JOINT BUDGET COMMITTEE

STAFF BUDGET BALANCING
FY 2020-21

DEPARTMENT OF LABOR AND EMPLOYMENT

JBC WORKING DOCUMENT - SUBJECT TO CHANGE
STAFF RECOMMENDATION DOES NOT REPRESENT COMMITTEE DECISION

PREPARED BY:
AMANDA BICKEL, JBC STAFF
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JOINT BUDGET COMMITTEE STAFF
200 E. 14TH AVENUE, 3RD FLOOR · DENVER · COLORADO · 80203
TELEPHONE: (303) 866-2061 · TDD: (303) 866-3472
https://leg.colorado.gov/agencies/joint-budget-committee

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HOW TO USE THIS DOCUMENT

The **first section** of this document includes a summary table showing:

- Committee action on Long Bill appropriations through March 16, 2020; and
- Staff recommended changes to Long Bill appropriations, assuming that General Fund appropriations in FY 2020-21 must be kept at approximately the same level as FY 2019-20 to bring the budget into balance. This recommendation is based on the Legislative Council Staff March 16, 2020, revenue forecast, assumes that the statutory General Fund reserve will be increased in FY 2020-21 as proposed by the Governor, and assumes that only the federal increase in the Medicaid matching funds rate will be available to help cover shortfalls.

The table is followed by descriptions of each change recommended by staff.

A **second section** of the document (if applicable) summarizes staff recommendations that require statutory changes. This may include appropriation reductions that cannot be implemented without a statutory change, changes that affect the amount of available General Fund (e.g., a transfer from a cash fund), or any other items that are not captured in the Long Bill appropriations table. The recommendations in the second section are also based on the assumption that General Fund appropriations in FY 2020-21 must be kept at approximately the level of FY 2019-20 to bring the budget into balance.

A **third section** of the document includes additional staff recommendations and options for the Committee to consider if deeper cuts are required. For purposes of this section, staff has assumed additional reductions of 10.0 to 20.0 percent in General Fund appropriations and transfers will be required to bring the budget into balance in FY 2020-21.

SUMMARY OF STAFF BUDGET BALANCING RECOMMENDATIONS FOR LONG BILL

Department Of Labor And Employment	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2019-20 Appropriation						
SB 19-207 (Long Bill)	$270,584,244	$24,423,131	$82,605,146	$9,842,733	$153,713,234	1,289.0
Other legislation	1,384,865	1,096,752	38,113	250,000	0	3.8
TOTAL	**$271,969,109**	**$25,519,883**	**$82,643,259**	**$10,092,733**	**$153,713,234**	**1,292.8**
FY 2020-21 Recommended Appropriation						
FY 2019-20 Appropriation	$271,969,109	$25,519,883	$82,643,259	$10,092,733	$153,713,234	1,292.8
R1 Expand access to work based learning	0	0	0	0	0	0.0
R2 My Colorado Journey	0	0	0	0	0	0.0
Centrally appropriated line items	636,674	(508,352)	(418,797)	54,101	1,509,722	0.0
Veterans Service to Career Program	500,000	0	500,000	0	0	0.0
R6 Statewide provider rate increase	129,216	129,216	0	0	0	0.0
Consolidate legal services line items	0	0	0	0	0	0.0
Division of Employment and Training reorganization	0	0	0	0	0	0.0
(M) and (I) notation adjustments	0	0	0	0	0	0.0
Annualize prior year budget action	(2,811,729)	(2,946)	(2,800,690)	(5,453)	(2,640)	0.3
Informational funds adjustment	(2,367,960)	0	0	0	(2,367,960)	(10.0)
Annualize prior year legislation	(962,958)	(1,429,313)	499,772	(250,000)	216,583	(0.0)
R3 School to Work Alliance Program	(908,016)	0	0	(191,617)	(716,399)	0.0
R4 Federal Social Security reimbursements	(200,000)	0	0	0	(200,000)	0.0
R5 Business Enterprise Cash Fund spending authority	(200,000)	0	(200,000)	0	0	0.0
Subtotal - JBC Action as of 3/16/20	**$265,784,336**	**$23,708,488**	**$80,223,544**	**$9,699,764**	**$152,152,540**	**1,283.1**
Increase for workforce centers	2,000,000	0	2,000,000	0	0	0.0
Informational funds - Coronavirus response	10,100,000	0	0	0	10,100,000	0.0
TOTAL	**$277,884,336**	**$23,708,488**	**$82,223,544**	**$9,699,764**	**$162,252,540**	**1,283.1**

Department Of Labor And Employment						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
INCREASE/(DECREASE)	**$5,915,227**	**($1,811,395)**	**($419,715)**	**($392,969)**	**$8,539,306**	**(9.7)**
Percentage Change	2.2%	(7.1%)	(0.5%)	(3.9%)	5.6%	(0.8%)

Note: Changes to staff recommendations for common policy items, including salary survey and provider rates, will be addressed in statewide policy packets.

➔ Increase for Workforce Centers - Alternative to R1

JBC Action as of 3/16/20: As of 3/16/20, the JBC had not yet taken final action on the Department's R1 request. Request R1 was to provide $1,200,000 cash funds from the Employment Support Fund for work-based learning initiatives at workforce centers in FY 2020-21. Staff expressed support but also recommended that the Committee hold off on voting to approve this, pending Committee or other legislative action to address the cap on the Employment Support Fund. Staff had also recommended legislation to clarify the cap on the Employment Support Fund (and potentially remove it).

Recommendation:

- Given the rapidly evolving unemployment situation, **staff no longer recommends adding funds for Department Request R1.** Staff believes that, for the moment, any money in the Employment Support Fund (about $36 million) should be used to address skyrocketing unemployment and, in FY 2020-21, assistance to what will likely be large numbers of displaced workers.

- Based on an information submitted by the Department, staff instead recommends that the Committee appropriate $2,000,000 cash funds from the Employment Support Fund (ESF) in FY 2020-21 to provide additional resources for county and state-operated workforce centers to help with reemployment assistance in FY 2020-21, once the economy has reopened. The Department proposes these funds as supplement to its federal labor exchange service (Wagner-Peyser) funding. The federal government Coronavirus relief packages have thus far provided only limited additional support for workforce center activities, which are not active while businesses are closed but which will be active once they reopen. Staff recommends this additional funding be continued in FY 2021-22, ***if*** adequate/sufficiently flexible federal support has not been made available by that time.

- While staff would like to see the cap on the ESF clarified in the future, staff does not believe this needs to be a current priority. With a sudden drop in employment, revenue to the ESF is likely to be below original expectations and well below the statutory cap.

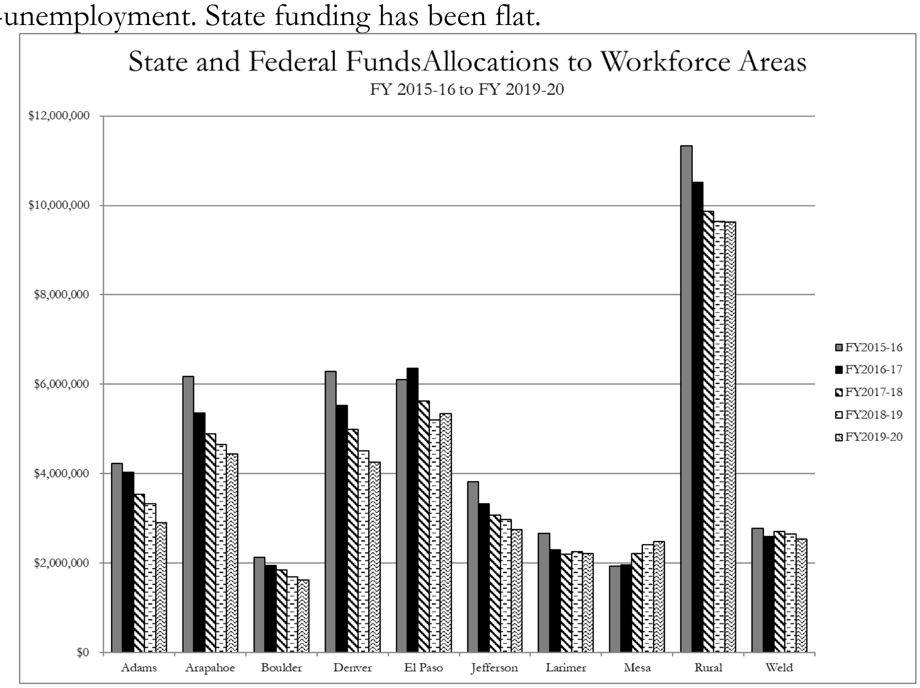
Analysis:

Background

One of the Department's major functions is to provide employment and training services through the state's network of workforce centers. While the federal government is the major source of funding for the network, the Department uses Employment Support Cash Fund (ESF) as a supplement to federal Wagner-Peyser and federal training funds. Wagner-Peyser and ESF funds support the infrastructure of the workforce center and labor-exchange system, including job search assistance, job referral, and placement assistance for job seekers and employers. Workforce centers are operated by nine of the large counties, while the state operates the remaining centers on behalf of the "rural consortium".

Employment and Training Division Fund Sources - FY 2019-20					
Funding Source	Total Grant or Appropriation	Department Administration	County-run and state-administered rural workforce centers, other	Line Items Where Applied	Purpose
Federal Wagner Peyser Grant	$10,914,395	$154,371	$10,760,024	90% reflected in One-stop Contracts line item; 10% is in State Operations but most of this is allocated to workforce centers	Formula allocation to the State for workforce center labor exchange services
State Employment Support Fund	10,666,630	2,837,504	7,829,126	Most is in State Operations line item but is allocated to workforce centers and other contractors. $807,540 is in the WIOA line item.	State cash funds from UI Premiums. Supports both state administration and workforce center activities.
Federal Workforce Innovation and Opportunity Grant Funds (WIOA)	26,366,616	1,318,331	25,048,285	WIOA line item.	Supports workforce center operations and related accountability, employment and training activities
Totals	**$47,947,641**	**$4,310,206**	**$43,637,435**		

As reflected in the chart, funding for workforce centers from federal sources has declined in the recent years of low-unemployment. State funding has been flat.



Old versus New Proposals

The Department's original R1 request proposed new ESF allocations to workforce centers to address the needs of individuals having difficulty finding employment in a *low unemployment* environment. The

Department's revised informal request will also distribute funds to workforce centers, but is based on the expectation that the demand for services from the workforce center network will increase sharply as the economy reopens and *dislocated workers* begin job search activities. The Department references data from the Economic Policy Institute and Goldman Sachs projecting national unemployment rates of 11-12 percent by the summer.

- Request R1 would have provided amounts to each workforce region specifically to support work-based learning initiatives, such as paid internships for unemployed individuals. The proposal included dividing the funds equally, so that each region received $100,000.
- The revised proposal would divide the $2.0 million among the workforce centers consistent with the formula currently used for allocation of ESF funds, with results shown below:

Local Area	**Estimated Allocation ($)**
Adams	$ 130,000
Arapahoe	$ 244,000
Boulder	$ 82,000
Denver	$ 218,000
El Paso	$ 256,000
Jeffco	$ 140,000
Larimer	$ 102,000
Mesa	$ 106,000
Rural Consortium	$ 634,000
Weld	$ 88,000
TOTAL	**$2,000,000**

The Department indicates that the strategy would be to "braid and blend funding to ensure local centers are able to meet the increased demand caused by COVID-19, including a combination of federal and cash funds". Funds would be used for a range of activities including (among others):

- **Employment and training services** such as short-term prevocational services, assessments, customized employment assistance, classroom training ranging from pre-vocational classes offered by centers to enrollment with higher education institutions, and work-based learning, such as apprenticeships. Case management is also part of these services.
- **Supportive services** as needed to facilitate employment activities, e.g., payment of test fees, child care.
- **Assistance to businesses to help avoid layoffs** (e.g., software to help businesses implement work-from-home or purchase personal protective equipment).
- **Development of virtual employment and training models and work force center information technology initiatives.**

Federal Funding CARES Act

New federal Coronavirus response acts provide large amounts of funding for administration of unemployment insurance but so far little support has been made available for re-employment or job search activities that are likely to be needed in the wake of the Coronavirus economic shut down.

The CARES Act does provide $345 million in additional funding for dislocated workers programs, which are typically administered by the workforce centers. The Department does not yet know how much it will receive from this sources, but 1.5 percent would be $5.2 million. The Department currently expects to receive less than this amount. This would boost workforce center allocations but not so much that staff believes additional state support is not needed.

➔ INFORMATIONAL FUNDS - FEDERAL CORONAVIRUS RESPONSE

JBC ACTION AS OF 3/16/20: The Division of Unemployment Insurance included $31,605,413 federal funds shown for informational purposes.

RECOMMENDATION: Staff recommends that the Committee add $10,100,000 federal funds to this amount reflecting the second half of revenue anticipated to be received for administration from the Families First Act. This would be shown for informational purposes, consistent with other federal funds provided by the federal Department of Labor to this department.

ANALYSIS:

Additional Background:

The Department of Labor and Employment reports that it has received $10,114,193 federal funds for administration of the unemployment insurance system under the H.R. 6201 (the Families First Act). This act appropriated $1.0 billion nationally for unemployment insurance (UI) administration, to be allocated among the states based on a formula based on each state's share of the federal unemployment insurance taxable wage base. This represented the first payment to the state, which was required to be provided within 60 days. The Department expects a second payment of approximately the same amount. Eligibility for the funding is tied to easing unemployment insurance eligibility restrictions, such as work search requirements, and, for the second half of payments, an unemployment increase of at least 10 percent.

The Department has indicated that it is reasonable to assume that the first $10.1 million will be spent in FY 2019-20 and the second half will be spent in FY 2020-21. Staff has therefore added an informational funds increase of $10,100,000 for FY 2020-21 to reflect anticipated spending from the second half of payments.

Significant amounts for administration are also anticipated under H.R. 748 (the CARES Act), but no dollar amount (or even order of magnitude approximation) is yet available for these other funds.

ⓘ ADDITIONAL FEDERAL FUNDS TO BE RECEIVED

H.R. 748, the federal CARES Act, added substantial new responsibilities for the Department, including extending unemployment insurance benefits to self-employed individuals, increasing unemployment insurance payments by $600 per week from March through July 2020, and providing for an additional 13 weeks of extended unemployment insurance benefits beyond the amounts covered by each state's normal benefit.

The federal law did not identify specific amounts associated with these new benefits or the administration of these benefits. Instead, the Act indicates that payments are based on an agreement between each state and the Secretary of Labor and, with respect to essentially all new provisions affecting the Department:

> There shall be paid to each State which has entered into an agreement under [each of the subsections that added new benefits] an amount equal to 100 percent of—
> (A) the total amount of assistance provided by the State pursuant to such agreement; and
> (B) any additional administrative expenses incurred by the State by reason of such agreement (as determined by the Secretary)…

For the new $600 per week payment, this is "including any administrative expenses necessary to facilitate processing of applications for assistance under this section online or by telephone rather than in-person." The law further provides that the federal Treasury will pay these amounts without fiscal year limitation and that such sums shall not be required to be repaid.

Given these provisions, the limitation on amounts paid under the CARES Act will be determined by agreements reached between each state and the federal Secretary of Labor. Initial guidance emphasizes that the Department will need to demonstrate an *increase* in costs related to these benefits, but additional information is still pending.

As discussed elsewhere in this packet, the CARES Act also included some additional funding to support programs for dislocated workers and independent living centers. The amount of funding related to dislocated workers is still uncertain, and the funding for independent living centers will not flow through the state budget. Therefore staff has not recommended any other adjustments to federal funds shown for informational purposes.

SUMMARY OF RECOMMENDATIONS REQUIRING STATUTORY CHANGE

➔ R2 MY COLORADO JOURNEY - REVISED RECOMMENDATION

JBC ACTION AS OF 3/16/20: The Committee requested a bill draft to provide statutory authorization for appropriations for the new My Colorado Journey platform. If approved, this bill was expected to carry an appropriation of $750,000 General Fund.

RECOMMENDATION: In light of the state's revenue shortfall, **staff no longer recommends providing a General Fund appropriation for My Colorado Journey**. However, staff believes the General Assembly should still consider passing related legislation that will provide a state legal framework for this program and allow appropriations if the State is able to help support the program in the future. *Staff recognizes that the General Assembly may not have sufficient time to address this bill this session but recommends that the General Assembly move forward with this when feasible.*

ANALYSIS:

Key Considerations:

- This program can continue in the near-term without new state support. This is a new program that has not received state funding but has received significant grant support. The program replaces an online platform that was previously supported in the Department of Higher Education through federal receipts.

- The new platform is already in operation, but there is virtually no existing statutory authority for spending related to this program. Because of this, legislative staff has concluded the program requires new statutory authorization if the General Assembly wishes to provide funding now or in the future.
- The Director of the Workforce Development Council has indicated that he still wishes to pursue authorizing legislation, even if the General Assembly is not able to provide an appropriation this year.
- The draft incorporates safeguards designed to ensure that this new program complies with existing state IT privacy and security standards.
- The legislation also provides an opportunity for some related statutory clean-up that makes additional statutory provisions "subject to available appropriation or other available money" and eliminates some existing unfunded mandates in a financially difficult period.

Additional Background:

The Colorado Workforce Development Council has been leading a multi-agency task for comprised of the Department of Higher Education, the Department of Labor and Employment, and the Department of Human Services to envision and develop My Colorado Journey. The website will replace College in Colorado, a counseling tool used by some school districts for which federal funding ended on June 30, 2019.

The new website has been in discussion and development for the last two years, and the initial tool, which is now live at www.mycoloradojourney.com, has thus far been funded through grants. The Department received $2.3 million in grant support in FY 2019-20 and has $1.4 million in commitments for FY 2020-21 (excluding state funds).

The website is being developed and targeted for the use of counseling professionals in schools, county workforce centers, and county departments of human services. The vision for this new website is that it will incorporate a cross-departmental "databank" that will ultimately enable the State to track the impact of education and training of Coloradoans on their employment and earnings.

The request indicated that $750,000 General Fund was sought for outreach, training, and communication activities to be conducted by the Department of Higher Education and that $775,000 in grant funding had already been secured related to the maintenance and improvement of the website, including costs for contractors to host the site, connect data from agencies, and incorporate activities such as data validation for FY 2020-21.

The Department indicated that its ongoing annual funding target was $1,525,000 per year from multiple source; however, as reflected in the request, maintaining the system requires approximately $750,000 per year for IT costs, so the program should be able to be maintained at a base level through at least FY 2021-22 using grant funds already raised.

The current version of the bill draft, developed in consultation with the Departments of Labor and Employment, Higher Education, Education, the Office of the State Auditor, Joint Technology Committee Staff, and the Governor's Office of Information Technology, provides statutory authorization for the program, establishes authority for appropriating, transferring, and spending funds, requires OIT oversight to ensure the platform complies with federal and state IT standards, establishes reporting requirements and a repeal date, and makes related changes to avoid unfunded mandates in the Departments of Education and Higher Education.

A copy of the bill and a more detailed bill description will be provided under separate cover with other Committee-requested bill drafts.

SUMMARY OF OTHER RECOMMENDATIONS AND OPTIONS IF DEEPER CUTS ARE REQUIRED

The Department's base General Fund appropriation in FY 2019-20 was $25,519,883.

- A 10.0 percent reduction would be ($2,551,988)
- A 20.0 percent reduction would be ($5,023,976)

10.0 PERCENT REDUCTION SCENARIO

Staff recommends that the Committee consider the following options based on a scenario in which General Fund appropriations and transfers must be reduced by 10.0 percent (or revenue increased by an equivalent amount) in FY 2020-21. The recommendations below exceed the amounts that would be required for a 10.0 percent reduction in this department but would help address funding needs in other departments that are not capable of sustaining larger reductions.

Budget Balancing Options for Deeper Cut (10.0 Percent Scenario)				
FY 20-21 Revenue (Cash Fund Transfers to General Fund)	Bill? Y/N	Net GF Impact	Other Funds	Total Funds
Petroleum Redevelopment Fund CF to GF	Y	$6,700,000	($6,700,000)	0
Unemployment Revenues Fund	Y	2,000,000	(2,000,000)	0
Workers' Compensation Cash Fund	Y	1,000,000	(1,000,000)	0
Conveyance Safety Fund	Y	300,000	(300,000)	0
Major Medical Insurance Fund	Y	11,000,000	(11,000,000)	0
Employment Verification Fund (orphan fund)	Y	3,176	(3,176)	0
Veterans Service-to-Career Program MTCF; reduce program and divert to General Fund	Y	200,000	(200,000)	0

Budget Balancing Options for Deeper Cut (10.0 Percent Scenario)					
FY 20-21 Expense	Bill? Y/N	Net GF Impact	Other Funds	Total Funds	FTE
Skilled Workers Outreach, Recruitment, and Key Training Program, repeal	Y	($3,300,000)	$0	($3,300,000)	0.0
Unemployment Insurance Division, refinance	N	(38,361)	38,361	0	0.0
Labor Standards and Statistics, refinance	N	(611,956)	611,956	0	0.0
Independent Living Centers, reduce	N	(600,000)	0	(600,000)	0.0

20.0 PERCENT REDUCTION SCENARIO

Staff recommends that the Committee consider the following additional options based on a scenario in which General Fund appropriations and transfers must be reduced by 20.0 percent (or revenue increased by an equivalent amount) in FY 2020-21.

Budget Balancing Options for Deeper Cut (20.0 Percent Scenario)				
FY 20-21 Revenue (Cash Fund Transfers to General Fund)	Bill? Y/N	Net GF Impact	Other Funds	Total funds
Veterans Service-to-Career Program MTCF; additional diversion to General Fund (eliminate support)	Y	300,000	(300,000)	0
Employment Support and Job Retention Services, repeal and transfer CF to GF	Y	500,000	(500,000)	0

➔ Petroleum Cleanup and Redevelopment Fund, transfer to General Fund

JBC Action as of 3/16/20: The JBC had taken no action related to this fund as of 3/16/20. House Bill 20-1192 (Petroleum Redevelopment Fund Electric Vehicle by Reps. Jackson and Will and Sen. Foote) is currently in the House Appropriations Committee and would authorize the Department of Labor and Employment to use $2.0 million from this cash fund to leverage the development of public-private partnership projects that incorporate electric vehicle fueling infrastructure.

Recommendation: Staff recommends transferring all unencumbered amounts in this cash fund ($6.7 million) to the General Fund on June 30, 2020.

Analysis:

Key Considerations: The transfer does not negatively affect any existing program, although, if the full amount is transferred, there would not be funds available for H.B. 20-1192.

Additional background: The Petroleum Cleanup and Redevelopment Fund was created by H.B. 13-1252 and consists of civil penalties collected from petroleum tank violations, donations, interest, and legislative appropriations. It may be expended for administration, investigation, abatement action, and corrective action plans for petroleum releases. According to the Department, the majority of the funds balance comes from a settlement of approximately $7.0 million in 2013 from a petroleum company that collected funding from both the redevelopment fund and from their insurance company for a petroleum contamination clean up.

The Fund, created at 8-20.5-103(9), C.R.S. is continuously appropriated to the Division of Oil and Public Safety in the Department.

Petroleum Cleanup and Redevelopment Fund				
	FY 2018-19 Actual	FY 2019-20 Estimate	FY 2020-21 Estimate	FY 2021-22 Estimate
Beginning FY Balance	$7,474,893	$7,415,462	$680,298	32,373
Revenues	211,307	198,116	198,116	198,116
Expenditures	(270,738)	(233,280)	(846,041)	(230,489)
Ending FY Balance without transfer	7,415,462	7,380,298	32,373	0
Recommended Transfer		(6,700,000)		
Ending FY Balance after transfer		680,298		
Fee impact: None. Revenue is from legal settlements and penalties.				

➔ UNEMPLOYMENT REVENUES FUND, TRANSFER TO GENERAL FUND

JBC ACTION AS OF 3/16/20: Long Bill amounts for FY 2020-21 included $3,800,823 from this source.

RECOMMENDATION: Staff recommends transferring $2,000,000 of the total in this fund to the General Fund.

ANALYSIS:

Key Considerations: The transfer does not negatively affect any existing program, does not affect fees, and represents approximately 10.0 percent of the projected fund balance.

Additional background: The Unemployment Revenues Fund, created in Section 8-77-106(1), C.R.S., derives from penalties imposed on employers who fail to pay UI taxes on a timely basis; and penalties on claimants for UI overpayments. The Department has used money in this fund to support both operating expenses and IT capital projects. As shown in the table below, *$17.2 million is projected to remain in the Fund after the recommended transfer of $2.0 million, and staff believes a larger transfer is feasible if urgently needed. However, staff suggests that the Committee limit transfers from funds that support unemployment insurance programs at this time,* due to the unprecedented unemployment situation and uncertainty about future needs. Based on past history, transfers made during the 2020 legislative session are unlikely to be the last transfers required.

UNEMPLOYMENT REVENUES FUND				
	FY 2018-19 ACTUAL	FY 2019-20 ESTIMATE	FY 2020-21 ESTIMATE	FY 2021-22 ESTIMATE
Beginning FY Balance	$21,905,736	$20,206,337	$17,209,363	$16,209,363
Revenues	4,301,267	4,500,000	4,500,000	4,500,000
Expenditures	(4,802,321)	(5,500,000)	(5,500,000)	(5,500,000)
Other adjustments	(1,198,345)	3,026	0	0
Ending FY Balance without transfer	20,206,337	19,209,363	16,209,363	15,209,363
Recommended Transfer		(2,000,000)		
Ending FY Balance after transfer		17,209,363		
Fee impact: None. Revenue from fines/ penalties				

➔ WORKERS' COMPENSATION CASH FUND, TRANSFER TO GENERAL FUND

JBC ACTION AS OF 3/16/20: Long Bill amounts for FY 2020-21 included $18,206,588 from this source.

RECOMMENDATION: Staff recommends transferring $1,000,000 of the total in this fund to the General Fund.

ANALYSIS:

Key Considerations: The transfer is expected to have no near-term and minimal long-term impact on business fees at the level proposed.

Additional background: The Workers' Compensation Cash Fund derives from a surcharge applied to Workers' Compensation premiums. The surcharge is established by rule.

Workers' Compensation Fund				
	FY 2018-19 Actual	FY 2019-20 Estimate	FY 2020-21 Estimate	FY 2021-22 Estimate
Beginning FY Balance	$7,710,001	$12,166,077	$10,955,405	$10,744,733
Revenues	19,018,704	14,687,689	14,687,689	14,687,689
Expenditures	(14,562,628)	(14,898,361)	(14,898,361)	(14,898,361)
Ending FY Balance without transfer	12,166,077	11,955,405	10,744,733	10,534,061
Recommended Transfer		(1,000,000)		
Ending FY Balance after transfer		10,955,405		
Fee impact: The Department attempts to keep fee rates consistent, but total revenues vary, since the base on which the workers' compensation surcharge is calculated (workers' compensation premiums) is subject to change.				

Since January 2019, the surcharge has been set at 1.45 percent of premiums, which reflects a combination of several surcharges: the Workers' Compensation Cash Fund Premium surcharge (1.35%), the Cost Containment program (currently 0.0%), and the Major Medical and Subsequent Injury surcharges (0.1%). The table below shows the surcharge history. Surcharges have been under 2.0 percent of premiums since the adoption of statutory changes in 2009 related to required reserves for the Major Medical Insurance program.

The Department notes some uncertainty about revenues and expenditures for Worker's Compensation in light of COVID-19 and a projected recession. However, the relatively small transfer proposed is still expected to have minimal if any impact on program operations or fees.

COLORADO DEPARTMENT OF LABOR AND EMPLOYMENT
DIVISION OF WORKERS' COMPENSATION

Historical Surcharge Percentage 1987-Present

	CARRIER SURCHARGE			change in color indicates change in rate	SELF INSURED SURCHARGE		change in color indicates change in rate
	Special Funds	Cash Fund	Premium Cost	Total Surcharge	Special Funds	Cash Fund	Total Surcharge
01/01/2019 - 06/30/2019	0.100	1.350	0.000	*1.450*	0.100	1.350	*1.450*
07/01/2019 - 12/31/2019	0.100	1.350	0.000	*1.450*	0.100	1.350	*1.450*
01/01/2018 - 06/30/2018	0.300	0.700	0.030	*1.030*	0.300	0.700	*1.000*
07/01/2018 - 12/31/2018	0.000	1.000	0.000	*1.000*	0.000	1.000	*1.000*
01/01/2017 - 06/30/2017	0.100	0.500	0.030	*0.630*	0.100	0.500	*0.600*
07/01/2017 - 12/31/2017	0.300	0.700	0.030	*1.030*	0.300	0.700	*1.000*
01/01/2016 - 06/30/2016	0.100	0.500	0.030	*0.630*	0.100	0.500	*0.600*
07/01/2016 - 12/31/2016	0.100	0.500	0.030	*0.630*	0.100	0.500	*0.600*
01/01/2015 - 06/30/2015	0.100	1.000	0.030	*1.130*	0.100	1.000	*1.100*
07/01/2015 - 12/31/2015	0.100	0.500	0.030	*0.630*	0.100	0.500	*0.600*
01/01/2014 - 06/30/2014	0.100	1.140	0.030	*1.270*	0.100	1.140	*1.240*
07/01/2014 - 12/31/2014	0.100	1.000	0.030	*1.130*	0.100	1.000	*1.100*
01/01/2013 - 06/30/2013	0.100	1.600	0.030	*1.730*	0.100	1.600	*1.700*
07/01/2013 - 12/31/2013	0.100	1.140	0.030	*1.270*	0.100	1.140	*1.240*
01/01/2012 - 06/30/2012	0.100	1.600	0.030	*1.730*	0.100	1.600	*1.700*
07/01/2012 - 12/31/2012	0.100	1.600	0.030	*1.730*	0.100	1.600	*1.700*
01/01/2011 - 06/30/2011	0.100	1.600	0.030	*1.730*	0.100	1.600	*1.700*
07/01/2011 - 12/31/2011	0.100	1.600	0.030	*1.730*	0.100	1.600	*1.700*
01/01/2010 - 06/30/2010	2.088	1.500	0.030	*3.618*	2.088	1.500	*3.588*
07/01/2010 - 12/31/2010	0.100	1.600	0.030	*1.730*	0.100	1.600	*1.700*
01/01/2009 - 06/30/2009	2.988	0.800	0.030	**3.818**	2.988	0.800	**3.788**
07/01/2009 - 12/31/2009	2.088	1.500	0.030	*3.618*	2.088	1.500	*3.588*
01/01/2008 - 06/30/2008	2.988	0.800	0.030	**3.818**	2.988	0.800	**3.788**
07/01/2008 - 12/31/2008	2.988	0.800	0.030	**3.818**	2.988	0.800	**3.788**
01/01/2007 - 06/30/2007	2.788	1.000	0.030	**3.818**	2.788	1.000	**3.788**
07/01/2007 - 12/31/2007	2.988	0.800	0.030	**3.818**	2.988	0.800	**3.788**
01/01/2006 - 06/30/2006	2.788	1.000	0.030	**3.818**	2.788	1.000	**3.788**
07/01/2006 - 12/31/2006	2.788	1.000	0.030	**3.818**	2.788	1.000	**3.788**

➔ CONVEYANCE SAFETY FUND, TRANSFER TO GENERAL FUND

JBC ACTION AS OF 3/16/20: The JBC approved a cash fund reserve waiver request for this fund for FY 2018-19, FY 2019-20, and FY 2020-21 with an alternative reserve requirement of $1.5 million by the end of FY 2020-21. Committee action on the Long Bill included $606,822 in appropriations from this source, with additional spending anticipated from appropriations from "various cash funds".

RECOMMENDATION: Staff recommends transferring $300,000 of the total in this fund to the General Fund.

ANALYSIS:

Key Considerations: The program requested a cash fund waiver because it was operating above the 16.5 percent statutory reserve requirement. It has been attempting to increase spending to address this issue. This recommended transfer will address this challenge.

Additional background: The Conveyance Safety program and the associated fund (9-5.5-111, C.R.S.) was created by the General Assembly in 2008 to ensure the safety of public conveyances such as elevators and escalators. There are approximately 22,000 regulated conveyances operating in Colorado. The Division directly oversees approximately 40 percent of these, and these entities pay fees to the Division. The Division delegates regulatory authority to local jurisdictions who oversee the remaining 60 percent.

The Department has maintained the same fees since the program was created in 2008. There are currently seven fees, paid by conveyance owners (registration, certificate of operation, installation permit and alteration permit fees) and by individuals who maintain conveyances (contractor license, inspector license, mechanic license). Fees range from $30 for an annual certificate of operation to $500 for a contractor license.

In fall 2019, the Department submitted a cash fund reserve waiver request for the program, which had reserves far above its target. The program indicated that it had been working to reduce reserves to zero in anticipation of sunset review in 2022, but some reserves were desirable because of the variability in the program's revenue stream. Based on this, staff recommended, and the Committee approved, an alternative reserve minimum of $1.5 million. This proved too low, as the program subsequently exceeded this in FY 2018-19. In light of this, this session the Committee approved an alternative reserve minimum of $1.8 million for FY 2019-20 and $1.5 million for FY 2020-21.

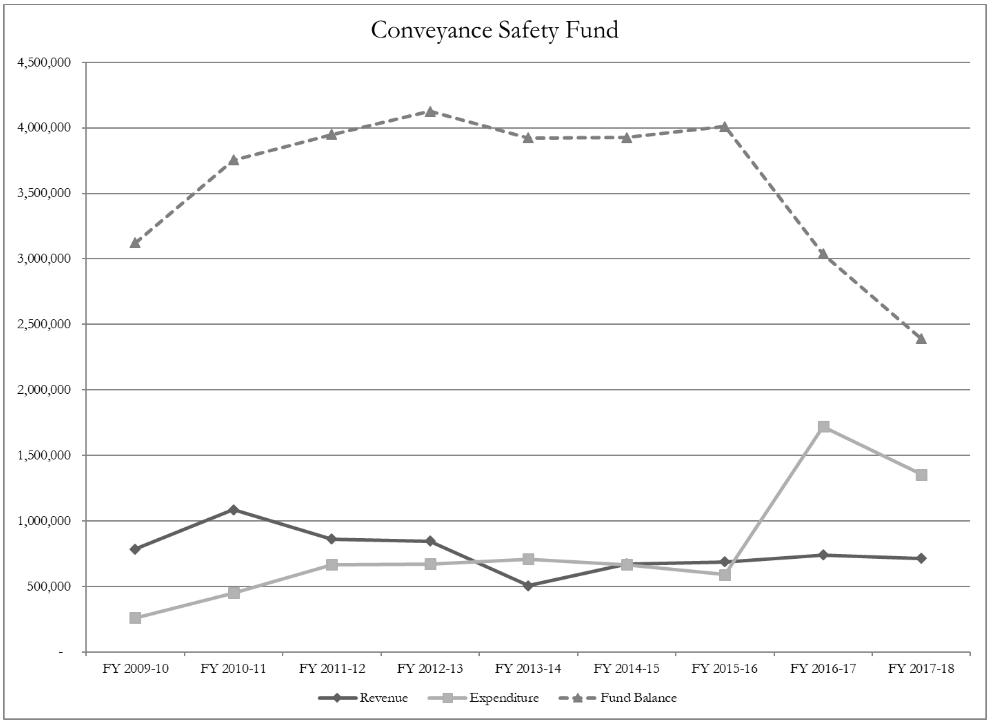
The program has spent aggressively in order to comply with the reserve requirement. Transferring $300,000 to the General Fund will ensure the program falls below the $1.8 million FY 2019-20 reserve requirement approved during figure setting this session, and should enable the program to stay under $1.5 million.

Conveyance Safety Fund				
	FY 2018-19 Actual	FY 2019-20 Estimate	FY 2020-21 Estimate	FY 2021-22 Estimate
Beginning FY Balance	$2,389,433	$2,141,393	$ 1,396,662	$ 1,133,858
Revenues	743,606	728,842	728,842	728,842
Expenditures*	(991,646)	(1,173,573)	(991,646)	(991,646)
Ending FY Balance without transfer	2,141,393	1,696,662	1,133,858	871,054
Recommended Transfer		(300,000)		
Ending FY Balance after transfer		1,396,662		

Fee impact: No near-term impact. Department has a cash fund reserve waiver due to excessive fund balance.

*Expenditures reflect assumptions that FY 2020-21 and FY 2021-22 spending will match FY 2018-19. It is likely that expenditures will fall below these figures, based on past history and the economic impacts of the current crisis on construction moving forward.

As reflected in the chart below, annual fee revenue has ranged from $450,000 to $1.0 million. In recent years, revenue has been relatively steady, while expenditures have increased, in part to spend down of the large reserve.



➔ MAJOR MEDICAL INSURANCE FUND, TRANSFER TO GENERAL FUND

JBC ACTION AS OF 3/16/20: Long Bill amounts for FY 2020-21 included $7,536,413 in appropriations from this source. Approximately $67.0 million was anticipated to be included in the TABOR reserve for FY 2020-21.

RECOMMENDATION: Staff recommends transferring $11.0 million of the total in this fund to the General Fund and reducing the portion designated as TABOR reserve associated with this. The Department recommends that, if this action is taken, the portion designated as TABOR reserve be reduced to $52.0 million.

ANALYSIS:

Key Considerations: Transfer does not negatively affect any existing program if it is paired with a reduction to the use of this fund as part of the TABOR reserve.

Additional background: The Major Medical Insurance Fund (MMIF) was established in 1971 to provide unlimited benefits to industrial workers who had sustained catastrophic injuries. Claims are approved for individuals who sustained qualified injuries from 1971 to 1981, but the program is only active for this legacy population. The program is funded with a surcharge on workers' compensation premiums. Historically, it developed a large fund balance, as fees were set to ensure the program was actuarially sound. However, a significant amount was transferred to the General Fund during fiscal crises.

In 2009, the General Assembly adopted S.B. 09-037, which required that the premium surcharge would be "at a rate determined by the Director to generate sufficient revenue for claim payments and direct and indirect costs of administration that are anticipated to be submitted in the following state fiscal year for which such funds are liable" and further required that the unrestricted cash balance in the Major Medical Insurance and the related Subsequent Injury Fund be equal to approximately one year's worth of claim payments and direct and indirect administrative costs. (Section 8-46-102 (2)(a)(I), C.R.S.)

Based on these provisions, the Department has been spending down the existing fund balance and keeping the related surcharge on workers' compensation premiums very low. The balance above that required for one year of expenditures has been encumbered as part of the TABOR reserve. The amount designated as TABOR reserve declines each year as the fund balance is expended.

The Department indicates that a portion of the balance may be transferred to the General Fund but recommends tying this to a decline in the TABOR reserve. If the reserve is also adjusted, the surcharge on workers' compensation premiums will not increase (as would be required if there is not an unencumbered balance sufficient for one year of payments and operations).

Major Medical Insurance Fund				
	FY 2018-19 Actual	FY 2019-20 Estimate	FY 2020-21 Estimate	FY 2021-22 Estimate
Beginning FY Balance	$74,311,521	$70,542,195	$55,448,748	$51,319,365
Revenues	1,711,465	1,644,671	1,644,671	1,644,671
Expenditures	(5,477,935)	(5,774,054)	(5,774,054)	(5,774,054)
Other adjustments	(2,856)	35,936	-	-
Ending FY Balance without transfer	70,542,195	66,448,748	51,319,365	47,189,982
Recommended Transfer		(11,000,000)		
Ending FY Balance after transfer		55,448,748		
Fee impact: None, if TABOR reserve from this source is lowered to approximately $52.0 million. Department is spending down fund balance over time				

➔ Employment Verification Fund, Transfer to General Fund

JBC Action as of 3/16/20: None.

Recommendation: If the Committee sponsors a bill to transfer cash funds to the General Fund, staff recommends the bill include a transfer of $3,176 from the Employment Verification Fund, originally created in Section 8-2-122, C.R.S. The Department indicates that this fund is no longer active, and the balance should therefore be transferred.

➔ Veterans' Service-to-Career Program, Reduce (or eliminate)

JBC Action as of 3/16/20: The Committee approved $500,000 cash funds from the Marijuana Tax Cash Fund for the program. This amount was not requested but represented a staff initiated increase, in light of what appeared to be confusion related to out-year funding in the fiscal note for the bill.

Recommendation/Option: In a 10.0 percent cut scenario, staff would recommend reducing this appropriation by $200,000 and expressing legislative intent that the remaining $300,000 grant funding for FY 2020-21 be targeted to workforce centers that are collaborating with nonprofit organizations. The intent would be to preserve funding for employment services provided by the state's two large nonprofit veterans' one-stop centers. However, in a 20.0 percent reduction scenario, the Committee could consider eliminating all the funding to preserve resources for core state needs, given the range of federal and private funding resources available for services to veterans.

ANALYSIS:

Key Considerations: This program supports job-related training and support services for military veterans and augments federal funds directed to workforce centers for this purpose. In the last grant cycle, sixty percent of funds helped to support programs operated by one-stop centers for veterans (the Mount Carmel and Bill Daniels Centers), while the balance went to other workforce centers. Staff anticipates that the state's network of workforce centers will be receiving additional resources from both state and federal sources to assist dislocated workers, and federal rules require priority for veterans. While the workforce centers will have access to these additional funding sources, the nonprofits will not.

Additional Background:

History*:* House Bill 16-1267 (Lee and Fields/Carroll and Woods) required CDLE to develop a grant program to which workforce centers could apply to enhance workforce center services for veterans that were not available under the federal Workforce Innovation and Opportunity Act. The bill specified that workforce centers "may contract with a nonprofit agency to administer the program" and specified that, "in selecting workforce centers to administer the program, the Department shall give preference to a workforce center that partners with a nonprofit agency that is an integrated service and support center for veterans and their families." The program was reauthorized with modifications under H.B. 18-1343 (Lee and Carver/Lambert and Todd). This bill extended the program's January 1, 2019, repeal date, until January 1, 2024 and made various other changes, including to program eligibility and administrative overhead caps.

The bill required that the Department develop an evaluation methodology prior to initiating the process for awarding grants, reflected intent that the Department make awards no later than January 1, 2019, and established a mechanism by which funds awarded in January 2019 could be made available through the end of FY 2019-20 (an 18 month grant period). It also specified that unspent money available at the end of a fiscal year rolls forward for expenditure in the next fiscal year.

The bill included a $1,000,000 appropriation from the Marijuana Tax Cash Fund (MTCF) in FY 2018-19. On December 13, 2018, the Department awarded the grants as follows: Denver Metro -- $350,000 Pikes Peak -- $250,000; Mesa County -- $175,000; Larimer County -- $75,000; Weld County -- $75,000. The remaining $75,000 was retained by the Department for administrative costs. Funds were required to be expended by the end of FY 2019-20.

Three grantees (Mesa, Larimer, and Weld) chose to deliver services internally by augmenting existing programs. The Pikes Peak Workforce Center contracted with the Mount Carmel Center for Excellence. The Denver Office of Economic Development delivered services through the Volunteers of America, which operates the Bill Daniels Veterans Service Center.

Program Evaluation*:* The Department contracted internally with the Labor Market Information (LMI) unit to conduct a program evaluation.

The LMI determined that the best comparison to evaluate the success of the program was the Jobs for Veterans State Grants, a federal grant of approximately $3.1 million distributed to Colorado workforce centers to serve veterans. Workforce Centers are engaged in delivering services under both the Jobs for Veterans State Grants (federal grant program) and the state Veterans Service to Career program (state grant program). The federal program works under a detailed set of federal guidelines regarding participants and services; the state program operates under less restrictive guidelines.

For its November 1, 2019 report, the LMI considered individuals served January to June of 2019. During this initial period of the program, the new state grant program served 58 participants, while the federal grant program served 5,176 in the same regions. The study found comparable results for the two programs with respect to types of individuals served and wage outcomes, with each program reflecting some strengths and weaknesses. The average cost for the 58 individuals served through the state program was $2,736 and included 55 veterans and 3 spouses. The report did not attempt to address the cost-effectiveness of the program.

<u>FY 2020-21 Request and JBC Action</u>*:* The Department did not request funding for the program for FY 2020-21. The fiscal note had not addressed expectations for funding in FY 2020-21, and the Department indicated it was uncertain about legislative intent.

Staff recommended, and the Committee approved, an appropriation of $500,000 from the Marijuana Tax Cash Fund for FY 2020-21. Staff concluded that, since statute extended the repeal date for the program until January 1, 2024, if the program appeared to be effective, needed additional funding, *and the General Assembly had funds available*, it was reasonable for the General Assembly to authorize such funding.

➔ SKILLED WORKER OUTREACH RECRUITMENT AND KEY TRAINING GRANT PROGRAM, REPEAL

Note: This section includes a technical update from 4/28/20

JBC ACTION AS OF 3/16/20: The JBC authorized an appropriation of $3,300,000 General Fund in the Long Bill for the Skilled Worker Outreach Recruitment and Key Training Grant Program (Work Act), consistent with statutory requirements for the program. The program also received a $3,300,000 General Fund appropriation in FY 2019-20.

RECOMMENDATION/OPTION: Staff recommends that the program be instructed to make no new grant awards in FY 2019-20 and the Committee repeal the WORK Act and transfer unencumbered funds in the Skilled Worker Outreach Recruitment and Key Training Grant Program Cash Fund to the General Fund on June 30, 2020. *Staff has requested, but has not yet received, an analysis of the amount anticipated to be available in the cash fund for transfer to the General Fund if the program complies with this directive.* Staff recommends stopping this program even in a 10.0 percent reduction scenario. (The Department has indicated that it considers a reduction at or above 50.0 percent appropriate in a 10.0 percent reduction scenario and would eliminate the program in a 20.0 percent reduction scenario as preferable to other options.) Any change to the appropriation will require a statutory change.

ANALYSIS:

Key Considerations: This program was launched to increase awareness of training and job opportunities in the trades, and support such training, in light of a shortage of skilled workers and low unemployment.

- In the current fiscal environment, with limited state dollars available and looming unemployment, grants to *publicize* training programs may not be the state's highest priority.
- Staff anticipates that, in the coming year, state and federal authorities will be supporting training programs in a different way: through dislocated worker and other supports for unemployed and underemployed workers that is provided through workforce centers. At a minimum, staff anticipates additional federal receipts in the range of $5.0 million for dislocated worker programs, and staff is recommending an additional $2.0 million cash funds for workforce centers that may be used for such training programs.
- Depending upon the economic fallout of the Coronavirus, it is unclear whether short-term training programs will be able to fast-track workers into jobs in a number of fields (culinary arts, construction), since employment in many of these fields may fall in the near-term. Workforce centers will be in a better position to help workers determine what type of training will help move them into jobs.
- The WORK program has always been presented as a limited-term project and requirements to appropriate specific amounts end at the end of FY 2020-21; staff is simply recommending that this ~~repeal~~ occur more quickly.

Additional Background:

The WORK Act, authorized in Section 8-83-304, C.R.S., supports the marketing and updating of workforce training programs to meet industry needs for skilled workers. The original program was authorized by H.B. 15-1275 for three years (FY 2015-16, FY 2016-17, and FY 2017-18), and the program was extended in H.B. 18-1316, with requirements for specific appropriations for an additional three years (FY 2018-19, FY 2019-20, and FY 2020-21). Each of the bills specified in statute the appropriation to be provided each year. This included $10,000,000 General Fund spread over the first three years, and $10,000,000 General Fund spread over the subsequent three years, including $3,300,000 in FY 2019-20 and $3,300,000 in FY 2020-21.

The program partners with business and industry to award matching grants to eligible applicants. The grants are to support outreach and recruitment efforts for skilled worker training programs, to provide such training, or both. Eligible grant applicants include government or non-government entities that plan to offer a training program and have partnered with industry sectors. A training program must be an accredited educational training program, occupational education training, program, apprenticeship or similar training program, and the program does not include funding for bachelor's or higher degrees. H.B. 18-1316 required that two-thirds of funds must be granted to entities that had received funding in a prior year, while one-third must be for new applicants.

Grantees include the Association of General Contractors and the Colorado Building and Trades Council for activities such as an apprenticeship boot camps and recruitment into the building construction trades, as well as community colleges and area technical colleges for recruitment into and delivery of career and technical education programs, among many others. Many grantees provide construction-related training, but the program also supports training and outreach for programs in computer programming, health care, culinary arts, and tourism, among others.

➔ DIVISION OF UNEMPLOYMENT INSURANCE AND DIVISION OF LABOR STANDARDS AND STATISTICS, REFINANCE WITH EMPLOYMENT SUPPORT FUND

JBC ACTION AS OF 3/16/20: As of 3/16, JBC action provided for a total General Fund appropriation of $23.7 million in this department, representing 8.9 percent of total Department funding. Much of this is appropriated for Vocational Rehabilitation and Independent Living Services. However, the total also includes $38,361 in the Division of Unemployment Insurance (less than 0.1 percent of the appropriation in the Division) and $878,173 in the Division of Labor Standards and Statistics (38.6 percent of appropriations for the Division).

RECOMMENDATION: Staff recommends that the Committee refinance with the Employment Support Fund $38,361 General Fund in the Division of Unemployment Insurance and $611,956 General Fund in the Division of Labor Standards and Statistics.

ANALYSIS:

Key Considerations: This recommendation provides for program refinance, so there will be no impact on refinanced programs. However, cash funds expended on the refinance are cash funds that cannot be used to support other services for unemployed workers. Staff also notes that revised revenue estimates for the Employment Support Fund are pending. Based on the current fund balance, staff anticipates that the Fund could support both a 20 percent drop in revenue and the higher spending reflected in this packet, including $2.0 million more for the workforce centers, for two or more years. However, this level of spending will not be feasible indefinitely, and staff may revise this recommendation based on an updated revenue forecast from the Department.

Additional Background:

Most divisions in this Department were funded exclusively with cash and federal funds until FY 2013-14, when the General Assembly began to adopt various new initiatives. The Department generally indicated that such new initiatives required appropriations from the General Fund, and the General Assembly appropriated funds consistent with this. However, many though not all, of these initiatives fit within the broad legal authority for use the Employment Support Fund (ESF).

<u>Uses of the Employment Support Fund</u>
Under current statute, the ESF may be used:

- "to offset funding deficits for program administration, including information technology initiatives under the provisions of articles 70 to 83 of this title [encompassing unemployment insurance and employment and training programs] and to further support programs to strengthen unemployment fund solvency"; and
- "for labor standards, labor relations, and the Colorado works grievance procedure under the provisions of articles 1 to 6, 9,10, 12, and 13 of this title and section 26-2-716."

<u>General Fund appropriations in the Division of Unemployment Insurance</u>

The General Fund in the Division of Unemployment Insurance derives from S.B. 16-179 (CDLE Unemployment Insurance Classification), which directed the Department to develop guidance on and establish a position to serve as a resource for employers on the proper classification of workers for unemployment insurance purposes, audit findings, and options for appealing or curing an audit and added funding for 0.5 FTE in the Division of Unemployment Insurance. The Department recommends this refinance in a 20.0 percent reduction scenario, based on its desire to conserve ESF funds, but staff recommends it even in a 10.0 percent reduction scenario.

General Fund appropriations in the Division of Labor Standards and Statistics

General Fund in the Division of Labor Standards and Statistics primarily reflects funding associated with two bills (S.B. 14-005 (Wage Protection Act) and H.B. 13-1292 (Keep Jobs in Colorado). The Wage Protection Act provisions are located at Section 8-4-101, C.R.S., et. seq. and (unlike the H.B. 13-1292 positions) may be supported by the ESF under current law. The Act authorized the Division of Labor to establish an administrative process to handle wage claim cases received and required the division to investigate and adjudicate wage claim cases for claims of $7,500 per employee or less and issue citations when a violation is found. In FY 2019-20, the JBC initiated addition of $250,000 General Fund and 4.0 FTE to further enhance this function and help to support on-site audits of employers. In response to staff questions, the Department indicated that all of the new wage enforcement positions funded in FY 2019-20 (3.0 FTE, based on the $250,000 added) are filled.

Positions for Wage Protection Act Enforcement		
	Amount	FTE
Funds added in FY 2014-15 and FY 2015-16 for S.B. 14-005 (Wage Protection Act)	$361,956	7.0
Funds added in FY 2019-20 by JBC	250,000	4.0
Total	**$611,956**	**11.0**

The Department recommends a refinance of $177,926 in a 20.0 percent reduction scenario, reflecting its desire to conserve ESF money, but staff recommends refinancing the full $611,956 in a 10.0 percent reduction scenario given the General Fund demands throughout state government.

Employment Support Fund Status

The table below reflects historic revenue to the Employment Support Fund, staff's calculation of the revenue cap on the fund, the difference between the two, and forecast revenue and expenditures. The amounts shown for FY 2019-20 and FY 2020-21 do not include adjustments related to COVID-19 and associated economic disruption. Staff anticipates that revenue will be lower and (if the staff recommendation is approved) expenditures higher than projected in this table.

Employment Support Fund					
	Revenue	Expenditure	Estimated Revenue Cap	Estimated Cap above/(below) revenue	Reported Ending Fund balance
FY 2008-09	$19,979,502	$26,072,328			$41,124,438
FY 2009-10	14,195,000	26,662,372			35,031,612
FY 2010-11	18,646,546	26,906,069			22,264,240

EMPLOYMENT SUPPORT FUND					
	REVENUE	EXPENDITURE	ESTIMATED REVENUE CAP	ESTIMATED CAP ABOVE/(BELOW) REVENUE	REPORTED ENDING FUND BALANCE
FY 2011-12	19,307,097	24,373,160	*28,562,659*	*9,255,562*	14,304,717
FY 2012-13	25,723,693	24,756,627	*29,429,550*	*3,705,857*	10,080,034
FY 2013-14	27,098,622	24,465,442	*29,631,721*	*2,533,099*	9,069,951
FY 2014-15	31,186,641	26,133,033	*30,692,771*	*(493,870)*	11,698,831
FY 2015-16	30,770,737	24,996,044	*31,522,463*	*751,726*	22,289,693
FY 2016-17	32,599,820	25,776,299	*31,815,820*	*(784,000)*	23,609,959
FY 2017-18	34,383,319	27,962,337	*32,157,295*	*(2,226,024)*	32,490,029
FY 2018-19	34,106,535	30,938,526	*33,273,255*	*(833,280)*	36,950,994
Dept. Original FY 2019-20 Estimate*	34,106,535	37,588,526	*34,105,087*	*(1,448)*	33,469,003
FY 2020-21 JBC Action as of 3/16*	34,878,263	33,262,958	*34,957,714*	*79,451*	35,084,308
Staff Rough Revised FY 2019-20 Estimate assuming 20% revenue decline	27,285,228	37,588,526	*34,105,087*	*6,819,859*	26,647,696
FY 2020-21 assuming 20.0% revenue decline and recs. in this packet	27,902,610	35,913,275	*34,957,714*	*7,055,104*	18,637,031

*Dept. Original Estimate: Revenue for FY 20 and FY 21 based on November 1, 2019 CDLE budget schedules; Expenditure for FY 2019-20 based on CDLE budget schedules; Expenditure estimate for FY 21 reflects JBC budget action to-date. Does not include R1.

➔ INDEPENDENT LIVING CENTERS, REDUCE

JBC ACTION AS OF 3/16/20: The Committee approved $7,177,199 total funds, including $6,800,547 General Fund for Independent Living Services. This included a community provider rate increase.

RECOMMENDATION/OPTION: Staff recommends a reduction of $600,000 General Fund in the appropriation for the independent living centers.

ANALYSIS:

Key Considerations:

- Five of the nine centers (those that receive direct federal allocations) are expected to receive a large funding increase under the CARES Act. The new funds should approximately double current direct federal support for these programs ($1,257,196 for Colorado centers in FFY 2019) for the federal fiscal year ending September 30, 2021.
- State funding for independent living centers has increased by 370% since the end of the Great Recession, from $1,457,604 General Fund in FY 2012-13 to $6,800,847 General Fund in FY 2019-20, excluding a new 4.0 FTE program office added in FY 2016-17.

- A few months after the General Assembly adopted an FY 2016-17 budget for the centers that was based on funding requirements set forth in S.B. 15-240 (which required a minimum of $600,000 for each of the ten centers), one of the centers closed. Funding was never reduced associated with this. Instead, the funding for the tenth center was redistributed to the remaining nine.
- The Department has indicated that it concurs that this is an appropriate reduction if it must generate General fund savings of 20.0 percent.
- Staff agrees this is a reasonable reduction in the circumstances but also recognizes that these facilities serve a vulnerable population.

Additional Background:

Independent Living Centers
Pursuant to Section 8-85-103 (2) (a), C.R.S., the independent living centers provide funding for independent living services provided by the nine independent living centers. These services include:

- Information and referral services;
- Independent living skills training;
- Peer counseling, including cross-disability peer counseling;
- Individual and systems advocacy; and
- Transition services or diversion from nursing homes and institutions to home- and community-based living;
- Transition services upon leaving secondary education; and
- Any other services and assistance as defined by federal regulations.

The ILCS served in total between 1,898 and 2,656 unduplicated clients per month in in FY 2019-20. Each ILC of the nine ILCs receives; base funding (pursuant to statute) and an allocated share based on factors such as population. Given these figures and an average of 2,174 clients served per month, state support was $3,127 per full-year-equivalent client served.

Table 8
Distribution of General Funds by Independent Living Center
SFY 2019-20

Independent Living Center	*General Fund Amount*
Center For Independence	$ 740,087
Center For People with Disabilities	$ 730,332
Atlantis	$ 902,501
Connections for Independent Living	$ 718,191
Center for Disabilities	$ 876,848
Northwest Center for Independence	$ 678,999
Disabled Resource	$ 672,708
Southwest Center for Independence	$ 686,007
The Independence Center	$ 795,174
Total	**$ 6,800,847**

Table 7
Clients Served by ILC by Month
SFY 2019

Center Name	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
Atlantis Community Incorporated	310	415	305	381	291	292	304	214	570	610	612	647
Center for Disabilities dba Center Toward Self Reliance	418	407	395	385	380	395	399	405	399	386	370	384
Center for Independence	155	163	342	171	262	334	279	380	284	272	459	211
Center for People with Disabilities	315	317	278	290	286	289	286	277	282	283	285	275
Colorado Springs Independence Center	194	151	142	144	107	102	136	128	123	132	149	148
Connections for Independent Living	203	423	285	238	392	179	402	202	411	422	416	443
Disabled Resource Services	155	191	172	185	159	192	150	156	156	170	141	199
NorthWest Colorado Center for Independence	97	103	118	120	110	110	120	120	115	118	97	71
South West Center for Independence	52	49	35	47	48	204	92	16		31	36	40
Totals	1,899	2,219	2,072	1,961	2,035	2,097	2,168	1,898	2,340	2,424	2,565	2,418

Source: Exhibit G, Monthly Report Template. CIL monthly report of new and existing individuals with disabilities served per month. The unduplicated count only applies to the month reported and does not transfer across the months.

State General Fund represents the largest single source of funding for the ILCS, at $6.8 million per year, but the ILCs generate revenue from other sources, including federal support (described below). Total revenue from all sources in FFY 2018 was $12.5 million.

<u>State Funding History</u>
State General Fund for the centers has increased greatly since FY 2012-13, as reflected in the table below. Much of the increase was related to the passage of S.B. 15-240, a JBC bill. The bill added $2,000,000 General Fund for the centers in FY 2015-16 and required additional funding in FY 2016-17. Section 26-8.1-103, C.R.S., added by the bill, specifies that, on or before July 1, 2016, the state department was required to promulgate a rule for the block distribution of state moneys to independent living centers. As specified in statute, "the rule must include at least: (a) A base amount of not less than six hundred thousand dollars; and (b) Other factors agreed to by the independent living centers, which may include a per capita adjustment, a per county adjustment, or other adjustments."

At the time the bill was adopted, there were ten independent living centers, so the statute effectively required minimum funding of $6,000,000 for the centers. On June 30, 2016, one of the ten centers closed. On July 1, 2016, based on provisions in other legislation, the entire program was moved to the Department of Labor and Employment. Appropriations were not reduced in FY 2016-17 or subsequent years associated with the closure of the center. Instead, amounts above $600,000 per center have continued to be allocated among the centers based on their negotiated formula.

State General Fund Appropriations History for Independent Living Services			
Administering Department	Fiscal Year	Independent Living Centers Amount	Program Costs (coordinating office)
Human Services	FY 2010-11	$1,457,604	
Human Services	FY 2011-12	1,457,604	
Human Services	FY 2012-13	1,457,604	
Human Services	FY 2013-14	2,007,288	
Human Services	FY 2014-15	2,784,607	

State General Fund Appropriations History for Independent Living Services			
Administering Department	Fiscal Year	Independent Living Centers Amount	Program Costs (coordinating office)
Human Services	FY 2015-16	4,831,945	
Labor and Employment	FY 2016-17	6,574,679	206,065
Labor and Employment	FY 2017-18	6,666,844	206,065
Labor and Employment	FY 2018-19	6,733,512	216,312
Labor and Employment	FY 2019-20	6,800,847	221,562

Federal Funding

The federal government provides a small annual grant to the State to help support the independent living program (Part B - $338,717 in FY 2018-19). It **also** provides direct grants to five of the state's independent living centers, as shown below (Part C - $1,257,196 in FY 2018-19). These amounts do not pass through the state budget.

Federal Direct Support for ILCs (part C)	
Received by 5 of the 9 ILCs	2019 grants
Denver	$482,093
Grand Junction	281,018
Boulder	242,705
Greeley	127,817
Pueblo	123,563
Total	**$1,257,196**

Total federal Part C allocations nationwide in FFY 2018-19 were $90.7 million and the initial allocation for FFY 2019-20 was similar. The H.R. 748 (the CARES Act) added $85.0 million for additional Part C allocations to be used through September 30, 2021. In light of this, staff anticipates that the five centers that receive Part C funding will see their federal funds allocations nearly doubled in FY 2020-21, adding about $1.2 million above the historic level of federal support.

Staff anticipates that the ILCs will take this additional federal Part C funding into account when determining how to allocate any reductions in state funding in FY 2020-21.

➔ Employment Support and Job Retention Services Program, Repeal and transfer Cash Fund to General Fund

JBC Action as of 3/16/20: The JBC approved $250,000 cash funds from the Employment Support and Job Retention Services Program Cash Fund and 0.5 FTE for this line item. The origin of money in this cash fund is General Fund, as $750,000 General Fund was transferred to the cash fund in FY 2019-20.

Recommendation/Option: Staff does not have sufficient information on the status of the program to make a firm recommendation at this time. However, since this is a new and unproven program, in a 20.0 percent reduction scenario, the Committee should consider sponsoring legislation to repeal the program and transfer the balance of funds remaining to the General Fund. Staff anticipates that this will be at least $500,000 General Fund and likely more. *Staff has requested, but has not yet received, an analysis of the status of the program and the amount that is likely to be available in the cash fund for transfer to the General Fund.*

ANALYSIS:

Key Considerations: This is a new program that is in the process of being rolled out in FY 2019-20. As the program is intended to support those having difficulty obtaining and retaining work, it is expected to serve a population that is quite vulnerable. However, this is effectively a pilot program and can only serve a small portion of those in need.

Additional Background:

House Bill 19-1107 (Employment Support Job Retention Services Program) created this program to assist eligible individuals with job retention services. Under the provisions of this bill, the Department must develop a competitive solicitation process to contract with an outside nonprofit to administer the program. The administering entity must develop formal memoranda of understanding with public agencies and private nonprofit organizations to provide employment, job training, and job retention services to eligible individuals.

According to the Department, if all job seekers use the full additional $400 available for services, 1,148 individuals could be served by the program over the next two years. Services that are eligible for reimbursement include transportation, emergency childcare, emergency housing, job training or education fees, work tools and equipment, food and nutrition, utility and internet bills, prepaid cell phones, licenses and certifications, legal services related to employment, interpretation, and qualified medical and mental health expenses, among others. The bill incorporated various reporting requirements from service providers to the administering entity and from the administering entity to the Department. The Department is required to present a comprehensive analysis of the efficacy of the program to the General Assembly by December 1, 2021. The program is repealed September 30, 2022.

The bill included an appropriation of $750,000 General Fund into the new Employment Support and Job Retention Services Program Cash Fund and specified that money in the Fund is subject to annual appropriation for the purposes of the act up to a maximum of $250,000 plus unexpended money and interest accrued from the previous fiscal year.

The Department reported that the contract for administering the program was awarded to Discover Goodwill, which has been working to set up the program.