



Department of Labor and Employment  
*Department Description*

FY 11-12 Budget Request

**NOVEMBER 1, 2010**

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## BACKGROUND INFORMATION

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**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, Internal Audit, 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. While this section has been moved to OIT, these functions are still funded through appropriations within the Executive Director's Office.
- ♦ *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).

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- ♦ *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 eight operating branches and a facilities branch located at 251 E. 12<sup>th</sup> Avenue in Denver, Colorado. The eight operating branches—Appeals, Benefits, Employer Services, Internet Services, Staff Services, Support Services, Technology and Telephony Operations—provide the UI Program's key services to the citizens and employers of Colorado.

- Appeals has staff located throughout the state and provides a hearing venue for decisions issued by the Benefits, Employer Services, and Support Services branches that are appealed by a claimant or employer. Interested parties may attend the hearing either in person or by telephone.
- Benefits is the UI Program's largest operating branch providing benefits-related services and consists of the Customer Contact Center (CCC), Adjudication, and the Training Teams. The CCC is the Program's centralized customer service unit that handles all inquiries from unemployed claimants. The CCC provides inbound telephone service, processes Internet issues resulting from benefit-payment requires, returns customers' calls, and provides in-person lobby service at the central office location. The Adjudication unit processes unemployment claims and applies current statute and regulations to determine claimants' entitlement and eligibility to collect benefits. Unemployment claims are adjudicated to ensure timeliness and quality and to allow due process to all interested parties. The Training Team provides formal training for newly hired employees and ensures consistent training among staff members.
- Employer Services determines employer liability, established accounts, obtains premiums and wage reports, and collects premiums from employers. Employer Services is also responsible for the assignment of the appropriate paying method (contributory or reimbursing) and the experience ratings for Colorado contributory employers.
- Facilities is primarily responsible for addressing building infrastructure needs at 251 East 12th Avenue, including all interior and exterior maintenance. This branch also supports program needs such as staff relocations, equipment and fixture installations, ergonomic furniture adjustments, physical construction projects, and the moving of heavy files and materials for 251 East 12<sup>th</sup> Avenue, 633 17<sup>th</sup> Street and various workforce centers statewide. The Facilities' staff includes a licensed master electrician; a licensed heating, ventilating, and air-conditioning specialist; a certified

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locksmith; a recycling coordinator; plumbers; carpenters; laborers; a security officer; a work request/trouble report management and card-access system administrator; and custodial staff.

- Internet Services is responsible for maintaining, evaluating, modifying, redesigning, and implementing the UI Program's Internet processes, web-site information, and applications that optimize staff workload efficiencies, cost avoidance, customer-service delivery, and the UI Program's other business objectives through the use of new and innovative web-based and new media methodologies.
- Staff Services is comprised of three functional areas: Quality Assurance, Policy, and Communications. Each area has teams responsible for specific functions. Quality Assurance includes three internal audit programs required by the US Department of Labor—Benefits Accuracy Measurement (BAM), Benefits Timeliness and Quality (BTQ), and the Tax Performance System (TPS). The BAM Team reviews and evaluates the accuracy of UI benefit payment and denial; the BTQ Team reviews nonmonetary, nonseparation and separation decisions; and the TPS Team assesses the quality of the UI Program's tax functions. Policy's teams are Compliance and Conformity, Contracts and Release of Information, and State and Federal Reports. The Compliance and Conformity Team drafts the UI Program's legislation and regulations; the Contracts and Release of Information Team acts as the UI Program's custodian of records and ensures that the confidentiality of unemployment records and data is maintained; and the State and Federal Reports Team develops grant and supplemental budget requests, as well as, federal and state strategic plans. Communications consists of the Correspondence and Mail, Communications, and the Telephony/Web Teams. The Correspondence and Mail Team develops correspondence to claimants and employers and purchases and maintains an adequate inventory of publications, forms, and envelopes; the Communications Team develops internal and external communications, manuals, and publications; and the Telephony/Web Team directs the activities for internal and external Web communications and ensures the accuracy and consistency of recorded messages on the UI Program's interactive-voice-response (IVR) systems and Web communications.
- Support Services consists of the following units: Benefit Payment Control, Fraud, Support, Employer Records, and Master Files. This branch provides integrity processing support by preventing, detecting, and recovering improperly paid benefit payments; ensures compliance with criminal law and procedures from receipt of the case through prosecution, restitution, and retention of cases; responds to employer inquiries regarding benefit charges and ensures benefit charges are correct; enters electronic benefit payment adjustments; and verifies alien status to assure legal presence. Support Services also provides administrative support functions for the UI Program by processing claimant and employer information; distributing mail to appropriate branches; providing scanner operations activity; and maintaining records retention for claimant and employer records.

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- Technology consists of three primary units: Development, Maintenance and Support, and Project Management. Within the units are Business Analysts that assist in the development and test of a new system or assist in the modification of existing legacy systems, identify inefficiencies and recommend enhancements to existing systems, monitor production systems, and work with technical teams to troubleshoot problems. The Technology Branch acts as the initial point of contact for UI staff with technical problems. Project Management is assigned to manage information-technology and non-information-technology projects on behalf of the UI Program. Management staff in the Technology Branch work closely with an Office of Information Technology counterpart assigned to manage the program account. The Technology Branch develops and maintains the Internet applications.
- Telephone Operations provides technical and operational support and oversight of all telephony systems. This includes the entire facility at 251 East 12th Avenue. The branch designs, operates, enhances, implements, and administers all telephony products and services, including: IVR strategies, call-flow logic, computer-telephony interface, recordings, Web interfaces, e-mail integration, Web-chat integration, teleworkers, call-center operations, fax-by-e-mail application, and server/application maintenance. A second section within this group administers call-center personnel in terms of adherence, conformance, scheduling, statistics, reporting, and oversight of call-center operations.
- ♦ *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

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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.
- 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.

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- 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 vocational counseling, and job development and placement. Funding for this program is primarily from divorce filing fees, appropriated by the legislature, and supplemented with WIA discretionary funds 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 FY2009-10, 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 is in the process of being implemented. 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.
- SECTORS Initiative (Strategies to Enhance Colorado's Talent through Regional Solutions) – 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 workforce needs of high growth/high demand industry sectors in local communities. During FY2009-10, local workforce regions developed implementation plans to address the workforce needs of the targeted industry sectors and to create opportunities for advancement for workers. The department anticipates adding



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additional WIA Discretionary funds in FY2010-11 to support these ongoing efforts. The goal of this initiative is to use sector partnerships as a framework to develop a highly skilled workforce that bolsters the economic vitality of the state.

- ♦ *Colorado Workforce Development Council* (CWDC or Council) advises the Governor and Legislature on workforce policy and oversees the expenditures of federal employment and training funds. The 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 rejection 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:
  - 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 Workforce Investment Act (WIA) Annual Report, with the CDLE, on workforce system performance.
  - Exercising fiduciary stewardship of the WIA 10% Discretionary Funds, which are distributed for projects promoting the partnership of education, economic development, and workforce development.
  - CWDC works in partnership with government, economic development, education and workforce to encourage collaboration and leverage resources at all levels. This includes development and maintenance of an information system and a communication network.
  
- ♦ *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.

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- 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.
- 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.

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- 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.

**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.

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- ♦ *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 amusement rides and devices, 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 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, alteration, 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 chair 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

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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 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 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

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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.

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 provides information to injured workers and other constituents regarding the workers' compensation system through its phone, walk-in and web services, as well as through numerous seminars and presentations made every year by Division staff. 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 maximum 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

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**HB10-1009 Concerning the Board of Directors of Pinnacol Assurance** (Rep. Miklosi and Sen. Hodge) The bill requires public notice at least 7 days prior to a scheduled meeting of the board of directors.

**HB10-1010 Concerning the Authorization for Agencies of the State to enter into Public-Private initiative agreements with nonprofit entities.** (Rep. Ferrandino and Sen. Morse) This bill, which was recommended by the interim Fiscal Stability Commission, authorizes nonprofit organizations to submit proposals to state executive agencies, boards, or commissions to enter into public-private initiative agreements to provide a state service or project. The bill provides a structure for nonprofits to work with the state if they have a proposal to help the state provide a service or undertake a project.

**HB10-1023 Concerning clarifying civil liability regarding negligent hiring practices for an employer that hires a person with a criminal record.** (Rep. Waller and Sen. Hudak) This bill, recommended by the Economic Opportunity Poverty Reduction Task Force, prohibits information concerning an employee's criminal history from being introduced as evidence in a civil action against an employer in certain circumstances:

**HB10-1038 Concerning a brochure to describe the process for workers' compensation claims.** (Rep. Miklosi and Sen. Carroll M.) This bill requires an employer or the employer's insurance carrier to provide a brochure, approved by the Director of the Division of Workers' Compensation, to each workers' compensation claimant. The brochure will include contact information, a description of the claims process, and a claimant's rights to medical treatment and benefit payments under workers' compensation law. If authorized by the claimant, the brochure may be provided electronically.

**HB10-1076 Concerning the classification of a participant in a property tax work-off program for purposes of employee labor benefits.** (Rep. DelGrosso and Sen. Heath) The bill allows any governmental entity or private nonprofit or for-profit entity that has a contract with a governmental entity that is self-insured under the Workers' Compensation Act of Colorado to purchase workers' compensation insurance for a participant in a property tax work-off program, prorate the cost of the insurance to all program participants, and include the cost in a participant's work-off amount.

**HB10-1108 Concerning an exclusion from the employment relationship for purposes of state employment laws for certain coaches who enter into independent contractor relationships with nonprofit youth sports organizations that are evidenced by a written agreement.** (Rep. McCann and Sen. Johnston) This bill establishes that a written contract between a coach and a nonprofit youth sports organization that specifies that the coach is an independent contractor and not an employee of the organization, is conclusive evidence of the independent contractor relationship between the coach and the organization. The contract must contain specific conspicuous declarations.

**HB10-1112 Concerning the "Correctional Education Program Act of 1990"** (Rep. Miklosi and Sen. Newell) This bill adds vocational training to the Correctional Education Program offered to offenders in the Colorado Department of Corrections (DOC). It changes the objectives of the program to state that every offender in a correctional facility who has the expectation of release from

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custody within five years and lacks basic and functional literacy skills must receive basic education instruction and have the opportunity to acquire at least entry-level marketable vocational skills.

**HB10-1119 Concerning the process by which the state annually allocates moneys for its budget.** (Rep. Ferrandino and Sen. Shaffer B.) The bill requires each state agency to present, on an annual basis, the department's strategic plan to the relevant committee of reference of the General Assembly. The presentation is to include a discussion of the department's goals and performance measures. The committees of reference are to allow public testimony at each of these presentations.

**HB10-1176 Concerning recovery audits for government overpayments of tax dollars.** (Rep. Vaad and Sen. Mitchell) This bill requires the Office of the State Controller to contract with a third party to perform an audit of state executive agencies to determine whether overpayments to individuals, vendors, and others occur as a result of pricing errors, neglected rebates, discounts, unclaimed refunds, or other related general errors.

**HB10-1178 Concerning increasing the transparency in the use of gifts, grants, and donations to fund programs by state agencies** (Rep. Stephens and Sen. Scheffel) This bill directs any state agency, except an institution of higher education, that receives gifts, grants, and donations (donations) to: make an annual report to the General Assembly beginning in 2011, listing each donation received, its source and use, and its impact on the sustainability of certain programs; and upon receipt of a donation in the amount of \$50 or greater, request a letter from the donor that specifies the amount, duration, purpose, and bill number, if applicable.

**HB10-1185 Concerning extending certain dates related to the petroleum storage tank fund.** (Rep. Priola and Sen. Schwartz) This bill extended the Petroleum Storage Tank Fund repeal date from July 1, 2012 to July 1, 2018. The bill changed the statute to state that when the balance of the Fund is greater than \$12 million, no environmental response surcharge will be charged. Before this legislation passed, the statute stated that after July 1, 2012, if the fund balance amount was greater than \$8 million, no surcharge would be imposed, and if the balance was less than \$8 million the surcharge would be \$25 per tank truck load. The specific date for payment of the environmental response surcharge was eliminated.

**HB10-1231 Concerning the regulation of conveyances.** (Rep. Sonnenberg and Sen. Tochtrop) This bill made modifications to the Elevator and Escalator Certification Act. Specifically, the bill did the following: exempted stairway chair lifts from regulation; required that contractors from other states carry the same insurance coverage as contractors certified in this state; required a contractor to report dangerous conditions to either the state administrator or a local jurisdiction, as appropriate; required that newly installed or altered conveyances be inspected and approved prior to operation; and authorizes the continued use of private residence conveyances installed prior to 2008 in buildings that are not a single family residence.



**HB10-1247 Concerning the continuation of the workers' compensation classification appeals board.** (Rep. Gagliardi and Sen. Carroll M.) This bill continues the Workers' Compensation Classification Appeals Board until July 1, 2021, as recommended by the 2009 Sunset Review.

**HB10-1264 Concerning the establishment of an incentive process whereby state employees can submit suggestions for state agency improvements that result in cost savings.** (Rep. Priola and Sen. Heath) This bill creates a new incentive program for employees who suggest state agency improvements that lead to cost savings. A form and evaluation criteria are to be created by the state personnel director and made available electronically before October 1, 2010. Each agency's executive director, or his or her designee, is responsible for overseeing the program.

**HB10-1332 Concerning the creation of the "Medical Clean Claims Transparency and Uniformity Act"** (Rep. Miklosi, Apuan, Gagliardi, Kefalas, Primavera, Tyler and Sen Romer) This bill requires the Dept of Health Care Policy and Finance to establish a task force of industry and government representatives to develop a base set of rules and edits using existing national sources and work with the American Society of Quality's (ASQ) national initiative to develop a complete set of uniform, standardized payment rules and claim edits applicable to all types of professional services and to be used by all payers and health care providers in Colorado. The task force is required to report its interim recommendations by Nov. 30, 2012, and final recommendations by Dec. 31, 2013. The bill precludes the use of any proprietary or other claims edits to modify the payment of the charges for cover services once the standard payment rules and claim edits are implemented.

**HB10-1333 Concerning the creation of the green jobs Colorado training program in the office of the Governor, and, in connection therewith, creating the green jobs Colorado advisory council and the green jobs Colorado training fund.** (Rep. Vigil and Sen. Schwartz; Newell) This bill creates the Green Jobs Colorado Training Program. The program is a 2-year pilot program that offers grants to entities to provide job training for the wind, solar, renewable energy, and energy efficiency industries. Applicants for grants must be a regional, industry-based partnership comprised of a lead applicant, an official from a workforce development organization, and one or more workforce training-related groups. Examples of lead applicants, include, but are not limited to, a community or junior college, a vocational school, youth corps groups, or an apprenticeship program.

**HB10-1393 Concerning the information included in the web-based system that provides the public access to state financial information.** (Rep. Nikkel and Sen. Kopp) The bill requires the Governor's Office of Information Technology (OIT) to make changes to the Transparency Online Project (TOP) website to show more detailed information on state expenditures contained in the state's financial data system. Exceptions are made for publishing confidential information, and state agencies may request that certain information not be disclosed on the TOP website. The bill creates a process for members of the public to challenge the exclusion of

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data by a state agency, including action in state district court. When specific expenditure data is excluded, the TOP website must explain the exclusion and provide aggregated expenditure data. The state controller and chief information officer are not required to independently review the data that is posted on the TOP website and may reasonably rely on assurances from state agencies that no confidential data is being published.

**HB10-1417 Concerning the creation of the pay equity commission within the department of labor and employment** (Rep. Peniston and Sen. Williams) This bill creates the 11-member Colorado Pay Equity Commission in the Department of Labor and Employment. Members are appointed by the Governor, the Speaker of the House of Representatives, and the President of the Senate by August 1, 2010. The commission must meet by September 1, 2010, and meet at least quarterly thereafter. Members serve without compensation or reimbursement for expenses. The department may accept gifts, grants, and donations to fund any commission costs.

**SB10-011 Concerning measures to reduce conflicts of interest in workers' compensation cases.** (Sen. Carroll M. and Rep. Miklosi) This bill makes several changes to workers' compensation law concerning conflicts of interest by physicians, insurers and employers. It requires physicians who provide independent medical examinations to provide a summary disclosure of any business, financial, employment, or advisory relationships with an insurer or self-insured employer upon request.

**SB10-012 Concerning increased penalties for violations of the workers' compensation law.** (Sen. Tochtrop and Rep. Pace) This bill increases the maximum penalty for violating workers' compensation laws from \$500 to \$1,000 per day of violation. It lowers the standard for determining when benefits are wrongfully withheld by an insurer or self-insured employer from acting "willfully" to "knowingly". Under previous law, 75 percent of a penalty was paid to the injured worker and 25 percent to the Subsequent Injury Fund. Under SB10-012, penalties will be apportioned at the discretion of the director of the Division of Workers' Compensation or an administrative law judge between the aggrieved party who will receive a minimum of 50 percent, and the Workers' Compensation Cash Fund.

**SB10-013 Concerning accountability for workers' compensation insurers.** (Sen. Hodge and Rep. Ryden) This bill requires workers' compensation insurers to survey certain injured workers and report survey findings annually to the Division of Workers' Compensation in the Department of Labor and Employment. The division director has developed the survey with input from insurers. The division must post the survey results on its web site. The bill also requires Pinnacol to submit an annual report to the Governor and the General Assembly on its business operations, resources and liabilities.

**SB10-028 Concerning the establishment of the Colorado "Work Share Program" to allow payment of unemployment compensation benefits to eligible employees who have received a reduction in work hours.** (Sen. Heath and Rep. Pace) This bill

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creates the Colorado Work Share Program. The program gives employers an alternative to employee layoffs by allowing them to reduce the overall work hours of a group of employees. Employees share the remaining work while receiving unemployment compensation benefits for the reduced work hours. The Director of the Division of Employment and Training in the Department of Labor and Employment is responsible for establishing the program and approving work share plans submitted by eligible employers. Under a work share plan, an employer must agree not to reduce employee benefits and certify that total employee work hours would be reduced by the same amount if the employer did not participate in the program. Work must be reduced by at least 10 percent but not more than 40 percent and must apply to at least 10 percent of the employees in the affected unit. If the employer is subject to a collective bargaining agreement, the collective bargaining unit must agree in writing to the work share plan prior to implementation. To calculate the benefit, an employee's regular weekly unemployment compensation benefit is multiplied by the percentage of the reduction in the employee's work hours. Program participants are not required to be available and actively seeking work to be eligible for benefits under this program. Benefits are limited to 18 weeks.

**SB10-112 Concerning rate setting for workers' compensation insurance** (Sen. Kopp and Rep. Swalm) This bill changes two areas of workers' compensation law that affect the premiums paid by employers. First, it specifies that for the purposes of experience modifiers, medical-only claims shall be calculated in the same manner as claims with indemnity payments. This part of the bill is effective January 1, 2011. Second, it requires the Commissioner of Insurance to make public aggregate loss and payroll data used in workers' compensation ratemaking and specifies that such data not be used for any commercial purpose.

**SB10-116 Concerning the reimbursement of costs incurred on change orders in public works contracts.** (Sen. Kopp and Rep. Rice; Priola) Under SB10-116, any public entity that requires additional work on a construction contract is required to reimburse the contractor's costs on a periodic basis until the change order is complete. Contractors are required to submit an estimate to the public entity before receiving payment

**SB10-163 Concerning workers' compensation procedures.** (Sen. Tochtrop and Rep. Kerr A.) This bill clarifies that SB09-168 was intended to apply to all workers' compensation claims, regardless of when the claim was filed. It requires the Director of the Division of Workers' Compensation in the Department of Labor and Employment to establish a life expectancy table based on mortality tables issued by the federal government or private industry on July 1 in even-numbered years. Lump sum settlements are required to be paid to a claimant within 15 days after an executed settlement order is received by the insurer. Finally, documents required under the Workers' Compensation Act must be delivered in the same medium to all required recipients.

**SB10-178 Concerning fairness in workers' compensation health care provider review processes, and, in connection therewith, requiring performance programs to be transparent, include objective and standardized criteria that are applied consistently, and provide minimum due process to providers.** (Sen. Hodge; Mitchell and Rep. Gerou; Miklosi) This bill creates

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the Provider Review and Disclosure Act for workers' compensation insurers and health care providers. It specifies minimum standards for insurer performance programs that measure a provider's care. Insurers are required to file detailed descriptions of performance programs with the Director of the Division of Workers' Compensation in the Department of Labor and Employment at least 30 days before implementation. Insurers must give written notice to a provider at least 45 days before disclosing the result of a performance program. If a provider appeals a result, an insurer is required to disclose the data and the process used to arrive at the provider's individual result. The provider has an opportunity to submit or have considered corrected data or other relevant information. A violation is considered an unfair or deceptive act or practice and may be enforced in an administrative hearing, or in a civil action against an insurer.

**SB10-187 Concerning workers' compensation.** (Sen. Tochtrop and Rep. Rieberg) This bill changes the Workers' Compensation Act of Colorado as follows: clarifies that Medicaid and other indigent health care programs are not considered wages for purposes of worker's compensation; allows an injured worker to recover costs other than attorneys fees to pursue an order requiring an insurer to pay for a prescribed treatment plan; clarifies that for determining an injured worker's average weekly wage the phrase "at the time of injury" refers to the date of the accident; eliminates permanent partial disability from the types of disabilities that require a social security offset; establishes standards for an injured worker to refuse an offer of modified employment and not be responsible for his or her termination of employment; adds the loss of a tooth and removes the loss of an eye to the list of scheduled injuries; requires the Director of Workers' Compensation to adjust the caps on combined disability payments by the same percentage as the adjustment to the state average weekly wage beginning July 1, 2011; and prohibits the director or an administrative law judge from conditioning a lump sum payment on the injured workers' waiver of his or her right to pursue permanent total disability payments.

## HOT ISSUES

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### **Nationwide High Unemployment**

The recession's impact on the UI Program has been unprecedented. In June 2009 the state's unemployment rate rose to 8.3 percent, representing its highest point in over nine years. Since April 2010 the state's unemployment rate has remained constant at 8 percent. Layoffs persist and the significant increase in call volume and workload over the last year has continued to challenge Colorado's UI system and staff. In an effort to assist unemployed workers, U.S. Congress passed legislation for the payment of emergency unemployment compensation (EUC). The legislation provides additional weeks of benefits and provides administrative funding to compensate for increased claims workload. In addition, Colorado signed into law state extended benefits (SEB) which increases the number of weeks of UI benefits available when the total unemployment rate, averaged over three months, reaches a specific percentage. SEB may 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 surcharge (SS) is assessed and added to the standard or computed premium 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 SS has been in effect since calendar year 2004 and remains in effect for calendar year 2010. The maximum solvency rate for 2010 is 5.4 percent.

The department's executive director has publicly stated that the state's UI premium rate calculation and dollar limits are antiquated and expects this issue to be addressed with state legislation during the upcoming session (January - May 2011). In the meantime, the 2011 rates will be consistent with current 2010 rates described above.

In order to pay benefits, the UI Program started receiving Title XII federal advances on January 20, 2010. As of July 2, 2010, the UI Program had received \$335,348,149 in advances and made a payment of \$160,000,000 on May 24, 2010, leaving the total outstanding amount of \$175,348,149. The federal government provided an interest-free repayment timeframe for Title XII advances occurring February 17, 2009 through December 31, 2010. The UI Program's first interest repayment to the U. S. Department of Labor is due by September 30, 2011.

### **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, with particular ARRA discretionary grants lasting through FY2011-12. These include the ARRA On-the-Job Training National Emergency Grant, and the State Energy Sector Partnership, both providing training to targeted groups of job seekers.

### **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

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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 received \$1.6 million in funding via a decision item and capital construction request to build a common platform for all programs to run on. The Division will begin its formal solicitation for this new Enterprise System late this fall.
- ♦ **Unemployment Insurance Program:** One of the greatest challenges facing the UI Program is replacing its aging legacy systems which were established 25 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.

A significant step toward improving service delivery was launched in the fall of 2009. The Internet Self-Service (ISS) project implemented its first module with the claimant-focused *MyUI*. This online service addresses general claim information such as current claim balance, weekly benefit amount, wage information by employer, payment and deduction information, and work-search information.

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In 2008, 2009 and 2010 the Department received funding from the state to design, develop, and implement additional ISS applications for claimants and employers, which include SmartFile, Internet Continued Claims, and Employer Services. The SmartFile module will reduce filing errors by providing unemployed persons with one online application to begin the claim-filing process regardless of the type of claim that is filed. The Internet Continued Claims module will speed up claims processing and reduce the call volume on the telephone system. SmartFile and Internet Continued Claims are expected to be implemented during the 1<sup>st</sup> quarter of 2011. The Employer Services module will launch the 2<sup>nd</sup> quarter of 2011. It will allow employers access to basic employer account information and centralized account maintenance. Change of address, premium rate look up, and the ability to file premium and wage reports online are all built-in features.

### **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 youth (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. 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 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. CDLE expects to promote expansion of the CRC to the secondary and post secondary educational systems and to the correctional system during FY 2010-11 and FY 2011-12.

### **Healthcare Industry**

The WELLS Center is a collaborative healthcare training center located in the Fitzsimons Campus in Aurora. 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, the Department worked to increase the marketability of services through the WELLS Center with the goal of creating a self-sustaining training facility



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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 CDLE funding will be reduced during FY2010-11 and the operation of the WELLS Center will be transitioned to the University of Colorado Hospital.

### **Energy Industry**

Energy Development in Colorado has expanded and contracted rapidly during FY2008-09 and is anticipated to change again in FY2010-11. 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.

The Department received a \$6 million federal grant in FY2009-10 in American Recovery and Reinvestment Act (ARRA) funds to initiate the **State Energy Sector Partnership (SESP)**. Over the three years of funding, the Partnership will provide training to 1,200 Colorado workers seeking to enter the new energy fields with at least 763 trainees retaining jobs resulting from training after six months. To increase the likelihood of hiring and job retention, all training providers and programs must be approved by a Business Advisory Council (BAC) composed of employers in the renewable energy and energy efficiency fields. In partnership with statewide Registered Apprenticeship programs, 300 apprentices will receive specialized training in renewable energy and energy efficiency skills by mid FY 2012-2013. In FY 2011-2012, the SESP will develop a sustainable program in partnership with venture capitalists, financial institutions, business incubators, and the Small Business Development Centers to support 30 entrepreneurial start-up businesses. The SESP will support and expand a successful youth conservation corps program, provide training to support expansion of smart grids in Colorado, and fund a student ambassador program to increase energy awareness in high schools.

### **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 of Oil and Public Safety 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. Rules adopted to address this issue have developed 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 is more efficient and affordable.

In addition, staff are now educating 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.

### **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 FY2011-12. The Department received a Veterans' Workforce Investment Program (VWIP) grant to provide custom-designed employment and training services to the increased number of veterans seeking assistance. This grant will last through FY2011-12.

### **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 2011 will be available during the third quarter of 2010. The Division of Labor will begin the rulemaking process in September, 2010, to set the minimum wage for 2011. The new minimum wage will become effective January 1, 2011.

### **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 comprehensive websites, provided direct assistance to employers and employees, and initiated enforcement activities under these two 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 rides: challenge courses such as zip-lines and climbing walls; water parks and water slides; and simulated extreme sports such as sky diving are all segments that the Division is evaluating to determine if they fall within the Division's jurisdiction (and if so should they be regulated based on venue) and the intent of HB08-1103 – Amusement Rides.

### **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. Although jurisdiction such as the City and County of Denver (7,000 conveyances) and the City of Lakewood (600 conveyances) continue to transfer responsibility of their conveyances to OPS. Because these transfers of regulation have added and will continue to add a burden on existing resources, a budget amendment passed allowing for the addition of 5 FTEs to the program. In addition, new regulations will be promulgated to clarify existing processes and address problem issues that have come about as this new program is enhanced. One problem issue is developing regulations to address requirements of HB 10-1231 which authorizes the continued use of private residence conveyances installed prior to 2008 in buildings that are not a single family residence. New rules must be balanced to allow this equipment to operate, but ensure the safety of passengers and maintenance personnel. Another problem that is intensely contested between building owners and industry labor (International Union of Elevator Constructors Local 25), is whether the intent of statute allows only licensed elevator mechanics to perform work associated with the modification of elevator cab interiors.

### **Workers' Compensation**

The workers' compensation system has had one of the most active legislative sessions seen in the past decade. The Division has already held five public hearings to promulgate rules implementing the legislative changes, and will continue to be busy making necessary changes in procedures to efficiently incorporate the new laws.

The Division is also focusing resources on its efforts to ensure that all employers have required workers' compensation insurance and that enforcement of a variety of other workers' compensation statutes is stepped up.

The Division Independent Medical Exam program has been somewhat modified in response to legislative changes during the last session. The process also underwent extensive judicial review this past year that ultimately resulted in greater clarification of the purpose of the program by the state supreme court. It is expected that this program will continue to be a focus of attention among workers' compensation system stakeholders. In spite of the changes made this recent session, in the State of Oregon's most recent 51 state ranking (includes District of Columbia), with the number 1 having the highest premium (cost for insurance) and the number 41 the lowest, Colorado was ranged 43<sup>rd</sup> for 2008.

**WORKLOAD REPORTS**

UNEMPLOYMENT INSURANCE PROGRAM Workload Indicators	FY 08-09 Actual	FY 09-10 Actual	FY 10-11 Appropriation	FY 11-12 Request
Number of Unemployment Insurance Initial Claims	319,853	408,644	318,944	225,000
Number of Appeals Decisions	27,169	35,844	29,000	22,000
Number of New Employer Accounts	20,151	17,560	18,000	19,800

UNEMPLOYMENT INSURANCE PROGRAM Benefit and Claim Statistics	FY 08-09 Actual	FY 09-10 Actual	FY 10-11 Appropriation	FY 11-12 Request
Average duration of a benefits claim in weeks	13.7	17.9	16.5	14.5
Average weekly benefit amount	\$349.21	\$350.30	\$353.80	\$360.88

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WORKFORCE DEVELOPMENT PROGRAMS Workload Indicators		FY 08-09 Actual	FY 09-10 Actual	FY 10-11 Appropriation	FY 11-12 Request
Total applicants	Target	350,000	420,000	450,000	450,000
	Actual	473,277	551,159		
Total applicants referred to jobs	Target	155,000	155,000	160,000	160,000
	Actual	190,360	191,225		
Total job openings received from employers	Target	110,000	95,000	90,000	90,000
	Actual	97,613	97,613		

WORKFORCE DEVELOPMENT PROGRAMS Workload Indicators -Applicants Served by Program		FY 08-09 Actual	FY 09-10 Actual	FY 10-11 Appropriation	FY 11-12 Request
Workforce Investment Act		11,254	8,924	8,700	8,700
Wagner Peyser		473,277	543,488	480,000	480,000
Veterans		45,736	52,032	45,000	45,000
Migrant Seasonal Farm Workers		1,231	876	800	800
Work Opportunity Tax Credit		13,103	7,671	8,500	8,500
Governor's Summer Job Hunt		43,350	36,293	40,000	40,000
Trade Adjustment Assistance		1,049	1,312	1,350	1,350
Trade Readjustment Allowance		1,826	1,900	1,950	1,950
Displaced Homemaker		75	74	70	70

Department Description: FY 11-12 Budget Request

WORKFORCE DEVELOPMENT PROGRAMS Workload Indicators -Employers Served by Program	FY 08-09 Actual	FY 09-10 Actual	FY 10-11 Appropriation	FY 11-12 Request
Wagner Peyser	14,763	10,796	11,000	11,000
Work Opportunity Tax Credit - Number of employers registered	1,049	1,278	1,300	1,300
Alien Labor Certification	636	231	250	250

LABOR MARKET INFORMATION Workload Indicators	FY 08-09 Actual	FY 09-10 Actual	FY 10-11 Appropriation	FY 11-12 Request
Establishments on QCEW data file	220,654	216,756	223,000	220,000
New establishments classified by industry	15,700	16,000	25,000	18,000
Establishments verified for proper classification	22,291	20,098	26,000	20,000
LMI Gateway website hits	Unavailable	Unavailable	140,000	140,000
Products distributed	184,036	103,318	175,000	125,000
Training sessions and presentations	28	27	45	30

DIVISION OF LABOR Workload Indicators	FY 08-09 Actual	FY 09-10 Actual	FY 10-11 Appropriation	FY 11-12 Request
Claims successfully resolved	4,780	3,676	5,000	5,000
Money recovered	\$1,350,000	\$1,100,000	\$1,500,00	\$1,500,000
Employee group presentations / number in attendance	20 / 1,400	12 / 1,100	25 / 2,000	25 / 2000
Walk-in customers	2,022	1,755	2,000	2,000
Wage claims per FTE	1,020	825	900	900

Department Description: FY 11-12 Budget Request

Dollars recovered per FTE	\$194,000	\$157,000	\$200,000	\$200,000
Average dollars recovered per claimant	\$191	\$188	\$200	\$200
Estimated taxes recovered (State & Federal)	\$340,000	\$275,000	\$375,000	\$375,000
Collective Bargaining Elections	5	0	4	4
All-Union Agreement Elections	3	5	5	5
Unfair labor practices charges	6	2	4	4
Employment verification claim (random audit , complaints)	616 , 31	623, 44	650 , 30	650, 30
Public contracts for services claims	3	1	3	3

OIL & PUBLIC SAFETY Workload Indicators	FY 08-09 Actual	FY 09-10 Actual	FY 10-11 Appropriation	FY 11-12 Request
Number of required Public School inspections per fiscal year - new for FY 08	1656	N/A	N/A	N/A
Number of Public School projects and plan per fiscal year	483	N/A	N/A	N/A
Number of preliminary meetings with architects concerning public schools	168	N/A	N/A	N/A
Percent of Public School plan reviews that receive management quality control review	100	N/A	N/A	N/A
Number of boilers requiring inspection	27,577	23,149	23,330	24,930
Percent of boiler inspections performed by certificate expiration date	81%	98%	98%	98%
Percent of boiler violations corrected by deadline	78%	88%	90%	90%
Percent of boiler initial inspections on new installations performed within 30 days of installation	96%	98%	98%	98%
Number of explosive magazine inspections required	54	75	75	75
Explosive exams conducted	349	331	350	350
Explosive permits processed and issued	622	563	600	600



Department Description: FY 11-12 Budget Request

Number of carnivals and amusement parks inspected	9	69	75	100
Percent of daily amusement ride inspection reports reviewed for compliance	25	45	35	35
Number of conveyance registrations processed	12,295	1,757	3,000	1,000
Number of Certificates of Operation issued	918	4,286	7,000	12,000
Number of accidents reported	9	5	15	15
Number of licensed conveyance mechanics	415	482	480	480
Number of licensed conveyance contractors	26	39	35	35
Number of licensed conveyance inspectors	34	58	60	65
Number of petroleum facilities	4,818	4,815	4,800	4,775
Number of LPG facilities	1,180	1,141	1,200	1,250
Percent of retail petroleum facilities inspected each year to ensure 18 month inspection frequency goal is achieved	69%	64%	67%	67%
Number of confirmed petroleum releases reported	171	258	250	250
Number of open events	1060	1013	1000	975
Number of site characterization reports received	145	118	120	120
Percent of site characterization reports reviewed and NFA, CAP request or Final SCR letter issued within 60 working days.	100%	94%	95%	95%
Number of corrective action plans received	334	290	300	300
Percent of corrective action plans reviewed and a CAP approval or denial letter issued within 90 days.	96%	92%	90%	90%
Average turnaround time for petroleum product sample analysis	7 days	7 days	8 days	8 days
Processing time of traditional original reimbursement applications with a fund payment report prepared within 90 working days	60 days	64 days	60 days	60 days
Processing time of electronic reimbursement applications with a fund payment report prepared within 90 working days	34 days	30 days	32 days	30 days
Leak/spill/special investigations	33	48	60	60
Tank installations and upgrades	172	253	200	200

Department Description: FY 11-12 Budget Request

Tank closures	123	148	200	250
Percent of facilities in operational compliance with regulations	70%	81%	80%	85%
Number of petroleum impacted sites receiving a No Further Action status	244	317	250	250
Percentage of fuel meters within tolerance limits	97%	98%	95%	95%
Percentage of product samples in compliance with specifications, ensuring fuel quality and consumer protection	88%	79%	95%	90
Consumer complaints	238	234	300	250
Percentage of consumer complaint investigations completed within 5 working days	92%	84	98%	90

DIVISION OF WORKERS' COMPENSATION Workload Indicators	FY 08-09 Actual	FY 09-10 Actual	FY 10-11 Appropriation	FY 11-12 Request
Number of customer contacts with the Customer Service Unit	55,334	50,181	52,000	52,000
Number of customer contacts via telephone calls	48,919	44,149	48,500	48,500
Number of customer contacts via walk-ins	6,415	6,032	6,500	6,500
Reduce caller telephone wait time in Customer Service as measured in seconds	16	13	20	20
Reduce percentage of lost calls ( <i>FY09-10 actual note – New phone system eff-10/1/09; also many UI calls hang up following our automated introduction</i> )	4%	7%	4%	4%
Number of Independent Medical Exam (IME) applications processed	3,237	3,059	3,000	3,000
Number of IMEs held by workers' compensation number, not event	2,545	2,542	2,600	2,600
Percentage of workers' compensation cases with IME applications that requested hearings	46%	52%	40%	35%
Number of applications for indigent determination filed with Office of Administrative Courts (OAC) - data provided by the OAC-	510	480	500	500
Number of applications for indigent determination where the claimant was determined to be indigent	341	334	390	390

Department Description: FY 11-12 Budget Request

Number of utilization reviews (UR) processed	7	9	10	10
Percentage of UR orders upheld	100%	100%	95%	95%
Number of injury reports filed by employers and claimants	36,142	34,133	36,000	36,000
Number of reviews of admissions of liability for benefits	57,170	53,969	60,000	60,000
Orders related to requests for administrative closure for claims	1,075	988	800	800
Orders related to requests for penalties or compliance issues	649	983	900	900
Respond to inquiries about the fee schedule	1,993	1,683	2,000	1,900
Number of motions addressed by prehearing Administrative Law Judge (ALJ) through motions practice, including prehearing conf.	8,362	8,249	10,000	10,000
Number of stipulations for settlement approved	6,192	5,697	7,000	7,000
Major Medical Insurance and Subsequent Injury Funds: Savings by fee scheduling and denying charges for treatment of non-related conditions	\$6,626,486	\$6,010,183	\$6,000,000	\$6,000,000
Average number of days from receipt to resolution of medical billing disputes	9	7	10	10
Total current accredited physicians	998	963	1,000	1,000
Number of presentations provided by the Division to the public	57	50	35	35
Number of Division-sponsored seminars held outside of the metro area (FY09-10 actual note -Travel and other budgetary constraints required this reduction)	20	5	10	15
Number of audited and on-site reviews of insurers claims handling practices (FY09-10 actual note – Audits scheduled in two-year cycle, from 35 larger insurers to 60 smaller ones including self-insurer)	35	62	35	60
Premium cost containment cumulative employers certified	5,474	5,713	5,983	6,253
Current employers self-insured	95	93	92	92
Cash flow advantage to self-insured employers program wide (FY09-10 actual note- reduction proportionate to drop in commercial premiums overall in Colorado)	89,184,000	\$72,878,000	\$72,000,000	72,000,000
Number of insolvent self-insured employers who default on workers' compensation	2	0	0	0

Department Description: FY 11-12 Budget Request

Number of cumulative defaulted self-insured employers under supervision	4	4	4	4
Number of revoked permits annually reviewed	63	65	65	67