COLORADO GENERAL ASSEMBLY

JOINT BUDGET COMMITTEE

FY 2008-09 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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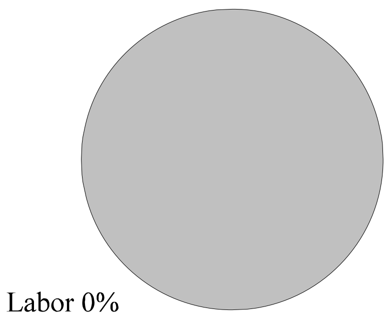
FY 2008-09 BUDGET BRIEFING
STAFF PRESENTATION TO THE JOINT BUDGET COMMITTEE

DEPARTMENT OF LABOR AND EMPLOYMENT

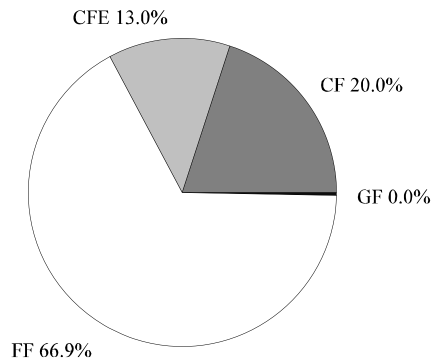
TABLE OF CONTENTS

FY 2008-09 JBC Staff Budget Briefing
DEPARTMENT OF LABOR AND EMPLOYMENT
Graphic Overview

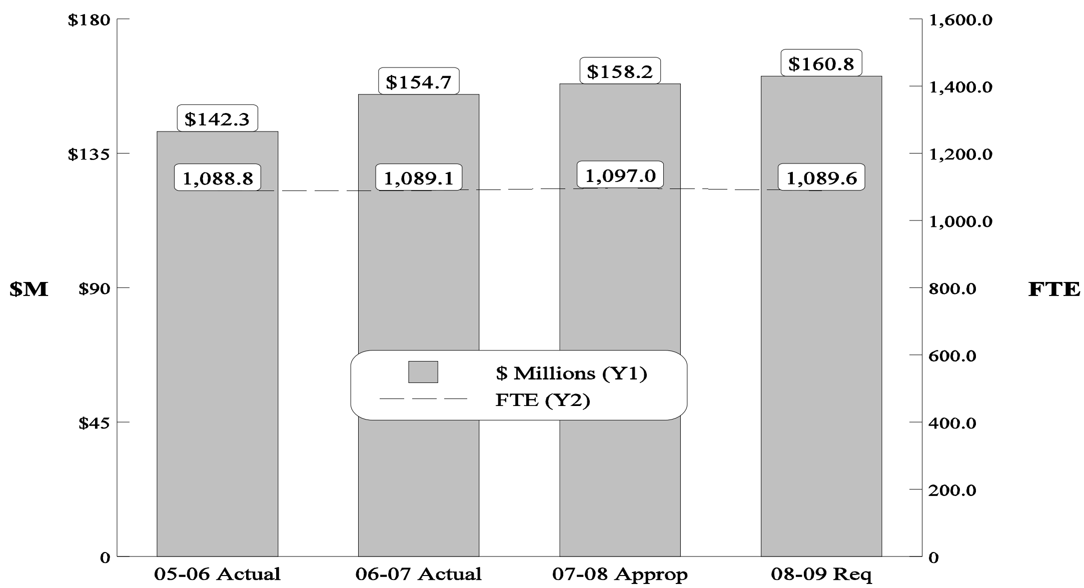
Share of State General Fund FY 2007-08



Funding Source Split FY 2007-08



Budget History



Budget History
FY 2008-09 JBC Staff Budget Briefing
DEPARTMENT OF LABOR AND EMPLOYMENT
Department Overview

Key Responsibilities

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

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

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

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

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

Factors Driving the Budget

Unemployment Insurance (UI)

The provision of unemployment insurance services is a major component of the Department's budget. The State collects unemployment taxes which are then forwarded to Colorado's account in the trust fund maintained by the U.S. government. The condition of the economy both locally and nationally affects the degree to which unemployment insurance services are needed and how high these taxes need to be. The State maintains a fraud investigations unit, as well as collections specialists, to recapture all varieties of unemployment insurance benefit overpayments. Unemployment benefits are not appropriated. However, the funds collected and paid to the Unemployment Insurance Trust Fund count toward the state TABOR revenue limit. Project *Genesis* is the name of an ongoing effort to re-engineer the UI business process, whose IT procurement difficulties have been the source of considerable attention. The status of Genesis and the Unemployment Insurance Trust Fund will be discussed further in briefing issues.

Unemployment Insurance – Factors Driving the State Budget					
	FY 2003-04 Actual	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Estimate
Number of Initial Benefits Claims Established	192,419	137,785	126,647	119,726	119,561
Number of New Employer Accounts	22,268	25,073	24,387	24,827	27,317
Number of Appeals Decisions Rendered	28,466	22,778	19,804	18,849	18,823
Percentage of Cases Involving Fraud	2.0%	2.0%	1.7%	1.1%	1.0%
UI Trust Fund Revenue (TABOR revenue)	$307,792,190	$483,069,661	$530,248,580	$426,683,484	$401,082,475
UI Benefits Paid	$460,797,138	$362,210,806	$305,587,789	$316,646,005	$326,145,385
Trust Fund Ending Balance	$133,879,065	$254,737,920	$479,398,710	$655,868,244	$730,805,334

Source: CDLE budget requests for recent fiscal years. UI revenue, UI benefits paid, and UI ending balance from the Department's Schedule 11s. Stated balances may not match calculated balances due to differences in state and federal closing dates.

Employment and Training

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

Employment and Training – Factors Driving the State Budget					
	FY 2003-04 Actual	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Estimate
Total Applicants	276,849	287,001	356,953	351,576	350,000
Total Applicants Referred to Jobs	131,896	126,301	159,670	156,740	155,000
Total Applicants Entering Employment as a Result of Services	143,926	141,400	119,944	104,306	110,000
Percent Entering Employment	52.0%	49.3%	33.6%	29.7%	31.4%

Source: CDLE budget requests for recent fiscal years.

Public Safety Programs

The Department is responsible for a number of public safety programs. These include inspections of boilers and pressure vessels, review and inspection of public school construction projects, standards for carnivals and amusement rides, and inspections of elevators and other mechanical conveyances. The budget for such programs has been affected in recent years by the addition of new responsibilities:

- Denver discontinued its city inspection program for boilers. By statute, the Department was required to assume that responsibility, adding approximately 8,800 boilers to the state program.
- S.B. 07-123 created a new program within the Department for inspecting elevators, escalators, and other mechanical conveyances, and for licensing of contractors and mechanics who install and service such conveyances.

The State Auditor identified a number of deficiencies in the Department's public safety programs in a May, 2007 report. The Joint Budget Committee approved a 1331 supplemental request in August, 2007 that allowed the Department to address, temporarily, the problems in the inspection of public school construction projects. Permanent corrections of the problems are expected to require additional funding and staffing. Staff will discuss this State Auditor's report in more detail as a briefing issue.

Workers' Compensation, Major Medical Insurance, and Subsequent Injury

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

The Major Medical Insurance program provides benefits to workers who sustained catastrophic injuries between July 1, 1971 and June 30, 1981. There were 1,302 of these cases still open as of June 30, 2007. The Subsequent Injury program provides compensation to injured workers who have become permanently, totally disabled by more than one work-related injury prior to 1993.There were 373 open cases as of June 30, 2007. For both programs, the number of open cases declined slightly from a year earlier. The status of the Major Medical Insurance and Subsequent Injury Funds will be discussed in more detail in one of the briefing issues.

Workers' Compensation / Major Medical & Subsequent Injury – Factors Driving the State Budget					
	FY 2003-04 Actual	**FY 2004-05 Actual**	**FY 2005-06 Actual**	**FY 2006-07 Actual**	**FY 2007-08 Estimate**
Customer Contacts (phone calls and walk-in customers)	65,275	62,209	58,630	56,467	70,400
Applications for Workers' Compensation Hearings	10,662	9,751	9,595	8,262	n/a
Hearings Held	1,579	1,145	1,166	1,070	n/a
Employer cost savings through Premium Cost Containment	$16,793,562	$19,122,759	$16,869,049	$19,335,800	$12,000,000

Source: CDLE budget requests for recent fiscal years.

Summary of Major Legislation

- ✓ **S.B. 07-123 (Takis / Kerr A.):** Requires that all mechanical conveyances such as moving walkways, escalators, elevators, and dumbwaiters be registered with the Division of Oil and Public Safety in the Department of Labor and Employment by August 1, 2008. Additionally, mechanics, inspectors, and contractors who service such conveyances must be licensed by the Division. Appropriates $196,356 and 1.3 FTE to the Department from the newly-created Conveyance Safety Fund.

- ✓ **S.B. 07-258 (Groff / Rice):** Makes several changes to state workers' compensation law. Increases the allowable lump sum award from $37,500 to $60,000. Clarifies the time frames for workers' compensation hearings to begin, establishes deadlines for the Division of Workers' Compensation or administrative law judge to issue a summary order in lieu of a full order, and eliminates several other requirements. Appropriates $3,502 from the Workers' Compensation Cash Fund for additional administrative law judge services.

- ✓ **H.B. 07-1228 (Gardner C. / Shaffer):** Requires that within 120 days after January 1, 2008, the Petroleum Storage Tank Committee establish policies that govern the placement of above-ground and underground storage tanks that contain renewable fuels. Appropriates $35,635 and 0.5 FTE to the Division of Oil and Public Safety from the Petroleum Storage Tank Fund.

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

- ✓ **H.B. 06-1158 (Weissmann / Tupa):** Clarifies language regarding the Division of Oil and Public Safety's responsibility to conduct plan reviews and inspections of buildings and structures in public schools and junior colleges for compliance with the Division's building and fire codes. Authorizes the Division to delegate this responsibility to an appropriate local building or fire department. Creates a board of appeals within the Division to which a school board may appeal the final decision of an entity conducting such plan reviews and inspections. Directs the Division of Fire Safety to certify fire inspectors and establishes requirements for certified fire inspectors. Appropriated $72,647 and 1.0 FTE to the Division from the Public Safety Inspection Fund.

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

✓ **S.B. 05-39 (Taylor / Marshall):** Declared the Petroleum Storage Tank Fund (PTSF) to be an enterprise fund exempt from TABOR limits. In FY 2005-06, appropriated $1.0 million cash funds exempt (Petroleum Tank Storage Fund) to the Division of Oil and Public Safety.

✓ **Various Budget Balancing Bills:** During the budget problems in 2001-2004, legislation enhanced the General Fund balance by making transfers from funds administered by the Department of Labor and Employment. During the three fiscal years FY 2001-02 through FY 2003-04, the General Fund was enhanced by over $300 million by such transfers. The various transfers are summarized in the following table.

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

Department of Labor – Budget Balancing Bills	
Bill Number	**Impact**
H.B. 02-1478 (Young / Reeves)	Provided authority for the Governor to order that monies be transferred from the Major Medical Fund to the General Fund if revenue estimates indicated that General Fund expenditures exceeded General Fund revenues in FY 2001-02. Required that this transfer be repaid automatically July 1, 2002. In FY 2002-03, provided authority for the Governor to transfer up to $75,000,000 from the Major Medical Fund to the General Fund, if General Fund expenditures required the use of one-half or more of the reserve.

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

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

Major Funding Changes FY 2006-07 to FY 2007-08

Action	GF	CF & CFE	Federal Funds	Total Funds	FTE
Employee benefits	$12,213	$1,036,850	$1,463,872	$2,512,935	0.0
Personal Services Adjustments	($41)	$637,310	$901,237	$1,538,506	0.0
Payments to Other Agencies	$0	$235,492	$290,211	$525,703	0.0
Leased Space	$0	$111,929	$137,938	$249,867	0.0
IT Asset Replacement	$0	$135,227	$107,869	$243,096	0.0
S.B. 07-123	$0	$196,356	$0	$196,356	1.3
H.B. 07-1228	$0	$35,635	$0	$35,635	0.5
S.B. 07-258	$0	$3,502	$0	$3,502	0.0
Refinance	($152,838)	$2,836,046	($2,683,208)	$0	0.0
Decrease in Federal Funds	$0	$0	($1,240,481)	($1,240,481)	(7.9)

Except for the small general fund refinancing, the refinance change was the result of a decision item, and may be indicative of an ongoing problem in the future. The large majority of funding for employees in the unemployment insurance and workforce development programs consists of federal dollars. Last year, there were state mandates for increases in wages and benefits for employees. However, federal funding for these programs remained essentially flat. The Department requested, and the General Assembly approved, the use of state money to cover the mandated increases. The alternative would have been for the Department to make staffing cuts.

FY 2008-09 JBC Staff Budget Briefing
DEPARTMENT OF LABOR AND EMPLOYMENT
Decision Items

Priority	Division: Description *[Statutory Authority]*	GF	CF *[Source]*	CFE	FF	TOTAL	FTE
1	**Division of Employment and Training** Requests an increase in cash funding for workforce development programs to restore funding cuts made in recent years, and to offset an anticipated decrease in federal funding. *[Articles 8-70 through 8-82, C.R.S.]*	0	4,558,163 *[Employment Support Fund]*	0	(520,464)	4,037,699	0.0
2	**Executive Director's Office** Requests an increase in cash funding to implement the Department's disaster recovery plan that will bring the Department into compliance with the State's disaster recovery model. *[Articles 8-70 through 8-82, C.R.S.]*	0	484,144 *[Employment Support Fund]*	0	0	484,144	0.0
3	**Division of Oil and Public Safety** Requests a one-time cash funds exempt expenditure to replace two octane-testing engines located in the Division's test laboratory. *[Sections 8-20-102; 8-20-203; 8-20-204; and 8-20.5-103, C.R.S.]*	0	0	440,000 *[Petroleum Storage Tank Fund]*	0	440,000	0.0

C-1	**Division of Employment and Training** Requests an increase in cash funding over to modernize and enhance the Internet self-service applications for the unemployment insurance program. These program costs accompany a capital request totaling $6,162,330 over two years. *[Articles 8-70 through 8-82, C.R.S.]*	0	503,720 *[Employment Support Fund]*	0	0	503,720	2.5
NP-1	**Executive Director's Office** Statewide C-SEAP Program Staffing *[Section 24-50-604, C.R.S.]*	0	3,265	163	4,735	8,163	0.0
NP-2	**Executive Director's Office** DPA - Multiuse Network Payments *[Section 24-30-1101 through 1105; and 24-37.5-202,203, C.R.S.]*	0	4,889	326	5,649	10,864	0.0
NP-3	**Executive Director's Office** DPA - VehicleLease Reconciliation *[Section 24-30-1104 (2), C.R.S.]*	0	6,327	0	1,265	7,592	0.0
	Total Prioritized Requests	**0**	**5,546,027**	**440,000**	**(520,464)**	**5,465,563**	**2.5**

FY 2008-09 JBC Staff Budget Briefing
DEPARTMENT OF LABOR AND EMPLOYMENT
Overview of Numbers Pages

The Department of Labor and Employment's FY 2008-09 request is approximately $2.6 million larger than the FY 2007-08 appropriation, an increase of 1.6%.

Requested Changes from FY 2007-08 to FY 2008-09

	FTE	General Funds	Cash Funds	Cash Funds Exempt	Federal Funds	Total
FY 2007-08 Appropriation	1,097.0	0	35,974,775	20,407,127	101,823,271	158,205,173
FY 2008-09 Request	1,089.6	0	44,761,390	19,175,077	96,835,052	160,771,519
Change	**(7.4)**	**0**	**8,786,615**	**(1,232,050)**	**(4,988,219)**	**2,566,346**
Percent Change	**(0.7)%**	**n/a**	**24.4%**	**(6.0)%**	**(4.9)%**	**1.6%**

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

Requested Changes from FY 2007-08 to FY 2008-09

Item(s)	FTE	General Funds	Cash Funds	Cash Funds Exempt	Federal Funds	Total
Personal Services Adjustments	(10.9)	$ 0	$ 2,307,881	$ 84,189	$ 486,734	$ 2,878,804
Benefits	0.0	0	1,007,199	36,742	212,419	1,256,360
Payments to Other Agencies	0.0	0	86,720	76,140	160,709	323,569
S.B. 07-123	3.3	0	193,713	0	0	193,713
S.B. 07-258	0.5	0	31,061	0	0	31,061
H.B. 07-1228	1.0	0	0	2,570	0	2,570
Reductions in Federal Funding	(2.0)	0	0	0	(5,395,173)	(5,395,173)
Reversions	0.0	0	0	(2,028,639)	0	(2,028,639)
Statewide Indirect Costs	0.0	0	(99,799)	(16,066)	(96,381)	(212,246)
Decision Items						
DI #1 Workforce Development Programs Service Restoration	0.0	0	4,558,163	0	(520,464)	4,037,699
CDI #1 Modernize UI Internet Self-Service	2.5	0	503,720	0	0	503,720

Item(s)	FTE	General Funds	Cash Funds	Cash Funds Exempt	Federal Funds	Total
DI #2 UI Disaster Recovery Plan	0.0	0	484,144	0	0	484,144
DI #3 Octane Test Engines	0.0	0	0	440,000	0	440,000
Other	**(1.8)**	**$ 0**	**$ (286,187)**	**$ 173,014**	**$ 163,937**	**$ 50,764**
Total	**(7.4)**	**$ 0**	**$ 8,786,615**	**$(1,232,050)**	**$(4,988,219)**	**$ 2,566,346**

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

Personal services adjustments reflect prior year salary increases and pay for performance. The Department normally adjusts headcount in its larger programs to reflect anticipated changes in work load; decreases are typically achieved through attrition. Payments to other agencies include payments to the State Computer center, payments for use of the State's broadband network (MNT), and vehicle lease payments. $2.0 million of the reversion total is from the Subsequent Injury program.

S.B. 07-123 created a new public safety program requiring the Division of Oil and Public Safety to register and inspect elevators and other mechanical conveyances in all buildings in the State. S.B. 07-258 made adjustments in the handling of certain workers' compensation cases. H.B. 07-1228 requires the Division of Oil and Public Safety to establish regulations for above- and below-ground tanks storing renewable fuels. Additional funding and FTE are required in order to accommodate this expansion of the existing program for registering and inspecting storage tanks for petroleum-based fuels.

Decision item #1 is a request to restore cuts made to the workforce development programs over the past two fiscal years. The cuts were necessary due to decreases in federal funding. In addition to the prior year federal funding reductions, the decision item anticipates a further cut of $0.5 million in the next federal fiscal year. Staff has provided greater detail on this decision item as part of briefing issue #4.

Decision item #2 is a request for funds to allow the department into compliance with the State's model for IT disaster recovery capability for critical systems. Staff has provided greater detail on this decision item as part of briefing issue #3.

Decision item #3 is a request for funds to allow replacement of two engines used for precision measurement of gasoline octane numbers. These engines date to before 1950, and the manufacturer has informed the State that they will be unable to provide replacement parts for several major engine components. Staff has provided greater detail on this decision item as briefing issue #2.

Capital decision item #1 is a request for funds to update the Department's Internet self-service capabilities for unemployment insurance. Staff has provided greater detail on this decision item as part of briefing issue #3.

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriated	FY 2008-09 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 managen adjudicating disputes related to unemployment insurance, labor standards, and workers' compensation.

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriated	FY 2008-09 Request	Change Request
Personal Services	10,875,646	11,475,419	12,163,966	12,742,549	
FTE	160.1	162.9	166.9	167.4	
Health, Life, and Dental	2,872,445	3,609,830	4,302,358	4,782,261	
Short-term Disability	80,658	61,792	78,523	81,157	
S.B. 04-257 Amortization Equalization Disbursement	0	414,686	724,829	998,860	
S.B. 06-235 Supplemental Amortization Equalization Disbursement	0	0	151,006	319,749	
Salary Survey and Senior Executive Services	1,912,965	1,854,599	2,125,608	2,403,355	
Performance-Based Pay	0	0	908,256	961,558	
Shift Differential	30,873	31,544	25,663	28,163	
Workers' Compensation	415,838	504,883	716,851	779,390	
Operating Expenses	1,458,107	1,472,341	1,531,724	1,533,477	
Legal Services	440,217	461,998	568,968	568,968	
Hours	*6,830.0*	*6,817.1*	*7,899.0*	*7,899.0*	

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriated	FY 2008-09 Request	Change Request
Purchase of Services from Computer Center	1,411,811	149,773	938,416	1,285,778	
Multiuse Network Payments	112,788	77,765	88,232	99,096	
Payment to Risk Mgmt. and Property Funds	57,252	162,948	140,715	130,317	
Vehicle Lease Payments	70,114	77,439	91,545	99,137	
Leased Space	3,093,007	3,348,777	3,572,598	3,689,248	
Capitol Complex Leased Space	26,246	37,831	28,725	27,093	
Communication Services Payment	771	863	861	1,199	
Utilities	219,286	229,497	260,309	260,309	
Information Technology Asset Maintenance	819,575	552,488	553,627	553,627	
Statewide Indirect Cost Assessment	535,642	1,042,321	758,125	545,879	
Disaster Recovery (New Line Item)	0	0	0	484,144	DI #2
Unemployment Benefits (not appropriated, non-add) (not appropriated pursuant to Section 8-77-104 (1), C.R.S.)	*305,587,789*	*316,646,005*	*326,145,385 Estimated*	*335,929,746 Estimated*	

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriated	FY 2008-09 Request	Change Request
					Request vs. Appropriation
TOTAL - (1) EXECUTIVE DIRECTOR'S OFFICE	24,433,241	25,566,794	29,730,905	32,375,314	8.9%
FTE	160.1	162.9	166.9	167.4	
General Fund	0	107,736	0	0	n/a
Cash Funds	8,773,992	9,399,986	13,392,076	15,223,025	13.7%
Cash Funds Exempt	1,220,157	1,719,692	2,261,721	2,450,658	8.4%
Federal Funds	14,439,092	14,339,380	14,077,108	14,701,631	4.4%
(2) DIVISION OF EMPLOYMENT AND TRAINING					
(A) Unemployment Insurance Programs					
Primary functions: Providing temporary and partial wage replacement to unemployed workers					
Program Costs	26,677,598	25,362,424	31,380,529	32,391,323	
FTE	440.1	440.2	440.9	430.0	
Cash Funds	4,344,391	2,145,108	3,362,800	4,370,510	
Federal Funds	22,333,207	23,217,316	28,017,729	28,020,813	
Genesis Project Recovery Assessment - CF	0	1,029,860	0	0	
House Bill 05-1208 (Unemployment Insurance) - CF	0	0	0	0	
Statewide Indirect Cost Assessment - FF	0	0	0	0	
Internet Self-Service - CF	0	0	0	503,720	CDI #1
FTE	0.0	0.0	0.0	2.5	CDI #1

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriated	FY 2008-09 Request	Change Request
					Request vs. Appropriation
Total - (2) (A) Unemployment Insurance Programs	26,677,598	26,392,284	31,380,529	32,895,043	4.8%
FTE	440.1	440.2	440.9	432.5	
Cash Funds	4,344,391	3,174,968	3,362,800	4,874,230	44.9%
Federal Funds	22,333,207	23,217,316	28,017,729	28,020,813	0.0%

(B) Unemployment Insurance Fraud Program

Primary functions: Identifying, investigating and prosecuting individuals who attempt to receive unemployment benefits to which they are not entitled

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriated	FY 2008-09 Request	Change Request
Program Costs	1,379,758	1,388,924	1,461,094	1,524,376	
FTE	26.0	26.0	26.0	26.0	
Cash Funds	643,367	634,238	730,547	762,188	
Cash Funds Exempt	736,391	754,686	730,547	762,188	
					Request vs. Appropriation
Total - (2) (B) Unemployment Insurance Fraud Program	1,379,758	1,388,924	1,461,094	1,524,376	4.3%
FTE	26.0	26.0	26.0	26.0	
Cash Funds	643,367	634,238	730,547	762,188	4.3%
Cash Funds Exempt	736,391	754,686	730,547	762,188	4.3%

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriated	FY 2008-09 Request	Change Request
(C) Employment and Training Programs					
Primary functions: Providing job placement and related services to job-seeking applicants and employers					
State Operations	12,376,821	12,326,589	13,071,968	16,307,081	
FTE	163.9	162.4	162.8	162.8	
Cash Funds	5,598,193	6,514,843	6,424,488	10,190,016	DI #1
FTE	72.8	72.1	79.9	88.9	DI #1
Cash Funds Exempt	20,356	11,433	9,600	9,600	
FTE	0.8	0.8	0.1	0.1	
Federal Funds	6,758,272	5,800,313	6,637,880	6,107,465	DI #1
FTE	90.3	89.5	82.8	73.8	DI #1
One-Stop County Contracts - FF	8,044,266	8,049,543	7,878,451	7,642,593	
FTE	19.5	18.4	19.0	17.0	
Trade Adjustment Act Assistance - FF	1,469,320	1,589,034	2,168,983	1,921,826	
Workforce Investment Act - FF	40,805,444	40,565,927	40,618,204	37,129,896	
FTE	67.7	65.6	60.0	60.0	
Cash Funds	0	0	0	1,211,310	DI #1
Federal Funds	40,805,444	40,565,927	40,618,204	35,918,586.0	DI #1
					Request vs. Appropriation
Total - (2) (C) Employment and Training Programs	62,695,851	62,531,093	63,737,606	63,001,396	-1.2%
FTE	251.1	246.4	241.8	239.8	
Cash Funds	5,598,193	6,514,843	6,424,488	11,401,326	77.5%
Cash Funds Exempt	20,356	11,433	9,600	9,600	0.0%
Federal Funds	57,077,302	56,004,817	57,303,518	51,590,470	-10.0%

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriated	FY 2008-09 Request	Change Request
(D) Labor Market Information					
Primary functions: Gathering and disseminating labor market and economic trend information					
Program Costs	1,559,030	1,612,139	1,872,115	1,969,337	
FTE	31.6	27.5	30.3	30.3	
Cash Funds	3,050	4,086	11,626	11,626	
Federal Funds	1,555,980	1,608,053	1,860,489	1,957,711	
					Request vs. Appropriation
Subtotal - (D) Labor Market Information	1,559,030	1,612,139	1,872,115	1,969,337	5.2%
FTE	31.6	27.5	30.3	30.3	
Cash Funds	3,050	4,086	11,626	11,626	0.0%
Federal Funds	1,555,980	1,608,053	1,860,489	1,957,711	5.2%
					Request vs. Appropriation
TOTAL - (2) DIVISION OF EMPLOYMENT AND TRAINING	92,312,237	91,924,440	98,451,344	99,390,152	1.0%
FTE	748.8	740.1	739.0	728.6	
Cash Funds	10,589,001	10,328,135	10,529,461	17,049,370	61.9%
Cash Funds Exempt	756,747	766,119	740,147	771,788	4.3%
Federal Funds	80,966,489	80,830,186	87,181,736	81,568,994	-6.4%
(3) DIVISION OF LABOR					
Primary functions: Providing assistance and ensuring compliance with Colorado wage, youth employment and labor practice laws					
Program Costs - Cash Funds	834,366	888,281	1,097,388	1,134,278	
FTE	12.0	11.0	16.0	16.0	

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriated	FY 2008-09 Request	Change Request
					Request vs. Appropriation
TOTAL - (3) DIVISION OF LABOR - Cash Funds	834,366	888,281	1,097,388	1,134,278	3.4%
FTE	12.0	11.0	16.0	16.0	

(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; reviewing building plans for all public school facilities; issuing explosive permits to qualified individuals; conducting annual inspections of all boilers and pressure vessels in commercial and multi-unit residential buildings)

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriated	FY 2008-09 Request	Change Request
Personal Services	3,582,263	3,574,084	4,170,130	4,317,110	
FTE	53.3	52.0	57.1	59.6	
Operating Expenses	349,526	467,160	339,859	815,069	DI #3
Statewide Indirect Cost Assessment	892,747	874,660	964,000	964,000	
					Request vs. Appropriation
TOTAL - (4) DIVISION OF OIL AND PUBLIC SAFETY	4,824,536	4,915,904	5,473,989	6,096,179	11.4%
FTE	53.3	52.0	57.1	59.6	
Cash Funds	885,008	1,155,816	1,559,462	1,621,974	4.0%
Cash Funds Exempt	3,451,173	3,196,393	3,350,100	3,909,778	16.7%
Federal Funds	488,355	563,695	564,427	564,427	0.0%

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriated	FY 2008-09 Request	Change Request
(5) DIVISION OF WORKERS' COMPENSATION					
(A) Workers' Compensation					
Primary functions: Assuring the quick and efficient delivery of disability and medical benefits to injured workers at a reasonable cost to employers, without the necessity of litigation					
Personal Services	6,068,044	6,048,220	6,495,037	6,779,245	
FTE	101.8	102.0	102.0	102.0	
Operating Expenses	599,110	579,471	639,345	639,345	
Administrative Law Judge Services	2,206,972	2,322,977	2,488,092	2,555,957	
Physician's Accreditation	69,558	130,171	140,000	140,000	
Utilization Review	19,226	52,989	60,000	60,000	
Immediate Payment	0	0	10,000	10,000	
					Request vs. Appropriation
Total - (5) (A) Workers' Compensation	8,962,910	9,133,828	9,832,474	10,184,547	3.6%
FTE	101.8	102.0	102.0	102.0	
Cash Funds	8,461,746	8,750,436	9,396,388	9,732,743	3.6%
Cash Funds Exempt	501,164	383,392	436,086	451,804	3.6%
(B) Major Medical Insurance and Subsequent Injury Funds					
Primary functions: Providing medical benefits and compensation payments to eligible injured workers					
Personal Services	905,562	913,601	1,231,110	1,231,725	
FTE	13.1	12.6	16.0	16.0	

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriated	FY 2008-09 Request	Change Request
Operating Expenses	72,306	51,819	88,324	88,324	
Major Medical Benefits	7,457,751	6,621,917	7,000,000	7,000,000	
Major Medical Legal Services	1,211	914	21,609	15,000	
Hours	*19.0*	*0.0*	*300.0*	*0.0*	
Subsequent Injury Benefits	2,521,755	2,237,091	5,200,000	3,200,000	
Subsequent Injury Legal Services	17,413	16,565	72,030	50,000	
Hours	*270.0*	*0.0*	*1,000.0*	*0.0*	
Medical Disaster	638	166	6,000	6,000	
					Request vs. Appropriation
Total - (5) (B) Major Medical Insurance and Subsequent Injury Funds - CFE	10,976,636	9,842,073	13,619,073	11,591,049	-14.9%
FTE	13.1	12.6	16.0	16.0	
					Request vs. Appropriation
TOTAL - (5) DIVISION OF WORKERS' COMPENSATION	19,939,546	18,975,901	23,451,547	21,775,596	-7.1%
FTE	114.9	114.6	118.0	118.0	
Cash Funds	8,461,746	8,750,436	9,396,388	9,732,743	3.6%
Cash Funds Exempt	11,477,800	10,225,465	14,055,159	12,042,853	-14.3%

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriated	FY 2008-09 Request	Change Request
					Request vs. Appropriation
GRAND TOTAL - DEPARTMENT OF LABOR AND EMPLOYMENT	142,343,926	142,271,320	158,205,173	160,771,519	1.6%
FTE	1,089.1	1,080.6	1,097.0	1,089.6	
General Funds	0	107,736	0	0	n/a
Cash Funds	29,544,113	30,522,654	35,974,775	44,761,390	24.4%
Cash Funds Exempt	16,905,877	15,907,669	20,407,127	19,175,077	-6.0%
Federal Funds	95,893,936	95,733,261	101,823,271	96,835,052	-4.9%

4 **All Departments, Totals** -- The General Assembly requests that copies of all reports requested in other footnotes contained in this act be delivered to the Joint Budget Committee and the majority and minority leadership in each house of the General Assembly.

Comment: The Department is in compliance with this footnote.

5 **All Departments, Totals –** Every Department is requested to submit to the Joint Budget Committee information on the number of additional federal and cash funds exempt FTE associated with any federal grants or private donations that are applied for or received during FY 2007-08. The information should include the number of FTE, the associated costs (such as workers' compensation, health and life benefits, need for additional space, etc.) that are related to the additional FTE, the direct and indirect matching requirements associated with the federal grant or donated funds, the duration of the grant, and a brief description of the program and its goals and objectives.

Comment: *The Governor vetoed this footnote on May 2, 2007 on the grounds that it violates the separation of powers by attempting to administer the appropriation, that by placing information requirements on the appropriations it constitutes substantive legislation, and that it requires substantial resources and constitutes an unfunded mandate. The General Assembly overrode this veto.*

The Department has not submitted a separate report in response to this footnote request. The Department's budget request and budget schedules include federal funds and federally funded FTE. It is staff's understanding that federal funds are received by the Department throughout the fiscal year, possibly including special grants. As such, it is not clear if all federal funds and federally funded FTE are included in the budget request.

FY 2008-09 JBC Staff Budget Briefing
DEPARTMENT OF LABOR AND EMPLOYMENT
Division of Oil and Public Safety Audit

ISSUE:

A State Auditor's report on the Department of Labor and Employment's public safety programs identified significant problems.

SUMMARY:

In June, 2007, the State Auditor released a strongly negative report on the Department's public safety programs. In August, the Joint Budget Committee approved a 1331 emergency supplemental request to fund immediate but temporary corrective actions in the public school construction review and inspection program. The Auditor identified additional problems in permitting and inspection of carnivals and amusement parks; permitting and inspection of businesses that use, store and transport explosives; and in the timeliness of boiler inspections. The Department is working with the Legislative Audit Committee to structure legislation for the upcoming session to implement permanent changes to address the deficiencies. The effect of those changes on the Department's expenses, and on the fee revenue which will be required, are currently unknown, but are likely to require increases in budget and headcount.

DISCUSSION:

The State Auditor's report found problems across the entire range of public safety programs. When the Auditor released the report, the media focused primarily on the school construction review and inspection program. The report identified several serious deficiencies in that program, up to and including the Division providing certificates of occupancy without conducting many of the necessary inspections of new construction. Problems were also found in the permitting and inspection programs for carnivals and amusement parks; permitting and inspections of businesses that use, store and transport explosives; and in the timeliness of boiler inspections. During the Auditor's presentation, the Department acknowledged the problems.

Corrections for the school inspection problems included a critical timing aspect. Many school construction projects are scheduled for the summer months. Work on existing buildings cannot typically start until the school term is finished in May/June, and work needs to be completed before the next term begins in August/September. This creates a sharp spike in the amount of activity, particularly inspections, early in the state fiscal year. In order to meet the demand, including a review of previously approved construction that requires re-inspection, the Division hired both contractors and temporary employees. Problems in other public safety programs do not include this particular timing issue.

The Committee approved a 1331 emergency supplemental for school inspections. At its meeting on August 21, 2007, the Joint Budget Committee approved an emergency supplemental request for $271,272 for the school construction inspection program. This appropriation covers the personal services and operating expenses costs of four temporary employees and one contractor. An additional $78,312 was appropriated to the Department of Public Safety, which conducts certain fire safety inspections for the Division. Revenues to cover these added expenses are from existing cash fund reserves and a modified fee schedule that is expected to provide an additional $250,000 in the current fiscal year.

The Department is working with the Legislative Audit Committee on legislation to address the problems. Existing statute imposes a variety of restrictions on the Division with respect to the operation of these public safety programs. Such restrictions include caps on fees that limit the available revenue and a lack of control over whether or not resources of local jurisdictions can be used to perform all or part of the work. The Legislative Audit Committee is working with the Department of Labor to identify necessary changes, and has agreed to carry the resulting bill(s) during the upcoming session. At the present time, staff believes that most of the proposed changes involve expansion of the existing programs; these will probably result in the need for additional revenue and spending authority.

The Auditor's Report identified alternatives to expansion. The Auditor's report compared Colorado's programs to those of a variety of other states. In some cases, other states have elected to simply not regulate some of the activities that are regulated in Colorado. In some cases, the states are more dependent on local jurisdictions. In the particular case of explosives, which are also regulated at the federal level, some states have eliminated functions that were duplicates of, or that provided little additional safety over, the federal regulations. Eliminating functions that are not cost-effective, particularly if they duplicate functions that are or could be provided by other levels of government, should be considered in addition to program expansion.

There are a number of budget issues to be considered. The Department has informed staff that the schedule for submitting their budget request did not allow sufficient time to include changes that respond to the concerns raised in the Auditor's report. Staff is concerned that such changes, particularly if statutory changes are required, will not be finalized in time to be considered during this session's normal budget cycle, but will have to be handled through special bills or supplementals. Staff notes that during the Referendum C time-out, increases in cash-funded programs do not currently translate into increased General Fund refund obligations; decisions that may lead to further increases in the future could have additional repercussions in that area.

RECOMMENDATIONS:

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

1. Has the Department implemented quality control processes that will insure that the types of deficiencies identified in the Auditor's report will not recur in the future? If so, what types

of processes are being used? If not, why not?

2. In determining corrective actions, has the Department considered, where possible, methods that would lead to the elimination of state-level functions?

3. When does the Department anticipate that a full set of changes will be proposed, including any necessary budget adjustments?

4. Will the Department's budget analysis include the effect of decisions on other governmental agencies? For example, increased fees charged to public schools may lead to increases in the state funding for local school districts.

FY 2008-09 JBC Staff Budget Briefing
DEPARTMENT OF LABOR AND EMPLOYMENT
Replace Octane-Testing Engines

ISSUE:

The Department has requested (decision item #3) $440,000 cash funds exempt from the Petroleum Storage Tank Fund for the replacement of two aging engines used to perform precision octane testing in their laboratory.

DISCUSSION:

The Division of Oil and Public Safety is charged with testing petroleum products for quality. Current statute (Section 8-20-101 throuth 8-20-235, C.R.S.) charge the Division of Oil and Public Safety with a variety of consumer protection responsibilities. Among these responsibilities is verification that gasoline products meet advertised octane ratings. Octane, as used here, is a measure of a gasoline product's resistance to pre-ignition (knock). Use of gasoline with insufficient anti-knock properties may result in permanent damage to engines. In order to assure gasoline quality, the Division obtains and tests both random samples, and samples taken as a result of consumer complaints. The Division tests approximately 1,000 samples per year.

Colorado has unique product requirements. Octane is rated on a numerical scale. Typical values nationally are 87, 89, and 91, with higher values indicating greater resistance to pre-ignition. The octane value necessary to provide a particular level of performance is dependent on some environmental conditions. One of those conditions is ambient air pressure. Because of its high altitude, Colorado's ambient pressure is significantly lower than other parts of the country. This allows the use of lower-octane gasoline; Colorado is one of the few states in the country where gasoline with an octane rating of 85 can provide acceptable performance, hence one of the few locations where such gasoline is available for sale.

Statute requires specific test equipment, available from only one source. Section 8-20-204, C.R.S., requires that the Division's testing conform to the specifications of the American Society for Testing and Materials (ASTM). The only test method recognized by the ASTM for accurate octane measurements requires the use of cooperative fuel research (CFR) test engines. The only engine currently recognized for this purpose by the ASTM is the Waukesha engine. The Division also makes use of an existing benchtop analyzer for screening purposes, but only CRF engine testing is sufficient for enforcement actions.

The Division's current equipment for performing such tests is very old, and may be subject to irreparable failure. The Division currently owns two test engines, one calibrated for research octane number and one for motor octane number. Advertised octane values are an average of the two numbers, so both must be tested. Should either of the existing engines fail, the Division would no longer be able to perform enforceable octane tests. These engines date from some time before

1950 – neither the State nor the manufacturer have records indicating exactly how old these engines are. The engines incorporate what were then state-of-the-art features, such as vacuum-tube-based electronic controls. The manufacturer is no longer able to provide replacement parts for the major structural and control components of these engines.

Use of private laboratories for such testing is impractical. In response to staff questions, the Division has indicated that there are no local private laboratories that can perform testing based on CFR engines. When outside octane testing was necessary in the past, the Division has used a private laboratory located in Houston, Texas. Shipping samples of flammable liquids over such distances is dangerous and expensive; the Division estimates that the total cost for use of such a private lab would be approximately $500 per sample.

Test failures are relatively infrequent. Staff requested a variety of information about test failures. The Division reports that approximately 5% of samples (about 50 per year) fail the octane test. Of those failures, approximately 80% can be considered borderline failures and 20% are significant failures, for a total of about 10 significant failures per year. Most octane test failures are related to single bad fuel loads, typically due to contamination with water or accidental transfer of fuel into the wrong storage tank. Typically, less than 10 samples per year are found to be related to intentional fraud. The Division takes enforcement action on all octane failures outside of the tolerance limits. The most common action is to stop sales of the product until it has been replaced with product that the Division has confirmed meets specifications.

The requested funding source is adequate. The Division requests funding from the Petroleum Storage Tank Fund (PSTF). For purposes of TABOR, the PSTF is an enterprise. Use of this fund for this purpose is allowed by statute (Section 80-20.5-103, C.R.S.) The PSTF balance at the end of FY 2007-08 is estimated to be $6.1 million, and is forecast to increase to $11.2 million by the end of FY 2008-09.

Not all states operate testing programs. However, given the low incidence of serious problems discovered, and the low incidence of actual fraud, the State may wish to consider at some point the value delivered by this program its citizens. Some states (e.g., Nebraska) do not have fuel quality test programs, hence do not have to operate laboratories with test equipment. The Division cites studies that have shown that states with testing programs tend to have higher rates of product compliance and lower rates of fraud.

RECOMMENDATIONS:

Staff does not have recommendations related to this decision item at this time.

FY 2008-09 Staff Budget Briefing
DEPARTMENT OF LABOR AND EMPLOYMENT
Project *Genesis* Update

ISSUE:

The Department of Labor and Employment's (CDLE's) *Genesis* project is intended to re-engineer the State's unemployment insurance processes and, in support of that, replace the necessary IT systems. The first attempt at IT replacements went badly. Subsequently, the General Assembly provided new funding for a project recovery assessment and for a second telephone system replacement. Because the basic business problems remain, this project is likely to generate additional funding requests in the future. This section provides a review of the *Genesis* history and recent developments.

DISCUSSION:

Background

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

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 (after an $8.2 million refund was made as part of the contract termination).

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

Delivered components. Three of the five SUPER components were delivered. 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. Funding to replace the telephony component was approved during the last session; staff will consider that topic in greater detail below. With respect to the tax and benefits components, the State has a significant amount of functioning computer hardware and a large pile of non-functioning source code.

Project Recovery Assessment

Problems justifying *Genesis* continue to exist. The current tax and benefits systems (CATS for taxes, CUBS for benefits) remain in service because the corresponding SUPER components are not functional. The original problems with the current systems that motivated the *Genesis* undertaking are still there: the systems use two different data bases, are written in different languages, and barely communicate with one another. The Department undertook a project recovery assessment (PRA) in order to determine the best path forward. The PRA activity was funded by an initial appropriation of $500,000 made in an add-on to the 2006 Long Bill and a 1331 supplemental appropriation of $1,779,860 approved on June 20, 2006. The PRA was completed on time and under budget, and considered three alternatives:

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

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

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

Costs for a unified tax and benefit system are currently estimated at about $80 million. The Department's analysis of the Accenture code has led to the conclusion that attempting to use it as a starting point would be significantly more expensive than either reusing other state's working code, or starting from scratch. For the reuse option, the Department evaluated several states' working systems, including those in Utah, New Mexico, and Minnesota, against Colorado's specific needs. Staff believes that these evaluations were done at a more superficial level than the rebuild evaluation of the Accenture code. For the rebid option, the Department obtained estimates for the probable cost of a unified system, largely based on other states' experience. For either the reuse or rebid option, the final cost for a unified tax and benefits system is likely to be on the order of $80 million.

High costs for the tax and benefits systems are driven to some degree by statutory

requirements. The federal government gives the individual states considerable flexibility in specifying the details of their unemployment insurance systems. Different states have mad different choices that can affect the complexity of the system. For example, when a worker is separated from an employer and qualifies for unemployment insurance 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 during the recent past. 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. The Department has informed staff that legislation will be introduced this session that will simplify some, but not all, of the factors that make Colorado's rules complicated.

System specification should be improved. The evaluation of the Accenture source code and supporting documentation has uncovered a number of 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. In order for any of the three options to succeed, staff believes that the Department *must* improve the quality of its system specifications.

The Department's decision on reuse versus rebid are awaiting guidance from the Governor's Office. Recently, the Governor's Office announced an initiative to provide much greater central control over IT architecture and procurement activities. While no projects were named explicitly, the problems experienced during the first SUPER procurement is almost certainly one of the examples of "wasted" money cited in that press release. The Department has informed JBC staff that any decisions between reuse and rebid will be delayed until they have received guidance regarding preferences the Governor's Office of Information Technology may have that would affect the choice.

<u>Telephony System Replacement</u>

Replacement of the faulty telephony system is progressing, but delayed. As mentioned previously the telephony system (unified desktop) provided by Accenture had serious problems. The General Assembly approved a $3.2 million supplemental request for FY 2006-07 for a replacement system. The Department has installed a basic call routing system as a temporary fix that has corrected the serious dropped-call problem in the Accenture system. The Department has also signed a contract for a complete system under the umbrella of the Department of Personnel and Administration's (DPA's) voice-over-IP initiative for upgrading the State's telephone services. The contract signing was delayed compared to the initial plan as a result of DPA delays in reaching agreements with the DPA vendors.

In the initial deployment, CDLE will own the telephony equipment, which will be compatible with DPA's systems. CDLE will provide system support during regular business hours, and pay DPA to provide out-of-hours support. The Department reports that after they have gained experience with DPA support services, they will consider whether to use DPA to provide support at all hours.

RECOMMENDATIONS:

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

1. Please describe the legislative changes that you anticipate will be proposed for simplifying Colorado's UI rules. Please describe additional changes that could be made. Which changes are relatively the most important?

2. When does the Department anticipate that the Governor's Office will be able to provide the necessary guidance on the reuse versus rebid decision?

3. How long were the delays caused by DPA's problems in reaching agreement with vendors? What are the Department's reasons for not using DPA to provide 24-hour support from the beginning?

FY 2008-09 Staff Budget Briefing
DEPARTMENT OF LABOR AND EMPLOYMENT
Unemployment Insurance IT Disaster Recovery Plan

ISSUE:

The Department requests $484,144 cash funds from the Employment Support Fund to bring unemployment insurance IT systems into compliance with the State's disaster recovery model.

DISCUSSION:

The unemployment insurance program provides sizeable benefits to Colorado workers. The UI program processes approximately 330 claims per business day; one day's claims ultimately generate benefit payments of about $1.2 million dollars. For FY 2006-07, the UI program paid a total of $316.6 million in benefits. System failures and loss of data could result in significant delays in the delivery of these benefits to the citizens of Colorado.

The unemployment insurance program is not in compliance with the State's IT disaster recovery model. The State has developed a model for IT disaster recovery. Among other features, this model requires that backup media, documentation, and other IT resources needed to recover or resume IT processing be stored off-site. The Department has identified the UI system as a mission-critical part of its business which does not conform to the State's disaster recovery model. In particular, the UI system requires a backup processing capability and the ability to provide off-site data storage.

The Department proposes three major upgrades. Currently the Department operates two processing units, a larger one in their data center at 633 17th Street and a smaller one at the 251 E. 12th Avenue facility where UI workers are located. Under the proposal, the smaller unit would be replaced with a larger one, and the two processing units would be connected by a dedicated fiber link in order to provide a high-availability environment. The existing smaller unit would be relocated to the State's e-FOR^{3}T facility near the Denver Tech Center and would be used to provide an additional data backup capability. Most of the necessary fiber link is already in place as part of the State's downtown campus; this project would close a gap in the network between 200 E. 14th Avenue and 1525 Sherman Street.

Processing upgrades will offset currently planned IT asset replacement and maintenance. The UI system is distributed over a large number of physically distinct servers. A major feature of the Department's disaster recovery plan is the use of "virtual" servers. Given adequate data backups, a failed virtual server can be recreated in 30 minutes or less; a failed physical server requires much more time and effort to replace. As a result of the virtual server capability, the Department will be able to avoid already scheduled replacement of 18 physical servers. In addition, maintenance costs for the virtual servers will be much lower than for physical servers. A summary of the estimated costs and direct savings are shown in the following table.

Item	Cost / (Savings)
Fiber connectivity	$450,824
Hardware for virtual servers	248,000
Savings for existing asset replacement	(144,000)
Savings for current maintenance	(70,680)
Total	**$484,144**

The Department has considered, and rejected, lower cost alternatives to dedicated fiber. The cost of extending fiber connectivity between the two 17th Street and 12th Avenue locations is the largest portion of the expense. Staff inquired as to the feasibility of using the State's broadband MNT network as a lower-cost alternative to dedicated fiber. The Department indicated that they had considered such an alternative, but the performance characteristics of the MNT would leave larger amounts of data exposed to loss in the event of serious system failures. Recently, the Governor's Office announced an initiative that appears to lead to large-scale consolidation of IT operations. The press release described consolidation of the large number of departmental data centers into two or three locations. Staff believes it is unlikely that those locations would include either the Department's 17th Street or 12th Avenue locations. Staff is concerned that, under such a plan, the dedicated fiber currently proposed would be "wasted" and an MNT-like solution would be required at that future time.

The funding source is adequate for this project. Statute (Section 8-77-109 (2) (a) (I), C.R.S.) states that the Employment Support Fund (ESF) will be "used to offset funding deficits for program administration, including information technology initiatives". The proposed project appears to fall within this provision. The ESF is forecast to have revenues of $23.8 million in FY 2008-09 and contain a balance of $45.3 million at the end of that fiscal year. These are adequate to fund this project. However, there are increasing overall demands being placed on the ESF; staff will discuss this matter in more detail as part of the "Status of Selected Cash Funds" briefing issue.

RECOMMENDATIONS:

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

1. What impact does the Department believe the Governor's IT consolidation plans will have on their IT facilities?

2. Can the Department provide estimates of the costs that would be associated with relocation of existing IT facilities into new facilities shared with other agencies?

FY 2008-09 Staff Budget Briefing
DEPARTMENT OF LABOR AND EMPLOYMENT
Modernization of UI Internet Self-Service Software

ISSUE:

The Department requests $503,720 cash funds for operating expenses in FY 2008-09 associated with a capital decision item to modernize the unemployment insurance program's Internet self-service software.

DISCUSSION:

The Department currently has five Internet self-service applications. The Department has five Internet self-service applications that support both the benefits and tax aspects of the overall UI system, listed below. All five were developed prior to the start of the *Genesis* project, and all have significant limitations. In addition to shortcomings with respect to the UI business process, these applications are implemented using development tools for which the vendor has announced it will soon drop support.

- Initial UI claims (benefits)
- Continued UI claims (benefits)
- Tax registration (tax)
- Tax and wage reporting (tax)\
- Customer maintenance (tax).

The degree to which the current applications are used varies widely. The initial UI claim application handles about 67% of all initial claims filings – a clear indication of the popularity of online application when compared to traditional mail-in paper applications or applications handled by agents at the Department's call center. For continued claims, Internet filing drops off to 37%. While all employers can file tax reports online, only 20% do so. The Department believes this low utilization is due to the fact that employers cannot make online payments – since the payment must still be mailed, employers tend to mail the tax report along with the payment. The Department believes that updated and enhanced versions of these applications will result in broader use.

The Department has identified four additional applications. The Department believes that additional portions of the UI business processes lend themselves to self-service applications, again listed below. Many of these functions are currently provided by phone call. While Department staff is able to answer many of the questions quickly, customers may have to wait in the telephone queue for longer than it takes to get the answer.

- Additional and reopened claims
- Customer feedback
- Claimant and employer information

• Appeals filing.

Both new and modernized applications will include important architectural features. The current applications pass information to the legacy tax and benefits system, and are relatively inflexible with respect their communications capabilities; the new applications (new intended to cover both the new and modernized software) will be more flexible, in anticipation that the legacy systems will eventually be replaced. The new applications will employ improved security arrangements for protecting client data. The new applications will include a comprehensive disaster recovery plan.

The request includes both capital and operating expense components. One of the lessons the Department extracted from the Genesis project recovery assessment is the important of having experienced personnel who understand the business processes involved in the IT projects. As a result, this Department's plan assigns 2.5 FTE in that role. Statute () does not allow the use of capital appropriations to pay for the operating expenses associated with state FTE or backfilling of state FTE positions; therefore, this request includes both capital and operating expense components. The project is expected to take two years to complete. The total budget request is summarized in the following table. IT projects have a way of taking longer than planned; the Department also requests that any operating expense funding for listed fiscal years that is not spent in those years be made available for FY 2010-11.

Fiscal Year	**Capital**	**Operating Expenses**	**FTE**
2008-09	$3,040,018	$503,720	2.5
2009-10	$3,122,312	$181,720	2.5
Total	$6,162,330	$685,440	
Grand Total	**$6,847,770**		

Requested funding sources are adequate for this project. The Department requests that the entire amount be funded from the Employment Support Fund (ESF). Statute (Section 8-77-109 (2) (a) (I), C.R.S.) states that the ESF will be "used to offset funding deficits for program administration, including information technology initiatives". The proposed project appears to fall within this provision. The ESF is forecast to have revenues of $23.8 million in FY 2008-09 and $24.6 million in FY 2009-10, and to contain a balance of $42.8 million at the end of FY 2009-10. These are adequate to fund this project. However, there are increasing overall demands being placed on the ESF; staff will discuss this matter in more detail as part of the "Status of Selected Cash Funds" briefing issue.

RECOMMENDATIONS:

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

1. Does the Department anticipate that improved Internet self-service applications will allow for reductions in future staffing without impacting the quality of service provided? If so, to what degree might the associated funding required be reduced?

2. If staffing and funding reductions are possible, does the Department believe these will be sufficient to offset future federal funding reductions?

FY 2008-09 Staff Budget Briefing
DEPARTMENT OF LABOR AND EMPLOYMENT
Restoring Cuts and Refinancing Workforce Development Programs

ISSUE:

The Department has requested (decision item #1) an additional $4.6 million cash funds from the Employment Support Fund to compensate for decreased federal funding in order to restore workforce development programs.

DISCUSSION:

The Workforce Development programs provide a variety of employment-related services for businesses and job seekers throughout the State. The Workforce Development programs provide a variety of services to both employers and job seekers in Colorado. The programs are administered based on partnerships between county, state and federal governments. The federal government provides funding to the states, but allows the states to implement programs (with certain guidlines) to best meet their individual needs. In Colorado, services are provided through One Stop workforce centers. Some of these centers are operated by individual or small groups of counties; some are operated by the State. There are nine recognized regions, including the large rural consortium region.

Workforce development programs have lost 74.5 FTE over the last two years. Decreases in federal funding have required the regional agencies to make staffing cuts, with a corresponding reduction in the volume of services that can be offered. Specific losses for the regions are shown in the following table. Expressed in percentages, losses range from a high of 21.3 percent in Denver to a low of 5.0 percent for the rural consortium with a loss of 11.8 percent for the state as a whole. Different federal programs have varying rules regarding the allocation of funds to regions within the state, which accounts in part for the different levels of cuts that have been necessary in the regions.

FTE Losses by Region from July 2005 to July 2007			
Region	**FTE 7/1/07**	**FTE Losses**	**Percent Loss**
Denver	101.0	21.5	21.3%
Weld	28.0	5.0	17.9%
Tri-County (Jefferson, Gilpin, Clear Creek)	35.0	6.0	17.1%
Pikes Peak (El Paso, Teller)	63.0	10.0	15.9%
Larimer	39.3	5.0	12.7%
Boulder	40.0	5.0	12.5%

FTE Losses by Region from July 2005 to July 2007			
Adams	53.0	6.0	11.3%
Arapahoe/Douglas	95.0	7.0	7.4%
Rural Consortium	178.5	9.0	5.0%
TOTAL	**632.8**	**74.5**	**11.8%**

Several offices have been closed or reduced in size. In addition to the loss of FTE, some regions have had to close offices, or significantly scale back office size. Closing offices, or reducing the space available, results in a loss of service to the area served by those offices. In addition to funding to restore lost FTE, the Department is requesting additional funds to restore this lost space as part of reestablishing the prior level of service.

Loss of workforce development services impact other state programs. In 2006, the federal government reauthorized the Temporary Assistance for Needy Families (TANF) program. One of the primary policy goals of TANF is to assist families in the transition from welfare to successful participation in the workforce. Congress reauthorized the TANF program in 2006; one part of the reauthorization was an increase in the requirements for states' TANF recipients to be involved in work participation activities. Colorado no longer meets the federal targets for this measurement. The workforce development programs assist a significant number of TANF families. The following table shows the number of TANF participants in various programs during a recent year. The average monthly TANF caseload is approximately 15,000.

Program	TANF Participants
Employment First	2,879
WIA Youth	249
WIA Adult	233
WIA Dislocated Workers	26
All Programs	8,761

The Department proposes to backfill the federal losses with state dollars. The workforce development programs currently receive some state funding from various cash funds. The largest of these funds is the Employment Support Fund (ESF). For FY 2008-09, the Department anticipates a decrease of $520,464 in federal funding compared to the current fiscal year. The Department requests an increase of $2,826,389 from the ESF to offset both the anticipated reduction and reductions that have already occurred. The ESF is forecast to have revenues of $23.8 million in FY 2008-09 and contain a balance of $45.3 million at the end of that fiscal year. These are sufficient to meet the FY 2008-09 request.

Use of the Employment Support Fund at these levels may create long-term difficulties. For FY

2007-08, the Department requested and the General Assembly approved use of $x.x million in ESF funds to cover the cost of state-mandated salary and benefits increases in the unemployment insurance and workforce development programs when federal funding remained essentially flat (the alternative would have been additional staff layoffs). If federal funding continues to be flat or declines, funding these types of requests creates a permanent long-term demand on the ESF revenues. This year's budget request included other requests for expanded ESF expenditures. Staff is concerned that inadequate attention is being paid to long-term management of the ESF. Staff will discuss this in greater detail as part of briefing issue #5.

RECOMMENDATIONS:

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

1. Data provided by the Department, summarized in the "Factors Driving the Budget" section of this packet, show that a declining percentage of applicants to the workforce development programs are entering employment. What relationship, if any, is there between this statistic and the prior year cuts in FTE and offices?

2. Has the Department discussed the impact of TANF reauthorization on the need for changes to workforce development programs? If so, what was the outcome of those discussions?

FY 2008-09 Staff Budget Briefing
DEPARTMENT OF LABOR AND EMPLOYMENT
Status of Selected Cash Funds

ISSUE:

The Department of Labor and Employment manages multiple cash funds with large balances and steady revenue streams. These funds are occasionally considered as temporary sources of funding for other programs. This informational issue reviews the current size of four of these funds, the reasons for their size, the current fee and tax rates for the revenue stream(s) for each of the three, and any probable future changes in those rates.

DISCUSSION:

The Department manages four cash funds with large balances. These funds are, in order of their closing balances for FY 2006-07, the Unemployment Insurance Trust Fund (UITF, a fund held in trust for Colorado by the federal government), the Major Medical Insurance Fund (MMIF), the Subsequent Injury Fund (SIF), and the Employment Support Fund (ESF). The UITF finances Colorado's unemployment insurance program. The MMIF and SIF are part of Colorado's workers' compensation insurance system. The ESF funds a variety of Department activities associated with the unemployment insurance, workforce development, and labor standards programs. None of these four funds are subject to the 16.5 percent reserve limit established in Section 24-75-402, C.R.S. Fund balances at the end of FY 2006-07, and increases over the previous fiscal year's closing balance, are shown in the following table.

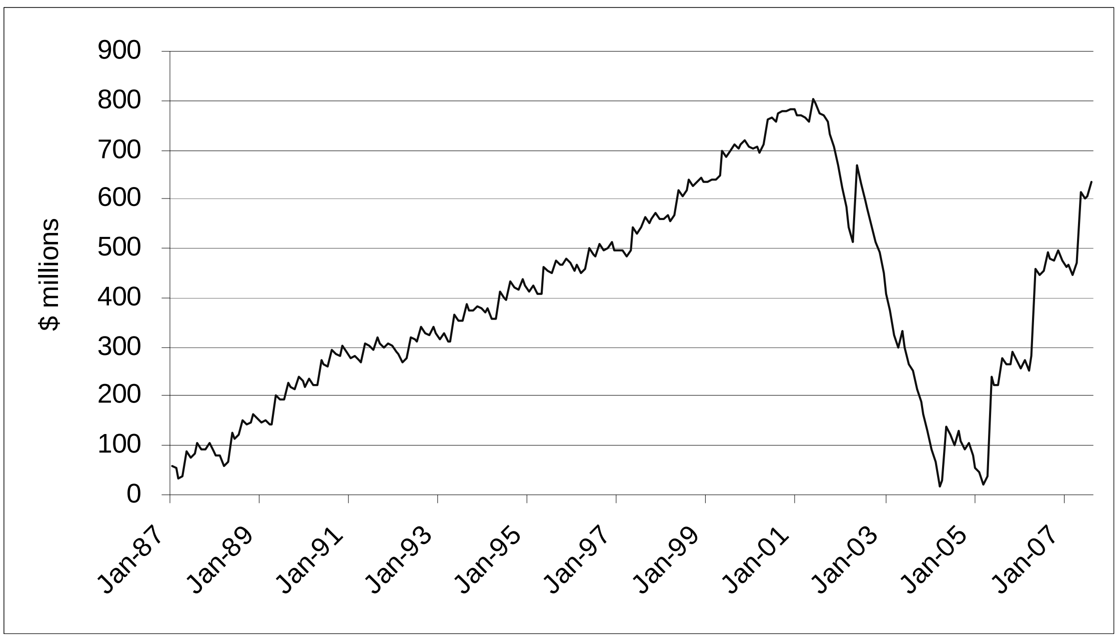
Fund	Closing Balance, FY 2006-07 ($ millions)	Increase from FY 2005-06 ($ millions)
Unemployment Insurance Trust Fund	601.8	156.4
Major Medical Insurance Fund	106.6	41.1
Subsequent Injury Fund	65.9	(7.4)
Employment Support Fund	43.5	6.3
Total	**817.8**	**196.4**

The funds' revenue is from specific, dedicated sources. Revenue for the UITF is from two unemployment insurance taxes whose rates vary over time. Revenue for the SIF is from a charge levied on workers' compensation insurance premiums. Workers' compensation insurance is mandatory for Colorado employers. The MMIF is funded by transfers from the SIF. The ESF is funded by a surcharge tax applied to the same wage base used for unemployment insurance taxes.

The Legislature has sometimes used moneys from these funds or revenue streams for other purposes. During the budget crisis following the last recession, the Legislature transferred moneys from fund reserves, or partially diverted revenue streams, to the General Fund. Several specific instances are identified in the "Major Legislation" section of this briefing packet. In at least one case, but not all cases, the transfer or diversion was repaid at a later time. Staff is aware of speculative discussions during the most recent interim regarding the feasibility of using such transfers and/or diversions to temporarily fund other programs. This informational briefing issue will review the reasons these funds are currently accumulating sizeable reserves, as well as any probable changes in their revenue streams.

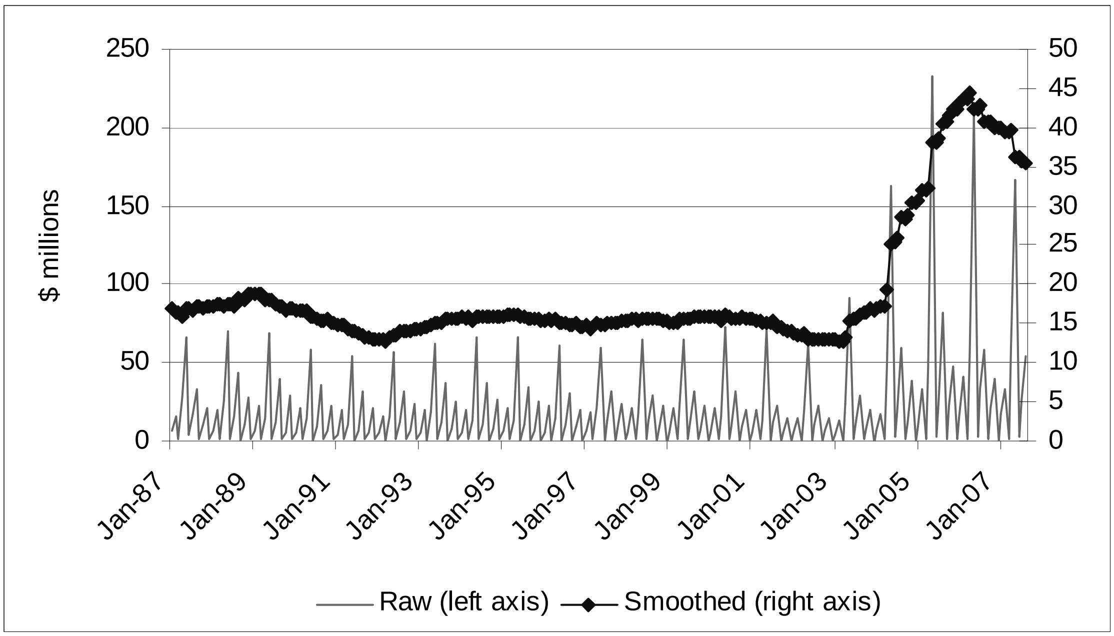
Unemployment Insurance Trust Fund

The Unemployment Insurance Trust Fund is used to pay unemployment insurance benefits. These benefit payments are "countercyclical"; that is, payments decrease when the economy is doing well, and increase when the economy is doing badly. In order to meet this need, the fund accumulates substantial reserves when the economy is doing well. The history of the fund balance over the last 20 years is shown in the figure below. During the 2001 recession and its aftermath, the fund balance was drawn down from $800 million to $8 million. The total draw down was actually larger than that, as a one-time addition of federal Reed Act funds added $125 million in 2002. Under federal law, the fund balance never "goes negative". States must either add funds from other sources, or accept loans from the federal government, to cover any shortfalls.



Revenues for the UITF are based on two unemployment insurance taxes paid by employers. The base tax rate is applied to the first $10,000 per year of each employee's earnings. The base tax rate is determined by a variable schedule determined by the UITF balance and by an employer's claims experience. Because the fund balance now exceeds $450 million, the lowest base tax rate schedule is in use, and will continue to be used until the fund balance falls below that triggering value. A solvency surcharge is applied to taxable wages if the fund balance is below 0.9% of the taxable wage base (currently that would be about $700 million). Determination of whether the surcharge is to be applied is made at the end of June each year, with any change becoming effective the following January. The surcharge will be collected in 2008; the Department's current forecast indicates the surcharge will be collected in 2009 but not in 2010.

The monthly revenue history corresponding to the previously shown UITF balance is shown in the following graph. The erratic line is the raw monthly revenue data; payments vary significantly by month and quarter. The smoother line marked with diamonds is a 12-month trailing moving average of the raw data. The counter-cyclical behavior is clear: starting in 2001 revenues began to decline as unemployment increased; as the fund balance declined following the recession, tax rates were automatically increased and revenues increased sharply. As the fund balance has recovered, the tax rates and revenues have decreased. Barring another recession, revenues will eventually return to something near the levels experienced during the 1990s.



Major Medical Insurance and Subsequent Injury Funds

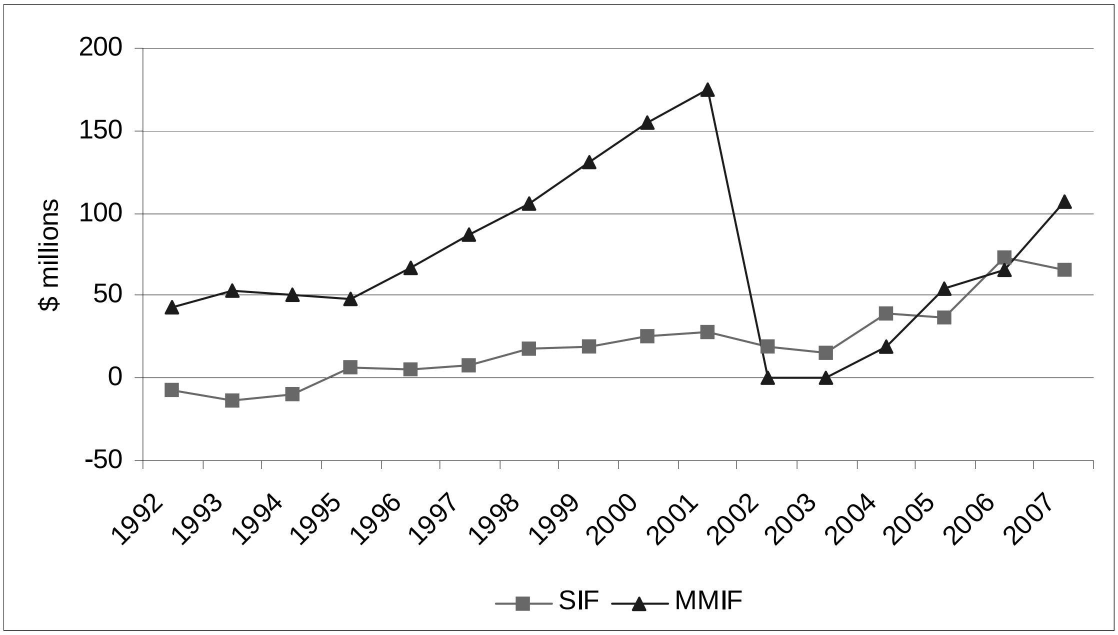
Colorado requires that employers in the state purchase workers' compensation insurance to cover their employees [Section 8-44-101, C.R.S.], or optionally to self-insure if they meet the state requirements for doing so. The Subsequent Injury and Major Medical Insurance Funds were created to limit the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

Subsequently, access to the funds was largely closed. No new cases were to be accepted for the MMIF after July 1, 1981. No new cases were to be accepted for the SIF for injuries after July 1, 1993, or for occupational diseases after April 1, 1994. Small numbers of new cases may still be added, in cases where disability occurs now as a result of injuries or exposure suffered prior to the cut-off dates. In practice, the caseloads are shrinking as clients die or reach lump-sum settlement agreements with the State.

Statute calls for the fund balances to increase until they reach actuarial balance, where the reserves are deemed sufficient to meet all future obligations. The following table reflects recent information regarding the size of the SIF and MMIF, and estimates made by a private firm of the amount needed for each to achieve actuarial balance. The estimate shown for the amounts needed for actuarial balance are middle values in a range. Factors which would affect the values include the addition of new cases in the future, the returns which can be earned on the invested funds, and the inflation rate for medical services. The SIF would appear to greatly exceed the amount needed for actuarial balance. However, a portion of both funds (a total of $80 million) are specified as part of the TABOR reserve, and the Department does not count those reserve amounts towards actuarial balance.

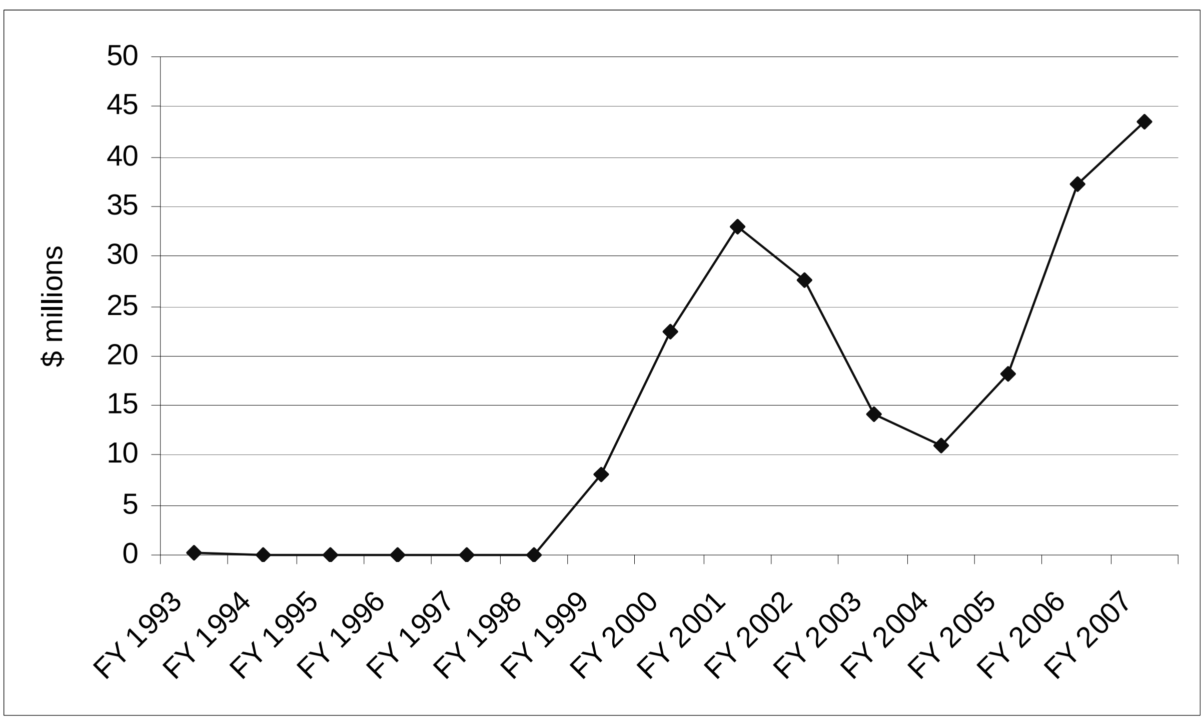
Fund	**Balance as of June 30, 2007 ($ million)**	**Estimate of Actuarial Balance ($ million)**
Subsequent Injury Fund	65.9	25.6
Major Medical Insurance Fund	106.6	207.1
Total	**172.5**	**232.7**

Historical fund balances at the end of each of the last several fiscal years are shown in the following graph. The large drop in the MMIF balance from 2001 to 2002 is due to a transfer to the General Fund. Barring any changes, the funds are anticipated to reach actuarial balance in 2012 or 2013, at which time the tax rate will presumably be reduced and additional accumulations will slow or stop.



Employment Support Fund

The Employment Support Fund provides state funding for unemployment insurance, workforce development, and labor standards programs. The fund's revenue stream is from a surcharge tax applied to the same wage base as other unemployment insurance taxes. The history of the fund's closing balance since FY 1992-93 is shown in the following table.



Prior to FY 1997-98, any ESF balance at the end of the year was transferred to the UITF. At that time, statute was changed in order to allow the fund to begin accumulating a reserve in anticipation of the expenses of the *Genesis* project. In FY 2002-03, in addition to *Genesis* expenses, significant reserves were transferred to the General Fund (see the "Major Legislation" section of this briefing packet for a more complete list of such transfers). The larger jump in FY 2005-06 corresponds to the return of several million dollars by the *Genesis* contractor.

The Department has begun to draw more heavily on ESF revenues and reserves. For FY 2007-08, the ESF was used to fund salary and benefits increases for the unemployment insurance and workforce development programs. For FY 2008-09, the Department has requested funding from the ESF for the following items:

- Restore lost federal funding in the workforce development programs;
- IT disaster recovery plan for UI systems; and
- Modernization of UI Internet self-service systems.

While the IT and self-service expenditures are one-time in nature, using the fund to replace lost federal funding creates an ongoing expense. The Department has informed staff that they anticipate federal funding cuts will continue in the future, creating additional demand to use the ESF to maintain staffing and service levels. Increased use of the ESF for these ongoing expenses is likely to slow the growth of the fund's reserves. As discussed in the *Genesis* briefing issue, the cost to replace the current tax and benefits systems is likely to be around $80 million. Slower reserve growth may make it difficult to accumulate the funds necessary for such modernization.

Staff is concerned that the Department does not have a long-term plan for managing ESF revenues and reserves. The reserves have been accumulating for the purpose of funding *Genesis*; the purpose appears to be threatened by the growing use of the funds to meet the Department's operating expenses.

RECOMMENDATIONS:

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

1. If the UITF balance "goes negative", the State will have to choose between a variety of unpalatable options. What UITF balance does the Department consider to be adequate to carry the UI program through another economic downturn? When does the Department anticipate that the UITF will reach that level?

2. Does the Department have a long-term plan for managing the revenue and reserves of the ESF? If not, does the Department anticipate creating such a plan?