

JOINT BUDGET COMMITTEE



STAFF BUDGET BRIEFING FY 2017-18

DEPARTMENT OF REGULATORY AGENCIES

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DECEMBER 06, 2016

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DEPARTMENT OF REGULATORY AGENCIES

DEPARTMENT OVERVIEW

The Department of Regulatory Agencies' (DORA) mission is broadly defined as consumer protection, which is carried out through regulatory programs that license, establish standards, approve rates, investigate complaints, and conduct enforcement through 40 boards, commissions, and advisory committees across more than 50 professions, occupations, programs, and institutions. The Department is organized in 10 predominantly cash-funded divisions as follows:

- Executive Director's Office
 - Provides administrative and technical support for department divisions and programs including accounting, budgeting, and human resources functions. Additionally, the Colorado Office of Policy, Research, & Regulatory Reform (COPRRR) in the Executive Director's Office (EDO) provides sunset and sunrise regulatory evaluations and policy recommendations to the General Assembly and analyzes the submission of proposed rules and regulations from state agencies.
- Division of Banking
 - Regulates state-chartered banks and debt management companies. The Division conducts examinations and enforces compliance in areas including: Public Deposit Protection Act; electronic funds transfers; electronic data processing; and the Uniform Consumer Credit Code. The Division also contains the eight-member Colorado State Banking Board.
- Division of Civil Rights
 - Enforces Colorado's civil rights laws that prohibit discrimination in employment, housing, and public accommodations. The Division of Civil Rights is the only non-cash-funded division in the Department, relying on General Fund and federal funds.
- Office of Consumer Counsel
 - Represents the interests of residential, small business, and agricultural consumers on cases before the Public Utility Commission (PUC). These cases involve proposed changes to rates, services, and policies in the areas of electric, gas, and telecommunications. The Office of Consumer Council (OCC) is structured as a separate division but funded by PUC cash funds.
- Division Financial Services
 - Regulates state chartered credit unions; savings and loans associations; and life care institutions. The Division also administers the Public Deposit Protection Act; conducts onsite examinations for financial stability and compliance; and initiates enforcement action when appropriate. The Division also contains the five-member Financial Services Board.
- Division of Insurance
 - Regulates and licenses life, health, property and casualty, and other types of insurance companies and agents. The Division also conducts actuarial and financial solvency

examinations, collects premium taxes, responds to consumer complaints, and regulates bail bond agents.

- Public Utilities Commission
 - The three-member Public Utility Commission (PUC) regulates the rates and services of fixed utilities and transportation utilities. Additionally, the PUC administers several programs including: the Colorado Telecommunications High Cost Program, Low Income Telephone Assistance Program, and the Disabled Telephone Users Program.
- Division of Real Estate
 - Licenses real estate agents, appraisers, and mortgage loan originators; registers mortgage companies and homeowners associations; and administers the conservation easement tax credit certification programs. The Division also contains the five-member Real Estate Commission and the seven-member Appraisal Board.
- Division of Professions and Occupations
 - Regulates licensees in over 30 professions and occupations to ensure a basic level of competence among licensees and to protect the public welfare. The Division also licenses or approves qualified facilities, programs, and equipment.
- Division of Securities
 - Monitors the conduct of broker-dealers and sales representatives; investigates citizen complaints; and investigates indicators of investment fraud. The Division also enforces programs including: Colorado Securities Act; Colorado Commodity Code, Colorado Municipal Bond Supervision Act, and the Local Government Investment Pool Trust Fund Administration and Enforcement Act.

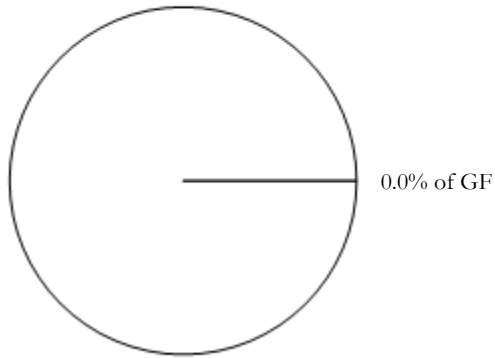
DEPARTMENT BUDGET: RECENT APPROPRIATIONS

FUNDING SOURCE	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18 *
General Fund	\$1,884,591	\$1,923,405	\$1,769,297	\$1,865,853
Cash Funds	78,741,802	80,625,258	78,137,343	82,893,899
Reappropriated Funds	4,725,487	4,875,289	4,852,173	5,317,274
Federal Funds	1,391,262	1,486,010	1,383,918	1,358,316
TOTAL FUNDS	\$86,743,142	\$88,909,962	\$86,142,731	\$91,435,342
Full Time Equiv. Staff	587.6	585.5	588.2	590.5

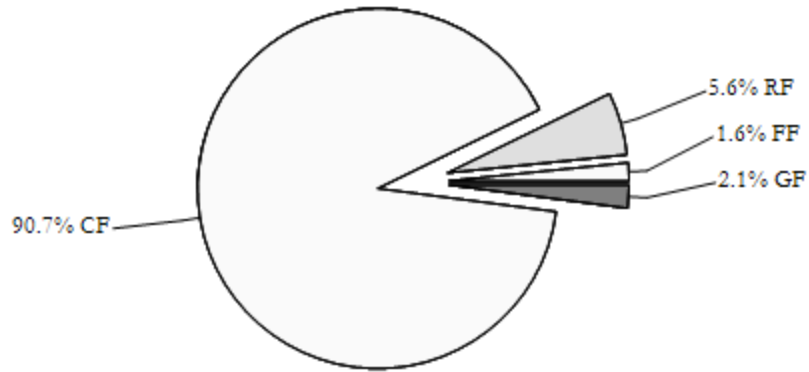
*Requested Appropriation

DEPARTMENT BUDGET: GRAPHIC OVERVIEW

Department's Share of Statewide General Fund

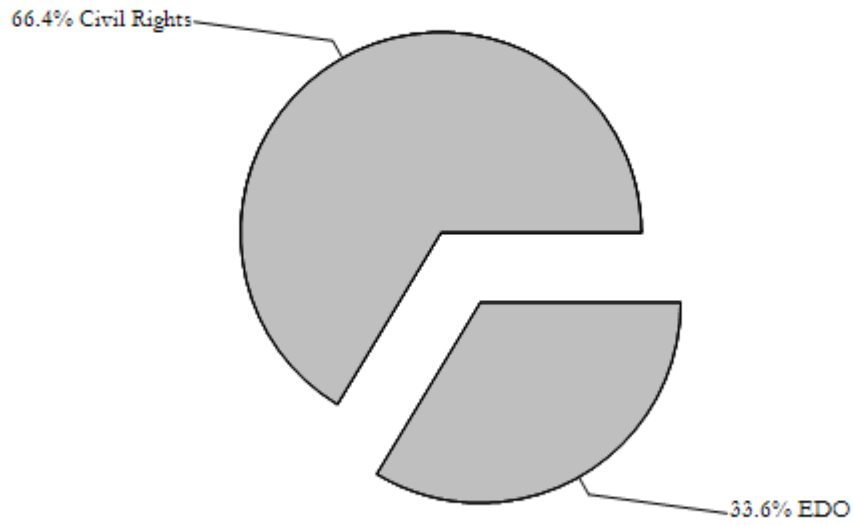


Department Funding Sources

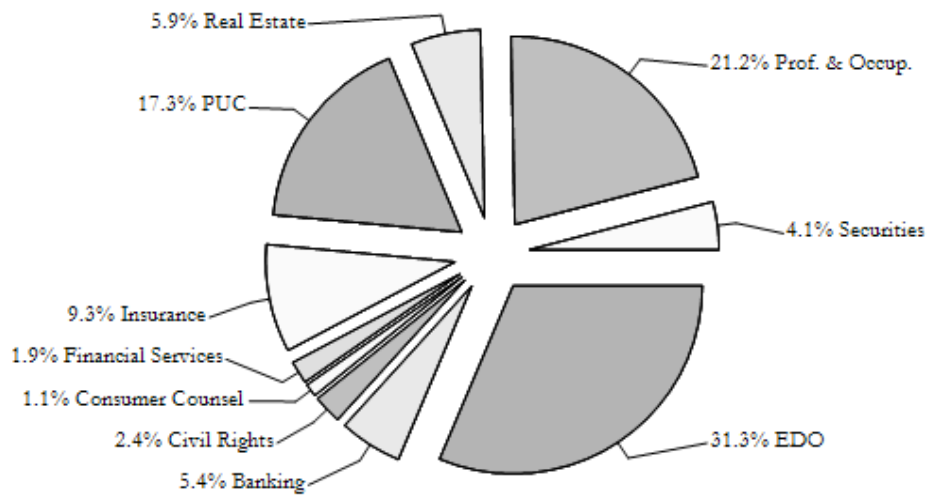


All charts are based on the FY 2016-17 appropriation.

Distribution of General Fund by Division



Distribution of Total Funds by Division



All charts are based on the FY 2016-17 appropriation.

GENERAL FACTORS DRIVING THE BUDGET

The Department's FY 2017-18 budget request consists of 2.1 percent General Fund, 90.7 percent cash funds, 5.6 percent reappropriated funds, and 1.6 percent federal funds. Some of the major factors driving the Department's budget are discussed below.

Legal Services

Due to the impact on parties involved in many of the Department's regulatory decisions, legal services has been, and will continue to be, a driving factor of the Department's budget. Legal services account for 12.2 percent of the Department's FY 2016-17 total appropriation and 26 percent of the total legal services provided to all state agencies by the Department of Law.

Department of Regulatory Agencies Legal Services Expenditures					
	FY 12-13 Actual	FY 13-14 Actual	FY 14-15 Actual	FY 15-16 Actual	FY 16-17 Approp.
Legal Services	\$8,165,123	\$9,767,656	\$10,049,506	\$8,498,999	\$10,539,009
Legal Services Hours	105,697	107,243	101,500	89,454	110,879
Change in Hours	(1,138)	1,545	(5,743)	(12,046)	21,425
Percent Change in Hours	(2.2%)	1.5%	(5.4%)	(11.9%)	24.0%
Percent of Department Total	10.4%	12.0%	12.6%	10.8%	12.2%
Dept. of Law Blended Legal Rate	\$77.25	\$91.08	\$99.01	\$95.01	\$95.05
Dept. of Law Total Legal Services to State Agencies	\$26,489,283	\$33,148,975	\$40,732,252	\$39,045,595	\$40,469,439
DORA Percent of State Agencies Total	30.8%	29.5%	24.7%	21.8%	26.0%

Over the period from FY 2011-12 through FY 2015-16, five divisions accounted for 82.9 to 88.8 percent of the Department's legal services.

Legal Services Expenditures by Top Five Divisions					
	FY 11-12 Actual	FY 12-13 Actual	FY 13-14 Actual	FY 14-15 Actual	FY 15-16 Actual
Professions & Occupations	\$3,336,464	\$3,426,052	\$3,806,424	\$4,186,650	\$3,400,984
PUC + OCC	1,835,306	1,759,139	2,358,562	2,857,499	2,461,920
Insurance	787,757	837,152	942,438	980,635	966,702
Real Estate	743,813	594,427	918,930	898,837	716,746
Top Five Subtotal	6,703,340	6,616,770	8,026,354	8,923,620	7,546,352
Department Total	\$8,088,494	\$8,165,123	\$9,767,656	\$10,049,506	\$8,498,999
Top Five Percent of Total	82.88%	81.04%	82.17%	88.80%	88.79%

Licenses Issued

The Department is responsible for consumer protection and licenses professionals in various industries as part of this mission. The Divisions of Insurance, Real Estate, Professions and

Occupations, and Securities issue the majority of individual licenses. Budgets in these divisions are driven primarily by the number of individuals requiring licensure. The following table outlines the number of licenses regulated by these divisions.

Number of Licenses Regulated by the Divisions of Insurance, Real Estate, Registrations, and Securities					
	FY 11-12	FY 12-13	FY 13-14	FY 14-15	FY 15-16
Div. of Insurance Producer Licenses					
New Licenses	30,556	30,900	31,603	33,160	37,198
Active Licenses	128,710	134,951	142,105	150,058	157,913
Div. of Real Estate					
Broker & Salesperson	37,560	37,439	38,729	40,268	35,276
Mortgage Loan Originators	5,443	7,182	8,074	8,494	9,538
Appraisers	3,209	3,068	2,833	2,734	2,637
Div. of Professions and Occupations					
New Licenses	35,210	36,152	35,793	40,257	42,096
Active Licenses	347,285	366,402	368,851	387,924	396,319
Div. of Securities					
Sales Representative License Renewals	163,818	165,433	171,999	187,878	195,108
Investment Advisor License Renewals	9,743	10,297	11,103	12,287	12,803

Number of Examinations by the Divisions of Banking and Securities

The deterioration of the financial sector in 2008 increased the workload of the examination sections in the Divisions of Banking, Financial Services, and Securities. This has since decreased for the Banking and Financial Services Divisions. Securities examinations increased in FY 2011-12 due to additional oversight requirements in federal law. The following table outlines the changes in the number of examinations conducted by these three divisions since FY 2011-12.

Examinations Conducted by the Divisions of Banking, Financial Services, and Securities						
	FY 11-12	FY 12-13	FY 13-14	FY 14-15	FY 15-16*	Change Since FY 10-11
Banking Examinations	171	180	141	146	161	(5.8%)
Credit Union Examinations	34	31	34	34	44	29.4%
Securities Examination	110	175	138	174	138	25.5%

*Note: Of the 44 credit union examinations, 35 were credit unions, 3 were savings and loans, and 6 were life care institutions.

Other Legislation

The General Assembly has passed an average of 11.9 bills per session over the last ten sessions that impact the Department's regulatory responsibilities. The 2016 Session included 8 bills with appropriations for an additional \$875,311 cash funds and 2.7 FTE. The following table shows the impact of other legislation on the Department's budget.

Impact of Other Legislation on the DORA Budget						
Session	No. of Bills	General Fund	Cash Funds	Reapprop. Funds	Total	FTE
2007	22	\$42,290	\$2,670,098	\$66,962	\$2,737,060	15.3

Impact of Other Legislation on the DORA Budget						
Session	No. of Bills	General Fund	Cash Funds	Reapprop. Funds	Total	FTE
2008	19	149,205	2,233,416	0	2,233,416	17.3
2009	10	0	947,305	0	947,305	7.5
2010	13	0	507,245	593,333	1,100,578	6.4
2011	11	0	954,420	0	954,420	6.8
2012	5	0	378,246	0	378,246	2
2013	16	0	334,518	0	334,518	12.8
2014	10	0	802,770	0	802,770	7
2015	5	0	148,422	0	148,422	0
2016	8	0	875,311	0	0	2.7
Average	11.9	\$19,150	\$985,175	\$66,030	\$963,674	7.8

SUMMARY: FY 2016-17 APPROPRIATION & FY 2017-18 REQUEST

DEPARTMENT OF REGULATORY AGENCIES						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2016-17 APPROPRIATION:						
HB 16-1405 (Long Bill)	86,142,731	1,769,297	78,137,343	4,852,173	1,383,918	588.2
TOTAL	\$86,142,731	\$1,769,297	\$78,137,343	\$4,852,173	\$1,383,918	588.2
FY 2017-18 APPROPRIATION:						
FY 2016-17 Appropriation	\$86,142,731	1,769,297	\$78,137,343	\$4,852,173	\$1,383,918	588.2
R1 Reorganization savings request	(80,000)	0	(80,000)	0	0	0.0
R2 Reduce leased space appropriation	(459,714)	(98,313)	(361,401)	0	0	0.0
R3 Improve enforcement of medical marijuana grey market	317,956	0	317,956	0	0	1.0
Non-prioritized changes	23,016	3,501	19,515	0	0	0.0
Centrally appropriated line items	5,277,093	298,878	4,632,216	374,471	(28,472)	0.0
Indirect cost assessment adjustment	119,525	(119,525)	116,655	119,525	2,870	0.0
Annualize prior year legislation	94,735	0	89,935	4,800	0	1.3
Technical changes	0	12,015	21,680	(33,695)	0	0.0
TOTAL	\$91,435,342	\$1,865,853	\$82,893,899	\$5,317,274	\$1,358,316	590.5
INCREASE/(DECREASE)	\$5,292,611	\$96,556	\$4,756,556	\$465,101	(\$25,602)	2.3
Percentage Change	6.1%	5.5%	6.1%	9.6%	(1.8%)	0.4%

R1 REORGANIZATION SAVINGS REQUEST: The request includes a decrease of \$80,000 cash funds due to the streamlining of functions in the Division of Banking and the Division of Insurance.

R2 REDUCE LEASED SPACE APPROPRIATION: The request includes a decrease of \$459,714 total funds, of which \$98,313 is General Fund. This decrease is the result of rent credit allocation in FY 2017-18. This item is a briefing issue and is discussed in further detail on page 17.

R3 IMPROVE ENFORCEMENT OF MEDICAL MARIJUANA GREY MARKET: The request includes an increase of \$317,956 cash funds from the Marijuana Tax Cash Fund to improve enforcement of the medical marijuana grey market. This item is a briefing issue and is discussed in further detail on page 10.

NON-PRIORITIZED DECISION ITEMS: The request includes annual fleet vehicle changes, Secure Colorado OIT, OIT Deskside, and resources for administrative courts.

CENTRALLY APPROPRIATED LINE ITEMS: The request includes adjustments to centrally appropriated line items for the following: state contributions for health, life, and dental benefits; short-term disability; supplemental state contributions to the Public Employees' Retirement Association (PERA) pension fund; salary survey; shift differential; workers' compensation; legal services; administrative law judges; payment to risk management and property funds; leased space; capitol complex leased space; payments to OIT; and CORE.

INDIRECT COST ASSESSMENTS: The request includes an increase of \$78,446 total funds for adjustments to departmental indirect cost assessments included in the Statewide Indirect Cost Plan.

ANNUALIZE PRIOR YEAR LEGISLATION: The request includes an increase of \$94,735 total funds to reflect the FY 2017-18 impact of legislation that passed in previous legislative sessions, including the following acts:

ANNUALIZE PRIOR YEAR LEGISLATION					
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FTE
Annualize HB 16-1404 (Regulate Fantasy Contests)	\$129,932	\$0	\$129,932	\$0	1.2
Annualize HB 16-1414 (Funding Base For Telecom Relay Services)	99,441	0	99,441	0	0.0
Annualize HB 14-1328 (Connect Colorado Broadband Act)	95,828	0	95,828	0	0.0
Annualize HB 16-1324 (Veterinary Access Compounded Pharmaceutical Drugs)	18,662	0	18,662	0	0.0
Annualize SB 16-087 (Highway-rail Crossing Signalization Fund Funding)	(235,200)	0	(240,000)	4,800	0.0
Annualize HB 16-1160 (Sunset Surgical Assistants Surgical Technicians)	(8,475)	0	(8,475)	0	(0.1)
Annualize HB 16-1197 (Military Veteran Occupational Credentials)	(4,703)	0	(4,703)	0	0.0
Annualize HB 16-1047 (Interstate Medical Licensure Compact)	(750)	0	(750)	0	0.2
TOTAL	\$94,735	0	\$89,935	\$4,800	1.3

TECHNICAL ADJUSTMENTS: The request includes an increase of \$12,015 General Fund, an increase of \$21,680 cash funds, and a decrease of \$33,695 reappropriated funds for the sunset split adjustment.

ISSUE: R3 – IMPROVE ENFORCEMENT OF MEDICAL MARIJUANA GREY MARKET

The Colorado Medical Board (CMB), within the Department of Regulatory Agencies (DORA), regulates the practice of medicine in Colorado. This includes regulating licensed medical professionals that have the authority to recommend medical marijuana (MMJ). In Request 3, the Department has requested funds to increase enforcement of these professionals.

SUMMARY

The Department of Regulatory Agencies is requesting \$317,956 cash funds from the Marijuana Tax Cash Fund and 1.0 FTE for FY 2017-18. The Department also requests \$278,253 from the Marijuana Tax Cash Fund and 1.0 FTE in ongoing funding to improve enforcement of the medical marijuana grey market.

RECOMMENDATION

Staff recommends a combination of options to deal with this decision item including increased fees to cover the costs of MMJ regulation and one-time funds from the Marijuana Tax Cash Fund in FY 2017-18.

DISCUSSION

Background

The Colorado Medical Board (CMB) is tasked with protecting consumers through regulating the practice of medicine in Colorado. This is accomplished by licensing qualified physicians, enforcing practice standards by investigating complaints, and carrying out disciplinary actions when standards are not met. The CMB has a staff of 8.3 FTE that includes a program director, compliance staff, technical staff, and administrative support staff.

The CMB was established through the Medical Practice Act and is responsible for regulating Medical Doctors (M.D.s), Doctors of Osteopathy (D.O.s), Physician Assistants (P.A.s), and Anesthesiology Assistants (A.A.s). The CMB is a Type I Board, which means that it is policy autonomous and comprised of professional and public members (eight M.D.s, three D.O.s, one P.A., and four public members). The CMB is a complaint driven board, and thus, referrals from law enforcement are a key component of the Board's regulatory portfolio. The workload measures used by the Department are the number of licenses issued, complaints processed, investigations opened, and disciplinary actions taken.

In Colorado, only physicians are authorized to make medical marijuana recommendations. The guidelines for these recommendations are set in CMB Board Policy 40-28 *Regarding Recommendations for Marijuana as a Therapeutic Option*. Multiple state agencies are responsible for the regulation of medical marijuana in Colorado. For example, the Department of Revenue regulates MMJ businesses; the Department of Public Health and Environment maintains the MMJ patient registry; and the Department of Regulatory Agencies regulates physicians who are authorized by law to make recommendations for patient use of MMJ.

Issue

Physicians are permitted by law to make MMJ recommendations for medical conditions as set forth in CDPHE regulation. The presumptive amount of marijuana for medical use is six plants/two ounces per user, although physicians can increase this limit if medically necessary. The maximum limit was set at 99 plants in 2014.

Increased plant limits can affect the MMJ grey market. If an individual is allotted an increased number of plants but cannot consume them all, the potential exists for left over plants to make their way into the grey market. Furthermore, there is a possibility that physicians can over-prescribe plant levels to legitimate patients or prescribe MMJ to patients that are not eligible for such a recommendation with each scenario carrying the potential for plants to enter the grey market.

The CMB has sanctioned five physicians for violation of MMJ recommendations. The Board found the conduct fell below generally accepted standards of medical practice and violated Section 12-36-117 (l) (p) and (mm), C.R.S. and Colorado Constitution Article XVIII, Section 14 (4). The licenses of these individuals were suspended for recommending high-plant-count MMJ without medical necessity. Combined, the five physicians accounted for over 1,600 individuals, authorizing those individuals to collectively possess at least 120,000 plants.

Like most professions, medical board licensees bear the cost of their own regulation. Legal services represents a significant annual expenditure from these licensing fees. Legal fees accounted for more than 30 percent of expenditures during FY 2015-16. The \$923,780 spent on legal services during FY 2015-16 includes a relatively small number of disciplinary actions (114 compared to 27,120 active licensees).

CMB staff estimate that marijuana-related disciplinary costs will carry an annual legal services impact of approximately \$200,000, or approximately 2,100 legal hours at the blended rate of \$95.05, which under the status quo is supported by medical board license fees.

Proposed Solution

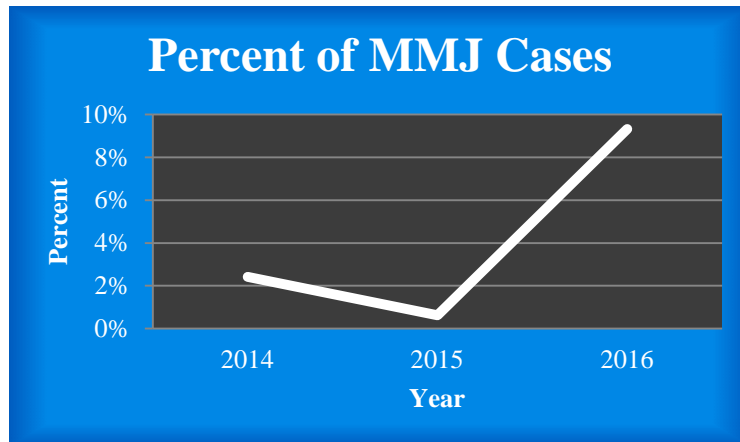
The Department requests \$317,956 cash funds from the Marijuana Tax Cash Fund and 1.0 FTE for FY 2017-18. The Department request \$278,253 from the Marijuana Tax Cash Fund and 1.0 FTE in ongoing funding. The Department states that the funding will enable it to expand its collaboration with local, state and federal regulators, as well as law enforcement to eliminate the medical marijuana grey market. The proposal includes:

- Educational campaign in FY 2017-18 – Similar to efforts with the Prescription Drug Monitoring Program, the Department seeks retention of a professional marketing/communication firm to effectively develop a campaign to raise awareness among third-party victims.
- Law Enforcement Education – The requested awareness campaign will also include facilitation of a DORA forum with law enforcement to identify regulatory gaps and to develop and distribute a roadmap for law enforcement regarding complaints and factors for successful case completion. These efforts may lead to enhanced collaboration and evidence sharing to identify wrongdoing and to expedite MMJ cases and discipline.
- Increased Investigation and Access to Filing Complaints – The investigator FTE would dedicate time to investigation of MMJ cases while also staffing a MMJ malpractice hotline to receive the increased complaints and remove barriers for those suspecting wrongdoing.

Staff Recommendation

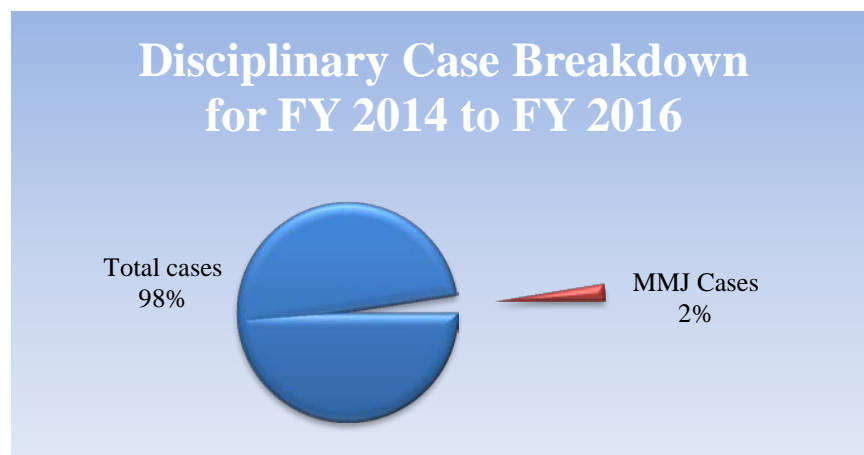
Case Rate

The case rate for MMJ cases has risen sharply between 2015 and 2016. The Department has some indications that this trend will continue as more cases are turned over to the CMB by law enforcement. The percent of MMJ cases, as compared to all other disciplinary cases, has increased from just over two percent in 2014 to over nine percent in 2016. In raw numbers, MMJ cases averaged 1.7 cases per month in 2014, 0.5 case per month in 2015, and 5.2 cases per month through the five months of FY 2016.



Potential Cases

The Department states that MMJ enforcement depends on complaints and referrals from law enforcement. The Department indicates there are many additional cases of MMJ overprescribing. These cases are currently being investigated by law enforcement personnel and are sealed. The cases will be referred to the CMB for investigation once the cases have been unsealed. The disciplinary case breakdown from FY 2014 to FY 2016 was 2,071 total disciplinary cases of which 52 cases were MMJ related. This equates to 2 percent of total cases.



CDPHE has established policies that require notification to the CMB when a MMJ recommender triggers one of several factors. These factors are:

- Physician caseload

- Number of MMJ patient recommendations exceeds 3,521 per year which is greater than the national average of patients visits per year for a generalist physician
- Plant and ounce recommendation
 - Recommendation of more than the standard six plant and two ounces for more than 30 percent of the recommender's case load
- Physicians specialty with regard to increased plant count recommendations
- Patient age demographic
 - One-third of MMJ patient caseload is under the age of 30
- Physicians prescribing outside of field
- Potential substandard care
- Other information that may be a violation of the Medical Practice Act.

If any of these areas are triggered, CDPHE provides DORA with limited information that includes the prescribers name, a non-identifying patient number, sex of patient, and year of birth. The transfer of this information is currently on hold pending the resolution of litigation. If the litigation is decided in CDPHE's favor, it will continue to provide this information to DORA.

CDPHE also receives the medical reasons for the MMJ recommendation on the forms submitted by the patients. This information is not currently shared with DORA. If this information was provided to DORA, it would allow for less costly and more timely investigations of MMJ overprescribing. This would reduce overall costs of CMB MMJ investigations and disciplinary actions.

Cost of CMB MMJ Cases

CMB staff estimate that marijuana-related disciplinary costs will carry an annual legal services impact of approximately \$200,000, or approximately 2,100 legal hours at the blended rate of \$95.05. The Department's CMB legal cost so far this fiscal year is \$341,745 of which \$102,240 is for MMJ cases. This represents 23 percent of the Department's legal expenses for the current fiscal year.



Decision Request Options

Staff has developed options on this issue for the committee to consider. These options are not mutually exclusive and a combination may be the most effective approach to dealing with this issue.

Approve Decision Item As Is

The first option is to fully fund this decision item as the Department has requested. This will result in funding for the Department of \$317,956 cash funds from the Marijuana Tax Cash Fund and 1.0

FTE for FY 2017-18. The ongoing funding would be \$278,253 from the Marijuana Tax Cash Fund and 1.0 FTE.

The downside to this option is the ongoing costs. The Department has indications from law enforcement that many additional MMJ cases exist. The Department will receive these cases when they are unsealed from a legal perspective. If the increasing trend of MMJ cases continues, the funds needed to keep pace will also increase. This would require additional appropriations from the Marijuana Tax Cash Fund to DORA in order for the Department to properly investigate MMJ overprescribing and enact any disciplinary actions.

Address This Issue on the Front End

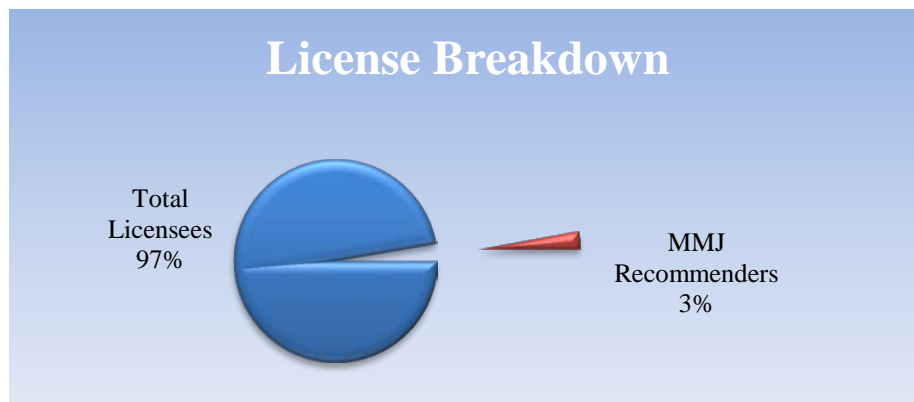
The second option is to address this issue from the front end. This can be done by having CDPHE transfer one additional piece of information to DORA. In the past, CDPHE has transferred limited information on MMJ recommenders to DORA. One piece of information that is not transferred is the medical reason for the recommendation. This piece of information allows the CMB to determine if the recommendations were based on medical necessity. If DORA can obtain this information, it would reduce the cost of enforcement to prevent MMJ over-prescribing. This could reduce the growth of the grey market and reduce the need for additional funding in DORA for grey market enforcement.

This option would require further research as there is differing legal opinions on whether the medical necessity information could be considered patient information. If it were considered patient information, the transfer of this information would be unconstitutional. Furthermore, the process of CDHPE's policy on referrals is currently subject to litigation. Summary judgment was made against CDPHE for violation of the open meetings law. The case is currently in the appeals process.

Prescriber Fee

The third option is to require a fee from prescribers to cover the cost of DORA regulations. This is how the process currently works for prescribers as they are required to pay a fee for licensure in the State of Colorado. The current fee for prescribers is \$412. The funds from these fees are used by CMB for investigations and disciplinary actions. DORA sets fees for licensure based on the costs for regulation, which means that DORA can increase the fees on prescribers to cover the additional costs of MMJ enforcement.

The current number of licensed prescribers in the State of Colorado is 27,120. The current number of medical marijuana recommenders is 750, which represents roughly three percent of total licensed prescribers.



The Department has authority under current statute to adjust the fees to account for these additional costs. The increase in fees would be \$10.26 annually if the costs were spread among all licensees (\$278,253/27,120 licensees). There is precedent in the Department to assess separate fees based on specific activities. For example:

- Dentists and Dental Hygienists - statute requires permits for the administration of different types of sedation, and licensees must obtain a separate permit and pay a separate fee for this purpose. Both the need for the permit and the fee authority is in statute, and the statute both includes specific requirements, as well as authorizes the board to promulgate rules to establish minimum standards; and
- Prescription Drug Monitoring Program - statute creates this separate program for drug monitoring purposes and authorizes a specific fee to be charged to all prescribers of controlled substances (dentists, nurses with prescriptive authority, optometrists, physicians, physician assistants, podiatrists, and veterinarians). These fees are in addition to general licensing fees.

This process could be applied to MMJ where prescribers who recommend MMJ would pay a separate fee for MMJ recommendations. This separate fee would be \$371 annually (\$278,253/750 MMJ recommenders) based on current costs.

A five-year cost comparison shows that the Department’s request would require \$1.4 million from the Marijuana Tax Cash Fund over a five-year period. An additional fee for all prescribers would cost each prescriber a total of \$51.30 over the same five-year period. An additional fee just for MMJ recommenders would cost each MMJ recommender a total of \$1,855 over the same five-year period.

Five Year Cost Comparison			
	MCTF	Additional Fee for All	Additional Fee for MMJ
Current	\$0	\$0	\$0
FY 2017-18	317,956	10.26	371
FY 2018-19	278,253	10.26	371
FY 2019-20	278,253	10.26	371
FY 2020-21	278,253	10.26	371
FY 2021-22	278,253	10.26	371
Total	\$1,430,968	\$51.30	\$1,855

The Department has authority under current statute to either raise the fees or to add the separate fee. However, any ambiguity in this area could lead to litigation on the fee. A statutory change specifically allowing these fees would remove any ambiguity about fees for MMJ recommendation.

Staff Recommendation

Staff recommends a combination of the options presented as a means to deal with this decision item. First, staff recommends that the Department increase fees for MMJ recommenders to cover the costs of MMJ regulation. The regulation and enforcement of prescribers is currently handled through a fee for licensing, which is adjusted based on the cost of regulation and enforcement. This has been the long-standing process in DORA for regulating license holders, including prescribers. Changing this model could set a bad precedent where those regulated bare no costs of that regulation. Furthermore, changing this model for MMJ would allow MMJ recommenders to make large sums of money without paying *ANY* costs for regulation.

MMJ cases are relatively new so no legal precedence exists for many of the MMJ cases. These legal costs will likely drop in the future as legal precedence is set. The Department's funding option does not consider this cost attrition; therefore, it will generate excess revenue that is not linked to actual costs. Requiring prescribers to pay an additional fee for MMJ recommendation removes this issue as the fee will rise and fall based on actual expenses. This allows the program to self-adjust based on actual events rather than perceived events.

Second, staff recommends approval for one-time funds from the Marijuana Tax Cash Fund in FY 2017-18 as part of this request. This gives the Department the needed resources to regulate MMJ until revenue from the fee increase is realized.

Finally, staff recommends that DORA work with CDPHE on the legality and feasibility of including medical necessity information on any MMJ referrals from CDPHE to DORA.

ISSUE: R2 – LEASED SPACE REDUCTION

The Department of Regulatory Agencies (DORA) signed a new lease for the 1560 Broadway office space, which started July 1, 2016. The new lease offers multi-years savings, with much of the savings applied to the first five years of the lease terms. In Request 2, the Department has requested a leased space reduction of \$459,714 total funds for FY 2017-18.

SUMMARY

- On July 27, 2015, the Department signed a new 10-year lease for FY 2016-17 through FY 2026-27 at its current location. The net cost of the lease is estimated at \$40.5 million, with significant savings during the first five years.
- The Department and its partners were able to negotiate highly favorable lease terms including: nine months of free rent in the first year of the lease; and a 7% cap on the annual increase of operating expenses.
- As a result of expiring lease incentives, there will be two instances of significant increases in the cost of the lease. From Year 1 to Year 2 the cost will increase by approximately \$2.4 million. From Year 5 to Year 6 the cost will increase by approximately \$1.1 million.

RECOMMENDATION

Staff recommends that the Joint Budget Committee approve the lease reduction in the Department's request.

DISCUSSION

Background

The Executive Director signed a new 10-year lease at the 1560 Broadway in Denver address with an effective date of July 1, 2016. The Department's new lease covers 165,764 square feet of office space with the Department no longer utilizing satellite locations throughout the state. Under the new lease, DORA and its employees will occupy the same space it currently occupies. Pursuant to space standards set by the Office of the State Architect, the new lease is classified as Category 3. Category 3 leases are those leases where the amount of square feet leased is more than 232 rentable square feet per office worker but less than the private sector average of 291 rentable square feet per office worker. Under the new lease, the Department will use about 283 square feet per employee.

In concert with the Department of Personnel and Administration's State Buildings and Real Estate Programs and a State-designated commercial realtor, the Department conducted numerous site visits to various office spaces in the Denver Metro area. The quotes for these spaces ranged from the mid-\$20s to the low-\$30s per square foot per year. Other Denver locations considered were 101 W. Colfax, 1801 California Street, and office space in the Denver Technological Center. However, moving to another location would have cost more than the difference in lease rates offered, due to the need to build-out and reconfigure any new premises. The Department's realtor estimated these costs would have been at least \$3 million.

The estimated 10-year cost of the new lease is \$40.5 million. The 10-year average effective lease rate is \$24.18 per square foot per year, which is on par with current annual rates in the same building. The Department negotiated a \$4.1 million rent credit that will be used in the form of a \$5.88 per square foot per year reduction for five years. When the rent credit expires at the beginning of the sixth year of the lease (FY 2021-22), the annual square footage rate will increase significantly, as the table below shows.

Anticipated Lease Rate Schedule					
Fiscal Year	Rate*	Total Cost	Max Rent Credit/SF	Effective Rate	Total Required Appropriation
2016-17**	\$24.35	\$1,009,088	(\$5.88)	\$18.47	\$765,415
2017-18	24.85	4,119,235	(5.88)	18.97	3,144,543
2018-19	25.35	4,202,117	(5.88)	19.47	3,227,425
2019-20	25.85	4,284,999	(5.88)	19.97	3,310,307
2020-21	26.35	4,367,881	(5.88)	20.47	3,393,189
2021-22	26.85	4,450,763		26.85	4,450,763
2022-23	27.35	4,533,645		27.35	4,533,645
2023-24	27.85	4,616,527		27.85	4,616,527
2024-25	28.35	4,699,409		28.35	4,699,409
2025-26	28.85	4,782,291		28.85	4,782,291
2026-27**	29.35	3,648,880		29.35	3,648,880
Total		\$44,714,839			\$40,572,397

*Rates include base rate of \$16.50/SF escalating at \$0.50 annually, plus estimated operating expenses of \$7.85/SF in each year

**Only 3 months of occupancy in FY 16-17 and 9 months of occupancy in FY 26-27 estimated here due to rent abatement in Year 1

The first year of the new lease offered significant savings compared to FY 2015-16 appropriations, allowing the Department to cut \$2.4 million for the Leased Space line item in FY 2016-17. These savings are a result of the negotiated lease terms, which include the rent credit mentioned above and nine months free rent for FY 2016-17. However, it should be noted that the cost of the lease will increase by approximately \$2.4 million in FY 2017-18 because the Department must make a full year's worth of payments.

The Department's base rate is \$16.50 per square foot per year. This rate increases by \$0.50 per year, an escalation viewed as reasonable and standard by the Department and its realtor. The Department will also be responsible for paying its pro-rata share of the buildings operating costs, which is conservatively estimated at \$7.85 per square foot in FY 2016-17. It is worth emphasizing that the *operating costs rate is an estimate* and the actual rate may be lower or higher. The lease stipulates that the Department's operating expenses may increase by no more than 7 percent above the prior year, regardless of actual operating costs of the building.

The following table details the methodology used to calculate the new lease's annual rate per square foot and shows the incremental increase in the net lease rate over the 10-year term of the lease. This rate is the top rate the Department would be responsible for if the operating costs increased at the maximum rate of seven percent.

Max Lease Rate Schedule Including Operating Costs							
Fiscal Year	Base Rate	Base Rate Annual Increase	Operating Cost Base Rate	Max. Operating Cost Annual Increase	Op. Cost w/ 7.0 percent increase cap	Rent Credit	Net Lease Rate
	A	B	C	D	E	F	A+B+E-F
2016-17	\$16.50	\$0.00	\$7.85	0%	\$7.85	\$5.88	\$18.47
2017-18	16.50	0.50	7.85	7%	8.40	5.88	19.52
2018-19	16.50	1.00	7.85	7%	8.99	5.88	20.61
2019-20	16.50	1.50	7.85	7%	9.62	5.88	21.74
2020-21	16.50	2.00	7.85	7%	10.29	5.88	22.91
2021-22	16.50	2.50	7.85	7%	11.01		30.01
2022-23	16.50	3.00	7.85	7%	11.78		31.28
2023-24	16.50	3.50	7.85	7%	12.61		32.61
2024-25	16.50	4.00	7.85	7%	13.49		33.99
2025-26	16.50	4.50	7.85	7%	14.43		35.43
2026-27	\$16.50	\$5.00	\$7.85	7%	\$15.44		\$36.94

The lease rate includes the Base Rate (A) plus the operating cost with the 7 percent cap (E) minus the rent credit (F). This rate is then multiplied by the total square footage of the Department's leased space (165,764 sq. ft.).

Proposed Solution

The Department proposes a reduction in the FY 2017-18 lease cost of \$459,714 total funds, of which \$98,313 is General Fund. This brings the annual lease rate for FY 2017-18 to \$2,684,829. This reduction comes from the Department transferring credits for buildouts to rent credits in FY 17-18. The chart below displays the new anticipated leased rate for the Department with changes from the original chart highlighted.

New Anticipated Lease Rate Schedule					
Fiscal Year	Rate*	Total Cost	Max Rent Credit/SF	Effective Rate	Total Required Appropriation
2016-17**	\$24.35	\$1,009,088	(\$5.88)	\$18.47	\$765,415
2017-18	24.85	4,119,235	(5.88)	18.97	2,684,829
2018-19	25.35	4,202,117	(5.88)	19.47	3,227,425
2019-20	25.85	4,284,999	(5.88)	19.97	3,310,307
2020-21	26.35	4,367,881	(5.88)	20.47	3,393,189
2021-22	26.85	4,450,763		26.85	4,450,763
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2025-26	28.85	4,782,291		28.85	4,782,291
2026-27**	29.35	3,648,880		29.35	3,648,880
Total		\$44,714,839			\$40,112,683

*Rates include base rate of \$16.50/SF escalating at \$0.50 annually, plus estimated operating expenses of \$7.85/SF in each year

**Only 3 months of occupancy in FY 16-17 and 9 months of occupancy in FY 26-27 estimated here due to rent abatement in Year 1

Staff Recommendation

Staff recommends that the Joint Budget Committee approve the lease reduction in the Departments request.

INFORMATIONAL ISSUE: SUNSET AND SUNRISE PROCESS

The Colorado Office of Policy, Research, & Regulatory Reform (COPRRR), contained within the Department of Regulatory Agencies (DORA), provides sunrise and sunset reviews for the State of Colorado.

SUMMARY

The Colorado Office of Policy, Research, & Regulatory Reform (COPRRR) is responsible for the regulatory review process in the State of Colorado. COPRRR manages the sunrise, sunset, and rule making process. This informational issue is intended to provide the Joint Budget Committee a summation of these processes.

RECOMMENDATION

This is an informational issue so staff has no recommendations for the Joint Budget Committee.

DISCUSSION

The Colorado Office of Policy, Research, & Regulatory Reform provides sunrise and sunset reviews for the State of Colorado. The following information was derived directly from the Departments web page, which can be found at <https://www.colorado.gov/dora-oprrr>.

Colorado regulates many professions, occupations and businesses to support a fair marketplace and protect consumers. COPRRR reviews proposed regulatory programs to determine if they are needed, and it also reviews existing programs and functions of government to ensure they are necessary, fair, effective and efficient.

COPRRR conducts sunrise reviews of proposals to create new professional and occupational regulatory programs and sunset reviews of existing government programs. COPRRR also reviews proposals for new mandatory continuing education requirements and provides a mechanism for citizens to receive Notices of Proposed Rulemaking in their areas of interest. Individuals can sign up to receive regulatory notices.

Every state agency in the Executive Branch must adhere to the rulemaking process outlined in the Administrative Procedure Act or APA (Section 24-4-101, C.R.S.) unless explicitly exempted. The rulemaking process involves four stages:

- Notice of proposed rulemaking;
- Comment period on proposed rule;
- Hearing on proposed rule; and
- Final adoption of proposed rule.

How does the Regulatory Review Process work?

A regulation is a rule created by a state agency that has an impact on the regulated entity and on the public. The regulation is the state agency's action in implementing, interpreting, applying or

enforcing a statute enacted by the legislature and signed into law by the Governor. The regulatory review process is designed to make sure statutes and rules make economic sense and are not unnecessarily restrictive on businesses.

Sunrise and Sunset reviews are COPRRR's primary focus. COPRRR staff conduct a comprehensive study and then make recommendations to the Colorado General Assembly. COPRRR staff also make recommendations as to whether to continue the programs under review, and can also recommend additional changes to the General Assembly. Public input is vital to COPRRR's work and the regulatory reform process.

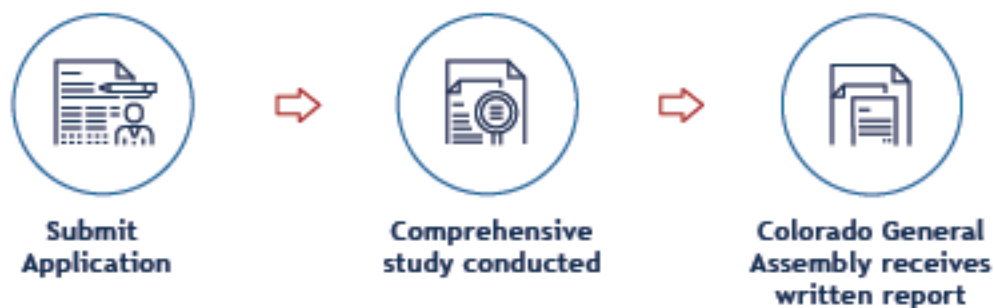
Colorado regulates a large number of professions, business and functions—more than 140 are regulated through DORA. COPRRR enhances consumer protection through reviews of regulation and policy throughout state government to ensure that regulation is necessary, effective, consistent, flexible and fair. COPRRR's responsibility is to balance regulation and economic growth through:

- Sunrise reviews to look at whether an occupation or profession should be regulated;
- Sunset reviews to evaluate if an existing regulation or part of government is still needed;
- Review of proposals for new mandatory continuing education requirements;
- Keeping interested parties updated on new and amended state government rules; and
- Helping the public participate by facilitating review feedback.

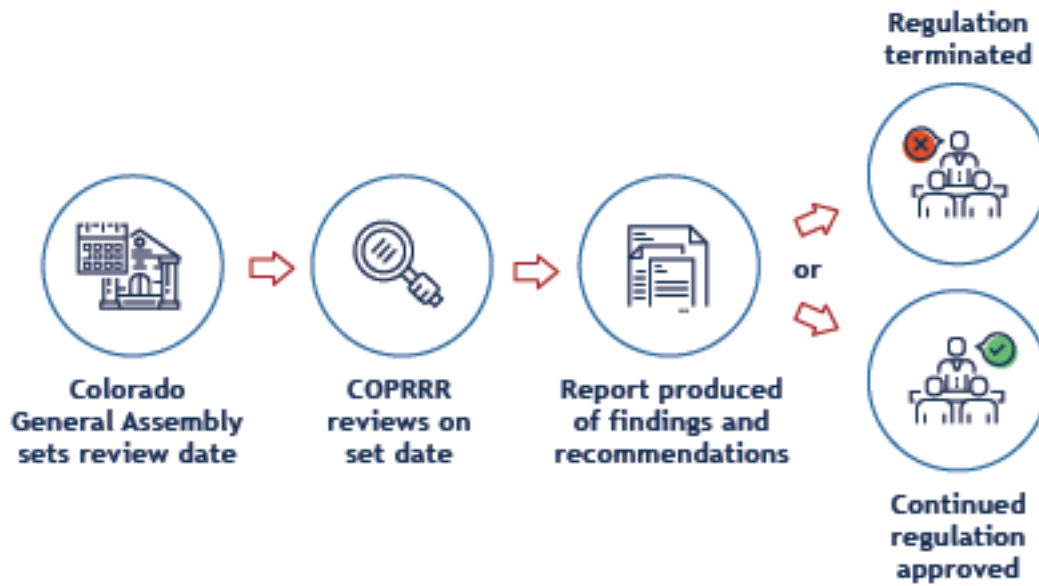
Colorado's Rulemaking and Cost-Benefit Analysis Process

Colorado was the first state to implement an official process for regular program review, known as the sunset process. It was heralded on the front page of the Wall Street Journal in 1976 as “a remarkable innovation in state government.” A White House report released in August 2015 cited Colorado in the top 20 percent of states keeping burdens low for occupational licensing, and recognized its sunrise and sunset processes.

Sunrise Process Graphical Explanation



Sunset Process Graphical Explanation



Rule Making Process Graphical Explanation



**The 25th of same month, or the 10th of the following*

JBC Staff Budget Briefing: FY 2017-18
Staff Working Document - Does Not Represent Committee Decision

Appendix A: Number Pages

	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	Request vs. Appropriation
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DEPARTMENT OF REGULATORY AGENCIES
Joe Neguse, Executive Director

(1) EXECUTIVE DIRECTOR'S OFFICE AND ADMINISTRATIVE SERVICES

The Executive Director's Office provides administrative and technical support for department divisions and programs including accounting, budgeting, and human resources functions. Additionally, the Office of Policy and Research (OPR) in the Executive Director's Office (EDO) provides sunset and sunrise regulatory evaluations and policy recommendations to the General Assembly and analyzes the submission of proposed rules and regulations from state agencies.

Personal Services	<u>2,298,054</u>	<u>2,374,551</u>	<u>2,430,854</u>	<u>2,430,854</u>	
FTE	27.9	27.7	29.5	29.5	
General Fund	(3,000)	0	34,875	46,890	
Cash Funds	62,845	66,655	30,500	52,180	
Reappropriated Funds	2,238,209	2,307,896	2,365,479	2,331,784	
Health, Life, and Dental	<u>3,536,524</u>	<u>4,235,452</u>	<u>4,186,649</u>	<u>4,620,868</u>	* #
General Fund	96,445	121,741	119,053	207,246	
Cash Funds	3,229,907	3,826,198	3,790,660	4,161,272	
Reappropriated Funds	210,172	240,598	236,639	239,506	
Federal Funds	0	46,915	40,297	12,844	
Short-term Disability	<u>41,522</u>	<u>81,112</u>	<u>68,255</u>	<u>70,521</u>	* #
General Fund	2,456	2,622	2,000	2,576	
Cash Funds	34,141	72,507	61,826	63,465	
Reappropriated Funds	4,925	5,031	3,925	4,168	
Federal Funds	0	952	504	312	

*Line item contains a decision item.

#Figures represent the final appropriation for this line item, not actual expenditures.

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	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	Request vs. Appropriation
S.B. 04-257 Amortization Equalization Disbursement	<u>1,384,754</u>	<u>1,644,105</u>	<u>1,729,990</u>	<u>1,862,731</u>	* #
General Fund	45,576	53,114	50,621	68,053	
Cash Funds	1,247,725	1,469,588	1,567,171	1,676,334	
Reappropriated Funds	91,453	102,083	99,342	110,105	
Federal Funds	0	19,320	12,856	8,239	
S.B. 06-235 Supplemental Amortization Equalization Disbursement	<u>1,242,381</u>	<u>1,588,056</u>	<u>1,711,969</u>	<u>1,862,731</u>	* #
General Fund	42,727	51,303	50,094	68,053	
Cash Funds	1,113,917	1,419,489	1,550,846	1,676,334	
Reappropriated Funds	85,737	98,603	98,307	110,105	
Federal Funds	0	18,661	12,722	8,239	
Salary Survey	<u>877,859</u>	<u>0</u>	<u>53,521</u>	<u>1,012,503</u>	
General Fund	30,751	0	0	37,044	
Cash Funds	785,443	0	51,472	911,027	
Reappropriated Funds	61,665	0	0	59,943	
Federal Funds	0	0	2,049	4,489	
Workers' Compensation	<u>75,729</u>	<u>83,843</u>	<u>105,014</u>	<u>135,182</u>	
General Fund	2,600	2,878	3,551	5,102	
Cash Funds	70,485	78,038	96,273	121,691	
Reappropriated Funds	2,644	2,927	3,611	6,780	
Federal Funds	0	0	1,579	1,609	
Operating Expenses	<u>100,309</u>	<u>99,182</u>	<u>210,344</u>	<u>210,344</u>	
General Fund	0	0	3,689	3,689	
Cash Funds	0	0	95,427	95,427	
Reappropriated Funds	100,309	99,182	111,228	111,228	

*Line item contains a decision item.

#Figures represent the final appropriation for this line item, not actual expenditures.

JBC Staff Budget Briefing: FY 2017-18
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	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	Request vs. Appropriation
Legal Services	<u>10,049,506</u>	<u>8,499,000</u>	<u>10,539,009</u>	<u>11,303,047</u>	*
General Fund	216,752	206,764	206,848	215,990	
Cash Funds	9,775,787	8,217,055	10,047,518	10,789,873	
Reappropriated Funds	56,967	75,181	103,614	108,193	
Federal Funds	0	0	181,029	188,991	
Administrative Law Judge Services	<u>278,450</u>	<u>357,148</u>	<u>201,827</u>	<u>246,338</u>	*
General Fund	12,593	16,152	9,119	11,141	
Cash Funds	265,857	340,996	192,708	235,197	
Payment to Risk Management and Property Funds	<u>254,628</u>	<u>242,717</u>	<u>210,548</u>	<u>201,676</u>	
General Fund	8,740	8,332	7,119	7,613	
Cash Funds	236,997	225,910	193,023	181,548	
Reappropriated Funds	8,891	8,475	7,240	10,115	
Federal Funds	0	0	3,166	2,400	
Vehicle Lease Payments	<u>210,471</u>	<u>210,100</u>	<u>236,812</u>	<u>173,020</u>	*
Cash Funds	210,471	210,100	236,812	173,020	
Information Technology Asset Maintenance	<u>623,243</u>	<u>580,990</u>	<u>671,403</u>	<u>671,403</u>	
Cash Funds	449,164	390,346	480,646	480,646	
Reappropriated Funds	174,079	190,644	190,757	190,757	
Hardware/Software Maintenance	<u>723,020</u>	<u>680,610</u>	<u>729,218</u>	<u>729,218</u>	
General Fund	0	800	800	800	
Cash Funds	469,129	421,696	469,816	469,816	
Reappropriated Funds	253,891	258,114	258,602	258,602	

*Line item contains a decision item.

JBC Staff Budget Briefing: FY 2017-18
Staff Working Document - Does Not Represent Committee Decision

	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	Request vs. Appropriation
Leased Space	<u>2,853,092</u>	<u>2,855,752</u>	<u>788,208</u>	<u>2,775,917</u>	*
General Fund	96,244	91,692	0	0	
Cash Funds	2,415,056	2,415,030	658,867	2,368,767	
Reappropriated Funds	341,792	349,030	99,155	376,964	
Federal Funds	0	0	30,186	30,186	
Payments to OIT	<u>3,103,376</u>	<u>3,832,525</u>	<u>2,628,736</u>	<u>3,276,610</u>	*
General Fund	130,444	161,603	104,155	130,199	
Cash Funds	2,972,932	3,670,922	2,524,581	3,146,411	
CORE Operations	<u>195,544</u>	<u>179,876</u>	<u>161,891</u>	<u>183,321</u>	
General Fund	4,136	3,820	3,309	6,918	
Cash Funds	180,433	165,931	144,189	165,027	
Reappropriated Funds	10,975	10,125	8,769	9,194	
Federal Funds	0	0	5,624	2,182	
Consumer Outreach/Education Program	<u>141,399</u>	<u>136,834</u>	<u>205,000</u>	<u>205,000</u>	
Cash Funds	141,399	136,834	205,000	205,000	
Broadband Deployment Board	<u>0</u>	<u>78,228</u>	<u>134,000</u>	<u>202,504</u>	
Cash Funds	0	78,228	134,000	202,504	
Merit Pay	<u>330,904</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	10,803	0	0	0	
Cash Funds	296,843	0	0	0	
Reappropriated Funds	23,258	0	0	0	
Federal Funds	0	0	0	0	

*Line item contains a decision item.

JBC Staff Budget Briefing: FY 2017-18
Staff Working Document - Does Not Represent Committee Decision

	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	Request vs. Appropriation
TOTAL - (1) Executive Director's Office and Administrative Services	28,320,765	27,760,081	27,003,248	32,173,788	19.1%
<i>FTE</i>	<u>27.9</u>	<u>27.7</u>	<u>29.5</u>	<u>29.5</u>	0.0%
General Fund	697,267	720,821	595,233	811,314	36.3%
Cash Funds	23,958,531	23,205,523	22,531,335	27,175,539	20.6%
Reappropriated Funds	3,664,967	3,747,889	3,586,668	3,927,444	9.5%
Federal Funds	0	85,848	290,012	259,491	(10.5%)

JBC Staff Budget Briefing: FY 2017-18
Staff Working Document - Does Not Represent Committee Decision

	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	Request vs. Appropriation
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(2) DIVISION OF BANKING

The Division of Banking regulates state-chartered banks and debt management companies. The Division conducts examinations and enforces compliance in areas including: Public Deposit Protection Act; electronic funds transfers; electronic data processing; and the Uniform Consumer Credit Code. The Division also contains the eight-member Colorado State Banking Board.

Personal Services	<u>2,726,592</u>	<u>3,036,147</u>	<u>3,816,881</u>	<u>3,766,881</u> *	
FTE	33.3	35.0	40.0	40.0	
Cash Funds	2,726,592	3,036,147	3,816,881	3,766,881	
Operating Expenses	<u>449,747</u>	<u>461,500</u>	<u>490,703</u>	<u>490,703</u>	
Cash Funds	449,747	461,500	490,703	490,703	
Board Meeting Costs	<u>12,103</u>	<u>15,412</u>	<u>23,500</u>	<u>23,500</u>	
Cash Funds	12,103	15,412	23,500	23,500	
Indirect Cost Assessment	<u>309,653</u>	<u>315,415</u>	<u>297,577</u>	<u>306,372</u>	
Cash Funds	309,653	315,415	297,577	306,372	
Program Costs	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	0	0	0	0	
Cash Funds	0	0	0	0	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	

TOTAL - (2) Division of Banking	3,498,095	3,828,474	4,628,661	4,587,456	(0.9%)
FTE	<u>33.3</u>	<u>35.0</u>	<u>40.0</u>	<u>40.0</u>	0.0%
General Fund	0	0	0	0	0.0%
Cash Funds	3,498,095	3,828,474	4,628,661	4,587,456	(0.9%)
Reappropriated Funds	0	0	0	0	0.0%
Federal Funds	0	0	0	0	0.0%

*Line item contains a decision item.

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	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	Request vs. Appropriation
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(3) CIVIL RIGHTS DIVISION

The Division of Civil Rights enforces Colorado's civil rights laws that prohibit discrimination in employment, housing, and public accommodations. The Division of Civil Rights is the only non-cash-funded division in the Department, relying on General Fund and federal funds.

Personal Services	<u>1,449,550</u>	<u>1,493,001</u>	<u>1,946,757</u>	<u>1,948,806</u>	
FTE	24.1	22.6	27.2	27.2	
General Fund	1,092,373	1,076,079	1,089,606	970,081	
Reappropriated Funds	357,177	416,922	432,054	551,579	
Federal Funds	0	0	425,097	427,146	
Operating Expenses	<u>65,863</u>	<u>65,973</u>	<u>105,460</u>	<u>105,460</u>	
General Fund	65,863	65,973	62,284	62,284	
Federal Funds	0	0	43,176	43,176	
Hearings Pursuant to Complaint	<u>17,000</u>	<u>14,998</u>	<u>18,000</u>	<u>18,000</u>	
General Fund	17,000	14,998	17,000	17,000	
Federal Funds	0	0	1,000	1,000	
Commission Meeting Costs	<u>5,174</u>	<u>4,812</u>	<u>12,374</u>	<u>12,374</u>	
General Fund	5,174	4,812	5,174	5,174	
Federal Funds	0	0	7,200	7,200	
Indirect Cost Assessment	<u>0</u>	<u>0</u>	<u>19,938</u>	<u>20,656</u>	
Cash Funds	0	0	0	718	
Federal Funds	0	0	19,938	19,938	
Federal Grants	<u>467,118</u>	<u>438,061</u>	<u>0</u>	<u>0</u>	
FTE	0.0	0.0	0.0	0.0	
Federal Funds	467,118	438,061	0	0	

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	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	Request vs. Appropriation
TOTAL - (3) Civil Rights Division	2,004,705	2,016,845	2,102,529	2,105,296	0.1%
<i>FTE</i>	<u>24.1</u>	<u>22.6</u>	<u>27.2</u>	<u>27.2</u>	<u>(0.0%)</u>
General Fund	1,180,410	1,161,862	1,174,064	1,054,539	(10.2%)
Cash Funds	0	0	0	718	0.0%
Reappropriated Funds	357,177	416,922	432,054	551,579	27.7%
Federal Funds	467,118	438,061	496,411	498,460	0.4%

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	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	Request vs. Appropriation
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(4) OFFICE OF CONSUMER COUNSEL

The Office of Consumer Council represents the interests of residential, small business, and agricultural consumers on cases before the Public Utility Commission (PUC). These cases involve proposed changes to rates, services, and policies in the areas of electric, gas, and telecommunications. The Office of Consumer Council (OCC) is structured as a separate division but funded by PUC cash funds.

Personal Services	<u>726,437</u>	<u>755,867</u>	<u>851,259</u>	<u>853,040</u>	
FTE	6.8	7.0	7.0	7.0	
Cash Funds	726,437	755,867	851,259	853,040	
Operating Expenses	<u>35,083</u>	<u>36,128</u>	<u>55,787</u>	<u>55,787</u>	
Cash Funds	35,083	36,128	55,787	55,787	
Indirect Cost Assessment	<u>54,189</u>	<u>55,197</u>	<u>52,076</u>	<u>53,725</u>	
Cash Funds	54,189	55,197	52,076	53,725	

TOTAL - (4) Office of Consumer Counsel	815,709	847,192	959,122	962,552	0.4%
FTE	<u>6.8</u>	<u>7.0</u>	<u>7.0</u>	<u>7.0</u>	0.0%
Cash Funds	815,709	847,192	959,122	962,552	0.4%

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(5) DIVISION OF FINANCIAL SERVICES

The Division Financial Services regulates state chartered credit unions; savings and loans associations; and life care institutions. The Division also administers the Public Deposit Protection Act; conducts onsite examinations for financial stability and compliance; and initiates enforcement action when appropriate. The Division also contains the five-member Financial Services Board.

Personal Services	<u>1,114,137</u>	<u>1,028,764</u>	<u>1,402,636</u>	<u>1,402,636</u>	
FTE	13.6	12.8	15.6	15.6	
Cash Funds	1,114,137	1,028,764	1,402,636	1,402,636	
Operating Expenses	<u>139,819</u>	<u>139,258</u>	<u>145,921</u>	<u>145,921</u>	
Cash Funds	139,819	139,258	145,921	145,921	
Indirect Cost Assessment	<u>100,637</u>	<u>123,011</u>	<u>116,055</u>	<u>119,485</u>	
Cash Funds	100,637	123,011	116,055	119,485	

TOTAL - (5) Division of Financial Services	1,354,593	1,291,033	1,664,612	1,668,042	0.2%
FTE	<u>13.6</u>	<u>12.8</u>	<u>15.6</u>	<u>15.6</u>	0.0%
Cash Funds	1,354,593	1,291,033	1,664,612	1,668,042	0.2%

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(6) DIVISION OF INSURANCE

The Division of Insurance regulates and licenses life, health, property and casualty, and other types of insurance companies and agents. The Division also conducts actuarial and financial solvency examinations, collects premium taxes, responds to consumer complaints, and regulates bail bond agents.

Personal Services	<u>5,654,468</u>	<u>5,299,286</u>	<u>6,289,137</u>	<u>6,272,154</u> *	
FTE	74.7	68.2	83.2	83.2	
Cash Funds	5,654,468	5,299,286	6,289,137	6,272,154	
Operating Expenses	<u>250,471</u>	<u>293,957</u>	<u>291,716</u>	<u>291,716</u>	
Cash Funds	250,471	293,957	291,716	291,716	
Out-of-State Travel Expenses	<u>21,079</u>	<u>1,656</u>	<u>100,000</u>	<u>100,000</u>	
Cash Funds	21,079	1,656	100,000	100,000	
Senior Health Counseling Program	<u>1,177,873</u>	<u>1,074,996</u>	<u>517,794</u>	<u>517,794</u>	
FTE	4.3	4.0	2.0	2.0	
Federal Funds	1,177,873	1,074,996	517,794	517,794	
Transfer to CAPCO Administration	<u>81,852</u>	<u>84,036</u>	<u>85,291</u>	<u>85,291</u>	
Cash Funds	81,852	84,036	85,291	85,291	
Indirect Cost Assessment	<u>641,756</u>	<u>656,063</u>	<u>698,660</u>	<u>719,823</u>	
Cash Funds	641,756	656,063	618,959	637,252	
Federal Funds	0	0	79,701	82,571	

TOTAL - (6) Division of Insurance	7,827,499	7,409,994	7,982,598	7,986,778	0.1%
FTE	<u>79.0</u>	<u>72.2</u>	<u>85.2</u>	<u>85.2</u>	0.0%
Cash Funds	6,649,626	6,334,998	7,385,103	7,386,413	0.0%
Federal Funds	1,177,873	1,074,996	597,495	600,365	0.5%

*Line item contains a decision item.

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(7) PUBLIC UTILITIES COMMISSION

The Public Utilities Commission regulates the rates and services of fixed utilities and transportation utilities. Additionally, the PUC administers several programs including: the Colorado Telecommunications High Cost Program, Low Income Telephone Assistance Program, and the Disabled Telephone Users Program.

Personal Services	<u>7,995,810</u>	<u>10,073,942</u>	<u>9,494,686</u>	<u>9,497,177</u>	
FTE	88.7	82.1	97.3	97.3	
General Fund	(626)	0	0	0	
Cash Funds	7,996,436	10,073,942	9,494,686	9,497,177	
Operating Expenses	<u>342,219</u>	<u>326,120</u>	<u>1,074,473</u>	<u>839,273</u>	
Cash Funds	342,219	326,120	834,473	594,473	
Reappropriated Funds	0	0	240,000	244,800	
Expert Testimony	<u>24,999</u>	<u>0</u>	<u>25,000</u>	<u>25,000</u>	
Cash Funds	24,999	0	25,000	25,000	
Disabled Telephone Users Fund Payments	<u>1,264,387</u>	<u>1,278,825</u>	<u>1,900,542</u>	<u>1,900,542</u>	
Cash Funds	1,264,387	1,278,825	1,900,542	1,900,542	
Transfer to Reading Services for the Blind Cash Fund	<u>360,000</u>	<u>360,000</u>	<u>360,000</u>	<u>360,000</u>	
Cash Funds	360,000	360,000	360,000	360,000	
Commission for the Deaf and Hard of Hearing Cash Fund	<u>1,102,305</u>	<u>1,073,317</u>	<u>1,185,596</u>	<u>1,285,037</u>	
Cash Funds	1,102,305	1,073,317	1,185,596	1,285,037	
Colorado Bureau of Investigation Background Checks					
Pass-through	<u>68,024</u>	<u>55,024</u>	<u>104,377</u>	<u>104,377</u>	
Cash Funds	68,024	55,024	104,377	104,377	

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	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	Request vs. Appropriation
Indirect Cost Assessment	<u>721,172</u>	<u>766,248</u>	<u>723,855</u>	<u>745,248</u>	
Cash Funds	721,172	766,248	723,855	745,248	
TOTAL - (7) Public Utilities Commission	11,878,916	13,933,476	14,868,529	14,756,654	(0.8%)
<i>FTE</i>	<u>88.7</u>	<u>82.1</u>	<u>97.3</u>	<u>97.3</u>	0.0%
General Fund	(626)	0	0	0	0.0%
Cash Funds	11,879,542	13,933,476	14,628,529	14,511,854	(0.8%)
Reappropriated Funds	0	0	240,000	244,800	2.0%

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(8) DIVISION OF REAL ESTATE

The Division of Real Estate licenses real estate agents, appraisers, and mortgage loan originators, registers mortgage companies and homeowners associations, and administers the conservation easement tax credit certification programs. The Division also contains the five-member Real Estate Commission and the seven-member Appraisal Board.

Personal Services	<u>3,560,383</u>	<u>3,816,919</u>	<u>4,011,556</u>	<u>4,014,154</u>	
FTE	48.3	50.9	55.9	55.9	
Cash Funds	3,560,383	3,816,919	4,011,556	4,014,154	
Operating Expenses	<u>158,630</u>	<u>143,286</u>	<u>244,557</u>	<u>244,557</u>	
Cash Funds	158,630	143,286	244,557	244,557	
Commission Meeting Costs	<u>26,504</u>	<u>20,345</u>	<u>38,836</u>	<u>38,836</u>	
Cash Funds	26,504	20,345	38,836	38,836	
Hearings Pursuant to Complaint	<u>0</u>	<u>142</u>	<u>4,000</u>	<u>4,000</u>	
Cash Funds	0	142	4,000	4,000	
Mortgage Broker Consumer Protection	<u>360,955</u>	<u>388,345</u>	<u>399,382</u>	<u>399,382</u>	
Cash Funds	360,955	388,345	399,382	399,382	
Indirect Cost Assessment	<u>432,738</u>	<u>440,791</u>	<u>415,863</u>	<u>428,154</u>	
Cash Funds	432,738	440,791	415,863	428,154	
TOTAL - (8) Division of Real Estate	4,539,210	4,809,828	5,114,194	5,129,083	0.3%
FTE	<u>48.3</u>	<u>50.9</u>	<u>55.9</u>	<u>55.9</u>	0.0%
Cash Funds	4,539,210	4,809,828	5,114,194	5,129,083	0.3%

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(9) DIVISION OF PROFESSIONS AND OCCUPATIONS

The Division of Professions and Occupations regulates licensees in over 30 professions and occupations to ensure a basic level of competence among licensees and to protect the public welfare. The Division also licenses or approves qualified facilities, programs, and equipment.

Personal Services	<u>12,846,052</u>	<u>13,488,337</u>	<u>14,487,241</u>	<u>14,697,086</u> *
FTE	183.9	188.8	201.5	203.8
General Fund	0	0	0	0
Cash Funds	12,578,276	13,144,533	13,893,790	14,103,635
Reappropriated Funds	267,776	343,804	593,451	593,451
Operating Expenses	<u>1,145,961</u>	<u>964,271</u>	<u>1,563,631</u>	<u>1,550,075</u> *
Cash Funds	1,145,961	964,271	1,563,631	1,550,075
Office of Expedited Settlement Program Costs	<u>404,186</u>	<u>463,750</u>	<u>400,223</u>	<u>400,223</u>
FTE	5.0	5.0	5.0	5.0
General Fund	0	0	0	0
Cash Funds	404,186	463,750	400,223	400,223
Reappropriated Funds	0	0	0	0
Federal Funds	0	0	0	0
Hearings Pursuant to Complaint	<u>179,514</u>	<u>202,210</u>	<u>307,075</u>	<u>307,075</u>
Cash Funds	179,514	202,210	307,075	307,075
Payments to Department of Health Care Policy and Financing	<u>0</u>	<u>0</u>	<u>14,652</u>	<u>14,652</u>
General Fund	0	0	0	0
Cash Funds	0	0	14,652	14,652
Reappropriated Funds	0	0	0	0
Federal Funds	0	0	0	0

*Line item contains a decision item.

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	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	Request vs. Appropriation
Indirect Cost Assessment	<u>1,580,005</u>	<u>1,592,055</u>	<u>1,516,152</u>	<u>1,560,961</u>	
Cash Funds	1,580,005	1,592,055	1,516,152	1,560,961	
Legislation Appropriated at the Division Level	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	0	0	0	0	
Cash Funds	0	0	0	0	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	
TOTAL - (9) Division of Professions and Occupations	16,155,718	16,710,623	18,288,974	18,530,072	1.3%
<i>FTE</i>	<u>188.9</u>	<u>193.8</u>	<u>206.5</u>	<u>208.8</u>	<u>1.1%</u>
General Fund	0	0	0	0	0.0%
Cash Funds	15,887,942	16,366,819	17,695,523	17,936,621	1.4%
Reappropriated Funds	267,776	343,804	593,451	593,451	0.0%
Federal Funds	0	0	0	0	0.0%

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(10) DIVISION OF SECURITIES

The Division of Securities monitors the conduct of broker-dealers and sales representatives; investigates citizen complaints; and investigates indicators of investment fraud. The Division also enforces programs including: Colorado Securities Act; Colorado Commodity Code, Colorado Municipal Bond Supervision Act, and the Local Government Investment Pool Trust Fund Administration and Enforcement Act.

Personal Services	<u>1,926,205</u>	<u>2,097,456</u>	<u>2,288,371</u>	<u>2,288,451</u>	
FTE	23.0	25.0	24.0	24.0	
Cash Funds	1,926,205	2,097,456	2,288,371	2,288,451	
Operating Expenses	<u>101,665</u>	<u>64,537</u>	<u>58,999</u>	<u>58,999</u>	
Cash Funds	101,665	64,537	58,999	58,999	
Hearings Pursuant to Complaint	<u>15,560</u>	<u>18,229</u>	<u>19,594</u>	<u>19,594</u>	
Cash Funds	15,560	18,229	19,594	19,594	
Board Meeting Costs	<u>836</u>	<u>2,320</u>	<u>4,500</u>	<u>4,500</u>	
Cash Funds	836	2,320	4,500	4,500	
Securities Fraud Prosecution	<u>935,415</u>	<u>937,897</u>	<u>980,254</u>	<u>980,254</u>	
Cash Funds	935,415	937,897	980,254	980,254	
Indirect Cost Assessment	<u>185,792</u>	<u>189,249</u>	<u>178,546</u>	<u>183,823</u>	
Cash Funds	185,792	189,249	178,546	183,823	
TOTAL - (10) Division of Securities	3,165,473	3,309,688	3,530,264	3,535,621	0.2%
FTE	<u>23.0</u>	<u>25.0</u>	<u>24.0</u>	<u>24.0</u>	0.0%
Cash Funds	3,165,473	3,309,688	3,530,264	3,535,621	0.2%

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	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	Request vs. Appropriation
TOTAL - Department of Regulatory Agencies	79,560,683	81,917,234	86,142,731	91,435,342	6.1%
<i>FTE</i>	<u>533.6</u>	<u>529.1</u>	<u>588.2</u>	<u>590.5</u>	<u>0.4%</u>
General Fund	1,877,051	1,882,683	1,769,297	1,865,853	5.5%
Cash Funds	71,748,721	73,927,031	78,137,343	82,893,899	6.1%
Reappropriated Funds	4,289,920	4,508,615	4,852,173	5,317,274	9.6%
Federal Funds	1,644,991	1,598,905	1,383,918	1,358,316	(1.8%)

APPENDIX B

RECENT LEGISLATION AFFECTING DEPARTMENT BUDGET

2015 SESSION BILLS

S.B. 15-104 (Sunset Co Division Of Securities): Continues the Division of Securities until September 1, 2026 and repeals the \$25 license fee cap for sales representatives and investment advisor representatives.

S.B. 15-105 (Sunset Review Respiratory Therapy Practice Act): Implements the recommendations from the 2014 sunset review for the licensing of respiratory therapists and extends the program until September 1, 2024.

S.B. 15-106 (Sunset Barber & Cosmetologist Act & Committee): Continues the Barber and Cosmetologist Act and the Cosmetology Advisory Committee until September 1, 2026. The bill also adds a sixth member to the committee and requires at least one of the committee members to own or operate a school that provides training for licensees in the industry. Appropriates \$8,506 cash funds from the Division of Professions and Occupations Cash Fund to the Department and reappropriates those funds to the Department of Law for the purchase of legal services.

S.B. 15-110 (Sunset Mortuary Science Regulation): Continues the registration of funeral homes and crematories by the Division of Professions and Occupations until July 1, 2024. Requires the institution of a chain of command for human remains and clarifies the definitions of “crematory” and “funeral establishment.” Clarifies that a funeral establishment has 24-hour deadline to embalm, refrigerate, cremate, bury, or entomb human remains after taking custody. Appropriates \$4,726 cash funds from the Division of Professions and Occupations Cash Fund to the Department and reappropriates those funds to the Department of Law for the purchase of legal services.

S.B. 15-119 (Sunset Pesticide Applicators): Continues the Pesticide Applicators’ Act until September 1, 2022 and implements the recommendations of the sunset review and report on the regulation of pesticide applicators.

S.B. 15-210 (Title Insurance Commission): Creates the Title Commission in the Division of Insurance to serve as an advisory body to the Commissioner of Insurance in matters of title insurance. The commission may propose rules, bulletins, position statements, and consumer protections to the commissioner. It may also consult with the commissioner or his or her designee about final agency actions related to enforcement, licensing, or market conduct actions. At each quarterly meeting, the commission will be provided with a written summary of complaints investigated and closed by the division without action. The bill appropriates \$50,000 cash funds from the Division of Insurance Cash Fund to the Division of Insurance for implementation.

S.B. 15-234 (Long Bill): General appropriations act for FY 2015-16.

S.B. 15-271 (Continuation Of The Office Of Consumer Counsel): Continues the Office of the Consumer Counsel (OCC) in the Department until September 1, 2021 and implements recommendations from the sunset review.

H.B. 15-1246 (Crowdfund Intrastate Securities On-Line): Allows Colorado residents to invest in Colorado companies through online intermediaries under a simplified regulatory regime. To be eligible to crowdfund an interstate equity offering, a security issuer must be a business entity organized under Colorado law that meets certain requirements. The bill establishes regulatory requirements for on-line intermediaries, including how they will be compensated.

H.B. 15-1309 (Protective Restorations By Dental Hygienists): Allows dental hygienists to receive a permit from the Colorado Dental Board to perform interim therapeutic restorations. Establishes an advisory committee to develop standards for interim therapeutic restorations. Places various restrictions on dental hygienists performing interim therapeutic restorations, including prohibiting the use of local anesthesia and requiring that a dentist first provide the diagnosis, treatment plan, and instruction for the dental hygienist to perform the restoration. Appropriations include \$37,940 cash funds from the Division of Professions and Occupations to the Department for FY 2015-16, including \$30,514 for personal services and \$7,426 for the purchase of legal services from the Department of Law. The bill also appropriates \$37,606 to the Department of Health Care Policy and Financing for FY 2015-16, including \$10,815 General Fund and \$833 cash funds from various cash funds. This provision also states the Department of Health Care Policy and Financing will receive \$25,958 federal funds to implement the act.

H.B. 15-1343 (Streamline Hoa Manager Licensing Requirements): Modifies the Community Association Manager (CAM) Licensing Program, including: amending the definition of CAM practices; defining and setting limits on CAM apprentices; modifying examination requirements so that licensees who hold a Certified Manager of Community Associations designation are no longer required to pass the general portion of the exam; requiring a credentialed applicant from another state to complete only the Colorado law portion of the exam; and repealing the Community Association Manager Licensing Cash Fund and transferring those funds to the Division of Real Estate Cash Fund on July 1, 2015. Appropriates \$47,250 from the Division of Real Estate Cash Fund to the Division of Real Estate for operating expenses.

2016 SESSION BILLS

S.B. 16-087 (Highway-Rail Crossing Signalization Fund Funding): Requires all or a portion of 3.0 percent of the fees collected from public utilities by the Department of Revenue to be credited to the Highway-rail Crossing Signalization Fund. For the 2016-17 fiscal year, \$240,000 cash funds from the Highway User Tax Fund are appropriated to the Highway-rail Crossing Signalization Fund and \$240,000 reappropriated funds are appropriated to the Public Utilities Commissions. For the 2017-18 fiscal year and for each fiscal year thereafter, the lesser of all of the fees or an amount of the fees equal to \$240,000 plus a cumulative inflation adjustment of 2% for each fiscal year beginning with the 2017-18 fiscal year must be credited to the Highway-rail Crossing Signalization Fund and any remaining fees shall be credited to the General Fund.

S.B. 16-161 (Regulate Athletic Trainers): Requires athletic trainers to be registered with the Division of Professions and Occupations (DPO) and reinstates, with some modifications, the Athletic Trainer Practice Act as it existed prior to its 2015 repeal. The modifications include:

- Title protection for the abbreviation “A.T.C.” to be used only by registered athletic trainers;
- Requires evidence of current national certification at registration, and, if required by the DPO director, at renewal; and
- Adds as grounds for discipline the failure of an athletic trainer to practice pursuant to the direction of a Colorado-licensed or otherwise lawfully practicing health care professional and the failure to practice in a manner that meets generally accepted standards of athletic training practice.

Appropriates \$25,134 cash funds from the Division of Professions and Occupations Cash Fund to the Department for FY 2016-17, which is based on the assumption that the Department will require an additional 0.3 FTE. The bill also provides \$10,071 reappropriated funds to the Department of Law for the provision of legal services, which is based on the assumption that the Department will require an additional 0.1 FTE.

H.B. 16-1047 (Interstate Medical Licensure Compact): Enacts the Interstate Medical Licensure Compact (compact) and authorizes the Governor to enter into the compact on behalf of Colorado. Under the compact, physicians licensed in a member state may obtain an expedited license in other member states, allowing them to practice in Colorado or in another member state. The compact is governed by the Interstate Medical Licensure Commission (interstate commission). The compact allows member states to investigate and discipline physicians, including as part of joint investigations with other member states. The interstate commission is required to maintain a database of all licensed physicians in member states. Member states are required to report certain disciplinary actions and complaints against licensed physicians to the interstate commission. In addition, member states are required to share information about disciplinary actions and complaints at the request of another member state. The bill appropriates \$331,019 cash funds to the Department from the Division of Professions and Occupations Cash Fund and 0.3 FTE. Additionally, the amendment provides:

- \$113,300 reappropriated funds to the Office of the Governor for use by the Office of Information Technology;
- \$47,505 reappropriated funds and 0.1 FTE to the Department of Law for the provision of legal services; and
- \$31,600 reappropriated funds and 0.3 FTE to the Department of Public Safety for the provision of background checks.

H.B. 16-1160 (Sunset Surgical Assistants Surgical Technicians): Continues the regulation of surgical assistants and surgical technologists until September 1, 2021. These health professions are regulated by the Division of Professions and Occupations. The bill also requires that surgical assistants and technologists have a fingerprint based background check prior to being registered. Employers of surgical assistants and technicians must report positive drug tests involving these employees to DORA. Appropriates:

- \$114,188 cash funds and 0.6 FTE to the Colorado Bureau of Investigation's Identification Unit in the Department of Public Safety for background checks;
- \$32,342 cash funds and 0.3 FTE to the Division of Professions and Occupations for personal services and the purchase of legal services; and
- \$15,202 reappropriated funds and 0.1 FTE to the Department of Law for the provision of legal services.

H.B. 16-1186 (Map-21 Rail Fixed Guideway Safety Fund Grant Match): Requires a portion of 3.0 percent of the fees collected from public utilities by the Department of Revenue to be credited to the Public Utilities Fixed Utility Fund (FUF). Up to \$150,000 of the fees will be diverted to the FUF with any remainder being credited to the General Fund. This diversion will occur in FY 2016-17 and any fiscal year thereafter in which a grant match is required for the receipt of federal money under the federal Moving Ahead for Progress in the 21st (MAP- 21) Century Act. The bill appropriates \$150,000 cash funds from the FUF to the Department for FY 2016-17.

H.B. 16-1197 (Military Veteran Occupational Credentials): Requires each state agency that regulates a profession or occupation to evaluate and provide appropriate credit toward licensing and certification for military experience. Each state agency may consult with any military official, state agency, or post-secondary educational institution, and each post-secondary educational institution is obligated to cooperate. Appropriates \$73,551 cash funds and 0.9 FTE to the Department. Provides \$2,850 reappropriated funds to the Department of Law for the provision of legal services.

H.B. 16-1249 (Supplemental Bill): Supplemental appropriation to the Department to modify FY 2015-16 appropriations included in the FY 2015-16 Long Bill (S.B. 15-234).

H.B. 16-1324 (Veterinary Access Compounded Pharmaceutical Drugs): Authorizes a compounding pharmacy that possesses a valid manufacturing registration from the federal Drug Enforcement Administration to compound and distribute a drug to a veterinarian for office use or office stock. Additionally, the bill allows a veterinarian to administer to an animal patient a compounded drug maintained for office use and to dispense to a human client for later administration to an animal patient a compound drug. The Colorado Board of Pharmacy (board) may authorize and license a pharmacy outlet located outside of Colorado to provide compounded veterinary drugs for office use or office stock. Nonresident pharmacy licensees must provide the board with a copy of the most recent state inspection report and information about their state's inspection procedure and criteria for board approval as satisfactorily demonstrating proof of compliance with Colorado regulations. In addition, the nonresident pharmacy must pay for a third-party inspection of its facilities to be submitted to the board. The board may promulgate rules concerning its review of these reports, and as necessary concerning compounded veterinary pharmaceuticals. The bill appropriates \$12,941 cash funds to the Division of Professions and Occupations.

H.B. 16-1404 (Regulate Fantasy Contests): Establishes the registration of small fantasy contest operators and the licensure of all other large fantasy contest operators by the Division of Professions and Occupations. The bill defines a fantasy contest operator as an entity that offers a fantasy contest with an entry fee and cash prize to the public. The bill appropriates \$77,546 cash funds and 0.9 FTE to the Division of Professions and Occupations, \$9,501 reappropriated funds to

the Department of Law for the provision of legal services, and \$527 to the Department of Public Safety for background checks.

H.B. 16-1405 (Long Bill): General appropriations act for FY 2016-17.

H.B. 16-1414 (Funding Base For Telecom Relay Services): Directs the Public Utilities Commission (PUC) to promulgate rules to apply a monthly surcharge on all mobile wireless and Voice-over-Internet Protocol (VoIP) subscribers in Colorado. The surcharge currently applies only to landlines and will be deposited into the renamed Colorado Telephone Users with Disabilities Fund. The fund currently provides two-way communication for individuals with hearing or speech disabilities. The additional surcharge revenue will be used to cover annual appropriations to the Reading Services for the Blind Cash Fund in the Colorado Department of Education (CDE) and the Colorado Commission for the Deaf and Hard of Hearing Cash Fund in the Department of Human Services (DHS). In addition, this bill removes the 3.0 percent statutory cap on the PUC's administrative costs associated with developing, implementing, and administering telecommunications relay services. The bill appropriates \$172,778 cash funds for FY 2016-17 from the Colorado Telephone Users with Disabilities Fund to the Colorado Commission for the Deaf and Hard of Hearing Cash Fund, which is within the Department of Regulatory Agencies. The bill also provides 2.0 FTE and \$172,778 from reappropriated funds in the Colorado Commission for the Deaf and Hard of Hearing Cash Fund to the Department of Human Services for FY 2016-17 for use by the Colorado Commission for the Deaf and Hard of Hearing.

APPENDIX C FOOTNOTES AND INFORMATION REQUESTS

UPDATE ON LONG BILL FOOTNOTES

There were no footnotes from FY 2016-17.

UPDATE ON REQUESTS FOR INFORMATION

There were no requests for information from FY 2016-17.

APPENDIX D

DEPARTMENT ANNUAL PERFORMANCE REPORT

Pursuant to Section 2-7-205 (1) (a) (I), C.R.S., the Office of State Planning and Budgeting is required to publish an Annual Performance Report for the Department of Regulatory Agencies by November 1 of each year. This report is to include a summary of the Department's performance plan and most recent performance evaluation. For consideration by the Joint Budget Committee in prioritizing the Department's budget request, the FY 2015-16 report dated October 2016 can be found at the following link:

<https://drive.google.com/file/d/0B8ztLiGduUWbWVFXSXTMjU0NFE/view>

Pursuant to Section 2-7-204 (3) (a) (I), C.R.S., the Department of Regulatory Agencies is required to develop a performance plan and submit that plan to the Joint Budget Committee and appropriate Joint Committee of Reference by July 1 of each year. For consideration by the Joint Budget Committee in prioritizing the Department's budget request, the FY 2016-17 plan dated June 24, 2016 can be found at the following link:

<https://drive.google.com/file/d/0B8ztLiGduUWbWXAUGp1Mzl5aUk/view>

APPENDIX E

2016 SUNSET REVIEWS

Sunset Review	Key Recommendations
Bingo and Raffles Law and the Bingo-Raffle Advisory Board	<ol style="list-style-type: none"> 1. Continue the Bingo and Raffles Law and the Board-Raffle Advisory Board for nine years, until 2026. 2. Revise section 12-9-201(2)(i), Colorado Revised Statutes, to reduce the number of times that the Board must meet from six times to at least twice a year.
Cash-Bonding and Professional Cash-Bail Agents	<ol style="list-style-type: none"> 1. Continue the regulation of cash-bonding and professional cash-bail agents for nine years, until 2026. 2. Authorize the Commissioner to release a deed of trust if the bail bonding agent refuses or is unable to release the lien.
Colorado Fair Debt Collection Practices Act	<ol style="list-style-type: none"> 1. Continue the Colorado Fair Debt Collection Practices Act for 11 years until 2028. 2. Define what is expected of an individual who purchases, sells, or attempts to collect on purchased debt.
Colorado Professional Boxing Safety Act	<ol style="list-style-type: none"> 1. Continue the Colorado Professional Boxing Safety Act for nine years, until 2026. 2. Redefine “Director” to mean the Division Director or his or her designee, create a new definition for “Office Director,” and clarify that the Division Director has the authority to recognize boxing sanctioning authorities.
Division of Insurance	<ol style="list-style-type: none"> 1. Continue the Division of Insurance for 13 years, until 2030. 2. Authorize the Commissioner to conduct examinations of preneed sellers periodically or as often as the Commissioner deems necessary. 3. Require title insurance companies and title agencies to participate in a recovery fund in case of defalcation.
Landscape Architects Professional Licensing Act	<ol style="list-style-type: none"> 1. Continue the Act for 11 years, until 2028. 2. Sunset the Board.
Management of Domestic Violence Offenders	<ol style="list-style-type: none"> 1. Continue the management of domestic violence offenders and the DVOMB for five years, until 2022. 2. Amend the qualifications of the mental health professionals serving on the DVOMB to repeal the profession-specific limitations, to require three of the five to be licensed and to require three of the five to be approved treatment providers and the remaining two to have experience in the field of domestic violence. Additionally, name the Executive Director of Public Safety as the appointing authority, rather than the Executive Director of the Department of Regulatory Agencies.
Motor Vehicle Dealer Board and the Regulation of Powersports Vehicles	<ol style="list-style-type: none"> 1. Continue the Board for seven years, until 2024. 2. Repeal the prohibition on Sunday sales.
Motorcycle Operator Safety Training	<ol style="list-style-type: none"> 1. Continue the MOST Program for five years, until 2022.
Naturopathic Doctor Act	<ol style="list-style-type: none"> 1. Continue the regulation of naturopathic doctors for five years, until 2022. 2. Require naturopathic doctors to report abuse or neglect of a child and anyone who is elderly or intellectually or developmentally disabled.
Real Estate Brokers and Subdivision Developers	<ol style="list-style-type: none"> 1. Continue Parts 1, 2, and 4, of Article 61, Title 12, Colorado Revised Statutes, for nine years until 2026. 2. Create a property manager endorsement that requires prescribed education and financial surety as conditions for the endorsement. 3. Strengthen the requirements to become an employing broker by directing the Commission to establish, by rule, the number of transactions that must be completed in order to become an employing broker.
Speech-language Pathology Practice Act	<ol style="list-style-type: none"> 1. Continue the Speech-language Pathology Practice Act for five years, until 2022. 2. Repeal statutory references to the American Speech-Language-Hearing Association.



JBC Staff FY 2017-18 Budget Briefing Department of Regulatory Agencies

Presented by:

Vance Roper, JBC Staff

December 06, 2016

Legal Service Expenditures

	FY 12-13 Actual	FY 13-14 Actual	FY 14-15 Actual	FY 15-16 Actual	FY 16-17 Approp.
Legal Services	\$8,165,123	\$9,767,656	\$10,049,506	\$8,498,999	\$10,539,009
Legal Services Hours	105,697	107,243	101,500	89,454	110,879
Change in Hours	(1,138)	1,545	(5,743)	(12,046)	21,425
Percent Change in Hours	(2.2%)	1.5%	(5.4%)	(11.9%)	24.0%
Percent of Department Total	10.4%	12.0%	12.6%	10.8%	12.2%
Dept. of Law Blended Legal Rate	\$77.25	\$91.08	\$99.01	\$95.01	\$95.05
Dept. of Law Total Legal Services to State Agencies	\$26,489,283	\$33,148,975	\$40,732,252	\$39,045,595	\$40,469,439
DORA Percent of State Agencies Total	30.8%	29.5%	24.7%	21.8%	26.0%

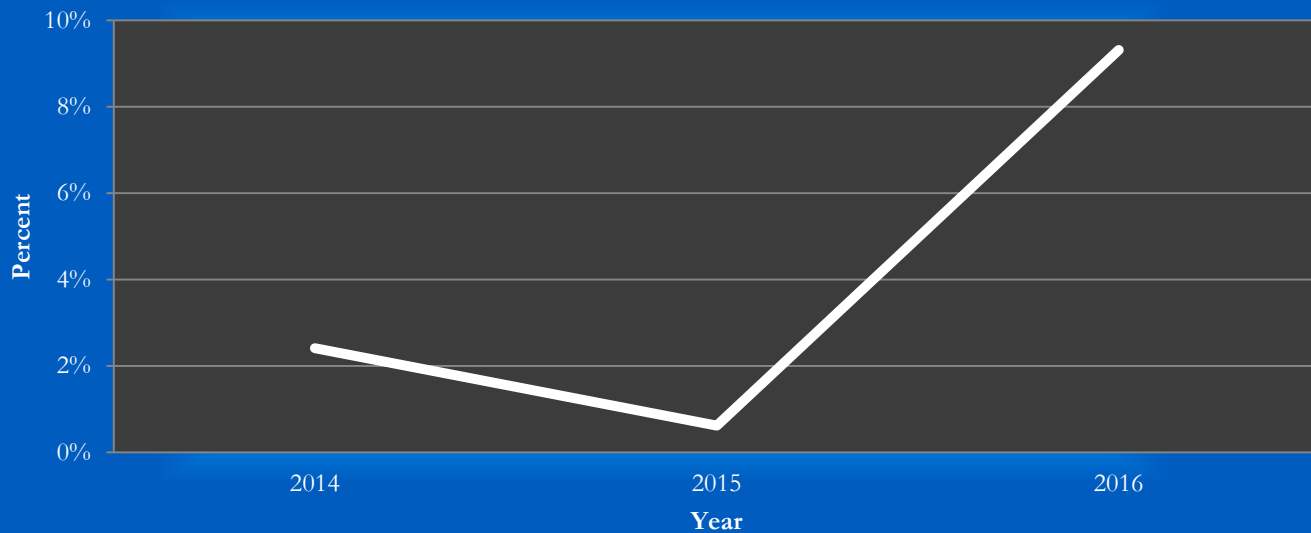
Legal Service Expenditures by Top Five Divisions

	FY 11-12 Actual	FY 12-13 Actual	FY 13-14 Actual	FY 14-15 Actual	FY 15-16 Actual
Professions & Occupations	\$3,336,464	\$3,426,052	\$3,806,424	\$4,186,650	\$3,400,984
PUC + OCC	1,835,306	1,759,139	2,358,562	2,857,499	2,461,920
Insurance	787,757	837,152	942,438	980,635	966,702
Real Estate	743,813	594,427	918,930	898,837	716,746
Top Five Subtotal	6,703,340	6,616,770	8,026,354	8,923,620	7,546,352
Department Total	\$8,088,494	\$8,165,123	\$9,767,656	\$10,049,506	\$8,498,999
Top Five Percent of Total	82.88%	81.04%	82.17%	88.80%	88.79%

Impact of Other Legislation

Session	No. of Bills	General Fund	Cash Funds	Reapprop. Funds	Total	FTE
2007	22	\$42,290	\$2,670,098	\$66,962	\$2,737,060	15.3
2008	19	149,205	2,233,416	0	2,233,416	17.3
2009	10	0	947,305	0	947,305	7.5
2010	13	0	507,245	593,333	1,100,578	6.4
2011	11	0	954,420	0	954,420	6.8
2012	5	0	378,246	0	378,246	2
2013	16	0	334,518	0	334,518	12.8
2014	10	0	802,770	0	802,770	7
2015	5	0	148,422	0	148,422	0
2016	8	0	875,311	0	0	2.7
Average	11.9	\$19,150	\$985,175	\$66,030	\$963,674	7.8

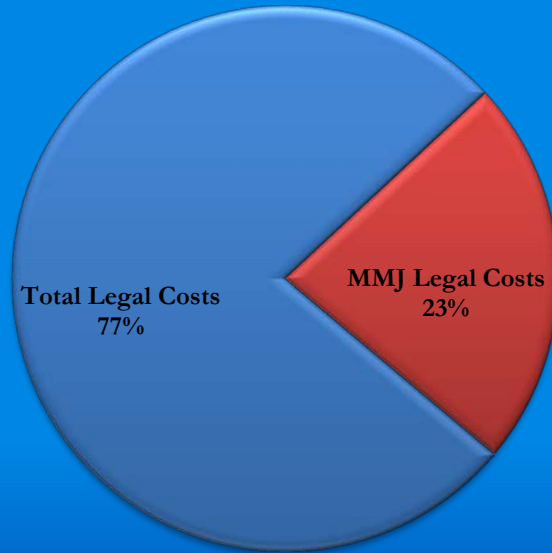
Percent of MMJ Cases



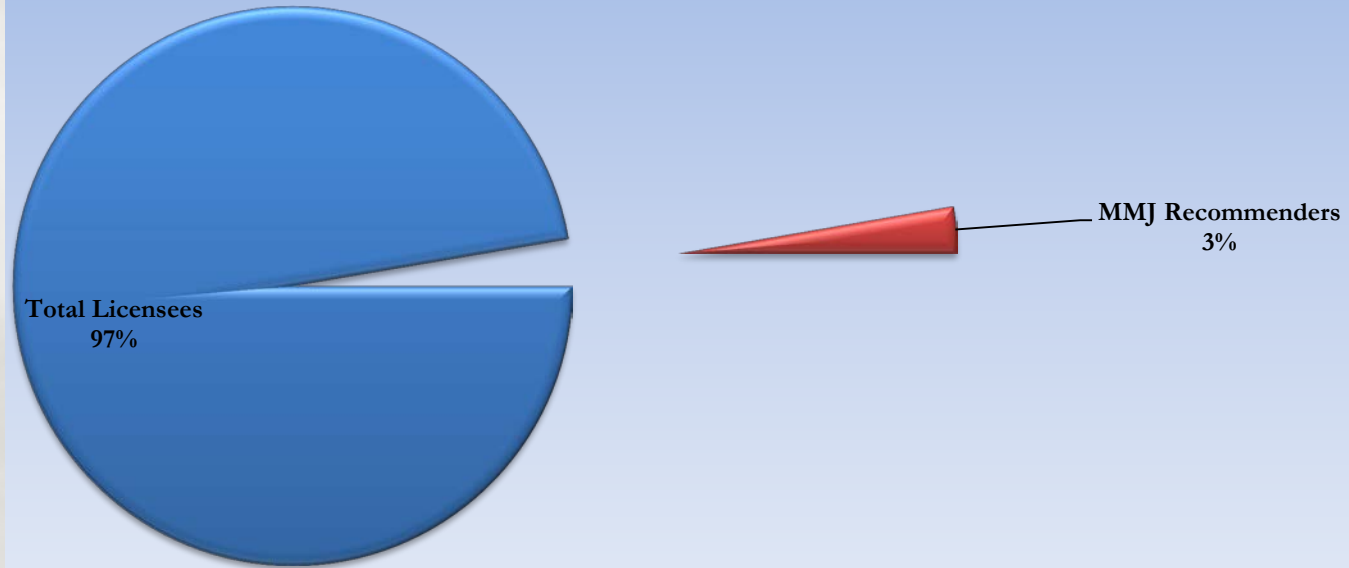
Disciplinary Case Breakdown



Legal Costs Year to Date



License Breakdown



Five Year Cost Comparison

	MCTF	Additional Fee for All	Additional Fee for MMJ
Current	\$0	\$0	\$0
FY 2017-18	317,956	10.26	371
FY 2018-19	278,253	10.26	371
FY 2019-20	278,253	10.26	371
FY 2020-21	278,253	10.26	371
FY 2021-22	278,253	10.26	371
Total	\$1,430,968	\$51.30	\$1,855

Anticipated Lease Rate Schedule

Fiscal Year	Rate*	Total Cost	Max Rent Credit/SF	Effective Rate	Total Required Appropriation
2016-17**	\$24.35	\$1,009,088	(\$5.88)	\$18.47	\$765,415
2017-18	24.85	4,119,235	(5.88)	18.97	3,144,543
2018-19	25.35	4,202,117	(5.88)	19.47	3,227,425
2019-20	25.85	4,284,999	(5.88)	19.97	3,310,307
2020-21	26.35	4,367,881	(5.88)	20.47	3,393,189
2021-22	26.85	4,450,763		26.85	4,450,763
2022-23	27.35	4,533,645		27.35	4,533,645
2023-24	27.85	4,616,527		27.85	4,616,527
2024-25	28.35	4,699,409		28.35	4,699,409
2025-26	28.85	4,782,291		28.85	4,782,291
2026-27**	29.35	3,648,880		29.35	3,648,880
Total		\$44,714,839			\$40,572,397

*Rates include base rate of \$16.50/SF escalating at \$0.50 annually, plus estimated operating expenses of \$7.85/SF in each year

**Only 3 months of occupancy in FY 16-17 and 9 months of occupancy in FY 26-27 estimated here due to rent abatement in Year 1

Max Lease Rate Schedule Including Operating Costs

Fiscal Year	Base Rate	Base Rate Annual Increase	Operating Cost Base Rate	Max. Operating Cost Annual Increase	Op. Cost w/ 7.0 percent increase cap	Rent Credit	Net Lease Rate
	A	B	C	D	E	F	A+B+E-F
2016-17	\$16.50	\$0.00	\$7.85	0%	\$7.85	(\$5.88)	\$18.47
2017-18	16.50	0.50	7.85	7%	8.40	(5.88)	19.52
2018-19	16.50	1.00	7.85	7%	8.99	(5.88)	20.61
2019-20	16.50	1.50	7.85	7%	9.62	(5.88)	21.74
2020-21	16.50	2.00	7.85	7%	10.29	(5.88)	22.91
2021-22	16.50	2.50	7.85	7%	11.01		30.01
2022-23	16.50	3.00	7.85	7%	11.78		31.28
2023-24	16.50	3.50	7.85	7%	12.61		32.61
2024-25	16.50	4.00	7.85	7%	13.49		33.99
2025-26	16.50	4.50	7.85	7%	14.43		35.43
2026-27	\$16.50	\$5.00	\$7.85	7%	\$15.44		\$36.94

New Anticipated Lease Rate Schedule

Fiscal Year	Rate*	Total Cost	Max Rent Credit/SF	Effective Rate	Total Required Appropriation
2016-17**	\$24.35	\$1,009,088	(\$5.88)	\$18.47	\$765,415
2017-18	24.85	4,119,235	(5.88)	18.97	2,684,829
2018-19	25.35	4,202,117	(5.88)	19.47	3,227,425
2019-20	25.85	4,284,999	(5.88)	19.97	3,310,307
2020-21	26.35	4,367,881	(5.88)	20.47	3,393,189
2021-22	26.85	4,450,763		26.85	4,450,763
2022-23	27.35	4,533,645		27.35	4,533,645
2023-24	27.85	4,616,527		27.85	4,616,527
2024-25	28.35	4,699,409		28.35	4,699,409
2025-26	28.85	4,782,291		28.85	4,782,291
2026-27**	29.35	3,648,880		29.35	3,648,880
Total		\$44,714,839			\$40,112,683

*Rates include base rate of \$16.50/SF escalating at \$0.50 annually, plus estimated operating expenses of \$7.85/SF in each year

**Only 3 months of occupancy in FY 16-17 and 9 months of occupancy in FY 26-27 estimated here due to rent abatement in Year 1

Sunrise Process



**Submit
Application**

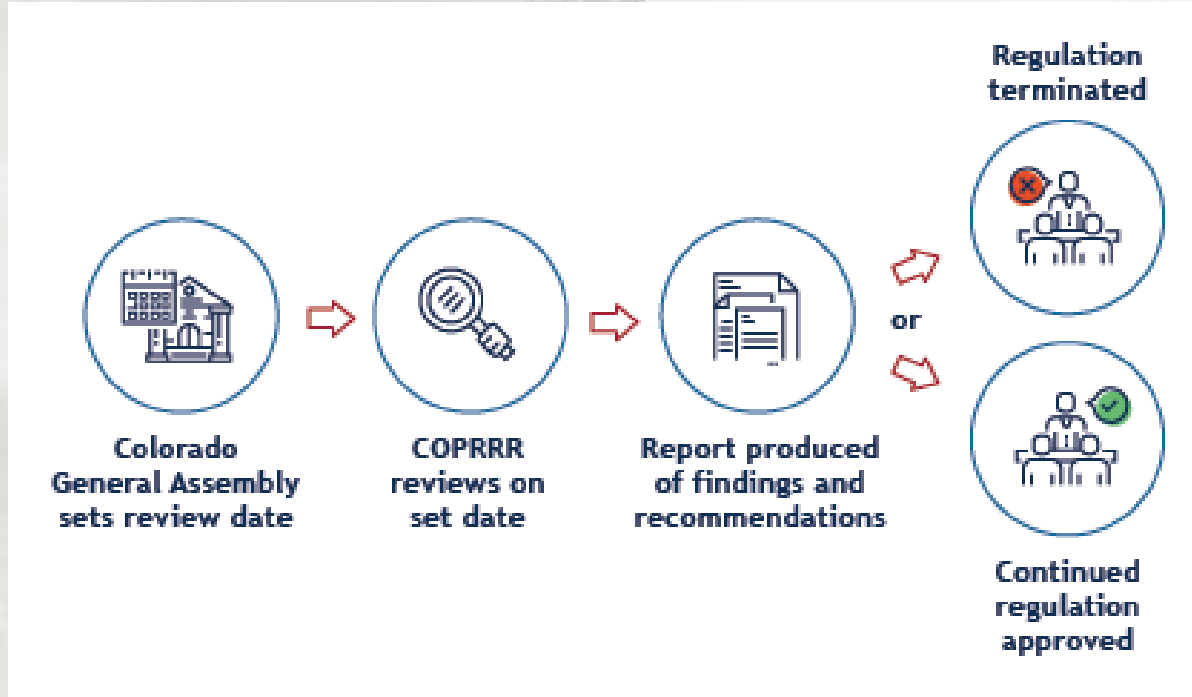


**Comprehensive
study conducted**

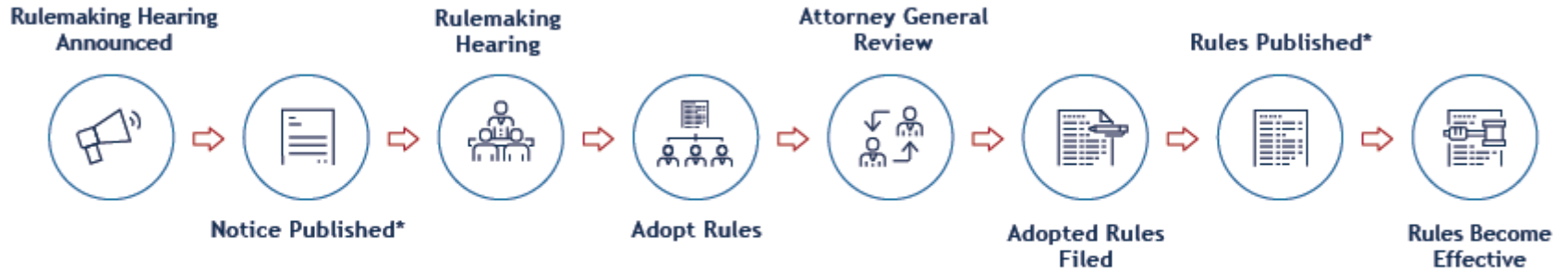


**Colorado General
Assembly receives
written report**

Sunset Process



Rule Making Process



**The 25th of same month, or the 10th of the following*