

**DEPARTMENT OF LABOR AND EMPLOYMENT  
FY 2016-17 JOINT BUDGET COMMITTEE HEARING AGENDA**

**Tuesday, December 1, 2015  
1:30 pm – 3:30 pm**

**1:30-1:50      INTRODUCTIONS AND OPENING COMMENTS**

**1:50-2:30      UNEMPLOYMENT INSURANCE INVESTIGATIONS AND CRIMINAL ENFORCEMENT**

- 1. Fraud investigated by UI Criminal Investigators tends to rise during economic downturns. Discuss why there continues to be a backlog and increase in fraud cases in 2015 when the economy has been improving for several years.**

It is true that fraud tends to rise during economic downturns, as there is just a higher propensity for individuals to commit fraud for a variety of reasons. However, even in decent or good economic times, there is and always will be fraud.

One reason we still have such a backlog of cases, is that for a long period of time, we had minimal investigators to address the amount of cases accumulated during the Great Recession. UI staff was focused on answering phone calls and processing new claims. The ICE unit continues to get cases monthly, which are organized based on statute of limitations and prioritized into the already existing backlog of cases. With the units current staffing, the average number of monthly cases received is greater than the average monthly court filings per month; therefore, the backlog continues to grow. Once the unit is able to adequately address the current backlog of cases, it will be able investigate cases without worrying about losing them due to expiring statute of limitations.

In addition to addressing the backlog and monthly addition of new fraud cases, CDLE received federal monies to run nationwide crossmatches against incarceration and death index records and as a result we expect to increase investigation actions on nontraditional fraud cases such as jail roster, self-employment, and large fraud rings this year and in the future.

- 2. Discuss in more detail the types of crimes investigated by the UI Criminal Investigators (e.g. case dispositions, the specific type(s) of fraud investigated, what specific acts criminal actors engage in to be investigated, and whether each are misdemeanors or felonies).**

The Criminal Investigators conduct complete, thorough and independent investigations on each of their cases. They are responsible for handling each case from the inception through the disposition in court, and can include a multitude of tasks, from running criminal histories, preparing Court Order for Production of Records, to preparing affidavits for arrest warrants and testifying in court.

The typical charges in cases are both felonies and misdemeanors. Charges of felony theft can range anywhere from a Class 2 felony to a Class 6 felony. Other charges include felony Computer Crime and misdemeanor Making a False Statement. In some cases, there are charges of felony Forgery and felony Attempting to Influence a Public Servant.

Recently, the UI Criminal Investigations Team, in collaboration with several other government agencies, obtained a 36 count indictment through the state grand jury, of a large scale, multi-agency fraud ring. Some of those indictments were Class 2 felonies, in which four individuals were charged under the Colorado racketeering law, Colorado Organized Crime Control Act (COCCA), which carries the second highest felony, right below murder. These crimes involved a ring of several individuals who set up fictitious companies, and filed for UI benefits and tax return refunds using victims' personal identifying information.

**3. Discuss the model used to estimate future recoveries made by the new Criminal Investigators if this request is approved.**

Currently, the ICE unit is comprised of six full-time Criminal Investigators (CIs), a Chief Criminal Investigator, and one Program Assistant. The Department requests 4.5 FTE and \$412,854 from the Unemployment Revenue Fund to support an additional 3.0 FTE of Criminal Investigator I's, 1.0 FTE of Criminal Investigator III, and 0.5 FTE of an Administrative Assistant.

The average restitution ordered in ICE cases reaching criminal disposition in the last two years was \$11,889. Taking the average amount of restitution ordered, and multiplying it by the average number of 15 cases filed per investigator, ICE could expect to have \$713,340 in restitution ordered in a year with four full time investigators filing cases.

This would more than justify the expenditures of \$412,854 for 4.5 new CI I positions.

**4. Are the current Criminal Investigators POST Certified? Will the new positions be POST Certified? Do the Criminal Investigators make any arrests? Describe the actions Criminal Investigators proceed with once the case is ready to be referred to the DA but the alleged-defendant has not been informed of the charges.**

Although several of our investigators once held POST certification, the CDLE Criminal Investigator positions are not POST certified, nor would the new positions be POST certified. Since we are not POST certified, we do not have the authority to make arrests.

During the course of their investigation, the Criminal Investigators typically interview the suspect, and at that time, the suspects are advised of the potential charges they face. Most suspects during these interviews express their desire and willingness to cooperate and turn themselves in. Once the case is accepted for prosecution, the Criminal Investigator will notify the suspect that a warrant has been issued for their arrest and work with them to make arrangements to turn themselves in.

On occasion, a suspect cannot be reached for an interview or they state that they are unwilling to turn themselves in. After multiple attempts at contact, the case moves forward and is referred to the DA or AG for potential filing. In these rare instances, once these cases are filed and a warrant issued, we contact one of our many partners in law enforcement to coordinate an arrest.

Although we are not POST certified, we are still able to prepare Court Order for Production of Records (COPR) and gather evidence from banks and other entities, under CRS 16-3-301.1, as a Colorado Criminal Investigator, in statue defined as "...an employee of the Colorado department of regulatory agencies, the Colorado department of labor and employment, or the

Colorado department of revenue who has been classified as a criminal investigator by the director of the employing department.”

**5. How did the Unemployment Revenue Fund and the Unemployment Insurance Trust Fund become TABOR-exempt cash funds and when did that occur? Is the Division of Unemployment Insurance, or any part of it, a TABOR Enterprise?**

The Unemployment Revenue Fund is TABOR–exempt because the revenue comes from damage awards and court ordered penalties. Under 24-77-102, these are exemptions from TABOR. Specifically for this fund, 17 (b) (VII) From damage awards, including any interest earned thereon. House Bill 09-1363 modified the Unemployment Insurance Trust Fund into a TABOR enterprise.

The Division of Unemployment Insurance is not a TABOR enterprise. Revenue and expenditures from the Unemployment Trust Fund are TABOR exempt. Expenditures from the Unemployment Trust Fund are associated with benefit payments.

**2:30-2:45 WORKFORCE DEVELOPMENT PACKAGE OF BILLS**

**6. Does any of the Workforce Development Package of Bills require an analysis of the impact of the bill over time? How does the Department intend to analyze the impact of each of these bills?**

While it is too early to determine the impact of each program, we will do an analysis of performance outcomes. Some of the programs will require the Department to utilize its own funds and resources to oversee the program, develop new tracking and reporting tools that are separate from our existing systems, and conduct program analysis.

**HB15-1030 - Employment Services Pilot Program**

Requires the non-profit agency that operates the pilot program to report on measureable outcomes and evaluate those outcomes. Performance measures for this pilot are currently under negotiation.

**HB15-1170 - Increasing Post-Secondary and Workforce Readiness**

The Workforce Development Council in CDLE and Department of Education will annually review the work of the Postsecondary and Workforce Readiness Statewide Coordinator and include a summary in the Colorado Talent Report.

**HB15-1230 - Creation of Innovative Industries Workforce Development Program**

Requires an assessment of the program that includes the following:

- Number of Companies Involved
- Number of Interns
- Occupational Areas
- Number of Interns Who Obtained Employment Related to the Internship

**HB15-1274 - Creation of Career Pathways for Students in Critical Occupations in Growing Industries**

The CWDC, in collaboration and consultation with its partners, will design one career pathway to be ready for implementation by or before the 2016-17 academic year.

**HB15-1276 - Skilled Worker Outreach, Recruitment and Key Training Act (WORK Act)**

During the first year, the following information will be reported:

- How the grant recipients used the grant funds for outreach and recruitment activities
- Number of participants enrolled in training before the grant award
- Number of participants enrolled in training after the grant award
- Number of participants who completed training before the grant award
- Number of participants who completed training after the grant award
- Number of participants who obtained employment related to their training, including the industries that hired participants
- Number of participants recruited

During subsequent years, the following information will be collected and reported:

- Number of matching grants awarded in prior year, including the amount, recipient and duration of each grant
- Number of participants who enrolled and completed training, by each grant recipient
- Number of participants who obtained employment related to the training

**2:45-3:30 QUESTIONS RELATED TO DEPARTMENT OVERVIEW**

**7. Provide a background on the creation or relocation of the Division of Oil and Public Safety in the Department of Labor and Employment.**

There is a long history and numerous reasons why the Division of Oil and Public Safety (OPS) resides within the Department of Labor and Employment (CDLE). The office of the State Inspector of Oils was created over a century ago, in 1899, and resided in the Department of Oil Inspection. Official reports from as early as 1913 indicate the Department of Oil Inspection was responsible for setting standards for the safe storage and sale of fuel products, tracking shipments of fuel in and out of Colorado, and the collection of fuel taxes. In the mid 1900's, approximately 50 or 60 years ago there was a consolidation of departments in state government in which many larger departments absorbed smaller departments. At that time part of the Department of Oil Inspection was merged into the CDLE, as the Oil Inspection Section (OIS), while the other part related to fuel taxes was merged into the Department of Revenue.

In 1989, following the US EPA's implementation of regulations related to Underground Storage Tank (UST), Colorado's General Assembly adopted a comprehensive UST law through HB89-1229, which included enforcement of tank regulations, cleanup regulations and

administration of the Petroleum Storage Tank Fund. Since the OIS at CDLE had historically been regulating fuel products, the General Assembly split the implementation of the new UST program between the OIS at CDLE and the Colorado Department of Public Health and Environment (CDPHE).

The OIS was given the responsibility for enforcement of tank regulations because of its historical responsibility for enforcing fire code regulations concerning petroleum storage tanks (underground and aboveground) and the retail sale of motor fuel products. OIS was also given partial responsibility for reviewing State Fund applications in the areas of tank compliance. The oversight of cleanup of petroleum releases was assigned to the CDPHE because of their experience in dealing with environmental contamination. They were also given the overall responsibility of administration of the Petroleum Storage Tank Fund.

In 1995, the General Assembly, through HB95-1183, consolidated the entire Storage Tank Program transferring CDPHE's responsibilities to the OIS at CDLE. The reason for this legislation was to create efficiency by consolidating the entire administration of the program within one department. Since then the Petroleum Storage Tank program has functioned well at the CDLE and has received national recognition. Consolidation has allowed comprehensive communication between inspection, cleanup and fund programs, enabling quicker and more cost effective cleanup.

In 2001 the General Assembly, through HB01-1373, created the OPS within CDLE by consolidating the OIS with other CDLE public safety programs (boiler inspection, explosives, public school construction and carnival and amusement parks) that were also focused on worker protection. The purpose of this legislation was to create efficiency through consolidation of administration.

In 2007, the General Assembly established statewide regulation of conveyances through passage of the Elevator and Escalator Certification Act (SB07-123), and delegated this new program to OPS. In 2009 the General Assembly, through HB09-1151, consolidated Public School Construction Program at CDLE-OPS with the Division of Fire Safety's Public School Construction Program in the Department of Public Safety. Most recently, in 2014, the General Assembly established statewide regulation of retail natural gas facilities through passage of the HB 13-1110, and delegated this new program to OPS. The consolidation of these environmental and safety programs at CDLE has been very effective in protecting the health and safety of Colorado workers and citizens.

**8. Describe the inspection process for a gasoline retail fuel pump.**

OPS inspects over 3,000 retail motor fueling facilities (gas stations) with approximately 50,000 retail motor fuel dispensers (gas pump meters) once every two years. During these inspections the underground or above ground storage tank systems are inspected for environmental compliance, the retail motor fuel dispensers (gas pumps) are tested for accuracy, and random fuel samples are tested for fuel quality. In addition OPS conducts

several hundred inspections at retail motor fueling facilities every year in response to consumer complaints.

The typical inspection process for the retail “gas pump” portion covers four main elements:

- (1) Inspection of piping, hoses, and all other parts within and under the dispenser cabinets for leaks and deficiencies that might lead to a release of fuel products.
- (2) Inspection of the hoses and other hanging hardware including emergency break away devices, swivels, and nozzles, fire or impact valve at the base of the dispenser, and postings to ensure that all meet the requirements of the adopted national fire codes published by the National Fire Protection Association (NFPA) and Colorado regulations.
- (3) Inspection of the measuring elements including the meter, hose, nozzle, and display to ensure that they meet the requirements of the adopted weights and measures codes published by the National Institute of Standards and Technology (NIST). The security seal is also inspected to make sure that the meter has not been tampered with. Inspectors also check for any sign that a skimming device has been installed on the dispenser card reader equipment.
- (4) Inspection of the dispenser labeling including octane, ethanol, and grade names again ensuring that they meet the NIST codes that have been adopted along with Colorado statutory requirements.

The testing portion covers the testing of the meter and other measuring components to ensure that they are accurate and consistent and meet the requirements of the NIST codes. This involves dispensing five gallons of motor fuel i.e. gasoline, diesel, etc. into a calibrated five gallon bottom drain prover or test measure. Once the product is dispensed the reading in the prover or test measure is compared with the reading on the motor fuel dispenser. The tolerance or acceptable variance must be within plus or minus 6 cubic inches (about 1/3 of a cup) in five gallons. Also inspected at this time are the price postings and computations to determine that the price posted is the price charged and that the total cost equals the price per gallon advertised. Inspectors also check for any sign that a skimming device has been installed on the dispenser card reader equipment. The advertised price is also compared with the advertised price on the street sign. Depending on circumstances and dispenser type other runs are made at the same or different flow rates to determine the consistency of the readings and if the meter is capable of maintaining tolerance. The functionality of the dispenser nozzle is also tested at this time to ensure proper metering and shut down when the vehicle tank is full.

Typically 97% of the meters inspected are found to be within tolerance limits, and 2/3 of the 3% of the meters that are found to out of tolerance actually favor the customer, while the remaining 1/3 short the consumer. High compliance rates across the country are directly linked to a state’s strong field inspection presence, as is the case in Colorado.

9. **Discuss the sources of cash funds that support the Divisions of Unemployment Insurance and Workers' Compensation. What percent in each Division is funded by revenue derived from private businesses? From employees? From other sources (please identify)? In a written response, please provide this data by fiscal year through FY 2006-07.**

*Unemployment Insurance* – Cash for the Employment Support Fund and the Employment and Training Technology Fund comes from a very small percentage of employer premiums. The Employment Support Fund receives 0.11% and the Employment and Training Technology Fund receives 0.04% of each employer's assessed premium. Both of these funds are statutorily capped depending upon the health of the UI Trust Fund and approved appropriations by the state legislature.

Employment Support Cash Fund

FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15
\$15,951,120	\$20,565,094	\$19,369,145	\$19,329,109	\$18,610,520	\$19,307,097	\$25,723,693	\$27,098,622	\$31,186,641

Employment and Training Technology Cash Fund

FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15
N/A	\$10,000,000	\$10,000,000	\$10,000,000	\$10,000,000

Fund created by H.B. 11-1288

*Workers' Compensation Premium Surcharge*—is paid by insurance companies of the employer is based on the amount of workers' compensation premiums received in the state. The surcharge rate is set by rule annually in May to take effect in July, and is currently .63 percent of premiums. This is down from the rate in FY06-07 of 3.818 percent of premiums. The funds collected are used for the workers' compensation cost containment program, the Workers' Compensation Division, and the MMIF and SIF. The director determines how the surcharge is distributed amongst the 4 benefitting areas. The Premium Surcharge is collected bi-annually from insurers. Workers Compensation Cash Fund (WC), Major Medical Fund (Major Med), Subsequent Injury Fund (Sub Inj.), and Cost Containment (Cost Cont.). (See Attachment 1)

**ADDENDUM: OTHER QUESTIONS FOR WHICH SOLELY WRITTEN RESPONSES ARE REQUESTED**

- 1. Provide a list of any legislation that the Department has: (a) not implemented or (b) partially implemented. Explain why the Department has not implemented or has only partially implemented the legislation on this list.**

CDLE has implemented all legislative requirements, pursuant to the legislative effective dates. Implementation in 2016 of SSB15-239, the JBC bill which will transfer the Division of Vocational Rehabilitation from CDHS to CDLE effective on July 1, 2016, is underway, and addressed in detail in our quarterly reports to the JBC and in our Transition Plan, which will be discussed in more detail during the CDHS hearing before the JBC, on 12/22/15.

- 2. Please provide a detailed description of all program hotlines administered by the Department, including:**
  - a. The purpose of the hotline;**
  - b. Number of FTE allocated to the hotline;**
  - c. The line item through which the hotline is funded; and**
  - d. All outcome data used to determine the effectiveness of the hotline.**

CDLE does not maintain public hotlines as described in this question.

- 3. Describe the Department's experience with the implementation of the new CORE accounting system.**
  - a. How has the implementation improved business processes in the Department?**
  - b. What challenges has the Department experienced since implementation and how have they been resolved (i.e. training, processes, reports, payroll)?**
  - c. What impact have these challenges had on the Department's access to funding streams?**
  - d. How has the implementation of CORE affected staff workload?**
  - e. Do you anticipate that CORE implementation will result in the need for a permanent increase in staff? If so, indicate whether the Department is requesting additional funding for FY 2016-17 to address it.**

A. CORE allows for the attachment of back-up documents to each payment processed for reference by the approver and for future retrieval.

B. Statewide, payroll processing continues to be a challenge with the implementation of CORE. While employees continue to receive paychecks (processed by a different system) and cash continues to go out the door, these expenses are not showing up in CORE. Thus, the department cannot fully draw (request reimbursement) from the federal government to



cover the entire amount of funds that has been disbursed. The department has staff on the Labor Data Collection (LDC) state team to assist in resolving issues timely.

Lack of reporting of cash balances and expenditures has been an issue but is now beginning to be addressed.

- C. Due to lack of actual payroll expenses and valid reporting, requesting all of the federal funding has at times impacted access to funds.
  - D. The implementation of such a substantial new system has driven greater workload as employees adjust to new ways of doing business. While CORE seems to have increased functionality, this functionality comes with added complexity when processing a document. The majority of accounting staff are well passed learning curve issues from the day-to-day processing standpoint, yet documents take longer to both enter and review for approval.
  - E. Any long-term staffing changes resulting from CORE – whether increases or decreases – will not be known before some time. At this time, the department is not submitting any requests for FY 2016-17 to address the impact of CORE on normal Departmental financial services operations.
- 4. If the Department receives federal funds of any type, please provide a detailed description of any federal sanctions for state activities of which the Department is already aware. In addition, please provide a detailed description of any sanctions that MAY be issued against the Department by the federal government during FFY 2015-16.**

The department has not received any federal sanctions and is not aware of future sanctions.

- 5. Does the Department have any outstanding high priority recommendations as identified in the "Annual Report of Audit Recommendations Not Fully Implemented" that was published by the State Auditor's Office and dated October 2015 (link below)? What is the department doing to resolve the outstanding high priority recommendations?**

**[http://www.leg.state.co.us/OSA/coauditor1.nsf/All/4735187E6B48EDF087257ED0007FE8CA/\\$FILE/1542S%20Annual%20Report.%20Status%20of%20Outstanding%20Audit%20Recommendations,%20As%20of%20June%2030,%202015.%20Informational%20Report.%20October%202015.pdf](http://www.leg.state.co.us/OSA/coauditor1.nsf/All/4735187E6B48EDF087257ED0007FE8CA/$FILE/1542S%20Annual%20Report.%20Status%20of%20Outstanding%20Audit%20Recommendations,%20As%20of%20June%2030,%202015.%20Informational%20Report.%20October%202015.pdf)**

Yes, all of the high priority recommendations identified by the State Auditor's Office are related to replacement of Unemployment Insurance (UI) systems CATS and CUBS. The full

implementation of the audit recommendations is dependent upon the successful implementation of a new UI information system.

The current legacy mainframe Unemployment Insurance (UI) benefits (CUBS) and employer premiums (CATS) system was brought online in 1985. Due to the need for automation, Colorado joined a multi-state consortium called WyCAN to begin automating its mainframe UI computer systems. The status of the WyCAN information system has changed so the department is reviewing options including a capital request for a new UI system.

**6. Is the department spending money on public awareness campaigns related to marijuana? How is the department working with other state departments to coordinate the campaigns?**

The department is not spending money on marijuana public awareness campaigns.

**7. Based on the Department's most recent available record, what is the FTE vacancy rate by department and by division? What is the date of the report?**

The Office of State Planning and Budget is providing a coordinated response for the department.

**8. For FY 2014-15, do any line items in your Department have reversions? If so, which line items, which programs within each line item, and for what amounts (by fund source)? What are the reasons for each reversion? Do you anticipate any reversions in FY 2015-16? If yes, in which programs and line items do you anticipate this reversions occurring? How much and in which fund sources do you anticipate the reversion being?**

The Office of State Planning and Budget is providing a coordinated response for the department.

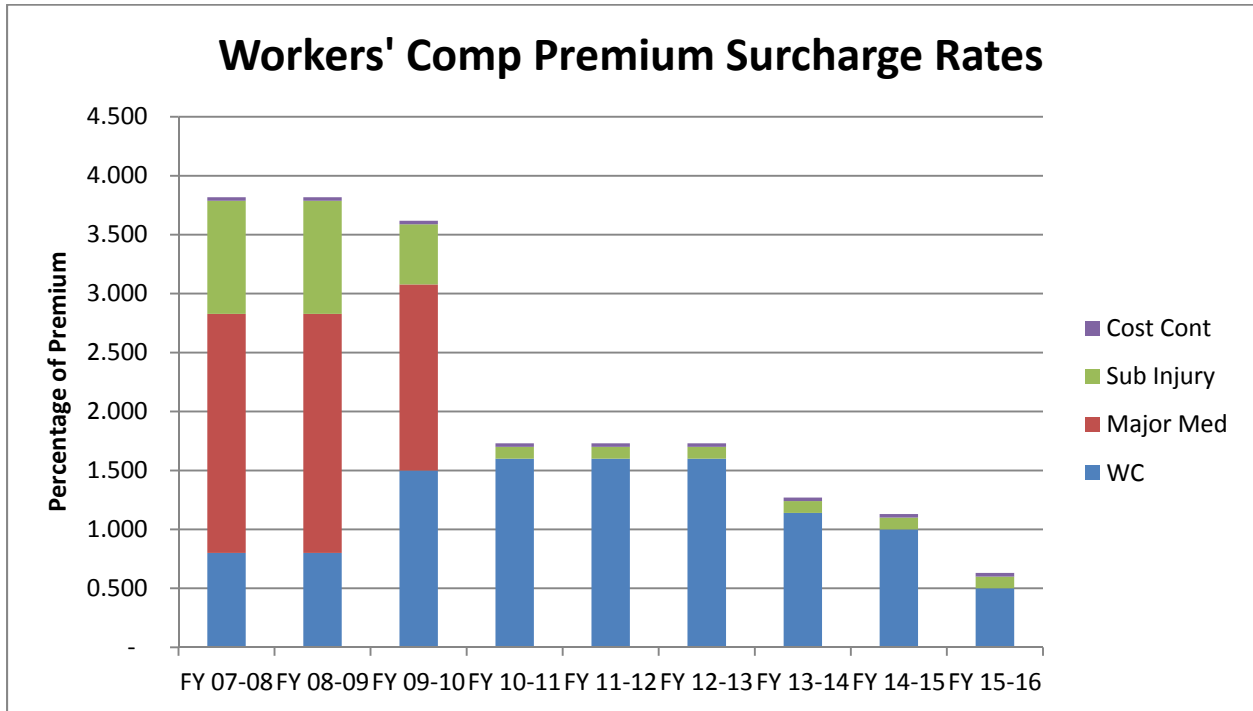
**9. Are you expecting an increase in federal funding with the passage of the FFY 2015-16 federal budget? If yes, in which programs and what is the match requirement for each of the programs?**

The Office of State Planning and Budget is providing a coordinated response for the department.

**10. For FY 2014-15, did your department exercise a transfer between lines that is allowable under state statute? If yes, between which line items and programs did this transfer occur? What is the amount of each transfer by fund source between programs and/or line items? Do you anticipate transfers between line items and programs for FY 2015-16? If yes, between which line items/programs and for how much (by fund source)?**

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Attachment 1



	<u>FY 06-07</u>	<u>FY 07-08</u>	<u>FY 08-09</u>	<u>FY 09-10</u>	<u>FY 10-11</u>	<u>FY 11-12</u>	<u>FY 12-13</u>	<u>FY 13-14</u>	<u>FY 14-15</u>	<u>FY 15-16</u>
WC	0.800	0.800	0.800	1.500	1.600	1.600	1.600	1.140	1.000	0.500
Major Med	2.028	2.028	2.028	1.578	0	0	0	0	0	0
Sub Injury	0.960	0.960	0.960	0.510	0.100	0.100	0.100	0.100	0.100	0.100
Cost Cont	0.030	0.030	0.030	0.030	0.030	0.030	0.030	0.030	0.030	0.030
Total Surcharge	<b>3.818</b>	<b>3.818</b>	<b>3.818</b>	<b>3.618</b>	<b>1.730</b>	<b>1.7300</b>	<b>1.7300</b>	<b>1.2700</b>	<b>1.1300</b>	<b>0.6300</b>

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FY 2016-17 JOINT BUDGET COMMITTEE HEARING AGENDA**

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**1:30-1:50      INTRODUCTIONS AND OPENING COMMENTS**

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**2:45-3:30      QUESTIONS RELATED TO DEPARTMENT OVERVIEW**

7. Provide a background on the creation or relocation of the Division of Oil and Public Safety in the Department of Labor and Employment.
8. Describe the inspection process for a gasoline retail fuel pump.
9. Discuss the sources of cash funds that support the Divisions of Unemployment Insurance and Workers' Compensation. What percent in each Division is funded by revenue derived from private businesses? From employees? From other sources (please identify)? In a written response, please provide this data by fiscal year through FY 2006-07.

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  - a. How has the implementation improved business processes in the Department?
  - b. What challenges has the Department experienced since implementation and how have they been resolved (i.e. training, processes, reports, payroll)?
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  - d. How has the implementation of CORE affected staff workload?
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6. Is the department spending money on public awareness campaigns related to marijuana? How is the department working with other state departments to coordinate the campaigns?
7. Based on the Department's most recent available record, what is the FTE vacancy rate by department and by division? What is the date of the report?

8. For FY 2014-15, do any line items in your Department have reversions? If so, which line items, which programs within each line item, and for what amounts (by fund source)? What are the reasons for each reversion? Do you anticipate any reversions in FY 2015-16? If yes, in which programs and line items do you anticipate this reversions occurring? How much and in which fund sources do you anticipate the reversion being?
9. Are you expecting an increase in federal funding with the passage of the FFY 2015-16 federal budget? If yes, in which programs and what is the match requirement for each of the programs?
10. For FY 2014-15, did your department exercise a transfer between lines that is allowable under state statute? If yes, between which line items and programs did this transfer occur? What is the amount of each transfer by fund source between programs and/or line items? Do you anticipate transfers between line items and programs for FY 2015-16? If yes, between which line items/programs and for how much (by fund source)?