

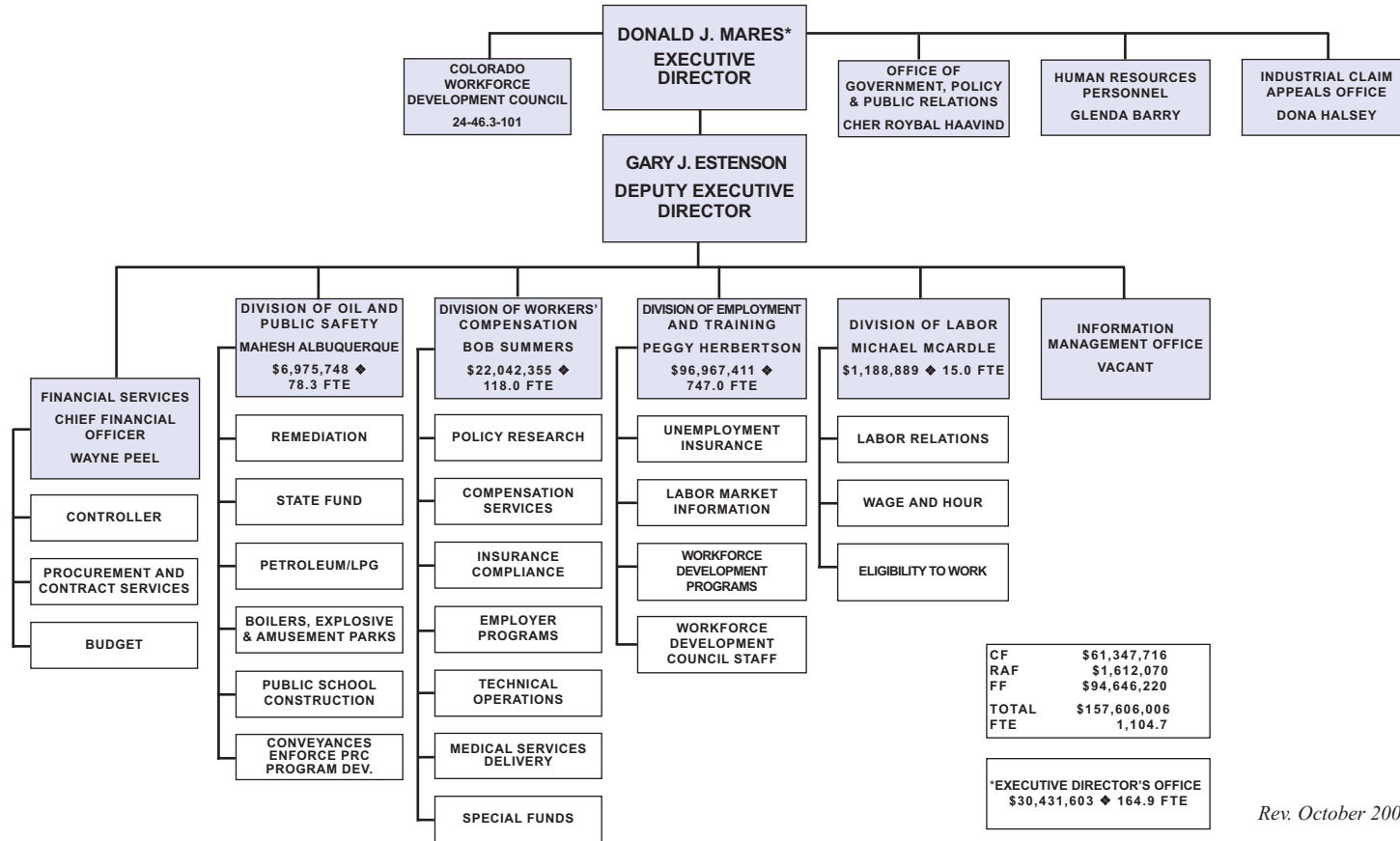


Department of Labor and Employment
Department Description

FY 10-11 Budget Request

NOVEMBER 6, 2009

Colorado Department of Labor and Employment



Rev. October 2009

BACKGROUND INFORMATION

The Executive Office provides support services to the Department's four divisions. Support services included the following:

- ♦ *The Office of Government, Policy and Public Relations* promotes the establishment and maintains lines of communication, understanding, acceptance and cooperation between the department and the public. This office keeps management informed and responsive to problems or issues related to public opinion and serves as an early warning system to anticipate trends.
- ♦ *The Office of Human Resources-Personnel* provides classification recruitment, exams, and referrals and ensures correct hiring procedures in accordance with state and department rules and procedures. Its staff manages and provides technical assistance in staffing and human resource management issues, as well as other personnel administrative services, e.g., performance issues, grievances and dispute resolution, corrective and disciplinary actions, review and approval of contracts and purchase orders pertaining to personal services, career counseling, employee relations projects, legal interpretation of personnel rules and statutes and processing of layoffs as well as organizational changes. The Office of Human Resources is responsible for risk management and workplace safety programs and its staff development team oversees the department's training initiatives while the Office of the Inspector General investigates complaints of alleged employee wrong-doing and recommends administrative action or criminal prosecution where warranted.
- ♦ *Financial Services* includes the Budget Office, Controller's Office and Procurement and Contract Services. These units manage the necessary financial resources to enable the Department to efficiently and effectively operate the programs designated by state, federal, and other applicable laws and rules.
- ♦ *Information Management Office (IMO)* is responsible for maintaining and supporting the department's hardware and software needs.
- ♦ *The Industrial Claim Appeals Panel (ICAP)* issues the final agency decision in workers' compensation and unemployment compensation cases. In addition to issuing decisions on appealed cases, the Panel advises the Executive Director of the Department of Labor and Employment on unemployment compensation and workers' compensation law and procedure.

The Division of Employment and Training consists of four distinct program areas: the Unemployment Insurance (UI) Program; Workforce Development Programs (WDP); Colorado Workforce Development Council (CWDC); and Labor Market Information (LMI).

Department Description: FY10-11 Budget Request

- ♦ *The Unemployment Insurance (UI) Program* is an integral part of Colorado's Employment Security Program. The UI Program's value cannot be overstated. It acts as an income stabilizer for both the worker and the economy. UI helps maintain purchasing power in a community where workers have been laid off and helps maintain skill levels of the labor force by providing a safety net to allow workers time to obtain employment. It helps prevent the secondary unemployment of people who provide goods and services that workers purchase. No other insurance program, public or private, so effectively safeguards the income of the worker and the economic stability of the community.

The UI Program consists of four operating branches and a facilities branch located at 251 E. 12th Avenue in Denver, Colorado. The four operating branches—UI Operations, UI Integrity, UI Appeals, and UI Staff Services—provide the UI Program's key services to the citizens and employers of Colorado.

- UI Operations is the UI Program's largest operating branch providing benefits- and tax-related services, including establishing claims and collecting taxes. The Training Team provides staff with a formal training program and training manuals. A team of business analysts facilitates modifications to automated systems by IMO or vendors. Four records-retention units support the entire UI Program by maintaining wage, billing, employer, and claimant files and records.
- UI Integrity consists of Benefits Accuracy Measurement, which reviews and evaluates the accuracy of the UI benefit payment and denial; Benefits Payment Control, which collects payment from improperly paid UI claimants and conducts multiple programs to detect UI fraud; Investigations and Criminal Enforcement, which investigates and prosecutes criminal UI fraud cases; and Tax Audits, which has staff located throughout the state who routinely examine and audit employers' UI tax records.
- UI Appeals has staff located throughout the state and provides a hearing venue for UI Operations and UI Integrity decisions that are appealed by a claimant or employer. Interested parties may attend the hearing either in person or by telephone.
- UI Staff Services manages projects; develops internal and external communications, manuals, publications, grant and supplemental budget requests, and federal and state strategic plans; drafts UI legislation and regulations; acts as the custodian of UI records and ensures the confidentiality of UI records and data is maintained; develops claimant and employer correspondence; purchases and maintains an adequate inventory of publications, forms, warrants, and envelopes; and conducts Benefits Timeliness and (BTQ) and Tax Performance System (TPS) reviews.
- UI Facilities is primarily responsible for addressing building infrastructure needs at 251 East 12th Avenue, including all interior and exterior maintenance. This team also supports program needs such as staff relocations, equipment and

Department Description: FY10-11 Budget Request

fixture installations, ergonomic furniture adjustments, physical construction projects, and the moving of heavy files and materials for 251 East 12th Avenue and 633 17th Street. The Facilities' staff includes a licensed master electrician; a licensed heating, ventilating, and air-conditioning specialist; a certified locksmith; a recycling coordinator; plumbers; carpenters; laborers; a security officer; a work request/trouble report management and card-access system administrator; and custodial staff.

- ♦ *Workforce Development Programs (WDP)* provides a wide range of employment services for businesses and job seekers, delivered through a network of workforce centers located throughout the State. Programs administered by WDP are federal and cash funded. State cash sources include the Employment Support Fund and Displaced Homemaker. The State is responsible for policy guidance, program oversight and administration, and overall programmatic and fiscal integrity in accordance with federal guidelines for each program. For all Federal funded programs, priority of services must be provided to veterans according to the law. WDP administers several programs, including the following:
 - Wagner Peyser (WP) Act - Employment Services program provides non-fee labor exchange services to businesses and job applicants, matching job applicants with appropriate job openings.
 - Workforce Investment Act (WIA) - Serves eligible adults and youth who need additional employment services, education, and/or training to prepare them to enter the workforce or to reenter the workforce after a job loss.
 - Veterans Employment and Training Program - Established under Title 38, U.S.C., Chapters 41 and 42, and amended by P.L. 107-288 Jobs for Veterans Act, provides services to veterans ensuring that public labor exchange standards and priorities of services are being met and that businesses/employers are aware of veteran program requirements and are encouraged to hire veterans.
 - Migrant Seasonal Farm Workers (MSFWs) Program - Ensures that migrant and seasonal farm workers have access to the State's workforce development system and receive the same employment services as non-MSFW customers.
 - Work Opportunity Tax Credit (WOTC) Program - Under the Tax Relief and Health Care Act of 2006 and the Small Business and Work Opportunity Tax Act of 2007, this program processes requests from businesses/employers for tax credit certifications for hiring workers from certain classifications of disadvantaged workers. The American Recovery and Reinvestment Act of 2009 (ARRA) modified the program adding two new eligible groups, Disconnected Youth and Unemployed Veterans, qualifying for the tax credit.

Department Description: FY10-11 Budget Request

- Governor's Summer Job Hunt (GSJH) - Each year this program provides youth ages sixteen through twenty-one with job placement services and employment opportunities. Services are provided to youth regardless of geographic boundaries, income, ethnicity, or special needs. Each year the program starts with a series of youth job fairs throughout the state, and is supplemented with a wide range of services for youth including resume assistance, interviewing skills, career counseling and referrals to summer jobs.
- Layoff Transition Services - The Rapid Response Team serves companies facing corporate restructuring and downsizing. The Rapid Response Team is a cooperative effort between the local workforce centers, the Department of Labor and Employment and the Unemployment Insurance Program. The services are designed to benefit employers and employees through the provision of information about the Dislocated Worker Program and assistance with employment-related needs.
- Trade and Globalization Adjustment Assistance Act of 2009 reauthorized the Trade Adjustment Assistance (TAA) Program. This program is a collaborative effort of the Department, the local workforce regions, and the US Department of Labor to provide services to workers whose loss of employment is determined to be the adverse result of foreign trade. The Trade Readjustment Allowance Program provides an extension of Unemployment Insurance (UI) payments to qualified trade-affected workers. The Reemployment Trade Adjustment Assistance Program ("wage replacement") increased the benefits previously provided under the Alternative Trade Adjustment Assistance (RTAA) providing supplemental salary payments to a worker for two years or until the worker has received \$10,000 or until the worker is estimated to earn \$50,000 in a year. The Health Coverage Tax Credit (HCTC) Program assists individuals in receiving a tax credit from the Internal Revenue Service (IRS) for Health Insurance premiums and provides relief from the increased cost to continue health insurance.
- Foreign Labor Certification - Employers who request temporary labor certification for foreign workers must demonstrate that they have attempted to recruit US workers through advertising with the State's workforce development system, and by other specified means. This program performs initial processing of applications for the Federal H-2A (agriculture), H-2B (non-agricultural), and Foreign Labor Certification programs; determines prevailing wages for these programs and the Federal H1B (specialty occupations) program, assists employers in recruiting U.S. workers, and gathers information to determine whether to grant or deny temporary labor certifications.
- Displaced Homemaker Act - Provides employment and training services to eligible displaced homemakers who, through divorce, separation, widowhood, or ineligibility for other public assistance, have lost their source of economic support. Services provided include tuition scholarships, job training, career assessment, supportive services, personal and

Department Description: FY10-11 Budget Request

vocational counseling, and job development and placement. Funding for this program is primarily from divorce filing fees, appropriated by the legislature, and supplemented with Employment Support Funds (ESF) to help offset the gap created by stable funding and increasing educational costs and increasing number of eligible applicants. Due to funding and administrative limitations, scholarships are provided only to the Community College of Denver. Recipients must meet academic progress standards each semester in order to continue receiving scholarship funds. Most recipients' fields of study have immediate employment opportunities following graduation. In FY 08-09, 41% of recipients were enrolled in allied health fields (primarily nursing) and 24% were enrolled in business services.

- Colorado Business and Education Talent Readiness (BETR) Project – Originally implemented in the Pikes Peak Workforce region, the BETR Project was transferred to the department in FY2008-09 and will be implemented statewide in FY2009-10. BETR was established to address the discrepancies between the supply and demand of employable talent leaving the K-16 educational system, particularly in the areas of science, technology, engineering and math (STEM). The BETR Project assists students, parents and teachers in gaining a deeper understanding of the world of work, emphasizes the need for the K-16 educational system to produce highly qualified, work ready students, and provides role modeling to youth for the development of positive work ethics and social skills needed in the business world.
- Strategies to Enhance Colorado's Talent through Regional Solutions (SECTRS) Initiative – Implemented in FY2008-09 for regional sector initiatives to build broad partnerships among the workforce system, industry, education, and other stakeholders to help address the needs of high growth/high demand sectors in local communities. During FY2008-09 (and continuing in FY2009-10), local workforce regions conducted research and analysis to identify their targeted industry and region, coordinated community resources to address industry staffing and competitiveness needs, and developed implementation plans to invest in the training and development of potential and current workers in each sector and to create opportunities for advancement. Throughout FY2009-10 and continuing through FY2010-11, the department anticipates adding additional WIA Discretionary funds to support the ongoing efforts of these strategies. The outcome shall be an improved, streamlined workforce development system addressing high growth industry needs.
- ♦ *Colorado Workforce Development Council (CWDC or Council)* advises the Governor and Legislature on workforce policy and oversee the expenditures of federal employment and training funds. The State Council designates Federal Workforce Investment Areas, certifies local Workforce Investment Boards, and makes recommendations to the Governor as appropriate. The CWDC is also required to review local plans and plans for system partners and recommend approval or disapproval to the Governor. In addition, the Council solicits grants and funds to support the development of a business-led workforce system. A central function of the CWDC is to provide a vehicle for the business community to provide input and give direction/guidance to the workforce system's development. Activities the Council engages in include:

Department Description: FY10-11 Budget Request

- Training and technical assistance to local Workforce Investment Boards.
 - Promoting the workforce system to businesses and the community and convene partners and stakeholders to address workforce issues through studies/projects.
 - Monitoring and directing the continuous improvement of the workforce system.
 - Preparing the Annual WIA Report, with the CDLE, on the workforce system performance.
 - Issuing grants to the local workforce regions that support Local Workforce Investment Boards in sector-based activities that produce workers for high-skilled jobs, and increase the supply of Colorado trained and educated workers.
 - Operation of the Disability Program Navigator system throughout the state.
- ♦ *Labor Market Information* (LMI) serves policy makers, the workforce development system, educators, employers, jobseekers and the general public by gathering, producing, analyzing and disseminating comprehensive information on employment conditions in Colorado. All programs are federally funded and include:
- Quarterly Census of Employment and Wages (QCEW) builds on administrative records submitted by employers in compliance with the Colorado Employment Security Act. Employment level of and wages paid to covered workers are edited for accuracy, new establishments are provided a code under the North American Industry Classification System according to type of work and existing establishments are routinely surveyed to ensure industry codes are accurate. QCEW data are the foundation for all other programs and activities within LMI.
 - Local Area Unemployment Statistics (LAUS) provides monthly estimates of labor force, total employment, unemployed persons and rate of unemployment at the county level and statewide. Statistics from this program are used in many federal programs' funding formulas to determine Colorado's share of federal dollars.
 - Current Employment Statistics (CES) are the most current, reliable estimates of wage and salary jobs by industry available and are produced monthly for the state and all seven Metropolitan Statistical Areas. CES estimates are considered to be the foremost indicator of the state's economic condition and those produced at the national level move the financial markets.
 - Occupational Employment Statistics (OES) covers the same geographic areas as the CES program plus four balance-of-state areas. Employment level and hourly and annual wage estimates by occupation and industry are produced annually. Estimates from this program are merged with industry projections to predict demand occupations into the future.

Department Description: FY10-11 Budget Request

- Mass Layoff Statistics (MLS) program records and tracks layoff events occurring in Colorado through the use of unemployment claims data. A mass layoff event occurs when at least 50 people from a firm file a first-time or initial claim for unemployment insurance during any consecutive five-week period with the workers being separated for more than 30 days. State level data are published quarterly.
- Short and long-term industry and occupation projections, published annually, form the basis of LMI's most popular products and services. These estimates, available for the state and all seven MSAs, are used to guide training investment, economic development, strategic planning and policy decisions for programs of all types.
- Local Employment Dynamics estimates are produced quarterly in cooperation with the Census Bureau. Data elements include job creation, new hires, separations, turnover and average new hire earnings by age group, gender, detailed industry and down to the county level of geography.
- Training and outreach increases the awareness, access, understanding and use of LMI products and services. The education of a wide spectrum of LMI users including workforce system staff, state and local government, economic development, educators and business organizations expands the audience and application of LMI beyond the needs of the federal government.
- Customized data requests, analysis, products and presentations enable LMI to focus on specific data sets of interest to various groups. The expertise and knowledge of LMI staff responsible for gathering and analyzing data is utilized. This unique perspective is of particular value to end users.
- Database maintenance and web presence insures the availability of LMI at a level appropriate for public consumption. This enables all programs to meet federal reporting requirements while providing local end users readily available data.
- The Unemployment Insurance Program funds positions in LMI for industry coding activities to determine establishment tax rates, actuarial and financial monitoring and analysis of the State's UI Trust Fund, and fiscal analysis of proposed legislation impacting the UI system. Additionally, LMI is responsible for preparing weekly, monthly, quarterly, and annual federally mandated reports related to Colorado's UI program.

Department Description: FY10-11 Budget Request

The Division of Labor administers Colorado employment and labor laws pertaining to wages paid, hours worked, minimum wage, labor standards, child labor, employment-related immigration laws, and working conditions. The Division of Labor also conducts all-union agreement elections, certifications of all-union provisions, and investigates and mediates allegations of unfair labor practices.

The statutory authority and work of the Division is generally categorized into four main areas:

- ♦ *The Wage and Hour Section* assists Colorado employees and employers with a variety of workplace laws, including minimum wage, overtime, unpaid wages, rest and meal period regulations, and other workplace requirements. In accordance with a 2006 constitutional amendment, the Division now adjusts the state minimum wage annually per inflation. The wage and hour laws administered by the Division apply, to a varying degree, to every public and private sector employer in the state.
- ♦ *The Labor/Union Section* conducts certain union elections, assists with unfair labor practice charges, and oversees Colorado labor laws including the Colorado Labor Peace Act and the Industrial Relations Act. This Section is actively involved with the implementation of Governor Ritter's Executive Order on employee partnerships.
- ♦ *The Immigration Section* oversees the administration of the employment verification law and the public contracts for services and illegal aliens law. The verification law applies to all private and public sector employers in the state, and the contracts law applies to all contractors with contracts for public services. The Division conducts random audits and accepts complaints related to both laws.
- ♦ *The Youth Employment Section* directs the administration of the Colorado Youth Employment Opportunity Act, and provides guidance on terms and conditions of employment for minors, including hazardous occupations, age, and work hour restrictions.

The Division of Oil and Public Safety is responsible for a variety of regulatory functions related to public health and safety, including establishing and enforcing rules, regulations, and statutes, which govern public school construction, carnival and amusement park rides, explosives, boilers, underground and aboveground petroleum storage tanks, cleanup of oil spills, and reimbursement of cleanup costs to qualifying storage tank owners/operators. The Division of Oil and Public Safety is comprised of the following sections:

- ♦ *The Boiler Inspection Section* includes boilers and pressure vessels. A boiler is generally defined as a closed pressure vessel in which water is heated and circulated for heating or power. Boilers and pressure vessels are located in most public buildings such as schools, churches, hotels, restaurants, health clubs, nursing homes, and office buildings. Boiler inspections are

Department Description: FY10-11 Budget Request

performed by nine state inspectors and by special (insurance company) inspectors commissioned by the state program. This program coordinates the efforts of state and insurance company special inspectors, verifying compliance with the established safety requirements with regard to the installation, operation and closure of boilers and some pressure vessels.

- ♦ *The Explosives Section* regulates individuals or businesses that use, manufacture, possess, sell, store, transport, or dispose of explosives or blasting agents. This section is responsible for conducting testing of potential explosive permittees performing inspections and reviews, and processing all explosive applications. The program ensures that explosives used for road construction, avalanche control, oil exploration and other demolition purposes are stored safely away from populated areas and secured in locked storage facilities where inventory controls are in place to guard against theft. The explosives section does not regulate military explosives, law enforcement agencies mining, agricultural, or fireworks.
- ♦ *The Amusement Rides and Devices Section* protects the public through a registration process and enforcement of regulations related to carnivals, amusement parks, and other amusement rides. The section ensures that the amusement devices that operate in the state have annual safety inspections and that visual maintenance inspections are performed daily. Operators of carnivals, amusement parks, and devices also must maintain insurance coverage appropriate to the type of ride and provide proof of a current insurance policy. The operators must also submit a record from the previous year of any accidents caused by mechanical failure.
- ♦ *The Conveyance Section* regulates the installation, alternation, and periodic inspection and testing of conveyances as defined in the Elevator and Escalator Certification Act which became effective on January 1, 2008. These conveyances consist of elevators, platform lifts, personnel hoists, stairway char lifts, dumbwaiters, escalators, moving walks, and automated people movers. The Division is responsible for ensuring that minimum safety standards are adhered to in the performance of the above activities within the conveyance industry. This is accomplished through registration and tracking of all conveyances in Colorado, licensing of all mechanics, contractors, and inspectors performing work in Colorado, and through cooperation and execution of agreements with local jurisdictions that desire to regulate conveyances within their own territory.
- ♦ *The Petroleum Inspection Section* enforces standards governing the registration, installation, operations and closure of underground and aboveground storage tanks containing petroleum and other regulated materials; enforces weights and measures regulations pertaining to petroleum products, including the calibration of fuel pumps, and testing petroleum products to verify compliance with state quality standards; and responds to emergency situations involving petroleum releases.
- ♦ *The Remediation Section* enforces cleanup standards governing the remediation of petroleum contamination and petroleum releases. The Remediation Section ensures petroleum impacted sites progress from release discovery through closure; meets all review turn around times (TAT) and enforcement deadlines; protects funding sources necessary to ensure the continuation

Department Description: FY10-11 Budget Request

of remediation at petroleum storage tank sites; provide accurate and timely guidance and technical assistance to our internal and external customers; and evaluate section processes and modify as necessary to enhance the program.

In addition, the Remediation Section manages the State Lead & LUST Trust programs. Leaking Underground Storage Tank (LUST) Trust Funds are federal grants used to cover remediation costs at sites where the owner/operator responsible for the contamination cannot be identified or located; is unwilling to clean up the contamination; or is financially unable to cover the cost. The State Fund monies can also be utilized by the above situations as well.

- ♦ *The Petroleum Storage Tank (State) Fund Section* receives and processes applications to the Petroleum Storage Tank Fund for reimbursement of costs related to assessment and cleanup of petroleum contaminated sites. Initially, sites are evaluated for eligibility to the Fund based on their compliance history. Any station operated in "substantial non-compliance" with OPS tank operating regulations may not be eligible. The results of these evaluations are presented monthly to the Petroleum Storage Tank Committee where eligibility decisions are made. Following the committee decision, supplemental applications are processed as they are received by the Fund Section staff.
- ♦ *The Public Schools section* oversees the construction of public school projects for all K-12 and junior (community) colleges statewide. The Division is responsible for adopting building code standards, reviewing and approving building construction plans, issuing building permits, inspecting the schools throughout the construction phase to ensure the schools have been designed and built in compliance and issues certificates of occupancy. Public school construction projects include new schools, additions, remodels, and freestanding structures. This program will transfer to the Department of Public Safety on January 1, 2010.

The Division of Workers' Compensation (DoWC) administers and enforces the provisions of the Workers' Compensation Act. The objective of the Workers' Compensation Act, and thus the Division, is to assure the quick and efficient delivery of disability and medical benefits to injured workers at a reasonable cost to employers, with a minimum of litigation.

The DoWC is made up of a number of diverse programs. The operations of the DoWC generally fall into the categories of dealing with claims, insurance, or medical issues. The Special Funds Unit, consisting of the Major Medical Fund, the Subsequent Injury Fund, and the Medical Disaster Fund, operates like an insurance company and actually pays out benefits. These Funds are closed to new injuries and pay out to certain individuals who met the statutory criteria when the Funds were open. Otherwise, the DoWC's role is one of oversight and it does not pay benefits.

Department Description: FY10-11 Budget Request

Certain workplace injuries must be reported to the DoWC and are established as claims. The DoWC strives to ensure these claims are properly filed, and then works with insurers on an ongoing basis to make sure that injured workers receive the benefits they are entitled to receive. In addition, insurers are also audited and graded on how well they follow requirements regarding the handling of claims. The Division mediates disputes and assists parties with settling their claims. The DoWC has a voluntary safety program for employers to reduce the number of accidents for those employers participating in the program. While reducing the number of workplace accidents is a goal of the DoWC, it has a limited ability to directly affect this measure.

The DoWC also administers the self-insurance program whereby qualified employers may self-insure their workers' compensation liability. If not self-insured an employer with employees is required to carry private workers' compensation insurance. The Division strives to enforce this requirement and is constantly investigating employers and fining, or even closing down, those who are violating the law. The DoWC's goal is to have 100% of employers in compliance. However, as employers constantly go into and out of business, change their name and change whether they have employees, it would take an enormous amount of resources to approach that goal, or even to confidently measure the number of uninsured employers.

The DoWC provides a number of services, many required by statute, relating to medical care for injured workers. The DoWC trains and accredits physician to perform certain functions in the workers' compensation system. It also operates the Division Independent Medical Examination process, which in many instances must be completed before parties can go to a hearing. In addition, the DoWC adopts a medical fee schedule each year that establishes payment levels for all medical services provided to injured workers. The DoWC also promulgates and updates Medical Treatment Guidelines to set out optimum medical treatment for injured workers and reduce disputes over medical treatment.

PRIOR YEAR LEGISLATION

HB09-1054 Unemployment Benefits after Relocation due to Active Military is Killed in Combat (Rep. Looper and Sen. Morse) During the 2008 session, HB 08-1180 was signed into law to extend unemployment insurance (UI) benefits to spouses of military personnel who are transferred as part of their military responsibilities. This bill further extends UI benefits to the surviving working spouses of military personnel who live in Colorado, have a spouse who is stationed in Colorado and is killed in combat operations, and who relocates to a new place of residence from which it is impractical to commute to the same job.

HB09-1076 Concerning remuneration for the Purpose of Calculating the Postponement of Unemployment Insurance Benefits (Rep. Pace) This bill requires that all types of payments a claimant receives when leaving employment be treated the same in calculating when the claimant can begin receiving unemployment insurance (UI) benefits and the maximum allowable benefit. Under

Department Description: FY10-11 Budget Request

HB09-1076, any payments received are divided by the claimant's average weekly wage to calculate postponement of claim payments on a week for week basis. After the postponement, the claimant receives full benefits. Another provision of the bill is that benefits will not be reduced for claimants who also receive social security payments.

HB09-1108 Failure of an Employer's Bank to Honor Employee's Paycheck upon Presentment (Rep.A.Kerr and Sen.Boyd) The bill adds employee protections and employer penalties to the Colorado Wage Act. It addresses situations when an employee's paycheck is not honored by the employer's bank causing the employee's account to have insufficient funds to pay bills. Employers are responsible for actual damages caused by the nonpayment, including associated late fees.

HB09-1151 Designating the Department of Public Safety as the Agency Responsible for Oversight of School Building Inspections (Rep. Todd and Sen. Heath) Currently, school districts and junior colleges submit construction projects to the Division of Oil and Public Safety in the Department of Labor and Employment (DOLE) for review and approval. This bill places the review and approval activities within the Department of Public Safety (DPS) effective January 1, 2010. The bill's duties are carried out by the newly created Public School Construction and Inspection Section within the Division of Fire Safety. The bill also creates the Public School Construction and Inspection Cash Fund for the Department of Public Safety.

HB09-1309 Inspection of Boilers (Rep. Pace and Sen Tochtrop) This bill authorizes a boiler inspector to require a boiler or pressure vessel to undergo a pressure test to assess its leak tightness capability. The owner of the boiler or pressure vessel is responsible for the labor and costs required for conducting the pressure test. In addition, the allowable fluid temperature for a domestic water heater is increased from 200 to 210 degrees Fahrenheit.

HB09-1310 Misclassification of Employees as Independent Contractors for Colorado Employment Security Act (Rep. Levy and Sen. Heath) This bill allows any person to file a written complaint with the Division of Employment and Training alleging an employer is misclassifying an employee as an independent contractor. The division director may investigate complaints and shall focus on the most egregious complaints or those acts undertaken to gain a competitive advantage or to avoid the payment of taxes. This bill also adds fines for misclassification, requires the division to conduct a two year study on the issue of employee misclassification, and provides for the issuing of advisory opinions to employers seeking guidance on the proper classification.

HB09-1346 Authorization of Public Entities to fully Utilize Financing Instruments for American Recovery and Reinvestment Act of 2009 (Rep. T. Carroll and Sen. B. Shaffer) This bill clarifies the process for public entities in Colorado to take advantage of financing mechanisms provided under the recently-enacted federal economic stimulus package. It also specifies how federally-established caps on the volume of bonds will be administered.

HB09-1363 Unemployment Compensation within the Division to act as an Enterprise (Rep. Ferrandino and Sen. Veiga) This bill establishes the Unemployment Compensation Section in the Department of Labor and Employment as an enterprise as long as the section retains authority to issue revenue bonds and receives less than 10 percent of its total annual revenue from state and local grants. As an enterprise, revenue collected by the section will not be subject to Section 20 of Article X (TABOR) of the state constitution. Employers are required to pay premiums, premium surcharges, and a solvency surcharge, when applicable, instead of taxes, to fund the unemployment compensation benefit system.

SB09-037 Funding for Certain Workers' Compensation Funds (Sen. Kopp and Rep. McNulty) This bill changes the method for funding the Major Medical Insurance Fund (MMIF) and the Subsequent Injury Fund (SIF) in the Department of Labor and Employment, Division of Workers' Compensation. Under current law, a portion of the workers' compensation insurance premium surcharge is to be deposited into both funds until the funds are deemed actuarially sufficient to pay all present and future claims for medical benefits to persons injured or disabled on the job in specific situations and prior to specific dates. Under SB09-037 as amended, the surcharge will be set at a level to bring in sufficient revenue to cover that year's obligations, with an ongoing cushion of an additional sum of unrestricted money equal to approximately one year's worth of expenditures.

SB09-061 Qualifications of Health Care Professionals who Review Medical Treatment Claims (Sen. M. Carroll and Rep. Primavera) For the purposes of workers' compensation, property and casualty, and health insurance benefits, the bill requires any internal review of claims, independent medical examination, or utilization review to be conducted by a Colorado-licensed health care professional. The health care professional must be in good standing and have appropriate expertise in the same or similar specialty as would typically manage the case being reviewed. In addition, written denials of benefits must identify the health care professional on whose opinion the denial is based.

SB09-070 Clarify Workers' Compensation Procedures (Sen. Foster and Rep. Acree) This bill conforms the workers' compensation statute with sections of the law that were amended in a prior session, clarifies certain sections, and deletes a section that was found to be unconstitutional. The conforming language states that the first installment of compensation is paid within 20 days after a claim is filed. It matches language that makes a hearing for the issue of an employer's default optional. The bill clarifies that the Office of Administrative Courts (OAC) will not hear a matter pending before the Director of the Division of Workers' Compensation. It also clarifies that in an appeal, the records are transmitted by the Division of Workers' Compensation or the OAC, depending on where the petition is filed. The section that terminated benefits for injured workers when they reach 65 was found to be unconstitutional and is deleted.

SB09-076 Employer Tax Surcharge Money to Employment and Training for use by the Department (Sen. Heath and Rep. Court) This bill creates the Employment and Training Technology (Technology) Fund for automation initiatives at the Department of

Department Description: FY10-11 Budget Request

Labor and Employment. It diverts 20 percent of employer surcharge taxes to the Technology Fund which reduces to 30 percent the amount of taxes deposited into the Unemployment Compensation Trust (Trust) Fund. The executive director may transfer money to the Trust Fund from the Technology Fund at any time but if the balance of the Trust Fund falls below \$25 million, the executive director is required to transfer money to the Trust Fund from the Technology Fund. Moneys in the Technology Fund are subject to annual appropriation by the General Assembly and do not revert to the General Fund or any other fund at the end of any fiscal year. The moneys in the Technology Fund are not subject to the statutory limit on uncommitted reserve funds.

SB09-168 Concerning Workers' Compensation Procedures (Sen. Tochtrop and Rep. Soper) This bill amends procedures in the Workers' Compensation Act that relate to claims settlement, hearing and review. The changes that relate to settlement and hearing procedures address when a matter can proceed to hearing after an insurance carrier files an admission of liability for final payment of compensation. A claimant who disputes the admission and has requested an independent medical examination (IME), is not required to re-file a request for hearing if one is pending when the IME process is terminated for any reason. The bill also adds certain requirements when an employer or insurer requires an injured worker to undergo an independent medical examination. One of the new requirements is that the examination be audio recorded, and the Division of Workers' Compensation must promulgate rules regarding the confidentiality and privacy of the recording.

SB09-171 Colorado Customized Training Program for New Energy Economy Training Program (Sen. Schwartz and Rep. Todd and Rep. Vigil) This bill is recommended by the Joint Select Committee on Job Creation and Economic Growth. It expands the allowable uses of funds from the Colorado Customized Job Training program to include employee training efforts focused on Colorado's new energy economy.

SB09-178 Waiver of Eligibility Conditions for Unemployment Insurance Benefits (Sen. Heath and Rep. Liston) This bill requires the director of the Division of Employment and Training to waive the requirement for employees attached to regular jobs to register for work and report to an employment office as a condition of being eligible to receive unemployment insurance (UI) benefits for a period of 26 weeks. These are claimants who are unemployed due to a temporary lack of work from their most recent employer, but anticipate returning to work with that employer.

SB09-204 Changes Designation of Tabor Emergency Reserve (Sen. White and Rep. Ferrandino) The TABOR amendment to the state constitution requires that certain funds be designated as an emergency reserve, which can only be used for declared emergencies. The size of these funds must equal 3 percent of fiscal year spending. This bill is recommended by the Joint Budget Committee and is part of its budget balancing package for FY 2008-09. It changes the designation of funds that constitute the state emergency reserve for FY 2008-09. It eliminates the inclusion of the Subsequent Injury Fund (a decrease of \$16 million) and the Workers' Compensation

Department Description: FY10-11 Budget Request

Cash Fund (a decrease of \$14 million) and increases the amount designated from the Major Medical Insurance Fund (an increase of \$30 million).

SB09-208 Augmentation of the General Fund through Transfers of Certain Moneys in 2008-09 Fiscal Year (Sen. Tapia and Rep. Pommer) To augment state General Fund revenue in FY 2008-09, the bill requires the State Treasurer to transfer a total of \$222,524,960 to the General Fund from 37 different cash funds. All transfers would occur on the effective date of the act, except that transfers from the Subsequent Injury Fund, Major Medical Insurance Fund, and Workers' Compensation Cash Fund would occur on March 30, 2009, and transfers from the Higher Education Maintenance and Reserve Fund would occur on June 30, 2009.

SB09-243 Payments for Workers' Compensation Benefits (Sen. Boyd) This bill makes changes to workers' compensation insurance benefit procedures. The fee schedule for payment of benefits is extended to services delivered after any final order, final admission, or full or partial settlement of a claim. When determining the maximum amount of temporary and permanent partial disability payments a claimant is eligible to receive, the claimant's mental impairment rating must be combined with the physical impairment rating for purposes of determining the cap on benefits. Finally, payment for health care services at a public health facility is authorized for claims that are found to be compensable after initially being denied.

SB09-247 Expansion of Benefits for Unemployment Insurance Workers' in Colorado (Sen. Tochtrop and Rep. Pace) This bill expands the availability of unemployment insurance (UI) compensation benefits to certain unemployed individuals and enables the state to receive and expend funds from the federal "American Recovery and Reinvestment Act of 2009". Eligibility for benefits is expanded to include individuals who leave a job for certain compelling family reasons

SB09-258 Acts of Employee Leasing Companies by the Department of Labor and Employment pursuant to the Colorado Employment Security Act (Sen. Veiga and Rep. Scanlan) The bill makes employee leasing companies responsible for the payment of unemployment compensation insurance taxes but gives them the option of reporting and paying the taxes as the employing unit under their own accounts and tax rates, or under the accounts of the work-site employers.

SB09-279 Augmentation of the General Fund through Transfers from Certain Moneys (Sen. Tapia and Rep. Pommer) This bill transfers a total of \$246 million to the General Fund from 24 different cash funds over 3 fiscal years.

SB09-281 Operation of Pinnacol Assurance (Sen. B. Shaffer and Rep. Weissmann) This bill repeals the authority of the Pinnacol Assurance (Pinnacol) chief executive officer to act as the head of a private insurance company. The "Worker Safety and Injury Compensation Study Group" is created as a 10-member interim committee to study, make recommendations and report its findings on the operations of Pinnacol, workers' compensation premiums, worker safety, and compensation for injured workers. The committee is

Department Description: FY10-11 Budget Request

to consider the feasibility of the continued operation of, or sale of Pinnacol. Pinnacol is required to pay a dividend to its small employer policyholders equal to 5 percent of its surplus funds. The State Auditor is directed to conduct a performance audit of Pinnacol in 2009, and has continuing authority to conduct subsequent audits.

HOT ISSUES

Nationwide High Unemployment

The recession's impact on the UI Program has been unprecedented. In May 2009 the state's unemployment rate rose to 7.6 percent, representing its highest point in over five years. The wave of layoffs and the significant increase in call volume and workload over the last several months has overwhelmed Colorado's UI system and staff. In an effort to assist unemployed workers, Congress passed legislation for the payment of Emergency Unemployment Compensation (EUC) that provides additional weeks of benefits. In addition, Colorado signed into law state extended benefits which further increases the number of weeks of UI benefits available when the total unemployment rate reaches a specific percentage. These additional weeks can only be collected after all regular UI and EUC benefits are exhausted.

Unemployment Insurance Trust Fund Solvency

CESA 8-76-102 (5)(a) states a solvency tax surcharge (STS) is assessed and added to the standard or computed tax rate when the UI Trust Fund balance on any June 30 is equal to or less than nine-tenths of one percent of the total wages reported by ratable employers for the calendar year or the most recent available four consecutive quarters prior to the last computation date. This surcharge ensures the rapid recovery of trust fund solvency following periods of recession. The STS has been in effect since calendar year 2004 and remains in effect for calendar year 2009.

American Recovery and Reinvestment Act of 2009 (ARRA)

Colorado received \$37 million in ARRA funding for activities authorized under WIA and Wagner-Peyser. Funding was allocated immediately upon receipt of the Federal Notice of Award to the workforce regions during FY2008-09. The Department modified its existing state plan for the administration and service delivery of its WIA and Wagner-Peyser programs to include ARRA requirements and ensure transparency and accountability of ARRA funds. In addition to serving more individuals through the existing WIA and WP programs, Colorado created two new programs: a Reemployment Services (RES) Program to help unemployment insurance claimants return to work as quickly as possible; and a comprehensive Summer Youth Program focusing on summer work experience opportunities. ARRA also temporarily expanded eligibility for the youth program to serve youth who are 14-24 years of age. ARRA funding will continue to support the workforce development endeavors through FY2010-11.

Trade and Globalization Adjustment Assistance Act of 2009

This federal legislation reauthorized the Trade Adjustment Assistance (TAA) program and expanded its scope and budget. Trade certification was extended to workers employed in service occupations in both private firms and public agencies. Retraining benefits were broadened to include incumbent workers and apprenticeship candidates. The changes also increased the number of workers eligible for the Trade Readjustment Allowance (TRA) because of the expanded TAA and Reemployment Trade Adjustment Assistance (RTAA) eligibility requirements. Reemployment Trade Adjustment Assistance (“wage replacement”) increased the benefits originally provided under Alternative Trade Adjustment Assistance (ATAA). The Health Coverage Tax Credit (HCTC) also increased for all workers replacing lost health insurance. The reauthorization of TAA increased the allocation for worker benefits, program administration and case management. Colorado’s Program benefits appropriation for FY2009-10 is \$3.84 million, an increase of \$2.54 million over FY2008-09. It is anticipated that funding levels will remain the same for FY2010-11.

Automation Issues and Improvements

- ♦ **Workers’ Compensation:** The Division continues to utilize a mainframe computer system developed in 1991 when the Division was created. As technology changes and fewer people with the ability to support such a legacy system are available, the Division will continue to examine moving to a different system and is hopeful that consideration will be given to implement a newer system at a state-wide level. In addition, many states are moving to a paperless system. Such a system dramatically reduces the problems that a natural disaster or fire could cause, and allows multiple users to access documents at the same time.
- ♦ **Oil and Public Safety:** Each of the Sections within the Division of Oil and Public Safety (OPS) store, access and process their data via separate databases comprised of vendor applications and internally developed applications. These applications are built on platforms that will soon not be supported which will negatively impact the operating efficiency of the Division. The Division is likely to seek funding soon to find common platform for all programs to run on.
- ♦ **Unemployment Insurance Program:** One of the greatest challenges facing the UI Program is replacing its aging legacy systems which were established more than 20 years ago. One of the UI Program’s focus areas is to incorporate the use of the Internet in as many services as possible. Internet services provide customers with a more convenient alternative to conduct business with the UI Program 24 hours a day, 7 days a week, and to minimize, if not eliminate, customers’ frustration with doing business on paper or through a busy call center.

In 2008 and 2009 the UI Program received funding from the state to design, develop, and implement additional Internet self-service (ISS) applications for claimants and employers. The ISS project allows the UI Program to streamline and update its

Department Description: FY10-11 Budget Request

delivery of services by increasing customers' use of electronic filing methods and will assist in delivering a full range of automated self-service options for customers to use with minimal staff intervention.

WIA Reauthorization

The reauthorization of the Workforce Investment Act (WIA)/Wagner Peyser Act (WP), debated since 2002, was further delayed by the 2008 Presidential and Congressional elections. Up until FY2008-09, several proposals for reauthorizing WIA/WP had been circulated and presented in Congress during the prior legislative sessions. Most of those proposals suggested a major restructuring of the program which could result in adjustments to funding levels in the future. It is anticipated that a reauthorization will bring major changes to workforce development programs and the State's workforce development system; however, such changes are not anticipated to happen before FY2011-12. Much of the WIA Reauthorization may be contingent on the state of the national economy and Federal budgetary issues over the next couple of years.

“Stop the Revolving Door” Project

In FY2007-08, the Department was awarded a \$1 million dollar federal grant to implement the “Stop the Revolving Door” Project, a nationally recognized employment and training program that has substantially reduced the recidivism rate of recently released youthful (ages 18-29) offenders and has improved their employment outcomes. According to the United State Department of Justice, 10.6% of prisoners are re-convicted within six months of their release and 21.5% are re-convicted within one year of their release. Colorado has exceeded its project goals with a rate of 8.9% of prisoner reconvictions for 12 months and 11% re-arrest rate after 12 months, which is one fourth of the national average. Because of Colorado's successful performance, in FY2008-09, Colorado received an additional \$1 million dollars to continue the project through FY2009-10. It is possible that the Department may see additional funding for the project in FY2010-11. The success of the Stop the Revolving Door Project led to the development of “The Motherhood Program: Reconnecting Female Offenders with Work and Family,” a collaborative program between the Department and the Colorado Department of Human Services to provide employment and training reentry assistance to Temporary Assistance for Needy Families (TANF) eligible female offenders. The Colorado Department of Human Services awarded a \$1 million dollar grant to the Department for this project that took off in FY2008-09.

Business and Education Readiness (BETR) Project

The Colorado BETR Project is a multi-faceted approach to bridge the gap in career readiness of students exiting the K-16 (Kindergarten through Four Year College) Educational system and entering the workforce, specifically high growth industries that require skills in science, technology, engineering, and math. The project brings educators, businesses, parents and workforce centers together to increase communication and coordination of career development pathways between K-16 and businesses. The implementation of the Colorado BETR Project at the state level was launched in February 2009 and provided integrated services to 272 Colorado businesses and 156 school districts. A key component of the BETR Project is its “Tuesday Tours” which provides

Department Description: FY10-11 Budget Request

current teachers with professional development/educational credit while visiting a business and learning about the skills requirements and career opportunities available for their students. During FY2008-09, the Department provided \$75,000 of Workforce Innovation in Regional Economic Development (WIRED) funding to the workforce regions to develop REELBiz videos, showcasing a variety of businesses in the fields of Science, Technology, Engineering, and Math (STEM). These ten minute videos provide information about current trends in needed skills development and tips for career success in these industries. Additional program resources include on-line mentoring and Positive Role-model Education Program (PREP) videos which present inspiring, true career stories of young adults who have overcome significant barriers or adversity in their lives to advance and success their careers. All of these resources are available on the Department website.

CareerReady Colorado Certificate (CRC) Initiative

CareerReady Colorado Certificate (CRC) Initiative was piloted in eight workforce regions during FY2008-09 through an initial investment of \$101,500 from the Colorado Workforce Development Council and was expanded statewide during FY2009-10. The CRC initiative uses WorkKeys (a series of work-based tests developed by ACT Inc.) to assess an individual's basic skill levels, and provides a certificate that can be used in addition to other credentials to demonstrate an individual's ability to successfully perform the basic skills required by a job. The CRC eliminates much of the guesswork for employers in determining whether an applicant has the basic skills needed for the job, and at the same time provides an opportunity to identify job seekers who are deficient in basic skills and provide remedial training. The goal of the initiative is to provide a standardization of skill levels to ensure job readiness of Colorado workers to fulfill business and industry needs of qualified applicants.

Healthcare Industry

Effective July 1, 2009, the department selected the University of Colorado-Denver to operate, manage, and deliver state-of-the-art healthcare training programs through the "Work, Education, and Lifelong Learning Simulation Center" (WELLS Center). The WELLS Center is a collaborative healthcare training center located in the Fitzsimons Campus in Aurora. Providing WIA The Colorado Workforce Development Council (CWDC) and the Department have been part of the solution addressing the healthcare labor shortage in Colorado. The WELLS Center has been crucial in providing additional clinical training capacity for the healthcare industry and providing healthcare simulation training courses to new and practicing healthcare professionals. In FY2009-10 and continuing through FY10-11, the Department worked is working to increase the marketability of services through the WELLS Center with the goal of creating a self-sustaining training facility independent of federal and state funding support. The WELLS Board of Directors was established during FY2008-09 with the goal of taking the helm of operations once the WELLS Center is bringing in sufficient revenues to operate as a Colorado Non-Profit Corporation. The WELLS Board was granted 501(c)(3) status as a Colorado Non-Profit Corporation in early 2009. It is anticipated that funding will be reduced during FY2010-11 and thereafter as the WELLS Center solidifies its business operations and revenue sources.

Energy Industry

Energy Development in Colorado has expanded and contracted rapidly during FY08-09 and is anticipated to change again in FY2009-10. In FY2008-09, there was a sharp decrease in demand within the Natural Gas industry due to the downturn of the economy and decreasing natural gas prices. Although the overall skilled workforce needs have declined, industry experts project a rebound in FY2010-11. While the Natural Gas industry is experiencing this slowdown, the renewable energy and energy efficiency industry is experiencing growth. With public policy moving towards improved alternative sources of energy in Colorado and an expansion of "Green Jobs", the need for a trained, skilled workforce will be essential to the successful growth of all forms of energy development in Colorado. In FY2008-09, the Department received a \$2 million dollar Federal grant to launch the "Western Colorado Energy and Mining Training Initiative", to build capacity within western regional technical colleges and to develop and deliver new customized courses focusing on short-term, skill-specific trainings in the energy and mining industries. The training program has operated successfully despite the decreased visibility of activity in the Oil and Gas industries. It is estimated that 2,520 new and incumbent workers will be trained by the end of FY2010-11 with at least 65% placed in new or advanced employment positions. In coordination with the SECTRS Initiatives implemented during FY2008-09, the CWDC and the Department has supported these initiatives to address short-term and long-term workforce needs emerging from the energy industry and will continue to provide WIA Discretionary funding to support these endeavors.

Alternative and Renewable Fuels

With the increased demand and use of petroleum, and the need for cleaner fuels there is an increasing trend in development and use of alternative and renewable fuels. Today there is a wide array of alternative fuel sources that are finding their way into the marketplace. New standards for the safe storage and product quality of these fuels are being developed.

House Bill 07-031 concerning renewable energy requires the division to establish policies regarding the storage of renewable fuels. The bill also requires the Division to promulgate, and enforce, rules concerning the placement of underground and aboveground storage tanks that contain renewable fuels by April 30, 2008. The purpose of the rules is to develop a uniform statewide standard of issuing permits for underground and aboveground storage tanks to promote the use of renewable fuels so that the process of obtaining a permit for an aboveground storage tank that contains renewable fuels may be more efficient and affordable.

In addition, staff will now need to educate themselves regarding potential releases of these fuels and their unique chemical components. The staff needs to be aware of the unique properties of these components, and appropriate methods of assessment cleanup.

Public School Construction Program

Within the Division of Oil and Public Safety is the Public School Construction Program. HB09-1151 passed this session is transferring this entire program from the Department to the Department of Public Safety, Division of Fire Safety effective January 1, 2010.

Veterans Employment and Training Programs

Although the total number of veterans registering for Employment and Training services has not significantly changed in the last several years, the number of Disabled, Recently Separated, Homeless and Incarcerated veterans released from prison has increased. These groups of veterans require a greater degree of staff assisted and intensive services than other veterans. With the continued conflict in Iraq and Afghanistan, there will be a significant increase in veteran customers suffering from Traumatic Brain Injuries (TBI) and Post Traumatic Stress Disorder (PTSD) requiring additional intensive assistance to successfully reenter the civilian workforce. Additionally, as a result of recent Base Realignment and Closure (BRAC) actions, an estimated 10,000 troops were anticipated to be transferred to Fort Carson in Colorado Springs by 2010, significantly increasing the need for employment and training assistance for military spouses and military dependents.

The Local Veterans Employment Representatives (LVER) and Disabled Veterans Outreach Program (DVOP) federal funding allocations have remained flat since FY2006-07, although personnel, benefits, and operating costs have continued to increase. Changes in staffing levels and budget adjustments to meet the increased need for specialized veterans' services as described above will continue to present challenges to these programs through FY2010-11. A Veterans' Workforce Investment Program (VWIP) grant proposal was submitted requesting additional funding to provide custom-designed employment and training services to the increased number of veterans seeking assistance.

Minimum Wage Increase and Wage Orders

The Colorado Constitution requires that the minimum wage be adjusted annually for inflation as measured by the Consumer Price Index used for Colorado. The inflation adjustment is based on the Consumer Price Index for All Urban Consumers in the Denver-Boulder-Greeley combined metropolitan statistical area published by the United States Bureau of Labor Statistics. The Consumer Price Index used for Colorado is determined by comparing changes in the Bureau of Labor Statistics CPI-U from the first half of the preceding year with the first half of the current year. The information needed to adjust the Colorado Minimum Wage for 2010 will be available during the third quarter of 2009. When the Bureau of Labor Statistics releases the information, the Division of Labor will begin the Rules Hearing process to set the Minimum Wage for 2010. It will become effective January 1, 2010.

Employment Verification Law and the Public Contracts for Services Law

All Colorado employers must abide by the employment verification law, (8-2-122 C.R.S.) which requires employers to verify and document the legal eligibility for employment of newly-hired employees. In addition the Colorado Public Contracts for Services and Illegal Aliens Law (8-17.5-101 C.R.S.) applies to contractors who enter into or renew public contracts for services with a state agency or political subdivision. The Division has prepared extensive guidance, (fact sheets, guides, affirmations, notifications), crafted a comprehensive website and provided direct assistance to employers and employees to implement these two new laws.

D-028 07 Executive Order on State Employee Partnership Elections

Pursuant to Governor Ritter's Executive Order D 028 07, the Division of Labor is charged with acting as the neutral party implementing the Executive Order. The State Employee Partnerships were created to improve government services, achieve efficiencies, and establish the framework for discussing issues of mutual concern to the employees and the State. The Division of Labor is responsible for promulgating guidelines and procedures for the proper implementation of this Executive Order, appointing mediators to assist parties in resolving disputes, and conducting elections to make determinations regarding the certification of exclusive representation of Covered Employees in a Partnership Unit.

Amusement Ride Industry

The state is experiencing growth in a segment of the amusement industry that does not fall within the traditional definition of amusement parks: challenge courses such as zip-lines and climbing walls; and simulated extreme sports such as sky diving. With the passage of HB 08-1103, the division will be promulgating rules to include these previously unregulated segments of the amusement ride industry.

Conveyances

Provisions within the Elevator and Escalator Certification Act indicate that statute sponsors and industry representatives believed that local jurisdictions would execute Memorandums of Agreement (MOA) with the Division of Oil and Public Safety (OPS) allowing them to regulate conveyances within their territories. Following several meetings with the City and County of Denver (CCOD), CCOD notified OPS in February 2009 that they would likely not execute an MOA, and in June 2009 officially transferred approximately 7,000 conveyances to OPS responsibility. This transfer of regulation has added and will continue to add a substantial burden on existing resources.

Workers' Compensation

The workers' compensation system has been relatively stable for the past several years. In its annual report the State of Oregon ranked the 50 states and the District of Columbia in terms of workers' compensation premium, with number 1 having the highest premium and number 51 the lowest. Colorado was ranked 43 for 2008. In the coming year the Division will be busy implementing

Department Description: FY10-11 Budget Request

the legislation that was passed during the previous session, including mandatory rulemaking. The Division is also focusing resources on its efforts to ensure that all employers have required workers' compensation insurance. In addition, working cooperatively with the Office of Administrative Courts, the division purchased equipment to allow the video conferencing of hearings. This should result in increased availability and ease of scheduling for hearings that are conducted outside of Denver, with Pueblo being the first City to benefit from this expansion.

WORKLOAD REPORTS

UNEMPLOYMENT INSURANCE PROGRAM Workload Indicators	FY 07-08 Actual	FY 08-09 Actual	FY 09-10 Appropriation	FY 10-11 Request
Number of Unemployment Insurance Initial Claims	127,710	305,546	236,785	182,058
Number of Appeals Decisions	17,315	29,735	23,043	17,717
Number of New Employer Accounts	22,595	22,968	23,775	23,594

UNEMPLOYMENT INSURANCE PROGRAM Benefit and Claim Statistics	FY 07-08 Actual	FY 08-09 Actual	FY 09-10 Appropriation	FY 10-11 Request
Average duration of a benefits claim in weeks	13.5	14.5	14.0	13.5
Average weekly benefit amount	\$330.43	\$333.85	\$329.80	\$329.80

Department Description: FY10-11 Budget Request

WORKFORCE DEVELOPMENT PROGRAMS Workload Indicators		FY 07-08 Actual	FY 08-09 Actual	FY 09-10 Appropriation	FY 10-11 Request
Total applicants	Target	350,000	350,000	420,000	350,000
	Actual	400,662			
Total applicants referred to jobs	Target	155,000	155,000	155,000	155,000
	Actual	162,228			
Total job openings received from employers	Target	105,000	110,000	95,000	105,000
	Actual	128,749			

WORKFORCE DEVELOPMENT PROGRAMS Workload Indicators -Applicants Served by Program		FY 07-08 Actual	FY 08-09 Actual	FY 09-10 Appropriation	FY 10-11 Request
Workforce Investment Act		6,202		8,500	8,700
Wagner Peyser		346,077		420,000	320,000
Veterans		35,970		35,000	37,000
Migrant Seasonal Farm Workers		912		850	800
Work Opportunity Tax Credit		27,191		26,000	28,000
Governor's Summer Job Hunt		39,200		40,000	40,000
Trade Adjustment Assistance		1,531		2,210	2,800
Trade Readjustment Allowance		1,145		2,000	2,200
Alien Labor Certification		15,016		12,500	13,000
Displaced Homemaker		71		70	70

Department Description: FY10-11 Budget Request

WORKFORCE DEVELOPMENT PROGRAMS Workload Indicators -Employers Served by Program	FY 07-08 Actual	FY 08-09 Actual	FY 09-10 Appropriation	FY 10-11 Request
Wagner Peyser	19,340		12,000	18,000
Work Opportunity Tax Credit - Number of employers registered	1,543		1,500	1,600
Alien Labor Certification	1,154		1,000	1,000

LABOR MARKET INFORMATION Workload Indicators	FY 07-08 Actual	FY 08-09 Actual	FY 09-10 Appropriation	FY 10-11 Request
Establishments on QCEW data file	217,345	220,654	220,000	223,000
New establishments classified by industry	21,300	15,700	25,000	25,000
Establishments verified for proper classification	22,651	22,291	26,000	26,000
LMI Gateway website hits	Unavailable	Unavailable	140,000	140,000
Products distributed	131,253	184,036	70,000	175,000
Training sessions and presentations	51	28	60	45

DIVISION OF LABOR Workload Indicators	FY 07-08 Actual	FY 08-09 Actual	FY 09-10 Appropriation	FY 10-11 Request
Claims successfully resolved	5,540	4,780	5,000	5,000
Money recovered	\$1,270,000	\$1,350,000	\$1,750,000	\$1,500,00
Employee group presentations / number in attendance	28 / 1,000	20 / 1,400	45 / 1,200	45 / 2,000
Walk-in customers	2,088	2,022	2,000	2,000
Wage claims per FTE	900	1,020	900	900

Department Description: FY10-11 Budget Request

Dollars recovered per FTE	\$159,000	\$194,000	\$217,000	\$200,000
Average dollars recovered per claimant	\$177	\$191	\$225	\$200
Estimated taxes recovered (State & Federal)	\$317,500	\$340,000	\$360,000	\$375,000
Collective Bargaining Elections	9	5	5	4
All-Union Agreement Elections	7	3	5	5
Unfair labor practices charges	2	6	5	4
Employment verification claim (random audit , complaints)	780 , 87	616 , 31	600 , 30	650 , 30
Public contracts for services claims	4	3	3	3

OIL & PUBLIC SAFETY Workload Indicators	FY 07-08 Actual	FY 08-09 Actual	FY 09-10 Appropriation	FY 10-11 Request
Number of required Public School inspections per fiscal year - new for FY 08	669	1656	600	N/A
Number of Public School projects and plan per fiscal year	511	483	350	N/A
Number of preliminary meetings with architects concerning public schools	188	168	281	N/A
Percent of Public School plan reviews that receive management quality control review	100	100	100%	N/A
Number of boilers requiring inspection	24,761	27,577	29,000	29,000
Percent of boiler inspections performed by certificate expiration date	57%	81%	80%	85%
Percent of boiler violations corrected by deadline	64%	78%	80%	85%
Percent of boiler initial inspections on new installations performed within 30 days of installation	68%	96%	80%	95%
Number of explosive magazine inspections required	122	54	85	75
Explosive exams conducted	409	349	250	350
Explosive permits processed and issued	650	622	500	600

Department Description: FY10-11 Budget Request

Number of carnivals and amusement parks inspected	10	9	15	12
Percent of daily amusement ride inspection reports reviewed for compliance	11	25	15	25
Number of conveyance registrations processed	223	12,295	6,500	2000
Number of Certificates of Operation issued	0	918	11,500	12,000
Number of accidents reported	1	9	36	50
Number of licensed conveyance mechanics	0	415	425	435
Number of licensed conveyance contractors	0	26	30	35
Number of licensed conveyance inspectors	0	34	45	50
Number of petroleum facilities	3,082 (only USTs)	4,818 (USTs and ASTs)	4800(USTs and ASTs)	4800(USTs and ASTs)
Number of LPG facilities	960	1,180	1500	1500
Percent of retail petroleum facilities inspected each year to ensure 18 month inspection frequency goal is achieved	65%	69%	67%	67%
Number of confirmed petroleum releases reported	199	171	175	175
Number of open events	1,120	1060	1050	1025
Number of site characterization reports received	200	145	150	150
Percent of site characterization reports reviewed and NFA, CAP request or Final SCR letter issued within 60 working days.	95%	100%	95%	95%
Number of corrective action plans received	353	334	300	300
Percent of corrective action plans reviewed and a CAP approval or denial letter issued within 90 days.	90%	96%	90%	90%
Average turnaround time for petroleum product sample analysis	10 days	7 days	10 days	10 days
Processing time of traditional original reimbursement applications with a fund payment report prepared within 90 working days	71 days	60 days	60 days	60 days
Processing time of electronic reimbursement applications with a fund payment report prepared within 90 working days	50 days	34 days	32 days	32 days
Leak/spill/special investigations	115	33	150	100

Department Description: FY10-11 Budget Request

Tank installations and upgrades	216	172	350	200
Tank closures	133	123	200	200
Percent of facilities in operational compliance with regulations	68%	70%	95%	80%
Number of petroleum impacted sites receiving a No Further Action status	259	244	225	225
Percentage of fuel meters within tolerance limits	97%	97%	95%	95%
Percentage of product samples in compliance with specifications, ensuring fuel quality and consumer protection	89%	88%	95%	95%
Consumer complaints	301	238	300	300
Percentage of consumer complaint investigations completed within 5 working days	96%	92%	98%	98%

DIVISION OF WORKERS' COMPENSATION Workload Indicators	FY 07-08	FY 08-09	FY 09-10	FY 10-11
	Actual	Actual	Target	Target
Number of customer contacts with the Customer Service Unit	55,691		55,000	55,000
Number of customer contacts via telephone calls	48,571		48,000	48,000
Number of customer contacts via walk-ins	7,120		7,000	7,000
Reduce caller telephone wait time in Customer Service as measured in seconds	19		20	20
Reduce percentage of lost calls	4%		4%	4%
Number of Independent Medical Exam (IME) applications processed	3,178		3,100	3,100
Number of IMEs held by workers' compensation number, not event	2,512		2,600	2,600
Percentage of workers' compensation cases with IME applications that requested hearings	50%		40%	40%
Number of applications for indigent determination filed with Office of Administrative Courts (OAC) - data provided by the OAC-	570		500	500
Number of applications for indigent determination where the claimant was determined to be indigent	367		375	375

Department Description: FY10-11 Budget Request

Number of utilization reviews (UR) processed	2	7	10	10
Percentage of UR orders upheld	100%	100%	95%	95%
Number of injury reports filed by employers and claimants	38,378		41,000	41,000
Number of reviews of admissions of liability for benefits	64,032		60,000	60,000
Orders related to requests for administrative closure for claims	932		800	800
Orders related to requests for penalties or compliance issues	728		658/5	658/8
Respond to inquiries about the fee schedule	1,775		1,900	1,800
Number of motions addressed by prehearing Administrative Law Judge (ALJ) through motions practice, including prehearing conf.	11,702		12,000	12,000
Number of stipulations for settlement approved	6,418		7,000	7,000
Major Medical Insurance and Subsequent Injury Funds: Savings by fee scheduling and denying charges for treatment of non-related conditions	\$6,095,111		7,000,000	7,000,000
Average number of days from receipt to resolution of medical billing disputes	16		7	6
Total current accredited physicians	1,021		1,050	1,050
Number of seminars provided by the Division to the public	64		45	45
Number of Division-sponsored seminars held outside of the metro area	24		20	20
Number of audited and on-site reviews of insurers claims handling practices	24	35	35	35
Premium cost containment cumulative employers certified	5,127	5,474	5,821	6,168
Cumulative employers self-insured	95	95	97	97
Cash flow advantage to self-insured employers program wide	\$95M	89,184,000	90,000,000	90,000,000
Number of insolvent self-insured employers who default on workers' compensation	0	2	1	0
Number of cumulative defaulted self-insured employers under supervision	3	4	5	5
Number of revoked permits annually reviewed	63	63	65	65