COLORADO GENERAL ASSEMBLY
JOINT BUDGET COMMITTEE

FY 2010-11 STAFF BUDGET BRIEFING

DEPARTMENT OF REGULATORY AGENCIES

JBC Working Document - Subject to Change
Staff Recommendation Does Not Represent Committee Decision

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FY 2010-11 BUDGET BRIEFING
STAFF PRESENTATION TO THE JOINT BUDGET COMMITTEE

DEPARTMENT OF REGULATORY AGENCIES

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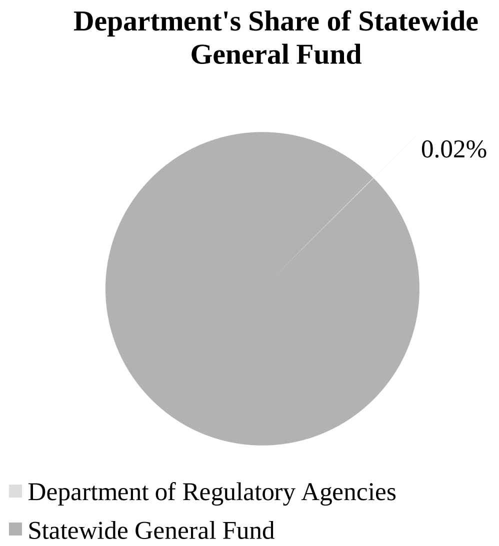
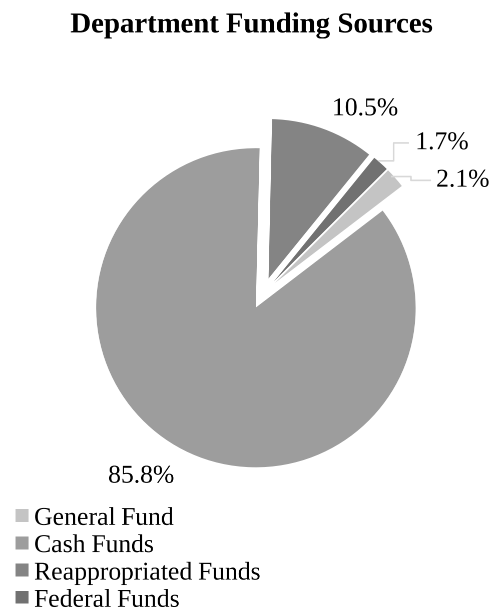
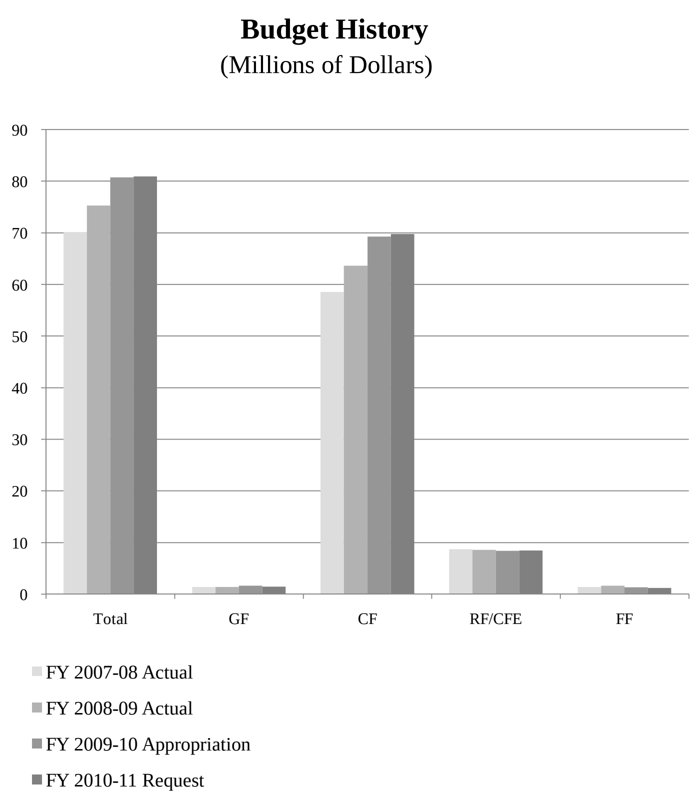
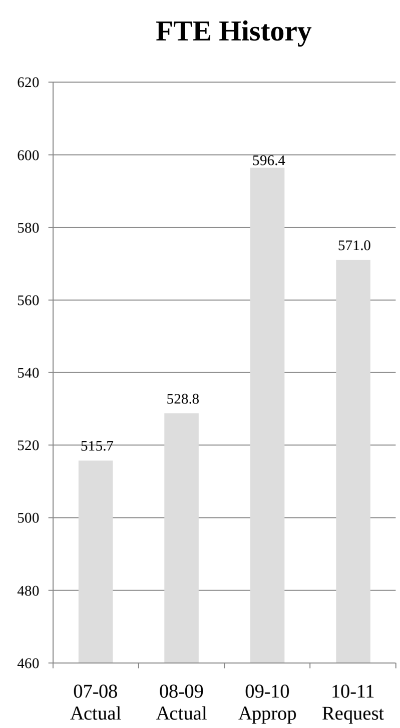


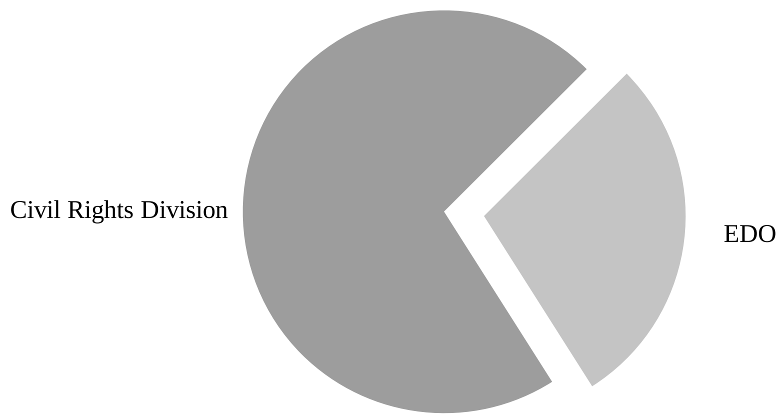




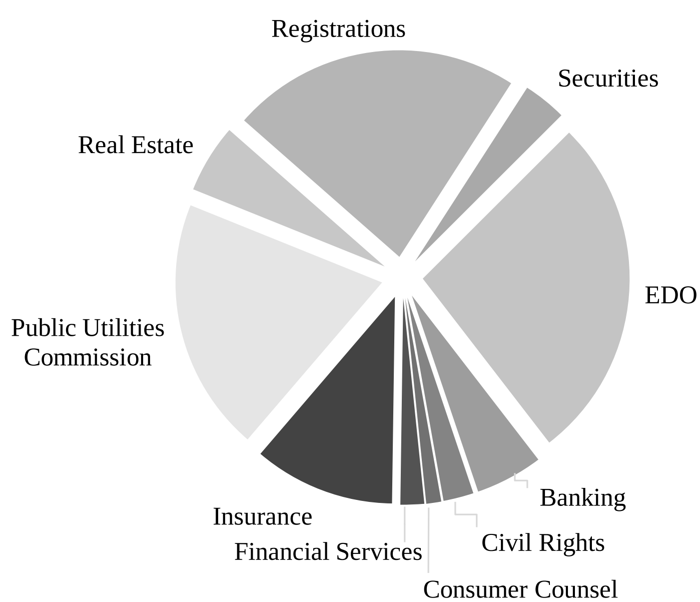


Unless otherwise noted, all charts are based on the FY 2009-10 appropriation.

Distribution of General Fund by Division



Distribution of Total Funds by Division



FY 2010-11 Joint Budget Committee Staff Budget Briefing
Department of Regulatory Agencies

DEPARTMENT OVERVIEW

Key Responsibilities

- ❑ Protect the public from fraudulent, dangerous, incompetent, discriminatory, and unsafe professionals and businesses. Ensure adequate choices in the market and ensure the availability of reasonably priced services and products by regulating professionals and businesses.
  - ▸ **Divisions of Banking and Financial Services** regulate state-charted financial institutions including: banks, trust companies, credit unions and money transmitters.
  - ▸ **Division of Insurance** regulates providers of automobile, homeowners, life, health and other types of insurance companies and agents.
  - ▸ **Public Utilities Commission** regulates the providers of public utilities such as electricity, gas and telecommunications.
  - ▸ **Divisions of Registration, Real Estate and Securities** regulate more than thirty occupations including: accountants, barbers, mortgage brokers, nurses, physicians, stockbrokers and real estate agents and appraisers.
  - ▸ **Civil Rights Division** administers and enforces Colorado's civil rights laws.
- ❑ The Office of Policy, Research and Regulatory Reform conducts sunset reviews of state-run programs, and sunrise reviews of proposed programs and analyze the economic impact of proposed rules by state agencies.

Factors Driving the Budget

Legal Services

Due to the stakes involved in many of the Department's regulatory decisions, legal services has been and will continue to be a driving factor. Legal services account for almost ten percent of the FY 2009-10 appropriation, and thirty percent of the states total legal services.

	FY 05-06 Actual	FY 06-07 Actual	FY 07-08 Actual	FY 08-09 Actual	FY 09-10 Approp.
Regulatory Agencies	$5,075,682	$5,761,082	$6,591,183	$7,472,664	$7,815,250
Number of Hours	82,438	82,009	91,506	99,503	103,678
Percent of Department Approp.	9.0%	8.2%	8.8%	9.3%	9.7%
Percent of State Total	28.2%	28.4%	30.2%	30.5%	30.7%
State Total Legal Services	**$18,016,250**	**$20,253,769**	**$22,378,413**	**$24,532,648**	**$25,467,133**

Source: FY 2010-11 Department of Law Briefing.

Population Growth
From 2005 to 2009 the population of Colorado is projected to grow by 5.7 percent, and the number of licenses issued by the Divisions of Insurance, Registrations, Real Estate and Securities are expected to grow by 2.1 percent. During times of economic growth, the increase in the number of licenses can be two or three times greater than the growth in the population over the same period. During the most recent economic downturn, the real estate market took a hard hit, and experienced a 23.1 percent decrease in the number of real estate licenses.

5 Year History of DORA Licenses						
Division	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Estimate	5 Year Growth
Div. of Insurance	110,911	109,705	115,229	118,783	117,000	5.5%
Div. of Registrations	282,521	295,281	292,584	315,147	324,075	14.7%
Div. of Real Estate	58,540	54,837	57,060	53,251	45,000	-23.1%
Div. of Securities	177,519	145,772	156,586	158,623	156,620	-11.8%
Total	**629,491**	**605,595**	**621,459**	**645,804**	**642,695**	**2.1%**
Estimated Colorado Population	**4,673,724**	**4,766,248**	**4,861,515**	**4,928,021**	**4,939,456**	**5.7%**

Source: FY 2010-11 Department of Regulatory Agencies Budget Request, and U.S. Census Bureau.

During economic growth, the Department workload for new applications, registrations, and testing increases to account for the increase in demand. When the economy slows, the Department's enforcement and inspection workload increases because of the importance of ensuring a fair marketplace for both consumers and providers. Typically during an economic downturn the number of licenses decline, as evidence by the above table.

DECISION ITEM PRIORITY LIST

Decision Item	GF	CF	RF	FF	Total	FTE
1	0	0	66,955	0	66,955	0.0
Funding for Contract Security Officer **Executive Director's Office.** The Department is requesting $66,955 in reappropriated funds to hire a full time contract security officer for DORA's headquarters at 1550 Broadway, Denver Colorado. The security officer would provide day to day security for the Executive Director's Office, and additional security at division Board and Commission meetings. *Statutory authority: Section 24-34-104, C.R.S.*						
2	0	67,848	0	0	67,848	1.0
Increase Funding for Securities Investigators **Division of Securities**. The Department is requesting $67,848 cash funds and 1.0 FTE to add a Securities Investigator to enable the Division to handle the increased number of citizen complaints and ensuing enforcement actions. *Statutory authority: Sections 11-51-101 and 11-59-104 (1), C.R.S.*						
NP-1	0	54,308	0	0	54,308	0.0
Annual Fleet Vehicle Replacement **Executive Director's Office.** The Department is requesting an increase to the vehicle lease payments line item to accommodate increases in statewide vehicle costs. This decision item will be addressed during the Department of Personnel and Administration briefing. *Statutory authority: Section 24-30-1104 (2), C.R.S.*						
NP-2	0	0	(207,646)	0	(207,646)	(25.5)
Statewide Information Technology Staff Consolidation **Various Divisions.** The Department is requesting 6.0 FTE and associated funds be transferred to the Governor's Office of Information Technology. This decision item was addressed during the briefing on the Governor's Office. *Statutory authority: Section 24-37.5-110 (1) (a), C.R.S.*						
Total	**0**	**122,156**	**(140,691)**	**0**	**(18,535)**	**(24.5)**

BASE REDUCTION ITEM PRIORITY LIST

Base Reduction	GF	CF	RF	FF	Total	FTE
1	(129,945)	0	0	0	(129,945)	(1.0)
Civil Rights Division General Fund Reduction						
Civil Rights Division. The Department is requesting the Civil Rights Division personal services appropriation be reduced by $129,945 General Fund and 1.0 FTE to help balance to the FY 2010-11 budget. This request is a continuation of the August 2009 negative supplemental submitted by OSPB. *Statutory authority: Section 24-34-302 (2), C.R.S.*						
Total	**(129,945)**	**0**	**0**	**0**	**(129,945)**	**(1.0)**

FY 2010-11 Joint Budget Committee Staff Budget Briefing
Department of Regulatory Agencies

OVERVIEW OF NUMBERS PAGES

The following table summarizes the total change, in dollars and as a percentage, between the Department's FY 2009-10 appropriation and the FY 2010-11 request.

Total Requested Change, FY 2009-10 to FY 2010-11 (millions of dollars)

Category	GF	CF	RF	FF	Total	FTE
FY 2009-10 Appropriation	$1.7	$69.3	$8.5	$1.3	$80.8	596.4
FY 2010-11 Request	1.5	69.8	8.5	1.2	81.0	571.0
Increase / (Decrease)	($0.2)	$0.5	$0.0	($0.1)	$0.2	(25.4)
Percentage Change	(11.8)%	0.7%	0.0%	(7.7)%	0.2%	(4.3)%

The following table highlights the individual changes contained in the Department's FY 2010-11 budget request, as compared with the FY 2009-10 appropriation. For additional detail, see the numbers pages in Appendix A.

Requested Changes, FY 2009-10 to FY 2010-11

Category	GF	CF	RF	FF	Total	FTE
Restore 1.82% personal services reduction to various personal services line items	14,749	552,629	118,026	6,637	692,041	0.0
Benefits	3,298	226,603	352	1,839	232,092	0.0
DI #2 - Securities Investigator	0	67,848	0	0	67,848	1.0
DI #1 - Contract Security Officer	0	0	66,955	0	66,955	0.0
NP #1 - Fleet Vehicle Replacement	0	54,308	0	0	54,308	0.0
NP #2 - Consolidation of IT Staff	0	0	(207,646)	0	(207,646)	(25.5)
Legal Services	(57,124)	(93,085)	0	0	(150,209)	0.0
Civil Rights - Personal Services	(115,649)	0	7,609	6,637	(101,403)	(1.0)
Reduction in various operating expenses lines		(89,302)	0	0	(89,302)	0.0
Indirect Cost Assessment	0	(75,554)	0	(1,034)	(76,588)	0.0
Other	(24,993)	(179,109)	14,704	(133,906)	(323,304)	0.1
Total Change	**($179,719)**	**$464,338**	**$0**	**($119,827)**	**$164,792**	**(25.4)**

BRIEFING ISSUE

ISSUE: Proposed Changes to Colorado's Insurance Premium Tax

Current statute allows an insurance company with offices in Colorado to qualify those offices as a home or regional home office, if the company provides proof to the Division of Insurance that the offices perform two-thirds of the functions listed in Section 10-3-209 (1) (b) (II), C.R.S. Home and regional home offices qualify for a 1.0 percent insurance premium tax rate, while companies and offices that do not qualify pay a 2.0 percent insurance premium tax. If changes are made to statute requiring companies to perform all of the functions listed in Section 10-3-209 (1) (b) (II), C.R.S. than an estimated $23 million additional revenue can be generated for the General Fund.

SUMMARY:

- ❏ Currently statute allows an insurance company with an office(s) in Colorado to qualify that office(s) as a home or regional home office, if the company provides proof to the Division of Insurance that the offices perform two-thirds of the functions listed in Sections 10-3-209 (1) (b) (II), or 10-3-209 (1) (b) (III), C.R.S.

- ❏ The insurance premium tax rate for an office designated as a home or regional home office is 1.0 percent on written premiums, and 2.0 percent for companies and offices that do not qualifying as a home or regional home office.

- ❏ An estimated $23.0 million can be generated for the General Fund if changes to statute are made requiring companies to satisfy all the requirements in statute.

RECOMMENDATION: Staff recommends the Committee sponsor legislation requiring the performance of all the functions listed in Section 10-3-209 (1) (b) (I) (B), C.R.S. if a company/office is designated as a home or regional home office. Additionally, staff recommends the Committee consider adding language prohibiting insurance companies from passing the added cost of the insurance premium tax on to the policy holders.

DISCUSSION:

<u>History of Insurance Premium Tax</u>

Senate Bill 13-287 established the standard insurance premium tax (IPT) at 2.0 percent for all companies. Companies that invested at least 50.0 percent of their assets in state or local warrants or bonds only had to pay a 1.0 percent IPT. During the 1959 Session, the General Assembly passed S.B. 59-354, which increased the standard IPT to 2.25 percent, and lowered the require amount of invested assets to 30.0 percent to qualify for the 1.0 percent IPT. What is now Section 10-3-209, C.R.S. was amended during the 1969 session by H.B. 69-1381, which removed the language relating to the investments of assets as a qualification for the 1.0 percent IPT, and added the subsections used today that defined the requirements for a home office (HO) or a regional home office (RHO). Qualifying as a HO or RHO meant the company only had to pay the 1.0 percent IPT. Senate Bill 92-090 added Section 10-3-209 (4), C.R.S. enabling the Division of Insurance Cash Fund to receive up to 5.0 percent of the IPT.

The last change to the IPT statue was made in 1996, by H.B. 96-1261, which established the following schedule for the standard IPT, and did not change the requirements for HO or RHO.

House Bill 96-1261 IPT Changes	
Year Premium Collected	**Standard IPT**
IPT set by S.B. 59-354 effective through 1995	2.25%
1996	2.20%
1997	2.15%
1998	2.10%
1999	2.05%
2000 and beyond	2.00%

Transfer to Division of Insurance Cash Fund

Senate Bill 92-090 added the provision in statute allowing up to 5.0 percent of IPT revenue to be diverted to the Division of Insurance (DOI) cash fund, to backfill the difference between revenue collected from business and agent fees and the Division's appropriation. For FY 2009-10, the General Assembly approved an increase in insurance agent fees of $19, so that the usual diversion from the General Fund does not happen. The following table outlines the IPT revenue over the last five years, and the amount that has been transferred to the DOI cash fund.

Insurance Premium Tax Revenue			
Fiscal Year	**Premium Tax Net Revenue**	**Transfer to DOI Cash Fund**	**Net Revenue to GF**
FY 2004-05	$191,940,539	$2,738,501	$189,202,038
FY 2005-06	177,783,341	3,262,222	174,521,119
FY 2006-07	180,581,565	1,158,326	179,423,239
FY 2007-08	190,749,986	2,929,442	187,820,544
FY 2008-09	197,216,803	4,804,063	192,412,740
5 Year Total	**$938,272,234**	**$14,892,554**	**$923,379,680**
Annual Average	**$187,654,447**	**$2,978,511**	**$184,675,936**

The amount transferred to the DOI cash fund in FY 2008-09 was approximately $1.9 million greater then the expected transfer of $2.5 million. Almost $575,000 was due to a decline in revenue from business registrations, $200,000 was due to an increase in legal service costs for the Division,

$53,000 was due to an increase over the previous year for the fraud prosecution line item, and the remainder was due to increases in common policies and leased space costs.

Types of Insurance

There are various types of insurance in Colorado, including workers' compensation, home, auto, and health. In this issue brief, there is no distinction between these types of insurance. The only type of insurance that is taxed at a different rate than the 2.0 IPT is surplus lines, which is taxed at 3.0 percent. The Department of Labor and Employment, Division of Workers' Compensation collects a surcharge on only workers' compensation insurance premiums, and these funds are used to pay for the Division of Workers' Compensation. This surcharge is used solely to pay for the Division of Workers' Compensation appropriation.

Other States Standard Insurance Premium Tax

Staff compared the standard IPT from all fifty states and the District of Columbia, and found that there are fifteen other states that have set the IPT at 2.0 percent, with nineteen states have a higher IPT. Louisiana was not a part of the calculations because of the way the state calculates the IPT owed by companies. The IPT national average was 2.03 percent, which is not significantly different than Colorado's IPT of 2.0 percent.

Insurance Premium Tax Rates Across the Nation	
	IPT Rate
5 Highest States IPT Average - Hawaii, Nevada, West Virginia, New Mexico, Mississippi	3.35%
5 Lowest States IPT Average - Illinois, Wyoming, Iowa, Nebraska, Oregon	0.85%
National Average - excluding Louisiana	2.03%
Colorado's IPT	2.00%

IPT rates from the Insurance Division of the National Conference of State Legislators

Seven states provide a tax break for companies that have a HO or RHO. These states are Alabama, Colorado, Hawaii, Nevada, Oklahoma, Pennsylvania, and South Dakota. Tax breaks range from a reduction of 0.25 percent in Alabama to 1.75 percent in Nevada.

How Companies and Offices Qualify as a HO or RHO

Companies that qualify as having a home office or regional home office in Colorado must perform at least six of the following nine functions listed in Section 10-3-209 (1) (b) (II) (A), C.R.S.: 1)actuarial work, 2) provide medical administrative functions, 3) engage in legal administrative functions, 4) approve or rejection of applications for insurance, 5) issue policies, 6) provide information and services to policy holders, 7) engage in advertising and publications, 8) engage in public relations, 9) conduct hiring, testing, and training of sale and service forces.

If a company does not satisfy the six function requirement, the company or office can still qualify as a home or regional home office under Section 10-3-209 (1) (b) (III), C.R.S., which states that the Commissioner of Insurance can approve a company's application to be a HO or RHO, if the company maintains significant direct insurance operations in Colorado. To further clarify what significant direct insurance operations are, Division Rule 2-1-2 Section 6, states that in order to prove the company is maintaining significant direct insurance operations, the company must satisfy two of the following three requirements: 1) maintain a workforce of 150 full time employees not including agents and their staff, 2) own or lease at least 30,000 square feet of space in Colorado, 3) expend, for salaries, administration, operating expenses, etc., not less than $5 million related to performance of foundational operations.

Revenue Generated from 1.0 and 2.0 percent Insurance Premium Tax

There were 1,510 insurance companies licensed by Division of Insurance in CY 2008. Of the 1,510 insurance companies/offices, approximately 95.0 percent did not qualify as a HO or RHO. These companies paid approximately 75.0 percent of the IPT revenue. Companies are licensed on a calendar year, and pay the IPT based on premiums written in the previous calendar year. For example, FY 2008-09 IPT revenue is collected after January 2009 for premiums written during CY 2008.

Fiscal Year	Total Number Insurance Companies	HO or RHO	Revenue from HO or RHO Companies (1%)	Standard Companies	Revenue from Standard Companies (2%)
FY 2004-05	1,473	79	$48,889,286	1,394	$143,051,253
FY 2005-06	1,497	85	$44,590,165	1,412	$133,193,176
FY 2006-07	1,505	86	$42,903,911	1,419	$137,677,654
FY 2007-08	1,497	85	$50,615,930	1,412	$140,134,056
FY 2008-09	1,510	81	$51,485,773	1,429	$145,731,030
5 year average	**1,496**	**83**	**$47,697,013**	**1,413**	**$139,957,434**

For CY 2009, there are currently thirty-six companies/offices that qualify as a HO or RHO under Section 10-3-209 (1) (b) (I) (B), C.R.S., and fifty-one that qualify as a HO or RHO under Rule 2-1-2 Section 6. Of the thirty-six that qualify under statute, only six satisfy all nine of the requirements to be a HO or RHO. Of the fifty-one companies/offices that qualify under Rule 2-1-2 Section 6, only twenty-one satisfy all three requirements.

What other states have done

In order to balance the FY 2009-10 budget, four other states have proposed or enacted measures that impact IPT, and increase revenue to the General Fund.

FY 2009-10 State Actions To Generate Revenue Using IPT		
State	**Motion or Measure**	**FY 2009-10 Revenue**
New York	House members proposed freezing the insurance premium tax rate at 1.5 percent. The rate was scheduled to decrease to 1.0 percent over the next 2 years.	n/a
New Jersey	Enacted a measure that raised the insurance premium tax.	$35 million

FY 2009-10 State Actions To Generate Revenue Using IPT		
State	**Motion or Measure**	**FY 2009-10 Revenue**
Oregon	Enacted a measure that imposes a new 1.0 percent tax on health insurance premiums.	$85 million
Tennessee	Enacted a measure to increase the insurance premium tax.	$136 million

Information provided by the National Conference of State Legislators

Policy Options

Staff requests the Committee provide staff direction on what action the Committee would like to take in regard to the IPT. There are three policy options: 1) leave the IPT as is, 2) temporarily modify the IPT to increase revenue during the current economic shortfall, or 3) permanently modify the IPT and generate additional revenue for the General Fund.

Option 1

Leave statute as is. This option will not affect revenue from the IPT going into the General Fund, and does not require action by the Committee.

Option 2 and Option 3

If the statute is amended to require companies to satisfy all the requirements, then data indicates an estimated $23.3 million additional dollars would flow into the General Fund for FY 2010-11. Staff is recommending the Committee pursue this option, and run a bill which would provide a temporary restriction on which companies can qualify for the 1.0 percent tax break.

Calculation of Estimate General Fund Increase if Statute is Modified	
Total Revenue from HO and RHO	$51,485,773
Revenue from HO and RHO that satisfy all requirements	28,176,410
Revenue from HO and RHO that do not satisfy all requirements	23,309,363
Estimated Net GF Increase for FY 2010-11	**$23,309,363**

This Tax Policy Changes Does Not Require A Vote of the People

On November 12, 2009 the Office of Legislative Legal Services published a legal memorandum dictating the test to used to see if a tax policy change required a vote of the people.

Step 1 - Determine if any statute is being changed in a manner that modifies or affects tax policy. If the answer is Yes go to Step 2

> Is Statute relating to the imposition of a tax being created, repealed, or amended in a manner that results in a modification of the standards of rules governing the imposition of the tax? - Yes.

Step 2 - Determine whether the tax policy change directly causes a net tax revenue gain to the state or a local government - If the answer to any of these question is NO, prior voter approval is not required pursuant to TABOR. If the answer to all of these questions is YES, then proceed to step 3.

A. Does the tax policy change result in increased tax revenue for the state or a local government? Yes.

B. Is any increase in tax revenue for the state or a local government greater than any decrease in tax revenue for each of the respective governments cause by the tax policy change? Yes.

C. Would the net increase in tax revenue not have been collected without the tax policy change? Yes.

Step 3 - Determine whether the net tax revenue gain is a de minimis amount. - If the answer is Yes go to Step 4.

Is the net tax gain more than the cost to the state or local government, as applicable, to conduct an election to obtain voter approval? Yes. The estimate revenue increase from changing the IPT is estimated to be $23.0 million for FY 2010-11. The Department of State is responsible for elections has requested a total of $2.0 million for election reimbursement and initiative and referendums for FY 2010-11.

Step 4 - Determine whether the net tax revenue gain exceeds a spending limitation in TABOR. - If the answer is No, prior voter approval is not required.

Is the sum of total revenues of the state or local governments(s), as applicable, and the net tax revenue gain resulting from the tax policy change greater than:

1. The limitation on state fiscal year spending? No.
2. The limitation on a local government's fiscal year spending? N/A.
3. The limitation on a local government's property tax revenue? N/A.

Since the answer to part 1 of Step 4 is No, the memorandum from the Office of Legislative Legal Services states that this tax policy change does not require prior voter approval.

Benefits of Changing the IPT

Since FY 2008-09 Colorado has faced a significant General Fund shortfall, and economists predict this shortfall to continue well into FY 2010-11. In order to ensure a balanced budget, the General Assembly has cut appropriations to the Departments of Higher Education, Corrections and others. In order to balance FY 2010-11, the Governor has proposed cuts to education, and additional cuts to higher education and most other departments. This increased revenue, while not enough to fill the projected General Fund shortfall for FY 2010-11, does provide an estimated $23 million that can be used to offset other General Fund cuts.

Points to Consider if the IPT is Changed

Impact to Premium Holders

Currently there is not law that would prohibit the insurance company from adjusting their premiums to account for the increase in the IPT. Is the IPT is changed then carriers would have the option to either increase premiums or to change their business practices to absorb the cost of the increased IPT. The Committee does have the option to add language to the recommended bill stating that insurance companies are prohibited from increasing premiums to pay for the increased IPT.

Impact to Colorado's Ability to Attract Business

The argument could be made that if the IPT is increased, then business would either leave Colorado or opt to locate in a different state. It is important to note that the 2.0 percent IPT is almost identical to the national average of 2.03 percent. Therefore if the business were to have a choice between say, Colorado at 2.0 percent, Arizona at 2.0 percent, Utah at 2.25 percent, or Nevada at 3.5 percent, there is no advantage to not choosing Colorado because of the IPT.

Insurance Premium Tax Rates Across the Nation	
	IPT Rate
5 Highest States IPT Average - Hawaii, Nevada, West Virginia, New Mexico, Mississippi	3.35%
5 Lowest States IPT Average - Illinois, Wyoming, Iowa, Nebraska, Oregon	0.85%
National Average - excluding Louisiana	2.03%
Colorado's IPT	2.00%

IPT rates from the Insurance Division of the National Conference of State Legislators

Not All Companies Perform All Nine Functions Has Part of Their Business

There are specific types of insurance companies that do not perform certain functions because it is not in the nature of the insurance they provide. These companies, which now qualify as a HO or RHO, would under this proposed changed, no longer qualify as a HO or RHO. An example of this type of insurer would be title insurance companies, which provide title insurance on house closings. As part of the business, these insurers do not provide medical administrative functions, and therefore would not meet all nine of the requirements listed in statute.

BRIEFING ISSUE

ISSUE: Assessing the Insurance Premium Tax to Pinnacol Assurance's Premiums

Currently Pinnacol Assurance is exempt from paying the insurance premium tax of 1.0 percent on written premiums. If Pinnacol Assurance had to pay the IPT, the $513 million of written premiums in calendar year 2008, would have generated $5.1 million in revenue for the General Fund.

SUMMARY:

- ❑ Pinnacol Assurance is the workers' compensation insurer of last resort for the State of Colorado, and in statute is exempt from paying insurance premium tax.

- ❑ Pinnacol Assurance controls 57.0 percent of the workers' compensation insurance market, and approximately 5.9 percent of Pinnacol's policies could be classified as last resort policies.

- ❑ Over the last five years, Pinnacol wrote an annual average of $553 million in policy premiums, which would have generated $5.5 million annually for the General Fund if Pinnacol Assurance was required to pay the 1.0 percent insurance premium tax.

RECOMMENDATION: Staff recommends the Committee run a bill to require Pinnacol Assurance to pay the insurance premium tax on 94.0 percent of the written premiums. Staff also recommends the Committee provide Pinnacol Assurance with the opportunity, if Pinnacol Assurance disputes the amount of premiums attributable to providing insurance of last resort, to provide the Committee with data and explanations detailing the amount of premiums attributable to being the insurance of last resort.

DISCUSSION:

<u>Distribution of Pinnacol Assurance's Policies</u>
Pinnacol Assurance (Pinnacol) has established six separate ranking tiers for policies. The lowest risk policies are placed in the Superior tier, and the highest risk companies are placed in the non-standard tier. The non-standard tier should represent those companies and employers who would not be able to get insurance with other companies, and thus have to use Pinnacol because they are the insurer of last resort, but there is no data available on exactly how many of Pinnacol's policies are last resort policies. There are a couple of points to consider when looking at the following table outline the distribution of Pinnacol's policies across tiers:

- There is not an industry definition or standard format for how companies define their policy tiers. Different companies can have tiers that are named the same, but have different requirements, resulting in the same company possibly falling into two different tiers depending on which insurance company the policy was written with.

- Policy holders that apply to Pinnacol for insurance are not required to show proof that they are unable to get insurance with another company before applying to Pinnacol. Because of this no data exists on the exact number of policies Pinnacol insures that would not be able to get insurance with another provider.
- Loss cost multipliers (LCMs) are the expenses the insurance company must expend to insurance the policy holder beyond whatever losses the insurer expects to pay, and is how Pinnacol determines which tier the policy falls into.

Distribution of Pinnacol's Policies As of June 30, 2009			
Tier	**Lost Cost Multiplier**	**Policy Count**	**Percent of Total Policies**
Non-Standard	1.55	3,282	5.9%
Standard	1.21	8,799	15.7%
Standard Plus	1.15	16,538	29.6%
Preferred	1.08	14,275	25.5%
Preferred Plus	0.97	8,346	14.9%
Superior	0.20	4,636	8.3%
Total		**55,876**	**100.0%**

Information provided by Pinnacol Assurance to Legislative Council.

Pinnacol's Percent of the Workers' Compensation Market

Since CY 2004, Pinnacol has controlled almost 60.0 percent of the workers' compensation insurance market. Pinnacol has had the advantage that they do not pay any state or federal taxes, but they do pay the workers' compensation surcharge to the Department of Labor and Employment. On average there have been 203 other companies making up the remaining 40.0 percent of the workers' compensation market. Pinnacol is the only insurer of last resort in the state for workers' compensation insurance, and must provide insurance to any company who applies for a policy.

Calendar Year	Pinnacol's Percent of the Workers' Comp. Insurance Market	Total Premiums Written	Number of Other Companies Writing Premiums
2004	61.6%	$520,785,839	190
2005	61.4%	568,454,527	193
2006	60.8%	596,760,159	210
2007	57.4%	565,432,918	210
2008	57.4%	513,017,201	211
5 year average	**59.7%**	**$552,890,129**	**203**

How Other States Handle Insurers of Last Resort

Nine other states have a workers' compensation insurer similar to the structure of Pinnacol. Pinnacol is structured as a competitive state fund, that is able to compete with other public and private companies in the state, but is not a public company. California, Colorado, Kentucky, Montana, New York, North Dakota, Pennsylvania, Texas, Utah, and Washington, are the states with similar workers' compensation insurers. Only Colorado provides an insurance premium tax (IPT) break for the insurer of last resort. The average IPT rate paid by those insurers is 3.12 percent, with a high in Utah of 7.75 percent, and a low in North Dakota of 0.0 percent. North Dakota's workers' compensation IPT is 0.0 percent because workers' compensation insurance is provided by only one state fund, and private companies are not allowed to provide workers' compensation insurance.

State	Worker's Compensation IPT Rate
Colorado	2.00%
California	2.35%
Kentucky	6.50%
Montana	2.75%
New York	1.00%
North Dakota	0.00%
Pennsylvania	2.00%
Texas	4.85%
Utah	7.75%
Washington	2.00%
Average IPT	**3.12%**

Insurance Premium Tax Revenue from Pinnacol

If Pinnacol is required to pay the 1.0 percent IPT, General Fund revenue would increase by an average of $5.5 million annually. Insurance premiums are calculated on a calendar year basis, and the revenue for premiums would be credited to the General Fund sometime after January of the fiscal year. For example for insurance premium tax (IPT) revenue for FY 2009-10 will not be known until after Pinnacol files their 2009 Annual Statement at the beginning of 2010.

Fiscal Year	Written Premiums	1% IPT
FY 2004-05	$520,785,839	$5,207,858
FY 2005-06	568,454,527	5,684,545
FY 2006-07	596,760,159	5,967,602
FY 2007-08	565,432,918	5,654,329
FY 2008-09	513,017,201	5,130,172
5 Year Total	$2,764,450,644	$27,644,506
Annual Average	**$552,890,129**	**$5,528,901**

Value of Being the Provider of Last Resort

Pinnacol provides an important service to the state by being the insurer of last resort for workers' compensation. Companies are required to have workers' compensation insurance to operate in Colorado. The importance of having a company that must provide workers' compensation is a value that staff believes needs to be taken into consider when calculating the IPT Pinnacol should pay.

The problem arises when calculating the benefit of being the insurer of last resort, because no data exists on how many policies and corresponding premiums are attributable to policies of last resort. As stated before companies are not required to show proof they can not get insurance, and the non-standard tier may contain companies that can get insurance with other providers. Staff also believes that the 57.0 percent of the market Pinnacol controls is not all due to last resort policies, and is receiving a tax break for all premiums written not just last resort.

Policy Options

Staff believes that Pinnacol should pay the 1.0 percent IPT on written premiums, but also needs to be reimbursed for the cost of being the insurer of last resort. Staff requests the Committee provide staff direction on what action the Committee would like to take in regard to the IPT.

Option 1

Require Pinnacol to pay the IPT on 94.0 percent of the written premiums, and provide the proof required to qualify for the 1.0 percent IPT. If Pinnacol disputes the amount of premiums attributable to providing insurance of last resort, allow Pinnacol to provide the data showing the amount of premiums attributable to being the insurance of last resort.

Option 2

Require Pinnacol to pay the IPT, and provide the proof required to qualify for the 1.0 percent IPT. Require Pinnacol to submit an annual report to the Joint Budget Committee outlining the number of policies, and associated amount of premiums that are last resort policies. Establish a new line item in the Long Bill that represents the state's reimbursement to Pinnacol for the IPT paid on last resort policies.

Option 3

Require Pinnacol to pay the IPT, and provide the proof required to qualify for the 1.0 percent IPT. Allow Pinnacol to deny first time claims, and require the denied company to provide proof of three denials from three different insurance companies to the Commissioner of Insurance, who will then require Pinnacol to insurance the company. The Division will keep a record of the policies and associated premiums Pinnacol does not pay the 1.0 percent IPT based on which companies are referred to Pinnacol after providing proof of denial.

Option 4

Keep statute as it currently is, exempting Pinnacol Assurance from paying the IPT.

APPENDIX A: NUMBERS PAGES

	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Appropriation	FY 2010-11 Request	DI/Notes
DEPARTMENT OF REGULATORY AGENCIES					
Barbara Kelley, Executive Director					
(1) EXECUTIVE DIRECTOR'S OFFICE					
The primary functions of the Executive Director's Office is to conducting sunrise and sunset evaluations of department and state divisions, commissions, boards; perform departmentwide administrative functions including accounting, budgeting, purchasing, and facilities planning.					
Personal Services	3,838,346	3,926,915	4,087,116	2,355,740	
FTE - RF/CFE	51.0	50.8	52.3	26.8	NP #2: OIT
General Fund	56,450	24,914	15,619	8,000	
Cash Funds	19,000	36,274	25,500	13,000	
Reappropriated Funds / Cash Funds Exempt	3,762,896	3,865,727	4,045,997	2,334,740	DI #1, NP #2: OIT
FTE	51.0	50.8	52.3	26.8	
Health, Life, and Dental	2,210,827	2,440,662	2,922,197	2,667,081	
General Fund	120,081	78,208	92,248	88,427	
Cash Funds	1,804,809	1,865,519	2,243,800	2,150,862	
Reappropriated Funds / Cash Funds Exempt	285,937	460,167	542,780	386,219	NP #2: OIT
Federal Funds	0	36,768	43,369	41,573	
Short-Term Disability	41,774	40,607	50,482	51,283	
General Fund	1,183	1,074	1,256	1,256	
Cash Funds	33,542	31,633	43,106	46,082	
Reappropriated Funds / Cash Funds Exempt	7,049	7,427	5,649	3,441	NP #2: OIT
Federal Funds	0	473	471	504	

	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Appropriation	FY 2010-11 Request	DI/Notes
SB 04-257 Amortization Equalization Disbursement	385,299	525,892	654,717	794,071	
General Fund	10,620	12,938	16,098	19,221	
Cash Funds	309,613	421,545	559,080	713,555	
Reappropriated Funds / Cash Funds Exempt	65,066	91,409	73,465	53,543	NP #2: OIT
Federal Funds	0	0	6,074	7,752	
SB 06-235 Supplemental Amortization Equalization Distribution	79,954	241,940	408,688	579,016	
General Fund	1,896	5,850	9,879	13,763	
Cash Funds	64,503	193,242	349,150	520,544	
Reappropriated Funds / Cash Funds Exempt	13,555	42,848	45,863	39,050	NP #2: OIT
Federal Funds	0	0	3,796	5,659	
Salary Survey and Senior Executive Service	991,715	1,325,901	0	0	
General Fund	36,244	64,174	0	0	
Cash Funds	804,907	1,047,658	0	0	
Reappropriated Funds / Cash Funds Exempt	150,564	214,069	0	0	
Performance-based Pay Awards	475,057	530,143	0	0	
General Fund	13,741	21,972	0	0	
Cash Funds	393,951	426,446	0	0	
Reappropriated Funds / Cash Funds Exempt	67,365	81,725	0	0	
Workers' Compensation	75,870	95,252	84,676	88,397	
General Fund	2,922	3,667	2,992	3,104	
Cash Funds	69,020	88,149	71,961	75,157	
Reappropriated Funds / Cash Funds Exempt	2,521	1,671	8,354	8,706	
Federal Funds	1,407	1,765	1,369	1,430	

	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Appropriation	FY 2010-11 Request	DI/Notes
Operating Expenses	211,425	206,795	212,018	212,018	
General Fund	3,689	3,689	3,689	3,689	
Cash Funds	59,044	95,427	95,427	95,427	
Reappropriated Funds / Cash Funds Exempt	148,692	107,679	112,902	112,902	
Legal Services	6,591,182	7,472,664	7,815,250	7,665,041	
Hours Equivalent	*91,506*	*99,503*	*103,678*	*101,685*	
General Fund	90,140	204,013	209,933	152,809	
Cash Funds	6,233,719	7,135,164	7,324,753	7,231,668	
Reappropriated Funds / Cash Funds Exempt	131,619	133,487	138,548	138,548	
Federal Funds	135,704	0	142,016	142,016	
Administrative Law Judges	228,903	239,949	324,818	304,779	
General Fund	4,834	11,054	14,964	14,041	
Cash Funds	222,323	228,895	309,854	290,738	
Reappropriated Funds / Cash Funds Exempt	1,746	0	0	0	
Purchase of Services from Computer Center - RF/CFE	5,896	51,060	51,060	1,598,639	NP #2: OIT
MULTI-USE NETWORK PAYMENTS (New Line Item) - RF	n/a	n/a	n/a	131,580	NP #2: OIT
Management and Administration of OIT	n/a	66,500	70,429	273,484	
General Fund	n/a	1,525	1,604	1,882	
Cash Funds	n/a	54,708	57,416	67,412	
Reappropriated Funds / Cash Funds Exempt	n/a	9,661	10,774	203,444	NP #2: OIT
Federal Funds	n/a	606	635	746	

	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Appropriation	FY 2010-11 Request	DI/Notes
Payment to Risk Management Fund	69,239	83,441	96,376	41,748	
General Fund	2,555	3,148	3,491	1,511	
Cash Funds	55,204	67,971	77,828	33,714	
Reappropriated Funds / Cash Funds Exempt	9,818	10,277	12,936	5,604	
Federal Funds	1,662	2,045	2,121	919	
Vehicle Lease Payments - CF	157,653	130,536	187,489	241,797	NP #1: Fleet
Information Technology Asset Maintenance	560,849	544,564	719,323	671,403	
Cash Funds	273,755	347,547	402,332	480,646	
Reappropriated Funds / Cash Funds Exempt	287,094	197,017	190,757	190,757	
Federal Funds	0	0	126,234	0	
Leased Space	2,572,233	2,663,908	3,110,357	3,110,357	
General Fund	87,472	91,259	102,146	102,146	
Cash Funds	2,058,877	2,251,493	2,500,098	2,500,098	
Reappropriated Funds / Cash Funds Exempt	399,760	321,156	466,206	466,206	
Federal Funds	26,124	0	41,907	41,907	
Capital Complex Leased Space - CF	1,307	1,284	6,325	6,358	
Hardware / Software Maintenance	624,226	696,010	846,235	717,330	
General Fund	800	800	800	800	
Cash Funds	400,918	438,817	586,833	457,928	
Reappropriated Funds / Cash Funds Exempt	222,508	256,393	258,602	258,602	
Consumer Outreach / Education Program - CF	0	151,276	200,000	200,000	

	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Appropriation	FY 2010-11 Request	DI/Notes
					Request vs. Appropriation
TOTAL - (1) EXECUTIVE DIRECTOR	**19,121,755**	**21,435,299**	**21,847,556**	**21,710,122**	***(0.6%)***
FTE	**51.0**	**50.8**	**52.3**	**26.8**	***(48.8%)***
General Fund	432,627	528,285	474,719	410,649	*(13.5%)*
Cash Funds	12,962,145	15,013,584	15,040,952	15,124,986	*0.6%*
Reappropriated Funds / Cash Funds Exempt	5,562,086	5,851,773	5,963,893	5,931,981	*(0.5%)*
FTE	51.0	50.8	52.3	26.8	*(48.8%)*
Federal Funds	164,897	41,657	367,992	242,506	*(34.1%)*

(2) DIVISION OF BANKING

The Division of Banking regulates state-chartered commercial and industrial banks, trust companies, debt adjusters, and money order companies; conduct examinations of institutions and ensure institutions comply with the Public Deposit Proctection Act. The Division is entirely cash funded by the Division of Banking Cash Fund, pursuant to 11-102-403, C.R.S.

	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Appropriation	FY 2010-11 Request	DI/Notes
Personal Services - CF	2,741,481	2,704,691	3,307,385	3,356,645	
FTE - CF	36.2	35.6	44.0	44.0	
Operating Expenses - CF	284,470	279,611	418,989	387,621	
Board Meetings - CF	23,500	22,488	23,500	23,500	
Indirect Cost Assessments - CF	453,080	470,557	513,677	507,177	
					Request vs. Appropriation
TOTAL - (2) BANKING - CF	**3,502,531**	**3,477,347**	**4,263,551**	**4,274,943**	***0.3%***
FTE - CF	**36.2**	**35.6**	**44.0**	**44.0**	***0.0%***

	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Appropriation	FY 2010-11 Request	DI/Notes

(3) CIVIL RIGHTS DIVISION

The Civil Rights Division enforces state laws that prohibit discrimination in employment, housing, and public accommodations on the basis of race, sex (gender), national origin, ancestry, physical or mental disablity, religion, color, marital status, or sexual orientation.

	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Appropriation	FY 2010-11 Request	DI/Notes
Personal Services	1,615,800	1,876,760	1,730,639	1,629,236	
FTE	24.7	26.4	32.4	31.4	
General Fund	952,863	786,625	1,105,771	990,122	
FTE	15.5	14.5	19.4	18.4	
Reappropriated Funds / Cash Funds Exempt	311,532	418,653	272,752	280,361	
FTE	2.0	2.0	2.0	2.0	
Federal Funds	351,405	671,482	352,116	358,753	
FTE	7.2	9.9	11.0	11.0	
Operating Expenses	139,588	103,178	105,185	105,185	
General Fund	56,845	61,378	64,065	64,065	
Federal Funds	82,743	41,800	41,120	41,120	
Hearings Puruant to Complaint	3,057	17,000	18,000	18,000	
General Fund	3,057	17,000	17,000	17,000	
Federal Funds	0	0	1,000	1,000	
Commission Meetings Costs	12,367	5,174	12,374	12,374	
General Fund	5,167	5,174	5,174	5,174	
Federal Funds	7,200	0	7,200	7,200	
Indirect Cost Assessment - FF	56,025	35,738	55,415	54,437	

	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Appropriation	FY 2010-11 Request	DI/Notes
					Request vs. Appropriation
TOTAL - (3) CIVIL RIGHTS	**1,826,837**	**2,037,850**	**1,921,613**	**1,819,232**	***(5.3%)***
FTE	**24.7**	**26.4**	**32.4**	**31.4**	***(3.1%)***
General Fund	1,017,932	870,177	1,192,010	1,076,361	*(9.7%)*
FTE	15.5	14.5	19.4	18.4	*(5.2%)*
Reappropriated Funds / Cash Funds Exempt	311,532	418,653	272,752	280,361	*2.8%*
FTE	2.0	2.0	2.0	2.0	*0.0%*
Federal Funds	497,373	749,020	456,851	462,510	*1.2%*
FTE	7.2	9.9	11.0	11.0	*0.0%*

(4) OFFICE OF CONSUMER COUNSEL

The Office of Consumer Councel represents the interests of the consumer, mainly residential, agricultural and small businesses at electric, gas, telecommunications utility rate and service proceedings before the Public Utility Commission. The Public Utilities Commission Fixed Utility Fund funds this division, pursuant to Section 40-2-114, C.R.S.

	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Appropriation	FY 2010-11 Request	DI/Notes
Personal Services - CF	688,296	735,450	805,028	805,028	
FTE - CF	6.9	7.0	7.0	7.0	
Operating Expenses - CF	47,506	49,511	56,322	56,322	
Indirect Cost Assessments - CF	82,378	85,556	80,803	79,769	
					Request vs. Appropriation
TOTAL - (4) CONSUMER COUNSEL - CF	**818,180**	**870,517**	**942,153**	**941,119**	***(0.1%)***
FTE - CF	**6.9**	**7.0**	**7.0**	**7.0**	***0.0%***

	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Appropriation	FY 2010-11 Request	DI/Notes
(5) DIVISION OF FINANCIAL SERVICES					
The Division of Financial Services regulates state-chartered credit unions, life care institutions, and savings and loan associations; conduct examinations of institutions to ensure continued complainance with regulatory standards. This Division is entirely cash funded by the Division of Insurance Cash Fund, pursuant to Section 11-40-106 (2), C.R.S.					
Personal Services - CF	836,900	920,380	1,151,520	1,151,520	
FTE - CF	11.2	12.3	15.0	15.0	
Operating Expenses - CF	86,988	96,416	173,224	162,768	
Indirect Cost Assessments - CF	152,988	158,890	173,150	170,934	
					Request vs. Appropriation
TOTAL - (5) FINANCIAL SERVICES - CF	**1,076,876**	**1,175,686**	**1,497,894**	**1,485,222**	***(0.8%)***
FTE - CF	**11.2**	**12.3**	**15.0**	**15.0**	***0.0%***
(6) DIVISION OF INSURANCE					
This Division is responsible for licensing insurance agents and adjusters; regulating insurance companies, non-profit hospitals, prepaid dental plans, health maintenance organizaitions, self-insurance pools for workers' compensation, bail bondsmen, and pre-need funeral contracts. Unless otherwise indicated, the funding source is the Division of Insurance Cash Fund pursuant to Section 10-1-103 (3), C.R.S.					
Personal Services - CF	5,262,277	5,771,342	6,082,584	6,189,923	
FTE - CF	76.1	82.3	84.7	84.7	
Operating Expenses - CF	284,179	264,606	400,249	400,249	
Senior Health Counseling Program - FF	574,951	682,747	509,000	509,000	
FTE - FF	2.0	2.0	2.0	2.0	

	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Appropriation	FY 2010-11 Request	DI/Notes
Insurance Fraud Prosecution - CF	766,261	819,342	872,262	872,262	
Transfer to CAPCO Administration	n/a	91,930	81,312	81,312	
Indirect Cost Assessments	924,096	981,122	984,872	972,063	
Cash Funds	924,096	981,122	975,410	962,601	
Federal Funds	0	0	9,462	9,462	
					Request vs. Appropriation
TOTAL - (6) INSURANCE	**7,811,764**	**8,611,089**	**8,930,279**	**9,024,809**	***1.1%***
FTE	**78.1**	**84.3**	**86.7**	**86.7**	***0.0%***
Cash Funds	7,236,813	7,928,342	8,411,817	8,506,347	*1.1%*
FTE	76.1	82.3	84.7	84.7	*0.0%*
Federal Funds	574,951	682,747	518,462	518,462	*0.0%*
FTE	2.0	2.0	2.0	2.0	*0.0%*

(7) PUBLIC UTILITIES COMMISSION

The Public Utilities Commission regulates the rates and services of fixed and transportation utilities in Colorado; administers the Colorado Telecommunications High Cost Program, the Low-Income Telephone Assistance Program, and the Disabled Telephone Users Program.

Personal Services - Cash Funds	7,762,956	7,984,503	8,684,350	8,830,289	
FTE - Cash Funds	88.8	87.3	100.5	100.5	
Operating Expenses - CF	378,013	411,439	459,991	449,535	
Expert Testimony - CF	23,500	9,850	25,000	25,000	
Highway Crossing Payments - RF/CFE	59,765	0	0	0	

	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Appropriation	FY 2010-11 Request	DI/Notes
Disabled Telephone Users Payment - CF	1,844,739	1,736,679	2,439,591	2,439,591	
Transfer to Reading Services for the Blind Cash Fund - CF	200,000	250,000	250,000	250,000	
Commission for the Deaf and Hard of Hearing Cash Fund - CF	641,318	643,139	661,343	661,343	
Commission for the Blind or Visually Impaired Cash Fund - CI	23,448	51,589	112,067	112,067	
Low Income Telephone Assistance - CF	2,135,674	2,030,531	2,143,752	2,143,752	
Colorado Bureau of Investigation Background Checks Pass-through - CF	112,427	26,860	67,128	67,128	
Indirect Cost Assessments - CF	1,100,797	1,186,784	1,164,720	1,149,873	
					Request vs. Appropriation
TOTAL - (7) PUBLIC UTILITIES COMM.	**14,282,637**	**14,331,374**	**16,007,942**	**16,128,578**	***0.8%***
FTE	**88.8**	**87.3**	**100.5**	**100.5**	***0.0%***
Cash Funds	14,222,872.0	14,331,374.0	16,007,942.0	16,128,578.0	*0.8%*
FTE	88.8	87.3	100.5	100.5	*0.0%*
Reappropriated Funds/Cash Funds Exempt	59,765	0	0	0	*n/a*

	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Appropriation	FY 2010-11 Request	DI/Notes
(8) DIVISION OF REAL ESTATE					
The Division of Real Estate licenses real estate brokers, real estate appraisal professionals, and mortgage brokers; administer enforcement programs to ensure compliance with state and federal regulatory laws.					
Personal Services - CF	2,665,935	2,796,953	3,206,821	3,262,400	
FTE - CF	38.8	42.7	50.1	50.1	
Operating Expenses - CF	206,190	222,615	216,259	211,031	
Commission Meeting Costs - CF	20,425	28,136	38,836	38,836	
Hearings Pursuant to Complaint - CF	3,997	133	4,000	4,000	
Payments from Real Estate Recovery - CF	49,601	0	0	0	
Mortgage Broker Consumer Protection - CF	131,178	295,724	311,339	311,339	
Indirect Cost Assessment - CF	476,822	568,336	566,777	559,375	
					Request vs. Appropriation
TOTAL - (8) REAL ESTATE - Cash Funds	**3,554,148**	**3,911,897**	**4,344,032**	**4,386,981**	***1.0%***
FTE - Cash Funds	**38.8**	**42.7**	**50.1**	**50.1**	***0.0%***

	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Appropriation	FY 2010-11 Request	DI/Notes
(9) DIVISION OF REGISTRATIONS					
The Division of Registrations oversees boards and commissions that promulgate rules to ensure continued competency of regulated professionals, enforce laws, and take action agaisnt individuals failing to follow the laws and rules.					
Personal Services	10,676,444	11,096,987	11,807,121	11,945,957	
FTE	162.2	164.8	181.6	181.5	
Cash Funds	7,820,654	8,917,418	9,590,360	9,689,584	
FTE	142.3	144.9	161.6	161.5	
Reappropriated Funds / Cash Funds Exempt	2,855,790	2,179,569	2,216,761	2,256,373	
FTE	19.9	19.9	20.0	20.0	
Operating Expenses - CF	1,283,198	1,359,354	1,387,294	1,359,778	
Office of Expedited Settlement Program Costs - CF	n/a	n/a	371,853	366,625	
FTE - CF	n/a	n/a	5.0	5.0	
Personal Services	n/a	n/a	*309,243*	*309,423*	*Informational only*
Operating Expenses	n/a	n/a	*62,610*	*57,382*	*Informational only*
Hearings Pursuant to Complaint - CF	215,123	269,704	307,075	307,075	
CBI/FBI Backround Checks - CF	0	0	7,563	7,563	
Payments to Department of Health Care Policy and Financing - CF	14,652	14,652	14,652	14,652	
Indirect Cost Assessment	3,756,951	4,095,901	4,391,211	4,363,658	
Cash Funds	3,756,951	4,095,901	4,384,837	4,357,284	
Federal Funds	0		6,374	6,374	

	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Appropriation	FY 2010-11 Request	DI/Notes
					Request vs. Appropriation
TOTAL - (9) REGISTRATIONS	**15,946,368**	**16,836,598**	**18,286,769**	**18,365,308**	***0.4%***
FTE	**162.2**	**164.8**	**186.6**	**186.5**	***(0.1%)***
Cash Funds	13,090,578	14,657,029	16,063,634	16,102,561	*0.2%*
FTE	142.3	144.9	166.6	166.5	*(0.1%)*
Reappropriated Funds / Cash Funds Exempt	2,855,790	2,179,569	2,216,761	2,256,373	*1.8%*
FTE	19.9	19.9	20.0	20.0	*0.0%*
Federal Funds	0	0	6,374	6,374	*0.0%*

(10) DIVISION OF SECURITIES

The Division of Securitiesmonitors the conduct of Colorado broker-dealers and sales representatives; and investigate citizen complaints and other indications of investment fraud. The funding source is the Division of Securities Cash Fund pursuant to Section 11-51-707 (2), C.R.S.

	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Appropriation	FY 2010-11 Request	DI/Notes
Personal Services - CF	1,575,044	1,660,142	1,903,823	1,996,926	DI #2
FTE - CF	19.8	19.7	22.0	23.0	DI #2
Operating Expenses - CF	47,248	47,769	61,063	56,785	DI #2
Hearings Puruant to Complaint - CF	19,438	19,134	19,594	19,594	
Board Meeting Costs - CF	2,448	1,416	4,500	4,500	
Securities Fraud Prosecution - CF	441,794	454,785	501,028	501,028	
Indirect Cost Assessment - CF	235,467	244,417	253,953	250,704	

	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Appropriation	FY 2010-11 Request	DI/Notes
					Request vs. Appropriation
TOTAL - (10) SECURITIES - CF	**2,321,439**	**2,427,663**	**2,743,961**	**2,829,537**	***3.1%***
FTE - CF	**19.8**	**19.7**	**22.0**	**23.0**	***4.5%***

	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Appropriation	FY 2010-11 Request	DI/Notes
					Request vs. Appropriation
DEPARTMENT OF REGULATORY AGENCIES					
TOTALS	**70,262,535**	**75,115,320**	**80,785,750**	**80,965,851**	***0.2%***
FTE	**517.7**	**530.9**	**596.6**	**571.0**	***(4.3%)***
General Fund	1,450,559	1,398,462	1,666,729	1,487,010	*(10.8%)*
FTE	15.5	14.5	19.4	18.4	*(5.2%)*
Cash Funds	58,845,347	63,793,439	69,315,936	69,780,274	*0.7%*
FTE	420.1	431.8	489.9	490.8	*0.2%*
Reappropriated Funds / Cash Funds Exempt	8,729,408	8,449,995	8,453,406	8,468,715	*0.2%*
FTE	72.9	72.7	74.3	48.8	*(34.3%)*
Federal Funds	1,237,221	1,473,424	1,349,679	1,229,852	*(8.9%)*
FTE	9.2	11.9	13.0	13.0	*0.0%*

APPENDIX B: SUMMARY OF MAJOR LEGISLATION

- ❑ **S.B. 09-026 (Williams/Riesberg): Regulation of Athletic Trainers.** Requires athletic trainers to be registered and establishes a registration program in the Division of Registrations. Makes an appropriation of $130,740 cash funds and 1.3 FTE to the Division of Registrations, and reappropriates $21,779 along with 0.2 FTE to the Department of Law for the provision of legal services.

- ❑ **S.B. 09-138 (Boyd/Gagliardi): Sunset Certified Nurse Aides.** The bill continues the regulation of certified nurse aides (CNAs) through September 1, 2020, and makes adjustments to the regulatory program and advisory committees. Makes an appropriation of $17,055 cash funds to the Division of Registrations and reappropriates $3,755 to the Department of Law for the provision of legal services.

- ❑ **S.B. 09-167 (Boyd/Kefalas): Sunset Board of Chiropractic Examiners.** Continues the regulation of chiropractors by the Division of Registrations until July 1, 2020, and implements the recommendations made in the 2008 sunset review. Makes an appropriation of $14,057 cash funds to the Division of Registrations and reappropriates $4,882 to the Department of Law for the provision of legal services.

- ❑ **S.B. 09-199 (Keller/Pommer): Supplemental Appropriation Department of Regulatory Agencies.** Supplemental for the Department's FY 2008-09 appropriation.

- ❑ **S.B. 09-239 (Tochtrop/Riesberg): Sunset State Board of Nursing.** Continues the state board of nursing through July 1, 2020, and makes changes to implement recommendations made in the 2008 sunset review. Establishes the requirements that an advance practice nurse must satisfy in order to receive provisional prescriptive authority. Makes an appropriation of $259,881 cash funds and 2.7 FTE to the Division of Registrations. Reappropriates $33,795 along with 0.2 FTE to the Department of Law for the provision of legal services.

- ❑ **S.B. 09-259 (Keller/Pommer): The Long Bill.** General appropriations act for FY 2009-10.

- ❑ **S.B. 09-272 (White/Marostica): Recover Moneys from the Teleco High Cost Fund.** Transfers $15 million from the Colorado High Cost Support Mechanism to the High Cost Administrative Fund. The transfer is contingent on the passage of S.B. 09-279.

- ❑ **S.B. 09-279 (Tapia/Pommer): Cash Fund Transfers Augment General Fund.** Transfers $15 million from the High Cost Administrative Fund to the General Fund.

- **H.B. 09-1053 (Balmer/Romer): Foreign Capital Depository Banking Board.** Repeals the "Colorado Foreign Capital Depository Act" which regulated how a financial institution can conduct business in Colorado as a foreign capital depository. Modifies the banking board membership by replacing the executive officer of an industrial bank with the executive officer of a licensed money transmitter. Reduces the FY 2009-10 appropriation to the Division of Banking by $55,728 cash funds and 0.5 FTE.

- **H.B. 09-1085 (Rice/Heath): Mortgage Loan Originator Licensing Act.** Modifies and renames the Mortgage Broker Licensing Act, as well as defines the term "mortgage loan originator" and states that on and after July 31, 2010, mortgage loan originators must be registered with the Nationwide Mortgage Licensing System and Registry. Makes an appropriation of $202,636 cash funds and 1.0 FTE to the Division of Real Estate.

- **H.B. 09-1086 (McGihon/Boyd): Continue Competency Mental Health Profiles.** Sets forth requirements for the renewal of licenses or certifications for social workers, marriage and family therapists, professional counselors, and addiction counselors. Each of these professions are regulated by the Division of Registrations and the applicable state board of examiners. Makes an appropriation of $134,123 cash funds and 1.0 FTE to the Division of Registrations, and reappropriates $30,000 along with 0.2 FTE to the Department of Law for the provision of legal services.

- **H.B. 09-1136 (Soper/Tochtrop): Electrical Education License Requirements.** Sets forth renewal requirements for professional electrician licenses which is regulated by the State Electrical Board. Additionally the Board is responsible for establishing standards and adopting rules for a program to ensure the continued competency of electricians. Makes an appropriation of $99,894 cash funds and 1.0 FTE to the Division of Registrations, and reappropriates $11,265 along with 0.1 FTE to the Department of Law for the provision of legal services.

- **H.B. 09-1188 (Ryden/Carroll M.): Modify Michael Skolnik Medical Transparency Act.** Modifies the Michael Skolnik Medical Transparency Act by requiring physicians to disclose ownership interest and employment contracts that are health care related, involuntary limitations or reduction in medical staff membership or privileges at a health facility that occurred after January 1, 1988, and criminal convictions or plea bargains that occurred after a practitioner received a license to practice medicine in any state or country. Makes an appropriation in FY 2008-09 to the Division of Registrations of $12,281 cash funds, and reappropriates $1,127 to the Department of Law for the provision of legal services.

- **H.B. 09-1202 (Todd/Foster): Mortuary Science Registration.** Requires funeral establishments and crematories to be registered and establishes a registration program in the Division of Registrations. Makes an appropriation of $158,614 cash funds and 1.4 FTE to the Division of Registrations, and reappropriates $24,783 along with 0.2 FTE to the Department of Law for the provision of legal services.

- ❑ **H.B. 09-1244 (Casso/Kopp): PUC Deregulate Trucking Motor Carriers.** Exempts property carriers by motor vehicle from regulation by the Public Utilities Commission. Grants authority for the enforcement of financial responsibility and insurance requirements of such carriers, in addition to existing driver and vehicle standards, to the Department of Public Safety. Makes an appropriation that decreases the Public Utilities Commission FY 2009-10 appropriation by $13,967 cash funds and 0.4 FTE.

APPENDIX C: UPDATE OF FY 2009-10 LONG BILL FOOTNOTES AND REQUESTS FOR INFORMATION

Long Bill Footnotes

The Department of Regulatory Agencies had no Footnotes in the 2009 Long Bill.

Requests for Information

1. **All Departments, Totals** -- Every department is requested to submit to the Joint Budget Committee, by November 1, 2009, information on the number of additional federal and cash funds FTE associated with any federal grants or private donations that are applied for or received during FY 2009-10, and that are not otherwise included in the Long Bill.

   Response: The Department included this information in the FY 2010-11 budget request.

61. **Department of Regulatory Agencies, Executive Director's Office, Lease Space --** The Department is requested to submit to the Joint Budget Committee on or before October 1, 2009, a report detailing the date the lease was signed, the cost per square foot, the projected yearly escalations through the end of the lease, the number of FTE, associated divisions, and date the FTE were moved into the space, and the cost and time used to build out the space.

   Response: The lease was signed July 27th by DORA and by the State Controller on August 12th, at a rate of $19.01 per square foot ($26.16 including property taxes that are not payable by the state), with rate escalations according to the following schedule:

Dates	Rate/SF	Less Property Taxes	Adjusted Rate/SF
Occupancy through June 30, 2010	26.16	(7.15)	19.01
July 1, 2010 through June 30, 2011	26.66	(7.15)	19.51
July 1, 2011 through June 30, 2012	27.16	(7.15)	20.01
July 1, 2012 through June 30, 2013	27.66	(7.15)	20.51
July 1, 2013 through June 30, 2014	28.16	(7.15)	21.01
July 1, 2014 through June 30, 2015	28.66	(7.15)	21.51
July 1, 2015 through June 30, 2016	29.16	(7.15)	22.01

   Construction is not finished and no FTE has been moved, so a final count of FTE and associated Divisions is not yet available but will be provided as soon as it is available.

The first phase of construction involving common space on the 1st and 12th floors started in September and is expected to be complete in mid-November; the remaining construction is expected to conclude by the end of the calendar year. Involved Divisions at the conclusion of the process are expected to include the EDO/Registrations on the 15th floor, Registrations on the 13th floor, Civil Rights on the 10th floor and Real Estate on the 9th floor.

Costs of construction were estimated to be $224,000 at the time of the request and at the time the lease was signed. Costs will not exceed this number and the Department is optimistic that costs may come in below that figure. Once costs are final they will be applied to the lease rate and recovered over the term of the lease.

It is expected that the current appropriation is sufficient to cover all new and existing lease obligations in the current and request years. However, the Department intends to address its leased space appropriation once all figures are known to reflect the impact of all terms as well as recent history involving existing space. In the event that reductions are possible the Department intends to pursue them via a formal request to ensure that sufficient spending authority exists for rate escalations without having an excess beyond what is needed in the leased space line item to fund space commitments.

62. **Department of Regulatory Agencies, Public Utilities Commission, Personal Services --** The Department is requested to submit to the Joint Budget Committee, on or before November 1, 2009, a summary of the meetings and conferences attended by the Electricity Transmission Planning staff, and an outline of meetings and conferences to be attended during the remainder of FY 2009-10.

Response: For the purpose of preserving Colorado advantages in order to ensure just and reasonable utility rates into the future for Colorado consumers, during the 2009 legislative session the Department requested $221,658 Cash Funds and 2.0 FTE to enable the PUC to represent Colorado's interests in critically important regional, national, and local efforts on planning for electricity transmission.

Although the Commission has been engaged in electric transmission planning activities as described in its report per HB 09-1345 (this report is also attached), because the first of the two positions was filled very recently (October 13th), it is not possible to discuss past conference attendance during the present fiscal year nor forecast when the other position may be filled.

However, future conferences will be consistent with information and the workload matrix provided (also attached) in support of the original decision item request, and the Department intends to furnish a list of confirmed attendance of specific events by the new staff person for the remainder of the fiscal year as soon as it is available.

Specific organizations and conferences will include but are not limited to:

- the North American Electric Reliability Organization;

- FERC;
- the Department of Energy;
- the Western Electric Coordinating Council;
- the Transmission Expansion Planning Policy Committee;
- the Western Interconnection Regional Advisory Board;
- WestConnect.
- the Clean Energy Development Authority;
- the Senate Bill 100 Task Force;
- the Colorado Coordinated Planning Group; and,
- the Colorado Long Range Planning Group.

Additionally, staff will be expected to advance the development of interstate partnerships with other State Commissions and Authorities in the region, as well as to serve as a liaison to economic development agencies and city and county planning organizations throughout the state relating to energy and transmission planning issues.

The following table provides more detail about the organizations and conferences that are a part of the planning workload associated with the new FTE.

Organization	**Scope**	**Purpose of Organization**	**Expected Meetings per Year**	**Targeted Subcommittee Participation**
North American (Electric) Reliability Council (NERC)/North American Reliability Organization (NRO)	National	Establishes policies to ensure reliability of electric grid for designated area including Colorado. Includes policy, oversight, compliance and administration of penalties.	1 per year	3 per year
FERC (Federal Energy Regulatory Commission)	National	Overall regulation of interstate energy including, but not limited to, regulation of rates and rate structures, service, infrastructure, and incentives related thereto.	1 Meeting; 1 major filing per year.	Estimated 4 per year. Webcast participation primarily.
Department of Energy (DOE) and national research laboratories.	National	Various purposes of DOE; However, expect that primary involvement will be assessment of new power act including compliance to new power act, incentives, new technologies, etc.	1 Meeting per year.	Estimated 6 per year. Webcast primarily; attendance at local meetings.
			4 per year.	Critical sub-committees

Organization	Scope	Purpose of Organization	Expected Meetings per Year	Targeted Subcommittee Participation
Western Electricity Co-ordinating Council (WECC)	Regional	Delegated authority from NERC/NRO to establish policies to ensure reliability of electric grid for designated area including Colorado. Includes policy, oversight, compliance and administration of penalties.		include the Planning Coordination Committee (PCC)* and the Transmission Expansion Planning Policy Committee. Additional committees include: Technical Studies Subcommittee which is responsible for the preparation of 10-12 power flow and stability cases every year; System Review Work Group which is responsible for running typical studies to check the proposed cases for problems and subsequent solutions; Modeling Work Group which is responsible for coming up with new models such as generation models for wind; and others as the need arises.
Planning Coordination Committee	Regional	Subcommittee of WECC. Critical decisions made herein.	4 per year in addition to 4 for WECC; some webcast.	Subcommittee of WECC.
Transmission Expansion Planning Committee	Regional	Relatively new subcommittee of WECC. It has the potential for critical decisions going forward.	3 per year.	Subcommittee of WECC.
Western Interconnection Regional Advisory Board and the Committee on Regional Electric Power Corporation.	Regional	Recommends policies to FERC, NERC, DOE, and others on behalf of the Western Interconnect.	2 per year.	Created under the auspices of the Western Governor's Association. Works in conjunction with the Western Interstate Energy Board.
WestConnect	Regional	Originally was a proposed RTO for the west. Now looking at "virtual" control areas.	3-4 per year.	Co-ordinated with CCPG. Meetings often webcast.
Other Commissions/ NARUC	Regional	Build alliances; educate on regional issues.	Ad hoc, as opportunities develop.	7 meetings out of state.
Power Authorities (Operations outside of Colorado)	State & Regional	Build alliances; educate on regional issues.	Ad hoc, as opportunities develop.	3 meetings out of state.
Colorado Co-ordinated	State	Statewide transmission planning	4 times per	Significant technical review

Organization	Scope	Purpose of Organization	Expected Meetings per Year	Targeted Subcommittee Participation
Planning Group (CCPG)		organization. Includes planning functions related to voltage co-ordination; fault studies; providing advice to FERC; and establishing load-shedding policies.	year.	performed as part of subcommittee. Linkages to PCC, Colorado's Long-range Planning Group; and, the Clean Energy Development Authority.
Colorado Long-Range Planning Group	State	Discuss and address long-term transmission requirements and potential planning issues in Colorado. Participants include PSCo, Tri-State, WAPA, PRPA, CSU, Black Hill/Aquila, Basins.	2	Links to the CCPG.
Clean Energy Development Authority	State	Develop transmission to connect renewable energy resources to the grid.	4 per year.	
Senate Bill 100 Task Force	State	Resolve issues and roadblocks to adding generation from targeted energy resource zones.	Stakeholders meet 1/month; Technical experts meet 1/week.	Technical subcommittee.
Liaison to Colorado Economic Development Organizations (relating to transmission issues)	State	Build alliances; educate on how regional and national policies impact local issues.	Ad hoc, as opportunities develop.	
Liaison to Colorado local city and county organization	State	Build alliances; educate on how regional and national policies impact local issues.	Ad hoc, as opportunities develop.	

As stated previously, the Department intends to submit more data on actual conferences and attendance per this request for information as soon as this information is available.

63. **Department of Regulatory Agencies, Division of Registrations, Office of Expedited Settlement Program Costs --** The Department is requested to submit to the Joint Budget Committee, on or before November 1, 2009, a report detailing the method being used to track the number of legal service hours billed to the Office of Expedited Settlement by the Department of Law and the number of hours billed to the Office of Expedited Settlement for the current fiscal year broken out by board.

Response: During the 2004 Legislative session, the Joint Budget Committee approved the Division of Registrations within the Department of Regulatory Agencies to hire 2.0 FTE to expand the use of expedited settlement in the resolution of disciplinary actions by creating an Office of Expedited Settlement. The program was expanded during 2007 and again during 2009, and presently has a staff of 5 positions. The program was created to help mitigate the increasing need for legal services and to conserve existing legal resources by avoiding unnecessary legal expenditures when case resolutions can be resolved without their use.

The expedited settlement process begins after a regulatory board determines disciplinary action related to a violation of a professional practice act. Instead of immediately referring the complaint to the OAG for formal adjudication, a board staff member attempts to settle the disciplinary action in accordance with the board's settlement guidance. If the respondent agreed to the settlement terms, or the board agreed to a proposed counter offer, a stipulation and final agency order is drafted and signed by the respondent, at which time the complaint was closed without having significant legal expenditures. In the event the complaint was not resolved, the staff member referred the complaint to the OAG for initiation of formal disciplinary proceedings.

The cost avoidance and conservation of resources depends on whether or not the expenditures for the ESP program are less than the legal expenditures that could be expected if the matters were referred automatically to OAG. Because the costs of ESP staff are less than the costs of OAG ($75 per hour at the blended legal rate), assuming one-for-one time is spent, ESP clearly avoids costs. However, in order to more conservatively evaluate this cost avoidance, the standard assumption is that each case will cost only 10 hours in OAG. It is hoped that by demonstrating efficiency with even conservative assumptions that are lower than actual, the benefit of the program will be even more clearly represented, without possibility of overstating cost savings.

The level of legal costs incurred by the ESP office, however, should certainly be part of this equation, and concerns over the level of such expenditures are the basis for this request for information. While OAG believed there were significant hours expended, DORA did not possess any information that could substantiate this, and so it became important for the agencies to work collaboratively to develop a tracking mechanism.

In response to those concerns, DORA and OAG staff met in March of 2009 to discuss the tracking of such expenditures. A code was created to track any charges incurred by OAG that they believe are related to ESP, and monthly reports have begun to substantiate this between agencies. OAG now provides a standardized report by the 5^{th} day of every month in which itemized detail is provided, broken down by board, of specific work performed by OAG for ESP. Reports are typically 1-5 pages in length and include everything from hourly billings for work on ESP templates to a 6 minute billing from attorneys in OAG who called to introduce themselves to ESP program staff.

The process is working well, and it is functioning as intended in order for the two agencies to determine and agree on reasonable expenditures attributable to ESP.

This fiscal year, a total of 48.5 hours has been billed for ESP related matters, as set forth in the following table:

Month	Hours Billed
July	19
August	14
September	15.5
Total	**48.5**

ESP related charges typically include annual updates of templates, statutory changes, specific requests by ESP, and direct communication with ESP settlement specialists. They are itemized as ESP related matters. Additionally, ESP and an OAG staff representatives meet bi-monthly, and that billing is itemized as an ESP charge.

So far this fiscal year the average time itemized to ESP has been an average of 16 hours, and this is expected to decrease over time since during the first three months of this year there was a transition of AGs and they believed an update to the template for the specific boards needed to be updated.

By Board, these billings are as follows:

Board	Jul-09	Aug-09	Sep-09
Accountancy	2.5	10.5	3.9
Acupuncture			
AES			
Athletic Agents			
B/C			
Boxing			
Chiropractic			
Dental		0.1	11
Electric			
HAD			
Landscape Arc			
Lay Midwives			
Massage Therapists			
MH Boards			
CAC		1	
LPC			
MFT			
Psychology			
Social Work			

Board	**Jul-09**	**Aug-09**	**Sep-09**
Grievance			
Medical	0.6		
Nursing			
RN/LPN	1.2		
CNA			
NHA			0.6
OT			
Optometric			
Outfitters			
Passenger Tramway			
Pharmacy			
PT			
Plumbers			
Podiatry			
RT			
Veterinarians	14.2		
Director's Office	0.5	2.4	
Total	**19**	**14**	**15.5**