

DEPARTMENT OF REGULATORY AGENCIES
FY 2021-22
JOINT BUDGET COMMITTEE HEARING
AGENDA

Monday, January 25, 2021 (Rescheduled from January 6, 2021)
1:30 pm – 2:30 pm

3:45 - 4:00 INTRODUCTIONS AND OPENING COMMENTS

Presenter: Patty Salazar, Executive Director, Slides 1-6

4:00 - 4:15 COMMON QUESTIONS

Main Presenters:

- Patty Salazar, Executive Director
- Justin Lippard, Budget Director

Topics:

- Implementation of FY 2020-21 HLD Decrease: Page 2, Question 1 in the packet
- COVID-19 Changes: Pages 2-4, Question 2 in the packet, Slides 8 & 9

4:15 - 4:25 PUBLIC UTILITIES COMMISSION

Main Presenters:

- Patty Salazar, Executive Director
- Justin Lippard, Budget Director
- Doug Dean, PUC Division Director

Topics:

- FTE Vacancy: Page 4, Question 3 in the packet

4:25 - 4:35 BROADBAND

Main Presenters:

- Patty Salazar, Executive Director
- Justin Lippard, Budget Director
- Brian Martin, Director of Broadband Deployment Office

Topics:

- Overview of Projects: Pages 4-6, Questions 4 & 5 in the packet, Slide 12
- Criteria for Acceptance or Denial of Requests: Pages 6 & 7, Question 6 in the packet

4:35 - 4:45 COLORADO OPTION HEALTH INSURANCE

Main Presenters:

- Patty Salazar, Executive Director
- Justin Lippard, Budget Director
- Michael Conway, Division Director and Commissioner of Insurance

Topics:

- Difference between SB20-215 and This Proposal: Page 7, Question 7 in the packet
- Specifics About the Proposal: Page 7, Question 8 in the packet
- Impact of COVID -19 on 'long haulers': Page 7 & 8, Question 9 in the packet
- How decreased utilization of medical care is reflected in premiums: Page 8, Question 10 in the packet

Common Questions

1. Please describe the Department's actions to implement the Health, Life, and Dental decrease in lieu of a 5.0 percent General Fund salary base reduction. Please include dollar and percentage share data on planned "allocations" of the decrease to all divisions and programs within the Department. Please describe the use of vacancy savings, delayed hiring, and the implementation of one-time or ongoing operating savings. Please describe the urgency of the Department's need to engage in a furlough in FY 2020-21 due to the inability to achieve savings in other ways.

Response:

With respect to the 5 percent General Fund budget reduction of \$74,526 during FY 2020-21, the Department was required to allocate this decrease to the Colorado Civil Rights Division, as that is the only Division within the Department with a General Fund program. This figure amounts to the rough equivalent of approximately one General Fund investigator position. To absorb this reduction from a fiscal perspective, the Department intends to manage any unexpected workload impacts related to employment or housing by supplementing with eligible federal funding sources, as well as using any vacancy savings that happen to occur. Furthermore, investigator workload will be distributed amongst staff in order to preserve resources needed with respect to work related to issues regarding places of public accommodation. The statewide furloughs undertaken during FY 2020-21 will partially mitigate the need for these efforts by incrementally reducing General Fund payroll in this division.

2. Please describe how the changes implemented in response to the COVID-19 pandemic have changed the nature of the Department's work. Please address programmatic, budgetary, and office space impacts.

Response:

The Department of Regulatory Agencies is committed to safely and effectively managing the challenges presented by COVID-19, including ensuring remote work operations, while continuing to provide services to the people of Colorado.

DORA strategically approached the pandemic as an opportunity to transform state Government for the better. Enhancing our already robust in person engagement opportunities by transitioning to primarily virtual engagement with staff members and stakeholders. The Department developed and executed a multi-step emergency

preparedness plan to maximize workforce capability and avoid service disruption during the COVID-19 pandemic, which resulted in the successful transition of 90 percent of staff to remote work within less than a two-week period. Prior to the pandemic, the department did not have any employees who worked from home on a FULL-TIME and permanent basis. Pre-COVID-19, approximately 20 percent of the workforce had some type of standard telecommuting arrangement where they worked from home on a part-time basis and either from DORA offices or the field the rest of the time. This is an increase of more than 70 percent.

Ongoing operational strategies have included enhancing telework tools and the development of online portals, resources, training, and guidelines for employees to support employee engagement during emergency remote work.

Department services continue to be reliably provided to the public through a variety of different platforms and has had to be operationally agile and innovative. The Department has also taken great care to ensure robust and ongoing stakeholder communication regarding the impact of COVID-19 on our regulated industries. The diversity and complexity of our regulated entities and licensed individuals requires communications to be timely, accurate and impactful. Within this messaging we prioritized what services were most fundamental and basic for operation of our state services.

Noteworthy innovations include the following:

- Created remote alternatives for plumbing and electrical inspections and financial examinations to comply with guidelines established by the executive and public health orders while still supporting the inspection services needed by the public, the construction industry and Colorado's economy.
- Increased virtual engagement with employees, board and commission members and the public. Reduced in-person interaction where possible in order to lessen the risk of exposure. Increased safety and accessibility for our employees and the public, ensuring that all boards and commissions are able to meet and be publicly accessible online.
- Acquired sufficient PPE for our critical state employees that conduct field work.
- Removed restrictions on auto insurance for drivers for restaurant delivery by increasing flexibility and accommodations on premiums and continuing insurance coverage.
- Issued 4,062 temporary licenses to healthcare professionals dealing with the surging medical needs, as of December 22, 2020.

Further, we are utilizing the following communication strategies:

- Development of a centralized inbox to allow for streamlined, individualized and timely responses to questions from DORA stakeholders about recently released Executive Orders and Public Health Orders.
- Frequent and regular stakeholder meetings with the Executive Director and Governor's Office to help inform industry-specific guidance of the Executive Orders and Public Health Orders.
- Over 200 unique communications to licensees and consumers in the first four months of the crisis, with regular updates and direct communications provided in the

following months. The communications to licensees included industry specifics to comply with new and amended public health orders. Targeted updates through social media includes both our regulated industries as well as their consumers on COVID-related messaging. Topics include health insurance, civil rights, financial scams, and profession-specific guidance on the public health orders.

- Developed a DORA COVID-19 webpage for licensees and consumers to provide one stop access for comprehensive updates for all licensees and occupations. This page, along with the Governor's home page listing Executive Orders and the CDPHE webpage listing specifics about the virus and public health orders provide the most comprehensive strategy for communicating with our publics.
- The DORA website was migrated to a new platform and is undergoing a customer user analysis to ensure that our customers can find answers to their questions the first time they land on our website.

PUBLIC UTILITIES COMMISSION

FTE VACANCY

3. *[Sen. Hansen]* Regarding the 28% vacancy rate in the PUC in FY 2019-20 that I mentioned in my briefing and how that relates to SB19-236, what specific PUC FTE positions are currently vacant and what is the PUC doing to address those vacancies?

Response:

As of December 23, 2020 the employment vacancy rate for the PUC has been reduced to 12 percent; the 28 percent rate cited in the question for actual FY 19-20 was a one-time occurrence that is now reduced as a result of increased hiring activity as well as strategies to overcome lack of sufficient expertise in the labor market for this important but complex work. All positions created in the 2019 legislative session had been filled as of July 1, 2020, and significant contract resources are also being brought to bear in carrying out important SB 19-236 mandates. Additionally, no statutory deadlines for this work have been missed, and the existing staff has contributed greatly to the effort.

With respect to other vacancies, those are as follows: 4.0 FTE Gas pipeline safety; 3.0 FTE Transportation Criminal Investigators; 1.0 FTE Fixed Utilities Economist; 1.0 FTE 911 Surcharge Analyst; 2.0 FTE Administrative Assistants; 1.0 FTE Contracts Administrator; and 1.0 FTE Transportation Section Chief. It is important to note that vacancies occur for a number of specific but routine reasons: attraction and retention of qualified employees, the timing of hires with respect to cost-sharing with other sources (for instance federal funds), the timing of hires with respect to the effective date of new legislation; attrition/turnover; cash flow management with respect to available revenue; and, overall economic and labor market conditions. However, positions related to SB 19-236 have been filled and present vacancies primarily reflect relatively normal business conditions (notwithstanding the ongoing pandemic); nevertheless, the PUC continues to recruit, hire, and retain necessary staff to carry out statutory mandates.

BROADBAND

OVERVIEW OF PROJECTS

4. *[Sen. Rankin]* Can you provide breakdowns of recent broadband projects funded through the

Broadband Deployment Board Grants, and also breakdowns for projects you plan to fund if the stimulus request is approved?

Response:

Summarized in the chart below, the Broadband Deployment Board, with support from the Broadband Fund, runs two grant cycles each year: January and July. The 2020 grant cycles yielded the data explained in the chart below. The attached Appendix I provides a detailed list of all applicants and grantees: 36 applicants requested \$40,567,326 in total funding. Over two cycles, the Broadband Deployment Board awarded grants to 13 projects, which asked for a total of \$14,100,691 for 4,353 households.

Cycle Cohort	January 2020	August 2020
Applicants	21	15
Funded Projects	5	8
Total Funded Request	\$7,274,314	\$6,826,377
Average Match	36%	34%
Total Project Cost	\$11,618,597	\$10,793,335
Total Households	2,026	2,237

Our proposed process to fund projects with the funding from broadband stimulus would be through a competitive grant process administered by the Broadband Deployment Board. At this time, we do not have a planned list of projects the Board will consider for funding.

5. *[Sen. Rankin and Sen. Hansen]* Can you give a more detailed explanation of how the PUC would administer grants and projects for the proposed stimulus funding? Will this be done with existing resources through the Broadband Deployment Board, or would new resources be needed to carry out the stimulus funding administration? How is something like this operationalized on top of what the PUC is already doing regarding broadband?

Response:

As background, currently, the Public Utilities Commission (PUC) is only authorized¹ to disseminate funds by the Broadband Deployment Board through a third-party contractor, Solix. The Broadband Deployment Board determines who and in what amount proposed projects receive their award and then Solix disburses the funds.

For the purposes of our proposed broadband stimulus, it is not the intention of the Governor’s Office or the Department to suggest to the General Assembly that the PUC be

¹ See CRS 40.15.208. As stated in 40.15.509.5, “The commission may allocate the Colorado high cost support mechanism, established under section 40-15-208 and referred to in this section as the "HCSM", for the deployment of broadband service in unserved areas of the state pursuant to this section and section 40-15-208 only. The commission may fund the deployment of broadband service in unserved areas of the state through use of the HCSM surcharge and surcharge rate in effect on January 1, 2018. Pursuant to subsection (4) of this section and consistent with sections 40-15-207 and 40-15-208, the commission shall determine funds available for broadband deployment and the administration of the board as prescribed in section 40-15-208 or from the HCSM money that it determines is no longer required by the HCSM to support universal basic service through an effective competition determination.”

authorized for oversight or management related to any projects proposed in the Governor’s stimulus package. The current suggestion is to implement a competitive application process.

Specifically, DORA will leverage the Broadband Deployment Board to award funding to local recipients for last mile broadband infrastructure. As previously mentioned, the broadband stimulus dollars will be deployed through a competitive grant process administered by the Broadband Deployment Board. At this time, we do not have a planned list of projects the Board will consider for funding.. The projects must be 1) shovel ready, 2) include an income qualified plan, and 3) demonstrate that the project will not overbuild existing broadband infrastructure. Depending on the volume of funded projects and the language of the bill, it is expected that a small amount of contract funding may be required to assist in administering the projects. However, existing resources will also be leveraged in order to keep such costs to the minimum possible.

CRITERIA FOR ACCEPTANCE OR DENIAL OF REQUESTS

6. *[Rep. Ransom]* Can you provide specific data concerning the applications and awards for the existing broadband programs? More specifically, how many applications have been received, how many of those were deemed eligible, and how many received an award? Are all requests that are submitted accepted, or are some denied due to certain criteria?

Response:

Throughout the course of this program, there have been a total of 115 applications to all the Broadband Deployment Board grant cycles. A total of 51 awards have been made since its inception. As mandated by CRS 40-15-509.5 (8)(k)(III), projects cannot exceed two years.

	Applications	Awardees	Closed	Active	Pending Start
2016	15	8	8	0	0
2017	14	7	4	7	0
2018	16	7	1	7	0
2019 (January)	15	4	0	4	0
2019 (August)	20	12	0	12	0
2020 (January)	20	5	0	5	0
2020 (August)	15	8	0	0	8
Total	115	51	13	32	8

Award decisions receive significant scrutiny for how they meet the eligibility criteria found in both CRS 40-15- 509.5 (8) and Broadband Deployment Board Policy.² Project eligibility is determined by many factors including but not limited to the following: the area must be unserved, grant funds are for infrastructure only, a broadband network will exist, the project

² Broadband Deployment Board policy can be accessed at <https://broadbandfund.colorado.gov/broadband-deployment-board>.

serves the last mile only, the match meets or exceeds the 25 percent requirement, and the project does not overbuild.

COLORADO OPTION HEALTH INSURANCE

DIFFERENCES BETWEEN SB20-215 AND THIS PROPOSAL

7. *[Sen. Moreno]* Can you provide an analysis of how the provisions of SB20-215 (Health Insurance Affordability Enterprise) compare to this proposal with regards to the planned activities and goals of the proposal?

Response:

Both SB20-215 and the Colorado Option proposal share the goal of making coverage more affordable for consumers, but they differ in how to achieve that goal. SB20-215, the Health Insurance Affordability Enterprise, establishes a fee on health insurers and a special assessment on hospitals, which will be used to make coverage more affordable. Specifically, the fund will be used to lower the cost of health insurance in three ways:

- funding the reinsurance program;
- increasing the affordability of individual health coverage for subsidized Coloradans; and providing subsidies for state-subsidized individual plans purchased by qualified individuals.

The underlying cost of care is what drives premiums. However, SB 20-215 does not address the underlying costs of care and instead subsidizes premiums in the three ways listed above. In contrast, the Colorado Option would be a new, more affordable health benefits plan available to all Coloradans. It would also be available to small businesses. The Colorado Option would achieve savings by reducing the underlying cost of health care.

SPECIFICS ABOUT THE PROPOSAL

8. *[Rep. Ransom]* Concerning the idea of a public-private ‘partnership’ that is planned, does the department plan to require private insurers to offer the public option?

Response:

All stakeholders in health care share a stated goal of making health care more affordable. To that end, whenever possible, the Division of Insurance looks to partner with the healthcare industry to save people money on health care. While HB 20-1349 would have required the carriers to offer the product, it would have been a partnership between the Division and private insurers because the private insurers would have provided the product while the Division would have been tasked with creating the benefit design. The structure of the Colorado Option this session, and any requirements for insurer participation, will certainly be the subject of stakeholder meetings and ultimately will depend on the legislation.

9. *[Rep. Herod]* Is the department considering the impacts of COVID-19 ‘long-haulers’, or those who experience extended adverse effects, on insurance premiums? If so, how is the department taking these into account?

Response:

During the Division of Insurance's rate approval process, the carriers were directed to reduce their anticipated COVID-19 related costs to account for the impacts of the pandemic up to this point and the expected impact next year. The impact that "long haulers" may have on insurance premiums is still uncertain. We do not know the extent of health care services that they will need and how long those services will be needed.

However, all those who have had COVID-19 will be protected by state and federal laws prohibiting carriers from discriminating against individuals based on health status. According to the Affordable Care Act and Colorado law, carriers offering individual or small employer health benefit plans are prohibited from imposing any preexisting condition exclusion with respect to Plan coverage. The Colorado Option would comply with these requirements and thus, would be available to all Coloradans, including those who have had COVID-19.

10. *[Rep. Herod]* How is the decreased utilization of medical care via delayed routine medical appointments, etc., being reflected in insurance premiums?

Response:

During the Division of Insurance's review of the 2021 health insurance rate filings, changes in utilization of healthcare services were considered as a result of the COVID-19 pandemic. Subsequently, the Division directed insurance companies to adjust their premiums and save Coloradans money. One of those adjustments was a cap on what companies can charge for the anticipated use of medical services in 2021.

Colorado Department of Regulatory Agencies Joint Budget Committee Hearing

January 6, 2021



COLORADO

Department of
Regulatory Agencies

Overview

- About DORA
- Joint Budget Committee Responses
 - Common Questions
 - Public Utilities Commission
 - Broadband
 - Colorado Option Health Insurance



CONSUMER
PROTECTION
IS OUR
MISSION

*We strive to preserve the integrity of
the marketplace while promoting a
fair and competitive business
environment throughout Colorado.*



About DORA

- 600.8 FTE
- \$118.8 M Budget
- 40 Boards, Commissions and Advisory Committees
- 50 Regulatory programs
- 886,000 individual licensees
- 65,000 regulated business and institutions



About DORA: Divisions and Offices

- Colorado Civil Rights Division
- Division of Banking
- Division of Conservation
- Division of Financial Services
- Division of Insurance
- Division of Professions and Occupations
- Division of Real Estate

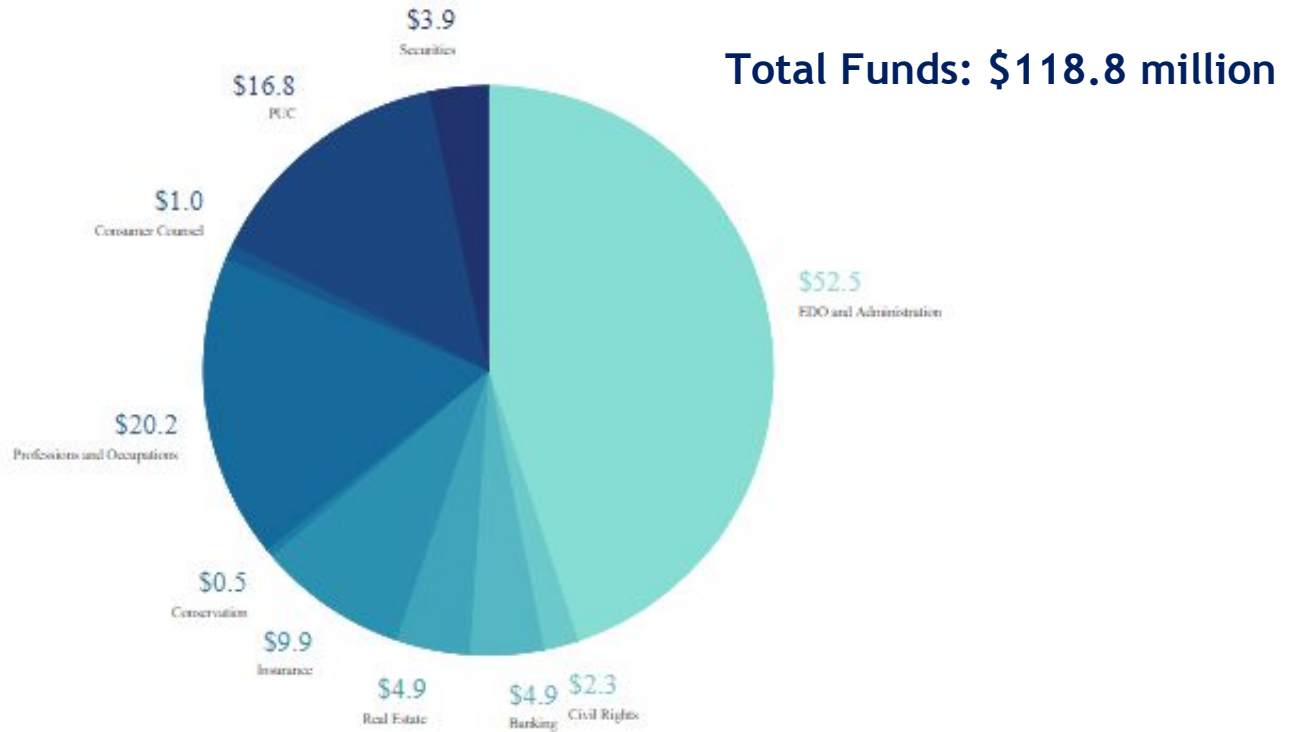
- Division of Securities
- Office of Consumer Counsel
- Public Utilities Commission

Within Executive Director's Office

- Colorado Office of Policy, Research and Regulatory Reform
- Office of Broadband Deployment



About DORA: Funding




Common Questions

Patty Salazar, Executive Director
Justin Lippard, Budget Director



Responding to COVID

- Continuity of Operations
- Innovate remote and virtual alternatives
- Emergency and temporary licensure through Executive Orders

-  COLORADO Department of Regulatory Agencies
- DORA.net Home
- Accounting
- Communications/Branding
- Divisions
- Forms
- Human Resources
- Operations
- Policies and Procedures
- Boards and Commissions Administration
- OIT Services
- DORA.net on Google - Feedback Form

DORA EMERGENCY PREPAREDNESS INFORMATION

PERCENTAGE OF DORA WORKFORCE WORKING REMOTELY: 90% (3.27.20)

EMPLOYEE NOTIFICATIONS

HR Forms for COVID-19 Related Reporting

- Home
- HR Forms for COVID-19 Related Reporting
- Guidance/Action-items for Non-exempt Employees Who are Working Remotely
- Employee Wellness and

Please also continue to submit the appropriate HR forms, depending on any changes to circumstances.

Employee Wellness and Self-Care

- Home
- HR Forms for COVID-19 Related Reporting
- Guidance/Action-items for Non-exempt Employees Who are Working Remotely
- Employee Wellness and Self-Care



It's important to make sure you're taking care of your mental health during this time. We all need a little help from time to time, and we want our employees to feel empowered to take care of themselves and know they have the support of their colleagues and friends who work alongside them.



Responding to COVID

- Stakeholder Engagement
- Industry-specific guidance
- Fraud Prevention Education

Updates by Topic Area

Healthcare

Insurance

Public Utilities

Civil Rights

Finance

Real Estate

DORA Supplemental Guidance by Profession

Please note: DORA's supplemental guidance documents are being updated to reflect the state's new [Dual system](#). If your profession has not yet been updated from Safer at Home, please check back soon.



Guidance for
Dentists and
Dental
Hygienists



Guidance for
Mental Health
Professionals



Guidance for
Personal
Services
Salons & Spas



Guidance for
Massage
Therapists



Guidance for Real Estate
Brokers



Guidance for Electrical &
Plumbing Inspections



Emergency
Licensing for
Physicians



Emergency
Licensing for
Nurses and
Assistants



Emergency
Licensing for
Pharmacists



Emergency
Licensing for
Respiratory
Therapists



Public Utilities Commission

Patty Salazar, Executive Director
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Office of Broadband Deployment

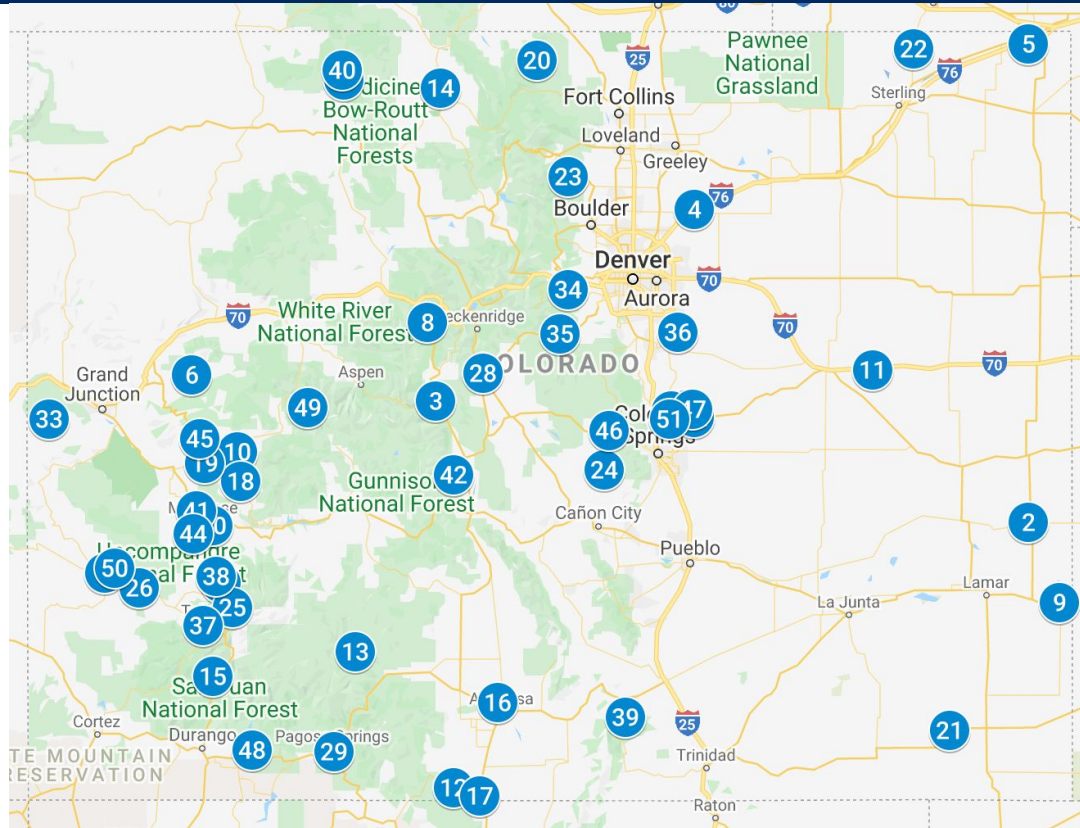
Patty Salazar, Executive Director

Justin Lippard, Budget Director

Brian Martin, Director of Broadband Deployment



Broadband



Colorado Option Health Insurance

Patty Salazar, Executive Director

Justin Lippard, Budget Director

Mike Conway, Insurance Commissioner and Director, Division of Insurance



Questions?



COLORADO

Department of
Regulatory Agencies

DEPARTMENT OF REGULATORY AGENCIES FY 2021-22
JOINT BUDGET COMMITTEE HEARING
WRITTEN RESPONSES ONLY

COMMON QUESTIONS: PLEASE RETAIN THE NUMBERING IN ORDER TO MAINTAIN CONSISTENT LABELING FOR COMMON QUESTIONS ACROSS DEPARTMENTS.

- 1 Provide a list of any legislation with a fiscal impact that the Department has: (a) not implemented, (b) partially implemented, or (c) missed statutory deadlines. Explain why the Department has not implemented, has only partially implemented, or has missed deadlines for the legislation on this list. Please explain any problems the Department is having implementing any legislation and any suggestions you have to modify legislation.

Response:

At this time, the Department does not have any legislation with a fiscal impact that has missed statutory deadlines. The Department has several pieces of prior year legislation that are still in the process of being implemented, all of which are on track for full implementation based upon deadlines established in statute

- 2 Does the Department have any HIGH PRIORITY OUTSTANDING recommendations with a fiscal impact identified in the Office of the State Auditor's "Annual Report: Status of Outstanding Audit Recommendations"? What is the Department doing to resolve these HIGH PRIORITY OUTSTANDING recommendations? Please indicate where in the Department's budget request actions taken towards resolving HIGH PRIORITY OUTSTANDING recommendations can be found.

Response:

The Department has no high priority outstanding audit recommendations as identified in this report (see page 11 of the current report below).

(<https://leg.colorado.gov/audits/annual-report-status-audit-recommendations-not-full-y-implemented-june-30-2020>)

- 3 For the FY 2020-21 hearing process, the Department was asked to respond to the following questions related to public awareness campaigns.

Is the Department spending money on public awareness campaigns? If so, please describe these campaigns, the goal of the messaging, the cost of the campaign, and distinguish between paid media and earned media. Further, please describe any metrics regarding effectiveness and whether the Department is working with other state or federal departments to coordinate the campaign? Please provide an update to your response from last year, including any changes to existing campaigns and/or the addition or discontinuation of campaigns.

Response:

Yes, the Department is statutorily required to conduct outreach and public awareness campaigns via the Consumer Outreach and Education Program created in Section

24-34-108, C.R.S. The Department annually submits a report to the Joint Budget Committee on this program's activities each November 1st. The most recent full report can be accessed [here](#), with a summary below:

At the end of FY 19-20, the Fund had collected \$251,486 in surcharges and interest and utilized \$183,004. Approximately 75 percent of the funds were for public service campaign and announcement development, distribution, and other large media marketing purposes. This year's report highlighted the following achievements:

- A. "Take 5 to Get Wise" media campaign: Last year, DORA continued its primary "Take 5 to Get Wise" media campaign, which encourages consumers to take just five minutes to research a licensed professional, regulated product, or consumer-related topic before making a decision. Topics included insurance, healthcare; services/licenses; housing and real estate; financial fraud; utilities/energy, and civil rights/anti-discrimination laws. Television interviews with DORA leaders and experts, broadcast through our partnership with Denver7, radio spots through Que Bueno, KUVU, and television spots on Rocky Mountain PBS once again assisted in the overall effort to reach the broadest audience across the state.
- B. Can Do Colorado: Portions of the Department's media buy with Que Bueno and RMPBS and partnerships with CBS4 Denver, Bonneville Media, and the Colorado Broadcasters Association also went to a brand new campaign resulting from the COVID-19 pandemic. "Can Do Colorado" was created in April 2020 to showcase innovative but safe business practices amid public health restrictions. The campaign also included "Can Do Consumers," which encouraged safe consumer practices, support for local regulated businesses, and education around COVID-related fraud and scams.
- C. Stop Fraud Colorado: The department again leveraged partnerships for earned media and outreach opportunities with existing campaigns and organizations, including Stop Fraud Colorado at the Attorney General's Office, the Better Business Bureau, and the AARP ElderWatch Program. We added additional partnerships with Energize Colorado and the Colorado Broadcasters Association to support the state's COVID-19 response.

While we used several metrics to identify success, the following includes some highlights:

- More than *2.6 million impressions* on paid "Can Do Colorado" television ads and nearly *3 million social media impressions*.
- The overall reach for our Channel 7 "Take 5" partnership totaled almost *800,000 people*, an increase over last year due to the addition of their new online streaming service.
- Division outreach coordinators completed around *350 events*, with many moving online after March 2020.

4 Please identify how many rules you have promulgated in the past year (FY 2019-20). With respect to these rules, have you done any cost-benefit analyses pursuant to Section 24-4-103

(2.5), C.R.S., regulatory analyses pursuant to Section 24-4-103 (4.5), C.R.S., or any other similar analysis? Have you conducted a cost-benefit analysis of the Department's rules as a whole? If so, please provide an overview of each analysis.

Response:

The Department has promulgated approximately 284 rules in the past year, of these 40 were newly promulgated rules and 132 were revisions to existing rules. Additionally, in FY 19-20, no CBA requests were received on any DORA rules (department-wide or otherwise), therefore none were required.

- 5 What are the major cost drivers impacting the Department? Is there a difference between the price inflation the Department is experiencing compared to the general CPI? Please describe any specific cost escalations.

Response:

The Department's budget tends to remain consistent. Budget management routinely involves looking internally for solutions rather than requesting budget increases whenever there is justification. However, external factors including population growth, increased regulatory scope, inflation, enforcement, caseload and shifts in economic conditions all have the potential to affect Department finances as described below:

- **Population growth.** Population growth does not automatically result in appropriations increases for DORA. While regulating approximately 950,000 individuals and businesses relative to the entire population of 5,759,000, it is certainly true that population growth affects workload. However, adding for instance 58,000 citizens (1% population growth) could only be expected to generate approximately 8,000-9,000 new licensees, across several major licensing Divisions. New appropriations are unlikely to be requested to cover this marginal increase, and fee revenue will be unchanged as fees are adjusted to generate sufficient revenue to cover appropriation.
- **Increased regulatory scope.** Although the 2020 Legislative Session was not as impactful, regulatory impacts from the 2019 Legislative Session was a great example of how legislative decisions on regulatory scope can drive appropriations changes to the Department. Almost 20 separate bills passed during 2019 containing almost \$4 million and 21 FTE in appropriations. Some of these bills were new requirements to existing programs (for instance, SB 19-236, the PUC Sunset bill), while others were new stand-alone programs (for instance, bills creating regulation for Athlete Agencies, Genetic Counselors, and Pharmacy Technicians, as well as creating the State Reinsurance Program in the Division of Insurance). While these increases are significant on a one-time basis, generally speaking, most legislative sessions do not result in this level of resources.
- **Inflationary increases.** Economic inflationary increases do not tend to influence appropriations to DORA; however, salary increases for state employees are a primary driver of small, steady budget increases.
- **The Cost of Enforcement.** Disciplinary actions taken against licensees commonly result in the need for legal review, and potentially, litigation and other associated legal costs. As a result, legal services expenditures and the rate charged by the

Department of Law have the potential to result in appropriations changes at DORA. In fact, DORA is the leading consumer statewide of central legal services provided by the Department of Law, comprising roughly 35 percent of all statewide legal hours annually. Even presuming the exact same hours spent, changes in the legal rate can result in hundreds of thousand dollars in appropriations change from year-to-year.

- Caseload. While most Divisions are affected by various factors as discussed above, the Colorado Civil Rights Division is budgetarily affected by caseload, specifically including the number of employment, housing, and public accommodation discrimination claims that are filed. In recent years this number has changed from roughly 800 per year to almost 2,000 per year. The potential for this to impact the budget does exist, however at this time no request is planned.
- Shifts in economic conditions. Occasionally, shifts in economic conditions can affect the nature of regulation and/or the number of licensees (with corresponding effects on nominal fee levels). During the housing crisis of the mid-2000s, the number of new real estate broker applications dropped precipitously, from 6,000-7,000 annually to 2,000-3,000 annually, due to the churn in this profession which can be strongly linked to economic conditions. Similarly, we anticipate the economic impacts of COVID-19 to have adverse impacts on regulated professionals and the conduct within regulated industries. In an effort to plan for these impacts, the Department continually monitors its use of resources (including enforcement and legal services) as well as potential revenue impacts associated with changes in the license population. The Department has the ability to ensure continuation budget requests and fee planning activities are informed by economic realities.

- 6 How is the Department's caseload changing and how does it impact the Department's budget? Are there specific population changes, demographic changes, or service needs (e.g. aging population) that are different from general population growth?

Response:

As regulators, we must remain agile and responsive to the emerging trends and changes in the marketplace however as mentioned above, the Colorado Civil Rights Division is the only division which can be budgetarily affected by "caseload" in the narrowest sense. This is because the number of employment, housing, and public accommodation discrimination claims that are filed correspond with the federal funding via a workshare agreement and the General Fund allocation. In recent years this number has changed from roughly 800 per year to almost 2,000 per year. The potential for this to impact the budget does exist, however at this time no request is planned. It should also be noted that most Divisions in the Department are affected by small upward fluctuations in licensee volume, required examinations, investigations, and enforcement proceedings requiring the use of legal services. Typically, these fluctuations do not drive required increases in the Department's budget, and the Department leverages existing resources to implement programs. Beyond that, there are no specific population/demographic changes that differ from general population growth as a budget driver.

- 7 In some cases, the roles and duties of existing FTE may have changed over time. Please list any positions that have been created in the Department since FY 2018-19 that were not the result of legislation or a decision item.

Response:

The number of created positions and the change in FTE appropriations over the same period are equivalent. Specifically, there have been 28 actions creating positions in the time since July 1, 2019. Over the same period, FTE appropriations increased by 27.9. In administering appropriations across 11 Divisions, many programs, and approximately 600 FTE, the Department routinely creates new positions in implementing statute and managing workload. The creation of a position is an administrative personnel transaction for business practices, as roles often change, new needs materialize, or duties shift, and these issues are not the same as creating new positions in response to additional resources provided by the legislature via special bills or decision items.

For all FY 2021-22 budget requests that include an increase in FTE:

- a. Specify whether existing staff will be trained to assume these roles or these duties and if not, why;
- b. Specify why additional FTE are necessary, and
- c. Describe the evaluation process you used to determine the number of FTE requested.

Response:

As part of a statewide effort to make JBC aware of legislative proposals that may have a fiscal impact this year, the Department submitted change requests to JBC for legislative items that were expected to have a fiscal impact; however, resources will actually be determined and provided via the fiscal note process. Having said that, there are two such legislative requests (R-01 Colorado Option Health Insurance and R-02 Prescription Drug Affordability) that identify FTE in the Department's FY 20-21 budget submission. For these requests, existing staff may certainly assist in enabling any new legislative initiative, as current division leadership and staff are involved in implementing statutes. Resources identified have already been through Department and legislative staff review because both proposals are based on previously published fiscal notes for comparable legislation that did not pass in prior sessions. Although there are no budget-only decision items the evaluation process would normally include initial research, review, and drafting by division and department personnel, OSPB review, consideration, and approval of a draft request.

- 8 Please describe any programmatic impacts resulting from cash fund transfers impacting the department as part of the FY 2019-20 and FY 2020-21 balancing process.

Response:

No programmatic impacts resulting from cash fund transfers have occurred as a part of the balancing process in FY 19-20 and FY 20-21. Cash fund transfers targeted fund balances that did not have an impact on program expenditures.