COLORADO GENERAL ASSEMBLY
JOINT BUDGET COMMITTEE

FY 2010-11 STAFF BUDGET BRIEFING

DEPARTMENT OF LABOR AND EMPLOYMENT

JBC Working Document - Subject to Change
Staff Recommendation Does Not Represent Committee Decision

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FY 2010-11 BUDGET BRIEFING
STAFF PRESENTATION TO THE JOINT BUDGET COMMITTEE

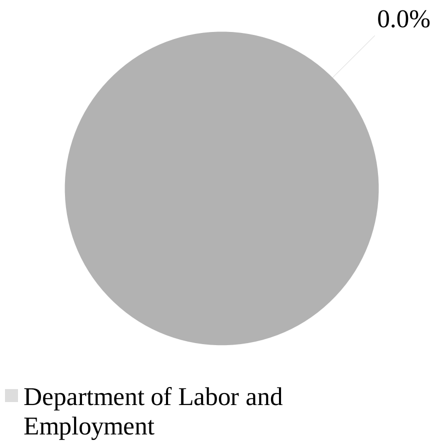
DEPARTMENT OF LABOR AND EMPLOYMENT

Table of Contents

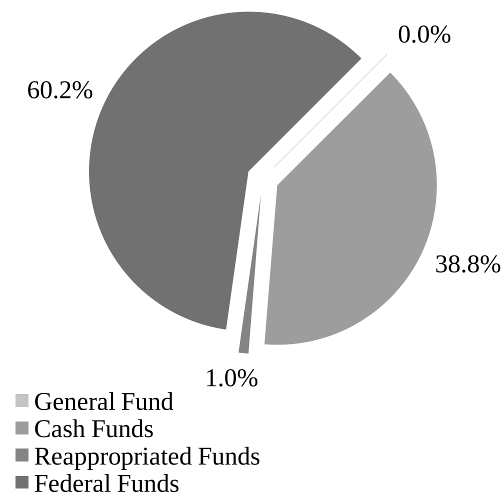
FY 2010-11 Joint Budget Committee Staff Budget Briefing
Department of Labor and Employment

GRAPHIC OVERVIEW

Department's Share of Statewide General Fund

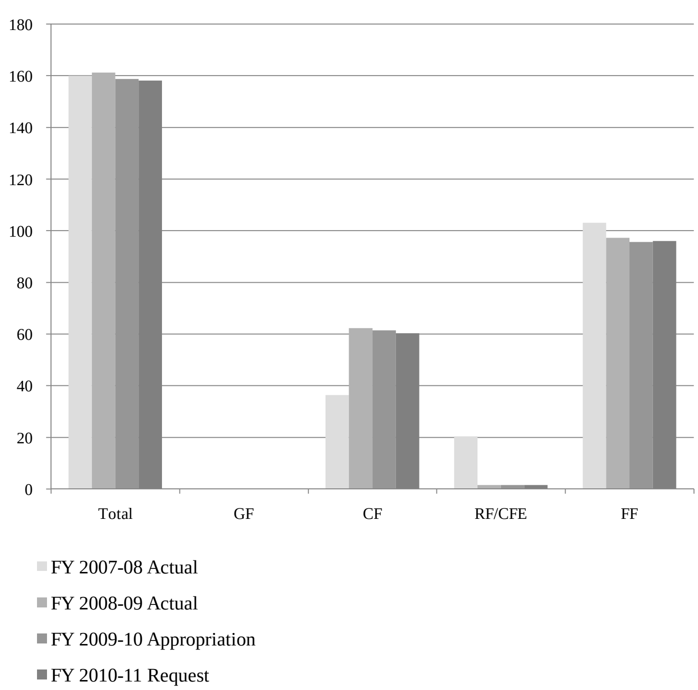


Department Funding Sources

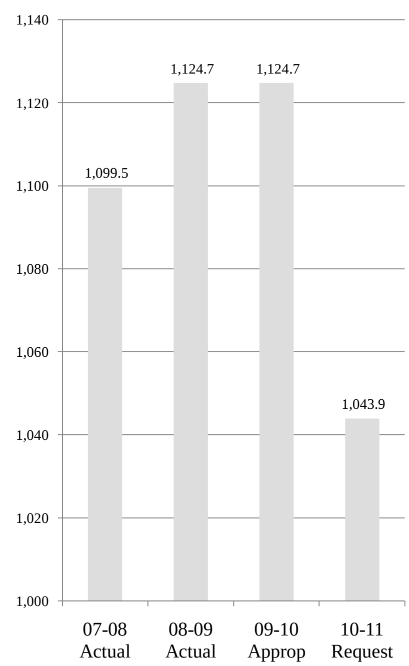


Budget History

(Millions of Dollars)



FTE History

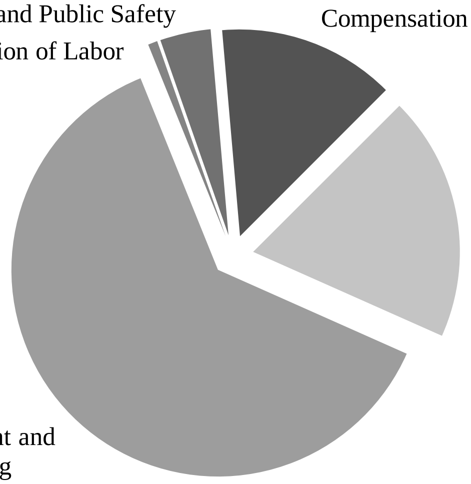


Unless otherwise noted, all charts are based on the FY 2009-10 appropriation.

Distribution of General Fund by Division

The Department of Labor and Employment received no General Fund appropriation for FY 2009-10.

Distribution of Total Funds by Division



FY 2010-11 Joint Budget Committee Staff Budget Briefing
Department of Labor and Employment

DEPARTMENT OVERVIEW

Key Responsibilities

Unemployment Insurance Program

- Collects unemployment insurance premiums and surcharges from employers, administers the payment of unemployment insurance benefits to qualified claimants, and conducts audits to ensure proper payment of premiums and benefits.

Workforce Development Centers and Employment and Training Programs

- Assists job seekers with job training and placement, works to ensure veterans, migrant seasonal farm workers, dislocated workers, youth, and displaced homemakers receive job services. During economic growth, workforce centers work closely with employers to identify qualified job seekers.

Labor Market Information

- Provides monthly and annual information on general labor market trends, including unemployment rates, industry trends, and employee compensation by region and industry.

Division of Oil and Public Safety

- Conducts inspections of petroleum storage sites, and tests retail products for compliance with state quality standards.
- Licenses conveyances, conveyance inspectors, mechanics and contractors. Reviews the inspection records for conveyances.
- Inspects boilers, pressure vessels, explosive storage units, and amusement park and carnival rides for compliance with inspection standards.

Division of Workers' Compensation

- Administers the Special Funds Programs which provide medical benefits for workers who were permanently injured or disabled by at least one workplace injury.

Factors Driving the Budget

Unemployment Insurance Programs

The Unemployment Insurance Programs (UI Programs) provide temporary compensation to individuals who are laid off through no fault of their own. Benefits are paid on a weekly basis and range from $25 to $475, excluding the additional $25 per week authorized by the American Recovery and Reinvestment Act of 2009 (ARRA). UI Programs make up approximately 22.0 percent of the Department's budget, and 78.9 percent of UI Programs funding is federal.

UI Programs workload numbers and the balance of the Unemployment Insurance Trust Fund are counter cyclical. When the economy is growing, the number of applications for benefits are low, and the UITF balance grows. When the economy is slow, the number of benefit applications and the UITF balance decrease. The following table shows the dramatic increase in amount of UI benefits paid from FY 2007-08 to FY 2011-12.

UI Benefit Payments for FY 2007-08 to FY 2011-12			
Fiscal Year	**Benefit Payments**	**Change from Previous Year**	**Percent Change from Previous Year**
FY 2007-08 Actual	$354,966,705	n/a	n/a
FY 2008-09 Actual	1,053,793,289	$698,826,584	66.3%
FY 2009-10 Estimated	1,024,876,245	(28,917,044)	(2.8)%
FY 2010-11 Estimated	637,869,586	(387,006,659)	(60.7)%
FY 2011-12 Projected	379,663,065	(258,206,521)	(68.0)%

Source: Department of Labor and Employment FY 2010-11 Budget Request

Senate Bill 09-247 enabled Colorado to received $127.5 million in federal stimulus dollars. In addition to S.B. 09-247, seven other bills were passed during the 2009 Session that impact the UITF, see Appendix F on page 54 for a description of each bill.

2009 Session Bills Affecting Unemployment Insurance Trust Fund Revenue and Expenditures					
Bill Number	**Short Title**	**Expenditures From UITF**		**UITF Revenue**	
		FY 2009-10	**FY 2010-11**	**FY 2009-10**	**FY 2010-11**
09-076	Employment and Training Technology Fund	$0	$0	($9,300,000)	($9,300,000)
09-178	UI Attached to Regular Jobs	(844,075)	(873,618)	(54,865)	(56,785)
09-247	Expand UI Benefits	(15,615,869)	(13,198,164)	134,824,594	7,940,462
Total		**($16,459,944)**	**($14,071,782)**	**$125,469,729**	**($1,416,323)**

Workforce Development Programs

Employment and training programs provide employment services for businesses and job training and placement services for job seekers through a statewide network of state and county run one-stop workforce centers. Total funding for this subdivision makes up 37.9 percent of the Department's budget, and of this 82.0 percent is federal. In the current economy workforce centers are focused on matching job seekers with employers. In a strong economy emphasis is placed on matching employers with qualified job seekers.

Conveyance Inspector Licenses

The Conveyance Program licenses conveyances, conveyance inspectors, contractors and mechanics, as well as maintains a database of conveyances within the state. There are approximately 20,000 conveyances in Colorado, and 6,500 are located within the City and County of Denver (Denver), which until June 2009 had it's own conveyance program. Since June 2009, Denver turned the conveyance program over to the Division, resulting in unforeseen workload increases. Issues pertaining to this workload increase will be discussed in greater detail in the fifth issue.

FY 2010-11 Joint Budget Committee Staff Budget Briefing
Department of Labor and Employment

DECISION ITEM PRIORITY LIST

Decision Item	GF	CF	RF	FF	Total	FTE
1	0	339,545	0	0	339,545	5.0
OPS Addition of Denver Conveyance Program **Division of Oil and Public SafetyTraining.** The City and County of Denver has discontinued it's conveyance inspection program, requiring the Division to take over responsibility for 32.5 percent of the states conveyances. As a result of this unexpected increase in workload, the Department is requesting $339,545 cash funds and 5.0 FTE for the Conveyance Program. *Statutory authority: Sections 9-5.5-112 and 9-5.5-116, C.R.S.*						
2	0	14,175	0	4,725	18,900	0.0
OPS Consolidated Enterprise System **Division of Oil and Public Safety.** The Department is requesting $18,900 cash funds for the monthly subscription and internet access costs associated with the new oil and public safety consolidated database system. The Department has submited a separate captial construction request for a total of $1.3 million ($1.0 cash funds and $0.3 federal funds) for the cost of building the consolidated database system. *Statutory authority: Sections 8-20-101, 8-20-102, 9-4-105 (1), and 9-5.5-101, C.R.S.*						
3	0	0	0	0	0	0.0
Transfer of Wagner Peyser Program to Arapahoe/Douglas Workforce Region **Division of Employment and Training.** The Department is requesting $1.5 million and 13.0 FTE be moved from the State Operating line item in the Division of Employment and Training to the One-Stop County Contracts line item within the same division, to reflect the administrative change of dollars and FTE from the Department to the Araphoe/Douglas Workforce Region. *Statutory authority: Section 8-71-106 (1), C.R.S.*						
NP-1	0	1,415	0	1,416	2,831	0.0
Annual Fleet Vehicle Replacement **Executive Director's Office.** The Department is requesting an increase to the vehicle lease payments line item to accommodate increases in statewide vehicle costs. This decision item was addressed during the Department of Personnel and Administration briefing. *Statutory authority: Section 24-30-1104 (2), C.R.S.*						
NP-2	0	(243,562)	(11,814)	(350,682)	(606,058)	(67.0)
Statewide Information Technology Staff Consolidation **Various Divisions.** The Department is requesting 6.0 FTE and associated funds be transferred to the Governor's Office of Information Technology. This decision item was addressed during the briefing on the Governor's Office. *Statutory authority: Section 24-37.5-110 (1) (a), C.R.S.*						
Total	**0**	**111,573**	**(11,814)**	**(344,541)**	**(244,782)**	**(62.0)**

OVERVIEW OF NUMBERS PAGES

The following table summarizes the total change, in dollars and as a percentage, between the Department's FY 2009-10 appropriation and the Department's FY 2010-11 request.

Total Requested Change, FY 2009-10 to FY 2010-11 (millions of dollars)

Category	GF	CF	RF	FF	Total	FTE
FY 2009-10 Appropriation	$0.0	$61.5	$1.6	$95.7	$158.8	1,121.6
FY 2010-11 Request	0.0	60.5	1.6	96.1	158.2	1,043.9
Increase / (Decrease)	$0.0	($1.0)	$0.0	$0.4	($0.6)	(77.7)
Percentage Change	n/a	(1.6)%	0.0%	0.4%	(0.4)%	(6.9)%

The following table highlights the individual changes contained in the Department's FY 2010-11 budget request, as compared with the FY 2009-10 appropriation. For additional detail, see the numbers pages in Appendix A.

Requested Changes, FY 2009-10 to FY 2010-11

Category	CF	RF	FF	Total	FTE
Increase in federal Trade Adjustment Act Funds	0	0	1,916,001	1,916,001	0.0
DI #1 - Addition of Denver Conveyance Section to the Division of Oil and Public Safety	339,545	0	0	339,545	5.0
Indirect Cost Adjustment	99,914	8,401	120,408	228,723	0.0
Executive Director's Office Funding Mix Adjustment	(312,628)	(21,755)	334,383	(312,628)	0.0
Decrease in federal Workforce Investment Act Funds	0	0	(957,826)	(957,826)	0.0
Decrease in UI Programs cash funds	($734,192)	$0	$0	($734,192)	0.0
NP #1 - Consolidation of OIT Staff	($243,562)	($11,814)	($350,682)	($606,058)	(67.0)
Completion of the Internet Self Service Project - UI Programs	($167,126)	$0	$0	($167,126)	(2.5)
Other	(44,457)	21,885	(629,493)	(652,065)	(13.2)
Total Change	**($1,062,506)**	**($3,283)**	**$432,791**	**($945,626)**	**(77.7)**

FY 2010-11 Joint Budget Committee Staff Budget Briefing
Department of Labor and Employment

BRIEFING ISSUE #1

ISSUE: Unemployment Insurance Benefit Extensions and the Unemployment Insurance Computer Systems

Over the past six months, four pieces of federal legislation have passed that impact Colorado's unemployment insurance system. Each change in benefit qualifications require the Department to write new code in Cobalt that takes approximately six weeks of four people working full time. The system was not designed to handle the current workload, and the estimated cost to build a new system is $73 million in 2007 dollars.

SUMMARY:

- ❑ State unemployment laws are driven by federal unemployment laws, and when federal unemployment laws change, the state must also ensure that current statute alines with the new federal laws.

- ❑ Each change in benefit qualification requires the Department to write new code in Cobalt, which is over forty years old. Total time to implement benefit changes is six weeks per change.

- ❑ The maximum number of weeks an individual can receive unemployment benefits is 94 weeks, or approximately 17 months. Currently all federal extended benefits are scheduled to end at the end of May 2009.

RECOMMENDATION: Staff recommends the Committee talk to the Department during the Department's hearing about the importance of modernizing the UI computer system, and possible funding sources.

DISCUSSION:

<u>Federal Benefit Extension</u>s
The federal extension of benefits is called Emergency Unemployment Compensation (EUC), and benefits paid with this program are called EUC benefits. This program was created and modified by four different pieces of federal legislation, the most recent is the Worker, Homeownership, and Business Assistance Act of 2009 which was signed on November 6, 2009. See Appendix D on page 51 for a description of each bill. There are four tiers for EUC benefits, and a claimant starts on Tier 1 and ends on Tier 4, but Colorado has only qualified for Tier 3. Almost 120,000 Colorado claimants have qualified for EUC benefits.

Regular UI benefits are the amounts the claimant is eligible for in the first 26 weeks of receiving UI benefits. All of the EUC benefits are paid with federal funds, and expire on May 29, 2010. The following are descriptions of the qualification for each tier.

Tier 1 - First tier a claimant is eligible for after exhausting their regular UI benefits.
- adds either 20 weeks or the number of weeks a claimant needs to reach 80 percent of the claimants regular UI benefits, which ever is reached first;
- claimants receive weekly benefit checks equal to their regular UI benefit;
- claimants cannot be eligible for a new claim in any state;
- once a claimant has exhausted their regular UI benefits, the claimant must apply for Tier 1 benefits; and,
- a claimant must exhaust their regular UI benefits prior to December 19, 2009 to qualify for Tier 1 benefits.

Tier 2 - A claimant moves to Tier 2 after the Tier 1 maximum is reached.
- adds either 14 weeks or the number of weeks a claimant needs to reach 54 percent of the claimants regular UI benefits, which ever is first;
- a claimant must run out of Tier 1 benefits by December 26, 2009 to be eligible for Tier 2 benefits; and,
- a claimant will automatically move from Tier 1 to Tier 2.

Tier 3 - A claimant movements to this tier after Tier 1 and Tier 2 are exhausted
- Adds either 14 weeks or the number of weeks a claimant needs to reach 50 percent of the claimants regular UI benefits, which ever is first;
- a claimant must run out of Tier 2 money by December 26, 2009 to be eligible for Tier 3;
- A claimant automatically moves from Tier 2 to Tier 3;

Tier 4: Currently the final Tier of EUC benefits
- adds the amount of benefits that are the lesser of either: 24.0 percent of the claimants regular UI benefits or six times the claimants weekly regular UI benefits.

Summary of Federal Benefit Extensions That Colorado Qualifies For				
Tier	**Maximum Benefit**	**Apply or Automatically Qualify?**	**Date must exhaust previous extended benefits by**	**Benefit extension end date**
Tier 1	20 weeks or 80% of regular UI benefits	Apply after exhausting regular UI benefits	Dec. 19. 2009	May 29, 2010
Tier 2	14 weeks or 50% of regular UI benefits	automatic after exhausting Tier 1	Dec. 26, 2009	May 29, 2010
Tier 3	14 weeks or 50% of regular UI benefits	automatic after exhausting Tier 2	Dec. 26, 2009	May 29, 2010

Summary of Federal Benefit Extensions That Colorado Qualifies For				
Tier 4	the number of weeks to reach either: 24.0% of regular UI benefits or 6 times the claimant's weekly regular UI benefits	automatic after exhausting Tier 3	Dec. 26, 2009	May 29, 2010

Source: Department of Labor, Unemployment Insurance Benefits website.

In addition to the EUC benefits the American Recovery and Reinvestment Act of 2009 (ARRA) added an additional $25 to every claimants weekly UI benefit. This addition is being paid with federal funds and scheduled to end in December 2009.

State Extended Benefits

ARRA changed the funding mechanism for state extended benefits (SEB), so that through January 2, 2010 federal funds will pay 100.0 percent of SEB. Prior to ARRA and after January 2, 2010 the spilt for SEBs is 50.0 state funds and 50.0 percent federal funds. Senate Bill 09-247 changed statute to enable Colorado to take advantage of the additional federal funds for SEB:

- If the total unemployment rate is equal to or greater than 6.5 percent, claimants are eligible for 13 weeks of SEB
- If the total unemployment rate is equal to or greater than 8.0 percent, claimants are eligible for 20 weeks of SEB.

The following is the criteria used to determine if a claimant is eligible for SEB, and what happens to benefit payments for claimants who are eligible for SEBs after January 2, 2010.

- a claimant must have applied for SEB by November 28, 2009;
- a claimant is eligible for SEB if they have exhausted their regular UI benefits and all three tiers of federal EUC benefits;
- a claimant receiving SEB on January 3, 2010, will receive one week of Tier 2 EUC benefits, then moved to Tier 3 EUC benefits.

ARRA Funds from S.B. 09-247

Prior to S.B. 09-247, Colorado did not meet the requirements set forth in ARRA and would not have qualified for the additional federal UI funds. Since the General Assembly passed S.B. 09-247, Colorado received an estimated $127.5 million in ARRA funds, $42.5 million in September 2009 and $85 million in October 2009. See Appendix F on page 54 for a description of S.B. 09-247.

Lag from Legislation Increasing Benefits to Issuance of Benefit Payments

Each time the requirements for UI benefits is changed, the Department must write new code for the UI computer system. The code for benefits is written in Cobalt, and each change has required four people working full time for six weeks. In a time when claimants are totally dependent on extended benefits, this lag time from the passage of legislation to actually receiving the benefits can be a financial burden from which a claimant can not recover. The Department believes there is a need to modernize the Mainframe database that houses the UI benefits and UI tax systems because it is over forty years old.

Cost to Rebuild the UI Computer Systems

Background on the Genesis Project

Genesis was the attempt in the early 2000's to re-engineer the two parts of the UI computer systems. The UI computer systems are comprised of the tax side, Colorado Automated Tax System (CATS) and the benefit side, Colorado Unemployment Benefits System (CUBS). In 1998 when the original concept documents for *Genesis* were written, the following problems were identified within the UI computer systems:

- separate databases for the tax and benefits sides of the program (CATS and CUBS);
- applications written in different languages that make ongoing support much more difficult (CATS is written in Natural, CUBS is written in Cobalt);
- a general inability for the two applications to communicate; and,
- an aging mainframe database.

Within the overall *Genesis* project, the State Unemployment Program E-government Resource (SUPER) system was intended to replace the previous UI computer systems. The Department contracted with Accenture for the development of the SUPER system. SUPER was to consist of five main components: taxes, benefits, wages, unified desktop, and benefits payment control. The reasons for the contract termination are discussed below.

Genesis Appropriations History

A total of $44.8 million was appropriated from the Employment Support Fund over three fiscal years for the initial *Genesis* development, as shown in the following table. Of those appropriations, a total of $27.9 million was spent and $16.9 million was reverted. Of the $27.9 million, $24.2 million was paid to Accenture and $8.2 million was refunded by Accenture as part of the contract termination.

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

Delivered components

Three of the five SUPER components were delivered by Accenture before the contract was terminated.

- The wage component is used to accept and enter new wage information into the system.
- The unified desktop component provides call routing, computer-telephony integration and integrated voice response functionality.

- The benefit payment control component provides an automated data exchange between the Department and the Department of Personnel and Administration's Central Collections for handling benefit overpayments.

Some portions of the unified desktop component have never functioned properly, like the telephone component which was replaced in 2008. The Department has a significant amount of functioning computer hardware and a large pile of non-functioning source code for the tax and benefit components.

Reasons for the Contract Termination

The Department evaluated the Accenture source code and supporting documentation and determined there were significant problems with the way that the original project was managed. The Department experienced a great deal of difficulty in establishing the necessary linkages from code modules to use cases to business needs. In addition, the Department found that many of its initial test cases were incomplete and many of its functional requirements were untestable.

Project Recovery Assessment

Problems justifying *Genesis* continue to exist. CATS and CUBS remain in service because the corresponding SUPER components are not functional. The original problems with the current systems that motivated the *Genesis* are still there: the systems use two different data bases, are written in different languages, and barely communicate with one another. The Department undertook a project recovery assessment (PRA)of *Genesis* in 2005 and 2006 in order to determine the best path forward, and concluded there were three options:

- *Rebuild:* The rebuild option would start with the non-working source code for the tax and benefit components delivered by Accenture and finish that development.

- *Reuse:* The reuse option would acquire the tax and benefit components built by one or more other states and modify them to meet Colorado's needs. In order to encourage potential cost savings, the federal government requires that states building systems with federal dollars must, under certain conditions, make the code available to other states.

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

The PRA ruled out the first option to rebuild the Accenture code because of magnitude, age and complexity of the current UI computer system and the amount of work required to make the Accenture code useable. The following table breaks down the cost of building and project maintenance costs for each option.

Estimated Costs for the Three Options for the UI Computer Systems			
Item	**Option 1 - Rebuild**	**Option 2 - Reuse**	**Option 3 - Build New**
Project Planning	$12,189,000	$15,636,000	$17,017,000
Software Development	27,685,000	33,800,000	32,779
Testing	7,788,000	7,788,000	5,188,000
Infrastructure	12,624,000	2,678,000	3,507,000
Other (Security and Training)	6,939,000	6,866,000	6,934,000
Project Costs Subtotal	**$67,225,000**	**$66,768,000**	**$32,678,779**
Total Maintenance	$23,001,000 - actual costs	$33,462,000 - estimated at 18%/year	$27,093,000 - estimated at 18%/year
Duration of Maintenance	5.5 years	5.5 years	5.0 years
Total Project Costs	**$90,226,000**	**$100,230,000**	**$59,771,779**
Contingency Reserve (10%)	9,022,000	10,034,000	9,252,000
Management Reserve (5%)	4,511,000	5,017,000	4,626,000
Total Reserve Costs	**$13,533,000**	**$15,051,000**	**$13,878,000**
Total Costs (Project + Reserves)	**$103,759,000**	**$115,281,000**	**$73,649,779**

Source: 2007 CDLE PRA Steering Committee Presentation on PRA Findings.

For the reuse option, the Department evaluated several states' working systems, including those in Utah, New Mexico, and Minnesota, against Colorado's specific needs. For the build new option, the Department obtained estimates for the probable cost of a unified system, largely based on other states' experience. Based on costs, staff believes the third option to build a new UI computer system is the best option. The above table shows the projected cost to build a new system in 2007 was $73.7 million.

Cost to Build a New System Is Driven by Statutory Requirements

The federal government gives the individual states considerable flexibility in specifying the details of their UI systems. Different states have made different choices that can affect the complexity of the system. For example, when a worker is separated from an employer and qualifies for UI benefits, states have different policies with regard to which employers those benefits will be "charged" for experience ratings. This can become complicated if the worker was employed by multiple firms. Options range from charging only the most recent employer to much more complicated schemes in which multiple employers are charged based on several criteria. Colorado's rules are relatively complex, driving up the cost of systems that implement those rules.

However, staff does not believe the Employment and Training Technology Fund will accrue the reserves required to fund this project by FY 2016-17. Staff holds this belief because the current UITF balance is $161.1 million, and language exists in statute enabling the Executive Director to divert any money that might go into the Tech Fund to the UITF at any time.

<u>Option to Fund</u>
One option to fund a rebuild of the UI computer system is an increase to the wage base. The General Assembly has the ability to increase the wage base, which is currently $10,000 and has not increased since 1988. If the General Assembly increased the wage base, and diverted the additional funds earned from the UI surcharge, the Department could finance the cost of building a new UI computer system. The UI surcharge is equal to 0.22 percent of the wage base pursuant to Section 8-76-102 (4) (d), C.R.S, except employers who have had no employees draw UI benefits are exempt from this surcharge. Surcharge revenue going into the UITF is used to pay for benefits filed against employers who are no longer in business. Currently the UI surcharge is distributed as follows: 30.0 percent to the UITF, 20.0 percent to the Employment and Training Technology Fund (Tech Fund), and 50.0 percent to the Employment Support Fund (ESF). The following table outlines the associated total increase in UI surcharge revenue if the wage base is increased.

UI Surcharge Revenue Increase If Wage Base is Increased				
Wage Base	Revenue from UI surcharge	1.5 million Employees	2.0 million Employees	2.25 million Employees
$10,000	$22	$38,500,000	$44,000,000	$49,500,000
12,000	26	46,200,000	52,800,000	59,400,000
14,000	31	53,900,000	61,600,000	69,300,000
16,000	35	61,600,000	70,400,000	79,200,000
18,000	40	69,300,000	79,200,000	89,100,000
20,000	44	77,000,000	88,000,000	99,000,000
22,000	48	84,700,000	96,800,000	108,900,000
24,000	53	92,400,000	105,600,000	118,800,000

Since the UI surcharge is divided between three funds, and the General Assembly would need to amend the distribution of the UI surcharge so the Tech Fund would reach a balance of at least $75 million within one to six years. The percentage of the UI surcharge going into the ESF should be preserved, so that the ESF receives approximately $23 million each year. The following table outlines the percent of the UI surcharge that would generate the $23 million for the ESF, assuming there are 2.0 million employees whose wage base equals $10,000.

UI Surcharge and ESF		
Wage Base	Percent of UI Surcharge that Equals $23.0 million	If ESF Percentage Remained at 50%
$10,000	52.3%	$22,000,000
12,000	43.6%	26,400,000
14,000	37.3%	30,800,000

UI Surcharge and ESF		
Wage Base	Percent of UI Surcharge that Equals $23.0 million	If ESF Percentage Remained at 50%
16,000	32.7%	35,200,000
18,000	29.0%	39,600,000
20,000	26.1%	44,000,000
22,000	23.8%	48,400,000
24,000	21.8%	48,400,000

The following table shows the different percentages of UI surcharge that would enable the Tech Fund to reach a balance of $75 million in anywhere from one to six years, assuming there are 2.0 million employees whose wage base equals $10,000. . Currently the Tech Fund receives 20.0 percent of the UI surcharge and over the next two fiscal years if no money is diverted to the UITF, the balance will only be $15.0 million.

Percent of UI Surcharge Needed to Bring Balance of ESF to $75 million						
Wage Base	1 Year	2 Years	3 Years	4 Years	5 Years	6 Years
$10,000	n/a	85.2%	56.8%	42.6%	34.1%	28.4%
12,000	n/a	71.0%	47.3%	35.5%	28.4%	23.7%
14,000	n/a	60.9%	40.6%	30.4%	24.4%	20.3%
16,000	n/a	53.3%	35.5%	26.6%	21.3%	17.8%
18,000	94.7%	47.3%	31.6%	23.7%	18.9%	15.8%
20,000	85.2%	42.6%	28.4%	21.3%	17.0%	14.2%
22,000	77.5%	38.7%	25.8%	19.4%	15.5%	12.9%
24,000	71.0%	35.5%	23.7%	17.8%	14.2%	11.8%

Currently the State Auditors Office is conducting an audit of all aspects of the Unemployment Insurance Trust Fund, including funding mechanisms, and will release the audit during 2010. Additional discussion about wage base will be done in the second issue of this briefing. Staff recommends the Committee talk to the Department during the Department's hearing about the importance of redoing the UI computer system, and possible funding sources for the rebuild.

<u>Ensuring What Happened with Genesis does not Happen Again</u>

In order to ensure that the failures of Genesis do not happen again, the Governor's Office of Information Technology has established Executive Governance Committees to oversee Department IT projects and ensure problems are identified as soon as possible and properly dealt with. The role of the EGCs and IT project oversight will be discussed in greater detail in the third issue.

BRIEFING ISSUE #2

ISSUE: Unemployment Insurance Trust Fund Balance and the Chargeable Wage Base

The amount of benefits paid from the Unemployment Insurance Trust Fund is at unprecedented levels, and the Department is projecting the payment of $1,025 million UI benefits in FY 2009-10. The balance at the end of November 2009 was $161.7 million, compared to $676.5 million in November 2008.

SUMMARY:

- ❑ The balance of the Unemployment Insurance Trust Fund as of November 30, 2009 was $161.7 million, compared to $676.5 million at the end of November 2008. This November 2009 balance includes the $127.5 million the state received in federal stimulus dollars.

- ❑ Currently employers pay federal taxes on the first $7,000 and pay state premiums on the first $10,000 dollars of an employees wages each year, which has not changed since 1988. Employees do not pay any unemployment insurance premiums or taxes.

- ❑ In order for the wage base to match the growth since 1988 of the average private salary in Colorado, the wage base would need to be increased to $22,000.

DISCUSSION:

<u>Types of UI Premiums and Surcharges</u>
Colorado's Unemployment Insurance Trust Fund (UITF) is funded through a federal unemployment insurance (UI) tax, and state premiums and surcharge. All of these are paid by the employer, not the employee. Federal statute establishes the amount of wages that are subject to the federal UI tax, called the chargeable wage base or wage base. States can and have elected to increase the federal wage base. Most revenue comes between January and May when the employee's wage base has not yet been met for the year. See Appendix E on page 28 for a diagram showing the movement of UI dollars

Revenue Source	Low	High	Wage Base	Notes
Federal UI Tax	0.8%	6.2%	$7,000	Employers in good standing receive a tax break of 5.4%.
Regular UI Premium	0.0%	5.4%	$10,000	The regular premium rate is based on the employer's experience rating with the state.
UI Surcharge	0.22%	0.22%	$10,000	Established in Section 8-76-102 (4) (d), C.R.S.

Revenue Source	Low	High	Wage Base	Notes
UI Solvency Premium	0.0%	5.4%	$10,000	Dependent on UITF balance

Federal Taxes

The federal UI tax rate ranges from 0.8 percent to 6.2 percent. Employers are charged 6.2 percent if they have a poor history of paying the federal UI tax. Employers who pay the federal UI tax on time receive a tax credit of 5.4 percent, and pay 0.8 percent on the first $7,000 of an employees wages. This wage base is set by the federal government, and cannot be changed by the state. Therefore, each employer, if qualified for the tax credit, pays $56 each year for each employee in federal UI tax. The revenue from this tax is deposited into Colorado's UITF and pays for the cost of administering UI Programs and UI benefits.

Regular UI Premium

The regular UI premium ranges from 0.0 percent to 5.4 percent. If an employer has been in business for at least a full year, they will be notified by the Department of what their tax rate for the next year will be. Employers in business less than a year pay the standard rate of 1.7 percent. The exception are construction companies in business less than a year who pay the industry average. The rate an employer pays is based on the employer's experience rate. The experience rating is the ratio of the amount the employer has paid into the UITF verses how much employees have drawn in benefits. The lower the amount of benefits, the better the experience rating and the lower the premium rate.

UI Surcharge

The UI surcharge is equal to 0.22 percent of the current $10,000 wage base pursuant to Section 8-76-102 (4) (d), C.R.S. Employers who have had no employees draw UI benefits are exempt from this surcharge. Surcharge revenue is used to pay benefits filed against employers who are no longer in business. The following table outlines the distribution of the UI surcharge between the UITF, the Employment and Training Technology Fund (Tech Fund), and the Employment Support Fund (ESF):

Distribution of UI Surcharge			
Fund	**Percent of UI Surcharge**	**Estimate Revenue for FY 2009-10**	**Estimate Revenue for FY 2010-11**
UITF	30.0%	$11,156,627	$11,212,411
Tech Fund	20.0%	7,941,350	8,338,417
ESF	50.0%	18,594,379	18,687,351
Total	**100.0%**	**$37,692,356**	**$38,238,179**

UI Solvency Premium

The UI solvency premium is turned on when the UITF balance is equal to or less than 0.9 percent of the previous years total reported wages. The UI solvency surcharge compounds each year and during the first year ranges from 0.0 to 1.1 percent. After the first year the surcharge ranges from

0.0 to 5.4 percent but cannot exceed 5.4 percent. New employers are not subject to the solvency surcharge. The solvency surcharge is only 0.0 percent if the UITF balance is greater than 0.9 percent of last years reported wages. Currently the UITF balance required to turn off the solvency surcharge for FY 2010-11 is $752.5 million, and as of the end of November 2009 the UITF balance was $161.7 million. The following table shows an example of how the UI solvency premium compounds each year it is on.

Example of How UI Solvency Premium is Calculated				
Year	**Experience Rating**	**Previous Year's UI Solvency Premium**	**Current Year UI Solvency Premium Increase**	**UI Solvency Premium for Current Year (Previous Year + Increase)**
Year 1	-5	0.6%	0.7%	1.3%
Year 2	-4	n/a	0.6%	0.6%
Year 3	-3	1.3%	0.6%	1.9%
Year 4	-1	1.9%	0.6%	2.5%
Year 5	+1	2.5%	0.4%	2.9%

2009 Session Bills Affecting the UITF

There were eight bills passed during the 2009 Session that impact the UITF. Three of these bills directly impact either UI benefit payments or revenue coming into the UITF. These revenue and expenditure impacts are outlined in the following table. See Appendix F on page 54 for a description of the 2009 Session UI bills.

2009 Session Bills Affecting Unemployment Insurance Trust Fund Revenue and Expenditures					
Bill Number	**Short Title**	**UI Benefit Payments**		**UITF Revenue**	
		FY 2009-10	**FY 2010-11**	**FY 2009-10**	**FY 2010-11**
09-076	Employment and Training Technology Fund	$0	$0	($9,300,000)	($9,300,000)
09-178	UI Attached to Regular Jobs	(844,075)	(873,618)	(54,865)	(56,785)
09-247	Expand UI Benefits Federal Stimulus Money	(15,615,869)	(13,198,164)	127,469,762	0
Total		**($16,459,944)**	**($14,071,782)**	**$118,114,897**	**($9,356,785)**

Funds from the American Recovery and Reinvestment Act

The funds the state received after passing S.B. 09-247 totaled $127.5 million for FY 2009-10. These funds were deposited into the UITF in two parts: $42.5 million on September 10, 2009 and $85.0 million on October 16, 2009. Due to the changes in benefit qualifications, UI benefits are expected to increase by $13.8 million in FY 2009-10 and $13.1 million in FY 2010-11.

S.B. 09-247 Estimated UI Benefits Increases	FY 2009-10 Increase	FY 2010-11 Increase	Total 2-Year Increase
Alternative Base Period	$6,473,544	$5,714,709	$12,188,253
Separation for Compelling Family Reasons	2,354,970	2,390,294	4,745,264
Enhanced UI Benefits for Training	5,000,000	5,000,000	10,000,000
Total	**$13,828,514**	**$13,105,003**	**$26,933,517**

UI Benefits Paid Year to Date

The amount of UI benefits paid for FY 2008-09 and FY 2009-10 are almost triple the amount of benefits paid in FY 2007-08. For FY 2007-08, $355.0 million in benefits were paid. For FY 2008-09, $1,053.8 million in benefits were paid, an increase of $698.9 million. The Department is projecting FY 2009-10 benefits paid will decrease by about $28.9 million from FY 2008-09 to $1,024.9 million.

UI Benefits Paid for CY 2009		
Month	**Benefits Paid**	**Year to Date Total**
January	$61,348,941	$61,348,941
February	71,898,732	133,247,673
March	100,231,280	233,478,953
April	89,763,763	323,242,716
May	103,200,638	426,443,354
June	98,816,322	525,259,676
July	92,767,205	618,026,881
August	100,363,149	718,390,030
September	82,336,802	800,726,832
October	79,035,345	**$879,762,177**

Colorado's Wage Base

Currently, Colorado's wage base is $10,000 and has not been changed since 1988 by H.B. 86-1012. House Bill 86-1012, set the wage base for calendar years 1984 to 1986 as $8,000, $9,000 in 1987, and $10,000 in 1988 and beyond. Only seven states have not increased the wage base from $7,000. The average for all fifty states and Washington D.C. is $14,608.

Overview of Wage Bases	
Colorado's Base	$10,000
States with the wage base >$30,000	4
States with the wage base >$20,000	10

Overview of Wage Bases	
Colorado's Base	$10,000
States with the a wage base >$10,000	13
States with $7,000 wage base	7
51 State/D.C Average	$14,608

The states surrounding Colorado have a wide range of wage bases, ranging from a high in Utah of $27,800 to a low in Arizona of $8,000. Colorado's wage base falls in the middle of the surrounding state's wage bases.

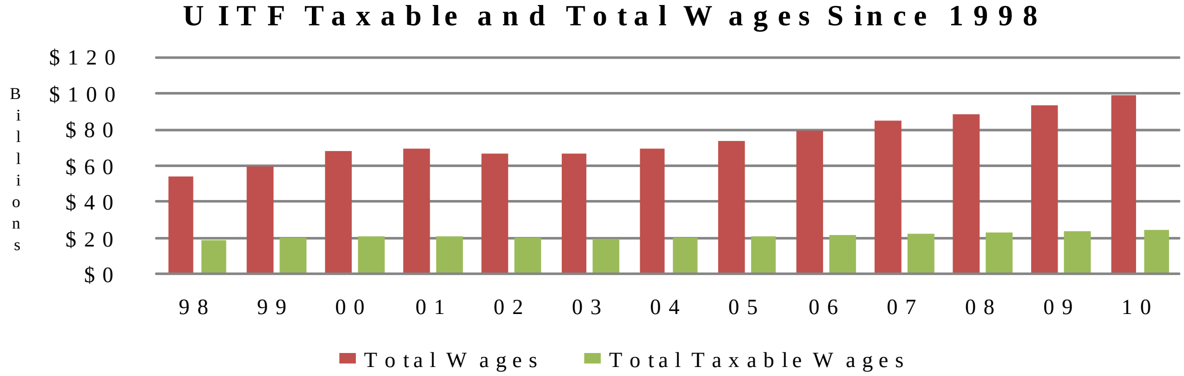
		Estimate Employer Costs Using Colorado Rates		
State	**Wage Base**	**Low Employer Costs**	**Middle Employer Costs**	**High Employer Costs**
Arizona	$7,000	$85	$386	$1,205
Colorado	10,000	98	528	1,536
Kansas	8,000	90	434	1,316
Nebraska	9,000	94	481	1,426
Nevada	26,600	168	1,312	3,365
Oklahoma	14,200	116	726	1,999
Utah	27,800	173	1,368	3,498
Wyoming	21,500	146	1,071	2,803
Average	**$15,513**	**$121**	**$788**	**$2,143**

Rates used to calculate the low, middle, and high employer costs are outlined in the following table.

Rates Used to Calculate Employers Costs at Colorado Rates				
	Federal UI Tax	**Regular UI Premium**	**UI Surcharge**	**UI Solvency Surcharge**
Low Employer Rates	0.8%	0.0%	0.2%	0.2%
Middle Employer Rates	0.8%	1.7%	0.2%	2.8%
High Employer Rates	6.2%	5.4%	0.2%	5.4%

What Would Happen if Colorado Increased the Wage Base

UI revenues have not and do not increase with inflation or the growth of the average private sector wage because employer premiums and surcharges are calculated based on the employer's experience rating and/or the balance of the UITF. The following graph outlines the growing difference between the chargeable wage base, and the individual claimants benefits since 1998.



How Benefits are Calculated

Under current statute UI benefits are calculated based on the claimant's earnings history. Benefits in Colorado are capped at 50.0 percent (or under certain circumstances, 55.0 percent) of the claimant's average weekly earnings in covered industries. The minimum a claimant can receive is $25, and the high is $475, not including the additional $25 per week authorized by ARRA. Over time, productivity gains and general inflation have pushed up the average weekly wage, thus increasing the average weekly benefit and maximum benefit. All other things being held constant, the amount of money needed to pay per-capita benefits continues to increase.

Impact to Employers of Increasing the Wage Base

One option to increase the UITF balance, and ensure that the balance does not fall to the levels it is at today, is to increase the wage base. **If the wage base had increased over time to match the increase in wages, the wage base today would be $22,000.** The following table shows the impact per employee on employers if the wage was to increase. See the table on page 18 for details on the percentages used to calculated the costs.

Wage Base	Employer Costs at Low Rates	Employer Costs at Middle Rates	Employer Costs at High Rates	Average	Difference from $10,000 Wage Base
$10,000	$98	$528	$1,536	$721	n/a
12,000	106	622	1,756	828	$108
14,000	115	717	1,977	936	215
16,000	123	811	2,197	1,044	323
18,000	132	906	2,418	1,152	431
20,000	140	1,000	2,638	1,259	539
22,000	148	1,094	2,858	1,367	646
24,000	157	1,189	3,079	1,475	754

BRIEFING ISSUE #3

ISSUE: Update on the Internet Self Service Project

A total of ten internet applications are being built to make basic claimant and employer functions available on the internet. A total of $6.0 million cash funds has been appropriated for the capital construction portion and $670,000 and 2.5 FTE for the operation portion of this project. The project has been delayed eight months due to the development and deployment of the Fast Track applications, and is scheduled to be completed by August 2011.

SUMMARY:

❏ The first of seven phases was deployed to all claimants on December 2, 2009. The first phase allows claimants to file their initial unemployment insurance applications electronically and not have to utilize the phone center.

❏ The project has a yellow status, indicating a delay of eight months for the final completion. This delay is to the Fast Track internet applications, which provide claimants with an internet option to reset their PIN, cancel a claim, and change/update their address, in place of having to phone the call center.

❏ The funding for the 2.5 FTE and operating portion of the project are through June 2010 only. The Department did not submit a request for funding in FY 2010-11, even though the project is not scheduled to be completed until August 2011.

❏ The Project Manager is reviewing the budget and resources allocated to this project because concerns have been raised that there will not be enough resources (staff and funds) to complete the project. The department is looking to hire a permanent database position to manage the ISS applications.

DISCUSSION:

<u>Goal of the Internet Self Service</u>

The final goal of the Internet Self Service project (ISS) is to build five new internet applications and re-engineer two current applications to allow claimants and employers to submit information electronically. The two current applications were built prior to 2000 and do not allow claimants or employers to submit information electronically. Iss is broken down into seven phases which are built around the development and deployment of the seven applications. For a diagram of how the ISS applications work in conjunction with the UI Mainframe database, see Appendix G on page 56.

Application	Claimant or Employer	New or Rebuilt	Associated Phase
Initial and Continued UI claims	Claimant	Rebuilt	Phase 1- Initial Phase 3 - Continued
Tax and wage reporting	Employer	Rebuilt	Phase 5
Additional and Reopened Claims	Claimant	New	Phase 2
Customer Feedback	Both	New	Phase 7
Claimant and Employer Information	Both	New	Phase 1 - Claimant Phase 4 - Employer
Correspondence	Both	New	Phase 6
Appeals	Claimant	New	Phase 6

ISS Funding

During the 2008 Session, the Department was appropriated a total of $3.5 million cash funds from the Employment Support Fund (ESF) and 2.5 FTE. Of this amount, $3.0 million was for capital construction costs and $0.5 million and 2.5 FTE were for the operation portion of the project. For the second year of the project (FY 2009-10), the Department was appropriated a total of $3.1 million cash funds from ESF. Of this amount, $2.9 million was for capital costs and $0.2 million and 2.5 FTE were for the operating portion of the project. The following table shows the December 4, 2009 ISS Status Report budget.

	Projected Budget	YTD Expenses	Balance
Capital Construction Costs			
Contractor Costs	5,720,288	1,586,583	4,133,705
Contingency	203,047	0	203,047
Operating Budget			
Personal Service (FTE)	348,466	213,563	134,903
Software	136,000	136,000	0
Hardware	185,998	185,998	0
Supplemental Budget Request			
Tax & Wage Reports	53,025	0	53,025
Employer Demographics	90,375	0	90,375
Project Total	**$6,737,199**	**$2,122,144**	**$4,615,055**

The supplemental budget request portion of the budget shows additional federal funds the Department received from the U.S. Department of Labor for ISS. These are one time funds and do not require an appropriation by the General Assembly.

The Department has assigned 2.5 temporary FTE to ISS because of the lessons learned from the *Genesis* project about the importance of having experienced personnel who understand the business processes involved with this project. These 2.5 FTE are assigned solely to the ISS project and are only funded through FY 2009-10. Since the main database for ISS was built by a contractor, the Department has posted the notice of an opening for a permanent database position.

Oversight of the Internet Self Service Project

ISS is overseen by the Personal and Labor Executive Governance Committee in the Governor's Office of Information Technology (OIT), as well as the Project Steering Committee. Executive Governance Committees (EGC) replaced the Commission on Information Management, and are the advisory bodies for certified information technology (IT) projects. The ISS EGC is comprised of personnel from both OIT and the Department and acts in an advisory role to both OIT and the Department. The Project Manager for ISS is required to file a bi-monthly status report with OIT detailing the recent accomplishments, concerns, issues, the budget and the completion schedule. These status reports are used to create a monthly summary of the project for each EGC meeting.

Concerns Raised About Project Resources

In the two most recent ISS Status Reports from November 22, 2009 and December 7, 2009 the following issue/concern is noted:

> Concern: Resources continue to be a concern for the project. Project Manager conducting assessment of budget, schedule, and work load to consider recommendation to procure additional resources. (November 22, 2009)

Staff is concerned with the fact that this is a continued concern because in status reports prior to the November 22, 2009 Status Report, no concern or issue about resources was noted. The release of Fast Tracks (see below for more discussion of Fast Tracks) accounts for a portion of the delay in the final completion date, but staff is concerned that the deadline has been pushed back even after the completion of Fast Tracks. Additionally, it is not clear if the budgetary impacts of Fast Tracks are a part of the reason there is a concern about resources.

Staff is concerned that the continued concern of project resources may indicate large problems of meeting deadlines and staying within budget. Currently the 2.5 FTE for this project are only funded through June 2010, but the schedule shows ISS will not be completed until August 2011, leaving a full year in which there is not FTE or funding for the operating portion of the project. The Department did not submit a decision item for FTE and/or funding for ISS in FY 2010-11, and staff is concerned about the impacts the loss of FTE and operating funding for the final of the project will have on the Department's and OIT's ability to complete the project by August 2011.

ISS Completion Timeline

The deadlines for the seven phases are broken out in the following table. Originally the project was scheduled to be completed by December 2010, but the current schedule is showing August 2011.

Applications/Components	Start Date	Completion Date	Length of Phase
Phase 1 - MyUI Claimant	April 6, 2009	December 14, 2009	9 months
Phase 2 - Smart Filing	July 1, 2009	August 27, 2010	14 months
Phase 3 - Continued Claims	January 29, 2010	September 30, 2010	5 months
Phase 4 - My UI Employer	March 29, 2010	November 26, 2010	8 months
Phase 5 - Tax and Wage	May 28, 2010	March 4, 2011	8 months
Phase 6 - Appeals and Correspondence	July 30, 2010	April 25, 2011	9 months
Phase 7 - CR 100 and Enhancements	Sept 30, 2010	May 31, 2011	8 months
Project Close	**June 1, 2011**	**August 1, 2011**	**1 month**

Fast Track Applications

The Fast Track solution was developed and deployed in response to the increased call volume the call center experienced starting around September 2008. Ideally these applications should have reduced the call volume, but volume of calls continues to be high because of the continued high numbers of unemployed workers, so there is no noticeable reduction. Currently the phone system is using all of the 230 lines, and as claimants are able to utilize new applications, new claimants simply take their place in the call cue. Fast Tracks allow claimants to accomplish the following online: reset a PIN, change or update an address, and delete a claim. Prior to Fast Track these functions had to be performed over the phone. Outlined in the following table are the number of claimants who utilized the Fast Track applications between March and September 2009.

Application	Number of Uses
Reset PIN	10,484
Cancel Claim	2,252
Address Changes/Updates	22,560
Total	**35,296**

Summary of Phase 1 - My UI Claimant

My UI Claimant was launched to a controlled group of approximately 2,500 UI benefit claimants at the of the October 2009, followed by a release to all UI benefit claimants in November 2009. My UI Claimant is an online tool for claimants to view specific information about their claim. The following are the major elements of My UI Claimant:

- a status bar indicating crucial information such as the deadline for the next time the claimant needs to file for payment, and the claim status;
- general information including: weekly benefit amount, last benefit payment date, and benefit payment method;
- My Benefits which displays the claimants wage history, employers, and potential benefit amounts;

- displays of the Status of any issues that may delay or prevent a benefit payment and the Status and date of issue resolution;
- shows every week the claimant filed for benefits, the amount of benefits if paid including Emergency Unemployment Compensation benefits , and details of deductions for taxes, child support and earnings;
- shows the number of job contacts required, if the claimant is registered at a workforce center as required, or if the claimant is attached to a union job and not required to register.

BRIEFING ISSUE #4

ISSUE: Unintended Consequences of S.B. 09-37 on the TABOR Reserve in the Special Funds

Senate Bill 09-037 changed the funding mechanism for the Division of Workers' Compensation Special Funds. The Special Funds contain $94.0 million of TABOR reserve, which prior to S.B. 09-037, could be rebuilt each year. After S.B. 09-037, if any of the TABOR reserve is used it cannot be rebuilt the next year because the funding mechanism for the Special Funds is now a pay-as-you-go mechanism.

SUMMARY:

- ❑ Senate Bill 09-037 changed the funding mechanism for the Special Funds to a pay-as-you-go mechanism, where the previous mechanism was designed to enable the funds to build a balance until they were deemed actuarially sound.

- ❑ $94 million of the Major Medical Insurance Fund is designated as TABOR reserve for FY 2009-10 and can only be used for declared emergencies. If any this TABOR reserve money is spent, there is no mechanism in place to rebuild the TABOR reserve, and another source will need to be used for the spent portion of the TABOR reserve.

DISCUSSION:

<u>Special Funds</u>
The Major Medical Insurance Fund (MMIF) and the Subsequent Injury Fund (SIF) make up the Special Funds. The MMIF covers the medical expenses of individuals who sustained catastrophic injuries between July 1, 1971 and June 30, 1981, once that individual's medical expenses exceed $20,000. The program is not open to new cases, but will occasionally add new individuals because an individual's cumulative medical expenses exceeded $20,000.

The SIF covers the medical expenses of workers who became totally and permanently disabled from either: two or more industrial injuries that occured prior to July 1, 1993; or from acquiring a permanently disabling occupational disease prior to April 1, 1994. During FY 2008-09, $69.5 million was transferred from the MMIF to the General Fund and $26.5 million was transferred from the SIF to the General Fund. For FY 2009-10, a transfer of $26.5 million is scheduled to occur from the MMIF to the General Fund.

The following table shows the estimated number of Special Funds claims. MMIF open claims are those cases in which individuals opted to receieve a lump sum and MMIF active claims are those cases that receive on-going compensation for their medical expenses.

Fiscal Year Ending June 30	MMIF Open Claims	MMIF Active Claims	SIF Occupation Disease Claims	SIF Medical Claims
FY 2008-09	1230	422	262	7
FY 2009-10	1192	403	248	8
FY 2010-11	1153	384	234	8
FY 2011-12	1114	365	221	8
FY 2012-13	1074	347	207	7
FY 2013-14	1034	329	194	7

Source: Actuarial Reserve Study of the Colorado Subsequent Injury Fund and the Colorado Major Medical Insurance as of July 1, 2008.

Senate Bill 09-037

Senate Bill 09-037 changed the funding mechanism for the Special Funds. Prior to S.B. 09-037 the balance of both funds was to be built up until the funds were deemed actuarially sufficient to pay all present and future claims. Per S.B. 09-037 the funding mechanism was changed so that the balance in the funds is equal to one year's expenses plus a reserve equal to one year's expenses (pay-as-you-go).

Fee Changes as a Result of S.B. 09-037

The Special Funds are funded by a portion of the premium surcharge rate (surcharge) which is established by the Director of the Division of Workers' Compensation (DoWC) in May each year. In addition to the Special Funds, two other funds receieve revenue from this rate: the Workers' Compensation Cash Fund (WCCF) and the Cost Containment Cash Fund (CCCF). The WCCF covers the expenses of the Division of Workers' Compensation, Workers' Compensation subdivision. The CCCF provides funds to the subdivision so staff can work with employers to reduce potential areas of workers' compensation claims. The following table shows the distribution of the surcharge over the last five fiscal years.

Premium Surcharge Rate Since FY 2000-01					
Fiscal Year	**WCCF**	**Special Funds**	**CCCF**	**Total**	**Change**
FY 2005-06	1.0%	2.788%	0.03%	3.818%	
FY 2006-07	1.0%	2.788%	0.03%	3.818%	0.0%
FY 2007-08	0.8%	2.988%	0.03%	3.818%	0.0%
FY 2008-09	0.8%	2.988%	0.03%	3.818%	0.0%
FY 2009-10	1.5%	2.088%	0.03%	3.618%	(0.2)%

For FY 2009-10, the portion to WCCF increased by 0.7 percent because of the $15.7 million transfer in FY 2009-10 and because the premium base decreased. Due to S.B. 09-037 the rate for the Special Funds decreased by 0.9 percent. Resulting in a net surcharge change of a negative 0.2 percent.

The balance of the Special Funds is now more volatile because the funds are more sensitive to changes in expenditures and revenue. This means the surcharge will most likely not remain the same from year to year, as it has done in the past. A decrease in the surcharge does not result in a direct decrease in premiums paid by employers because the surcharge is paid by insurance companies.

TABOR Reserve in the Special Funds

TABOR requires the General Assembly designate an emergency reserve equal to 3.0 percent of the fiscal year's expected revenue, which can only be used for declared emergencies like natural disasters. Currently, $94 million in the MMIF is designated as TABOR reserve.

TABOR Reserve in the Special Funds Since FY 2005-06			
Fiscal Year	MMIF TABOR Reserve	SIF TABOR Reserve	Total Special Funds TABOR Reserve
FY 2005-06	$20,000,000	$35,000,000	$55,000,000
FY 2006-07	40,000,000	40,000,000	80,000,000
FY 2007-08	64,000,000	16,000,000	80,000,000
FY 2008-09	94,000,000	0	94,000,000
FY 2009-10	94,000,000	0	94,000,000

Use of the TABOR Reserve

The use of the TABOR reserve dollars has occurred at lease once in each of the last four fiscal years. The old funding mechanism has allowed for the replenishment of these funds, but if any of the TABOR reserve in the MMIF is spent in FY 2009-10 or beyond, a new source for the TABOR reserve will need to be identified for the following fiscal year.

Use of MMIF TABOR Reserve Dollars				
Fiscal Year	Executive Order	Order Date	Title of Order	Amount
FY 2005-06	D001 06	1/09/06	Mauricio Canyon Fire	$240,000
FY 2006-07	D014 06	6/21/06	Mato Vege Fire	3,000,000
	D017 06	7/13/06	Tyndal / Garfield Fire	1,500,000
	D020 06	7/19/06	Amends D 014	500,000
	D009 07	4/3/07	Prowers Tornado	1,000,000
FY 2006-07 Total				6,000,000
FY 2007-08	D009 08	4/17/08	Crowley Fire	500,000
	D011 08	5/23/08	Northern Colorado Tornado	500,000
FY 2007-08 Total				1,000,000
FY 2008-09	D005 09	3/26/09	Severe Blizzard	200,000

BRIEFING ISSUE #5

ISSUE: Addition of Denver Conveyances to the Conveyance Program

When the Conveyance Program in the Division of Oil and Public Safety was created in 2007, it was expected by the Division that the City and County of Denver would continue it's conveyance program. In June 2009, the Division was notified by Denver that they would be discontinuing their conveyance program. By statute the Division is required to take over the Denver conveyance program, consequently doubling the Division's conveyance workload.

SUMMARY:

❏ Approximately a third of jurisdictions signed the memorandum of agreement with the Division, a significantly smaller number than anticipated when the Conveyance Section was formed in 2007.

❏ It was assumed that the City and County of Denver, which has 32.5 percent, or 6,500 of the states conveyances, would continue it's conveyance program. Denver notified the Division in June 2009 they would be discontinuing their conveyance program, doubling the Conveyance Program's workload.

❏ For the 13,500 conveyances not in jurisdictions with approved authority, the Division estimates a need for 40 conveyance inspectors. Currently there are 18 active conveyance inspectors. Therefore the Division estimates a need for an additional 22 inspectors to handle the 13,500 conveyances.

DISCUSSION:

<u>Conveyance Section Definitions</u>

- Approved Authority Having Jurisdiction (AHJ) - a local jurisdiction that has signed the memorandum of agreement and the jurisdiction is responsible for maintaining their own conveyance program.
- Conveyance - moving walkways, escalators, elevators, dumbwaiters, material lifts, stairway chair lifts, wheelchair lifts, and automated people movers which are the trains at DIA.
- Conveyance Section - Section of the Division of Oil and Public Safety that is responsible for the licensing of inspectors, contractors, and mechanics as well as the actual conveyances.
- Jurisdiction - a city, county or city and county.
- Active Inspector: - a licensed inspector that has submitted at least six inspector reports to the Division.

Reasons for the Creation of the Conveyance Program

The Conveyance Program (Program) was created because the building inspection industry identified the following safety issues regarding conveyances:

- lack of license qualifications for conveyance mechanics, inspectors, or contractors;
- numerous inspections being conducted by personnel employed by contractors, despite laws requiring third party inspections by non-contractor affiliated inspectors;
- lack of a statewide conveyance database; and,
- inconsistent safety code adoption among jurisdictions. If code was adopted at all, some jurisdictions used the 1996 verison others used the 2004 verison.

History of the Conveyance Program

The Program was created by S.B. 07-123, which required the licensing of all conveyances, conveyance inspectors, mechanics and contractors by the Program. Owners were required to pay a one-time fee to register the conveyance and enable the Program to create a statewide database of all conveyances. The Program developed a memorandum of agreement (MOA), which enables qualified jurisdictions who sign the MOA to maintain their own conveyance program. A jurisdiction that signs the MOA is called an approved authority having jurisdiction (AHJ).

The fiscal note for S.B. 07-123 anticipated the majority of jurisdictions would sign the MOA, especially the City and County of Denver (Denver), which contains 6,500 conveyances or 32.5 percent of conveyances. Denver did not sign the MOA. The reasons for this will be discussed later in this issue.

	Est. Number of Jurisdictions	**Est. Number of Conveyances***	**Est. Percent of Total Conveyances**
Signed MOA	68	6,500	32.5%
Not Signed MOA, Excluding Denver	153	7,000	35.0%
Denver Conveyances	1	6,500	32.5%
Total	**222**	**20,000**	**100.0%**

* Estimated number of jurisdictions only includes jurisdictions that are known to have conveyances.

Division and Program responsibilities prior to and after legislation

Prior to the legislation creating the Program the Division had no responsibilities in respect to conveyances, inspectors, mechanics or contractors. Prior to and after legislation the Division is not responsible for the inspection of conveyances. The following table outlines the workload difference for the Division if a jurisdiction signs the MOA and if a jurisdiction does not sign the MOA.

	License inspectors, mechanics and contractors	Adopting Safety Code	Maintaining inspection records and permit reviews	establishing a fee structure for inspections	Conduct enforcement activities
If MOA is signed	Division	AHJ	AHJ	AHJ	AHJ
If MOA is not signed	Division	Division	Division	Division	Division

After S.B. 07-123, Division responsibilities not dependent on a signed MOA:

- maintaining a statewide database of all registered conveyances;
- establishing statewide conveyance safety code; and
- licensing conveyance inspectors, contractors and mechanics.

After S.B. 07-123, if the Division is overseeing an AHJ, the Division's sole responsibility is to

- review annual reports submitted by AHJs. Reports must contain information on the AHJ's inspection reviews, permit reviews and enforcement activities.

After S.B. 07-123, if a jurisdiction does not sign the MOA, Division responsibilities include:

- maintain records of inspection reports and permit reviews;
- conduct required enforcement activities within that jurisdiction; and,
- establish an inspections fee structure.

Jurisdiction responsibilities prior to and following legislation

Prior to legislation jurisdictions:

- could use any verison of the conveyance safety code;
- license conveyance contractors, inspectors and mechanics; and,
- maintained records of inspection report reviews.

After S.B. 07-123, a jurisdiction that becomes an AHJ must:

- use the safety code established by the Division;
- maintain records of inspection reports, permit reviews and submit an annual report to the Division;
- conduct enforcement activities within the AHJ; and,
- establish a fee structure for the AHJ inspection program.

After S.B. 07-123, a jurisdiction that does not sign the MOA must:

- do nothing, the Division becomes the jurisdiction for those conveyances.

There are a number of reasons jurisdictions did not sign the MOA. Smaller jurisdictions may have budgetary restrictions that make hiring an inspector for a small number of conveyances out of the question. Some jurisdictions may not want to incur the expenses related to the creation of a conveyance program and subsequent adoption of conveyance codes.

Conveyance owner responsibilities

Owners continue to be responsible for ensuring the conveyance is inspected. Owners were required to pay a one time registration fee for each conveyance. Any new conveyances are subject to this one time registration fee.

City and County of Denver

On June 11, 2009, Denver notified the Division after numerous meetings that Denver would not sign the MOA and would discontinue it's conveyance program. As a result the Division is now responsible for the regulation and licensing of 6,500 conveyances. This includes associated inspectors, mechanics and contractors. As a result of this workload increase, the Department is requesting $330,000 cash funds and 5.0 FTE to accommodate the workload increase. Denver indicated there were two major reasons for not signing the MOA. First, Denver believes they will be unable to cover the expenses of continuing the conveyance program. Second, Denver's inspectors do more than just conveyances, and would not qualify under the Program's inspector standards.

Limited number of licensed inspectors

There is a shortage of active licensed inspectors. This may result in conveyances not being inspected in a timely manner as required. An active licensed inspector is one who works at least part time and has submitted at least six inspection reports. Currently there is a total of 36 licensed private inspectors, but only 18 are active inspectors. Of the 18 inspectors who have submitted less than six reports, the Division is assuming these inspectors are not inspecting conveyances part time and are not counted in the total number of active inspectors. The Division estimates a need for a minimum of 24 full time inspectors, and it is unclear how many of the 18 active inspectors are full time. Since not all inspectors will be full time, the Division estimates the need for at least 40 inspectors to handle the workload, or an additional 22 inspectors. The number of inspectors has increased over the past year. In November 2008, the Division had licensed only 12 inspectors.

FY 2010-11 Joint Budget Committee Staff Budget Briefing
Department of Labor and Employment

BRIEFING ISSUE #6

ISSUE: Options to Increase General Fund Revenue

The Department does not receive a General Fund appropriation. As a result the only way the Department assist with the General Fund shortfall is through General Fund revenue enhancements. In August the Governor requested a $5.0 million transfer from the Employment Support Fund for FY 2009-10.

SUMMARY:

❑ As part of the August budget balancing plan for FY 2009-10, the Governor has requested a cash fund transfer of $5.0 million from the Employment Support Fund.

❑ A second option for enhancing General Fund revenue is to increase the unemployment insurance chargeable wage base. This would enable the General Assembly to take additional revenue from the unemployment insurance surcharge and transfer this revenue to the General Fund.

DISCUSSION:

Transfer Funds from Employment Support Fund
Funds in the Employment Support Fund (ESF) are used to offset funding deficits for program administration in the Divisions of Employment and Training and Labor, as well as information technology initiatives, and to increase the Unemployment Insurance Trust Fund (UITF) solvency.

In response to the need for additional funds for the *Genesis* Project the General Assembly passed S.B. 99-228 which made the following changes to the funding mechanism of the ESF:

- increased the percentage of the UI surcharge allocated to the ESF 50.0 percent and subsequently reduced the percent going into the UITF from 80.0 percent to 50.0 percent; and,
- eliminated the requirement that unappropriated and unencumbered ESF dollars be deposited in the UITF at the end of the fiscal year.

Since S.B. 99-228 was passed, the increased funds in the ESF have become a primary source of cash funds for multiple programs. In light of the low UITF, and need to rebuild the UI computer system, staff does not believe these funds should be transferred to the General Fund. Out year projections for the ESF indicate the ESF fund balance will be unable to meet its current obligations within the next four fiscal years. When there are insufficient funds in the ESF to meet the appropriations, the Department will either need to find a revenue source for the ESF or request General Fund dollars.

Additional Option to Increase General Fund Revenue

Staff is not recommending this option to increase General Fund revenue, but is merely presenting the option to the Committee. During the last economic downturn, the General Assembly passed S.B. 03-296, which diverted a percentage of the UI surcharge to the General Fund. This percentage would have gone into the UITF if S.B. 09-296 had not passed. The UI surcharge is not required by federal UI laws, but was established as a funding mechanism for the UITF, and is equal to 0.22 percent on the first $10,000 of an employees wages. The UI Surcharge is divided up between the UITF (30.0 percent), the ESF (50.0 percent) and the Employment Training and Technology Fund (Tech Fund) (20.0 percent).

Senate Bill 03-296 diverted the percentage for the UITF (which was 50.0 percent at the time) to the General Fund for FY 2003-04. The General Assembly was able to divert these funds because revenue from the UI surcharge goes first to the Department, which then deposits the money into the UITF. Once the money is deposited into the UITF, the money can only be used to pay UI benefits.

For FY 2009-10 and FY 2010-11, the UITF receives 30.0 percent of the UI surcharge and the Tech Fund receives 20.0 percent of the UI surcharge. The following table shows the estimated amount of revenue that could be diverted to the General Fund.

Estimate Revenue to General Fund if a Percentage of the UI Surcharge is Diverted			
Fiscal Year	**30.0% from UITF**	**20.0% from Tech Fund**	**Total**
FY 2009-10 Est.	$11,156,627	$7,941,350	$19,097,977
FY 2010-11 Est.	11,212,411	8,139,883	$19,352,294
FY 2011-12 Est.	12,515,070	8,343,380	$20,858,450

APPENDIX A: NUMBERS PAGES

	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Appropriation	FY 2010-11 Request	Change Request
DEPARTMENT OF LABOR AND EMPLOYMENT **Executive Director: Donald J. Mares**					
(1) EXECUTIVE DIRECTOR'S OFFICE Primary functions: Performing departmental administrative functions, including accounting, budgeting, data processing and personnel management; adjudicating disputes related to unemployment insurance, labor standards, and workers' compensation.					
Personal Services	12,010,059	11,976,706	13,022,715	7,707,782	NP #2 - OIT
FTE	154.4	158.3	164.9	99.9	NP #2 - OIT
Health, Life, and Dental	4,184,393	4,961,730	5,578,255	5,138,655	NP #2 - OIT
Short-term Disability	74,683	78,930	89,850	89,355	NP #2 - OIT
S.B. 04-257 Amortization Equalization Disbursement	689,192	1,040,110	1,166,635	1,383,522	NP #2 - OIT
S.B. 06-235 Supplemental Amortization Equalization Disbursement	143,022	487,552	729,146	1,008,832	NP #2 - OIT
Salary Survey and Senior Executive Services	2,125,608	2,545,895	0	0	
Performance-Based Pay	908,256	957,125	0	0	
Shift Differential	32,875	28,162	26,300	28,962	
Workers' Compensation	595,209	754,527	616,008	643,075	

	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Appropriation	FY 2010-11 Request	Change Request
Operating Expenses	1,560,533	1,488,760	1,555,442	1,755,668	NP #2 - OIT
Legal Services	560,635	588,753	595,879	595,879	
Hours	*7,783*	*7,840*	*7,905*	*7,905*	
Purchase of Services from Computer Center	1,147,908	1,427,980	1,429,057	5,898,496	NP #2 - OIT
Multiuse Network Payments	73,415	74,994	75,274	831,344	NP #2 - OIT
Management and Administration of OIT	0	112,758	118,340	432,693	NP #2 - OIT
Payment to Risk Mgmt. and Property Funds	90,627	124,214	90,416	21,386	
Vehicle Lease Payments	87,622	94,066	95,134	97,461	DI #1, NP #1
Leased Space	3,409,302	3,200,786	3,896,503	3,896,503	
Capitol Complex Leased Space	27,487	27,324	36,149	31,812	
Communication Services Payment	1,131	1,175	1,182	1,121	
Utilities	234,907	245,884	260,309	260,309	
Information Technology Asset Maintenance	553,627	553,147	553,627	553,627	
Statewide Indirect Cost Assessment	722,193	511,933	495,382	728,731	
Disaster Recovery	0	484,030	0	0	

	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Appropriation	FY 2010-11 Request	Change Request
					Request vs. Appropriation
TOTAL - (1) EXECUTIVE DIRECTOR'S OFFICE	**29,232,684**	**31,766,541**	**30,431,603**	**31,105,213**	***2.2%***
FTE	**154.4**	**158.3**	**164.9**	**99.9**	***-39.4%***
Cash Funds	12,979,312	14,390,243	13,945,986	13,934,981	*-0.1%*
Reappropriated Funds / Cash Funds Exempt	1,753,961	1,524,794	1,117,293	1,113,655	*-0.3%*
Federal Funds	14,499,411	15,851,504	15,368,324	16,056,577	*4.5%*

(2) DIVISION OF EMPLOYMENT AND TRAINING

(A) Unemployment Insurance Programs

Primary functions: Provide supplemental income benefits to individuals who have lost their job through no fault of their own; Identifying, investigating and prosecuting individuals who attempt to receive unemployment benefits to which they are not entitled

	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Appropriation	FY 2010-11 Request	Change Request
Program Costs	27,772,588	34,387,154	36,901,725	34,896,619	
FTE	414.3	466.1	473.9	467.7	NP #2 - OIT
Cash Funds	3,359,203	4,271,489	8,082,465	7,348,273	
Federal Funds	24,413,385	30,115,665	28,819,260	27,548,346	NP #2 - OIT
Internet Self-Service - CF	0	503,338	167,126	0	
FTE - CF	0.0	1.6	2.5	0.0	
Unemployment Benefits (not appropriated, non-add)	*354,966,705*	*1,053,793,289*	*1,024,876,245*	*637,869,586*	
(not appropriated pursuant to Section 8-77-104 (1), C.R.S.)	*Actual*	*Actual*	*Estimated*	*Estimated*	
					Request vs. Appropriation
Total - (2) (A) Unemployment Insurance Programs	**27,772,588**	**34,890,492**	**37,068,851**	**34,896,619**	*-5.9%*
FTE	**414.3**	**467.7**	**476.4**	**467.7**	***-1.8%***
Cash Funds	3,359,203	4,774,827	8,249,591	7,348,273	*-10.9%*
Federal Funds	24,413,385	30,115,665	28,819,260	27,548,346	*-4.4%*

	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Appropriation	FY 2010-11 Request	Change Request
Unemployment Insurance Fraud Program - Moved into Unemployment Insurance Programs in FY 2009-10 Long Bill					
Program Costs	1,382,442	1,493,213	0	0	
FTE	25.8	22.6	0.0	0.0	
Cash Funds	730,547	1,493,213	0	0	
Reappropriated Funds / Cash Funds Exempt	651,895	0	0	0	
					Request vs. Appropriation
Total - Unemployment Insurance Fraud Program	**1,382,442**	**1,493,213**	**0**	**0**	***n/a***
FTE	**25.8**	**22.6**	**0.0**	**0.0**	***n/a***
Cash Funds	730,547	1,493,213	0	0	*n/a*
Reappropriated Funds / Cash Funds Exempt	651,895	0	0	0	*n/a*

(B) Employment and Training Programs

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

	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Appropriation	FY 2010-11 Request	Change Request
State Operations	13,313,065	15,250,381	15,522,908	13,970,853	
FTE	148.1	148.1	157.7	143.7	
Cash Funds	6,402,346	9,008,592	9,429,769	9,391,435	NP #2 - OIT
FTE	65.8	65.8	93.8	92.8	NP #2 - OIT
Reappropriated Funds / Cash Funds Exempt	24,347	6,561	9,600	9,600	
FTE	0.7	0.7	0.1	0.1	
Federal Funds	6,886,372	6,235,228	6,083,539	4,569,818	DI #3, NP #2 - OIT
FTE	81.6	81.6	63.8	50.8	DI #3
One-Stop County Contracts - FF	8,749,490	9,785,383	7,694,007	9,164,335	DI #3
FTE - FF	14.4	12.2	15.0	28.0	DI #3
Trade Adjustment Act Assistance - FF	1,745,853	1,916,145	1,921,826	3,837,827	

	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Appropriation	FY 2010-11 Request	Change Request
Workforce Investment Act - FF	42,313,607	40,103,197	33,180,871	32,223,045	
FTE - FF	67.3	54.1	60.0	60.0	
Cash Funds	0	0	807,540	807,540	
Federal Funds	42,313,607	40,103,197	32,373,331	31,415,505	
Workforce Development Council Staff	n/a	398,082	466,016	466,016	
FTE - RF/CFE	n/a	4.0	4.0	4.0	
Reappropriated Funds / Cash Funds Exempt	n/a	237,878	466,016	466,016	
Federal Funds	n/a	160,204	0	0	
Workforce Improvement Grants	n/a	1,052,273	870,000	870,000	
FTE - FF	n/a	5.4	10.0	10.0	
Cash Funds	n/a	0	20,000	20,000	
Federal Funds	n/a	1,052,273	850,000	850,000	
					Request vs. Appropriation
Total - (2) (B) Employment and Training Programs	**66,122,015**	**68,505,461**	**59,655,628**	**60,532,076**	***1.5%***
FTE	**229.8**	**223.8**	**246.7**	**245.7**	***-0.4%***
Cash Funds	6,402,346	9,008,592	10,257,309	10,218,975	*-0.4%*
FTE	65.8	65.8	93.8	92.8	*-1.1%*
Reappropriated Funds / Cash Funds Exempt	24,347	244,439	475,616	475,616	*0.0%*
FTE	0.7	4.7	4.1	4.1	*0.0%*
Federal Funds	59,695,322	59,252,430	48,922,703	49,837,485	*1.9%*
FTE	163.3	153.3	148.8	148.8	*0.0%*

	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Appropriation	FY 2010-11 Request	Change Request
(D) Labor Market Information					
Primary functions: Gathering and disseminating labor market and economic trend information					
Program Costs	1,809,901	1,590,525	2,043,331	2,040,598	
FTE - Federal	27.9	24.7	30.3	30.3	
Cash Funds	2,990	2,684	11,509	11,509	
Federal Funds	1,806,911	1,587,841	2,031,822	2,029,089	
					Request vs. Appropriation
Subtotal - (D) Labor Market Information	**1,809,901**	**1,590,525**	**2,043,331**	**2,040,598**	***-0.1%***
FTE - Federal Funds	**27.9**	**24.7**	**30.3**	**30.3**	***0.0%***
Cash Funds	2,990	2,684	11,509	11,509	*0.0%*
Federal Funds	1,806,911	1,587,841	2,031,822	2,029,089	*-0.1%*
					Request vs. Appropriation
TOTAL - (2) DIVISION OF EMPLOYMENT AND TRAINING	**97,086,946**	**106,479,691**	**98,767,810**	**97,469,293**	***-1.3%***
FTE	**697.8**	**738.8**	**753.4**	**743.7**	***-1.3%***
Cash Funds	10,495,086	15,279,316	18,518,409	17,578,757	*-5.1%*
Reappropriated Funds / Cash Funds Exempt	676,242	244,439	475,616	475,616	*0.0%*
Federal Funds	85,915,618	90,955,936	79,773,785	79,414,920	*-0.4%*
(3) DIVISION OF LABOR					
Primary functions: Providing assistance and ensuring compliance with Colorado wage, youth employment and labor practice laws					
Program Costs - Cash Funds	1,091,443	1,055,658	1,188,889	1,188,889	
FTE	11.9	13.0	15.0	15.0	

	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Appropriation	FY 2010-11 Request	Change Request
					Request vs. Appropriation
TOTAL - (3) DIVISION OF LABOR - Cash Funds	1,091,443	1,055,658	1,188,889	1,188,889	*0.0%*
FTE - Cash Funds	11.9	13.0	15.0	15.0	*0.0%*

(4) DIVISION OF OIL AND PUBLIC SAFETY

Primary functions: Inspecting and calibrating petroleum measuring devices; evaluating clean-up actions at locations where petroleum releases have been discovered and administering the associated reimbursement program; inspecting and testing the quality of fuel products; issuing explosive permits to qualified individuals; conducting annual inpections of all boilers and pressure vessels in commercial and multi-unit residential buildings; licensing of conveyances, conveyance inspectors, mechanics and contractors; registers and inspects amusement park rides, carinvals and other rides.

	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Appropriation	FY 2010-11 Request	Change Request
Personal Services	4,535,781	5,026,609	4,902,267	4,771,581	
FTE - CF	58.6	67.7	78.3	67.3	
Cash Funds	1,396,077	4,204,352	4,323,603	4,182,205	DI #1
Reappropriated Funds/Cash Fund Exempt	2,110,277	19,516	19,161	19,516	
Federal Funds	1,029,427	802,741	559,503	569,860	
Operating Expenses	566,501	1,033,853	481,881	519,323	
Cash Funds	254,341	986,453	481,881	426,277	DI #1, DI #2
Reappropriated Funds/Cash Fund Exempt	218,512	0	0	0	
Federal Funds	93,648	47,400	0	93,046	DI #2
Statewide Indirect Cost Assessment	879,552	944,999	956,399	951,773	
Cash Funds	0	944,999	956,399	951,773	
Reappropriated Funds/Cash Fund Exempt	879,552	0	0	0	

	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Appropriation	FY 2010-11 Request	Change Request
					Request vs. Appropriation
TOTAL - (4) DIVISION OF OIL AND PUBLIC SAFETY	**5,981,834**	**7,005,461**	**6,340,547**	**6,242,677**	***-1.5%***
FTE	**58.6**	**67.7**	**78.3**	**67.3**	***-14.0%***
Cash Funds	1,650,418	6,135,804	5,761,883	5,560,255	*-3.5%*
Reappropriated Funds / Cash Funds Exempt	3,208,341	19,516	19,161	19,516	*1.9%*
Federal Funds	1,123,075	850,141	559,503	662,906	*18.5%*

(5) DIVISION OF WORKERS' COMPENSATION

(A) Workers' Compensation

Primary functions: Assuring the quick and efficient delivery of disability and medical benefits to injured workers at a reasonable cost to employers, without the necessity of litigation.

	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Appropriation	FY 2010-11 Request	Change Request
Personal Services - CF	6,446,021	6,638,962	6,905,283	7,033,103	
FTE	92.9	96.1	102.0	102.0	
Operating Expenses - CF	633,693	584,024	710,390	695,289	
Administrative Law Judge Services -CF	2,474,413	2,377,666	2,610,443	2,587,503	
Physician's Accreditation - CF	127,083	118,383	140,000	140,000	
Utilization Review	19,311	28,159	60,000	60,000	
Cash Funds	18,345	28,159	60,000	60,000	
Reappropriated Funds/Cash Fund Exempt	966	0	0	0	
Immediate Payment - CF	0	0	10,000	10,000	

	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Appropriation	FY 2010-11 Request	Change Request
					Request vs. Appropriation
Total - (5) (A) Workers' Compensation	**9,700,521**	**9,747,194**	**10,436,116**	**10,525,895**	***0.9%***
FTE - Cash Funds	**92.9**	**96.1**	**102.0**	**102.0**	***0.0%***
Cash Funds	9,699,555	9,747,194	10,436,116	10,525,895	*0.9%*
Reappropriated Funds / Cash Funds Exempt	966	0	0	0	*n/a*

(B) Major Medical Insurance and Subsequent Injury Funds

Primary functions: Providing medical benefits and compensation payments to eligible injured workers

	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Appropriation	FY 2010-11 Request	Change Request
Personal Services	1,038,403	1,086,803	1,277,994	1,277,994	
FTE	12.9	12.7	16.0	16.0	
Cash Funds	0	0	1,277,994	1,277,994	
Reappropriated Funds/Cash Fund Exempt	1,038,403	1,086,803	0	0	
Operating Expenses	59,368	71,191	88,324	88,324	
Cash Funds	0	71,191	88,324	88,324	
Reappropriated Funds/Cash Fund Exempt	59,368	0	0	0	
Major Medical Benefits	6,287,543	5,940,487	7,000,000	7,000,000	
Cash Funds	0	5,940,487	7,000,000	7,000,000	
Reappropriated Funds/Cash Fund Exempt	6,287,543	0	0		
Major Medical Legal Services	5,732	17,166	7,538	7,538	
Hours	*79.6*	*228.6*	*100.0*	*100.0*	
Cash Funds	0	17,166	7,538	7,538	
Reappropriated Funds/Cash Fund Exempt	5,732	0	0	0	

	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Appropriation	FY 2010-11 Request	Change Request
Subsequent Injury Benefits	1,778,505	1,967,306	3,200,000	3,200,000	
Cash Funds	0	1,967,306	3,200,000	3,200,000	
Reappropriated Funds/Cash Fund Exempt	1,778,505	0	0	0	
Subsequent Injury Legal Services	1,157	15,555	26,383	26,383	
Hours	*16.1*	*207.1*	*350.0*	*350.0*	
Cash Funds	0	15,555	26,383	26,383	
Reappropriated Funds/Cash Fund Exempt	1,157	0	0	0	
Medical Disaster	253	794	6,000	6,000	
Cash Funds	0	794	6,000	6,000	
Reappropriated Funds/Cash Fund Exempt	253	0	0	0	
					Request vs. Appropriation
Total - (5) (B) Major Medical Insurance and Subsequent Injury Funds	**9,170,961**	**9,099,302**	**11,606,239**	**11,606,239**	***0.0%***
FTE	**12.9**	**12.7**	**16.0**	**16.0**	***0.0%***
Cash Funds	0	8,012,499	11,606,239	11,606,239	*0.0%*
Reappropriated Funds/Cash Fund Exempt	9,170,961	1,086,803	0	0	*n/a*
					Request vs. Appropriation
TOTAL - (5) DIVISION OF WORKERS' COMPENSATION	**18,871,482**	**18,846,496**	**22,042,355**	**22,132,134**	***0.4%***
FTE	**105.8**	**108.8**	**118.0**	**118.0**	***0.0%***
Cash Funds	9,699,555	17,759,693	22,042,355	22,132,134	*0.4%*
Reappropriated Funds / Cash Funds Exempt	9,171,927	1,086,803	0	0	*n/a*

	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Appropriation	FY 2010-11 Request	Change Request
					Request vs. Appropriation
GRAND TOTAL - DEPARTMENT OF LABOR AND EMPLOYMENT	**152,264,389**	**165,153,847**	**158,771,204**	**158,138,206**	***-0.4%***
FTE	**1,028.5**	**1,086.6**	**1,129.6**	**1,043.9**	***-7.6%***
Cash Funds	35,915,814	54,620,714	61,457,522	60,395,016	*-1.7%*
Reappropriated Funds / Cash Funds Exempt	14,810,471	2,875,552	1,612,070	1,608,787	*-0.2%*
Federal Funds	101,538,104	107,657,581	95,701,612	96,134,403	*0.5%*

APPENDIX B: SUMMARY OF MAJOR LEGISLATION

❑ **S.B. 09-037:** Amends existing statute regarding the Major Medical Insurance Fund (MMIF) and the Subsequent Injury Fund (SIF), by requiring the funds to carry a balance equal to the next fiscal years projected expenditures and maintain a reserve equal to a years total expenditures. The MMIF and SIF are no longer required to build up balances until the funds are actuarially sound.

❑ **S.B. 09-076:** Creates the Employment and Training Technology Fund (Fund), and amends statute so thirty percent of the surcharge paid by employers is deposited into the Fund until December 31, 2016. Effective January 1, 2017 the Fund shall receive 0.0 percent and 50.0 percent of the surcharge shall go into the Unemployment Compensation Fund.

❑ **S.B. 09-191:** Supplemental appropriation for the Department of Labor and Employment for FY 2008-09.

❑ **S.B. 09-208:** Made the following cash fund transfers to the General Fund in FY 2008-09:

Name of Fund	Department/Program Area	Amount of Transfer
Contingency Reserve Fund	Education	$3,082,452
Health Care Services Fund	Health Care Policy and Financing	500,000
Higher Education Maintenance and Reserve Fund	Higher Education/Capitol Construction	33,700,000
Alcohol and Drug Abuse Community Prevention and Treatment Fund	Human Services	61,186
Offender Mental Health Services Fund	Human Services	246,350
Court Security Cash Fund	Judicial Branch	1,500,000
Dispute Resolution Fund	Judicial Branch	32,500
Drug Offender Surcharge Fund	Judicial Branch	151,341
Drug Offender Treatment Fund	Judicial Branch	350,000
Family-friendly Court Program Cash Fund	Judicial Branch	200,000
Guardian Ad Litem Fund	Judicial Branch	8,000
Offender Services Fund	Judicial Branch	250,000

Name of Fund	Department/Program Area	Amount of Transfer
State Commission on Judicial Performance Cash Fund	Judicial Branch	900,000
Employment Support Fund	Labor	5,000,000
Major Medical Insurance Fund	Labor	69,500,000
Subsequent Injury Fund	Labor	26,500,000
Workers' Compensation Cash Fund	Labor	15,700,000
Local Government Limited Gaming Impact Fund	Local Affairs	950,000
Capitol Complex Facilities Fund	Personnel	2,300,000
Motor Fleet Management Fund	Personnel	1,000,000
Cathode Ray Cash Fund	Public Health and Environment	2,333
Hazardous Substance Response Fund	Public Health and Environment	17,468,517
Medical Marijuana Program Cash Fund	Public Health and Environment	258,735
Recycling Resources Economic Opportunity Fund	Public Health and Environment	1,500,000
Short-term Innovative Health Programs Grant Fund	Public Health and Environment	4,352,319
Streptococcus Cash Fund	Public Health and Environment	9
Stroke Prevention and Treatment Cash Fund	Public Health and Environment	4,045
Student Dropout Prevention and Intervention Fund	Public Health and Environment	11,152
Tobacco Programs Cash Fund	Public Health and Environment	240,619
Water Quality Improvement Fund	Public Health and Environment	700,000
Youth Mentoring Services Cash Fund	Public Health and Environment	11,842
Colorado Water Conservation Board Construction Fund	Natural Resources	10,250,000
Perpetual Base Account of the Severance Tax Trust Fund	Natural Resources	20,000,000
Department of State Cash Fund	State	2,175,000
Notary Administration Cash Fund	State	575,000
State Rail Bank Fund	Transportation	1,543,937
Transportation Infrastructure Revolving Fund	Transportation	3,000,000
S.B. 208 Total Transfers		**$224,025,337**

❏ **S.B. 09-247:** Broadens the availability of unemployment insurance (UI) compensation benefits to certain unemployed individuals, enabling the state to receive and expend funds made available through the American Recovery and Reinvestment Act of 2009. The following changes to UI laws are included in S.B. 09-247: a component that allows an unemployed individual to designate an alternative base period, establishes a trigger based on Colorado's unemployment rate that determines when Colorado will be eligible for additional federal funding for extended benefits, and provides $15 million in enhanced UI compensation benefits for claimants participating in an approved training program for the next three fiscal years. Makes an appropriation of $734,192 from the Unemployment Compensation Fund, and $1,055,392 federal funds, along with 6.2 FTE.

- ❏ **S.B. 09-259:** General appropriations act for FY 2009-10. Section 16 contains a supplemental to further modify appropriations to the Division of Oil and Public Safety and the Division of Workers' Compensation included in the FY 2008-09 Long Bill.

- ❏ **S.B. 09-279:** Makes the following transfers from cash funds to the General Fund in FY 2008-09 and FY 2009-10.

Cash Fund Transfers in S.B. 09-279			
Cash Funds	**Department**	**FY 2008-09**	**FY 2009-10**
Capitol Construction Fund	Capitol Construction		$28,054,476
Controlled Maintenance	Capitol Construction		803,610
Colorado CollegeInvest	Higher Education		15,000,000
Department of Human Services Low-Income Energy Assistance Fund	Human Services	3,000,000	
Performance-based Collaborative Management Incentive Cash Fund	Human Services	300,000	
Court Security Cash Fund	Judicial Branch		500,000
Drug Offender Surcharge Fund	Judicial Branch		1,360,000
Offender Services Fund	Judicial Branch		2,498,439
Major Medical Insurance Fund	Labor		26,500,000
Building Regulation Fund	Local Affairs	1,101,349	
Home Investment Trust Fund	Local Affairs	1,284,000	
Local Government Limited Gaming Impact Fund	Local Affairs	100,000	
Local Government Mineral Impact Fund	Local Affairs	1,000,000	
Local Government Severance Tax Fund	Local Affairs	7,500,000	22,600,000
Moffat Tunnel Cash Fund	Local Affairs	86,758	
Waste Tire Cleanup Fund	Local Affairs	500,000	
Waste Tire Recycling Development Cash Fund	Local Affairs	150,000	
Perpetual Base Account	Natural Resources	15,000,000	62,000,000

Cash Fund Transfers in S.B. 09-279			
Risk Management Fund	Personnel	10,010,599	
Self-Insured Property Fund	Personnel	1,295,055	
State Employees Workers' Compensation Account	Personnel	10,316,060	
Hazardous Substance Response Fund	Public Health and Environment	12,500,000	2,500,000
High Cost Administrative Fund	Regulatory Agencies		15,000,000
Licensing Services Cash Fund	Revenue		2,589,894
Unclaimed Property Tourism Promotion Fund	Treasury		5,000,000
Unclaimed Property Trust Fund	Treasury	50,000,000	25,000,000
Total		**$114,143,821**	**$209,406,419**

This bill also includes the following options for one-day transfers on June 30, 2009 to augment the General Fund if needed. These transfers will be paid back to the original funds on July 1, 2009.

June 30th, 2009 One-Day Cash Fund Transfers		
Cash Fund	**Department**	**Maximum Amount**
Employment Support Fund	Labor	$25,000,000
Local Government Mineral Impact Fund	Local Affairs	72,000,000
Local Government Severance Tax Fund	Local Affairs	128,000,000
Colorado Water Conservation Board Account	Natural Resources	60,000,000
Perpetual Base Account	Natural Resources	75,000,000
Operational Account of the Severance Tax Trust Fund	Natural Resources	21,300,000
Tobacco Litigation Settlement Cash Fund	Public Health and Environment	84,600,000
Unclaimed Property Trust Fund	Treasury	100,000,000
Total		**$565,900,000**

❑ **H.B. 09-1151:** Moves the review and approval of school districts and junior colleges construction projects from the Division of Oil and Public Safety to the Department of Public Safety effective January 1, 2010. Reduces the FY 2009-10 appropriations to the Division of Oil and Public Safety by $635,201 and 8.0 FTE. For additional information on H.B. 09-1151, see the "Recent Legislation" section at the end of the Department of Public Safety.

- ❏ **H.B. 09-1310:** Broadens the Department's ability to investigate alleged complaints of employer misclassifying an employee as an independent contractor. Creates the Employee Misclassification Advisory Opinion Fund for fees paid by employers for a non-binding advisory opinion from the director on an individual employee classification. Makes an appropriation of $975 cash funds from the Unemployment Revenue Fund, and $9,840 and 0.2 FTE from the Employee Misclassification Advisory Opinion Fund.

- ❏ **H.B. 09-1363:** Designates the Unemployment Compensation Section in the Division of Employment and Training in the Department of Labor and Employment as an enterprise for the purposes of Section 20 of Article X of the state constitution.

- ❏ **S.B. 07-123 (Takis/Kerr A.): Regulate Conveyances and Mechanics.** Directs the Department to create a state program for registration and inspection of elevators, escalators, and similar conveyances, and a licensing program for inspectors of such conveyances. Authorizes the Department to charge fees for such licensing, registration, and inspection in order to fund the program. Creates the Conveyance Safety Fund in which revenue from such fees is to be deposited. Appropriates $196,356 and 1.3 FTE for FY 2007-08 for creation of the program.

APPENDIX C: UPDATE OF FY 2009-10 LONG BILL FOOTNOTES AND REQUESTS FOR INFORMATION

Long Bill Footnotes

The Department of Labor and Employment did not have any footnotes in the 2009 Long Bill.

Requests for Information

1 **All Departments, Totals** -- Every department is requested to submit to the Joint Budget Committee, by November 1, 2009, information on the number of additional federal and cash funds FTE associated with any federal grants or private donations that are applied for or received during FY 2009-10, and that are not otherwise included in the Long Bill.

Response: The Department submitted the requested information as part of their FY 2010-11 budget submission.

APPENDIX D: Summary of Federal Legislation Impacting Unemployment Insurance Programs

***Public Law 110-252: Supplemental Appropriations Act, 2008* (Signed On 6/30/08)**

Public Law 110-252 was enacted on June 30, 2008, and established Emergency Unemployment Compensation (EUC), which enabled individuals to receive up to an additional 13 weeks of UI benefits with no benefit reductions over this time. All of the benefit and administration cost of EUC are paid by the federal Extended Unemployment Compensation Account in the Unemployment Trust Fund (all federal dollars) and benefits cannot be charged against any state's Unemployment Insurance Trust Fund (UITF).

The following individuals are eligible for EUC benefits:

- individuals who exhausted the regular UI benefits for the benefit year on or after May 1, 2007;
- As of June 2008 did not have the wage history within the required period to qualify for UI benefits;
- are not receiving UI benefits from Canada, and have legal alien immigration status.

***Public Law 110-449*: *Unemployment Compensation Extension Act of 2008* (Signed on 11/20/08)**

The Unemployment Compensation Act of 2008 (P.L. 110-449) was enacted on November 20, 2008, and made the following changes to EUC benefit guidelines:

- extends EUC benefits from 13 to 20 weeks;
- creates a second tier for states with high unemployment, that allows an individual an additional 13 weeks of benefits. Benefits are at 80 percent of the regular UI benefit amount;
- This bill established that no new individuals can qualify for EUC after August 27, 2009. If an individual is already receiving EUC benefits, they will continue to do so until the benefit time period is exhausted.

The Unemployment Compensation Act also changed the formula used to determine when a state falls into the extended benefit period. The on trigger for a state's extended benefit period was hit when the unemployment rate for the proceeding 3 month average of unemployment exceeded 6.5 percent.

***Public Law 11-5: American Recovery and Reinvestment Act of 2009* (Signed on 2/17/09)**

The American Recovery and Reinvestment Act of 2009 (ARRA) made numerous changed to federal unemployment law including:

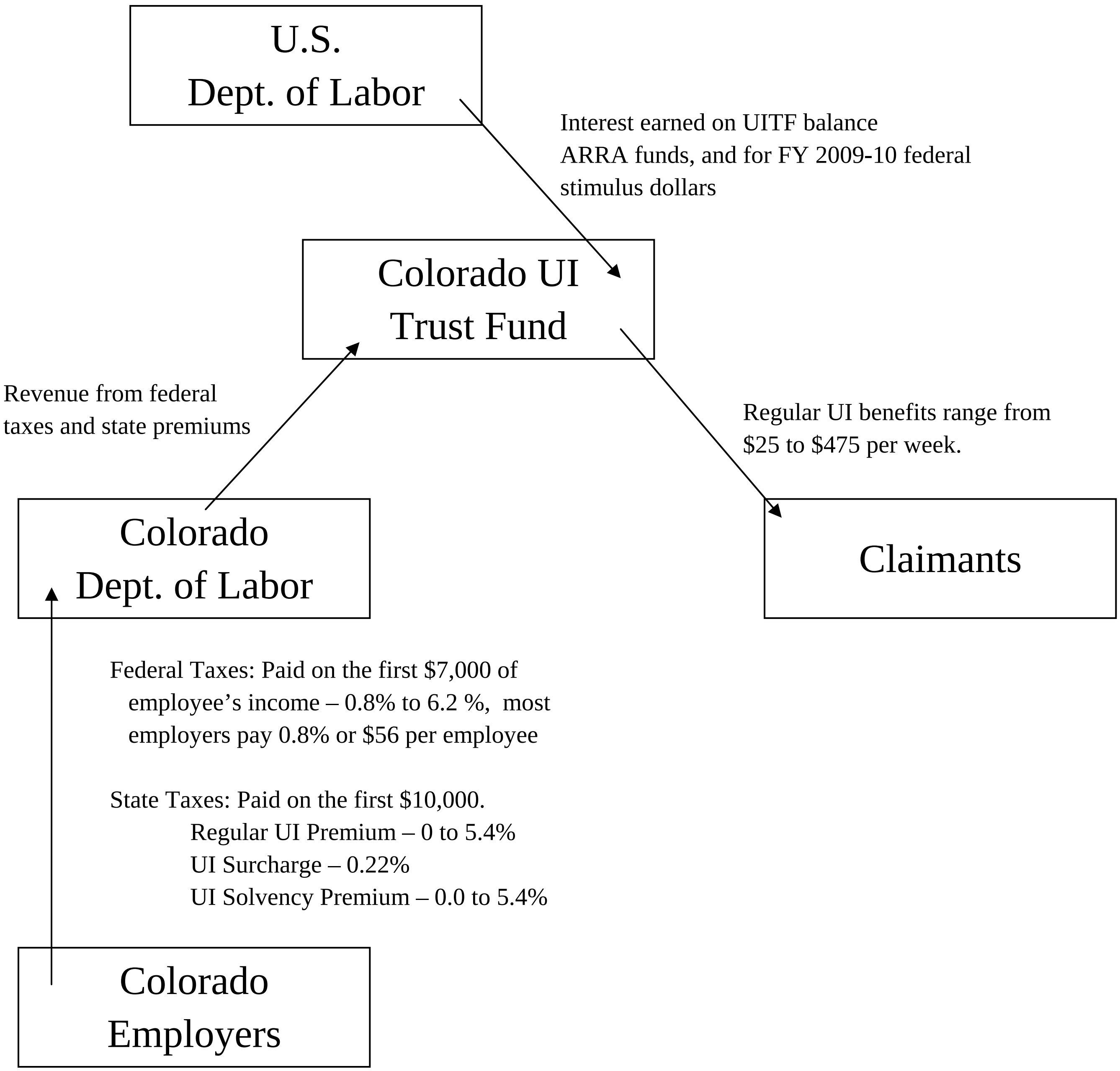
- Extended the time period under which an individual can qualify for EUC benefits from August 27, 2009 to December 31, 2009. After December 31, 2009 if an individual is already receiving EUC benefits, they will continue to do so until May 31, 2010

- Requires transfer of unappropriated funds from the federal General Fund to the federal Extended Unemployment Compensation Account of the Unemployment Fund.
- Provided an $25 per week per claimant through December 2009.
- Clarified that federal funds will 100.0 percent of additional $25 and the associated administrative costs incurred by the state.
- Prohibits additional compensation payments to individuals after June 30, 2010, even if they are entitled to EUC benefits at that time.
- Through January 2, 2010, federal funds must cover 100.0 percent of EUC benefits, after that time state funds are required to cover a portion of the cost.
- Provides states with the option to terminate an individuals eligibility for EUC on May 30, 2010
- Extended through May 30, 2010 the federal matching for first week of extended benefits for states with no waiting week. Colorado has a waiting period between being unemployed and receiving UI benefits.

<u>Public Law 111-92: Worker, Homeownership, and Business Assistance Act of 2009 (Signed on 11/6/09)</u>

- Repealed the requirement that states be in an extended benefit period (meaning have an unemployment rate greater than 6.5 percent for Colorado) before begin distributing Tier 2 benefit payments;
- Increased Tier 2 maximum from 13 to 14 weeks or the number of weeks a claimant needs to reach 54.0 percent instead of 50.0 percent of their regular UI benefits;
- Adds Tier 3 to the Extended Unemployment Compensation Program and prescribes the formula for determining a claimant benefits (see page 9 for Tier 3 benefit payment formula);
- Requires the state to add a tier 4 if a claimant has exhausted Tier 3 benefits and the state is still in an extended benefit period.
- Tier 4 maximum benefits is the lesser of 24.0 percent of regular UI benefits, or six times the claimants regular UI benefit amount;
- Allows states to elect to pay Tier 3 benefits before paying revised Tier 2 benefits until a claimant can received increased Tier 2 benefits without a break in IU benefits.

APPENDIX E: Movement of Unemployment Insurance Dollars



Arrows indicate direction of movement.

FY 2010-11 Joint Budget Committee Staff Budget Briefing
Department of Labor and Employment

APPENDIX F: Summary of 2009 State Legislation Impacting Unemployment Insurance Programs

<u>Senate Bill 09-076</u>
Beginning July 1, 2009, through December 31, 2016, allocates 20 percent of the UI surcharge to the Employment and Training Technology Fund (Tech Fund) and decreases the percentage going into the UITF from 50 percent to 30 percent. If the UITF balance falls below $25 million, the UITF will receive the full 50.0 percent of the surcharge, and the Executive Director can allocate the full 50.0 percent to the UITF at anytime.

<u>Senate Bill 09-178</u>
During the economic recession beginning in 2008, unemployed workers are able to receive unemployment insurance benefits without having to register for work or report to an employment office.

<u>Senate Bill 09-247</u>
Expands the availability of unemployment benefits to certain unemployed individuals as follows so the state is able to receive funds available through the American Recovery and Reinvestment Act of 2009 (ARRA):

- Created an alternative base period for an individual who did not earned sufficient wages during the existing base period to qualify for UI benefits;
- Modifies the eligibility criteria a worker who separates from a job due to domestic violence to receive UI benefits.
- Allows an individual to qualify for benefits if they quit their job and had to relocate because of a spouse's job relocation.
- Allows an individual to qualify for benefits who must quit their job to care for an ill or disabled immediate family member
- allows individuals who are enrolled in an approved training program to receive extended benefits through July 1, 2012.
- Authorizes total unemployment rate (TUR) extended benefits when the TUR equals or exceeds 6.5%, and allows up to an additional 20 weeks of unemployment benefits in high unemployment periods when the TUR equals or exceeds 8%.

<u>Senate Bill 09-258</u>
Repeals the provision that makes an employee leasing company the only employing unit for covered employees for the purpose of calculating unemployment taxes.

House Bill 09-1054

Enables through July 1, 2019, the surviving spouse of a deceased United States armed forces member who is killed in combat to claim a full award of unemployment insurance benefits if the surviving spouse:

- Relocates to a new place of residence after the death of his or her active duty military spouse;
- Is unable to commute to his or her current employment from the new place of residence; and,
- Is available for suitable work upon arrival at the new place of residence, but is unable to find any work.

House Bill 09-1076

Removes the requirement that an employee's severance pay will reduce the individuals overall unemployment benefit. Additionally, H.B. 09-1076 eliminates the requirement to reduce benefit payments if a claimant also receives social security benefits.

House Bill 1310

Requires the Department to accept complaints and conduct investigations in to employers misclassifying employees as independent contractors for the purpose of purpose of not paying UI benefits on those employees.

House Bill 09-1363

Designates the UI Programs in the Division of Employment and Training as an enterprise for purposes of section 20 of article X of the state constitution (TABOR), as long as the section retains the authority to issue revenue bonds and receives less than 10 percent of its total annual revenues in grants from state and local governments. The ESF is excluded from the enterprise status, but the Tech Fund is not.

FY 2010-11 Joint Budget Committee Staff Budget Briefing
Department of Labor and Employment

APPENDIX G: Database Structure of the Mainframe and the ISS Applications

Arrows indicate the flow of information.