

**DEPARTMENT OF LABOR AND EMPLOYMENT  
FY 2008-09 BUDGET HEARING**

**Wednesday, November 14, 2007  
1:30 p.m. to 3:00 p.m.**

**1:30 – 1:40**

**Introductions and General Overview**

**1:40 – 1:55**

**Departmental Goals and Objectives**

1. What are your department's principal goals and objectives? What are the metrics by which you measure success or failure?

*We have four primary goals and objectives.*

1. *Provide quality, customer-driven employment and training services to job seekers and the business community through timely and accurate payment of Unemployment Insurance benefits, comprehensive labor market data & analysis, and result-driven workforce development*
2. *Increase efficiencies throughout the workers' compensation system resulting in cost savings.*
3. *Protect the health and safety of the citizens of the State and prevent harm to our environment through inspections and recommendations for remedial actions related to petroleum products & storage tanks, explosives, boilers, and public school buildings*
4. *Serve the best interest of employees and employers through the responsible administration and enforcement of labor laws.*

Performance Measures		FY 05-06 Actual	FY 06-07 Actual	FY 07-08 Estimate	FY 08-09 Projected
Ensure that 90% of UI payments processed are accurate and timely.	Target	New	New	90%	90%
	Actual	N/A	74%		
Entered Employment Rate	Target	60 %	60 %	61 %	62 %
	Actual	58.91%	60.64%		
Percentage of Wage Claims Successfully Resolved	Target	New	New	70%	70%
	Actual	N/A	72%		
Minimize the incidences that cause injuries, as identified through violations noted during field inspections: Percent of violations noted during field inspections.	Target	New	New	10%	10%
	Actual	N/A	11%		
Total amount of incorrect Workers' Compensation payments detected and corrected	Target	\$2,250,000	\$2,250,000	\$2,250,000	\$2,250,000
	Actual	\$2,412,541	\$2,033,533		

2. Given the change in the Administration, have there been any changes to your department's principal goals and objectives since last year?

*While the Department of Labor and Employment exists to help support the State's economy thorough a sustainable workforce, the Department believes that with added attention some programs will be more effective in making this vision a reality.*

*The Division of Workforce Development is an example of a unit which has received a renewed focus, driven by a shift in the Department's principal goals and objectives.*

*In recent times, many workforce centers throughout the State were experiencing staffing reductions while the needs of emerging industries and businesses were increasing. While a reduction of resources is in part attributable to this, the role our workforce centers play in economic development had not been adequately recognized or supported from a policy standpoint. Now, with a shift in Departmental key goals and objectives, the integral role of our workforce centers can be supported so that they function effectively and efficiently to support a healthy economy for the State.*

3. What progress did you make during the last year in achieving your goals?

*One special accomplishment within the Division of Oil and Public Safety was the development and publishing of a software package called EFS+. This software now allows consultants and tank owners to submit their Economic Feasibility Summary (EFS) and consequently their Electronic Reimbursement Applications (eRAP) in an electronic format. This development has increased the quality and speed of these important document submittals thereby allowing quicker State Fund reimbursements and quicker cleanup of petroleum contamination.*

*Through various programs, the Division of Worker's Compensation (DoWC) supported the goal of increasing efficiencies throughout the workers' compensation system resulting in cost savings. This is reflected in accident cost reductions of close to \$20 million for those employers participating in the cost containment program. In addition, the workers' compensation system saw savings of 38% in medical costs through application of the fee schedule promulgated by the division. Cost savings are further reflected by the negative 7.5% Loss Cost Filing adopted by the Commissioner of Insurance for calendar year 2008.*

*The division has also been successful in advancing the goal of enforcing important provisions of the Workers' Compensation Act to assure the quick and efficient delivery of disability and medical benefits to injured workers. This is reflected by the over \$2 million in incorrect benefit payments that were detected and corrected through efforts of the DoWC staff. It is also significant to note that detected underpayments and overpayments are on the decline, a sign that division efforts to educate and ensure correct benefit disbursements are working.*

*The division has increased the number of investigations of employers suspected to be uninsured by over 60%, which has resulted in an increase of over 50% in orders to pay fines for being in default of insurance coverage requirements. It is expected that this will have an impact on the goal to reduce the number of claims filed that are determined to be uninsured. While it has always been a goal to have all employers maintain required insurance coverage, the metric examining the percent of claims filed that are determined to be uninsured is relatively new. Only .33% (one-third of one percent) of the claims filed in FY07 were determined to be uninsured. This is an improvement from the previous year's .36%.*

*The UI Program has made tremendous strides in improving a federal performance measure. The Benefits Timeliness and Quality (BTQ) score is derived from a quarterly review of a sample of non-monetary determinations which are scored according to federal standards. We have increased this score by 12.7% between the first and second quarters of 2007 by providing refresher training to staff in specific areas, modifying various processes, incorporating scanned images in place of paper documents and creating new correspondence.*

*In support of the Division of Workforce Development's goal of enhancing partnerships with various employment sectors, the Division made marked progress in its focus with the newly created Energy Sector Solutions Initiative (ESSI). The Division, in collaboration with higher education and industry, identified workforce gaps and, along with its partners, was able to strategize on training, economic development and workforce development solutions to meet those gaps. ESSI provides an industry approach to meeting workforce needs, rather than an individual business by individual business approach.*

*The Division of Labor conducted extensive research and analysis to determine the new inflation adjusted minimum wage, effective January 1, 2008, as required by the Colorado Constitution:*

- a. The public hearing was held on 11/6/07.*
- b. The Division adopted Minimum Wage Order Number 24 on 11/9/07.*
- c. The Division updated its fact sheet and related website guidance on 11/9/07.*
- d. The new Minimum Wage Order Number 24, and its minimum wage of \$7.02 per hour, is effective January 1, 2008.*
- e. The issuance date of the Wage Order therefore matches the performance measure estimate of 1/08.*

4. How is the additional money provided to your department in FY 2007-08 being used to achieve your goals? What improvements is your department making in its outputs?

*The Division of Employment & Training received approval to refinance the state mandated increases in salary and benefits from federal funding sources to state funded cash sources. The UI Programs federal grant was cut by \$2.5M so this refinance prevented a layoff and allowed the program to not only maintain current service levels but they have improved the quality of decisions by 20%.*

*The Public Schools program received an emergency supplemental to begin to address school safety concerns from the June 2007 Audit report. The funds allocated have enabled the Public School program to dramatically increase the level of attention paid to student safety.*

5. Please identify your department's 3 most effective programs and your 3 least effective programs. Explain why you identified them as such. Explain how your most effective programs further the department's goals.

*Three of the most effective programs within the Department of Labor and Employment:*

*The Petroleum Storage Tank Program is an effective and award winning program. The Petroleum Storage Tank Fund has received national honors on four different occasions as the best run state fund in the country. Recently the regional office of the Environmental Protection Agency has honored members of our Remediation Section with their external awards for environmental achievement. The award dealt with the number of cleanups of petroleum contaminated sites.*

*Another extremely effective program is CDLE's Local Veteran's Employment Representative Program (LVER) within the Division of Workforce Development. The program is designed to provide veterans with the highest quality services through all available special veterans' Employment and Training Programs.*

*The program's grant funds provide staff for direct employment assistance, training-related and supportive services for eligible veterans. The LVER program funds staff engaged in labor exchange services to ensure that veteran's preference status is addressed in the job referral process at local One Stop Centers. Events such as the Hire A Vet Job Fair and the Denver "Stand Down", which provides services to homeless veterans demonstrate the programs' effectiveness as mandated by Title 38 U.S. Code.*

*The program staff and CDLE's Southwest Workforce Region have both received awards from the Colorado State Department of the Veterans of Foreign Wars.*

*The third program in the most effective category is the Division of Worker's Compensation. There are several points that could be highlighted about the good work done in the division. A few are listed below.*

*The Premium Cost Containment program continues to be held in high regard by all system stakeholders. The program has been effective at reducing the frequency and severity of workplace injuries for those employers who participate. This translates into significant cost savings.*

*The Claims Management unit works to ensure the correct disbursement of indemnity benefits to injured workers by examining filings and through direct contact with parties to claims. In what can be a confusing scheme, the unit educates adjusters and works with all parties to mediate disputes and shepherd claims through the system.*

*Medical cost containment, specifically the medical treatment guidelines and medical fee schedule. These are important components of the Division's efforts to keep medical costs in the system low, while still allowing the provision of quality medical care. The medical treatment guidelines are recognized nationally as being effective and well supported. The medical treatment guidelines provide direction to all parties as to what is considered reasonable and necessary care, helping the system to operate efficiently and reduce litigation. They are based on medical evidence or a consensus of medical providers. The medical fee schedule sets maximum reimbursement rates for all medically related services and provides predictability and stability to medical costs.*

*Three of the programs which need the most improvement are:*

*The Public School Construction program was revealed to be much less effective than it needs to be. The June 2007 Audit report from the State Auditor's Office demonstrated several deficiencies, many of which were directly linked to an overall lack of resources. There were other aspects that required immediate attention as well. The Department submitted an emergency supplemental over the summer to address some immediate safety concerns and has exerted substantial effort over the past few months in working with a stakeholder group to develop options to improve the overall effectiveness of the Public Schools program. Other aspects of Departmental efforts to improve the effectiveness of this program are found in the Audit Report section of this document.*

*The Carnival and Amusement Park program was also shown by the recent audit to have room to substantially improve its effectiveness. Based on the recent audit findings, the Department has implemented several measures in conjunction with the Legislative Audit Committee to address the shortfall in the level of resources and thus improve the overall effectiveness of the program. Some of these measures are discussed in question #13.*

*The Workforce Development Program, while believed to be one of the most effective programs in the Department, has been challenged by federal funding cuts in their ability to effectively deliver the services desired by job seekers and local employers. These funding cuts over the past few years have severely stretched the resources of the Workforce Center and their staff members. They have worked hard to effectively deliver job placement and other services. The Department currently has a request before the JBC to give sufficient resources to the state's workforce centers to enable them to effectively facilitate the labor market within the Colorado Economy.*

6. Are there programs that your department is required to perform that do not further your department's goals or have outlived their usefulness? If so, what are they and by whom are they required? Why don't they further your department's goals?

*The Department evaluates the effectiveness of programs in regard to our goals. We believe the programs within our Department provide substantial value to Colorado Citizens. We believe that the goals of each program are important and we work hard to effectively deliver the services that are needed and expected.*

## **Costs and savings from complying with specific bills and orders**

7. What are your department's anticipated costs, anticipated savings, and potential benefits from complying with Executive Order D 028 07, Authorizing Partnership Agreements with State Employees?

*There is no anticipation for any appropriations request other than the potential need for spending authority to be able to spend the funds received from the Employee Organizations to pay for the election expenses as required by the Executive Order.*

*The potential benefits from complying with Executive Order D 028 07 include the creation of a more engaged, more productive and more efficient workforce, derived from enhanced employer-manager relationships in which the two are able to jointly craft goals and expectations and strategies to achieve them.*

*Executive Order D 028 07 will foster collaboration and sharing of ideas between management and front line employees to identify and implement efficiency measures, eliminate waste and redundancies, improve customer satisfaction such as reducing wait times, enhance employee recruitment, training and retention and improve workplace safety.*

8. Provide an estimate of the costs your department will incur in FY 2007-08 in carrying out the provisions of H.B. 06S-1023. Provide an estimate of your department's savings in FY 2007-08 as a result of not providing services to individuals who are in the country illegally.

*Programs affected by HB 06S-1023 include the following:*

- *Unemployment Insurance*
- *Workforce Development Programs*

*The Department submitted costs associated with the implementation of HB 06s-1023 as a 1331 supplemental. The JBC funded a portion of that request. The JBC funded \$287,493 for the Workforce Centers to implement a process to collect the required information. The UI program, which already used the Systematic Alien Verification for Entitlements (SAVE) program, was appropriated \$87,335 to modify the process to include verifying legal residency using the process mandated by HB 06S-1023.*

*The granting of benefits has not changed due to HB 06S-1023. The Unemployment Insurance program already used the SAVE program and already denied benefits to illegal aliens. Therefore, there are currently no anticipated savings from the passage of HB 06S-1023.*

1:55 – 2:05

## Overview Questions

9. Please provide an update on the development of rules for regulation of elevators and mechanical conveyances, particularly with respect to residential versus commercial buildings.

*The Elevator and Escalator Certification Act, which will take effect on January 1 2008, requires rules to be written by 7/1/08. **This Act excludes conveyances in single-family residences from regulation.** The OPS Conveyance Section invited interested parties to a meeting on 10/16/07, at which the statute was reviewed and an Advisory Board of 17 members was selected to continue in the rule development process. Representatives from local jurisdictions, building owners, code organizations, union/non-union mechanics, and large and small contractors, manufacturers, and inspection companies are all members on the Board. The key issues developed by the Board needing priority attention were determined to be:*

- a) Identification of all regulated conveyances throughout Colorado.*
- b) Identification of local jurisdictions that intend to transfer their conveyance programs to the OPS.*

*To resolve these issues, it was determined that OPS must approach the jurisdictions intending to transfer their programs in an attempt to identify the reasoning behind their intent and to persuade the jurisdictions to retain their conveyance programs. Members will also submit to OPS the following information:*

- A list of what type of information is maintained on conveyances.*
- A list of manufacturers, from which OPS will request information on conveyances installed in Colorado.*
- Information needed regarding these conveyances from the jurisdictions/owners.*
- A list of qualifications required for inspectors prior to taking part in the national certification process.*
- The status of jurisdiction and other inspectors with regards to required national certifications, and how to get these existing and new inspectors certified to inspect conveyances as required in the Act.*

*Other items for which the Board reached consensus were:*

- Taxing authority lists could be used to verify owner information.*
- The annual witnessing by jurisdiction or other certified third-party inspectors of conveyance testing is a critical component to ensure the safety of conveyances. The current inspection staffs must be increased to handle the witnessing of tests.*

*It is anticipated that the next Advisory Board meeting will be held during the second week of December, and following meetings will be held up to twice per month.*

10. Why is the Department forecasting such a large increase in Workers' Compensation caseloads since the trend has been down for the last few years?

*The workload measure being referred to tracks customer contacts, but is not necessarily correlated to caseload. The Customer Service Unit has contacts with all stakeholders in the system: injured workers, employers, insurance companies, doctors, lawyers, etc. The number of contacts generally trends with the number of cases filed, but there is not a direct relationship between customer contacts and caseload. The actual number of walk-in contacts has been greater than the estimate, while the total number of contacts has been less than the estimate. It was an oversight that the Division did not reduce the estimate of 70,400 based on the downward trend, and will do so in the future. It is worth noting that as a result of the downward trend in actual contacts an FTE has been moved from the Customer Service Unit to a different unit where the workload is increasing. The chart below shows the target and actual for each year with updated and corrected estimates.*

Workload Indicators (corrected)		FY 05-06 Actual	FY 06-07 Actual	FY 07-08 Estimate	FY 08-09 Projected
Number of customer contact with the Customer Service Unit (total of next two bullets)	Target	70,500	70,400	58,000	58,000
	Actual	58,630	56,467		
Via telephone calls	Target	65,000	65,000	51,000	51,000
	Actual	51,541	50,217		
Via Walk-ins	Target	5,400	5,400	7,000	7,000
	Actual	7,089	6,250		

11. Why are the functions of the Division of Oil and Public Safety under the Department of Labor and Employment rather than the Department of Regulatory Agencies or the Department of Public Health or the Department of Public Safety?

*There are a number of reasons why the inspection and public safety functions were assigned to the department. Some of the reasons that we will present are based on first hand knowledge and some of the other justifications presented are based on third party knowledge and research.*

*The largest function within the Division of Oil and Public Safety (OPS) is the administration of the Petroleum Storage Tank Program. In 1989 the legislature passed a comprehensive Underground Storage Tank (UST) law (HB89-1229), which included enforcement of tank regulations, cleanup regulations and administration of the Petroleum Storage Tank Fund. Because of historical experiences the legislature split the implementation of the program between the office of the State Inspector of Oils (OIS) at Colorado Department of Labor & Employment (CDLE) and the Colorado Department of Public Health and Environment (CDPHE).*

*The OIS was given the responsibility for enforcement of tank regulations because of its historical responsibility for enforcing fire code regulations concerning petroleum storage tanks (underground and aboveground). OIS was also given partial responsibility for reviewing State Fund applications in the areas of tank compliance.*

*The oversight of cleanup of petroleum releases was assigned to the Health Department because of their experience in dealing with environmental contamination. They were also given the overall responsibility of administration of the Petroleum Storage Tank Fund.*

*In 1995 the legislature, through HB05-1183, consolidated the entire Storage Tank Program at the Oil Inspection Section within CDLE. The reason for this legislation was to create efficiency by consolidating the entire administration of the program within one department. This was necessary because there were backlogs of unpaid reimbursement applications and contaminated sites. Since then the Petroleum Storage Tank program has functioned well at the CDLE. The program has functioned well because the consolidation has allowed comprehensive communication between the preventive side of the program and the remediation portion of the program. This communication has helped minimize the impacts of contamination and the cost of cleanup.*

*The 2001 legislature, through HB01-1373, consolidated the Petroleum Storage Tank Program with other public safety programs in the CDLE and created the OPS. The other programs that were merged with oil inspection were boiler inspection, explosives, public school construction and carnival and amusement parks. The purpose of this legislation was to create efficiency through consolidation of administration. In 2006 the legislature, through HB06-1158, reaffirmed that the Public School Construction Program should remain with the Department of Labor and Employment.*

*There is other evidence that worker safety programs are associated with labor departments. For example the Mining Safety and Health Administration (MSHA) and the Occupational Safety and Health Administration (OSHA) are both located within the US Department of Labor. Part of the OSHA laws and regulations deal with safe operations of petroleum storage tanks, propane tanks, construction materials and the safe use of explosives. Our regulations cover many of these same issues.*

*The following information is based on third party information and research:*

- a) The office of the State Inspector was created as a separate department in 1899. Approximately 50 or 60 years ago there was a consolidation of departments in state government in which many larger departments absorbed smaller departments. At that time State Oil Inspection was included within the CDLE.*
- b) The state boiler program has been in existence for many decades and was placed in CDLE because of the concept of worker protection. Most boiler accidents affect employees at the facility where the boiler exists.*
- c) The state explosive program was placed at CDLE because of worker protection. One of the primary focuses of the state explosive program is to regulate the individual blaster. The rules are designed to protect those employees who use explosives.*

*Two and half years ago an informal survey was conducted amongst approximately 40 states and found that in 50% of those states surveyed indicated that the boiler and explosives programs resided within those respective state's Department of Labor or similar departments. The reasons offered by those states for the location of these programs were "protection of the worker".*

*It is logical to conclude that the legislature may have had this concept in mind with not only boiler and explosives but regulation of petroleum storage tank and of propane distribution facilities. In cases where there are either petroleum releases or fires or explosions occurs the people most often that are immediately affected by these instances are the workers at these facilities.*

*There is no evidence to suggest that these programs would be better placed within another department. Arguments could be made that "on paper" these programs may fit better in another department or split amongst many departments, but the fact remains that these programs have been administered effectively at the Department of Labor and Employment. The consolidation of these environmental and safety programs at CDLE has minimized the impacts of health and safety based issues by having various inspectors around the state who can respond to a variety of incidents.*

12. In which fiscal year did the Subsequent Injury program \$2.0 million reversion occur?

*The Subsequent Injury Fund pays health benefits to qualified injured workers. In FY 07-08 the subsequent injury line item was appropriated \$5,200,000 and our current estimate is that we will only spend \$3,200,000, thus estimating a "reversion" of \$2,000,000 in spending authority for this current fiscal year. There is no actual reversion of money; the dollars remain in the subsequent injury fund in order to cover future benefit for injured workers. Please note that during the 2007 legislative session the Subsequent Injury Fund was continuously appropriated for the purpose of benefit payments to qualified injured workers.*

**2:05 – 2:15**

**Public Safety State Audit Report**

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

*Yes, the Department has implemented numerous different processes to mitigate the issues derived in the audit report in addition to legislative Audit Committee legislation discussed below. Some of the initiatives undertaken by the Department are:*

*Public Schools*

- *The Division committed to re-inspecting 150 sites and plan reviews that had been conducted during the audit period. This was completed by late August.*

- *The Division hired a new program manager who has over 25 years experience in construction inspections, plan reviews and management.*
- *Developed a process of quality control reviews for all permits that are issued.*
- *Check sheets have been designed and implemented for use in reviewing construction plans.*
- *Standardized inspection forms have been designed and implemented*

#### *Carnivals and Amusement Parks (C&A)*

- *We have added a second notification at 60 days prior to their expiration when a new application has not been received.*
- *Formal procedures have been established to document applications*
- *The Division has begun conducting “unannounced” on-site inspections of daily inspection records*

#### *Boiler*

- *The database system used by the boiler inspection section, FOCUS, was corrected so that second notices are generated when the boiler owners have not informed the Division that they have corrected their violations.*
- *The program manager has established a procedure to publish a monthly report that will identify boilers that are at least 60 days past due (45 days for the first notice and an additional 15 days for the second notice) on correcting their violations.*

#### *Explosives*

- *The Division will be seeking statutory authority to impose civil fines for non-compliance.*

14. Why is the state involved in the inspection of school construction? Can the state subcontract with fire departments or local building inspectors to perform school construction inspection? Does the state inspect to the same level as the locals? If not, how do they differ?

*The current statute reads that the state shall perform plan reviews and inspections. Our key goal with the legislation being proposed by the Legislative Audit Committee (LAC) is to allow school districts to hire third party inspectors to perform required inspections. We are also making changes, with the help of the LAC, so that it is easier for local building departments to be pre-approved for delegation to oversee plan reviews and inspections in their jurisdictions. The level of inspections will vary for each local jurisdiction, thus a direct comparison is not possible. Previous resource levels did not allow adequate state inspections. The new language being proposed will allow the local jurisdictions as well as third party inspectors to perform the actual inspections. Our intent is to perform a key mid project inspection and the final inspection for projects that are not delegated to local jurisdictions. We also want, through the new legislation, to be able to perform a more comprehensive QA/QC role of ensuring all plan reviews and inspections performed are in accordance with adopted codes.*

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

*Public Schools - For several months the Division has been conducting a comprehensive evaluation of the best way to perform the necessary plan reviews and inspections for public school construction sites. From this evaluation a long term plan has been developed with the assistance and collaboration of a stakeholder group which consist of public school construction officials, fire marshals, architects, contractors, local building officials and representatives of the Division of Fire Safety. Included in the evaluation is not only a determination of types of plan reviews and inspections but also an examination of the total cost to the state and the school districts.*

*Some of the results from the stakeholder group and implemented by the Department within the Public School's program are:*

- *It would be impractical for the state to maintain sufficient staff to perform all of the duties.*
- *It was found and agreed upon by the majority of the stakeholders that it is permissible in the building code for schools to hire third party inspectors who are certified by the state to perform the majority of the necessary inspections*
- *State inspectors will still do certain inspections.*
- *Delegation of the program to local jurisdictions is also part of the long term plan*
- *Proposed legislation will make it simpler for school districts and local jurisdictions to do business together.*

*For the other areas within the public safety division:*

*Carnivals and Amusement Parks-*

- *It appears there is no interest in local jurisdiction for delegated oversight. The Division will require owners to hire independent 3<sup>rd</sup> party contractors to keep state costs low.*

*Boiler*

- *The division is researching and contacting both locals and insurance companies on conducting inspections.*

*Explosives*

- *The division is in active discussions with Alcohol, Tobacco, and Firearms Enforcement (ATFE) to coordinate its inspections and permitting and have agreed in concept that there may be a benefit in consolidating some functions.*

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

*For the School Construction Program proposed legislation has been submitted and has been approved by the Legislative Audit Committee. That proposed legislation strengthens the requirements for certification of plan reviewers and inspectors; strengthens the requirements for issuance of certificates of occupancy; clarifies the process for delegation of the program to local jurisdictions and in doing so makes it easier for schools and local jurisdictions to conduct business; allows for use of third party inspectors and contractors and defines the*

*State's role as causing inspections rather than performing inspections*

*A supplemental/budget amendment request will be submitted requesting the resources necessary to perform the State's statutory duties. The request has been reduced from an amount that was originally considered because of the reduction of the State's duties which are outlined in the proposed legislation.*

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

*The division is working in concert with the Department of Public Safety, Division of Fire Safety. Public school construction projects at the school district level may see an increase in cost but funding for these typically comes from local mill-levy taxes. There should be no impact on state funding.*

**2:15 – 2:20**

### **Octane Testing**

18. Does SunCor Energy have octane test capabilities as part of its refining operations in Colorado? Could we contract with them to use their systems rather than purchasing new test engines?

*Suncor Energy does have octane engines at their refinery lab in Commerce City, however they do not do any private contract work through their lab. Also, Suncor Energy operates the only petroleum refinery in Colorado and there could be some conflict of interest if they get to test their own samples for quality purposes or samples from their competitors.*

*There are no local private labs that provide the CFR testing in Colorado. On rare occasions the Division has used out of state laboratories in Houston, TX for Octane testing.*

19. Is there any way to get a private lab to do the testing? Do other states do their own testing? Who do other states contract with?

*The division could enter into a contract with a private laboratory to conduct testing of samples. It is estimated that this would cost approximately \$500/sample for the testing and shipping and handling. Outside laboratories typically charge around \$200-\$250 per test and each sample would require two tests (RON/MON) plus the cost of shipping dangerous goods which is not inexpensive. On average OPS tests approximately 1,000 fuel samples per year. The cost to test these samples at a private laboratory would be approximately \$500,000/year, which is not cost effective. The cost of purchasing equipment to test in-house is \$440,000. In addition to being much more costly, results would be received in about a week, which would not allow for effective and timely enforcement actions, adversely impacting both consumers and fuel suppliers. Subcontracting octane analysis to private*

*laboratories is clearly not a cost effective option.*

*Some states such as Nebraska do not have fuel quality testing programs or laboratories while most others, such as Utah, California, and Texas have laboratories that do their octane testing in-house. Colorado does have some unique criteria, such as the octane reduction allowance for altitude (85 octane) that is not found in states like Nebraska or Kansas. Also, studies have shown that states with fuel quality testing programs tend to have higher rates of compliance with fuel specifications and less fraud. The possibility of these states handling our tests is possible, but again the shipping of gasoline is very costly. Gasoline samples need to be shipped as hazardous substances, and costs associated with packaging and mailing samples are significant.*

**2:20 – 2:30**

**Project Genesis Review**

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

One example of the proposed changes includes *Claim Filings for UI benefits*.

*Over 13%, or almost 15,000, of UI claims are processed and adjudicated however, the claimant never files for a benefit payment. This potential legislative change would alter Colorado statute to no longer require the Department to spend the time to adjudicate claims for which benefits are never requested.*

21. When does the Department anticipate that the Governor's Office will be able to provide the necessary guidance on the reuse versus rebid decision for the tax and benefits components?

*Before any guidance can be definitively given, there are several tasks that need to reach completion. As indicated in testimony before the Legislative Audit Committee (LAC), it is unlikely that it will be sooner than 2009 before an RFP can be submitted.*

*The Department is currently removing the existing genesis project components that remain on the legacy system in a project we are calling Return to Legacy.*

*Second, we are continuing to work on streamlining the internal procedures and processes as well as working on potential legislative changes to achieve an overall streamlining of the UI process.*

*In May 2007, Governor Ritter issued an executive order entitled "Improving State Information Technology Management." The order outlined implementation plans for SB 06-063 and further strengthened the authority of the State chief information officer and OIT. In response and as a sign of the close working relationship the Department is working to maintain with OIT, we became the first state agency to sign a memorandum of understanding*

*(MOU) with OIT that established a preliminary relationship to cooperate in moving forward on major IT projects. This MOU lays the foundation of the necessary cooperation aimed at enabling successful IT collaboration.*

*Additionally, the State of Utah has implemented a working modernized benefits system that the Project Recovery Assessment has identified as potentially meeting the needs of Colorado.*

*Utah has recently finished their modernized tax system and is in the process of integrating these two systems in a manner similar to the original vision of the genesis project. The department is closely monitoring Utah's project and level of success. The Department must continue to analyze the potential of using Utah's system and the potential cost savings before a decision in terms of reuse vs. rebid can be made.*

*Furthermore, we are aware that OIT is analyzing statewide approaches to large IT projects to preclude repetition of past failures but we are not currently privy to the exact timelines within OIT.*

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

*DPA was originally planning to sign a master contract with the VoIP vendor in December 2006. The final master contract was executed in May 2007. Once that contract was in place, our target date for contract execution was September 30, 2007. The interagency agreement with DPA was signed on September 19, 2007. All the supporting documents and task orders that completed the contracting process for this project were signed on October 11, 2007. This was 9 business days beyond the target.*

*In the past, our department has not been a part of the DPA telephone system. We purchased NORTEL telephone and call center technology in 1991 and Qwest was our support vendor providing a dedicated team of technicians and system application designers for this mission critical system. Our internal IT staff monitored the equipment networks of the NORTEL system. With the new VoIP technology which embodies voice and data we are pursuing a partnership with DPA for future voice and data support.*

*During the transition period from our old system to this new technology our plan is to continue to have internal IT staff monitor the network during business hours since they are most familiar with our business needs. We have begun to move forward into a partnership with DPA and we will work with them to establish service levels and develop a business process.*

23. Please describe how we contract for development of various types of component. Why does it appear that we hired, for example, an accounting firm to provide the telephony system?

*Once the Department obtains funding the Purchasing Office assists the Division with development of the appropriate vendor selection methodology ("solicitation") and*

*evaluation criteria that is in compliance with the Procurement Code and Rules. If the purchase request is not within the discretionary spending threshold or is not on a current State Price Agreement, the solicitation and model contract is posted on the State's web-based Bid Information and Distribution System ("BIDS"). Vendors view posted solicitations and submit responses, and a Department-identified committee evaluates and scores the responses.*

*The Department selected what appeared to be the most suited company for the job. At the time of selection all of the proposals were evaluated. The vendor selected as the main contractor for the genesis Project was Accenture. While previously associated with the accounting firm Arthur Anderson, Accenture is not an accounting firm. Accenture then utilized sub-contractors who are specialized in various IT components. The telephone sub-contractor was Genesys, a company with years of experience in telephony systems.*

## **2:30 – 2:35**

### **Unemployment Insurance IT Disaster Recovery**

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

*The Department looks forward to working closely with OIT in the development of a cost effective and efficient IT environment. While the Department will be a part of implementation of the vision laid out by the Governor and being pursued by OIT, it is currently unknown what the role of Department IT facilities will be in the consolidation plans. It is our understanding that consolidation plans are very fluid and still evolving.*

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

*Because the plans are still evolving, the Department is unable to estimate with any degree of accuracy the cost of IT facility consolidation.*

**2:35 – 2:40**

**Unemployment Insurance Internet Self-Service**

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

*As these new applications are implemented and efficiencies are achieved, current staff will be retrained, if necessary, and then reassigned to target other areas to help in meeting our performance measures.*

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

*Workload has remained steady and yet in the last two years, the federal UI grant has seen a cut of \$3.2M or almost 10%. If this pattern continues the department will need to pursue additional funding sources.*

**2:40 – 2:50**

**Restoring Cuts and Refinancing Workforce Development Programs**

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

*The percent of applicants entering employment cannot be calculated using the data in the table in the briefing document. Total applicants of 351,576 represents the total number of customers from all workforce development programs and includes applicants who are already employed and applicants who have not exited workforce development programs. The total applicants entering employment as a result of services of 104,306 represent Wagner Peyser clients and applicants that were not gainfully employed on the day of participation.*

*The entered employment rate is a federally mandated formula derived from Unemployment Insurance wage records to determine whether an applicant/customer was working in the quarter after completing or receiving Workforce Center services. The employment rate calculation is the number of applicants (who were not employed on the day of participation) entering employment as a result of services in the first quarter after exiting a program of 104,306 divided by the number of applicants who exited in the quarter of 171,162. Therefore, in FY06-07 the employment rate is 60% for applicants in the Wagner Peyser program. The entered employment rate for the Workforce Investment Act (Adult and Dislocated Worker) program is 84%.*

*The funding losses and the resulting loss of services have had and will continue to have a negative impact on the program's ability to make quality employee and employer matches.*

29. Why doesn't the State make use of private employment agencies, rather than running their own centers?

- *Employment agencies do not provide the range of services available through a Workforce Center. They provide services in the job placement area, but do not provide counseling, supportive services, training, workshops, or support to employers such as employer roundtables and job fairs.*
- *Private employment agencies "charge" employers for services. An employer may pay \$10/hour for the job, but the employment agency may charge the employer \$15/hour to cover the costs of taxes, social security, etc. In addition, Employers list their jobs free of charge at Workforce Centers.*
- *Even in the area of Labor Exchange, private employment agencies generally specialize in a specific job category of an employee, such as providing light industrial or clerical workers.*
- *Private employment agencies are one of our largest customers because of our large data base of job seekers.*
- *Many certified state employees are employed in Workforce Centers and privatizing Workforce Centers is unconstitutional. C.R.S 24-50-503(f)(III)(2) in part states, The state personnel director shall not approve a personal service contract under this section if the contract would result directly or indirectly in the separation of certified employees from state service.*

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

*The department has been working at the state level with Karen Beye, Director of Colorado's Department of Human Services through Governor Ritter's Government Efficiency Management Study to determine additional ways of collaborating to better serve those customers who use services from both departments.*

*To date, the county-run One Stop Centers have been working with their local county TANF programs to coordinate services and avoid duplications of effort for Colorado Works. While there may be some co-enrollment with WIA, the WIA funds are not always able to provide all of the supportive services. However, whenever the WIA regulations allow, the two programs do coordinate efforts and leverage resources for clients.*

31. Has the Department discussed with the Department of Human Services the impact that funding put into workforce development programs has on the number of people on TANF? Is this an effective method compared to other methods? How effective in comparison?

*Many TANF clients have barriers to employment, the need to cover costs for child care being the most significant. These barriers require that a TANF participant needs to have sufficient skills to earn significantly more than minimum wage. Training provided through*

*the Workforce Centers is necessary in these cases to upgrade the participant's skills to the point that they can earn enough income to be self-sufficient. Other participants who are relatively new to the TANF program need less intensive services, so these participants are routed through the Labor Exchange program and into suitable employment as quickly as possible.*

*The WDP finds that choosing from a menu of services including training, supportive services, and/or immediate placement to be the most effective in that it can be customized to the individual participants. Most TANF participants passing through the Workforce Centers have been successful; last year, 53% of the participants have completed workforce development programs and found suitable employment.*

## **2:50 – 3:00**

### **Cash Funds Status**

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

*The Department's 2003 study of the trust fund's financing structure suggested that, given the impact of the most recent recession, a fund balance equal to about 1.4 percent of total wages would be adequate to avert insolvency. As of June 30, 2007, this adequacy ratio stood at 0.76 percent with a fund balance of \$601.8 million. A fund balance of about \$1.1 billion would have been required to meet the 1.4 percent adequacy condition.*

*Current department forecasts extend through 2012-- the ratio is not expected to reach the 1.4 percent adequacy condition during this period due to several factors. As discussed in previous JBC briefings and hearings, the current tax structure is based on a fixed amount of taxable wages (first \$10,000 earned) while the benefits are indexed with wage growth. Furthermore, current statute will implement a 20% tax credit before the UITF reaches the 1.4% ratio inhibiting the fund's ability to reach 1.4%.*

33. Are SIF and MMIF funds being double counted because of the transfer funding for MMIF?

*There is no double counting of funds. There is a transfer of money between the two funds, but the transfer is accounted for and the money is not double counted. The money is only counted once for TABOR purposes.*

34. Can the State accept loans from the federal government for the UITF, or does TABOR prohibit the borrowing of federal money for unemployment insurance?

*The state can borrow from the federal government when the UITF becomes insolvent. However, it is unclear if the state can carry the loan across state fiscal years without a vote of the people since TABOR requires a vote of the people for multi-fiscal year debt. Most*

*likely, if the Trust Fund were to go negative as of June 30<sup>th</sup> of any given fiscal year, there would be a need to find an alternative source of money to carry the state across the fiscal year boundary.*

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

*The Department does consider the long term implications of any request. Decisions impacting the programs within the Department are analyzed for their impact on Colorado citizens and their ongoing needs. Each request for funding from the Employment Support Fund is made with the goal of making our programs more efficient (e.g., Internet Self Service) and more effective (e.g., restore services to Workforce Centers), and then the decisions are integrated into our long-term goals as a department. At the appropriate time, future funding needs will be weighed and options will be considered. For example, funding for an integrated UI tax and benefits system may need to be derived from an increase in the diversion going to the Employment Support Fund.*

36. Which cash funds are used for the EDO? Are these funds being used for inappropriate departmental activities?

*Most cash funds within the Department cover a portion of the EDO costs as well as their direct costs of centrally appropriated items (such as vehicles and IT services). Each fund covers its share of the overhead costs as determined by the federally approved cost allocation plan. The funds are used only for purposes for which they are appropriated and within fiscal rule guidelines.*