Joint Budget Committee

Staff Budget Briefing
FY 2025-26

Department of Regulatory Agencies

and Statewide R2 Pinnacol Conversion

JBC Working Document - Subject to Change

Staff Recommendation Does Not Represent Committee Decision

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November 21, 2024

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ADDITIONAL RESOURCES

Brief summaries of all bills that passed during the 2024 legislative session that had a fiscal impact on this department are available in Appendix A of the annual Appropriations Report: https://leg.colorado.gov/sites/default/files/fy24-25apprept.pdf

The online version of the briefing document may be found by searching the budget documents on the General Assembly's website by visiting leg.colorado.gov/content/budget/budget-documents. Once on the budget documents page, select the name of this department's *Department/Topic*, "Briefing" under *Type*, and ensure that *Start date* and *End date* encompass the date a document was presented to the JBC.

Overview of Department

The Department of Regulatory Agencies (DORA) includes the following 11 divisions:

- The Executive Director's Office provides administrative and technical support for the Department's divisions and programs, including functions associated with accounting, purchasing, budgeting, communications, legislative services, and human resources and the Office of Policy, Research, and Regulatory Reform.
- The Division of Banking regulates state-chartered commercial banks, trust companies, money transmitters, and national and interstate banks with deposit accounts in Colorado.
- The Division of Civil Rights enforces Colorado's anti-discrimination laws pertaining to employment, housing, and public accommodations.
- The Office of the Utility Consumer Advocate represents the public interest and the specific interests of residential, small business, and agricultural consumers in rate and rulemaking cases before the Public Utilities Commission, federal agencies, and the courts.
- The Division of Financial Services examines and supervises state-chartered credit unions and state-chartered savings and loan associations, enforces the Savings and Loan Public Deposit Protection Act, and regulates certain financial activities of life care institutions.
- The Division of Insurance regulates companies and agents providing health insurance, property and liability insurance, life insurance, and title insurance.
- The Public Utilities Commission regulates investor-owned electric, natural gas, and telecommunications utilities; private water utilities; and motor vehicle carriers for hire.
- The Division of Real Estate licenses real estate agents, appraisers, and mortgage loan originators and registers mortgage companies and homeowners' associations.
- The Division of Professions and Occupations regulates over 500,000 licensees in over 50 professions and occupations to ensure basic competence to protect the public welfare.
- The Division of Securities monitors the conduct of broker-dealers and sales representatives and investigates citizen complaints and indicators of investment fraud.
- The Division of Conservation, in conjunction with the Conservation Easement Oversight Commission, certifies conservation easement holders and conservation easement tax credit certificates.

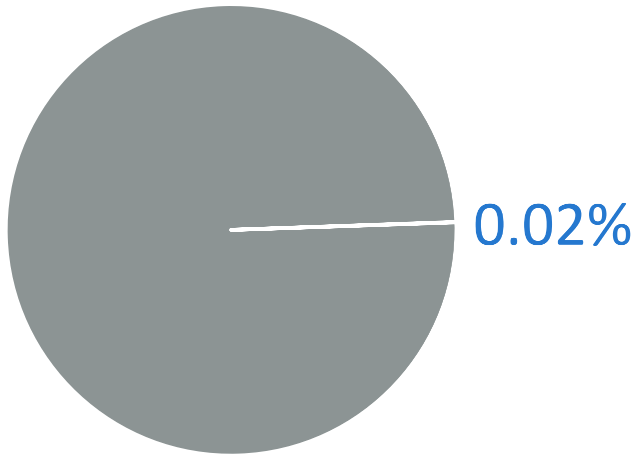
Recent Appropriations

Regulatory Agencies: Recent Appropriations				
Funding Source	FY 2022-23	FY 2023-24	FY 2024-25	FY 2025-26*
General Fund	$3,715,753	$13,579,217	$3,596,539	$3,745,596
Cash Funds	110,264,924	120,109,040	131,605,717	130,046,762
Reappropriated Funds	6,306,416	7,119,851	7,690,316	8,185,972
Federal Funds	1,595,534	1,746,638	1,889,821	2,003,171
Total Funds	$121,882,627	$142,554,746	$144,782,393	$143,981,501
Full Time Equivalent Staff	668.9	698.4	726.5	730.6

*Requested appropriation

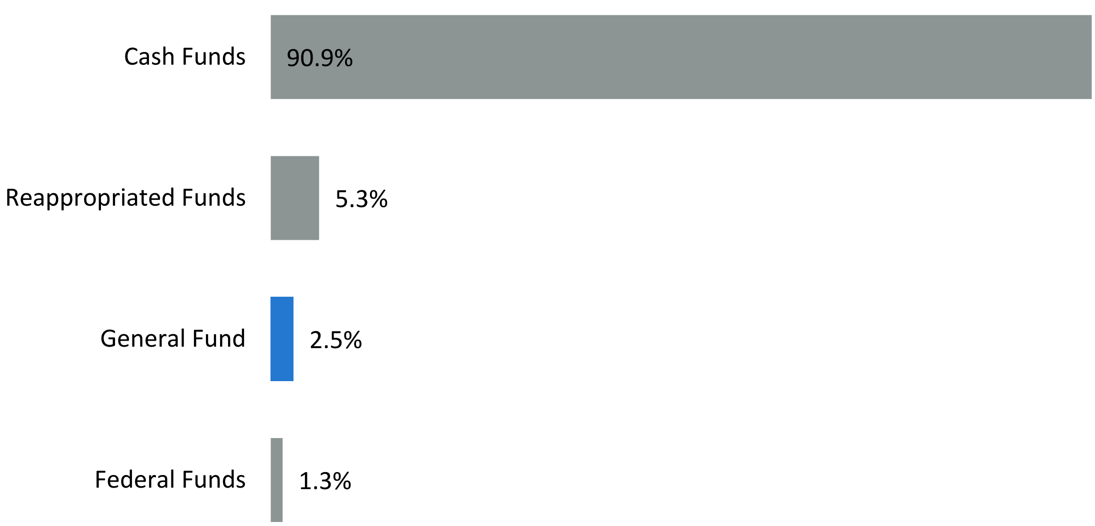
Graphic Overview

Department's Share of Statewide General Fund



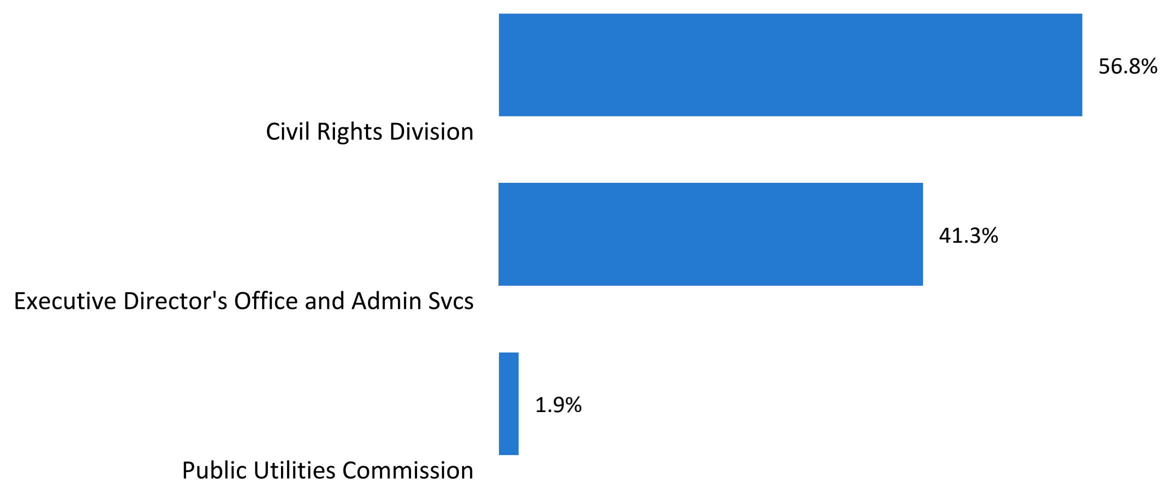
Based on the FY 2024-25 appropriation.

Department Funding Sources



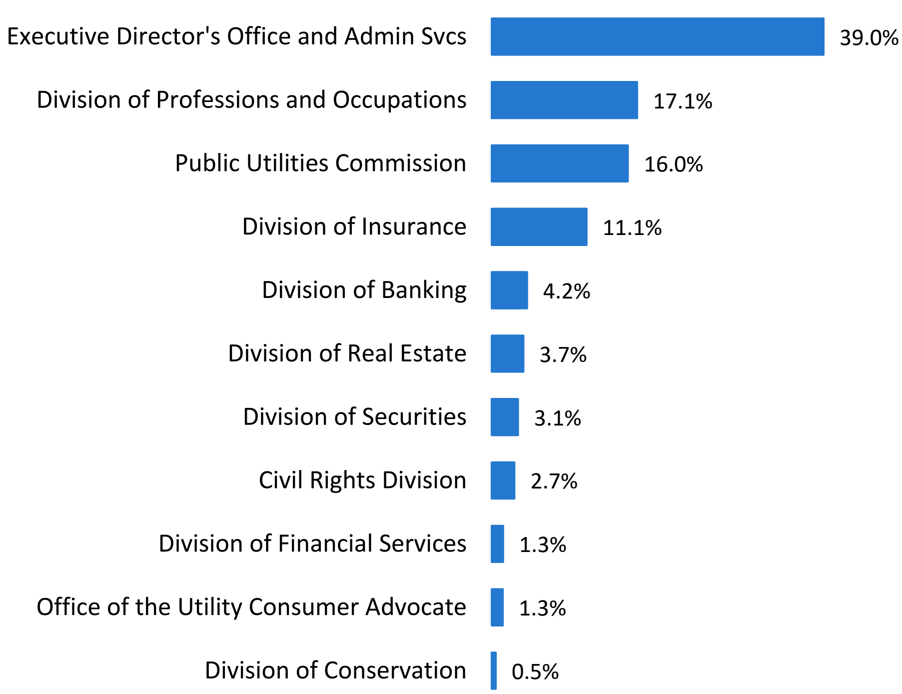
Based on the FY 2024-25 appropriation.

Distribution of General Fund by Division



Based on the FY 2024-25 appropriation.

Distribution of Total Funds by Division



Based on the FY 2024-25 Appropriation

Cash Funds Detail

Department of Regulatory Agencies Cash Funds Detail			
Fund Name	FY 2024-25 Approp.	Primary Revenue Sources	Primary Uses in Dept.
Various cash funds	$45,122,333	Various sources of revenue	Smaller cash funds and $42.7 million identified as various cash fund appropriations for central and common policy costs in the Executive Director's Office
Division of Professions and Occupations Cash Fund	25,880,751	Application, exam, license, inspection, and permit fees and other sources	Costs of the Division of Professions and Occupations
Fixed Utilities Fund	17,009,566	Assessments on non-telecomm public utilities calculated on operating revenue	Administrative expenses for the PUC for regulation of non-telephone public utilities, for the Office of the Utility Consumer Advocate, and for the Colorado Electric Transmission Authority
Division of Insurance Cash Fund	15,406,363	Insurance industry license fees and premium tax revenue that would otherwise be credited to the General Fund.	Costs of the Division of Insurance
Division of Banking Cash Fund	5,908,746	Assessments on regulated banks and institutions and various fees	Costs of the Division of Banking
Division of Real Estate Cash Fund	5,467,422	Real estate and mortgage license fees and home owner association registration fees	Costs of the Division of Real Estate
Colorado Telephone Users with Disabilities Fund	4,659,966	Per month, per line surcharge to all business and personal telephone customers	Support the costs of a telephone relay service for disabled telephone users
Division of Securities Cash Fund	4,435,836	Broker/dealer, representative and investment advisor license fees	Costs of the Division of Securities
PUC Motor Carrier Fund	2,547,299	Fees from regulated motor carriers and federally authorized motor carrier assessments	Administrative expenses of the PUC for regulation of motor carriers in Colorado.
Division of Financial Services Cash Fund	1,941,350	Assessments on regulated financial institutions based on assets	Costs of the Division of Financial Services
Prescription Drug Monitoring Fund	1,413,302	Assessments from licensees that have prescriptive authority and federal grants, gifts, and donations	Costs of the Prescription Drug Monitoring Program, a data system that allows prescribers to access and share prescription data pertaining to controlled substances
Telecommunications Utility Fund	1,027,742	Assessments on telecomm utilities calculated on operating revenue	Administrative expenses of the PUC for regulation of telecomm public utilities
Conservation Cash Fund	785,041	Fees from certification program applicants	Costs of the Division of Conservation
Total	$131,605,717		

Additional Detail for Select Funds

The Division of Insurance Cash Fund receives revenue from license fees and premium tax revenue. Colorado's insurance premium tax applies to insurance premium charges from insurance companies licensed by the state and surplus line brokers who offer policies for insurance companies not licensed in the state. This revenue is directed to the General Fund for spending on general operations after appropriations to:

- the Division of Insurance Cash Fund (limited to 5.0 percent of revenue);
- the Wildfire Emergency Response Fund and Wildfire Preparedness Fund; and
- the state reinsurance program.

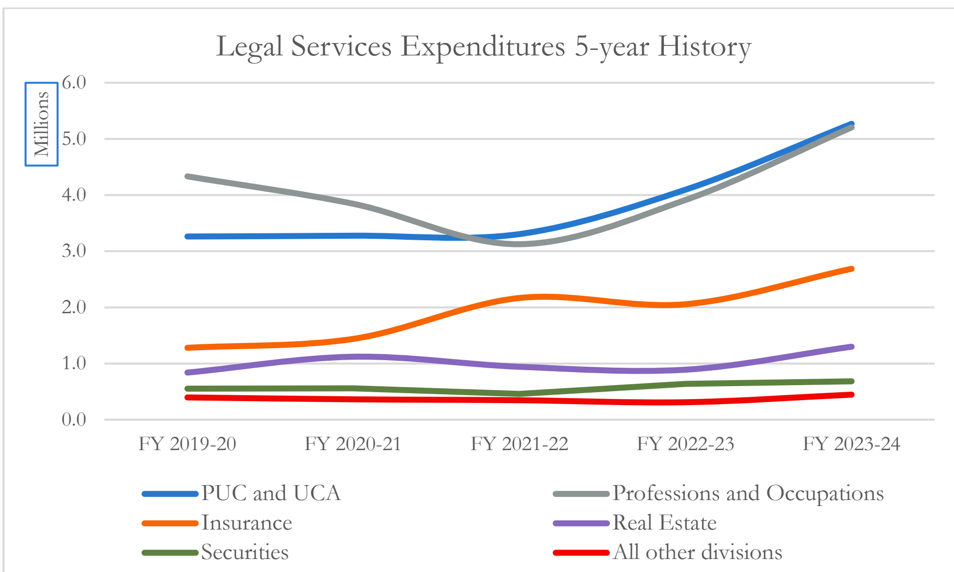
Therefore, funds that are appropriated from the Division of Insurance Cash Fund may directly reduce the amount of remaining General Fund revenue available for other purposes.

General Factors Driving the Budget

The Department of Regulatory Agencies manages licenses and registration for multiple professions and businesses, and implements regulation for Colorado industries. As a primarily regulatory entity, the Department's budget is largely shaped by legal services, licensing, and new regulatory legislation.

Legal Services

The Department requires legal services provided by the Department of Law due to litigation that the Department must engage in as a result of various regulations that it enforces. Legal services account for 11.8 percent of the Department's FY 2023-24 total expenses. The Division of Professions and Occupations (DPO), the Public Utilities Commission (PUC) and Office of Utility Consumer Advocate (UCA), and Division of Insurance (DOI) accounted for 84.4 percent of the Department's total expenditures for legal services in FY 2023-24. The following chart reflects the most recent five-year history by division.



Licensing and Examinations

The Department is responsible for consumer protection and in pursuit of this mission, licenses professionals in various industries and performs banking, credit union, and securities examinations. The Divisions of Insurance, Real Estate, Professions and Occupations, and Securities issue the majority of individual licenses and conduct examinations to protect consumers and to benefit firms. Examinations look for high risk or fraudulent activity by firms that could compromise client privacy and security. The following tables reflect the most recent five-year history for a selection of licensing and examinations activity.

Number of Licenses Regulated by the Divisions of Insurance, Real Estate, Registrations, and Securities					
	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
Insurance - Producer Licenses					
New Licenses	43,626	60,454	62,362	57,442	58,212
Active Licenses	201,802	221,609	244,196	246,026	262,794
Real Estate					
Broker & Salesperson	48,282	43,653	52,348	44,236	44,189
Mortgage Loan Originators	17,026	22,893	28,365	21,252	20,379
Appraisers	2,888	2,924	3,006	2,445	3,024
Professions and Occupations					
New Licenses	49,045	45,395	55,936	66,265	65,454
Active Licenses	461,553	452,321	467,703	496,089	516,197
Securities					
Sales Representative License Renewals	203,162	214,392	236,700	242,350	250,052
Investment Advisor License Renewals	14,919	15,118	15,838	15,975	16,109

Examinations Conducted by the Divisions of Banking, Financial Services, and Securities					
	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
Banking Examinations	132	155	139	166	133
Credit Union Examinations	37	39	30	32	29
Securities Examination	110	123	110	115	110

New Regulatory Legislation

The Department is the subject of a significant number of bills each legislative session. Those bill appropriations are a significant driver of the Department’s budget. The majority of the Department’s FTE are located in three Divisions: the Division of Professions and Occupations, the Public Utilities Commission, and the Division of Insurance.

The 2023 and 2024 legislative sessions appropriated $6.5 million in total funds to support 41.6 FTE. Over the 2023 and 2024 legislative sessions, the Public Utilities Commission, Division of Insurance, and Division of Professions and Occupations were appropriated $5.5 million total funds and an associated 34.3 FTE.

The following tables lists each bill with fiscal impacts for the Department from the 2023 and 2024 session.

2023 Legislation - Appropriations and FTE			
	FTE	Total Funds	Primary Division(s)
SB 23-291 Utility regulation	5.8	$1,347,554	Public Utilities Commission Utility Consumer Advocate
HB 23-1281 Advance the use of clean hydrogen	3.0	360,758	Public Utilities Commission
HB 23-1296 Task force disabilities rights	1.5	289,568	Civil Rights
SB 23-172 Protecting opportunities and workers' rights act	2.6	282,949	Civil Rights

2023 Legislation - Appropriations and FTE

	FTE	Total Funds	Primary Division(s)
HB 23-1105 Homeowners' association task forces	2.0	208,408	Real Estate
HB 23-1227 Enforce laws against pharmacy benefit managers	2.5	206,647	Insurance
HB 23-1067 Family intervener program deafblind children	0.0	130,092	Public Utilities Commission
HB 23-1174 Homeowner's insurnace underinsurance	0.8	109,955	Insurance
SB 23-288 Coverage for doula services	0.0	100,000	Insurance
SB 23-189 Increasing access to reproductive health care	0.5	67,717	Insurance
SB 23-179 Dental plans medical loss ratio	0.7	64,252	Insurance
HB 23-1002 Epinephrine auto-injectors	0.7	58,291	Insurance
HB 23-1116 Contracts between carriers and providers	0.0	12,218	Insurance
HB 23-1201 Rx drug benefits contract requirement	0.0	10,000	Insurance
HB 23-1136 Prosthetic devices for recreational activity	0.1	6,108	Insurance
Total	**20.2**	**$3,254,517**	

2024 Legislation - Appropriations and FTE

	FTE	Total Funds	Primary Division(s)
SB 24-218 Modernize energy distribution	3.5	$420,500	Public Utilities Commission
HB 24-1030 Railroad safety requirements	3.5	391,057	Public Utilities Commission
HB 24-1335 Sunset mortuary science code regulation	2.8	339,196	Professions and Occupations
HB 24-1108 Insurance commissioner study insurance market	0.3	329,863	Insurance
SB 24-080 Transparency in healthcare coverage	1.0	267,758	Insurance
HB 24-1315 Study remediation of property damage by fire	0.2	219,909	Insurance
HB 24-1051 Towing carrier regulation	0.6	165,629	Public Utilities Commission
HB 24-1004 Ex-offenders in regulated occupations	1.2	133,216	Professions and Occupations
SB 24-173 Regulate mortuary science	1.0	121,166	Professions and Occupations
SB 24-207 Access to distributed generation	1.5	116,505	Public Utilities Commission
HB 24-1262 Maternal health midwives	1.0	111,072	Civil Rights
SB 24-139 Creation of 911 services enterprise	0.8	107,695	Public Utilities Commission
HB 24-1111 Cosmetology Licensure Compact	1.0	104,620	Professions and Occupations
SB 24-010 Dentist and Dental Hygienist Compact	0.5	78,750	Professions and Occupations
SB 24-018 Physician Assistant Licensure Compact	0.5	78,750	Professions and Occupations
HB 24-1002 Social Work Licensure Compact	0.5	78,750	Professions and Occupations
HB 24-1149 Prior authorization requirement alternatives	0.4	36,514	Insurance
HB 24-1045 Treatment for substance use disorders	0.4	36,514	Insurance
HB 24-1370 Reduce cost of use natural gas	0.2	29,678	Public Utilities Commission
SB 24-126 Conservation easement tax credit	0.2	12,925	Conservation
HB 24-1438 Prescription drug affordability	0.2	8,874	Professions and Occupations
HB 24-1382 Insurance for pediatric neuropsychiatric syndrome	0.1	7,333	Insurance
Total	**21.4**	**$3,196,274**	

Summary of Request

Department of Regulatory Agencies						
Item	Total Funds	General Fund	Cash Funds	Reapprop. Funds	Federal Funds	FTE
FY 2024-25 Appropriation						
HB24-1430 Long Bill	$141,586,119	$3,377,772	$128,628,210	$7,690,316	$1,889,821	705.1
Other legislation	3,196,274	218,767	2,977,507	0	0	21.4
Total	$144,782,393	$3,596,539	$131,605,717	$7,690,316	$1,889,821	726.5
FY 2025-26 Requested Appropriation						
FY 2024-25 Appropriation	$144,782,393	$3,596,539	$131,605,717	$7,690,316	$1,889,821	726.5
R1 Reductions to CCRD and DOI	-166,728	-19,954	-146,774	0	0	0.0
Non-prioritized decision items	-3,430,050	60,581	-3,430,050	-60,581	0	0.0
Centrally appropriated line items	3,748,873	230,670	2,842,118	556,237	119,848	0.0
Annualize prior year actions	-623,459	-122,240	-501,219	0	0	4.1
Indirect cost assessment	-329,528	0	-323,030	0	-6,498	0.0
Total	$143,981,501	$3,745,596	$130,046,762	$8,185,972	$2,003,171	730.6
Increase/-Decrease	-$800,892	$149,057	-$1,558,955	$495,656	$113,350	4.1
Percentage Change	-0.6%	4.1%	-1.2%	6.4%	6.0%	0.6%

R1 Reductions to CCRD and DOI: The Department requests a base decrease of $166,728 total funds, including a decrease of $19,954 General Fund and a decrease of $146,774 cash funds from the Division of Insurance Cash Fund for the purpose of General Fund savings.

Non-prioritized decision items: The request includes a net decrease of $3.4 million total funds and cash funds, including an increase of $60,581 General Fund offset by an equivalent decrease in reappropriated funds from indirect cost recoveries.

Non-prioritized decision items						
Item	Total Funds	General Fund	Cash Funds	Reapprop. Funds	Federal Funds	FTE
NP2 OAC staffing	$17,984	$0	$17,984	$0	$0	0.0
NP3 Equity office realign	0	60,581	$0	-60,581	0	0.0
NP4 DHS CSPD enterprise	-3,448,034	0	-3,448,034	0	0	0.0
Total	-$3,430,050	$60,581	-$3,430,050	-$60,581	$0	0.0

Centrally appropriated line items: The request includes a net increase of $3.7 million total funds, including an increase of $230,670 General Fund for centrally appropriated line items, summarized in the table below.

Centrally appropriated line items						
Item	Total Funds	General Fund	Cash Funds	Reapprop. Funds	Federal Funds	FTE
Salary survey	$1,560,895	$37,265	$1,360,963	$129,247	$33,420	0.0
Health, life, and dental	1,432,982	-35,512	1,168,994	273,254	26,246	0.0
AED and SAED adjustment	376,969	-41,901	297,628	98,002	23,240	0.0

Centrally appropriated line items						
Item	Total Funds	General Fund	Cash Funds	Reapprop. Funds	Federal Funds	FTE
ALJ services	307,833	293,924	13,909	0	0	0.0
Step Plan	250,219	5,255	215,413	17,856	11,695	0.0
Vehicle lease payments	231,905	0	231,905	0	0	0.0
CORE operations	167,779	6,501	150,588	8,639	2,051	0.0
Leased space	124,347	5,271	106,823	12,253	0	0.0
PERA direct distribution	32,666	-29,794	22,151	16,326	23,983	0.0
Paid Family & Medical Leave Insurance	16,963	-1,885	13,393	4,410	1,045	0.0
Short-term disability	5,653	-629	4,464	1,470	348	0.0
Legal services	-526,975	0	-526,975	0	0	0.0
Risk management & property	-105,108	-3,538	-96,386	-3,610	-1,574	0.0
Payments to OIT	-81,005	-2,768	-78,237	0	0	0.0
Workers' compensation	-46,250	-1,519	-42,515	-1,610	-606	0.0
Total	$3,748,873	$230,670	$2,842,118	$556,237	$119,848	0.0

Annualize prior year actions: The request includes a net decrease of $623,459 total funds, including a decrease of $122,240 General Fund, for the out-year cost of prior year budget actions.

Annualize prior year actions						
Item	Total Funds	General Fund	Cash Funds	Reapprop. Funds	Federal Funds	FTE
SB 24-141 Out-of-state Telehealth	$140,740	$0	$140,740	$0	$0	1.7
FY25 R1 Banking staff	101,130	0	101,130	0	0	0.4
HB 24-1370 Reduce cost of use natural gas	85,363	0	85,363	0	0	0.8
SB 24-173 Regulate Mortuary Science	73,665	0	73,665	0	0	0.8
SB 24-207 Access to distributed generation	48,833	0	48,833	0	0	0.3
SB 24-073 Max Number of Employee	44,395	0	44,395	0	0	0.4
SB 24-010 Dentist and Dental Hygienist	30,695	0	30,695	0	0	0.7
SB 24-126 Conservation Easement Tax	12,925	0	12,925	0	0	0.2
HB 24-1004 Ex-offenders Practice Reg Occup	8,575	0	8,575	0	0	0.3
HB 24-1149 Prior auth reqs alternatives	8,252	0	8,252	0	0	0.2
HB 24-1153 Physician continuing education	7,669	0	7,669	0	0	0.1
HB 24-1111 Cosmetology licensure compact	5,909	0	5,909	0	0	0.7
SB 23-195 Calc contribution cost sharing	3,635	0	3,635	0	0	0.0
HB 24-1002 Social Work Licensure Compact	2,162	0	2,162	0	0	0.4
HB 24-1045 Treatment Substance Use Disord	791	0	791	0	0	0.1
HB 24-1051 Towing carrier regulation	620	0	620	0	0	0.1
HB 23-1252 Thermal energy	-344,930	0	-344,930	0	0	-2.0
HB 24-1108 Study insurance market	-309,954	0	-309,954	0	0	-0.1
HB 24-1315 Study remediat fire prop damage	-209,955	0	-209,955	0	0	-0.1
SB 24-139 Creation of 911 Services	-107,695	-107,695	0	0	0	-0.8
SB 23-189 Increase access to repro health	-50,000	0	-50,000	0	0	0.0
SB 24-080 Transparency in Healthcare	-36,670	0	-36,670	0	0	0.0
SB 24-218 Modernize energy distrib systems	-33,350	0	-33,350	0	0	0.0
HB 24-1335 Sunset mortuary science	-27,311	0	-27,311	0	0	0.0
HB 24-1030 Railroad safety requirements	-26,680	0	-26,680	0	0	0.0
SB 23-167 Bd of Nursing Reg Cert Midwives	-20,130	0	-20,130	0	0	-0.1
HB 24-1262 Maternal health midwives	-14,545	-14,545	0	0	0	0.0

Annualize prior year actions						
Item	Total Funds	General Fund	Cash Funds	Reapprop. Funds	Federal Funds	FTE
HB 22-1115 Prescription drug monitor	-9,886	0	-9,886	0	0	-0.2
HB 24-1438 Prescription drug afford progs	-4,587	0	-4,587	0	0	-0.1
SB 24-018 Physician Assistant License	-3,125	0	-3,125	0	0	0.3
Total	-$623,459	-$122,240	-$501,219	$0	$0	4.1

Indirect cost assessment: The request includes a net decrease of $329,528 cash and federal funds for indirect cost assessments across all divisions.

Budget Reduction Options

The Executive Budget Request includes reductions of $19,954 General Fund for the Department of Regulatory Agencies, Colorado Civil Rights Division (CCRD). Additionally, the request includes reductions of $146,774 cash funds from the Division of Insurance Cash Fund, which represent diversions from General Fund. Both reductions total $166,728, and if calculated on General Fund, represents reductions of 4.6 percent of the FY 2024-25 appropriation and 4.5 percent of the FY 2025-26 request. This issue brief reviews these proposals and additional options identified by staff.

Summary

- The Department of Regulatory Agencies represents 0.02 percent of total state General Fund appropriations in FY 2024-25. The Executive budget request includes proposed reductions of $19,954 General Fund and $146,774 cash funds from the Division of Insurance Cash Fund, representing 1.0 percent of the General Fund appropriations in this section of the budget. These reductions are offset by proposed increases, so that the Department's total General Fund is requested to increase by 4.1 percent.
- In a TABOR refund environment, additional cash fund revenue reduces General Fund by an equal amount. Therefore, staff recommends that the Committee consider a 5.0 percent reduction in cash fund appropriations and legislation that requires the Department to reduce cash fund revenue collections by 5.0 percent, equal to $6.4 million in General Fund savings from the reduced TABOR refund amount.
- Staff recommends that the $1.6 million balance in the Department's Indirect Costs Excess Recovery Fund be used to offset General Fund for one-time savings.
- Staff identifies extraordinary and possibly inappropriate adjustments to common policy and non-prioritized request refinancings totaling an additional $354,505 General Fund that may be reversed in the interest of General Fund balancing.

Recommendation

- Staff recommends that the Department discuss the Department proposals and staff options in its budget hearing.
- Staff anticipates recommending the 5.0 percent cash funds appropriations reductions at figure setting. Staff also recommends that the Committee consider legislation to require the Department to reduce its cash fund revenue collection for FY 2025-26 (and ongoing) by at least 5.0 percent.

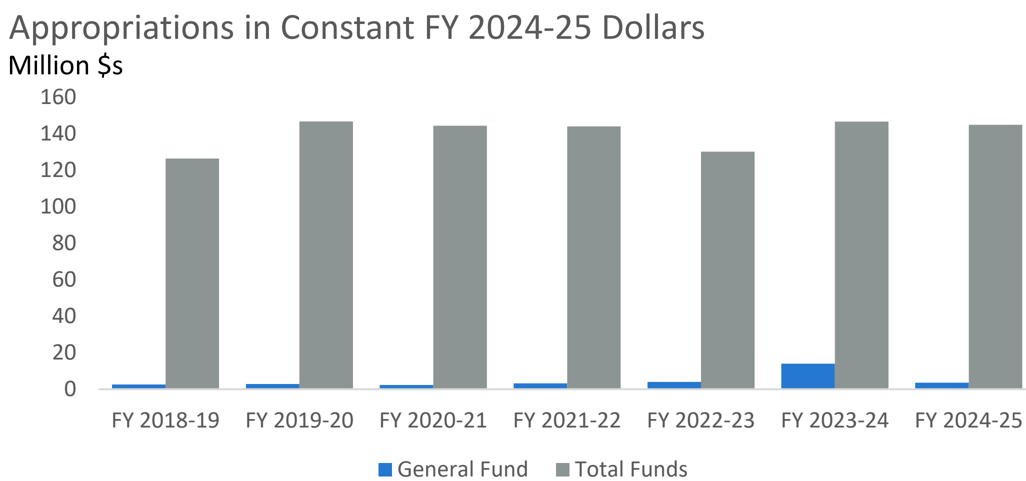
Discussion

Funding History FY 2018-19 to FY 2024-25

The Department of Regulatory Agencies represents 0.02 percent of total state General Fund appropriations in FY 2024-25. As reflected in the table below, General Fund in this section of the budget has increased by 37.4 percent since FY 2018-19 after adjustments for inflation[1]. This is more than the statewide increase in General Fund appropriations of 11.3 percent over the same period after adjustments. Over the same period total funding in this section of the budget, after adjustments, has changed by 14.6 percent.

FY 2018-19 to FY 2024-25 Appropriations Comparison - Adjusted for Inflation

	FY 2018-19			Increase/ -Decrease after inflation adjustment	
Fund	Nominal	FY 24-25 Dollars	FY 2024-25	Amount	Percent
General Fund	$2,066,931	$2,617,844	$3,596,539	$978,695	37.4%
Total Funds	$99,733,783	$126,316,509	$144,782,393	$18,465,884	14.6%



Although 37.4 percent appears overly large and richly funded, this large increase is instead a reflection of the extraordinary impact of one-time increases in General Fund on a relatively small base of General Fund. This can create the appearance of excessive General Fund growth. The chart above reflects the relatively small amount and nearly invisible slight changes in General Fund from year to year, except for the significant increase in FY 2023-24.

[1] Fiscal year 2018-19 appropriations are adjusted for inflation, calculated based on the Legislative Council Staff September forecast, which reflects an increase in the Denver-Aurora-Lakewood consumer price index of 26.7 percent between FY 2018-19 and FY 2024-25.

Budget Requests for General Fund Relief

For this section of the budget, the budget request includes proposals for General Fund relief totaling $19,954, representing 0.5 percent of the General Fund appropriations. These reductions are offset by proposed increases, so that the Department's total General Fund is requested to increase/decrease by 4.1 percent. The proposals for General Fund relief are summarized in the table below.

Budget Requests for General Fund Relief				
Option	General Fund	Other Funds	Bill? Y/N	Description
Revenue Enhancements				
Division of Insurance appropriation reduction	$146,774	-$146,774	N	The Division of Insurance Cash Fund (DOICF) includes premium tax revenue that would otherwise be credited to the General Fund. A decrease in DOICF appropriations represents an equivalent GF revenue increase.
Subtotal - Revenue	$146,774	-$146,774		
Expenditure Reductions				
Division of Civil Rights appropriation reduction	-$19,954	$0	N	This request represents a 1.0 percent base reduction in the Personal Services appropriation, requested at $1,931,104 General Fund for FY 2025-26. The request represents a 1.1 percent reduction from the FY 2024-25 appropriation.
Subtotal - Expenditures	-$19,954	$0		
Net General Fund Relief	$166,728			

Additional Options for JBC Consideration

The table below summarizes options identified by the JBC staff that the Committee could consider in addition to or instead of the options presented in the budget request.

A General Fund reduction of 5.0 percent to the sections of the budget covered in this briefing would require a reduction of $179,827. A General Fund reduction of 10.0 percent to the sections of the budget covered in this briefing would require a reduction of $359,654.

Additional Options for General Fund Relief				
Option	General Fund	Other Funds	Bill? Y/N	Description
Revenue Enhancements				
5.0 percent cash fund revenue reduction	$6,412,618	-$6,412,618	Y	This recommendation includes two policy pieces: a 5.0 percent reduction in cash fund appropriations and legislation that requires the Department to reduce cash fund revenue collections by 5.0 percent. In a TABOR refund environment, cash fund revenue reduces General Fund by an equal amount

Additional Options for General Fund Relief				
Option	General Fund	Other Funds	Bill? Y/N	Description
Subtotal - Revenue	$6,412,618	-$6,412,618		
Expenditure Reductions				
Refinance NP3 Equity Office Realignment	-$60,581	$60,581	N	The request includes a non-prioritized (NP) adjustment for a payment to DPA for its Equity Office common policy. The Department reflects this as a refinance from indirect cost recoveries to General Fund. Staff recommends reversing this NP adjustment to save $60,581 GF included in the FY 2025-26 request. This may require an equivalent increase in indirect cost assessments on cash funds.
Refinance the ALJ Services adjustment	-$293,924	$293,924	N	The request includes a common policy adjustment for ALJ Services that includes $293,924 General Fund. This adjustment shifts the General Fund portion from 4.5 percent of the ALJ Services line to 44.5 percent. This does not appear to be a proper adjustment for this common policy. Staff recommends a refinance of the GF portion to cash funds as appropriate.
Use the balance in the Indirect Costs Excess Recovery Fund	-1,551,813	1,551,813	N	This amount represents the balance in the DORA Indirect Costs Excess Recovery Fund as of June 30, 2024. Staff recommends additionally offsetting General Fund in the EDO by this amount. This would be a one-time reduction.
Subtotal - Expenditures	-$1,906,318	$1,906,318		
Net General Fund Relief	$8,318,936			

Revenue Enhancements

5.0 percent Cash Fund Revenue Reduction

Description: Bill to require the Department to reduce primary division cash funds revenue collections by 5.0 percent for FY 2025-26 and ongoing. Additionally, all division program cash fund appropriations would be reduced by 5.0 percent, including the personal services and operating expenses line items in the Executive Director's Office.

Key Considerations: The Department does not have very much General Fund. However, the Department is predominantly cash funded. In a TABOR refund year, each additional dollar of cash fund revenue is paid out as a TABOR refund from General Fund. Staff recommends this adjustment as a base change. Based on staff's analysis, divisions are generally and consistently reverting greater than 5.0 percent of appropriations over the last four years of actuals. Staff's initial cash funds analysis appears to confirm the sustainability of a cash funds revenue reduction coupled with an appropriations reduction.

Additional background: The following table outlines reversions from the appropriation for each division over the last four years of actual expenditure data.

DORA Reversions Analysis by Division - FY 2020-21 through FY 2023-24								
	FY 2020-21		FY 2021-22		FY 2022-23		FY 2023-24	
	Reversion	% of Approp	Reversion	% of Approp	Reversion	% of Approp	Reversion	% of Approp
General Fund division								
Civil Rights Division	$29,316	2.5%	$617,670	33.8%	$220,029	11.1%	$96,806	4.8%
Total Funds division								
EDO - PS/OE	148,725	5.2%	154,692	5.4%	304,142	9.1%	142,201	4.1%
Cash Funds divisions								
Banking	402,889	8.2%	360,930	7.3%	338,652	6.7%	92,916	1.8%
Utility Consumer Advocate	124,670	12.0%	320,567	24.1%	296,393	20.4%	316,102	17.7%
Financial Services	308,916	17.3%	325,325	18.2%	352,735	19.4%	236,795	12.6%
Insurance	799,986	8.7%	1,324,054	12.1%	868,800	6.9%	799,372	5.8%
Public Utilities Commission	2,985,676	17.8%	3,165,452	17.3%	1,554,649	8.0%	2,714,551	12.9%
Real Estate	416,166	8.5%	181,646	3.7%	526,226	10.5%	335,386	6.4%
Professions and Occupations	1,541,327	7.9%	2,481,613	12.5%	3,946,728	17.1%	1,633,218	7.2%
Securities	240,017	6.1%	211,086	5.3%	488,510	11.9%	354,950	8.3%
Conservation	264,594	53.0%	441,560	67.1%	346,846	52.3%	280,462	41.8%

As outlined in the table, generally divisions revert 5.0 percent or more of their appropriation over the last four years. The singular exception is the Division of Banking for FY 2023-24 at 1.8 percent. There are a few other examples through the four years of divisions reverting just under 5.0 percent.

This analysis suggests that the divisions, particularly the cash funded divisions and the Executive Director's Office personal services and operating expenses line items, could sustain a 5.0 percent appropriations reduction without disrupting or significantly impairing operations.

The following table outlines a cash funds analysis for the largest and primary division cash funds at DORA. Staff used Department schedule 9 cash fund reports (budget schedules) that include projections for FY 2025-26.

DORA Cash Funds Analysis						
Fund Name	1. FY 2024-25 Approp.	2. FY 2025-26 Proj Revenue (Sch9)	3. FY 2025-26 Proj Expenses (Sch9)	4. FY25-26 Request CF Approps	5. Sch9 Proj Exp over Request CF Approps	FY 23-24 Reversion %
Div of Prof and Occup Cash Fund	$25,880,751	$40,807,769	$39,450,159	$26,889,986	$12,560,173	7.2%
PUC Fixed Utilities Fund	17,009,566	29,712,402	29,016,323	17,038,163	11,978,160	12.9%
PUC Motor Carrier Fund	2,547,299	2,700,432	2,686,308	2,547,919	138,389	12.9%
PUC Telecomm Utility Fund	1,027,742	1,600,000	1,538,848	1,027,742	511,106	12.9%
Div of Insurance Cash Fund	15,406,363	24,790,975	24,790,973	15,260,435	9,530,538	5.8%
Div of Banking Cash Fund	5,908,746	8,552,805	8,543,600	6,262,102	2,281,498	1.8%
Div of Real Estate Cash Fund	5,467,422	10,418,837	9,954,320	5,789,488	4,164,832	6.4%
Div of Securities Cash Fund	4,435,836	5,913,234	6,643,723	4,568,714	2,075,009	8.3%
Div of Financial Svcs Cash Fund	1,941,350	2,805,904	2,843,050	2,036,252	806,798	12.6%
Conservation Cash Fund	785,041	950,000	923,187	794,960	128,227	12.6%
EDO - Various cash funds	42,475,033					7.0%
Total	$122,885,149	$128,252,358	$126,390,491	$82,215,761	$44,174,730	
5.0 percent of revenue		$6,412,618				

As outlined in the table, data columns 2 and 3 compare projected revenue and expenses included in the schedule 9 cash fund reports. Columns 3 and 4 compare the projected expenses with the FY 2025-26 budget request for program appropriations. The variance or balance of those items is reflected in column 5. The shaded total in column 5 represents the amount that is used by the Department to pay for Executive Director's Office "various cash funds" appropriations, as shaded in column 1 for the FY 2024-25 appropriation.

This analysis outlines that cash fund revenue is projected at just under $2.0 million higher than projected expenditures for FY 2025-26, representing 1.5 percent more revenue than anticipated expenditures. This suggests that the Department's cash funds planning is sustainable and generally not excessive. However, if the divisions regularly under-expend by 5 to 20 percent, cash fund balances will increase and excess reserves may become an issue. Regardless of the possibility for even greater cash fund revenue reductions, this analysis suggests that a 5.0 percent reduction in cash funds revenue can safely be sustained with a 5.0 percent reduction in appropriations generally without affecting current program operations.

As outlined in the table, a 5.0 percent reduction in cash fund revenue is calculated at $6.4 million based on the Department's projected $128.3 million in total cash fund revenue. Staff recommends: (1) that the Committee pursue legislation that requires the Department to reduce revenue collections by $6.4 million; and (2) reduce cash fund appropriations by 5.0 percent through budget action.

Expenditure Reductions

Refinance NP3 Equity Office Realignment

The request includes a non-prioritized (NP) adjustment for a payment to DPA for its Equity Office common policy. The Department reflects this as a refinance from indirect cost recoveries to General Fund. Staff recommends reversing this NP adjustment to save $60,581 GF included in the FY 2025-26 request. This may require an equivalent increase in indirect cost assessments on cash funds.

Refinance the ALJ Services adjustment

Description: The budget request includes a common policy adjustment for ALJ Services that includes $293,924 General Fund. Staff recommends a refinance of the General Fund portion to cash funds as appropriate.

Key Considerations: This common policy adjustment shifts the General Fund portion from 4.5 percent of the ALJ Services line to 44.5 percent. This does not appear to be a proper adjustment for this common policy. Most ALJ Services are provided for the cash funded programs of the Department; only actions of the Civil Rights Division should be paid for with the General Fund.

Use the balance in the Indirect Costs Excess Recovery Fund

There is a balance of 1,551,813 in the DORA Indirect Costs Excess Recovery Fund as of June 30, 2024. Staff recommends additionally offsetting General Fund in the EDO by this amount. This would be a one-time reduction.

Statewide R2 Pinnacol Conversion

This issue brief provides an overview of the Governor's statewide R2 request for Pinnacol Conversion.

Summary

- The Governor's Statewide R2 request proposes "conversion" of the State's share of Pinnacol Assurance (Pinnacol), the State's workers' compensation insurer.
- Although total valuation remains unknown and generally undefined, it is estimated at over $305 million and may be greater than $1 billion.
- The TABOR-exempt proceeds would be paid in a lump sum to PERA for the unfunded liability. For that payment, the State would claim a $100.0 million General Fund offset for FY 2025-26, with additional declining offsets in future years, credited to the PERA Direct Distribution payment.
- The September 2024 Legislative Council Staff (LCS) forecast identifies a $921.3 million projected deficit. This $100.0 million in General Fund relief would address 10.9 percent of this estimated balancing need.

Discussion

Proposed Solution

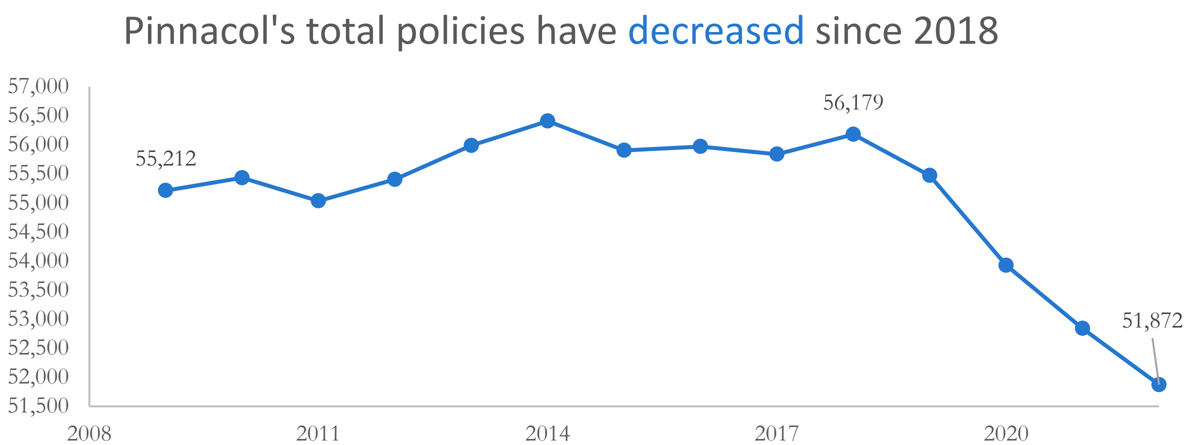
The Governor's Statewide R2 request seeks to "convert" or sell the State's share of Pinnacol Assurance (Pinnacol). Although total valuation remains unknown and undefined, the proposed "conversion" provides a $100.0 million General Fund offset for FY 2025-26 in the Governor's budget proposal. The offset is credited to the PERA Direct Distribution payment.

Pinnacol is the State's workers' compensation insurer and serves as the State's insurer of last resort. The State's interest or portion in Pinnacol is an asset that can be sold. On that basis, the proceeds from the sale are anticipated to be available to the State as TABOR-exempt revenue. The Governor's proposal is still relatively undefined in terms of policy solution detail. However, the concept is generally straightforward and broadly includes three components.

Pinnacol Privatization

Pinnacol seeks to better adapt to market forces that, along with statutory restrictions currently in place, are reducing Pinnacol's market share and premium base. Based on these market trends, as its business declines, the risk increases to Pinnacol's viability to serve as the State's insurer of last resort and as a competitive insurer in the market.

Specifically, Pinnacol is restricted from providing workers' compensation insurance for workers in other states. However, since the pandemic, multi-state employers have doubled and now represent 54 percent of Colorado employers. While Pinnacol has attempted to craft insurance solutions for the market, multi-state solutions require that a company purchase multiple policies; most companies prefer to simplify coverage through a single policy, which any other insurer can provide.



A straightforward statutory change can be made to allow Pinnacol to insure workers outside of Colorado. However, some states may still restrict Pinnacol from covering their state's workers because Pinnacol remains a political subdivision of Colorado.

Budget Balancing for FY 2025-26

The State faces a current budget balancing challenge. The September 2024 Legislative Council Staff (LCS) forecast identifies a $921.3 million projected deficit. This R2 request is identified in the Governor's budget request as providing $100.0 million in General Fund relief to be taken as a credit for the PERA Direct Distribution payment for FY 2025-26 that would address 10.9 percent of this estimated balancing need.

Additionally, based on the actual proceeds of the sale of Pinnacol, the State would receive additional years of similar relief. Over time the General Fund relief would gradually diminish, allowing the base budget relief to adjust to the loss of this revenue source over time. This solution anticipates this source as one-time revenue and adjusts over a number of years to soften the experience of an out-year "revenue cliff".

PERA's Unfunded Liability

The R2 request proposes that the proceeds from the sale of Pinnacol would be paid directly to PERA in a lump sum. This would enable PERA to begin earning its investment return on the total capital amount provided from the sale of Pinnacol.

In exchange for the lump sum, the State would reduce it's $225.0 million statutory payment for the PERA Direct Distribution by $100.0 million for FY 2025-26. Additional reductions to the payment would be scheduled in years following at a graduated and reduced amount, such as $100.0 million in FY 2026-27, $75.0 million in FY 2027-28, and $50.0 million in FY 2028-29. The actual schedule and credit amounts each year would be determined based on the actual proceeds generated from the sale of Pinnacol.

Additionally, as staff understands the intention of this policy mechanism, this is not simply a dollar for dollar credit. PERA would receive some premium of up to 10-20 percent over the total amount credited for the State's reductions to the PERA Direct Distribution.

Capital Assets Equivalency

A key component to this request is the capital assets conversion. In this proposal, a one-time stock of equity assets in Pinnacol is converted into an equivalent stock of financial assets for the purpose of increasing the funded status for PERA. In this way, this balancing request broadly seeks to remain asset neutral in its effect.

Yes, the State would receive "discounts" or "credits" from its operating cash outflows, so it is not simply an even exchange of assets for assets. However, the State's contribution to PERA through the PERA Direct Distribution policy is about paying annual State revenue (flow) to increase State-related assets (stock). On that basis, the use of these proceeds from the sale of Pinnacol honors the interest in retaining these State assets as a "stock" rather than expending the assets within annual revenue "flow". This is preferable to expending the proceeds on operations from the sale of an asset.

Prior Legislation

H.B. 02-1135 – Pinnacol Assurance created

In 2002, H.B. 02-1135 created/renamed Pinnacol Assurance from the Colorado Compensation Insurance Authority (CCIA). Provisions included that Pinnacol: may only be dissolved by the General Assembly; shall operate as a mutual insurance company; has ownership of all revenue and assets and that the State has no claim on assets for any purpose; is required to function as the insurer of last resort. At the time of this bill, the CCIA's assets totaled $998.8 million and liabilities totaled $893.4 million, leaving a surplus of $105.4 million. However, at a claimant reserve discount of 4.25 percent, the fund had a deficit of $67.6 million.

S.B. 09-273 – $500m Pinnacol Reserves Sweep

In 2009, the JBC introduced legislation as part of the Long Bill package that included a significant Pinnacol transfer. In that bill, S.B. 0-273 (Pinnacol Assurance), Pinnacol would have been required to transfer to the State, $500.0 million of its capital reserves. Of that amount, $300.5 million was intended to backfill an equivalent General Fund cut for funding for the College Opportunity Fund, and $199.5 million was intended to refill the statutory reserve. This bill did not include a provision related to Pinnacol privatization, and was simply a funds sweep. The bill passed, as amended, through the Senate, but was postponed indefinitely by the House in the first committee of reference.

H.B. 21-1213 Pinnacol Conversion - $305m valuation/transfer

In 2021, H.B. 21-1213 (Conversion of Pinnacol Assurance) would have required Pinnacol to convert to a stock insurance company within 120 days; transfer $305 million to the State; disaffiliate from PERA; contract with the Commissioner of Insurance to serve as the insurer of last resort through December 31, 2024 (generally, three calendar years); and begin paying premium tax. The $305 million would have been split equally between the Controlled Maintenance Trust Fund and the Just Transition Trust Fund. The bill was postponed indefinitely by the State, Civic, Military, and Veterans Affairs Committee. At that time, for the purposes of the bill, the State's share of Pinnacol was valued at $305 million.

Insurer of Last Resort Alternatives

Pinnacol Assurance serves as the State's "insurer of last resort". This requires that Pinnacol provide workers' compensation insurance coverage to all employers unable to acquire coverage from another market provider regardless of risk (section 8-45-101, C.R.S.). Maintaining an insurer of last resort or equivalent policy solution is critical to moving forward on this proposal.

Pinnacol Continues as Insurer of Last Resort

From a perspective of streamlined policy change, the State could simply retain Pinnacol as the insurer of last resort. It is reasonable that requiring/granting Pinnacol to serve in this capacity for a specified conversion transition period, such as three years, would ensure that Pinnacol continues as the insurer of last resort and minimizes disruptions for businesses purchasing these insurance policies. Further, this could allow the State a period of time to decide on a permanent policy solution to address this issue.

Due to the unique characteristics of serving a market segment that may not qualify for coverage from another market provider, this component may have some "increased provider cost vs. increased market share" calculus that must be negotiated as part of the conversion valuation negotiation.

The R2 proposal suggests that Pinnacol may be released from this statutory requirement. If so, the State may ensure the provision of workers' compensation insurance to high risk employers through the following alternatives.

Contracting Services

The initial proposed alternative would be to issue an RFP and contract the role of "insurer of last resort". Rather than assign this role to Pinnacol, an RFP process would open the provision of insurer of last resort to all workers' compensation insurance companies. Pinnacol currently receives tax incentives to fulfill the State's obligation of offering last resort insurance and it is likely that similar incentives could be provided for another insurer serving this role.

National Pooling Mechanism

The National Council on Compensation Insurance (NCCI) administers reinsurance pools for states. The pooling mechanism serves as a central insurance mechanism that allows the risk of claims to be shared, keeping premiums manageable while providing the resources to cover large claims. For a filed claim, the insurer is responsible for payment of the claim up to a certain threshold; the amount above the threshold is paid from the reinsurance pool.

The R2 request proposes that Colorado could join the NCCI pool as an alternative. Currently 26 other states use an NCCI solution with 23 participating jointly in the National Workers Compensation Reinsurance Association (NWRCA) national pool. Within the NWRCA, insurers in participating states contribute premiums to the reinsurance pool. With the NWRCA pool, NCCI provides administrative services covered through the collected premiums, including: financial statements, operating results, collections and indemnification, and compilation. Premiums vary by state and are determined by NCCI based on risk profiles.

There is no direct cost to the State to participate in the NCCI pool.

State Pooling Mechanism

Three states – Michigan, Massachusetts, and New Mexico – maintain statewide reinsurance pools with administration from NCCI. This option allows states to remain centralized without added administrative costs.

The remaining 24 "non-NCCI" states rely on identified insurers of last resort or state funds that ensure coverage for at-risk employers. While these funds do not typically include general funding from the states, they may require additional resources for administrative purposes.

The R2 proposal offers as an alternative, conversion to a state pool administered either in Colorado or by NCCI. Like the national pool, this mechanism is funded entirely through collected premiums.

Other States' Conversions

The R2 proposal notes a number of conversions adopted in other states. It is notable that while these states converted from state-operated workers' compensation systems through mutualization or privatization, none is a direct match to the proposed actions in Colorado.

Maryland

Summary

Maryland's conversion differs from the State's proposal in that the fund formerly housed within the government was an entirely state-run fund. It was converted to an entirely private entity subject to steep regulations defined in statute ensuring that it would maintain a comparable level of coverage while opening the workers' compensation insurance market to a broader range of insurers.

Discussion

In 2013, Maryland converted their Injured Workers' Insurance Fund (IWIF) to the Chesapeake Employers' Insurance Company (CEIC), a private, nonprofit, nonstock corporation under control of a governor appointed board. The statute creating the conversion includes strict regulation on the corporation including requirements to remain the insurer of last resort in Maryland; be authorized and regulated by the Maryland Insurance Commissioner; maintain premium rates identified by the Commissioner; and begin paying taxes that were previously exempted. Since its conversion, CEIC has not seen a significant change in its market share, which continues to hover around 20 percent, although market share has decreased since 2019. In 2023, Maryland required CEIC to join NCCI, suggesting that NCCI pooling was fiscally appealing.

Nevada

Summary

In an effort to improve insurance provision for consumers, Nevada shifted from the monopolistic State Industrial Insurance System (SIIS) to a privatized market for insurance that incorporated the state's provider as a mutual insurance company. At the time of mutualization, SIIS held about 65 percentof the market share with approximately 270 alternative providers available. By 2010, the resulting mutual insurance company held a 6 percent share in Nevada and had expanded to 29 other states.

Discussion

The 1999 privatization of Nevada's workers' compensation market had a variety of goals. First, it sought to improve overall coverage for workers by increasing competition and provision of adequate compensation for already existing claims that had been paused when the company was near bankruptcy in 1993. Next, it eliminated a $1.6 billion liability from the state. Finally, it sought to free the company, SIIS, to enter a wider insurance market across state lines. As a result of the shift, the Employers Insurance Co. of Nevada, formerly SIIS, estimated losing about 10 percent of their accounts in the first 6 months following the bill's signing.

During the years following the restructure of SIIS, Nevada maintained a state fund for their assigned risk pool requiring any employer seeking coverage through from the state to be declined coverage by at least two private companies, one of which had to be EICN for the first year of the open market. However, in 2012, Nevada moved their assigned risk pool to NCCI where it remains today.

Oklahoma*'s and* ***West Virginia****'s changes to workers' compensation insurance law followed a similar trajectory in which legislatures dissolved state-run systems to preserve financial viability of their respective providers and eventually settled on NCCI to provide insurance to the assigned risk pool.*

Arizona

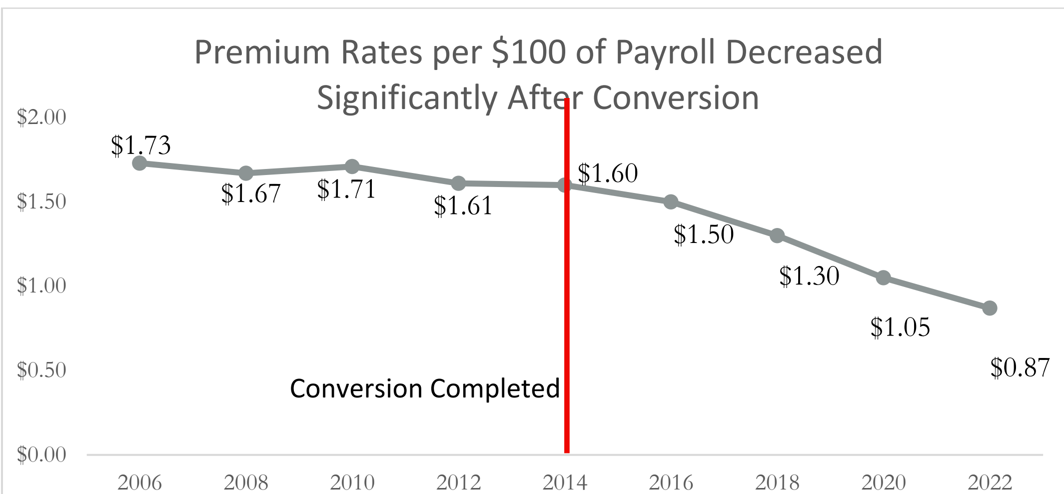
Summary

The case of Arizona lacks comparability to Colorado because the previous source of workers' compensation funding from the state was in the form of a funding account rather than an identified insurer of last resort. It is notable that privatization reduced premiums for employers; although Arizona's changes resulted in fewer employers being insured, forcing litigation from claimants.

Discussion

In 2013, Arizona converted the State Compensation Fund, a standalone government agency, to a privatized mutual insurer corporation, Copper Point Mutual Insurer. The goal of the conversion was to combat rising premiums due to a high claims expense-to-premium ratio.

As reported by the Industrial Commission of Arizona, premiums decreased by nearly 50% in the years following the conversion.



Though statute requires employers to procure workers' compensation insurance, Arizona does not have a last resort carrier. Rather, workers seeking compensation from an uninsured employer must either file a civil lawsuit or report the employer to the Industrial Commission of Arizona (ICA). The ICA is statutorily able to impose fines on employers found to not maintain insurance. The Commission uses these fines and other fees to maintain a "Special Fund" for the payment of workers' compensation claims filed with the Commission. In FY 2021, ICA completed 751 investigations resulting in employers obtaining insurance and settled 41 claims without litigation. The total cost of these proceedings was not readily available.

Utah

Summary

In 2017, the state of Utah removed reference to the state-run Worker's Compensation Fund from statute, allowing the fund to provide insurance across state lines as a privatized mutual fund. The change in statute had little impact on the company's market share in Utah but did allow it to provide insurance across state lines.

Discussion

The Worker's Compensation Fund continues to be the leading provider of Workers' Compensation Insurance in Utah since becoming a private mutual fund in 2017. Between 2012 and 2023, the market share for WCF remained virtually unchanged, shifting from 50 percent in 2012 to 44.95 percent in 2023. The fund is now able to provide insurance in California, Idaho, Colorado, Nevada, and Arizona. Additionally, the 2017 bill passed after over a decade of lobbying from the company, which also attempted to privatize in 2004. It does not appear that the removal of the WCF from state statute made any notable difference to the insurance market in Utah.

Since 1984, residual workers' compensation in Utah has been covered by the Uninsured Employer's Fund (UEF). This fund is maintained through a tax surcharge on workers' compensation insurance premiums, penalties incurred by uninsured employers, and fees assessed on self-insured employers. However, before the 2017 removal of the WCF from statute, the insurer was required to act as the "insurer of last resort" for employers. The existence of the UEF was not impacted by the conversion of the WCF nor did it see a significant spike in use after 2017.

Michigan

Summary

While older and not noted in the State's request, Michigan provides the most comparable example of privatization of a formerly state-housed insurance option. Michigan ensures continuous coverage for high risk employers through the maintenance of a "workers' compensation placement facility" which distributes self-employed and high risk employers across providers.

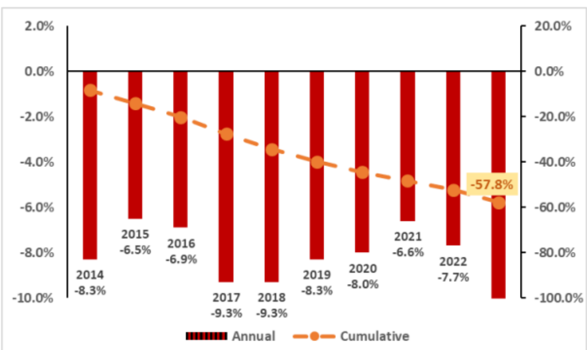
Discussion

At the time of conversion, Michigan was required to reduce their state budget by roughly 20 percent. Michigan began the process of privatizing their quasi-state agency in charge of providing high risk workers' compensation insurance. At the time of transfer after auction in 1995, the Accident Fund of Michigan was sold to Blue Cross Blue Shield for approximately $255 million. This action effectively created a sister organization managed by the state's Workers' compensation regulatory body, the Compensation Advisory Organization of Michigan (CAOM), called the Michigan Workers' Compensation Placement Facility (MWCPF), which distributed the high risk employers across registered workers' compensation providers. Both organizations are funded through membership fees, expense assessments, and other revenue generated by products and services provided by insurers. No state money is used to fund either organization, though their rates are regulated closely by the State.

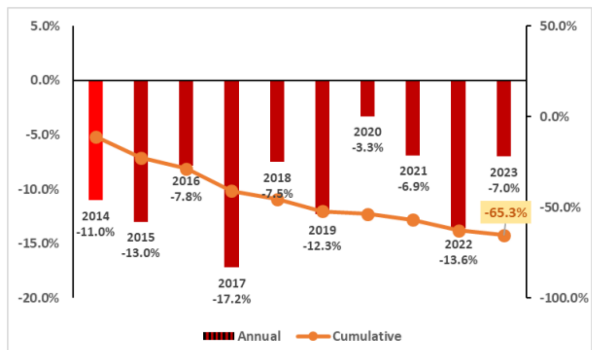
By declining to join NCCI, which administers assigned risk for 35 other states, Michigan effectively created two separate markets for workers' compensation insurance – the voluntary market (CAOM) and the Assigned Risk Market (MWCPF). Although the pricing across both pools is relatively similar, the assigned risk market has proven to be more volatile in terms of price levels for policies.

Premium price reflects similarity with more volatility in the Assigned Risk Market

- Voluntary Market (CAOM)



- Assigned Risk Market (MWCPF)

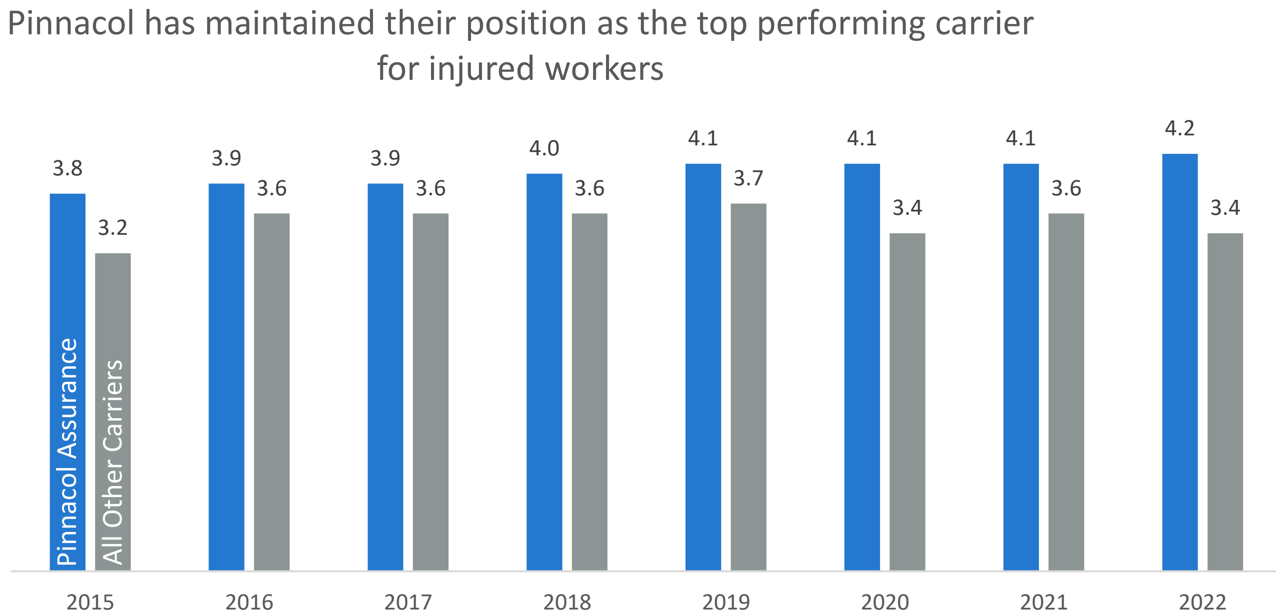


While the example of Michigan has had decades to settle into the realities of a privatized market, the case suggests the ability to remove state general fund financial burden from the provision of workers' compensation insurance. Additionally, even the earliest available data demonstrates little difference between Michigan's residual market burden and NCCI's, though the residual market volatility in Michigan could negatively impact individual employers.

Pinnacol's Ratings and Standing

Based on preliminary meetings across stakeholders and background research, Pinnacol appears to be a highly respected insurance provider.

Pinnacol has maintained high satisfaction rates among customers and injured workers, holding the top position in the Injured Workers Satisfaction Survey collected by the Division of Workers' Compensation. After a claim is closed, injured workers are asked to grade the insurer on a scale from one to five, where Pinnacol has maintained an average score of four or above for the previous five years.[2,3]



Pinnacol has received multiple awards in their position as the carrier of last resort. These awards include: Ward's 50 list of top-performing property-casualty insurance companies in the United States out of 2,900 companies;[4] named one of the top workers' compensation carriers in the United States by Forbes advisor out of the 25 largest insurers;[5] and is currently a finalist for Best Corporate Steward in the U.S. Chamber of Commerce Foundation's 25th Annual Citizens Awards.[6]

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[2] Department of Labor and Employment, Division of Workers' Compensation. Injured Worker Exit Survey. https://cdle.colorado.gov/injured-worker-exit-surveys-change-of-physician-surveys

[3] Pinnacol Assurance. "New state data shows injured workers rate Pinnacol highest-performing workers' comp carrier in the state by a wide margin". Press Release, March 24, 2024. https://www.pinnacol.com/press-release/new-state-data-shows-injured-workers-rate-pinnacol-highest-performing-workers-comp-carrier-in-the-state-by-a-wide-margin

[4] Aon. "Property-Casualty Ward's 50 Companies". 2024. https://ward.aon.com/ward-benchmarking/wards50/property-casualty

[5] Forbes Advisor. "Best Workers' Compensation Insurance of 2024". November 1, 2024. https://www.forbes.com/advisor/business-insurance/best-workers-compensation-insurance/#:~:text=Commissions%20do%20not%20affect%20our,could%20suffer%20major%20financial%20consequences.

[6] U.S. Chamber of Commerce Foundation. "2024 Citizens Awards Finalists: Large Business Category". October 1, 2024. https://www.uschamberfoundation.org/corporate-social-responsibility/2024-citizens-awards-finalists

Staff also received positive feedback from the Director of the Office of Administrative Courts at the Department of Personnel. Pinnacol tends to be a more conscientious payer of claims, including initiating approval rather than simply denying benefits in the initial claims process, as compared to other insurers. Pinnacol's attorneys bring objective data that leads to fair outcomes for claimants.

Ensuring that Pinnacol is able to sustainably continue as a conscientious provider in the market is a key piece of the Pinnacol conversion.

Valuing Pinnacol

There is likely to be a range of values based on various valuation methods. This includes a simple time value of money that was used in HB21-1213 and valued the State's share of Pinnacol at $305 million. On the basis of the time value of money, that amount will have increased. Other valuations may be based on market valuations that could value the State's share at $1.0 billion or more.

It is anticipated that additional clarity on minimum and maximum valuations may be prepared and submitted as a January 2nd budget amendment clarification.

Pinnacol's Exit from PERA

With conversion, Pinnacol will be required to disaffiliate from PERA. PERA's October 28, 2024 estimate from actuarial consultant, Segal, totals $316.8 million.

Generally, a Pinnacol conversion will require that this amount of capital be set aside from a negotiated total valuation and paid to PERA for Pinnacol's disaffiliation. As staff understands this, the PERA disaffiliation amount will reduce the amount that would be available as proceeds for the State's share of Pinnacol.

Budget Process

The Governor's team on the R2 request has communicated to staff its intention to have a defined policy solution ready by March 2025. This will give the Committee the opportunity to make a decision in time for balancing. Staff anticipates that as early as January 2nd, additional detail will be provided on the progress toward estimated valuation and policy solution detail.

Additional detail will consist of:

- a more clearly identified range of estimated value for the State's share of Pinnacol;
- a policy objective for the provision of an insurer of last resort or alternative;
- the anticipated timeline and structure of the conversion negotiation process;
- the anticipated future year methodology or schedule of credits to be applied to the PERA Direct Distribution.

Staff believes that it is in the best interest of the process to allow the Governor's team to take the lead on defining a policy solution for Pinnacol conversion. Nevertheless, it is critical that the Committee communicate its preferences and priorities in how the policy solution is tailored.

At a minimum, the Committee should communicate preferences for:

- addressing the insurer of last resort policy and
- maintaining structures that would seek to continue or encourage Pinnacol's current business practices and standards as an insurance provider.

Footnotes and Requests for Information

Update on Long Bill Footnotes

The General Assembly includes footnotes in the annual Long Bill to: (a) set forth purposes, conditions, or limitations on an item of appropriation; (b) explain assumptions used in determining a specific amount of an appropriation; or (c) express legislative intent relating to any appropriation. Footnotes to the 2024 Long Bill (H.B. 24-1430) can be found at the end of each departmental section of the bill at https://leg.colorado.gov/bills/HB24-1430 The Long Bill footnotes relevant to this document are listed below.

The Department included no footnotes.

Update on Requests for Information

The Joint Budget Committee annually submits requests for information (RFIs) to executive departments and the judicial branch via letters to the Governor, other elected officials, and the Chief Justice. Each request is associated with one or more specific Long Bill line item(s), and the requests have been prioritized by the Joint Budget Committee as required by Section 2-3-203 (3), C.R.S. Copies of these letters are included as an Appendix in the annual Appropriations Report (Appendix H in the FY 2024-25 Report):
https://leg.colorado.gov/sites/default/files/fy24-25apprept.pdf

The RFIs relevant to this document are listed below.

Department of Regulatory Agencies Requests

1 Department of Regulatory Agencies, Division of Professions and Occupations – The Department is requested to provide the following information to the Joint Budget Committee quarterly on or by the first day of June, September, January, and March:

   a. The number of Certified Nurse Aide (CNA) candidates that have passed the written exam over the past year, broken down by month;
   b. The number of candidates that are currently registered for a skills exam, broken down by the month in which the skills exam is scheduled;
   c. The number of skills exams that have been cancelled, including: the location, the date the exam was scheduled for, the date the exam was cancelled, and the reason for cancellation; and

   - Updates on the progress of efforts to improve the language accessibility of the current certification process, real-time information pertaining to test availability, and vendor communications to candidates.

Comment: Staff has requested the June and September quarterly reports.

Department Annual Performance Report

Pursuant to Section 2-7-205 (1)(b), C.R.S., the Department of Regulatory Agencies is required to publish an **Annual Performance Report** for the *previous state fiscal year* 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 the designated fiscal year. In addition, pursuant to Section 2-7-204 (3)(a)(I), C.R.S., the Department is required to develop a **Performance Plan** and submit the plan for the *current fiscal year* 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 FY 2025-26 budget request, the FY 2023-24 Annual Performance Report and the FY 2024-25 Performance Plan can be found at the following link:

https://www.colorado.gov/pacific/performancemanagement/department-performance-plans

Appendix A: Numbers Pages

Appendix A details actual expenditures for the last two state fiscal years, the appropriation for the current fiscal year, and the requested appropriation for next fiscal year. This information is listed by line item and fund source.