,294	4,974,817	4,059,717	
CORE Operations	247,986	448,180	389,151	510,598	
General Fund	0	0	0	0	
Cash Funds	98,931	143,944	124,941	163,933	
Reappropriated Funds	0	0	0	0	
Federal Funds	149,055	304,236	264,210	346,665	
Utilities	211,756	207,393	260,309	260,309	
General Fund	0	0	0	0	
Cash Funds	0	0	0	0	
Reappropriated Funds	0	0	0	0	
Federal Funds	211,756	207,393	260,309	260,309	
Information Technology Asset Maintenance	454,246	164,445	218,626	218,626	
General Fund	0	0	0	0	
Cash Funds	175,343	69,243	69,243	69,243	
Reappropriated Funds	0	0	0	0	
Federal Funds	278,903	95,202	149,383	149,383	
Statewide Indirect Cost Assessment	505,321	519,255	607,056	658,535	
General Fund	0	0	0	0	
Cash Funds	331,328	281,037	279,912	338,957	
Reappropriated Funds	135	0	0	0	
Federal Funds	173,858	238,218	327,144	319,578	

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	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	Request vs. Appropriation
Implementation Plan for Family and Medical Leave Insurance Program	0	0	165,487	0	
FTE	0.0	0.0	0.5	0.0	
General Fund	0	0	165,487	0	

TOTAL - (1) Executive Director's Office	51,978,145	42,552,590	63,675,744	61,462,557	(3.5%)
FTE	104.2	103.6	111.2	110.7	(0.4%)
General Fund	4,460,236	4,717,077	6,419,256	5,912,816	(7.9%)
Cash Funds	20,763,030	23,002,498	26,601,984	25,333,803	(4.8%)
Reappropriated Funds	670,789	612,065	622,245	306,833	(50.7%)
Federal Funds	26,084,090	14,220,950	30,032,259	29,909,105	(0.4%)

	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	Request vs. Appropriation

(2) DIVISION OF UNEMPLOYMENT INSURANCE

This division oversees vocational rehabilitation programs designed to enable individuals with disabilities to participate in the workforce. It also oversees independent living service programs that provide individuals with disabilities with resources and skills to live independently in the community.

	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	Request vs. Appropriation
Program Costs	34,275,634	32,797,640	39,651,415	44,571,792	
FTE	514.0	470.0	458.1	484.1	
General Fund	38,361	38,361	38,361	38,361	
Cash Funds	7,511,533	7,927,772	8,758,940	12,928,018	
Federal Funds	26,725,740	24,831,507	30,854,114	31,605,413	
Employment and Training Technology Initiatives	4,520,000	4,520,000	6,520,000	0	
FTE	23.5	0.0	26.0	0.0	
Cash Funds	4,520,000	4,520,000	6,520,000	0	
Federal Funds	0	0	0	0	
TOTAL - (2) Division of Unemployment Insurance	38,795,634	37,317,640	46,171,415	44,571,792	(3.5%)
FTE	537.5	470.0	484.1	484.1	0.0%
General Fund	38,361	38,361	38,361	38,361	0.0%
Cash Funds	12,031,533	12,447,772	15,278,940	12,928,018	(15.4%)
Federal Funds	26,725,740	24,831,507	30,854,114	31,605,413	2.4%

	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	Request vs. Appropriation

(3) DIVISION OF EMPLOYMENT AND TRAINING

The Division of Employment and Training administers the Workforce Development Centers, the Workforce Development Council, and various workforce development programs.

	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	Request vs. Appropriation
State Operations and Program Costs	15,846,888	15,602,988	15,042,876	16,554,188 *	
FTE	102.4	96.6	126.2	126.3	
General Fund	274,961	0	25,507	24,869	
Cash Funds	9,685,154	9,793,703	10,005,385	11,418,792	
Federal Funds	5,886,773	5,809,285	5,011,984	5,110,527	
One-Stop Workforce Center Contracts	6,581,884	8,677,340	9,199,807	9,234,816	
FTE	26.2	35.5	17.9	17.9	
Cash Funds	0	0	0	0	
Federal Funds	6,581,884	8,677,340	9,199,807	9,234,816	
Trade Adjustment Act Assistance	1,753,881	1,625,504	2,000,000	2,000,000	
FTE	1.8	1.8	0.0	0.0	
Cash Funds	0	0	0	0	
Federal Funds	1,753,881	1,625,504	2,000,000	2,000,000	
Workforce Innovation and Opportunity Act	31,370,685	33,471,258	29,432,111	29,542,116	
FTE	58.5	52.3	61.2	61.2	
Cash Funds	807,540	807,540	807,540	807,540	
Federal Funds	30,563,145	32,663,718	28,624,571	28,734,576	

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	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	Request vs. Appropriation
Workforce Development Council	1,059,184	864,688	1,091,930	1,864,551 *	
FTE	8.1	8.3	7.5	7.5	
General Fund	572,254	532,103	584,196	1,346,343	
Reappropriated Funds	486,030	332,585	507,734	518,208	
Federal Funds	900	0	0	0	
Workforce Improvement Grants	1,132,478	631,643	1,000,000	1,000,000	
FTE	2.4	1.2	0.0	0.0	
Cash Funds	0	0	0	0	
Federal Funds	1,132,478	631,643	1,000,000	1,000,000	
Innovative Industry Workforce Development	612,140	448,087	602,852	0	
FTE	1.0	1.3	1.3	0.0	
General Fund	612,140	448,087	602,852	0	
Veterans Service to Career Program	384,752	173,664	0	0	
FTE	0.5	0.5	0.0	0.0	
Cash Funds	384,752	173,664	0	0	
Appropriation to the Skilled Worker Outreach and Key Training Program Fund	3,400,000	1,000,000	3,300,000	3,305,453	
General Fund	3,400,000	1,000,000	3,300,000	3,305,453	
Federal Funds	0	0	0	0	

	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	Request vs. Appropriation
Skilled Worker Outreach, Recruitment and Training Program	3,955,023	3,113,114	3,300,000	3,305,453	
FTE	1.0	2.1	2.0	2.0	
General Fund	0	0	0	0	
Cash Funds	3,758,978	3,039,853	0	0	
Reappropriated Funds	196,045	73,261	3,300,000	3,305,453	
Federal Funds	0	0	0	0	
Hospitality Education Grant Program	399,852	399,852	400,883	401,947	
FTE	0.5	0.5	0.5	0.5	
General Fund	399,852	399,852	400,883	401,947	
Employment Support and Job Retention Services Program Cash Fund	0	0	750,000	0	
General Fund	0	0	750,000	0	
Employment Support and Job Retention Services Program	0	0	250,000	500,000	
FTE	0.0	0.0	0.5	1.0	
Reappropriated Funds	0	0	250,000	500,000	
Just Transition Office	0	0	155,758	158,352	
FTE	0.0	0.0	1.8	2.0	
General Fund	0	0	155,758	158,352	

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	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	Request vs. Appropriation
Industry Infrastructure Grant Program	0	556,906	0	0	
Cash Funds	0	556,906	0	0	
TOTAL - (3) Division of Employment and Training	66,496,767	66,565,044	66,526,217	67,866,876	2.0%
FTE	202.4	200.1	218.9	218.4	(0.2%)
General Fund	5,259,207	2,380,042	5,819,196	5,236,964	(10.0%)
Cash Funds	14,636,424	14,371,666	10,812,925	12,226,332	13.1%
Reappropriated Funds	682,075	405,846	4,057,734	4,323,661	6.6%
Federal Funds	45,919,061	49,407,490	45,836,362	46,079,919	0.5%

	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	Request vs. Appropriation

(4) DIVISION OF LABOR STANDARDS AND STATISTICS

This division administers employment and labor laws pertaining to wages paid, hours worked, minimum wage, labor standards, child labor, employment-related immigration laws, and working conditions. It conducts all union agreement elections, certifications of all-union provisions, and investigates and mediates allegations of unfair labor practices. This division also collects, analyses, and reports Colorado employment, wage, and other labor statistics data.

(A) Labor Standards

	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	Request vs. Appropriation
Labor Program Costs	1,859,703	1,906,884	2,288,079	2,483,634	
FTE	24.5	24.1	30.4	31.9	
General Fund	582,797	607,823	878,173	958,298	
Cash Funds	1,276,906	1,299,061	1,409,906	1,525,336	
SUBTOTAL - (A) Labor Standards	1,859,703	1,906,884	2,288,079	2,483,634	8.5%
FTE	24.5	24.1	30.4	31.9	4.9%
General Fund	582,797	607,823	878,173	958,298	9.1%
Cash Funds	1,276,906	1,299,061	1,409,906	1,525,336	8.2%

(B) Labor Statistics

	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	Request vs. Appropriation
Labor Market Information Program Costs	2,869,170	2,898,521	2,238,779	2,286,898	
FTE	18.7	21.3	30.3	30.3	
Federal Funds	2,869,170	2,898,521	2,238,779	2,286,898	
SUBTOTAL - (B) Labor Statistics	2,869,170	2,898,521	2,238,779	2,286,898	2.1%
FTE	18.7	21.3	30.3	30.3	0.0%
Federal Funds	2,869,170	2,898,521	2,238,779	2,286,898	2.1%

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	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	Request vs. Appropriation
TOTAL - (4) Division of Labor Standards and Statistics	4,728,873	4,805,405	4,526,858	4,770,532	5.4%
FTE	43.2	45.4	60.7	62.2	2.5%
General Fund	582,797	607,823	878,173	958,298	9.1%
Cash Funds	1,276,906	1,299,061	1,409,906	1,525,336	8.2%
Federal Funds	2,869,170	2,898,521	2,238,779	2,286,898	2.1%

	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	Request vs. Appropriation

(5) DIVISION OF OIL AND PUBLIC SAFETY

This division establishes and enforces rules, regulations, and statutes that govern amusement rides and devices; explosives; boilers; conveyances; fuel products; underground and aboveground petroleum storage tanks; cleanup of petroleum spills; and reimbursement of cleanup costs to qualifying storage tank owners/operators.

	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	Request vs. Appropriation
Personal Services	5,133,682	5,483,058	5,417,963	5,583,158	
FTE	68.0	70.0	68.0	68.0	
General Fund	0	35,554	0	0	
Cash Funds	4,478,099	4,675,631	4,834,245	4,999,440	
Reappropriated Funds	19,318	19,318	19,318	19,318	
Federal Funds	636,265	752,555	564,400	564,400	
Operating Expenses	1,036,127	626,168	791,333	791,333	
General Fund	0	22,745	0	0	
Cash Funds	993,724	591,669	646,312	646,312	
Federal Funds	42,403	11,754	145,021	145,021	
Underground Damage Safety Commission	0	0	103,011	105,080	
FTE	0.0	0.0	1.5	1.5	
General Fund	0	0	103,011	105,080	
Cash Funds	0	0	0	0	
Federal Funds	0	0	0	0	
TOTAL - (5) Division of Oil and Public Safety	6,169,809	6,109,226	6,312,307	6,479,571	2.6%
FTE	68.0	70.0	69.5	69.5	0.0%
General Fund	0	58,299	103,011	105,080	2.0%
Cash Funds	5,471,823	5,267,300	5,480,557	5,645,752	3.0%
Reappropriated Funds	19,318	19,318	19,318	19,318	0.0%
Federal Funds	678,668	764,309	709,421	709,421	0.0%

	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	Request vs. Appropriation

(6) DIVISION OF WORKERS' COMPENSATION

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

(A) Workers' Compensation

	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	Request vs. Appropriation
Personal Services	7,117,272	7,408,755	7,768,285	7,985,013	
FTE	87.0	85.9	95.0	95.0	
Cash Funds	7,117,272	7,408,755	7,768,285	7,985,013	
Operating Expenses	551,785	577,099	659,145	659,145	
Cash Funds	551,785	577,099	659,145	659,145	
Administrative Law Judge Services	3,742,556	3,597,268	4,159,995	4,061,922	
Cash Funds	3,742,556	3,597,268	4,159,995	4,061,922	
Physicians Accreditation	91,149	62,118	120,000	120,000	
Cash Funds	91,149	62,118	120,000	120,000	
Utilization Review	25,739	53,021	35,000	35,000	
Cash Funds	25,739	53,021	35,000	35,000	
Immediate Payment	1,000	0	1,000	1,000	
Cash Funds	1,000	0	1,000	1,000	
SUBTOTAL - (A) Workers' Compensation	11,529,501	11,698,261	12,743,425	12,862,080	0.9%
FTE	87.0	85.9	95.0	95.0	0.0%
Cash Funds	11,529,501	11,698,261	12,743,425	12,862,080	0.9%

	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	Request vs. Appropriation
(B) Major Medical Insurance and Subsequent Injury Funds					
Personal Services	1,332,599	1,371,585	1,404,644	1,435,861	
FTE	13.0	15.7	16.0	16.0	
Cash Funds	1,332,599	1,371,585	1,404,644	1,435,861	
Operating Expenses	88,107	74,281	88,324	88,324	
Cash Funds	88,107	74,281	88,324	88,324	
Major Medical Benefits	4,616,468	3,760,972	6,000,000	6,000,000	
Cash Funds	4,616,468	3,760,972	6,000,000	6,000,000	
Major Medical Legal Services	7,992	7,992	7,992	7,992	
Cash Funds	7,992	7,992	7,992	7,992	
Subsequent Injury Benefits	1,115,394	1,111,238	2,000,000	2,000,000	
Cash Funds	1,115,394	1,111,238	2,000,000	2,000,000	
Subsequent Injury Legal Services	7,992	7,992	7,992	7,992	
Cash Funds	7,992	7,992	7,992	7,992	
Medical Disaster	1,000	0	1,000	1,000	
Cash Funds	1,000	0	1,000	1,000	
SUBTOTAL - (B) Major Medical Insurance and Subsequent Injury Funds	7,169,552	6,334,060	9,509,952	9,541,169	0.3%
FTE	13.0	15.7	16.0	16.0	0.0%
Cash Funds	7,169,552	6,334,060	9,509,952	9,541,169	0.3%

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	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	Request vs. Appropriation
TOTAL - (6) Division of Workers' Compensation	18,699,053	18,032,321	22,253,377	22,403,249	0.7%
FTE	100.0	101.6	111.0	111.0	0.0%
Cash Funds	18,699,053	18,032,321	22,253,377	22,403,249	0.7%

	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	Request vs. Appropriation

(7) DIVISION OF VOCATIONAL REHABILITATION AND INDEPENDENT LIVING SERVICES

This division oversees vocational rehabilitation programs designed to enable individuals with disabilities to participate in the workforce. It also oversees independent living service programs that provide individuals with disabilities with resources and skills to live independently in the community.

(A) Vocational Rehabilitation Programs

	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	Request vs. Appropriation
Personal Services	13,328,532	17,596,050	16,865,366	17,423,479	
FTE	219.7	232.0	223.7	223.7	
General Fund	2,790,534	3,004,918	3,575,172	3,694,051	
Federal Funds	10,537,998	14,591,132	13,290,194	13,729,428	
Operating Expenses	2,530,680	2,104,173	2,539,404	2,539,404	
General Fund	0	0	0	0	
Reappropriated Funds	539,810	448,203	540,893	540,893	
Federal Funds	1,990,870	1,655,970	1,998,511	1,998,511	
Administrative Law Judge Services	31,767	31,767	36,737	36,737	
FTE	0.0	0.0	0.0	0.0	
General Fund	8,914	8,914	9,973	9,973	
Federal Funds	22,853	22,853	26,764	26,764	
Voc Rehab Services	14,526,602	15,768,621	15,301,106	15,301,106	
General Fund	1,652,194	1,721,647	1,143,950	1,143,950	
Reappropriated Funds	2,092,017	2,191,428	2,115,185	2,115,185	
Federal Funds	10,782,391	11,855,546	12,041,971	12,041,971	
Voc Rehab Mental Health Services	1,768,683	1,825,541	1,748,180	1,748,180	
Reappropriated Funds	376,729	388,840	372,363	372,363	
Federal Funds	1,391,954	1,436,701	1,375,817	1,375,817	

	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	Request vs. Appropriation
School to Work Alliance Program	9,633,940	9,863,168	11,231,277	11,039,660 *	
General Fund	0	0	0	0	
Cash Funds	141,157	0	0	0	
Reappropriated Funds	1,910,872	2,175,493	2,364,995	2,173,378	
Federal Funds	7,581,911	7,687,675	8,866,282	8,866,282	
Business Enterprises Program for People Who Are Blind	1,191,148	1,370,074	1,595,200	1,395,200 *	
FTE	6.0	0.0	6.0	6.0	
Cash Funds	252,980	292,871	338,935	138,935	
Federal Funds	938,168	1,077,203	1,256,265	1,256,265	
Business Enterprises Program	177,423	216,852	429,000	429,000	
Cash Funds	177,423	216,852	429,000	429,000	
Federal Funds	0	0	0	0	
Federal Social Security Reimbursements	2,603,737	870,819	2,600,000	2,421,957 *	
General Fund	0	0	0	0	
Federal Funds	2,603,737	870,819	2,600,000	2,421,957	
Older Blind Grants	363,144	450,868	362,000	362,000	
General Fund	0	0	0	0	
Federal Funds	363,144	450,868	362,000	362,000	
Employment First Initiatives	0	0	2,396,160	2,407,926	
FTE	0.0	0.0	3.7	4.0	
General Fund	0	0	510,382	512,888	
Federal Funds	0	0	1,885,778	1,895,038	

Appendix A: Numbers Pages

	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	Request vs. Appropriation
SUBTOTAL - (A) Vocational Rehabilitation Programs	46,155,656	50,097,933	55,104,430	55,104,649	NaN
FTE	225.7	232.0	233.4	233.7	0.1%
General Fund	4,451,642	4,735,479	5,239,477	5,360,862	2.3%
Cash Funds	571,560	509,723	767,935	567,935	(26.0%)
Reappropriated Funds	4,919,428	5,203,964	5,393,436	5,201,819	(3.6%)
Federal Funds	36,213,026	39,648,767	43,703,582	43,974,033	0.6%
(B) Office of Independent Living Services					
Program Costs	206,065	216,312	221,562	222,346	
FTE	4.0	6.4	4.0	4.0	
General Fund	206,065	216,312	221,562	222,346	
Independent Living Services	6,611,487	6,789,725	7,177,199	7,218,254	
General Fund	6,303,969	6,525,002	6,800,847	6,840,208	
Cash Funds	0	0	37,635	37,635	
Federal Funds	307,518	264,723	338,717	340,411	
SUBTOTAL - (B) Office of Independent Living Services	6,817,552	7,006,037	7,398,761	7,440,600	0.6%
FTE	4.0	6.4	4.0	4.0	0.0%
General Fund	6,510,034	6,741,314	7,022,409	7,062,554	0.6%
Cash Funds	0	0	37,635	37,635	0.0%
Federal Funds	307,518	264,723	338,717	340,411	0.5%

Appendix A: Numbers Pages

	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	Request vs. Appropriation
TOTAL - (7) Division of Vocational Rehabilitation and Independent Living Services	52,973,208	57,103,970	62,503,191	62,545,249	0.1%
FTE	229.7	238.4	237.4	237.7	0.1%
General Fund	10,961,676	11,476,793	12,261,886	12,423,416	1.3%
Cash Funds	571,560	509,723	805,570	605,570	(24.8%)
Reappropriated Funds	4,919,428	5,203,964	5,393,436	5,201,819	(3.6%)
Federal Funds	36,520,544	39,913,490	44,042,299	44,314,444	0.6%

	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	Request vs. Appropriation
TOTAL - Department of Labor and Employment	239,841,489	232,486,196	271,969,109	270,099,826	(0.7%)
FTE	1,285.0	1,229.1	1,292.8	1,293.6	0.1%
General Fund	21,302,277	19,278,395	25,519,883	24,674,935	(3.3%)
Cash Funds	73,450,329	74,930,341	82,643,259	80,668,060	(2.4%)
Reappropriated Funds	6,291,610	6,241,193	10,092,733	9,851,631	(2.4%)
Federal Funds	138,797,273	132,036,267	153,713,234	154,905,200	0.8%

APPENDIX B
RECENT LEGISLATION AFFECTING DEPARTMENT BUDGET

2018 SESSION BILLS

S.B. 18-145 (IMPLEMENT EMPLOYMENT FIRST RECOMMENDATIONS): Requires the Department of Labor and Employment (CDLE) and the Medical Services Board in the Department of Health Care Policy and Financing (HCPF) to promulgate rules by July 1, 2019 requiring training or certification for certain providers of supported employment services for persons with disabilities. These requirements are contingent upon appropriations to HCPF to reimburse vendors of supported employment services for the cost of training and certification. Also expands HCPF reporting requirements. Provides the following appropriations for FY 2018-19:

- $27,675 General Fund and 0.4 FTE to HCPF;
- $2,131 General Fund to CDLE for legal services; and
- $2,131 reappropriated funds to the Department of Law for legal services to CDLE.

Appropriations to HCPF are expected to increase to $331,200 General Fund and 0.5 FTE in FY 2019-20.

S.B. 18-167 (ENFORCE REQUIREMENTS 811 LOCATE UNDERGROUND FACILITIES): Makes changes to the state's utility notification system in order to support increased enforcement related to the excavation of underground facilities. Creates the Underground Damage Prevention Safety Commission in the Colorado Department of Labor and Employment (CDLE); creates two cash funds to support the work of the commission and increased safety education; and makes a variety of changes to the state's excavation laws for the purpose of improving enforcement. Includes an appropriation of $81,841 General Fund and 0.8 FTE to CDLE in FY 2018-19, of which $12,787 and 0.1 FTE is reappropriated to the Department of Law. Appropriations to CDLE are anticipated to increase to $172,728 General Fund and 2.1 FTE in FY 2019-20. Also anticipated to increase costs in the Department of Transportation from the State Highway Fund (off budget) and may increase costs for other departments, as well as local governments, that perform excavations or are involved in adjudication processes outlined in the legislation.

H.B. 18-1316 (EXTEND CDLE WORK GRANT PROGRAM): Extends the Skilled Worker Outreach, Recruitment, and Key Training (WORK) grant program in the Department through FY 2020-2021. The program provides grants to organizations that offer workplace training skills. Requires the General Assembly to appropriate $7.6 million General Fund to the WORK program for the three years between January 1, 2018 and January 1, 2021. Includes an appropriation of $1,000,000 General Fund to CDLE for the program for FY 2018-19.

H.B. 18-1322 (LONG BILL): General appropriations act for FY 2018-19.

H.B. 18-1339 (BACKGROUND CHECKS FOR EMPLOYEES WITH ACCESS TO FEDERAL TAX INFORMATION): Requires each applicant, state employee, state contractor, or other individual who has or may have access through a state agency to federal tax information received from the federal government to submit to a fingerprint-based criminal history records check. Specifies that a state agency that shares such federal tax information with a county may authorize and require the county department applicants, employees, contractors, or other individuals to submit to a fingerprint-based criminal history records check. Requires a state agency to deny access to federal tax information received from the federal government to any individual who does not pass the fingerprint-based criminal history record check. Provides FY 2018-19 appropriations as follows:

- $36,640 General Fund to the Department of Human Services;
- $7,425 cash funds to the Department of Labor and Employment;
- $6,683 General Fund to the Department of Local Affairs;
- $11,633 General Fund to the Department of Personnel;
- $41,580 General Fund to the Department of Revenue; and
- $121,748 reappropriated funds to the Department of Public Safety from the appropriations made to other departments above.

H.B. 18-1343 (VETERANS' SERVICE-TO-CAREER PROGRAM): Continues the Veterans' Service-to-Career Grant Program in the Colorado Department of Labor and Employment (CDLE).

- Extends the program's repeal date from January 1, 2019 to January 1, 2024
- Expands eligibility to include veterans, veterans' spouses, persons actively serving in the U.S. Armed Forces and within six months of discharge, or a member of the National Guard or military reserves who has completed initial entry training
- Increases the administrative overhead a workforce center may charge for the program from seven to eight percent
- Requires CDLE to develop an evaluation method to measure program outcomes and effectiveness.

Appropriates $1,000,000 cash funds from the Marijuana Tax Cash Fund and 0.5 FTE to CDLE for FY 2018-19.

2019 SESSION BILLS

S.B. 19-171 (APPRENTICESHIPS AND VOCATIONAL TECHNICAL TRAINING): Requires the Department of Labor and Employment to create a guide to apprenticeships in Colorado. Appropriates $25,507 General Fund to the Department for FY 2019-20, based on an assumption that it will require an additional 0.4 FTE. Anticipated to require appropriations of $31,526 General Fund for 0.5 FTE for FY 2020-21 and subsequent years.

S.B. 19-188 (FAMILY MEDICAL LEAVE INSURANCE PROGRAM): Requires the Department of Labor and Employment (CDLE) to perform or contract for analyses concerning the implementation of a paid family and medical leave program for all employees in the state. Creates a task force in CDLE to make recommendations on program implementation. Requires the Department of Public Health and Environment (CDPHE) to develop a report on health benefits related to paid family leave. Appropriates $165,487 General Fund to CDLE for FY 2019-20, based on an assumption that it will require an additional 0.5 FTE. Appropriates $17,004 General Fund to CDPHE for FY 2019-20, based on an assumption that it will require an additional 0.1 FTE.

S.B. 19-207 (LONG BILL): General appropriations act for FY 2019-20.

H.B. 19-1025 (LIMITS ON JOB APPLICANT CRIMINAL HISTORY INQUIRIES): Prohibits an employer from preventing a person with a criminal history from applying for a job or from requiring disclosure of an applicant's criminal history on an initial application. Requires the Department of Labor and Employment to adopt related rules for handling complaints filed against employers. Appropriates $38,113 cash funds from the Employment Support Fund to the Department for FY 2019-20, based on an assumption that the Department will require an additional 0.6 FTE. Anticipated to require appropriations of $35,664 cash funds, assuming 0.5 FTE, for FY 2020-21 and subsequent years.

H.B. 19-1107 (EMPLOYMENT SUPPORT JOB RETENTION SERVICES PROGRAM): Creates an employment support services program in the Colorado Department of Labor and Employment. Provides an appropriation of $750,000 General Fund to a newly-created cash fund in the Department for FY 2019-20 and reappropriates $250,000 from the cash fund to the Department, reflecting the assumption that the Department will require an additional 0.5 FTE. Anticipated to require appropriations for FY 2020-21 and FY 2021-22 of $250,000 reappropriated funds, supporting 0.5 FTE. No additional General Fund appropriations are anticipated.

H.B. 19-1314 (JUST TRANSITION FROM COAL-BASED ELECTRICITY ENERGY ECONOMY): Creates the Just Transition Office in the Department of Labor and Employment (CDLE) to provide worker benefits, award grants, and receive utility reports related to coal plant retirement. Appropriates $155,758 General Fund to CDLE for FY 2019-20, based on an assumption that the Department will require an additional 1.8 FTE. Also appropriates $920 General Fund to the Legislative Department. Anticipated to require appropriations of $189,290 General Fund for CDLE, assuming 2.0 FTE, and $920 General Fund for the Legislative Department for FY 2020-21 and subsequent years.

APPENDIX C
FOOTNOTES AND INFORMATION REQUESTS

UPDATE ON LONG BILL FOOTNOTES

62 Department of Labor and Employment, Division Of Vocational Rehabilitation and Independent Living, Vocational Rehabilitation Programs -- In addition to the transfer authority provided in Section 24-75-108, C.R.S., the Department may transfer up to 10.0 percent of the total appropriation among the following line items in this section: Personal Services, Operating Expenses, Vocational Rehabilitation Services, School to Work Alliance Program, and Vocational Rehabilitation Mental Health Services.

COMMENT: This footnote enables funds within this division to be transferred among line items to promote efficient use of funds.

63 Department of Labor and Employment, Division of Vocational Rehabilitation and Independent Living Services, Vocational Rehabilitation Programs, Vocational Rehabilitation Services; and Office of Independent Living Services, Independent Living Services -- If authorized by an independent living center based on a cooperative agreement between the independent living center and the Division of Vocational Rehabilitation, the Department may transfer General Fund from the Independent Living Services line item to the Vocational Rehabilitation Services line item, in an amount agreed upon between the two entities, for the purpose of drawing down federal funds for the provision of vocational rehabilitation services.

COMMENT: This footnote takes effect for FY 2020-21. The Division has asked all independent living centers to sign an agreement that any end-of-year unspent funds from their line item may be transferred for use of the Division of Vocational Rehabilitation's client services. It remains unclear whether this footnote will prove otherwise beneficial.

64 Department of Labor and Employment, Division of Vocational Rehabilitation and Independent Living Services, Vocational Rehabilitation Programs, Employment First Initiatives -- This appropriation remains available for expenditure until the close of the 2020-21 state fiscal year.

COMMENT: This footnote takes effect for FY 2020-21 and will enable the Department to spread start-up costs associated with this new initiative into a second year.

UPDATE ON REQUESTS FOR INFORMATION

1 Department of Labor and Employment, Division of Vocational Rehabilitation and Independent Living Services, Vocational Rehabilitation Programs, Employment First Initiatives -- The

Department is requested to submit a report by November 1, 2019 on its efforts to implement the Office of Employment First and other Employment First initiatives. This should include information on the department's progress in rolling-out the new initiatives and baseline data that will be used to measure the state's progress toward increasing competitive integrated employment for people with the most significant disabilities.

Comment: The Department submitted the report as requested. The Department reports:

- An interagency agreement between the Department and JFK Partners at the University of Colorado has been executed, creating the Office of Employment First. Interviews for a Director for the Office were conducted September 18, 2019. Once the position is hired, the Office will bring on additional training staff. Office space has been secured at CDLE.
- The Department has created and filled, within DVR: the state as model employer position, the supported employment specialist, and the benefits counseling position. The behavioral health supported employment position has been created and announced, and the Department expects to bring the position on by the end of September.
- DVR is working to expand the customized employment pilot. Customized employment services have been built into its fee schedule and it has trained DVR staff on their availability. As a result, the number of contractors seeking related training and certification is expected to increase. DVR is also exploring a new customized employment training curriculum.
- DVR is working with HCPF and other partners to develop baseline data in the following areas: decrease the number of individuals earning subminimum wage, decrease the number of individuals in non-integrated employment, increase the number of individuals in competitive integrated employment, increase the number of DVR staff trained in employment first principles and practices, increase the number of partners, family members, and stakeholders trained in supported employment and benefits counseling, identify the number of individual placement and support contracts entered into by DVR.
- In early September, DVR held a conference to provide training on employment first and benefits counseling and will be tracking the number of trainees annually.

2 Colorado Department of Labor and Employment, Division of Labor Standards and Statistics, Labor Standards, Program Costs -- The appropriation in this line item includes $250,000 General Fund added for the purpose increasing on-site auditing of construction sites and ensuring compliance with existing statutory and regulatory requirements for labor standards at those sites. The Department is requested to submit a report by November 1, 2019, on its plans for using these funds and the anticipated impact of the additional resources.

COMMENT: The Department submitted the report as requested. The report indicates that the Department's Division of Labor Standards and Statistics had sought to increase on-site oversight of entities that might engage in systemic labor law violations in early 2019 but had stepped back from this effort due to insufficient resources.

With the additional resources added in the line item, the Department is working rapidly to expand activities in this area. With the combination of new hiring and resource reallocation, the Division now has a six-member direct investigations team, including four investigators, a senior investigator, and a manager, with plans to add an additional investigator in January. New investigators started in July, and by the September, each already had 1-2 investigations of systemic violations, and some site visits were conducted in October. The Division is cultivating relationships with various organizations that it expects will be able to provide leads and witnesses regarding systemic violation of wage laws. It is also exploring joint investigations with other Department divisions, including unemployment insurance and workers' compensation, as well as with law enforcement entities, district attorneys, the federal Department of Labor and other states.

The Division hopes that with regular on-site visits and high visibility, it will not only help individual workers but discourage subcontractors from unlawful practices and deter general contractors from, intentionally or not, using subcontractors who violate the law and mistreat workers. Once an investigation is complete, Direct Investigations will make the results public, furthering the deterrent effect.

3 Department of Labor and Employment, Division of Vocational Rehabilitation and Independent Living Services -- The Department is encouraged to work with vocational rehabilitation and independent living centers to develop cooperative agreements that will enable the State to fully access available federal support for vocational rehabilitation and promote relationships between these entities. The Department is requested to report by November 1, 2019 on its progress in developing these relationships and whether it anticipates cooperative agreements to be implemented in FY 2019-20 and/or FY 2020-21.

COMMENT: The Department reported that in light of this *FY 2019-20* footnote, at the close of FY 2018-19, it persuaded the Controller to allow it to use the statutory authority in 8-84-105(1)(b.5), concerning the department's authority to receive and expend revenue from governmental and non-governmental sources, to allow a transfer from the independent living center line item to the vocational rehabilitation client services line item. The transfer of approximately $200,000 General Fund was from amounts that would otherwise have reverted to the General Fund. *Note that JBC Staff and the Office of Legislative Legal Services has significant concerns about this interpretation of 8-84-105(1)(b.5) and believe that the statute concerning continuous spending authority for vocational rehabilitation programs may need to be reconsidered.*

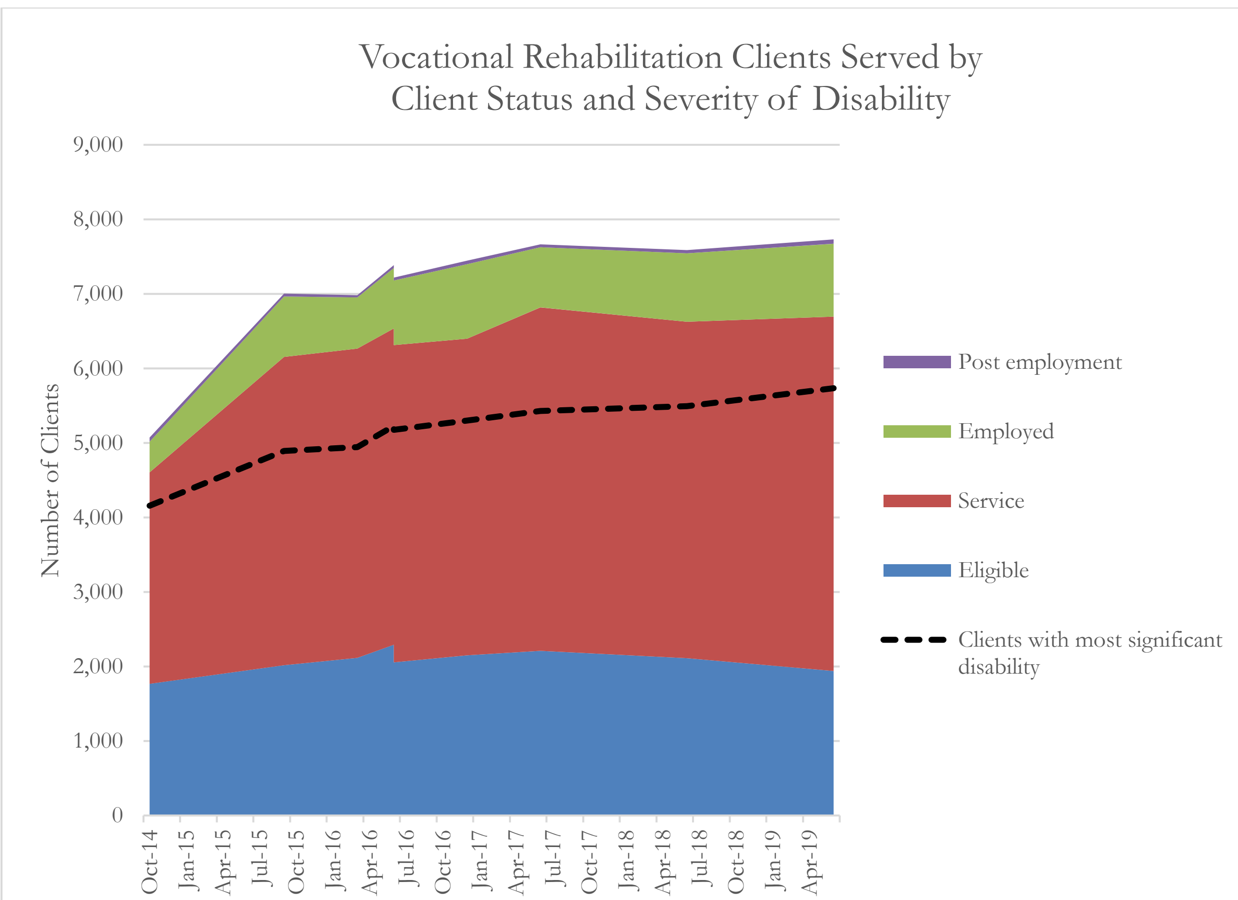
For FY 2019-20, in order to apply this footnote, the Department has asked all of the independent living centers to agree that any money that they revert at the end of the year may be redirected to vocational rehabilitation program client services. Based on communication with the independent living centers, staff understands that have some concerns about the way in which the department initially approached them about this issue, but that they have agreed to the arrangement. The Department indicates that it has been working to increase the use of the independent living centers as vendors for vocational services and that vocational rehabilitation services have increased use of the independent living centers as vendors from payments of $61,026 in FY 2016-17 to $145,832 in FY 2020-21.

4 Department of Labor and Employment, Division Of Vocational Rehabilitation and Independent Living Services, Vocational Rehabilitation Programs -- The Department is requested to provide a

report by November 1 2019 on the number of individuals receiving vocational rehabilitation services, including: a break-down by category of the number of individuals receiving services and the number for whom a determination is pending; the average cost by category of services; the projected fiscal year expenditures, and the projected balance of the State's federal vocational rehabilitation account. The Department is also requested to provide data on vocational rehabilitation employment outcomes.

COMMENT: The Department submitted the requested report.

- As reflected in the chart (created by staff using the data submitted), the Department increased total clients served in FY 2018-19, as well as the portion of clients served with the most significant disability. As of June 30, 2019, the Department report 7,731 clients on its rosters, including those who had completed eligibility determinations but were not yet receiving services.
- It identified client service costs of $2.499 per client, but this figure excludes the costs of Division personnel who work with the clients. Based on the total annual federal award estimated for FFY 2019 and total clients served, staff calculates the total estimated cost per client per year at $7,785.
- Clients are typically served for several years. The Department reported 2,009 successful closures in FY 2019-20, with clients exiting with an average wage of $14.69 per hour.



- The report suggested that the program would spend less in FY 2019-20 than the amount budgeted; however, the Department included a similar estimate in FY 2018-19 and then requested and received additional federal funds of $2.0 million that it was able to match from various sources. In addition, the estimates included in the Department's 2019-20 table did not account for salary survey and other "pots" amounts which will drive total expenditures above the amounts reflected.

Table 4
Division of Vocational Rehabilitation Projected Expenditures by Long Bill Line Item
SFY 2019-20

Long Bill Line Item	Long Bill	Projected Total Expenditures
Centrally Appropriated Lines*	$4,000,000	$4,000,000
Vocational Rehabilitation Personal Services	$16,865,366	$16,865,366
Vocational Rehabilitation Operating	$2,539,404	$2,539,404
Vocational Rehabilitation Services	$15,301,166	$15,301,166
School to Work Alliance Program (SWAP)**	$11,231,277	$10,447,060
Vocational Rehabilitation Mental Health Services***	$1,748,180	$2,157,040
Business Enterprise Program for People Who are Blind	$1,595,200	$1,595,200
Business Enterprise Program-Program Operated Stands, Repair Costs, and Operator Benefits	$429,000	$125,000
Federal Social Security Reimbursements****	$2,600,000	$0
Employment First Initiatives	$2,396,160	$2,396,160
Total	**$58,705,753**	**$55,426,396**

* Centrally Appropriated Lines includes: Executive Director's Office Personal Services and Operating, Worker's Compensation, CORE, Risk Management, Legal Services, Leased Space, Fixed Vehicle payments, Payments to OIT, and Statewide Cost Allocation Plan payments.

** CDLE has increased SWAP spending authority for the past three state fiscal years to target expenditures to students with disabilities between the ages of 15-21 (Pre-ETS), as the federal awards since FFY 16 have included a required 15 percent set-aside for Pre-ETS. As a result, CDLE has increased Pre-ETS expenditures from approximately $1.9 million in FFY 2016 to approximately $6 million in FFY 2018.

*** In SFY 2019, CDLE received the full amount of re-appropriated funds stated in the Long Bill from the Department of Human Services since the transfer of the Division. Additionally, with the increased flexibility provided by the legislature the Department has been able to utilize unspent match recuperated from prior year Social Security reimbursements to

The table below, provided in response to a staff question, reflects actual expenditures for vocational rehabilitation programs in SFY 2018-19, including amounts from centrally appropriated line items in the Executive Director's Office. The federal funds expended in a given year are based federal funds awarded and adjusted over up to three federal fiscal years.

	SFY 19 Vocational Rehabilitation Grand Total		
SFY 2019 Expenditures	Federal	Non-Federal	Total
EDO Expenditures	$2,389,720	$897,807	$3,287,527
Personal Services	14,591,132	3,929,767	18,520,900
Case Services	12,527,327	3,857,129	16,384,456

SFY 2019 EXPENDITURES	SFY 19 VOCATIONAL REHABILITATION GRAND TOTAL FEDERAL	NON-FEDERAL	TOTAL
School to Work Alliance Program (SWAP)	7,687,675	2,313,671	10,001,346
VR Operating	1,655,794	448,155	2,103,949
Mental Health Services	1,436,701	388,840	1,825,542
Business Enterprise Program	975,076	292,478	1,267,555
Other CDLE Appropriations	0	6,324	6,324
Admin Law Judges	22,853	8,914	31,767
SFY 2019 Totals	**$41,286,278**	**$12,143,086**	**$53,429,365**

The table below shows the federal amounts received and match required over the last five federal fiscal years. The Department notes that the FFY 2018-19 award includes both an additional $1.3 million increase in the basic support award and an additional one-time $2.0 million redistribution. The match required for this redistribution will increase the Division's maintenance of effort requirement for future years. The FFY 2019 award will be expended in SFY 2019 and SFY 2020.

Table 5-Projected Balance of VR Grant

Federal Award	Award	Federal Expenditures	Match Required	Match 2 years Prior	MOE penalty
FFY 14	$40,918,495	$40,918,495	$11,074,510	Base Year	$576,036
FFY 15	$41,000,267	$35,710,313	$9,664,926	Base Year	$1,174,669
FFY 16	$42,317,015	$22,721,805	$6,149,612	$11,074,510	$4,924,828
FFY 17	$38,998,851	$38,998,851	$10,554,962	$9,664,926	$0
FFY 18	$44,504,499	$44,504,499	$12,045,055	$6,149,612	$0
FFY 19	$47,794,163	$47,794,163	$12,394,100	$10,554,962	$0

5 Department of Labor and Employment, Division of Vocational Rehabilitation and Independent Living Services, Office of Independent Living Services -- The Department is requested to provide a report by November 1, 2019 on the number of clients served by each Independent Living Center for the past year and the distribution of funds by Independent Living Center. The Department is also requested to work with the independent living centers to identify additional outcome measures and discuss these efforts in its report.

COMMENT: The Department submitted the requested report. The report indicated that the ILCS served in total between 1,898 and 2,656 unduplicated clients per month in in FY 2019-20. Each ILC of the nine ILCs receives; base funding (pursuant to statute) and an allocated share based on factors such as population. Given these figures and an average of 2,174 clients served per month, state support was $3,127 per full-year-equivalent client served.

Table 8
Distribution of General Funds by Independent Living Center
SFY 2019-20

Independent Living Center	*General Fund Amount*
Center For Independence	$ 740,087
Center For People with Disabilities	$ 730,332
Atlantis	$ 902,501
Connections for Independent Living	$ 718,191
Center for Disabilities	$ 876,848
Northwest Center for Independence	$ 678,999
Disabled Resource	$ 672,708
Southwest Center for Independence	$ 686,007
The Independence Center	$ 795,174
Total	**$ 6,800,847**

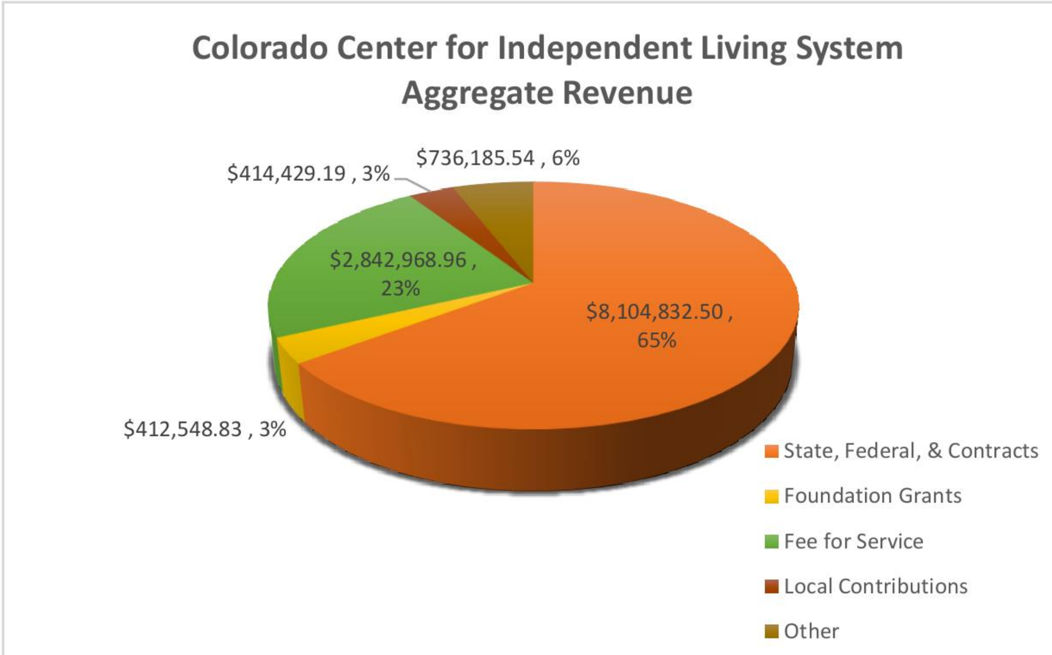
Table 7
Clients Served by ILC by Month
SFY 2019

Center Name	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
Atlantis Community Incorporated	310	415	305	381	291	292	304	214	570	610	612	647
Center for Disabilities dba Center Toward Self Reliance	418	407	395	385	380	395	399	405	399	386	370	384
Center for Independence	155	163	342	171	262	334	279	380	284	272	459	211
Center for People with Disabilities	315	317	278	290	286	289	286	277	282	283	285	275
Colorado Springs Independence Center	194	151	142	144	107	102	136	128	123	132	149	148
Connections for Independent Living	203	423	285	238	392	179	402	202	411	422	416	443
Disabled Resource Services	155	191	172	185	159	192	150	156	156	170	141	199
NorthWest Colorado Center for Independence	97	103	118	120	110	110	120	120	115	118	97	71
South West Center for Independence	52	49	35	47	48	204	92	16		31	36	40
Totals	**1,899**	**2,219**	**2,072**	**1,961**	**2,035**	**2,097**	**2,168**	**1,898**	**2,340**	**2,424**	**2,565**	**2,418**

Source: Exhibit G, Monthly Report Template. CIL monthly report of new and existing individuals with disabilities served per month. The unduplicated count only applies to the month reported and does not transfer across the months.

The ILCs have also been working to develop a new kind of annual performance report that aligns with their federal reporting requirements and provides additional detail on the types of clients served, funding, and goals achieved. The following information is excerpted from that report. *Staff appreciates the efforts of the Department and the ILCs to provide additional information on ILC activities and outcomes.*

State General Fund represents the largest single source of funding for the ILCS, at $6.8 million per year, but the ILCs do generate revenue from other sources. Total revenue from all sources in FFY 2018 was $12.5 million.

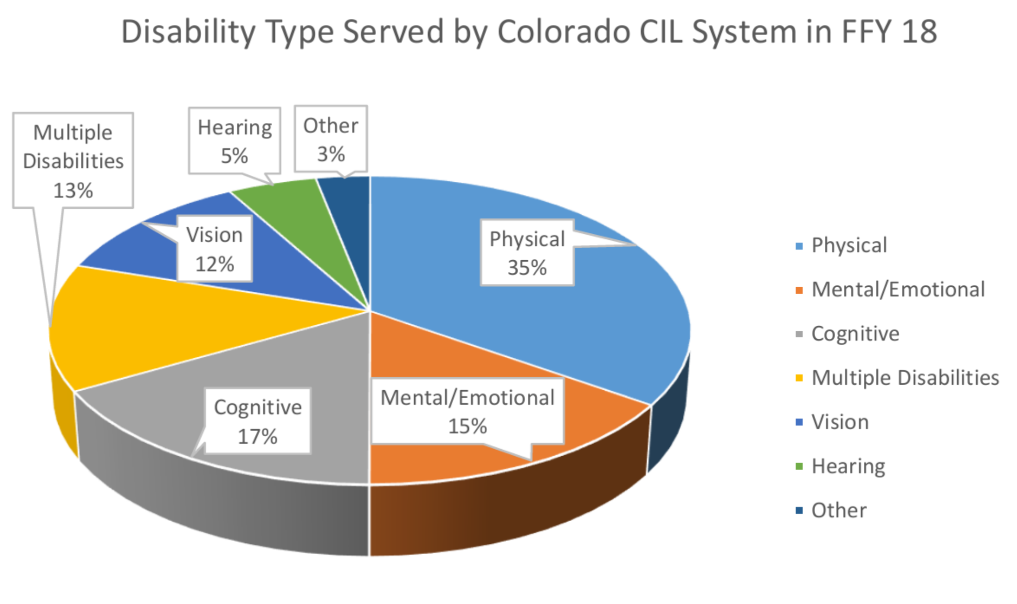


The following table reflects client goals set and achieved over the course of a year and thus demonstrates the types of assistance provided by the ILCS. As shown, the most common goal is community based living, which is defined as a goal that results in increased autonomy in the individual's living situation. All of the goals are ultimately intended to reduce institutionalization and the risk of institutionalization for people with disabilities.

Table 2: Colorado Center for Independent Living System Total Number of Goals Set, Achieved, and In Progress for FFY 2018 and Illustrated by Top Five Goals.

Goal	Goals Set	% of Overall Goals Set	Goals Achieved	% of Achieved Goal	In Progress
Community Based Living	1589	21%	638	40%	951
Other	1000	13%	275	28%	725
Vocational/Educational	940	12%	280	30%	650
Self-Care	937	12%	326	35%	611
Personal Resource Management	936	12%	395	42%	541
Subtotal	**5402**		**1914**		**3478**
Total for all Goals	**7550**		**2674**		**4876**

Finally, the chart below shows individuals served by disability category. As shown, the centers serve individuals with a wide range of disabilities from the physical to the cognitive and mental/emotional.


Disability Type Served by Colorado CIL System in FFY 18
Multiple Disabilities 13%
Hearing 5%
Other 3%
Vision 12%
Physical 35%
Cognitive 17%
Mental/Emotional 15%
Physical
Mental/Emotional
Cognitive
Multiple Disabilities
Vision
Hearing
Other

APPENDIX D
DEPARTMENT ANNUAL PERFORMANCE REPORT

Pursuant to Section 2-7-205 (1) (a) (I), C.R.S., the Office of State Planning and Budgeting is required to publish an **Annual Performance Report** for the *previous fiscal year* for the Department of Department of Labor and Employment.. This report is to include a summary of the department's performance plan and most recent performance evaluation for the designated fiscal year. In addition, pursuant to Section 2-7-204 (3)(a)(I), C.R.S., the department is required to develop **a Performance Plan** and submit that plan for the *current fiscal year* to the Joint Budget Committee and appropriate Joint Committee of Reference by July 1 of each year.

For consideration by the Joint Budget Committee in prioritizing the Department's budget request, the Annual Performance Reports and the FY 2019-20 Performance Plan can be found at the following link:

https://www.colorado.gov/pacific/performancemanagement/department-performance-plans