

**COLORADO GENERAL ASSEMBLY
JOINT BUDGET COMMITTEE**



**FY 2014-15 STAFF BUDGET BRIEFING
DEPARTMENT OF REGULATORY AGENCIES**

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

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JBC Staff Budget Briefing – FY 2014-15
Staff Working Document – Does Not Represent Committee Decision

TABLE OF CONTENTS

Department Overview	1
Department Budget: Recent Appropriations.....	2
Department Budget: Graphic Overview	3
General Factors Driving the Budget	5
Summary: FY 2013-14 Appropriation & FY 2014-15 Request	8
Issues:	
Voluntary Licensure of Private Investigators Program	10
Insurance Premium Tax Diversions as a Revenue Source for Wildfire Funds.....	12
An Assessment of the Colorado Health Benefit Exchange Sustainability Funding Model.....	18
Appendices:	
A - Numbers Pages	23
B - Recent Legislation Affecting Department Budget.....	40
C - Update on Long Bill Footnotes & Requests for Information	44
D - Indirect Cost Assessment Methodology	45
E - Change Requests' Relationship to Measures.....	48
F – DORA Consumer Outreach Program Report	49
G – Connect for Health Colorado Legislative Review Committee Update.....	52

DEPARTMENT OF REGULATORY AGENCIES

Department Overview

The Department's mission is broadly defined as consumer protection, that is carried out through regulatory programs that license, establish standards, approve rates, investigate complaints, and conduct enforcement through 41 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:

- The **Divisions of Banking, Financial Services and Securities** regulate state-chartered financial services institutions including banks, trust companies, credit unions and money transmitters, investment advisers, securities broker-dealers, and sales representatives.
- The **Civil Rights Division** administers and enforces Colorado's civil rights laws and is the only non-cash-funded division, relying on General Fund and Federal Funds.
- The **Division of Insurance** regulates and licenses life, health, property and casualty, and other types of insurance companies and agents.
- The **Public Utilities Commission (PUC)** regulates the providers of public utilities in energy and telecommunications and specified industries that provide transportation for hire directly to consumers. The **Office of Consumer Counsel (OCC)**, structured as a separate division but funded by PUC cash funds, represents the interests of residential, small business, and agricultural consumers on utility matters before the PUC.
- 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 of Professions and Occupations** oversees regulation of over 697,000 licensees in over 50 professions, occupations, and entities.
- 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 is cash funded by the programs reviewed.

JBC Staff Budget Briefing – FY 2014-15
Staff Working Document – Does Not Represent Committee Decision

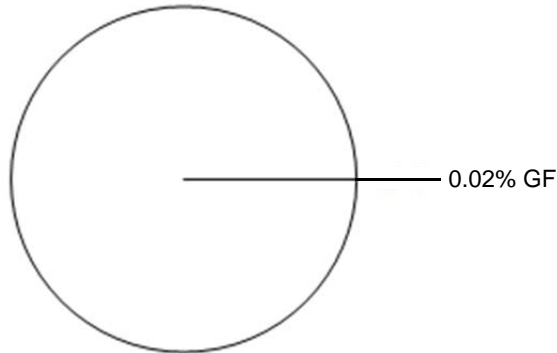
Department Budget: Recent Appropriations

Funding Source	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15 *
General Fund	\$1,600,344	\$1,715,818	\$1,703,494	\$1,774,346
Cash Funds	69,765,231	71,586,905	73,652,864	76,486,825
Reappropriated Funds	4,239,807	4,267,189	4,504,371	4,643,065
Federal Funds	<u>1,194,128</u>	<u>1,315,200</u>	<u>1,323,983</u>	<u>1,316,118</u>
Total Funds	\$76,799,510	\$78,885,112	\$81,184,712	\$84,220,354
Full Time Equiv. Staff	592.1	559.9	572.7	580.6

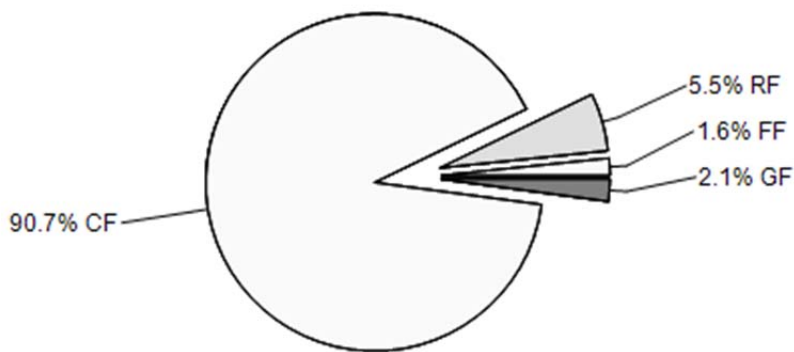
*Requested appropriation.

Department Budget: Graphic Overview

**Department's Share of Statewide
General Fund**

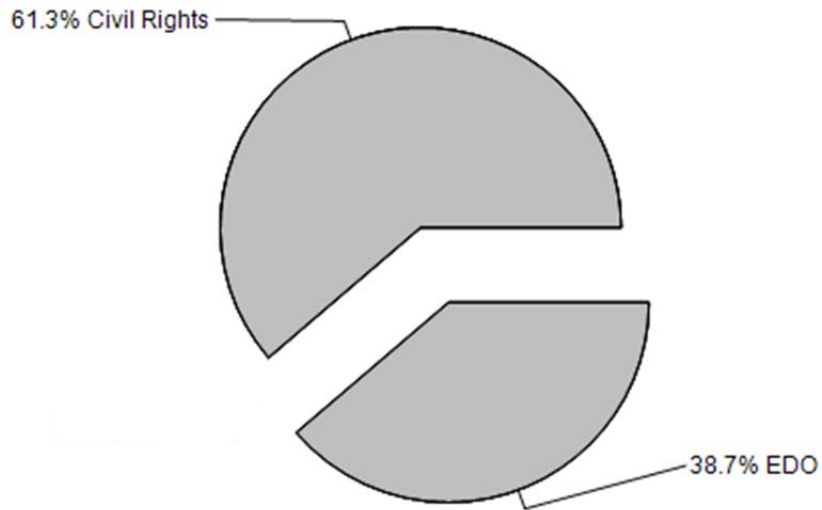


Department Funding Sources

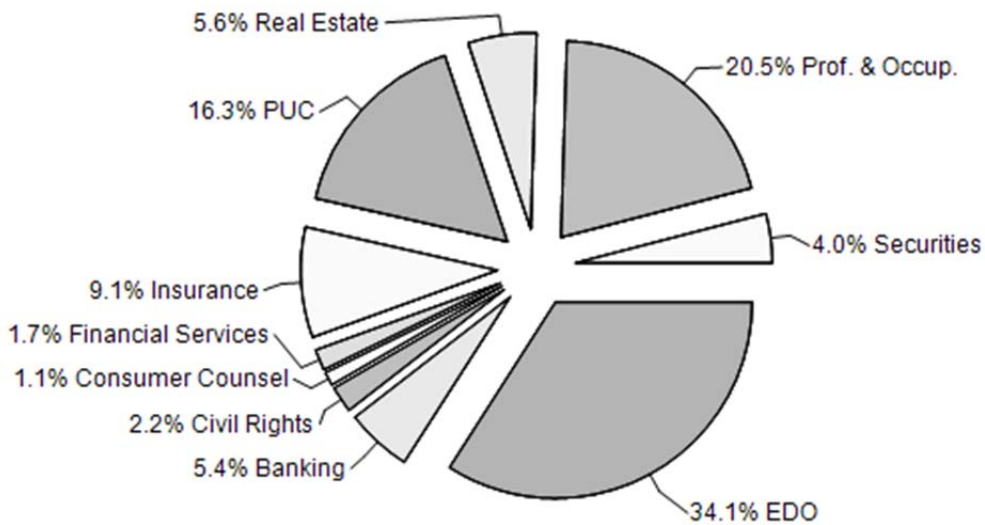


All charts are based on FY 2013-14 appropriation.

Distribution of General Fund by Division



Distribution of Total Funds by Division



All charts are based on FY 2013-14 appropriation.

JBC Staff Budget Briefing – FY 2014-15
Staff Working Document – Does Not Represent Committee Decision

General Factors Driving the Budget

The Department's FY 2014-15 budget request consists of 2.1 percent General Fund, 90.8 percent cash funds, 5.5 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 12.0 percent of the Department's FY 2013-14 total appropriation and 27.8 percent of the total legal services provided to all state agencies by the Department of Law.

Department of Regulatory Agencies Legal Services Expenditures						
	FY 08-09 Actual	FY 09-10 Actual	FY 10-11 Actual	FY 11-12 Actual	FY 12-13 Actual	FY 13-14 Approp.
Legal Services	\$7,396,788	\$7,546,070	\$7,485,354	\$8,007,882	\$8,013,885	\$9,767,656
Legal Services Hours	98,493	100,107	102,022	106,835	104,884	107,566
Change in Hours	n/a	1,614	1,915	4,813	(1,951)	2,682
Percent Change in Hours	n/a	1.6%	1.9%	4.7%	(-1.8%)	2.6%
Percent of Department Total	9.9%	10.2%	10.4%	10.5%	10.3%	12.0%
Dept. of Law Blended Legal Rate	\$75.10	\$75.38	\$73.37	\$75.71	\$77.25	\$91.08
Dept. of Law Total Legal Services to State Agencies	\$25,497,967	\$24,886,703	\$25,810,341	\$27,109,549	\$29,342,387	\$35,103,236
DORA Percent of State Agencies Total	29.0%	30.3%	29.0%	29.5%	27.3%	27.8%

From FY 2008-09 through FY 2012-13, five divisions accounted for 82.6 to 89.9 percent of the Department's legal services.

Legal Services Expenditures by Five Divisions					
	FY 08-09 Actual	FY 09-10 Actual	FY 10-11 Actual	FY 11-12 Actual	FY 12-13 Actual
Professions & Occupations	\$3,378,450	\$3,515,106	\$3,286,424	\$3,336,464	\$3,426,052
PUC + OCC	1,628,649	1,692,850	1,664,076	1,835,306	1,759,139
Real Estate	918,223	906,652	781,201	743,813	594,427
Insurance	<u>706,081</u>	<u>671,086</u>	<u>890,231</u>	<u>787,757</u>	<u>837,152</u>
Top Five Subtotal	6,631,403	6,785,694	6,621,932	6,703,340	6,616,770
Department Total	\$7,396,788	\$7,546,070	\$7,485,354	\$8,007,882	\$8,013,885
Top Five Percent of Total	89.7%	89.9%	88.5%	83.7%	82.6%

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Other Legislation

The General Assembly has passed an average of 13 bills per session over the last eight sessions that increased the Department's regulatory responsibilities.

The 2013 Session had a higher-than-average 16 bills that include an additional 12.8 FTE while totaling the lowest dollar amount appropriated over that period. The 2013 bills notable points include the following:

- Five of the sixteen bills were statutorily-required sunset review bills that implemented minor program and resource adjustments to existing regulatory programs.
- Four bills (S.B. 13-026 Update Michael Skolnik Medical Transparency Act, S.B. 13-151 Sunset Review Massage Therapists, S.B. 13-162 Sunset Examining Board of Plumbers, and S.B. 13-221 Conservation Easement Tax Credit Certificate Application) accounted for an additional \$830,000 cash funds and 11.0 FTE.
- Senate Bill 13-194 repealing the Low Income Telephone Assistance Program accounted for a decrease of \$726,000 cash funds. Not including S.B. 13-194, the appropriation for the remaining bills totaled \$1,060,066.

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
2006	11	\$0	\$1,088,461	\$194,600	\$1,283,061	7.2
2007	22	42,290	2,670,098	66,962	2,779,350	15.3
2008	19	149,205	2,233,416	0	2,382,621	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	2.0
2013	16	0	334,518	0	334,518	12.8
Average	13.4	\$23,937	\$1,139,214	\$106,862	\$1,270,012	9.4

The impact of these bills by division is outlined in the following table.

Divisions Impacted by Bills by Legislative Session									
	2006	2007	2008	2009	2010	2011	2012	2013	Total
Professions and Occupations	3	5	7	7	7	8	4	11	52
Insurance	3	5	6	0	0	2	1	2	19
Public Utilities Commission	2	6	1	1	2	0	0	1	13
Real Estate	1	4	1	1	2	1	0	1	11
All Other Divisions	<u>2</u>	<u>2</u>	<u>4</u>	<u>1</u>	<u>2</u>	<u>0</u>	<u>0</u>	<u>1</u>	<u>12</u>
Total	11	22	19	10	13	11	5	16	107

JBC Staff Budget Briefing – FY 2014-15
Staff Working Document – Does Not Represent Committee Decision

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 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12	FY 12-13
Div. of Insurance Producer Licenses						
New Licenses	29,511	29,070	25,699	29,789	30,556	30,900
Active Licenses	115,229	118,783	123,204	129,559	128,710	134,951
Div. of Real Estate						
Broker & Salesperson	18,292	11,820	10,662	10,660	10,777	9,950
Mortgage Loan Originators	n/a	8,729	4,690	5,013	5,443	7,182
Appraisers	4,447	4,006	3,597	3,365	3,209	3,068
Div. of Professions and Occupations						
New Licenses	30,890	38,900	33,194	34,431	35,210	36,152
Active Licenses	292,584	315,147	324,271	345,026	347,285	366,402
Div. of Securities						
Sales Representative License Renewals	143,772	145,347	145,504	153,576	163,818	165,433
Investment Advisor License Renewals	8,458	8,913	9,231	9,522	9,743	10,297

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 of the Divisions of Banking, Financial Services, and Securities which have 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 2007-08.

Examinations Conducted by the Divisions of Banking, Financial Services, and Securities							Change Since
	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12	FY 12-13	FY 07-08
Banking Examinations	196	164	154	195	171	180	-8.2%
Credit Union Examinations	40	33	38	39	34	31	-22.5%
Securities Examination	46	50	66	65	110	175	280.4%

JBC Staff Budget Briefing – FY 2014-15
Staff Working Document – Does Not Represent Committee Decision

Summary: FY 2013-14 Appropriation & FY 2014-15 Request

Department of Regulatory Agencies						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2013-14 Appropriation						
SB 13-230 (Long Bill)	\$80,850,194	\$1,703,494	\$73,318,346	\$4,504,371	\$1,323,983	\$560
Other Legislation	<u>334,518</u>	<u>0</u>	<u>334,518</u>	<u>0</u>	<u>0</u>	<u>12.8</u>
TOTAL	\$81,184,712	\$1,703,494	\$73,652,864	\$4,504,371	\$1,323,983	572.7
FY 2014-15 Requested Appropriation						
FY 2013-14 Appropriation	\$81,184,712	1,703,494	\$73,652,864	\$4,504,371	\$1,323,983	572.7
R1 New Vehicles for PUC	0	0	0	0	0	0.0
R2 Operating Expenses Reduction	(30,000)	0	(30,000)	0	0	0.0
Non-prioritized requested changes	239,775	9,498	230,277	0	0	0.0
Centrally appropriated line items	1,776,129	12,006	1,602,380	166,673	(4,930)	0.0
Statewide IT common policy adjustments	742,926	37,736	705,190	0	0	0.0
Annualize prior year funding	230,738	11,992	225,120	(1,719)	(4,655)	7.9
Indirect cost assessment	76,074	0	74,354	0	1,720	0.0
Fund source adjustments	<u>0</u>	<u>(380)</u>	<u>26,640</u>	<u>(26,260)</u>	<u>0</u>	<u>0.0</u>
TOTAL	\$84,220,354	\$1,774,346	\$76,486,825	\$4,643,065	\$1,316,118	580.6
Increase/(Decrease)	\$3,035,642	\$70,852	\$2,833,961	\$138,694	(\$7,865)	7.9
Percentage Change	3.7%	4.2%	3.8%	3.1%	(0.6%)	1.4%

Description of Requested Changes

R1 New Vehicles for PUC: The request includes a budget neutral request for two additional sedans for the Public Utilities Commission, including one for the Investigations and Compliance Unit of the Motor Carrier Safety Program and one for the Gas Pipeline Safety Section. The expenditure will be financed through a reallocation of \$7,017 cash funds from operating expenses to vehicle lease payments for FY 2014-15 and out year.

R2 Operating Expenses Reduction: The request includes a reduction of \$30,000 cash funds in the Division of Financial Services operating expenses line item representing an 18.5 percent decrease of the current \$161,788 appropriation. The Division has reverted an average of 35.2 percent (\$57,000) of its appropriation over the last three years due to credit union industry consolidation.

JBC Staff Budget Briefing – FY 2014-15
Staff Working Document – Does Not Represent Committee Decision

Non-prioritized requested changes: The request includes the annual fleet vehicle change from the Department of Personnel, and the following changes from the Office of Information Technology: secure Colorado phase II, eliminate redundant applications, Capitol Complex network resiliency, IT service management ecosystem, and IT technical development.

Centrally appropriated line items: The request includes adjustments to centrally appropriated line items for the following: state contributions for health, life, and dental benefits; merit pay; salary survey; short-term disability; supplemental state contributions to the Public Employees' Retirement Association (PERA) pension fund; workers' compensation; administrative law judges; payment to risk management and property funds; and leased space and Capitol complex leased space.

Statewide IT common policy adjustments: The request includes adjustments to line items appropriated for: purchase of services from the computer center; Colorado state network; management and administration of the Governor's Office of Information Technology (OIT); information technology security, and COFRS modernization.

Annualize prior year funding: The request includes adjustments related to prior year legislation and budget actions.

Indirect Cost Assessment Adjustments: The request includes a \$76,074 increase in total funds that reflects adjustments to indirect cost assessment lines as a result of the Statewide Indirect Cost Plan.

Fund source adjustment: The request includes an increase in cash funds offset by a decrease in General Fund and reappropriated funds related to Sunset Office reviews.

Issue: Voluntary Licensure of Private Investigators Program

The Department of Regulatory Agencies continues to experience an increasing negative fund balance for the Voluntary Licensure of Private Investigators Program due to the low number of licensees and particularly due to the voluntary nature of the licensing program.

SUMMARY:

- At the end of 2012, the Department reported that the Program was beginning to experience a deficit fund balance primarily due to the voluntary nature of the program.
- Senate Bill 13-259 (Mandatory Registration of Private Investigators) would have replaced the voluntary licensure program with a mandatory registration program, but was postponed indefinitely by the House Appropriations Committee in the last days of the session.

RECOMMENDATION:

Staff recommends that the Committee pursue legislation to repeal the Voluntary Licensure of Private Investigators Program. If the Committee prefers to allow another solution to be pursued by other legislators, staff recommends that the Committee begin the repeal legislation and allow it to be held in the second house appropriations committee until a deadline date for an alternate solution is reached, ensuring the resolution of this issue.

DISCUSSION:

House Bill 11-1195 established the Voluntary Licensure of Private Investigators Program. At the end of 2012, the Department informed staff that the Program was beginning to experience a deficit fund balance primarily due to the voluntary nature of the program. The Department's only and statutorily required policy response was to increase fees to pay for program expenses. As fees were expected to be increased as a method of addressing the fund balance issue, this would have the effect of depressing the number of licensees in the future, leading to a cycle of increasing deficits, higher fees, and fewer licensees.

In the 2013 session, staff presented this issue to the Committee, however the Committee preferred allowing the original bill sponsors or other interested legislators to pursue a solution rather than move forward with a JBC bill to repeal the program. Senate Bill 13-259 (Mandatory Registration of Private Investigators) would have replaced the voluntary licensure program with a mandatory registration program. However it was postponed indefinitely by the House Appropriations Committee in the last days of the session.

The following table is an update provided by the Department at the end of August.

JBC Staff Budget Briefing – FY 2014-15
Staff Working Document – Does Not Represent Committee Decision

Private Investigator Program Projected Fund Balance at Current Fee Levels				
	Actual	Actual	Projected	Projected
	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15
Beginning Fund Balance	\$0	(\$22,618)	(\$34,773)	(\$38,914)
Revenue	14,400	24,726	33,920	33,920
Expenditures	<u>37,018</u>	<u>36,881</u>	<u>38,061</u>	<u>38,061</u>
Ending Fund Balance	(\$22,618)	(\$34,773)	(\$38,914)	(\$43,055)

The Department is able to run a deficit due to the overall positive fund balance provided by the many professional licensing and regulatory programs funded through the Division of Professions and Occupations Cash Fund. It is staff's understanding that fiscal rules allow a program to operate at a deficit as long as the larger cash fund is not in deficit. However, perpetually operating a program at a deficit requires that the other fee-funded programs within the fund subsidize the program in deficit, which violates statutory provisions regarding fee-setting to cover the costs of a given program. Should the program be repealed, the deficit would have to be back-filled by General Fund.

RELEVANCE OF BRIEFING ISSUE TO THE DEPARTMENT'S PERFORMANCE PLAN:

This briefing issue addresses the Department of Regulatory Agencies' goal that *public trust and confidence is increased by responsible and transparent stewardship of money and resources* and that *fees are set as low as possible, and provide reasonable recovery costs that sustain a responsible funding mechanism for DORA without unduly burdening professions/businesses.*

Issue: Insurance Premium Tax Diversions as a Revenue Source for Wildfire Funds

Senate Bill 13-270 added a provision to allow appropriations by the General Assembly to the Wildfire Emergency Response Fund and the Wildfire Preparedness Fund in the Department of Public Safety from Insurance Premium Tax (IPT) collections prior to their being credited to the General Fund. Discussions with staff from the Office of Legislative Legal Services and the Department suggest that the provision might be clarified to better delineate the budget mechanism intended for funding the Division of Insurance and the intended diversion to external program cash funds.

SUMMARY:

- In practice, the Department retains up to five percent of IPT collections for Division of Insurance funding up to the amount necessary to achieve a zero fund balance in the Division of Insurance Cash Fund. However, the plain language of current statute, as was originally drafted and added in 1992, appears to require an explicit appropriation from the General Assembly to the Division of Insurance Cash Fund from the retention of IPT collections.
- Senate Bill 13-270 added a similar provision allowing appropriations to be made by the General Assembly for the Wildfire Emergency Response Fund and the Wildfire Preparedness Fund in the Department of Public Safety from IPT collections prior to their transfer to the General Fund without being subject to a cap.
- While the term appropriation is most often considered spending authority, it may also represent a transfer from one fund to another fund, and additionally might represent a diversion of a specified revenue stream into a fund.

RECOMMENDATION:

Staff recommends that the Committee sponsor legislation to clarify the different appropriations mechanisms for funding the Division of Insurance from insurance premium tax collections and for diverting funds from insurance premium tax collections to the Wildfire Emergency Response Fund and the Wildfire Preparedness Fund through line item appropriations.

DISCUSSION:

The Statutory Provision in Question

Senate Bill 13-270 (Wildfire Preparedness & Emergency Response Funds) amended Section 10-3-209 (4), C.R.S., which provides for insurance premium taxes (IPT) collected by the Division of Insurance to be transferred to the Treasurer and credited to the General Fund, but allows the

JBC Staff Budget Briefing – FY 2014-15
Staff Working Document – Does Not Represent Committee Decision

Division to retain up to five percent of taxes collected for Division funding, prior to the transfer. The bill added a similar provision that mirrors the original Division of Insurance provision allowing appropriations to be made by the General Assembly for the Wildfire Emergency Response Fund and the Wildfire Preparedness Fund in the Department of Public Safety from IPT collections prior to their transfer to the General Fund, but without the limit of a cap.

Paragraph (a) of subsection (4) states:

(4) (a) All taxes, penalties, and fines collected by the division of insurance under this section shall be transmitted to the department of the treasury and credited to the general fund; except that:

(I) Such amounts appropriated by the general assembly to the division of insurance cash fund, created in section 10-1-103 (3), not to exceed a maximum of five percent of all taxes collected under this section, shall be transmitted to the state treasurer and deposited in the division of insurance cash fund; and

(II) Such amounts as may be appropriated by the general assembly to the wildfire emergency response fund created in section 24-33.5-1226, C.R.S., and to the wildfire preparedness fund created in section 24-33.5-1227, C.R.S., shall be transmitted to the state treasurer and deposited in said funds.

The History of Division of Insurance Funding From IPT Collections

Senate Bill 92-090 (Regulatory Authority of the Division of Insurance) transitioned the Division of Insurance from being predominantly General Funded to being entirely cash funded from the Division of Insurance Cash Fund (with General Fund implications).

Prior to S.B. 92-090, statutory fees paid by insurance companies and insurance premium taxes were credited to the General Fund, except for minimal, statutorily-defined portions set aside for particular Division cash funds. After S.B. 92-090, statutory fees paid by insurance companies and administratively-set fees paid by insurance producers were credited to the Division of Insurance Cash Fund. Additionally, the bill added the provision allowing the retention of up to five percent of IPT collections prior to their transfer to the Treasurer and their crediting to the General Fund.

In practice, the Department retains IPT collections for Division of Insurance funding up to the amount necessary to achieve a zero fund balance in the Division of Insurance Cash Fund. In this way, annual Division of Insurance spending authority equals statutorily-set fee revenue plus administratively-set fee revenue plus IPT collections retained. This funding structure essentially mirrors the pre-1992 General Funded structure, while identifying Division fee revenues as cash funds instead of crediting the revenue to the General Fund. The Legislative Council Staff Fiscal Note for S.B. 92-090 identified no fiscal impact from this fund credit-fund source transition. The following table shows the amount and percentage of IPT collections transferred to the Division of Insurance Cash Fund over the last ten years.

JBC Staff Budget Briefing – FY 2014-15
Staff Working Document – Does Not Represent Committee Decision

10 Years of Insurance Premium Tax Collections and Transfers to the Division of Insurance Cash Fund						
	FY 03-04	FY 04-05	FY 05-06	FY 06-07	FY 07-08	
Premium Tax Collected	\$182,196,075	\$194,734,785	\$183,781,370	\$185,525,284	\$198,340,633	
Transferred to DOI CF	\$1,877,700	\$2,738,501	\$3,262,222	\$1,158,326	\$2,929,442	
Percent Transferred	1.03%	1.41%	1.78%	0.62%	1.48%	
	FY 08-09	FY 09-10	FY 10-11	FY 11-12	FY 12-13	10-Year Total
Premium Tax Collected	\$199,223,905	\$193,724,843	\$193,581,494	\$198,785,430	\$212,898,948	\$1,942,792,765
Transferred to DOI CF	\$4,804,063	\$2,677,785	\$1,679,253	\$505,910	\$689,077	\$22,322,278
Percent Transferred	2.41%	1.38%	0.87%	0.25%	0.32%	1.15%

Appropriation and Its Meanings as They Relate to Section 10-3-209 (4), C.R.S.

While the term appropriation is most often considered spending authority, it may also represent a transfer from one fund to another fund, and additionally might represent a diversion of a specified revenue stream into a fund.

The original provision, now sub-paragraph (I), allowing an appropriation by the General Assembly to the Division of Insurance Cash Fund of up to five percent of IPT collections is a case in point: the General Assembly does not and has not *made an appropriation* in the Long Bill to the Division of Insurance Cash Fund at any time. In practice, the Department has been allowed to keep up to five percent of IPT collections so that the Division of Insurance is completely funded, after fee revenue has been collected and accounted for, up to its *program spending authority appropriation* in a given fiscal year. Based on historical practice, it would be more precise were sub-paragraph (I) stated as follows:

(I) Such amounts appropriated by the general assembly ~~to~~ FROM the division of insurance cash fund, created in section 10-1-103 (3), not to exceed a maximum of five percent of all taxes collected under this section, shall be transmitted to the state treasurer and deposited in the division of insurance cash fund; and

Changing the word *to* to *from* would clarify that IPT transfers are intended up to the amount of spending authority allowed for the Division of Insurance. The plain language of current statute, as was originally drafted and added in 1992, appears to require an explicit appropriation from the General Assembly to the Division of Insurance Cash Fund from the *retention* of IPT collections. Historical and current practice is not strictly in compliance with the language in the provision. Adding the new provision using essentially the same language with a different intended budget mechanism exacerbates this ambiguity.

Staff Interpretation of Appropriations Process

As drafted, it appears that the following actions could occur if legislative intent is understood in this way:

1. The General Assembly makes a Long Bill appropriation to the Wildfire Emergency Response Fund and Wildfire Preparedness Fund in distinct line items in the Department of Public Safety.

JBC Staff Budget Briefing – FY 2014-15
Staff Working Document – Does Not Represent Committee Decision

2. The appropriation appears as a cash fund appropriation.
3. The letter note specifies the cash funds source as the collection of IPT in the Division of Insurance pursuant to statute.
4. An appropriation of spending authority in another operating line item from these funds would be letter noted as reappropriated funds. Otherwise the funds are provided continuous spending authority.
5. The Department transmits IPT collections to the State Treasurer.
6. The State Treasurer deposits the appropriated portion in the wildfire funds and credits the rest to the General Fund.

Department of Public Safety Interpretation of Appropriations Process

The Department of Public Safety (DPS) has submitted request item R2, Funding for Wildfire Preparedness Fund. In its request, DPS has located the appropriation in the existing Wildland Fire Management Services line item as a cash funded appropriation of \$4.15 million for FY 2014-15 and ongoing. The DPS request amount represents 1.9 percent of FY 2012-13 IPT collections. Additionally, the DPS R2 narrative states inaccurately (emphasis added):

*Pursuant to Senate Bill 13-270, the **Insurance Premiums Tax Fund** was identified as an appropriate source of funding for the Wildfire Preparedness Fund (WPF)... Beginning in FY 2014-15, the WPF will require an appropriation of \$4,150,000 from the **Insurance Premium Tax Fund**...*

There is neither an Insurance Premiums Tax Fund nor an Insurance Premium Tax Fund in statute.

The narrative concludes with the *Assumptions and Calculations* section stating accurately (emphasis added):

*These Cash Funds **will be diverted from the "taxes, penalties, and fines" collected by the Division of Insurance, which ultimately are credited to the General Fund, and will therefore reduce General Fund revenue by \$4,150,000 annually.***

Other Department Funding Source Transfers To Other Programs in Statute

The Department's, Division of Insurance currently includes a line item in its budget titled, *Transfer to CAPCO Administration*. Section 24-48.5-106 (3), C.R.S., states:

(3) All direct and indirect expenditures incurred by the Colorado office of economic development in carrying out the responsibilities assigned to the office in this section shall be paid from the division of insurance cash fund, created in section 10-1-103 (3), C.R.S.

The Department's, Division of Real Estate includes a line item titled, *Mortgage Broker Consumer Protection*, which is a payment to the Department of Law for the investigation and prosecution of mortgage fraud. The regulation of mortgage loans was added to statute in 2006, amended by four bills in 2007, and the line item was added in the 2008 Long Bill (FY 2008-09). Although not specifically authorized in statute, S.B. 07-216 included an appropriation to the Consumer Protection Section in the Department of Law because the bill added a deceptive trade

JBC Staff Budget Briefing – FY 2014-15
Staff Working Document – Does Not Represent Committee Decision

practice to the Colorado Consumer Protection Act. The line item for this purpose was added in the 2008 Long Bill on the basis of that appropriation.

The Department's, Division of Securities includes a line item titled, *Securities Fraud Prosecution*, which is likewise, a payment to the Department of Law for cases referred for investigation and criminal prosecution by the Division to the Securities Fraud Unit within the Department of Law's, Criminal Justice and Appellate Division. Section 11-51-603.5 (2), C.R.S., states:

(2) For the purpose of providing adequate funding to the department of law for the investigation and prosecution of allegations of securities fraud, a portion of the fees collected under this article shall be allocated to the department of law for the investigation and prosecution of criminal violations under this article.

Conclusion

In those cases there is a clear nexus between the fund source and the purpose of the appropriation as well as statutory and legislative guidance regarding the necessary budget actions. While the original provision allowing the Division of Insurance to retain up to five percent of IPT collections might similarly be interpreted in multiple ways, there appears to have been a common and reasonable understanding for how the provision was to be effected within the budget process upon the Division's transition from General Funding to cash funding. Because the IPT collections as a revenue source for these wildfire funds does not have a direct program nexus and legislative and Department staff have varied understandings for how the funds transfer is intended to be carried out, statute should be clarified in defining the budget actions necessary to achieve the legislative intent.

An improved subsection (4) might be better stated as follows:

(4) (a) All taxes, penalties, and fines collected by the division of insurance under this section shall be transmitted to the department of the treasury and credited to the general fund; except that:

~~*(I) Such amounts appropriated by the general assembly to the division of insurance cash fund, created in section 10-1-103 (3), not to exceed a maximum of five percent of all taxes collected under this section, shall be transmitted to the state treasurer and deposited in the division of insurance cash fund; and*~~

(I) SUCH AMOUNTS NECESSARY TO FUND THE DIVISION OF INSURANCE CASH FUND, CREATED IN SECTION 10-1-103 (3), AS THE GENERAL ASSEMBLY HAS APPROPRIATED FOR DIVISION OF INSURANCE EXPENDITURES AFTER THE COLLECTION OF FEE REVENUE, NOT TO EXCEED A MAXIMUM OF FIVE PERCENT OF ALL TAXES COLLECTED UNDER THIS SECTION. SUCH AMOUNT SHALL BE TRANSMITTED TO THE STATE TREASURER AND DEPOSITED IN THE DIVISION OF INSURANCE CASH FUND; AND

~~*(II) Such amounts as may be appropriated by the general assembly to the wildfire emergency response fund created in section 24-33.5-1226, C.R.S., and to the wildfire preparedness fund created in section 24-33.5-1227, C.R.S., shall be transmitted to the state treasurer and deposited in said funds.*~~

JBC Staff Budget Briefing – FY 2014-15
Staff Working Document – Does Not Represent Committee Decision

(II) SUCH AMOUNTS AS MAY BE DIVERTED TO THE WILDFIRE EMERGENCY RESPONSE FUND CREATED IN SECTION 24-33.5-1226, C.R.S., AND TO THE WILDFIRE PREPAREDNESS FUND CREATED IN SECTION 24-33.5-1227, C.R.S., THROUGH APPROPRIATION BY THE GENERAL ASSEMBLY SHALL BE TRANSMITTED TO THE STATE TREASURER AND DEPOSITED IN SAID FUNDS.

RELEVANCE OF BRIEFING ISSUE TO THE DEPARTMENT'S PERFORMANCE PLAN:

This briefing issue does not address any of the Department of Regulatory Agencies' goals, objectives, or measures in a way that promotes or increases the Department's effectiveness related to its performance plan. This briefing issue is intended to clarify the Division of Insurance funding mechanism and diversions to external program cash funds from insurance premium tax collections.

Issue: An Assessment of the Colorado Health Benefit Exchange Sustainability Funding Model

This issue brief presents an overview and assessment of the long-term sustainability plan for funding for the Colorado Health Benefit Exchange (Exchange). The Exchange's pricing model excludes information technology (IT) infrastructure depreciation which may underprice services and create the need for additional state-provided capital funding in the future.

SUMMARY:

- The Exchange projects its administrative fee on premiums paid on policies purchased through the Exchange to be set at 1.4 percent through 2016 and at 1.9 percent in 2017. This compares to the 3.5 percent administrative fee being charged on premiums in states using the federal exchange.
- In addition to federal implementation grants, the Exchange also relies on state sources primarily related to the repeal of CoverColorado.
- The Exchange does not include depreciation of its capital and IT assets in its pricing model, opting instead to rely on the replacement of obsolete or depleted IT assets through a *technology obsolescence reserve* which the Exchange defines as the fund reserve remaining after accounting for a \$13.0 million operating reserve.

RECOMMENDATION:

Staff recommends that the Committee send a letter to the Legislative Health Benefit Exchange Implementation Review Committee (LIRC) recommending the request for additional analysis from the Exchange that includes the use of depreciation within its sustainability or pricing model in order to better determine whether the current sustainability plan is comparable to a full-cost pricing model that includes depreciation. Staff also recommends that the Exchange's *technology obsolescence reserve* should be set based on explicit technology obsolescence planning and not simply as a label assigned for remaining reserve.

DISCUSSION:

Colorado Health Benefit Exchange

The federal Patient Protection and Affordable Care Act and subsequent amendments to the law in the Health Care and Education Reconciliation Act of 2010, known collectively as the Affordable Care Act (ACA), is intended to expand health care coverage by increasing access to private health insurance and public health programs through state-based health insurance exchanges. Health insurance exchanges are regulated marketplaces in which individuals and

small businesses can shop for private health insurance options based on specified plan standards and, if eligible, qualify for tax credits related to the purchase of insurance through the exchange.

Senate Bill 11-200 created a process to implement the Colorado Health Benefit Exchange and included the following key provisions:

- Created the Colorado Health Benefits Exchange as a nonprofit unincorporated public entity, rather than a state agency, exempt from public procurement rules.
- Created a governing board with nine voting members, appointed by the Governor and legislative leaders, and three non-voting, state agency director members.
- Directs the Board to seek grant funding, and allows the Exchange to collect an administrative fee on all policies sold through the exchange as the Exchange's primary funding source on an ongoing basis, and disallows the use of General Fund.
- Gives the Board general power over the development, governance, and operation of the exchange, along with all the powers and duties necessary for implementation.
- Restricts the Board from promulgating regulations and directs the Board not to replicate or displace the duties of the insurance commissioner.
- Provides legislative oversight through a special legislative implementation review committee (LIRC) comprised of ten members appointed by majority and minority leadership in each house.
- Requires LIRC approval of all grant applications, the Exchange's executive director, and its plans of operation and financing.
- Requires all moneys received to be reported to the Legislative Audit Committee, which may audit the moneys.

In May 2013, the Exchange added its *dba* name, Connect for Health Colorado, for the purpose of improved brand identity among Colorado insurance consumers.

Exchange Sustainability Plan

The Exchange's early implementation costs were almost entirely funded with federal grants related to the ACA and state exchange implementation. Additionally, H.B. 13-1245 (Funding Colorado Health Benefit Exchange) provided additional implementation funding for the Exchange as follows:

- A \$15.0 million transfer on July 1, 2013, from the Unclaimed Property Trust Fund (UPTF) related to the repeal of CoverColorado in H.B. 13-1115.
- A transfer on March 31, 2015, from CoverColorado equal to 25 percent of remaining funds estimated in the fiscal note to be \$8.5 million.
- For calendar years 2014 through 2016, a special fee on insurers of up to \$1.80 per number of lives insured per month.
- For tax years 2013 and thereafter, up to \$5.0 million from insurance premium tax credit donations, as previously provided to CoverColorado.

The Exchange projects its administrative fee on premiums paid on policies purchased through the Exchange to be set at 1.4 percent through 2016 and at 1.9 percent in 2017. This compares to the 3.5 percent administrative fee being charged on premiums in states using the federal

JBC Staff Budget Briefing – FY 2014-15
Staff Working Document – Does Not Represent Committee Decision

exchange. The Exchange has opted to forego the special fee on insurers in 2014 and anticipates setting the fee at \$1.00 per insured live per month in 2015 and 2016 based on additional statutory requirements for fee offset due to funds received from CoverColorado and the UPTF. The following table outlines the Exchange's sustainability plan.

Exchange Sustainability Model - Current and Anticipated Budget and Funding					
Calendar Year	2013	2014	2015	2016	2017
Exchange Policies (projected)	0	136,300	220,000	250,000	300,000
Average Monthly Premium	\$0	\$283	\$297	\$312	\$328
Administrative Fee	0.00%	1.40%	1.40%	1.40%	1.90%
Revenue					
Administrative Fee Revenue	\$ -	\$ 6,480,247	\$ 10,982,664	\$ 13,104,315	\$ 22,408,379
Federal Grant Funding	58,443,282	44,115,501	21,597,889	0	0
Transfer from UPTF/CoverColorado	15,000,000	0	8,500,000	0	0
Health Insurer Assessment	0	0	10,500,000	10,500,000	0
Premium Tax Credit Donations	0	5,000,000	5,000,000	5,000,000	5,000,000
Other Grants	<u>2,134,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total Revenue	\$ 75,577,282	\$ 55,595,748	\$ 56,580,553	\$ 28,604,315	\$ 27,408,379
Operating/Technology Budget Expenses					
Personal Services, Payroll Tax, Benefits			\$ 5,026,691	\$ 5,177,492	\$ 5,332,817
Assistance Network			3,290,097	1,368,933	1,113,352
Customer Service Center			6,984,881	7,657,617	6,917,427
Back Office Operations			1,745,021	1,832,272	1,923,886
Marketing, Outreach & Comm.			250,000	1,500,000	1,500,000
Technology (ongoing)			6,540,455	6,540,455	6,492,455
Other Admin & Op Expenses			<u>1,513,623</u>	<u>1,536,026</u>	<u>1,558,983</u>
Subtotal Operating/Technology Budget	58,443,282*	26,000,000*	25,350,768	25,612,795	24,838,920
Remaining Implementation Costs	0	18,954,181	29,079,721	0	0
Operating Budget (not fed-funded)	<u>2,134,000</u>	<u>6,480,247</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total Expenditures	\$ 60,577,282	\$ 51,434,428	\$ 54,430,489	\$ 25,612,795	\$ 24,838,920
Surplus/(Deficit)	\$ 15,000,000	\$ 4,161,320	\$ 2,150,064	\$ 2,991,520	\$ 2,569,459
Ending Balance	15,000,000	19,161,320	21,311,384	24,302,904	26,872,363
Operational Reserve (6 mos.)	13,000,000	13,000,000	13,000,000	13,000,000	13,000,000
Technology Obsolescence Reserve	\$ 2,000,000	\$ 6,161,320	\$ 8,311,384	\$ 11,302,904	\$ 13,872,363

*Operating/Technology Budget Expenses for 2015-2017 were taken from the Exchange's Federal Level 2 Grant Application, May 2013. Budget line item data for 2013 and 2014 were not included and do not appear to be publicly available in a similar format.

JBC Staff Budget Briefing – FY 2014-15
Staff Working Document – Does Not Represent Committee Decision

As shown in the table, the Exchange estimates an ongoing operating budget of about \$26.0 million per year with an estimated operating reserve of \$13.0 million equal to about six months of operating expenses. Additional reserve would be credited to a Technology Obsolescence Reserve for the purpose of IT-related improvements and systems replacement.

Depreciation vs. Technology Obsolescence Reserve

Due to the IT-centric nature of the Exchange operation and the substantial implementation resources granted and expended for an online exchange system, staff was initially concerned that it appeared that the Exchange had not priced depreciation into its sustainability model based on the financial information generally publicly available. The Exchange confirmed to staff that depreciation is not included in the operating expenditure lines as included in their sustainability plan stating:

The sustainability modeling does not include depreciation expense. This was done because we created a separate reserve in our modeling to address technology obsolescence. The technology reserve is shown at the bottom of the modeling and is intended to build at the approximate rate of depreciation.

Staff attempted to estimate depreciation based on publicly available financial statements. However, not all financial statements are available on the Exchange website due to disconnected links. Additionally the Exchange's accounting system was recently upgraded and the most recent reports show asset categories differently from previous reports making it challenging to estimate potential depreciation for the Exchange's capital and IT assets. Nevertheless the following table attempts to outline the difference between a rough, *back-of-the-napkin* estimate of depreciation and the Exchange's technology obsolescence reserve.

Estimated Depreciation vs. Technology Obsolescence Reserve	
Total Expenditures over 5 years	\$ 216,893,914
Operating Budget over 5 years	<u>130,000,000</u>
Imputed Implementation Costs	86,893,914
10-year Depreciation (Annual)	8,689,391
Depreciation over 5 years	43,446,957
Technology Obsolescence Reserve (2017)	<u>13,872,363</u>
Estimated Under-costed IT Replacement for 5 years	(\$ 29,574,594)

Keep in mind that this is an illustration of known Exchange expenditures and not an analysis of actual Exchange financial statements and capital and IT assets. However an annual depreciation expense of \$8.7 million would increase the total expenditures by approximately \$34.7 million. On this basis the sustainability-pricing model would be underpriced by about 33.5 percent. Under this scenario, the administrative fee should probably be set closer to 1.9 percent through 2016 and 2.5 percent in 2017.

Regardless of the actual amount of capital and IT assets to be depreciated, depreciation should be used in the pricing model in order to fully collect on the cost of the service. It is reasonable and in the public interest to transparently express the Exchange's funding sources for implementation.

JBC Staff Budget Briefing – FY 2014-15
Staff Working Document – Does Not Represent Committee Decision

However, the Exchange's pricing and sustainability model for setting an administrative fee should work from an income statement-based model that includes depreciation as opposed to the cash flow-based model that includes the sources of implementation funding (i.e. showing capital and IT assets as fully funded through the start-up capital of implementation grants and therefore unnecessary to recover on an ongoing basis through pricing of services). In the event that the Exchange overpriced its administrative fee, it would simply generate a growing fund balance that could be corrected by lowering the fee.

Additionally, while the technology obsolescence reserve is a reasonable category of reserve for the Exchange to delineate, the reserve as currently considered is simply those funds remaining after accounting for the operating reserve. A more appropriate reserve amount or reserve rate should be estimated based on explicit assumptions for technology obsolescence needs and planning and not simply on what is left over in the program fund balance. As it is being used this reserve functions more as a label than as a strategic operating element.

If the Exchange is not adequately re-capitalizing its IT assets it will likely need to raise its administrative fee suddenly and substantially at the point its capital replacement or improvement needs are apparent. Additionally, it is likely that the Exchange might present its needs to the LIRC or the JBC for additional short-term capital funding in the event of an immediate unplanned need. The Exchange should more carefully plan for technology obsolescence and capital replacement and improvement needs to avoid such a scenario.

While overpricing would generate a growing fund balance and could be corrected by lowering the administrative fee at any time without the need for additional legislative support, underpricing could lead to the reduced ability to replace and improve IT systems, the need to raise the administrative fee substantially at the time of recognition, and the need for future legislative support for emergency funding.

RELEVANCE OF BRIEFING ISSUE TO THE DEPARTMENT'S PERFORMANCE PLAN:

This briefing issue does not address any of the Department of Regulatory Agencies' goals, objectives, or measures. This briefing issue discusses the Colorado Health Benefit Exchange which is not located within the Department.

JBC Staff Budget Briefing: FY 2014-15
Staff Working Document - Does Not Represent Committee Decision

Appendix A: Number Pages

	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	Request vs. Appropriation
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DEPARTMENT OF REGULATORY AGENCIES
Barbara Kelley, Executive Director

(1) EXECUTIVE DIRECTOR'S OFFICE AND ADMINISTRATIVE SERVICES

The Executive Director's Office performs department-wide administrative functions including accounting, budgeting, and purchasing. The Office of Policy and Research conducts sunrise and sunset evaluations pursuant to section 24-34-104 (8), C.R.S.

Personal Services	<u>2,151,811</u>	<u>2,151,832</u>	<u>2,233,220</u>	<u>2,312,290</u>
FTE	28.0	27.5	29.5	29.5
General Fund	0	0	3,380	3,000
Cash Funds	16,228	37,360	44,020	70,660
Reappropriated Funds	2,135,583	2,114,472	2,185,820	2,238,630
Health, Life, and Dental	<u>2,873,888</u>	<u>3,231,165</u>	<u>3,716,294</u>	<u>3,871,728</u>
General Fund	92,463	115,010	133,384	99,832
Cash Funds	2,596,890	2,904,637	3,360,040	3,521,918
Reappropriated Funds	157,668	161,581	178,707	221,074
Federal Funds	26,867	49,937	44,163	28,904
Short-term Disability	<u>56,574</u>	<u>54,323</u>	<u>67,739</u>	<u>78,888</u>
General Fund	1,956	1,917	2,267	2,440
Cash Funds	49,889	48,874	61,078	70,951
Reappropriated Funds	4,325	3,136	3,796	4,893
Federal Funds	404	396	598	604

JBC Staff Budget Briefing: FY 2014-15
Staff Working Document - Does Not Represent Committee Decision

	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	Request vs. Appropriation
S.B. 04-257 Amortization Equalization Disbursement	<u>880,361</u>	<u>1,038,756</u>	<u>1,292,331</u>	<u>1,463,263</u>	
General Fund	30,573	34,627	42,994	45,265	
Cash Funds	789,205	936,163	1,165,567	1,315,803	
Reappropriated Funds	54,187	55,693	72,112	90,978	
Federal Funds	6,396	12,273	11,658	11,217	
 S.B. 06-235 Supplemental Amortization Equalization					
Disbursement	<u>707,267</u>	<u>892,635</u>	<u>1,166,550</u>	<u>1,371,809</u>	
General Fund	24,403	29,615	38,677	42,436	
Cash Funds	634,182	804,564	1,052,248	1,233,565	
Reappropriated Funds	43,543	47,909	65,101	85,292	
Federal Funds	5,139	10,547	10,524	10,516	
 Salary Survey	<u>0</u>	<u>0</u>	<u>1,109,859</u>	<u>565,282</u>	
General Fund	0	0	35,734	17,333	
Cash Funds	0	0	1,012,207	506,446	
Reappropriated Funds	0	0	45,397	36,943	
Federal Funds	0	0	16,521	4,560	
 Merit Pay	<u>0</u>	<u>0</u>	<u>515,057</u>	<u>493,706</u>	
General Fund	0	0	18,413	15,562	
Cash Funds	0	0	455,781	439,027	
Reappropriated Funds	0	0	35,392	34,729	
Federal Funds	0	0	5,471	4,388	

JBC Staff Budget Briefing: FY 2014-15
Staff Working Document - Does Not Represent Committee Decision

	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	Request vs. Appropriation
Workers' Compensation	<u>70,066</u>	<u>70,200</u>	<u>60,949</u>	<u>78,879</u>	
General Fund	2,328	2,236	1,941	2,667	
Cash Funds	64,296	64,251	55,784	72,313	
Reappropriated Funds	2,337	2,407	2,090	2,713	
Federal Funds	1,105	1,306	1,134	1,186	
Operating Expenses	<u>125,640</u>	<u>152,561</u>	<u>210,344</u>	<u>210,344</u>	
General Fund	0	3,689	3,689	3,689	
Cash Funds	18,984	66,100	95,427	95,427	
Reappropriated Funds	106,656	82,772	111,228	111,228	
Legal Services	<u>8,007,882</u>	<u>8,013,885</u>	<u>9,767,656</u>	<u>9,829,302</u>	
General Fund	153,464	156,586	186,557	189,647	
Cash Funds	7,679,034	7,693,292	9,302,000	9,360,556	
Reappropriated Funds	30,433	19,086	106,439	106,439	
Federal Funds	144,951	144,921	172,660	172,660	
Administrative Law Judge Services	<u>430,196</u>	<u>297,213</u>	<u>243,353</u>	<u>262,311</u>	
General Fund	19,819	13,441	11,005	11,863	
Cash Funds	410,377	283,772	232,348	250,448	
Purchase of Services from Computer Center	<u>1,718,802</u>	<u>1,883,611</u>	<u>1,642,373</u>	0 *	
General Fund	60,624	70,270	63,346	0	
Cash Funds	1,658,178	1,813,341	1,579,027	0	
Colorado State Network	<u>149,825</u>	<u>348,448</u>	<u>203,964</u>	0 *	
General Fund	5,385	13,728	7,954	0	
Cash Funds	144,440	334,720	196,010	0	
Reappropriated Funds	0	0	0	0	

JBC Staff Budget Briefing: FY 2014-15
Staff Working Document - Does Not Represent Committee Decision

	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	Request vs. Appropriation
Management and Administration of OIT	<u>278,679</u>	<u>136,785</u>	<u>144,258</u>	<u>0</u>	*
General Fund	9,957	5,389	5,626	0	
Cash Funds	268,722	131,396	138,632	0	
Reappropriated Funds	0	0	0	0	
COFRS Modernization	<u>0</u>	<u>144,426</u>	<u>142,463</u>	<u>142,463</u>	
General Fund	0	3,016	3,016	3,016	
Cash Funds	0	131,452	131,452	131,452	
Reappropriated Funds	0	7,995	7,995	7,995	
Federal Funds	0	1,963	0	0	
Information Technology Security	<u>0</u>	<u>0</u>	<u>20,702</u>	<u>0</u>	*
General Fund	0	0	807	0	
Cash Funds	0	0	19,895	0	
Payment to Risk Management and Property Funds	<u>106,459</u>	<u>183,033</u>	<u>199,878</u>	<u>254,577</u>	
General Fund	3,537	5,829	6,366	8,607	
Cash Funds	97,694	167,525	182,942	233,387	
Reappropriated Funds	3,550	6,276	6,854	8,755	
Federal Funds	1,678	3,403	3,716	3,828	
Vehicle Lease Payments	<u>184,182</u>	<u>221,253</u>	<u>203,988</u>	<u>224,824</u>	
Cash Funds	184,182	221,253	203,988	224,824	
Information Technology Asset Maintenance	<u>669,379</u>	<u>616,274</u>	<u>671,403</u>	<u>671,403</u>	
Cash Funds	478,622	437,171	480,646	480,646	
Reappropriated Funds	190,757	179,103	190,757	190,757	

JBC Staff Budget Briefing: FY 2014-15
Staff Working Document - Does Not Represent Committee Decision

	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	Request vs. Appropriation
Leased Space	<u>2,906,477</u>	<u>2,997,721</u>	<u>3,067,398</u>	<u>3,150,891</u>	
General Fund	106,866	106,866	93,609	96,244	
Cash Funds	2,446,956	2,530,690	2,548,585	2,617,827	
Reappropriated Funds	313,215	320,725	357,135	367,091	
Federal Funds	39,440	39,440	68,069	69,729	
Capitol Complex Leased Space	<u>6,098</u>	<u>4,787</u>	<u>5,339</u>	<u>4,626</u>	
Cash Funds	6,098	4,787	5,339	4,626	
Hardware/Software Maintenance	<u>714,220</u>	<u>634,633</u>	<u>790,042</u>	<u>729,218</u>	
General Fund	800	800	800	800	
Cash Funds	454,823	375,231	530,640	469,816	
Reappropriated Funds	258,597	258,602	258,602	258,602	
Consumer Outreach/Education Program	<u>198,581</u>	<u>193,494</u>	<u>205,000</u>	<u>205,000</u>	
Cash Funds	198,581	193,494	205,000	205,000	
Payments to OIT	<u>0</u>	<u>0</u>	<u>0</u>	<u>2,973,075</u> *	
General Fund	0	0	0	124,967	
Cash Funds	0	0	0	2,848,108	
TOTAL - (1) Executive Director's Office and Administrative Services	22,236,387	23,267,035	27,680,160	28,893,879	4.4%
<i>FTE</i>	28.0	27.5	29.5	29.5	0.0%
General Fund	512,175	563,019	659,565	667,368	1.2%
Cash Funds	18,197,381	19,180,073	23,058,656	24,152,800	4.7%
Reappropriated Funds	3,300,851	3,259,757	3,627,425	3,766,119	3.8%
Federal Funds	225,980	264,186	334,514	307,592	(8.0%)

JBC Staff Budget Briefing: FY 2014-15
Staff Working Document - Does Not Represent Committee Decision

	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	Request vs. Appropriation
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(2) DIVISION OF BANKING

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

Personal Services	<u>2,828,701</u>	<u>3,239,966</u>	<u>3,578,405</u>	<u>3,675,282</u>	
FTE	36.1	41.1	40.0	40.0	
Cash Funds	2,828,701	3,239,966	3,578,405	3,675,282	
Operating Expenses	<u>494,995</u>	<u>489,328</u>	<u>490,703</u>	<u>490,703</u>	
Cash Funds	494,995	489,328	490,703	490,703	
Board Meeting Costs	<u>22,703</u>	<u>15,771</u>	<u>23,500</u>	<u>23,500</u>	
Cash Funds	22,703	15,771	23,500	23,500	
Indirect Cost Assessment	<u>301,494</u>	<u>261,032</u>	<u>303,520</u>	<u>309,452</u>	
Cash Funds	301,494	261,032	303,520	309,452	

TOTAL - (2) Division of Banking	3,647,893	4,006,097	4,396,128	4,498,937	2.3%
FTE	<u>36.1</u>	<u>41.1</u>	<u>40.0</u>	<u>40.0</u>	0.0%
Cash Funds	3,647,893	4,006,097	4,396,128	4,498,937	2.3%

JBC Staff Budget Briefing: FY 2014-15
Staff Working Document - Does Not Represent Committee Decision

	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	Request vs. Appropriation
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(3) CIVIL RIGHTS DIVISION

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

Personal Services	<u>1,580,235</u>	<u>1,593,380</u>	<u>1,593,380</u>	<u>1,664,972</u>	
FTE	26.9	24.3	27.0	27.2	
General Fund	999,428	1,068,671	962,437	1,025,486	
Reappropriated Funds	232,343	174,930	281,164	281,164	
Federal Funds	348,464	349,779	349,779	358,322	
Operating Expenses	<u>100,438</u>	<u>100,427</u>	<u>100,438</u>	<u>100,438</u>	
General Fund	59,318	59,307	59,318	59,318	
Federal Funds	41,120	41,120	41,120	41,120	
Hearings Pursuant to Complaint	<u>17,000</u>	<u>17,000</u>	<u>18,000</u>	<u>18,000</u>	
General Fund	17,000	17,000	17,000	17,000	
Federal Funds	0	0	1,000	1,000	
Commission Meeting Costs	<u>5,174</u>	<u>5,113</u>	<u>12,374</u>	<u>12,374</u>	
General Fund	5,174	5,113	5,174	5,174	
Federal Funds	0	0	7,200	7,200	
Indirect Cost Assessment	<u>35,191</u>	<u>58,107</u>	<u>31,641</u>	<u>32,310</u>	
Federal Funds	35,191	58,107	31,641	32,310	
TOTAL - (3) Civil Rights Division	1,738,038	1,774,027	1,755,833	1,828,094	4.1%
FTE	<u>26.9</u>	<u>24.3</u>	<u>27.0</u>	<u>27.2</u>	<u>0.7%</u>
General Fund	1,080,920	1,150,091	1,043,929	1,106,978	6.0%
Reappropriated Funds	232,343	174,930	281,164	281,164	0.0%
Federal Funds	424,775	449,006	430,740	439,952	2.1%

JBC Staff Budget Briefing: FY 2014-15
Staff Working Document - Does Not Represent Committee Decision

	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	Request vs. Appropriation
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(4) OFFICE OF CONSUMER COUNSEL

The Office of Consumer Counsel represents the interests of residential, agricultural and small business consumers at electric, gas, and telecommunications utility rate and service proceedings before the Public Utility Commission. The Division is cash funded by the Public Utilities Commission Fixed Utility Fund pursuant to section 40-2-114, C.R.S.

Personal Services	<u>728,909</u>	<u>742,106</u>	<u>792,953</u>	<u>816,711</u>	
FTE	7.0	6.7	7.0	7.0	
Cash Funds	728,909	742,106	792,953	816,711	
Operating Expenses	<u>40,471</u>	<u>39,964</u>	<u>55,787</u>	<u>55,787</u>	
Cash Funds	40,471	39,964	55,787	55,787	
Indirect Cost Assessment	<u>44,431</u>	<u>45,681</u>	<u>53,116</u>	<u>54,154</u>	
Cash Funds	44,431	45,681	53,116	54,154	

TOTAL - (4) Office of Consumer Counsel	813,811	827,751	901,856	926,652	2.7%
FTE	<u>7.0</u>	<u>6.7</u>	<u>7.0</u>	<u>7.0</u>	<u>0.0%</u>
Cash Funds	813,811	827,751	901,856	926,652	2.7%

JBC Staff Budget Briefing: FY 2014-15
Staff Working Document - Does Not Represent Committee Decision

	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	Request vs. Appropriation
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(5) DIVISION OF FINANCIAL SERVICES

The Division of Financial Services regulates state-chartered credit unions, savings and loans, and life care institutions; and conducts examinations of institutions to ensure continued compliance with regulatory standards. The Division is entirely cash funded by the Division of Financial Services Cash Fund pursuant to section 11-40-106 (2), C.R.S.

Personal Services	<u>979,976</u>	<u>970,272</u>	<u>1,134,247</u>	<u>1,169,941</u>	
FTE	12.3	12.1	13.0	13.0	
Cash Funds	979,976	970,272	1,134,247	1,169,941	
Operating Expenses	<u>110,024</u>	<u>108,149</u>	<u>161,788</u>	<u>131,788</u>	
Cash Funds	110,024	108,149	161,788	131,788	
Indirect Cost Assessment	<u>95,208</u>	<u>84,836</u>	<u>98,644</u>	<u>100,572</u>	
Cash Funds	95,208	84,836	98,644	100,572	

TOTAL - (5) Division of Financial Services	1,185,208	1,163,257	1,394,679	1,402,301	0.5%
FTE	<u>12.3</u>	<u>12.1</u>	<u>13.0</u>	<u>13.0</u>	<u>0.0%</u>
Cash Funds	1,185,208	1,163,257	1,394,679	1,402,301	0.5%

JBC Staff Budget Briefing: FY 2014-15
Staff Working Document - Does Not Represent Committee Decision

	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	Request vs. Appropriation
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(6) DIVISION OF INSURANCE

The Division of Insurance is responsible for licensing insurance agents and adjusters; and regulating insurance companies, non-profit hospitals, prepaid dental plans, health maintenance organizations, self-insurance pools for workers' compensation, bail bondsmen, and pre-need funeral contracts. Unless otherwise indicated, the Division is funded by the Division of Insurance Cash Fund pursuant to section 10-1-103 (3), C.R.S.

Personal Services	<u>5,560,322</u>	<u>5,602,942</u>	<u>5,732,076</u>	<u>5,927,628</u>	
FTE	77.7	76.4	83.0	82.9	
Cash Funds	5,560,322	5,602,942	5,732,076	5,927,628	
Operating Expenses	<u>274,058</u>	<u>253,115</u>	<u>291,716</u>	<u>291,716</u>	
Cash Funds	274,058	253,115	291,716	291,716	
Out-of-State Travel Expenses	<u>2,313</u>	<u>2,390</u>	<u>100,000</u>	<u>100,000</u>	
Cash Funds	2,313	2,390	100,000	100,000	
Senior Health Counseling Program	<u>507,838</u>	<u>509,000</u>	<u>509,000</u>	<u>517,794</u>	
FTE	2.9	4.0	2.0	2.0	
Federal Funds	507,838	509,000	509,000	517,794	
Transfer to CAPCO Administration	<u>80,281</u>	<u>80,281</u>	<u>80,281</u>	<u>80,281</u>	
Cash Funds	80,281	80,281	80,281	80,281	
Indirect Cost Assessment	<u>537,612</u>	<u>541,641</u>	<u>661,214</u>	<u>674,187</u>	
Cash Funds	537,612	541,641	629,046	641,339	
Federal Funds	0	0	32,168	32,848	
TOTAL - (6) Division of Insurance	6,962,424	6,989,369	7,374,287	7,591,606	2.9%
FTE	<u>80.6</u>	<u>80.4</u>	<u>85.0</u>	<u>84.9</u>	(0.1%)
Cash Funds	6,454,586	6,480,369	6,833,119	7,040,964	3.0%
Federal Funds	507,838	509,000	541,168	550,642	1.8%

JBC Staff Budget Briefing: FY 2014-15
Staff Working Document - Does Not Represent Committee Decision

	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	Request vs. Appropriation
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(7) PUBLIC UTILITIES COMMISSION

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

Personal Services	<u>8,055,031</u>	<u>7,906,391</u>	<u>8,673,610</u>	<u>8,935,997</u>	
FTE	89.6	88.1	95.0	95.0	
Cash Funds	8,055,031	7,906,391	8,673,610	8,935,997	
Operating Expenses	<u>420,792</u>	<u>432,529</u>	<u>445,689</u>	<u>438,672</u>	*
Cash Funds	420,792	432,529	445,689	438,672	
Expert Testimony	<u>20,881</u>	<u>25,000</u>	<u>25,000</u>	<u>25,000</u>	
Cash Funds	20,881	25,000	25,000	25,000	
Disabled Telephone Users Fund Payments	<u>1,900,542</u>	<u>1,787,555</u>	<u>1,900,542</u>	<u>1,900,542</u>	
Cash Funds	1,900,542	1,787,555	1,900,542	1,900,542	
Transfer to Reading Services for the Blind Cash Fund	<u>250,000</u>	<u>350,000</u>	<u>350,000</u>	<u>350,000</u>	
Cash Funds	250,000	350,000	350,000	350,000	
Commission for the Deaf and Hard of Hearing Cash Fund	<u>900,534</u>	<u>986,251</u>	<u>995,134</u>	<u>995,134</u>	
Cash Funds	900,534	986,251	995,134	995,134	
Colorado Commission for Individuals who are Blind or Visually Impaired	<u>92,476</u>	<u>0</u>	<u>0</u>	<u>0</u>	
Cash Funds	92,476	0	0	0	

JBC Staff Budget Briefing: FY 2014-15
Staff Working Document - Does Not Represent Committee Decision

	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	Request vs. Appropriation
Low Income Telephone Assistance	<u>725,548</u>	<u>541,674</u>	<u>0</u>	<u>0</u>	
Cash Funds	725,548	541,674	0	0	
Colorado Bureau of Investigation Background Checks					
Pass-through	<u>38,157</u>	<u>78,052</u>	<u>104,377</u>	<u>104,377</u>	
Cash Funds	38,157	78,052	104,377	104,377	
Indirect Cost Assessment	<u>641,705</u>	<u>648,936</u>	<u>738,422</u>	<u>752,881</u>	
Cash Funds	641,705	648,936	720,861	734,949	
Federal Funds	0	0	17,561	17,932	
TOTAL - (7) Public Utilities Commission	13,045,666	12,756,388	13,232,774	13,502,603	2.0%
FTE	<u>89.6</u>	<u>88.1</u>	<u>95.0</u>	<u>95.0</u>	<u>0.0%</u>
Cash Funds	13,045,666	12,756,388	13,215,213	13,484,671	2.0%
Federal Funds	0	0	17,561	17,932	2.1%

JBC Staff Budget Briefing: FY 2014-15
Staff Working Document - Does Not Represent Committee Decision

	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	Request vs. Appropriation
(8) DIVISION OF REAL ESTATE					
The Division of Real Estate licenses real estate brokers, real estate appraisers, and mortgage brokers; and administers enforcement programs to ensure compliance with state and federal regulatory laws.					
Personal Services	<u>2,670,742</u>	<u>2,893,806</u>	<u>3,495,164</u>	<u>3,844,328</u>	
FTE	45.3	45.2	52.4	55.9	
Cash Funds	2,670,742	2,893,806	3,495,164	3,844,328	
Operating Expenses	<u>138,920</u>	<u>177,836</u>	<u>241,232</u>	<u>244,557</u>	
Cash Funds	138,920	177,836	241,232	244,557	
Commission Meeting Costs	<u>29,097</u>	<u>23,885</u>	<u>38,836</u>	<u>38,836</u>	
Cash Funds	29,097	23,885	38,836	38,836	
Hearings Pursuant to Complaint	<u>0</u>	<u>799</u>	<u>4,000</u>	<u>4,000</u>	
Cash Funds	0	799	4,000	4,000	
Mortgage Broker Consumer Protection	<u>303,770</u>	<u>304,216</u>	<u>343,692</u>	<u>343,692</u>	
Cash Funds	303,770	304,216	343,692	343,692	
Indirect Cost Assessment	<u>331,962</u>	<u>306,060</u>	<u>371,054</u>	<u>378,306</u>	
Cash Funds	331,962	306,060	371,054	378,306	
TOTAL - (8) Division of Real Estate	3,474,491	3,706,602	4,493,978	4,853,719	8.0%
FTE	<u>45.3</u>	<u>45.2</u>	<u>52.4</u>	<u>55.9</u>	<u>6.7%</u>
Cash Funds	3,474,491	3,706,602	4,493,978	4,853,719	8.0%

JBC Staff Budget Briefing: FY 2014-15
Staff Working Document - Does Not Represent Committee Decision

	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	Request vs. Appropriation
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(9) DIVISION OF PROFESSIONS AND OCCUPATIONS

The Division of Professions and Occupations oversees boards and commissions that promulgate rules to ensure continued competency of regulated professionals; enforces laws; and takes action against individuals failing to follow laws and regulations.

Personal Services	<u>12,289,971</u>	<u>11,665,788</u>	<u>13,047,178</u>	<u>13,716,086</u>	
FTE	181.4	179.0	194.8	199.1	
Cash Funds	11,670,557	11,070,006	12,451,396	13,120,304	
Reappropriated Funds	619,414	595,782	595,782	595,782	
Operating Expenses	<u>1,409,055</u>	<u>1,204,798</u>	<u>1,498,305</u>	<u>1,480,869</u>	
Cash Funds	1,409,055	1,204,798	1,498,305	1,480,869	
Reappropriated Funds	0	0	0	0	
Office of Expedited Settlement Program Costs	<u>350,988</u>	<u>355,565</u>	<u>361,397</u>	<u>379,120</u>	
FTE	5.0	5.0	5.0	5.0	
Cash Funds	350,988	355,565	361,397	379,120	
Hearings Pursuant to Complaint	<u>257,530</u>	<u>236,926</u>	<u>307,075</u>	<u>307,075</u>	
Cash Funds	257,530	236,926	307,075	307,075	
Payments to Department of Health Care Policy and Financing	<u>14,652</u>	<u>14,652</u>	<u>14,652</u>	<u>14,652</u>	
Cash Funds	14,652	14,652	14,652	14,652	
Indirect Cost Assessment	<u>1,219,303</u>	<u>1,230,109</u>	<u>1,446,275</u>	<u>1,474,540</u>	
Cash Funds	1,219,303	1,230,109	1,446,275	1,474,540	

JBC Staff Budget Briefing: FY 2014-15
Staff Working Document - Does Not Represent Committee Decision

	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	Request vs. Appropriation
TOTAL - (9) Division of Professions and Occupations	15,541,499	14,707,838	16,674,882	17,372,342	4.2%
<i>FTE</i>	<u>186.4</u>	<u>184.0</u>	<u>199.8</u>	<u>204.1</u>	<u>2.2%</u>
Cash Funds	14,922,085	14,112,056	16,079,100	16,776,560	4.3%
Reappropriated Funds	619,414	595,782	595,782	595,782	0.0%

JBC Staff Budget Briefing: FY 2014-15
Staff Working Document - Does Not Represent Committee Decision

	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	Request vs. Appropriation
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(10) DIVISION OF SECURITIES

The Division of Securities monitors the conduct of Colorado broker-dealers and sales representatives; and investigates citizen complaints and other indications of investment fraud. The Division is funded by the Division of Securities Cash Fund pursuant to section 11-51-707 (2), C.R.S.

Personal Services	<u>2,084,691</u>	<u>2,021,493</u>	<u>2,136,379</u>	<u>2,202,907</u>	
FTE	23.1	24.3	24.0	24.0	
Cash Funds	2,084,691	2,021,493	2,136,379	2,202,907	
Operating Expenses	<u>72,322</u>	<u>44,925</u>	<u>58,999</u>	<u>58,999</u>	
Cash Funds	72,322	44,925	58,999	58,999	
Hearings Pursuant to Complaint	<u>17,100</u>	<u>15,844</u>	<u>19,594</u>	<u>19,594</u>	
Cash Funds	17,100	15,844	19,594	19,594	
Board Meeting Costs	<u>2,071</u>	<u>1,828</u>	<u>4,500</u>	<u>4,500</u>	
Cash Funds	2,071	1,828	4,500	4,500	
Securities Fraud Prosecution	<u>720,637</u>	<u>718,835</u>	<u>878,551</u>	<u>878,551</u>	
Cash Funds	720,637	718,835	878,551	878,551	
Indirect Cost Assessment	<u>165,028</u>	<u>156,619</u>	<u>182,112</u>	<u>185,670</u>	
Cash Funds	165,028	156,619	182,112	185,670	
TOTAL - (10) Division of Securities	3,061,849	2,959,544	3,280,135	3,350,221	2.1%
FTE	<u>23.1</u>	<u>24.3</u>	<u>24.0</u>	<u>24.0</u>	0.0%
Cash Funds	3,061,849	2,959,544	3,280,135	3,350,221	2.1%

JBC Staff Budget Briefing: FY 2014-15
Staff Working Document - Does Not Represent Committee Decision

	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	Request vs. Appropriation
TOTAL - Department of Regulatory Agencies	71,707,266	72,157,908	81,184,712	84,220,354	3.7%
<i>FTE</i>	<u>535.3</u>	<u>533.7</u>	<u>572.7</u>	<u>580.6</u>	<u>1.4%</u>
General Fund	1,593,095	1,713,110	1,703,494	1,774,346	4.2%
Cash Funds	64,802,970	65,192,137	73,652,864	76,486,825	3.8%
Reappropriated Funds	4,152,608	4,030,469	4,504,371	4,643,065	3.1%
Federal Funds	1,158,593	1,222,192	1,323,983	1,316,118	(0.6%)

Appendix B:

Recent Legislation Affecting Department Budget

2012 Session Bills

H.B. 12-1052: Requires the Department of Regulatory Agencies to request health care workforce data from certain health care professionals when receiving their initial or renewal license applications beginning on or before July 1, 2013. Appropriates \$36,475 cash funds from the Division of Registrations Cash Fund and reappropriates \$35,520 to the Governor's Office of Information Technology for the provision of programming services for FY 2012-13.

H.B. 12-1055: Renames the Division of Registrations in the Department of Regulatory Agencies as the Division of Professions and Occupations and renames the Division of Registrations Cash Fund as the Division of Professions and Occupations Cash Fund, effective August 8, 2012.

H.B. 12-1110: Redefines appraisal management company (AMC), establishes a licensure program for AMCs in the Division of Real Estate in the Department of Regulatory Agencies, and modifies the composition of the Board of Real Estate Appraisers to include a representative of an AMC. While the bill appropriates \$265,104 cash funds and 2.0 FTE from the Division of Real Estate Cash Fund, reappropriates \$62,839 and 0.5 FTE to the Department of Law for the provision of 830 hours of legal services, and appropriates \$23,700 from the CBI Identification Unit Cash Fund to the Department of Public Safety for fingerprint-based criminal history checks for FY 2012-13, the effective date of the bill is July 1, 2013 (FY 2013-14), effectively nullifying the appropriation for FY 2012-13.

H.B. 12-1196: Supplemental appropriation to the Department of Regulatory Agencies for FY 2011-12.

H.B. 12-1215: Conforms state law to the federal Non-admitted and Reinsurance Reform Act of 2010 that allows the Division of Insurance in the Department of Regulatory Agencies to collect all possible premium taxes on multi-state insurance policies, enables the Division to collect premium taxes on surplus lines insurance more than once annually, and gives the Commissioner of Insurance the authority to enter into multi-state compacts to manage, collect, and distribute premium taxes.

H.B. 12-1266: Continues the licensing of surety bail bond agents as property and casualty insurance providers and strikes all references to bail bond agents in Title 12 of the Colorado Revised Statutes and reestablishes regulatory oversight of the profession in the Division of Insurance in the Department of Regulatory Agencies in a new article in Title 10 of the Colorado Revised Statutes. Decreases the FY 2012-13 Long Bill appropriation for the Division of Insurance by 0.1 FTE and \$3,930 from the Division of Insurance Cash Fund.

JBC Staff Budget Briefing – FY 2014-15
Staff Working Document – Does Not Represent Committee Decision

H.B. 12-1300: Implements the recommendations from the Department of Regulatory Agencies 2011 Sunset Review and extends the functions of professional review committees under the Colorado Professional Review Act until September 1, 2019. Appropriates \$9,175 cash funds from the Division of Registrations Cash Fund to the Division of Registrations in the Department of Regulatory Agencies and reappropriates \$2,271 to the Department of Law for the provision of 30 hours of legal services for FY 2012-13.

H.B. 12-1303: Enacts the Speech-Language Pathology Practice Act and requires that the Division of Registrations in the Department of Regulatory Agencies create a certification program for speech-language pathologists. Appropriates 1.1 FTE and \$111,148 cash funds from the Division of Registrations Cash Fund, reappropriates \$16,656 and 0.1 FTE to the Department of Law for the provision of 220 hours of legal services, and reappropriates \$1,184 to the Governor's Office of Information Technology for the provision of technical assistance for FY 2012-13.

H.B. 12-1311: Continues the Colorado State Board of Pharmacy in the Department of Regulatory Agencies, continues the regulation of the practice of pharmacy through September 21, 2021, recodifies and relocates statutes regulating the practice of pharmacy and statutes pertaining to the licensing of addiction programs by the Department of Human Services. Appropriates 1.0 FTE and \$225,108 cash funds from the Division of Registrations Cash Fund and reappropriates \$23,092 to the Department of Law for the provision of 305 hours of legal services for FY 2012-13.

H.B. 12-1327: Repeals the requirement that a towing carrier maintain a \$50,000 surety bond to pay civil penalties assessed by the Public Utilities Commission in the Department of Regulatory Agencies and provides for the immediate revocation of the towing carrier's operating authority, a five-year prohibition on reapplying for a new authority, and a five-year disqualification from the same for principals connected to the towing carrier for failure to pay a fine or civil penalty. Requires towing carriers to purchase and display tow truck license plates created in the bill, beginning January 1, 2013. Appropriates \$11,840 from the License Plate Cash Fund and \$12,210 from the Colorado State Titling and Registration Account in the Highway Users Tax Fund to the Department of Revenue and reappropriates \$12,210 to the Governor's Office of Information Technology for provision of programming for FY 2012-13.

H.B. 12-1332: Adds anesthesiologist assistants to the Medical Practices Act, Article 36 of Title 12 of the Colorado Revised Statutes, effective July 1, 2013, requires that they be licensed by the Colorado Medical Board in the Department of Regulatory Agencies to practice in Colorado.

H.B. 12-1335: General appropriations act for FY 2012-13.

2013 Session Bills

S.B. 13-014: Provides immunity to a person other than a health care provider or a health care facility who acts in good faith to administer an opiate antagonist to another person whom the person believes to be suffering an opiate-related drug overdose event; appropriates \$8,318 cash

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Staff Working Document – Does Not Represent Committee Decision

funds from the Division of Professions and Occupations Cash Fund for rule-making in FY 2013-14.

S.B. 13-026: Modifies the Michael Skolnik Medical Transparency Act by requiring compliance from additional health care providers; appropriates \$146,353 cash funds and 2.0 FTE from the Division of Professions and Occupations Cash Fund in FY 2013-14.

S.B. 13-039: Reauthorizes the Division of Professions and Occupations to regulate audiologists. Appropriates \$58,966 and 0.6 FTE from the Division of Professions and Occupations Cash Fund in FY 2013-14.

S.B. 13-102: Supplemental appropriation to the Department of Regulatory Agencies for FY 2012-13.

S.B. 13-125: Modifies the regulation of preneed funeral contracts by the Commissioner of Insurance; reduces the cash funds appropriation from the Division of Insurance Cash Fund by \$2,400 in FY 2013-14.

S.B. 13-151: Continues and modifies the regulation of massage therapists; appropriates an additional \$149,691 cash funds and 1.9 FTE from the Division of Professions and Occupations Cash Fund in FY 2013-14.

S.B. 13-162: Continues and modifies the Examining Board of Plumbers and the regulation of plumbers; appropriates an additional \$259,175 cash funds and 3.6 FTE from the Division of Professions and Occupations Cash Fund in FY 2013-14.

S.B. 13-172: Continues and modifies the regulation of acupuncturists; appropriates an additional \$5,021 cash funds from the Division of Professions and Occupations Cash Fund for legal services related to rule-making in FY 2013-14.

S.B. 13-180: Continues and modifies the regulation of occupational therapists; appropriates an additional \$37,737 cash funds and 0.2 FTE from the Division of Professions and Occupations Cash Fund in FY 2013-14.

S.B. 13-189: Creates the Moving Outreach Fund to be used to educate consumers about their rights and the responsibilities of movers and allocates half the civil penalties collected by the Public Utilities Commission from movers of household goods; appropriates \$5,000 cash funds from the Moving Outreach Fund to the Executive Director's Office and Administrative Services in FY 2013-14.

S.B. 13-194: Repeals the Low Income Telephone Assistance Program (Program), reduces by \$725,548 the informational cash funds appropriation from the Low-Income Telephone Assistance Fund (Fund) for the Public Utilities Commission, and decreases by \$118,272 cash funds and 1.5 FTE, the appropriation from the Fund to the Department of Human Services for administration of the Program in FY 2013-14.

JBC Staff Budget Briefing – FY 2014-15
Staff Working Document – Does Not Represent Committee Decision

S.B. 13-204: Increases the number of members on the Colorado State Board of Chiropractic Examiners to seven. Appropriates an additional \$2,100 cash funds from the Division of Professions and Occupations Cash Fund for board member expenses in FY 2013-14.

S.B. 13-207: Allows a licensed or certified mental health care professional with appropriate training to perform auricular acudetox, defined as the subcutaneous insertion of sterile, disposable acupuncture needles on five specific locations of a person's ear, and appropriates an additional \$10,020 cash funds from the Division of Professions and Occupations Cash Fund in FY 2013-14.

S.B. 13-221: Provides a conservation easement tax credit pre-approval process for tax years beginning January 1, 2014, and creates the Conservation Easement Tax Credit Certificate Review Fund (Fund); appropriates \$275,046 cash funds and 3.5 FTE from the Fund to the Division of Real Estate, reappropriates \$69,525 and 0.5 FTE to the Department of Law for the provision of legal services, and appropriates \$48,000 General Fund to the Department of Revenue in FY 2013-14. Provides a General Fund loan to the Department of Regulatory Agencies beginning July 1, 2013 for implementation of the process.

S.B. 13-230: General appropriations act for FY 2013-14.

S.B. 13-238: Regulates hearing aid providers by the Division of Professions and Occupations and appropriates \$5,794 cash funds to the Executive Director's Office and Administrative Services from the Division of Professions and Occupations Cash Fund for legal services and reappropriates that amount to the Department of Law in FY 2013-14.

S.B. 13-277: Requires the Commissioner of Insurance to develop, by July 31, 2014, and prescribing providers, carriers, and, pharmacy benefit management firms to use, by January 1, 2015, a uniform prior authorization process for purposes of submitting and receiving requests for prior coverage approval of a drug benefit; appropriates \$8,756 cash funds and 0.1 FTE to the Division of Insurance from the Division of Insurance Cash Fund in FY 2013-14.

H.B. 13-1111: Regulates naturopathic doctors by the Division of Professions and Occupations; appropriates \$90,489 cash funds and 0.9 FTE to the Division of Professions and Occupations from the Division of Professions and Occupations Cash Fund in FY 2013-14.

H.B. 13-1183: Imposes an aggregate annual cap of \$45.0 million for Conservation Easement Tax Credit Certificates issued by the Division of Real Estate beginning in calendar year 2014. Credits that exceed the limit are placed on a wait list for a future year; limits the ongoing wait list to \$15.0 million for the following calendar year.

H.B. 13-1277: Requires any person who manages the affairs of a common interest community on behalf of a homeowner association (HOA) for compensation, on or after July 1, 2015, to meet minimum qualifications and obtain a license from the Division of Real Estate and creates the Community Association Manager Licensing Cash Fund (Fund) in Section 12-61-1012, C.R.S.

Appendix C: Update on Long Bill Footnotes & Requests for Information

Long Bill Footnotes

There were no Long Bill footnotes for FY 2013-14 for the Department of Regulatory Agencies.

Requests for Information

There were no Long Bill requests for information for FY 2013-14 for the Department of Regulatory Agencies.

Appendix D: Indirect Cost Assessment Methodology

Description of Indirect Cost Assessment Methodology

The Department of Regulatory Agencies indirect cost assessment methodology is calculated based on four steps or components:

1. The *Indirect Cost Assessment Percentage by Division FTE*;
2. The *Federal Funded Share of Indirects*;
3. The *Indirect Cost Recovery Pool* (indirect costs to recover); and
4. The *Indirect Cost Assessment Base* (indirect cost assessments by division and fund source).

The following tables outline the indirect cost assessment calculations for FY 2013-14.

1. The *Indirect Cost Assessment Percentage by Division FTE* is the proportion of indirect cost assessments paid by each division based on FTE. Proportions are defined separately for statewide indirects and departmental indirects because the Civil Rights Division is General Funded and therefore not included for payment of statewide indirects, and federal funded FTE in the Divisions of Civil Rights and Insurance are calculated for the federal fund share of indirect cost assessments based on the federal fund indirect collectible rate. **Table 1** summarizes the department’s *Indirect Cost Assessment Percentage by Division FTE* for statewide and departmental indirects.

Table 1: Calculation of FTE Percentage by Division				
Division	Statewide		Departmental	
	FTE	Percentage	FTE	Percentage
Banking	40.0	8.0%	40.0	7.7%
Civil Rights	0.0	0.0%	20.4	3.9%
Office of Consumer Counsel	7.0	1.4%	7.0	1.3%
Financial Services	13.0	2.6%	13.0	2.5%
Insurance	82.9	16.5%	82.9	15.9%
Professions and Occupations	190.6	38.0%	190.6	36.5%
Public Utilities Commission	95.0	18.9%	95.0	18.2%
Real Estate	48.9	9.8%	48.9	9.4%
Securities	24.0	4.8%	24.0	4.6%
FTE assessed indirects	501.4	100.0%	521.8	100.0%
FTE not assessed indirects				
Civil Rights - GF	20.4		0.0	
Civil Rights - FF	6.6		6.6	
Insurance - FF	2.0		2.0	
Executive Director's Office	<u>29.5</u>		<u>29.5</u>	
Department Total FTE	559.9		559.9	

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2. The *Federal Funded Share of Indirects* is the calculation of the federal funded share based on the Department's, federally-allowed, indirect collectible rate of 15.6 percent. The statewide share is calculated as the proportion of the statewide indirect total relative to the sum of statewide indirects and the Executive Director's Office (EDO) personal services. **Table 2a** summarizes the department's *Federal Funded Share of Indirects* for statewide and departmental indirects. **Table 2b** summarizes the department's *Cash Funded Share of Indirects* for statewide and departmental indirects.

Table 2a: Calculation of Federal Funded Share of Indirects						
		Division	Personal Services	Indirects Collectible	Statewide Share	Departmental Share
Indirect Collectible Rate*	8.9%					
Statewide Indirects Total	\$281,164	Civil Rights	\$355,512	\$31,641	\$3,538	\$28,102
EDO Personal Services	2,233,220	Insurance	361,440	32,168	3,597	28,571
Statewide Indirects plus EDO PS	\$2,514,384	PUC	197,316	<u>17,561</u>	<u>1,964</u>	<u>15,597</u>
Statewide Indirects Share Percentage**	11.2%	Total		\$81,370	\$9,099	\$72,271

*Indirect Collectible Rate is calculated on base personal services.

**Calculated using only base personal services of departmental indirects.

3. The *Indirect Cost Recovery Pool* (indirect costs to recover) are indirect costs to be recovered by the Department and is comprised of statewide indirects and departmental indirects from the EDO excluding cash-funded Sunset Office appropriations. The Department calculates the departmental indirect costs to recover using same budget year appropriations for the EDO that include personal services and the EDO share of common policy line items and operating expenses. **Table 3a** summarizes the *Departmental Indirect Cost Recovery Pool*, and **Table 3b** summarizes the *Cash Funded Share of Indirects*.

Table 3a: Departmental Indirect Costs to Recover	
Executive Director's Office	
Personal Services	\$2,233,220
Health, Life and Dental	195,804
Short-term Disability	3,569
AED	68,090
SAED	61,463
Salary Survey	58,476
Merit Pay	27,137
Workers' Compensation	2,068
Operating Expenses	111,228
Legal Services	53,220
Purch of Svcs from Comp Center	-
Colorado State Network	10,746
Mgt and Admin of OIT	7,601
COFRS Modernization	7,506
Information Technology Security	1,091

JBC Staff Budget Briefing – FY 2014-15
Staff Working Document – Does Not Represent Committee Decision

Risk Management	6,781
IT Asset Maintenance	190,757
Leased Space	356,190
Hardware/Software Maintenance	<u>261,446</u>
EDO Subtotal	3,656,394
Sunset Office	<u>(51,560)</u>
Total Departmental Indirect Costs to Recover	\$3,604,834

Table 3b: Calculation of Cash Funded Indirects			
	Indirect Costs	Federal Share	CF Indirects Remaining
Statewide	\$281,164	\$9,099	\$272,065
Departmental	<u>3,604,834</u>	<u>72,271</u>	<u>3,532,564</u>
Total	\$3,885,998	\$81,370	\$3,804,629

4. The *Indirect Cost Assessment Base* is the calculation of indirect assessments by division and fund source and is based on the federal shares calculated in Table 2 and the product of the percentages by division FTE calculated in Table 1 and the cash fund indirects remaining in Table 3b. **Table 4** summarizes the department's *Indirect Cost Assessment Base*.

Table 4: Calculation of Indirect Assessments by Division and Fund Source							
Division	Statewide		Departmental		Subtotal by Fund		Total
	CF	FF	CF	FF	CF	FF	
Banking	\$21,704	\$0	\$281,816	\$0	\$303,520	\$0	\$303,520
Civil Rights	0	3,538	0	28,102	0	31,641	31,641
OCC	3,798	0	49,318	0	53,116	0	53,116
Fin Svcs	7,054	0	91,590	0	98,644	0	98,644
Insurance	44,982	3,597	584,064	28,571	629,046	32,168	661,214
Prof and Occ	103,422	0	1,342,853	0	1,446,275	0	1,446,275
PUC	51,548	1,964	669,313	15,597	720,861	17,561	738,422
Real Estate	26,534	0	344,520	0	371,054	0	371,054
Securities	13,023	0	169,090	0	182,112	0	182,112
Total	\$272,065	\$9,099	\$3,532,564	\$72,271	\$3,804,629	\$81,370	\$3,885,998

FY 2014-15 Indirect Cost Assessment Request

For FY 2014-15 the Department's budget request included adjustments based on the statewide indirect cost plan, but does not include adjustments for departmental indirects, therefore a table showing the FY 2014-15 indirect cost assessment adjustments based on the November 1 request is not included.

Appendix E: Change Requests' Relationship to Measures

This appendix will show how the Department of Regulatory Agencies indicates each change request ranks in relation to the Department's priorities and what measures the Department is using to gauge success of the request.


Change Requests' Relationship to Measures			
R	Change Request Description	Goals / Objectives	Performance Measures
1	New Vehicles for PUC	Resolution of per-inspector vehicle shortages for two programs will increase regulatory responsiveness.	The programs will ensure carrier and vehicle inspections once every five years and increase capacity for construction inspections by 50 percent and damage inspections by 100 percent. Outcomes will be measured with inspection data.
2	Operating Expenses Reduction	Reduce authorized spending authority for operating expenses in the Division of Financial Services by \$30,000 due to credit union industry consolidation.	Reduced appropriations closer to actual.



John W. Hickenlooper
Governor

DATE: November 1, 2013

TO: Joint Budget Committee

FROM: Barbara Kelley, Executive Director
Colorado Department of Regulatory Agencies 

SUBJECT: DORA Consumer Outreach Program Report

Pursuant to 24-34-108 (3), C.R.S., the Department of Regulatory Agencies (DORA) reports the status of the Consumer Outreach and Education Program, enacted by HB 08-1216. The Consumer Outreach and Education Program helps DORA accomplish its mission of consumer protection and the Department's strategic goal of outreach, education and training. The Consumer Outreach Program is funded through the consumer outreach education cash fund created at DORA, which is comprised of a surcharge on the fines of regulatory violators, up to \$200,000 annually. The program was created for the purposes of:

- Informing consumers of their rights regarding regulated occupations and professions;
- Decreasing regulatory violations; and
- Ensuring public awareness of consumer protection information available from DORA.

The statute requires that DORA report to the JBC each November 1, the amount of revenues collected; a description of how funds were spent in the previous fiscal year; and a plan for how the fund will be spent in the current fiscal year.

Revenues Collected in FY 12-13: At year-end FY 12-13, the program collected \$143,041 in surcharges and interest.

Program Expenditures in FY 12-13: Total spending for the program in FY 12-13 was \$193,494. Approximately 97% of spending was for public service announcements and related purposes; 1% of spending was associated with printed materials, with the remaining 2% comprised of miscellaneous expenditures.

How Funds Were Spent in FY 12-13: We continued to broaden our DORA imprint, and stretch the dollar-for-dollar use of this fund. We both continued existing relationships with NBC and CBS television stations throughout Colorado and increased the mediums in which we delivered our message to include radio and print.



The Department supplemented its multiple media outlet campaign with RTD (Lamar Companies) and Clear Channel Radio. We also specifically targeted TV and Web spots on KKTV's (Colorado Springs) MomsEveryday.com. This extended outreach to citizens throughout the state and enabled us to reach more individuals in all sectors and populations. It also helped DORA target decision makers as they make important family decisions like choosing insurance, and then a healthcare provider, investing for the future and avoiding fraudulent emails or phone calls.

- More than 1,000 PSAs aired on NBC and CBS television stations throughout Colorado, including Denver, Colorado Springs, Pueblo and Grand Junction.
- 468 spots aired on Clear Channel's 8 radio stations across all of Colorado.
- DORA bus-boards ran on a total of 20 RTD buses and one 16th Street Mall shuttle for approximately five months. Lamar estimates 33,577 gross weekly impressions per bus.
- More than 75 TV spots and a "micro-website" that delivered 120,119 impressions on KKTV's MomsEveryday.com website. These included two and four minute interviews with a DORA expert on a variety of consumer protection issues including wildfire damage insurance claims, avoiding email and text scams, healthcare provider profiles and researching businesses before accessing their services.

Measures of Program Impact: Since the inception of the program, DORA has gained insight from a variety of measurement tools as to whether the educational and informational message we deliver regarding consumer protection is penetrating the citizen base in Colorado. The Outreach Fund has clearly provided the Department with the opportunity to inform Colorado consumers about the many resources available to them at DORA. The accomplishment of the program goals is measured through:

- Traffic on the DORA web site: askdora.colorado.gov

The Department transitioned to a new content management system in September of 2012. The transition to the Colorado Statewide Internet Portal Authority (SIPA) and Colorado Interactive (CI) system included a switch to Google Analytics which tracks website internet use differently than our previous system. Google Analytics tracks unique visitors, page views, pages per visit, and percent of new visitors. The new system provides in many ways more useful information, but which should not be compared to last year's numbers as they are very different. Also, please note this year's numbers are missing 2 months of data that was not tracked due to the content management system transition.

In fiscal year 2012-2013, there were:

- 48,864 average page views per day
- 3.375 average page views per visitor
- 1,597,807 total visitors
- 651,564 unique visitors
- 48.16% new visits

- Direct phone calls to the DORA Call Center (303.895.7855), established in 2010 as the main point of entry into the Department for the public to receive information and, as necessary, to be routed quickly to the appropriate person within the ten divisions at DORA for a prompt response to their question.

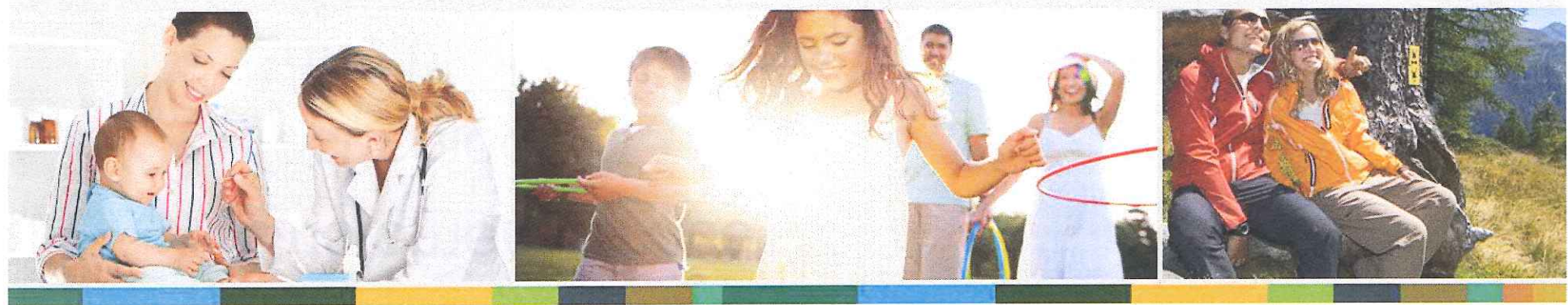
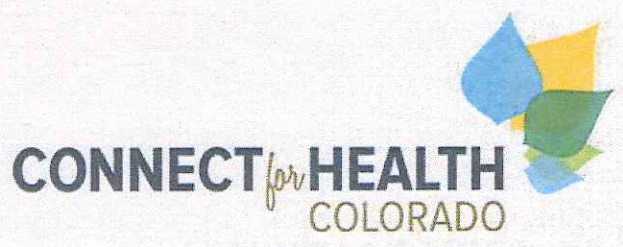
On average there are:

- 4,601 calls per month
- Calls are answered by DORA staff in approximately 14 seconds
- Each caller is routed to the appropriate person in less than 1 minute

Plan for Outreach Program in FY 13-14: The Department intends to continue its multiple media campaigns, which have been very successful. As the program moves forward, DORA is exploring opportunities to refine and better focus our campaign messaging to educate consumers about available programs and resources in the department. Specifically being evaluated at this time are efforts that speak to consumers' immediate and high priority needs after natural disasters like the recent flooding. DORA has a Public Service Announcement that will begin airing November 1, 2013 on both television and radio alerting flood victims to the free Electrical and Plumbing Damage Assessment Program offered by DORA's Division of Professions and Occupations.

DORA's 2013-2014 fiscal year plan also includes a larger focus on high priority consumer issues and reaching consumers in "real time" when they are actually making important decisions, such as choosing health care insurance plans, selecting medical care providers, rebuilding after a natural disaster, or simply determining how to keep their utility bills to a minimum. A major tenet of our new campaign will be to better enable consumers to become their own best advocate.

In addition, our campaign will target information and outreach to the business community that DORA regulates and licenses.



*Update for Legislative Health Benefit
Exchange Implementation Review Committee*

September 5, 2013

Attachment A

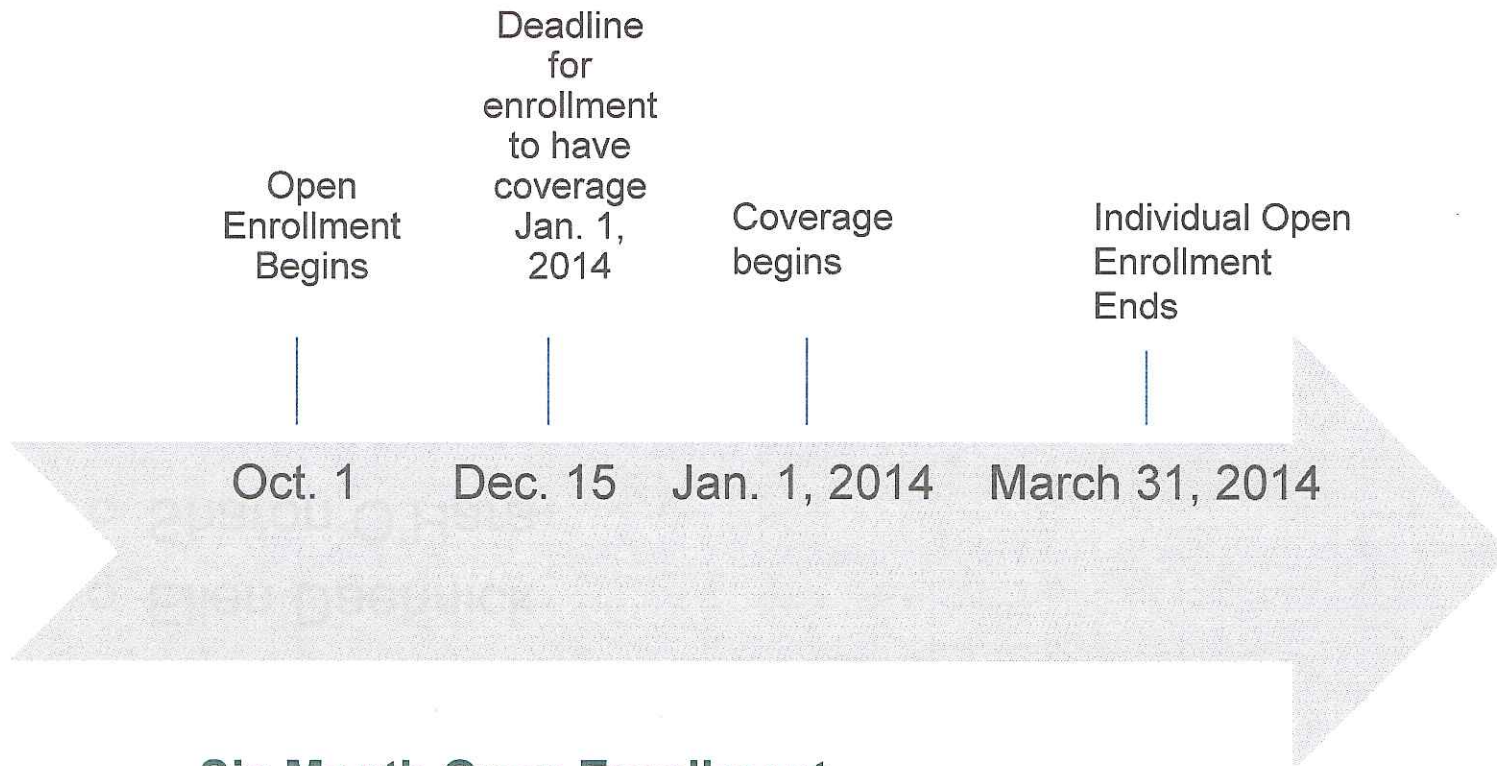
Status Update

- Board
- Individual/Family Marketplace
- Small Business Marketplace
- Customer Service
- Technology
- Education and Outreach
- Financial Approach

Board

- 2 new Board members
 - Ellen Daehnick
 - Sharon O'Hara
- Re-organized committees
 - Executive
 - Finance
 - Operations
 - Policy and Regulations

Timeline



**Six Month Open Enrollment
Coverage Begins January 1, 2014**

Individual/Family Marketplace

- Customers will have 150 health plan choices from 10 carriers
- Prices vary by age, 11 rating areas, size of family, tobacco use
- Medical and dental plans, standalone dental, link to vision
- New CYA (Cover Your Assets) Plans for young adults (high deductible, lower premiums)
- Financial assistance application will refer to HCPF to get Medicaid/CHP+ determination before new tax credits and cost-sharing reductions are calculated
- Service Center, Brokers/Agents and Health Coverage guides available for one-on-one support

Small Business Marketplace

- Employers will have 92 health plan choices from six carriers
- Prices vary by age, 11 rating areas, size of family and tobacco use
- Medical and dental plans, standalone dental, link to vision
- Choice model – allows employer to provide dozens of health plans to employees
- No requirement to provide insurance for employers with up to 50 employees
- Service Center, Brokers/Agents and Health Coverage guides available for one-on-one support

Customer Service

- Customer Service Center opening Sept. 3 in Colorado Springs
- Toll-free number operating since July: 1-855-PLANS4YOU
- Over 1,300 agents/brokers taking certification training
- 56 Assistance Sites to provide in-person support throughout state at over 75 locations
 - 23 Assistance Sites will serve small businesses
- Unpaid Certified Application Counselors program for additional customer support

Technology

- System testing is 75% complete for most go-live functions
- Health Plan data loading complete
- Carrier acceptance testing in progress
- Federal data hub testing in progress
- All notices for customers in testing
- Post go-live system enhancements in progress

Education, Outreach and Communications

- Website unique visitors topped 114,000 since May
- TV ads created 11 million impressions statewide in summer
- Over 20,000 Coloradans reached in 350 presentations
- Partnerships with more than 100 organizations, state partners
- Hundreds of stakeholders participated in over 80 advisory group meetings
- Statewide enrollment campaign starting in October

Financial Update

Grant Funding and Expenditures:

The following document outlines the grants received by Connect for Health Colorado and details the expenditures by category through June 30, 2013.



QUESTIONS?

FINANCIAL APPROACH

Sustainability Objective

- Connect for Health Colorado is committed to fulfilling its purpose to increase access, affordability and choice for individuals and small businesses purchasing health insurance in Colorado.
- Key to this objective is achieving financial sustainability.

Financial Approach: Guiding Principles for Sustainability

Bring about long-term financial balance

- Focus on providing value to consumers and communities
- Derive revenue from a range of sources
- Set the Marketplace up for success
- Focus on maintaining affordability

Financial Approach: Revenue Overview

Early Revenue

- Federal Grants
- High Risk Pool Reserves
- Broad Market Assessment (2015 & 2016 only) \$1.80 per policy per month maximum

Enrollment Based Revenue

- Administrative Fees: 1.4% in 2014 (federal states are 3.5%)

"Other"/Future Opportunities

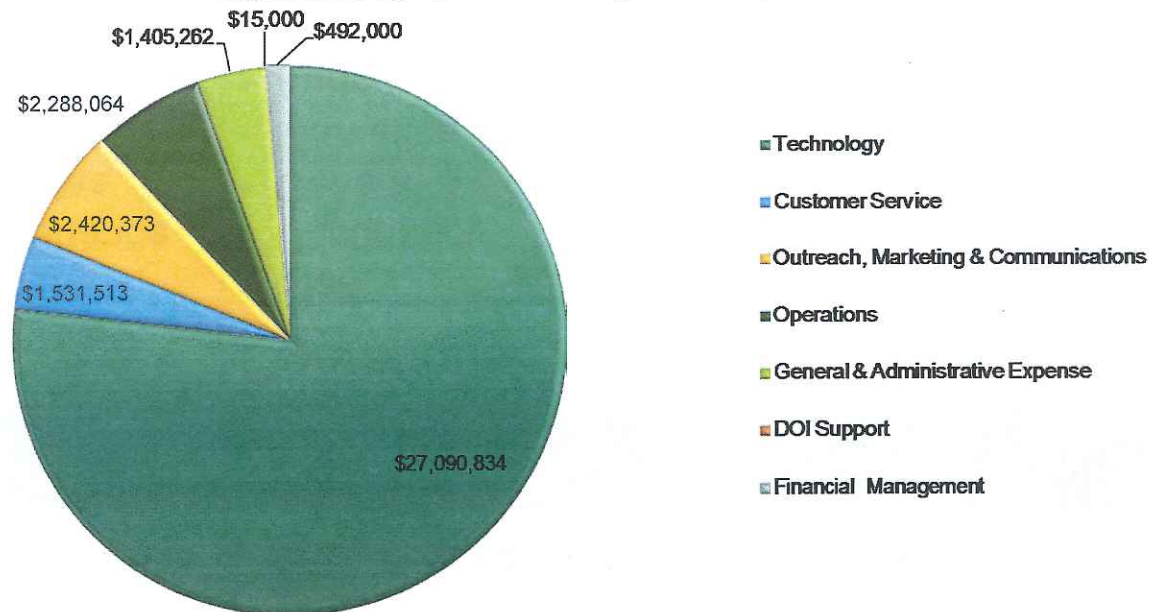
- Supplemental Products
- Carrier Tax Credit Donations
- Website Advertising
- Cost Sharing with Other States
- Foundation Grants

Connect for Health Colorado
Funding & Expenditures at 6/30/2013

Expenditures by Operational Area through June 30, 2013

Funding Source	Funding Requests as Approved	Funding Awarded	Technology	Customer Service	Outreach, Marketing & Communications	Operations	General & Administrative Expense	DOI Support	Financial Management	Unspent Budget
1st Level 1 Grant	\$17,951,000	\$17,951,000	\$15,947,600	\$0	\$44,282	\$1,053,737	\$606,589	\$0	\$298,792	\$0
2nd Level 1 Grant	\$43,486,747	\$43,486,747	\$10,893,380	\$1,531,513	\$2,370,597	\$1,147,635	\$798,673	\$15,000	\$193,208	\$26,536,741
Level 2 Grant	\$124,995,352	\$116,245,677	\$249,854	\$0	\$5,494	\$86,693	\$0	\$0	\$0	\$115,903,637
Total	\$186,433,099	\$177,683,424	\$27,090,834	\$1,531,513	\$2,420,373	\$2,288,064	\$1,405,262	\$15,000	\$492,000	\$142,440,378

Expenditures by Operational Area.(at 6/30/2013)



August 26, 2013



Financial Approach: Expenditures

Budgeted Expenses

Technology

- Technology Licenses
- Technology Maintenance
- Technology Upgrades
- Technology Hosting
- Data Warehousing
- Security
- Testing
- QA
- Eligibility

Operations

- Staff
- Occupancy
- General & Administrative
- Marketing & Advertising
- Audit

Services

- Customer Service Center
- Scanning & Imaging
- Training
- Systems Reconciliations
- Enrollment Assistance (Navigators)

Projected annual budget \$26 million

Financial Approach

Budget Projections and Full Funding Model:

The following document models the current and anticipated budget and funding for Connect for Health Colorado through 2017.

Connect for Health Colorado
Current and Anticipated Budget and Funding

Model Assumptions

Successful Legislation for Assessment - Years 2015 & 2016 (875,000 covered lives x \$1 per member per month)
Successful Legislation for Tax Credit Donations (maximum of \$5 million annually)
Premiums trend the same as they are in the market today
COHBE's portion of CoverColorado 2015 reserve is \$8.5 million
Annual operating budget of \$26 million

Enrollment & Premium Assumptions

Average Estimated Sales Projections

	2nd half 2013	2014	2015	2016	2017
Average Estimated Sales Projections	0	136,300	220,000	250,000	300,000
Average Estimated Premium per member per month	\$0	\$283	\$297	\$312	\$328
Administrative Fee	0.00%	1.40%	1.40%	1.40%	1.90%

Revenue Assumptions

Exchange Revenue from Admin Fees

Exchange Revenue from Admin Fees	\$0	\$6,480,247	\$10,982,664	\$13,104,315	\$22,408,379
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Estimated portion of Federal Grant Funding (2013-2016)

Estimated portion of Federal Grant Funding (2013-2016)	\$58,443,282	\$44,115,501	\$21,597,889	\$0	\$0
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Revenue from CoverColorado/Unclaimed Property Fund

Revenue from CoverColorado/Unclaimed Property Fund	\$15,000,000	\$0	\$0	\$0	\$0
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Revenue from CoverColorado/Reserve Balance

Revenue from CoverColorado/Reserve Balance			\$8,500,000		
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Revenue from General Market Health Insurer Assessment

Revenue from General Market Health Insurer Assessment			\$10,500,000	\$10,500,000	
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Revenue from Premium Tax Credit Donations

Revenue from Premium Tax Credit Donations		\$5,000,000	\$5,000,000	\$5,000,000	\$5,000,000
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Potential Foundation Grants

Potential Foundation Grants	\$2,134,000				
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Total Income

Total Income	\$75,577,282	\$55,595,749	\$56,580,553	\$28,604,315	\$27,408,379
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Expected Operating/Technology Budget

Expected Operating/Technology Budget	\$58,443,282	\$26,000,000	\$26,000,000	\$26,000,000	\$26,000,000
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Remaining Implementation Costs estimated for 2014 & 2015

Remaining Implementation Costs estimated for 2014 & 2015		\$18,954,181	\$29,079,721		
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Operating Expense (not Federally grant funded)

Operating Expense (not Federally grant funded)	\$2,134,000	\$6,480,247			
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Total Expenditures

Total Expenditures	\$60,577,282	\$51,434,428	\$55,079,721	\$26,000,000	\$26,000,000
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Net Income/Expense by year

Net Income/Expense by year	\$15,000,000	\$4,161,320	\$1,500,832	\$2,604,315	\$1,408,379
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Technology Obsolescence Solution begins after Operational Reserve reaches 50% of annual budget

Technology Obsolescence Solution begins after Operational Reserve reaches 50% of annual budget	\$2,000,000	\$6,161,320	\$7,662,152	\$10,266,467	\$11,674,846
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Cumulative Operational Reserve/(Shortfall) at approximately 50% of annual budget

Cumulative Operational Reserve/(Shortfall) at approximately 50% of annual budget	\$13,000,000	\$13,000,000	\$13,000,000	\$13,000,000	\$13,000,000
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