

**DEPARTMENT OF REGULATORY AGENCIES
FY 2014-15 JOINT BUDGET COMMITTEE HEARING AGENDA**

**Thursday, November 14, 2013
3:00 pm – 5:00 pm**

3:00-3:20 INTRODUCTIONS AND OPENING COMMENTS

3:20-3:40 DEPARTMENT OVERVIEW AND APPENDICES

1. What is the status of the LEAN review of the Civil Rights Division that has been undertaken by the Governor's Office?
2. Have new law and regulations related to the Affordable Care Act led to increased appropriations for the Division of Insurance?
3. Please provide an updated CAMELS report as was submitted for previous years' hearings. Please speak to the change in the financial condition of banks in the state over recent years. Please speak to reviews of securities institutions and the change in the financial condition of securities institutions in the state over recent years.
4. Regarding R1 New Vehicles for PUC: Is the request for additional vehicles related to increased air quality testing and related equipment purchases? What is driving the need for these new vehicles? Does DORA coordinate with CDPHE and their air quality testing?

Administrative Actions Against Licensed Professionals

5. Is the increase in Legal Services due to an increase in the Department seeking administrative actions against licensed professions? Has there been an increase in pursuing administrative actions against licensed professions in recent years?
6. Are the oversight boards the entities that determine whether disciplinary items are accelerated to administrative actions? Please explain the process for civil actions against professionals.
7. Has the public outreach advertising generated an increased amount of reporting that has led to a higher number of disciplinary actions against professionals? Has this increased the number of disciplinary items being pursued to the end of the disciplinary determination process rather than being settled?

3:40-5:00 ISSUES

Voluntary Licensure of Private Investigators

8. Would legislation that changes the program include a fee that would offset or pay for the current deficit balance?

Insurance Premium Tax Diversions as a Revenue Source for Wildfire Funds

9. What does the Department think of staff's proposed legislation?
10. What type of impact will the transfer of insurance premium tax collections to the wildfire funds have on the insurance industry?
11. Will houses near wildfire areas be limited in the insurance coverage they can receive? Please present the findings of the Wildfire Insurance and Forest Health Task Force.
12. Does the Department have any concerns that the Wildfire Risk Assessment Profile (WRAP) program will impair the ability of homeowners to insure homes now or in the future, or impair the ability of developers in the process of obtaining financing for development of land in wildfire areas? What is the source of the \$3.0 million over five years that the Governor has identified in funding for the WRAP program? Please provide a list of Task Force recommendations that the Governor will be pursuing.
13. Is it always the practice to send revenues to the Treasurer for crediting to a cash fund? Please explain the process for how cash fund and General Fund sources of revenue are routed to cash funds or the General Fund.

An Assessment of the Colorado Health Benefit Exchange Sustainability Funding Model

For the Department:

14. Please have the Division of Insurance speak to the issue of Coloradans who are receiving cancellation notices for their current insurance policies. What steps are being taken to ensure these individuals can obtain insurance?

For Connect for Health Colorado:

15. Did the Exchange include inflation in any of their budget projections in future years?
16. Please provide additional information about any anticipated long term savings associated with the Exchange. Why is the administrative fee for the Colorado Exchange so much lower than the fee for the federal exchange?

ADDENDUM: OTHER QUESTIONS FOR WHICH SOLELY WRITTEN RESPONSES ARE REQUESTED

1. Provide a list of any legislation that the Department has: (a) not implemented or (b) partially implemented. Explain why the Department has not implemented or partially implemented the legislation on this list.
2. Does the Department have any outstanding high priority recommendations as identified in the "Annual Report of Audit Recommendations Not Fully Implemented" that was published by the State Auditor's Office on June 30, 2013? What is the department doing to resolve the outstanding high priority recommendations?

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3:00-3:20 INTRODUCTIONS AND OPENING COMMENTS

Good afternoon, Madam Chair and other members of the Joint Budget Committee. I am Barbara Kelley, Executive Director of the Department of Regulatory Agencies, and I am pleased to have the opportunity to speak with you today about the Department's proposed budget for FY 2014-15, and to address your questions regarding certain aspects of the Department's operations.

As I have often said in describing DORA, it is one of the most uniquely structured departments in state government. We have 9 mission specific divisions, including: Banking; Civil Rights; Office of Consumer Counsel; Financial Services; Insurance; Public Utilities Commission; Real Estate; Professions and Occupations, (formerly Registrations); and Securities. The Department is charged with administering over 50 regulatory programs governing professions, occupations and businesses. In the aggregate, DORA regulates almost 700,000 individual licensees and over 38,000 businesses and institutions.

While I have shared statistics and numbers, I have not taken the opportunity to share some of the stories and meaning behind the numbers. The regulatory schemes at DORA and elsewhere in Colorado state government are examples of efficient and, for the most part, effective public-private partnerships. The regulatory programs are established by the legislature, with the mission to implement and develop the standards of practice and quality of performance necessary to protect the public health, safety and welfare. Most of the programs at DORA depend on the boards and commissions which are a critical and key partner in our programs. We are dependent on the citizen volunteers who are willing to step forward and contribute their expertise, experience, time and make a commitment to public service. The boards are composed of professionals and practitioners in the particular fields and specialties, who, together with public members, establish the practice standards, oversee and enforce the process for compliance and, in the case of failure to comply, the basis for discipline. For its part in this partnership, DORA provides administrative, logistical and personnel support to implement the policy and disciplinary decisions of the regulatory boards.

Having established the regulatory scheme, the public should have the right to expect compliance with the standards of practice when they engage the services or purchase products offered in the marketplace by our licensees and regulated businesses, whether a physician or other health care provider, bank or credit union, vet, plumber or electrician, real estate broker or financial advisor.

As important as establishing the practice and performance standards is informing and educating the consuming public of those standards. It should not be a guessing game or a game of chance. One of the most effective means of enforcement of our regulatory regimes is an informed public. Empowering people to protect themselves and their interests before they are injured or taken advantage of is far more valuable than offering solace after the fact.

Encouraging and supporting compliance, and enforcing the standards of practice are fundamental aspects of our mission of consumer protection. Our Securities Division has assisted investors to the tune of \$160.1 million in restitution ordered over the last two fiscal years--11-12 and 12-13, from scammers, schemers and fraudulent investments. The Division of Professions and Occupations has protected consumers from incompetent and unscrupulous practitioners.

Protecting the interests of retail consumers is only one aspect of our unified mission. Assisting, advising and facilitating compliance by our licensees is an equally significant aspect of our job. After all, compliance is the end goal. The staff at DORA spends a considerable amount of time and effort in support of our licensees and regulated entities. We have provided support for small community banks which were challenged financially and operationally by the Great Recession and its aftermath. Rather than bring a heavy handed regulatory approach, our Banking Division worked with them and our federal counterparts to reach reasonable accommodations and time to enable them to recover. The same is true of small credit unions in rural Colorado, the failure of which would have been detrimental for the communities those institutions served.

We also engage our boards and commissions in helping to develop resolutions to the complex and challenging issues confronting our society. As you are probably aware, prescription drug abuse is a growing problem across the country, and particularly in Colorado. Unfortunately, Colorado is ranked second in the country in prescription drug abuse and misuse. To help curb this devastating trend, we have engaged the creative thinking and authority of the prescribing boards in DORA. We hosted the first ever Colorado Quad-Regulator Conference this past September. Participating were members of the Nurse-Physician Advisory Taskforce for Colorado Healthcare, in collaboration with members of the Colorado Dental, Medical, Nursing and Pharmacy boards. Among other objectives, conferees were encouraged to identify best practices for regulation of the prescribing and dispensing of opiates. As a result of this first ever collaboration among state-level licensing regulatory boards, a representative work group will pursue the development of a consistent policy for issuance by each of the boards to help reduce prescription drug misuse and abuse.

The value of the services and resources available through DORA at times of devastation and disasters, such as wildfires or floods, cannot be overstated. The commitment and compassion of state employees are especially evident at times like these, and oftentimes when least expected. There are a number of projects and activities across the Department in connection with flood recovery efforts. I am, however, especially proud of the Electrical and Plumbing Damage Assessment Program, organized in DPO, which provides a cost-free damage assessment for consumers in the affected areas. The assessment provides a written damage evaluation,

recommendations for repairs, and general information about what consumers can expect from reputable contractors. Armed with this unbiased assessment, homeowners and businesses will be better able to avoid fraudulent bids from contractors and storm-chasers. In addition, when requested, the program inspectors work in conjunction with the utility companies to notify them when it is safe to restore power or gas to the residence or business. To date, flood victims have requested 140 damage assessments, of which 110 have been completed.

Of particular note is that the inspectors themselves initiated the proposal for the program, and wanted to lend their expertise to help homeowners in very difficult circumstances. The Division is conducting extensive outreach to consumers in flood affected counties to advise them of the Damage Assessment Program, including television and radio public service announcements which are now airing across northern Colorado.

3:20-3:40 DEPARTMENT OVERVIEW AND APPENDICES

1. What is the status of the LEAN review of the Civil Rights Division that has been undertaken by the Governor's Office?

Response: The goals of the project were to increase the efficiency of the Intake Unit; to reduce time the amount of time from first contact with the Division to assignment of a charge to an Investigator (and consequently, the overall investigation process time); to maximize resources throughout the intake process; to create and sustain an efficient, technology supported and accurate complaint intake system to ensure timely and appropriate outcomes for all customers; to improve the quality of staff who interface with the public; and in turn, increase customer confidence in the agency. The Lean Kaizen event was held in May, 2013, and the Division has finalized all tasks that were outlined for completion during the first 60 days. These tasks included the creation of all new (improved) forms and process documents; implementing a linear intake process and more inclusive reporting mechanism; achieving a strategic staffing plan where resources are better deployed and maximized; and acquiring the required technology. While there was a minor training setback due to the Federal furlough period, the first team of investigators is scheduled to partner with the EEOC later this month, for cross-training purposes.

In the prior Intake process, the amount of time from first contact with the Division to assignment of a charge to an Investigator ranged from a minimum of 6 weeks to up to 5 months (worst case). It was not possible to submit a Charge of Discrimination electronically or even on a writable form. Charging parties literally needed to print a form, complete it manually, and mail it or hand-deliver it to the division.

Once fully implemented, the new process time it takes a member of the public to file a Charge of Discrimination (from First contact to Investigation) will be decreased to an average of 1 to 2 weeks, at the most, with the charging parties having the ability to complete and submit forms electronically, as well as have an initial consultation, face-to-face interview with an Investigator

to assure the most comprehensive and accurate information is submitted as a part of the intake process.

Currently, additional CCRD staff is being trained on the new process. It is anticipated that the Division will conduct its 'soft roll-out' in December to allow investigators to work through any problems with the new process before 'going live' to the public. The training includes learning how to draft a Charge of Discrimination as a part of conducting the new Consultation Interview, to obtain all relevant information up front. This training period is designed to allow staff to become fully acquainted with the new process while transitioning from the old process.

2. Have new law and regulations related to the Affordable Care Act led to increased appropriations for the Division of Insurance?

Response: The new law and regulations related to the Affordable Care Act have not led to increased appropriations for the Division of Insurance. However, the federal Department of Health and Human Services has provided grant funding to states in order to assist in the development of rate approval processes regarding health coverage, and the Division of Insurance was awarded \$4 million in grant funding over 3 years for this purpose. With these resources, the Division successfully performed actuarial review of over 1,000 health care rate plans offered by 18 different carriers for 2014, concluding that significant effort by August 2013. Additionally, the grant has made resources available for targeted outreach to key organizations and entities that can reach consumers in need of information regarding the Affordable Care Act. This includes representation at the 9 Health Fair as well as various chambers of commerce across key geographic and demographic constituencies.

3. Please provide an updated CAMELS report as was submitted for previous years' hearings. Please speak to the change in the financial condition of banks in the state over recent years.

Response: The following chart and discussion is being provided in response to this question.

CAMELS Rating System Distribution (5 point scale)	June 30 2010 Percent	June 30 2011 Percent	June 30 2012 Percent	June 30 2013 Percent
Percent of institutions without adverse rating (CAMELS 1-2)	66.40%	49.30%	60.53%	73.91%
Percent of institutions adversely rated (CAMELS 3,4 and 5)	33.60%	50.70%	39.47%	26.09%
Note: These ratios improve to 76.81% (CAMELS 1-2) and 23.19% (CAMELS 3,4 and 5) as of Oct. 31, 2013				

The financial condition of state-chartered banks in Colorado has greatly improved over last year. The trends have been positive. As you are aware, federal and state bank regulators use a CAMELS rating scale to assess the overall condition of a given bank. The components of a bank's condition that are assessed include (C) capital adequacy, (A) asset quality, (M) management, (E) earnings, (L) liquidity, and (S) sensitivity to market risk. The scale is from 1 to 5 with 1 being strongest and 5 being weakest.

For example, Colorado-chartered banks rated CAMELS 1 and 2 stood at 60.53% on June 30, 2012. And the banks adversely rated at CAMELS 3, 4 and 5 were 39.47% on that same date. A year later, on June 30, 2013, those same numbers were 73.91% and 26.09%, respectively. Recent examination findings show maintained progress. In fact, as of October 31, 2013, there has been continued improvement in those numbers to 76.81% and 23.19%, respectively.

There has been a rebound in overall bank earnings. The return on average assets as of June 30, 2012 was 0.95%, and as of June 30, 2013 increased to 1.05%. Also, total assets show a modest increase over last year. There has been an increase of \$1.9 billion in assets over last year. In addition, equity capital increased over \$135 million from June 30, 2012 to June 30, 2013.

All of these trends are directly related to the state's economy, which has also improved. In particular, the real estate, energy and agricultural sectors have demonstrated great improvement over the previous five years.

Please speak to reviews of securities institutions and the change in the financial condition of securities institutions in the state over recent years.

Response: With regard to securities institutions, it is important to note that these entities are not assessed for financial health by the State of Colorado. Financial soundness of these entities is monitored by the Federal Financial Industry Regulatory Authority (FINRA). While FINRA monitors the net capital position of brokerage firms, FINRA assessments of particular institutions are confidential information, with publicly available information consisting of whether an institution is duly licensed and whether any disciplinary actions are outstanding. Consumers can read more about FINRA at: www.finra.org.

The role of the Division of Securities is investor protection from fraud through enforcement of the Colorado Securities Act. To protect Colorado investors, Division examiners focus on customer complaints, suspicious activity, sales practices, suitability, proper supervisory procedures, advertising, and outside business activities. The Division notes that the number of stock brokers (178,513), brokerages (2,153) and investment advisor firms (730) operating in Colorado appears to be a sign of industry health, as does the lack of any recent significant increases in complaint activity.

4. Regarding R1 New Vehicles for PUC: Is the request for additional vehicles related to increased air quality testing and related equipment purchases? What is driving the need for these new vehicles? Does DORA coordinate with CDPHE and their air quality testing?

Response: (a) No, the request for additional vehicles is not in any way related to air quality testing or related equipment purchases.

(b) The need for new vehicles is being driven by the performance target of conducting safety inspections for approximately 10,000 regulated motor carriers and vehicles at least once every 5 years, as well as the need to conduct hundreds of safety audits of records, on-site inspections, and incident investigations for a vast network of natural gas pipelines.

(c) DORA/PUC does not currently coordinate inspections and testing with CDPHE. However, we are exploring the possibility and opportunity for collaboration. There appears to be potential for overlap on jurisdictional issues related to natural gas involving the Oil and Gas Conservation Commission in the Department of Natural Resources (DNR), DORA's Pipeline Safety Program in the Public Utilities Commission, and the Air Quality Control program in the Department of Public Health and Environment. Presently, the Governor's Office is in the early stages of exploring the potential to address such overlaps, and information will be made available to you once determinations have been made within the Executive Branch.

Administrative Actions Against Licensed Professionals

5. Is the increase in Legal Services due to an increase in the Department seeking administrative actions against licensed professions? Has there been an increase in pursuing administrative actions against licensed professions in recent years?

Response: The increase in Legal Services is not due to an increase in the Department seeking administrative actions against licensed professionals, and there has not been an increase in pursuing administrative actions against licensed professionals. Rather, the increase in Legal Services has been attributable to the increased number of new programs enacted by the General Assembly, and increases in the rate charged by the Attorney General's Office.

Table 1

Increases in Legal Services Since 2009	Dollar Impact
Increases in Attorney General Hourly Legal Rate (from \$75.10 to \$91.08)	\$1,573,918
New Programs Enacted by General Assembly (9,073 new hours)	\$796,950
Department-initiated requests	\$0
Total Increase in Legal Appropriations since 2009	\$2,370,868

As Table 1 shows, increases in the Attorney General’s legal rate (from \$75.10 in 2009 to \$91.08 in 2014) account for \$1.5 million of the increase, while the remaining increase of \$796,950 is attributable to new programs enacted by the General Assembly. Department-initiated requests account for none of the increase in legal appropriations.

With regard to administrative actions against licensed professions, the following data from the Division of Professions and Occupations, the largest division within DORA, shows a consistent pattern of disciplinary enforcement:

Table 2

Disciplinary Statistics	Actual	Actual	Actual
Division of Professions and Occupations	FY 10-11	FY 11-12	FY 12-13
Active Licensees	345,026	347,285	366,402
Complaints Received	5,539	5,208	4,352
Investigations Performed	564	619	692
<u>Total Actions Taken</u>	<u>5,240</u>	<u>4,626</u>	<u>4,195</u>
Dismissals	1,789	1,578	1,428
Letters of Concern	1,248	1,111	916
Stipulations/Admonitions	1,844	1,682	1,644
Revocations/Suspensions	359	255	207
<u>Referred for Expedited Settlement</u>	<u>1,000</u>	<u>967</u>	<u>904</u>
Cases Resolved in Expedited Settlement	888	893	819
Settlement Rate	88.8%	92.3%	90.6%

As Table 2 shows above, total administrative actions taken against licensees across the Division have decreased slightly, with a similar downward trend in complaints received.

Importantly, one of the critical priorities for the Division, as well as the Department, is the resolution of pending investigations as promptly and efficiently as possible through increased utilization of the Expedited Settlement Program (ESP). Referring cases through the expedited settlement process affords licensees the opportunity to resolve their disciplinary issues without the

need for protracted and costly administrative or judicial proceedings. Among other benefits of the program, we are able to conserve the Department’s valuable legal services resources for use on more critically important disciplinary issues. The following table shows expedited settlement activity over the last three years:

Table 3

Division of Professions and Occupations Expedited Settlement Activity	Actual FY 2010-11	Actual FY 2011-12	Actual FY 2012-13
<u>Expedited Settlement Spending</u>	\$371,474	\$428,684	\$ 421,481
Completed Cases	1,000	967	904
Settled Cases	888	893	819
Settlement Rate	88.8%	92.3%	90.6%
Cost per settled case	\$ 418.33	\$ 480.05	\$ 514.63
<u>Office of the Attorney General</u>			
Hourly rate	\$ 73.37	\$ 75.71	\$ 77.25
Cost per Case	\$ 733.70	\$ 757.10	\$ 772.50
Total Estimated Cost	\$651,526	\$676,090	\$ 632,678
Total Conserved Resources	\$280,052	\$247,406	\$ 211,197
Est. Cost Avoidance per Case	\$ 315.37	\$ 277.05	\$ 257.87

The Department’s actions to resolve disciplinary matters through the ESP are estimated to have avoided \$738,654 in legal services expenses over the last three years alone, and a cumulative total of \$1.9 million since the program’s inception in 2005. Additionally, DORA is looking to expand and increase the availability and utilization of the ESP process and model further across the divisions.

6. Are the oversight boards the entities that determine whether disciplinary items are accelerated to administrative actions? Please explain the process for civil actions against professionals.

Response: As previously noted, under most of the regulatory programs within DORA, a board or commission is charged by statute to oversee and supervise the standards for practice or performance necessary to protect the public health, safety and welfare and to make determinations of actions or omissions which violate those practice standards. In most cases, the boards are classified as Type 1, which means they are “policy autonomous,” and are not subject to the oversight of the Department with respect to those policy decisions.

It may be helpful to provide a basic overview of the complaint and investigatory process to understand when disciplinary items are accelerated to administrative actions. When a complaint is received, compliance with due process requirements is extremely important to avoid unnecessary litigation and the potential for court reversal. First, a letter is sent to the licensee requesting a response to the allegations in the complaint. The licensee is given a standard timeframe to respond to the letter, typically thirty days. At the conclusion of the allotted response

time, the complaint and the licensee's response, if any, is presented to the board to determine whether there has been a violation of the practice act. Upon review, the board has discretion to request additional information, to request the Office of Investigations to subpoena records, interview witnesses and to gather information, to take disciplinary action, or dismiss the complaint. In some instances, program staff is delegated through policy to refer directly to the Office of Investigations. However, the decision that disciplinary action is warranted is a board decision.

The board may decide that the practice act has been violated and issue a letter of admonition, seek a probationary term, suspend or seek revocation of the licensee. When a board votes on which action is appropriate, referrals are often made to the Office of Expedited Settlement. Should an agreement not be reached within the parameters set forth by the board, the matter is referred to the Office of the Attorney General. During the formal process, the licensee/respondent and the Board may elect to pursue mediation, settlement or formal proceedings that will result in a final action.

In some instances, licensees may request a formal hearing to appeal a letter of admonition issued by a board, and the matter will be processed by means of formal disciplinary proceedings, prosecuted by the Office of Attorney General on behalf of the appropriate board.

In the pursuit of formal discipline, the Office of the Attorney General may file the Notice of Charges at the direction of the applicable board, which will result in a resolution of the case through settlement or an Initial Decision issued by an Administrative Law Judge.

The Division actively works, in collaboration with its boards and commissions, to ensure the competence of the professionals it regulates, and to ensure that enforcement of the practice and performance standards is on a fair and consistent basis.

7. Has the public outreach advertising generated an increased amount of reporting that has led to a higher number of disciplinary actions against professionals? Has this increased the number of disciplinary items being pursued to the end of the disciplinary determination process rather than being settled?

Response: There is no basis upon which to accurately establish, or any evidence which would suggest, any direct correlation between the consumer outreach program and the number of disciplinary actions against professionals. As noted in response to Question 5, there has been a slow, yet steady decline in the number of complaints received in the Department's largest division. We would expect to see that trend across other of the divisions as well.

Additionally, the availability and increased utilization of the ESP across the Department reflects a commitment to resolve complaints and disciplinary issues at the earliest opportunity and in the most effective and cost efficient manner as may be practicable. As noted in Table 2, the settlement rate for DPO matters referred to the ESP is an impressive 90.6% in FY 12-13.

It is also important to observe that the Department's consumer outreach program and education efforts exist to benefit and inform professionals and businesses, as well as retail consumers.

Indeed, this aspect of our mission will be a particular highlight and area of focus in the outreach program during FY 2013-14 and beyond as noted in the Department's annual report on the program.

3:40-5:00 ISSUES

Voluntary Licensure of Private Investigators

8. Would legislation that changes the program include a fee that would offset or pay for the current deficit balance?

Response: Respectfully, the Department believes this is a policy decision for the General Assembly. This question will be an important one for the legislature to resolve as a matter of public policy. The Department acknowledges that ultimately the deficit balance must be resolved using either General Fund or cash funds from a restructuring of the existing program.

Insurance Premium Tax Diversions as a Revenue Source for Wildfire Funds

9. What does the Department think of staff's proposed legislation?

Response: Respectfully, the Department does not have a position on this issue and believes that this is the place of the General Assembly to make this determination. While the Department acknowledges that it is logical to utilize premium tax revenue as a supplementary fund source for the Division of Insurance, the applicability of this fund source to other Departments and other programs is a separate public policy determination that depends on several factors to be taken into consideration by the General Assembly.

10. What type of impact will the transfer of insurance premium tax collections to the wildfire funds have on the insurance industry?

Response: The Department can determine no discernible impact that using premium tax collections for wildfire funds would have on the insurance industry. Premium tax collections constitute state revenue to the General Fund, and do not have direct bearing on industry fees or rates.

**11. Will houses near wildfire areas be limited in the insurance coverage they can receive?
Please present the findings of the Wildfire Insurance and Forest Health Task Force.**

Response:

- (a) Speaking from the perspective of the Task Force, it is not my expectation or belief that homes located in the wildland-urban interface would be limited in the insurance coverage they could obtain as a result of the body of recommendations of the Wildfire Insurance and Forest Health Task Force.
- (b) In January, 2013, Governor Hickenlooper established the Task Force on Wildfire Insurance and Forest Health (Task Force) to identify and reach agreement on ways to encourage activities, practices and policies across the state that would reduce the risk of loss in wildland-urban interface areas, and provide greater consumer choice and knowledge of insurance options.
- The Report was 9 months and a lot of hard work in the making. The Task Force was comprised of 18 designees from a broad array of affected state, federal and local government entities, industry groups and on-governmental organizations. However, we did not do it alone. We reached out to experts in a variety of fields to get the information we needed. These professionals ranged from wildfire experts, to first responders, college professors and insurance professionals.
- I believe all the recommendations included in the report fall into 4 basic tenets:
 - We must be able to identify and quantify the problem;
 - There must be uniform and consistent standards in mitigation across the state in order to maximize impact;
 - Revenue generated through a fee assessment on properties in the wildland-urban interface could provide a predictable and sustainable way to pay for these wildfire prevention and mitigation efforts; and
 - And there must be a robust education element to this as well. There is already a lot of great information out there to tap into. We need to develop partnerships and work together to coordinate the information and deliver a consistent message to homeowners.
- The Task Force recommendations are designed to create a coordinated system that will require homeowners to share in the burden of the risk and to promote changed behaviors through a combination of legal requirements, increased awareness, and incentives. This system involves the development of uniform standards at the statewide level and defers to local governments for implementation of mitigation and prevention efforts.

- We recognize that one-size-fits-all solutions are not appropriate in a state like Colorado with diverse ecosystems and communities.
- The first step is knowing your risk. Accordingly, the Report recommends developing a mapping tool to identify and quantify wildfire risks to specific properties in the Wildland-Urban Interface we now commonly refer to as the WUI. The bones of this mapping system presently exist in the Colorado Wildfire Risk Assessment Portal (CO-WRAP). However, much work needs to be done to get CO-WRAP to a place where it would be functional for our recommended use.
- An updated CO-WRAP would quantify risks to individual properties in the WUI by assigning a score. The score can be used broadly for disclosure to all relevant stakeholders, such as prospective homeowners, realtors, home builders, lenders, insurance providers and local governments.
- High CO-WRAP scores would trigger a Wildfire Mitigation Audit for high risk homes, allowing the people living in those homes the opportunity to learn what they can do to make their homes safer from wildfire.
- Realizing these recommendations need to be funded, the Task Force recommends assessing a fee on properties in the WUI to help fund mitigation activities. Homeowners in the WUI should take on more of the responsibility for the risks and associated costs of living in wildfire-prone areas.
- The fees would likely be assessed by the state and then allocated to counties to support local mitigation priorities.
- Finally, the Task Force recommends building on the wealth of existing informational and educational programs that already support wildfire risk mitigation. There is no need to reinvent the wheel here. Instead we recommend efforts focused on increasing awareness of financial and technical assistance that is already available in Colorado.
- None of the recommendations are simple and nothing can be implemented today or even tomorrow. These ideas will take time to flesh out and the task force is aware that there are barriers to progress. We recognize that some of the recommendations will be costly and difficult to implement, but we hope they provide an informed point of accord among the various stakeholders as a way forward.

12. Does the Department have any concerns that the Wildfire Risk Assessment Profile (WRAP) program will impair the ability of homeowners to insure homes now or in the future, or impair the ability of developers in the process of obtaining financing for development of land in wildfire areas? What is the source of the \$3.0 million over five years that the Governor has identified in funding for the WRAP program? Please provide a list of Task Force recommendations that the Governor will be pursuing.

Response: (a) No, it is not my expectation or belief that implementation of the CO-WRAP asset as contemplated in the Report will itself adversely impact or impair the availability of insurance or development financing for properties located in the wildland-urban interface. As noted in the Report, some communities have already developed risk mapping tools, such as Boulder County, and the Task Force was not made aware of the resulting shut down of the insurance or capital markets.

(b) To my knowledge, the Governor has not identified any funding for the CO-WRAP project. The only source of a reference to costs which might lead to a \$3 million figure is language which appears on page 14 of the Report which states "CSFS has secured \$300,000 in 2014 grant funding from the U.S. Forest Service to continue to develop the CO-WRAP tool", and possibly on page 15 of the Report which states "updating the [CO-WRAP] model is likely to take about 5 years and cost \$600,000 per year."

(c) I am advised the Governor's office is further exploring options and outreach on the recommendations. At this point, no decisions regarding proposed legislation have been made.

13. Is it always the practice to send revenues to the Treasurer for crediting to a cash fund? Please explain the process for how cash fund and General Fund sources of revenue are routed to cash funds or the General Fund.

Response: Pursuant to State law it is the responsibility of the Treasury to receive all revenue that accrues to the State:

24-36-103. All state moneys to be transmitted to department

(1) It is the duty of every officer, department, institution, and agency of the state government charged with the responsibility of collecting the various taxes, licenses, fees, and permits imposed by law and of collecting or accepting tuition, rentals, receipts from the sale of property, and moneys of any other nature accruing to the state from any source

whatsoever to transmit the same to the treasury department in such manner and under such procedures as may be prescribed by law or by fiscal rule of the controller.

Statutes for cash funds generally make explicit the requirement that revenue be credited to the respective cash fund. However, as the above statute makes clear, revenue is to be administered as required by law, meaning that the General Assembly can enact requirements on premium tax revenue as it sees fit.

An Assessment of the Colorado Health Benefit Exchange Sustainability Funding Model

For the Department:

14. Please have the Division of Insurance speak to the issue of Coloradans who are receiving cancellation notices for their current insurance policies. What steps are being taken to ensure these individuals can obtain insurance?

Response: There have been many questions arising from the recent cancellation notices that consumers are receiving from their health insurance carriers. This information outlines the issue and also provides background on this issue.

Terminated Health Plans.

As of November 1, a total of 23 health insurance carriers terminated policies in Colorado; 18 carriers in the individual market; 10 carriers in the small group market. These cancellations affect 249,199 people – 106,453 in the individual market, 143,116 in the small group market. In both markets, Kaiser and Anthem cancellations account for around 75% of the affected individuals. However, both carriers are each offering more than 100 plans across both markets, inside and outside our state exchange, Connect for Health Colorado.

Insurance companies are cancelling plans for different reasons.

Some plans do not meet new federal requirements for benefits, coverage and premiums, as outlined in the Patient Protection & Affordable Care Act. For example, plans may not have sufficiently covered, or even included, prescriptions, preventive care or hospitalization as required by the ACA. In other cases, carriers have made business decisions to discontinue plans, either because of a change in direction for the carrier or as part of normal business operations.

Cancellation of plans is not new, but it is being highlighted this year because of the ACA and the requirements for 2014. This year, the DOI collected data on how many plans carriers cancelled. Unfortunately, the Division did not collect data in previous years and, therefore, cannot make solid comparisons.

Increased cost. Depending on what is purchased, costs may in fact be less than what people are currently paying. Further, consumers may qualify for the federal advanced payment tax credit

subsidy, reducing their outlay for premiums. Some consumers who are not eligible for Medicaid may qualify for a catastrophic plan with lower premiums and higher deductibles and copays.

Insurance Market is strong. Despite the high numbers of cancellations, Colorado continues to have a strong health insurance market. The number of carriers and the variety of plans being offered provide consumers many choices at different price levels.

For Connect for Health Colorado:

15. Did the Exchange include inflation in any of their budget projections in future years?

Response: The Department of Regulatory Agencies is not in a position to provide a response to this question. As the Department's analyst noted, the Exchange is not a part of the Department and is not part of any Department operations or programs. As such the Department has no basis to speak to this issue.

16. Please provide additional information about any anticipated long term savings associated with the Exchange. Why is the administrative fee for the Colorado Exchange so much lower than the fee for the federal exchange?

Response: The Department of Regulatory Agencies is not in a position to provide a response to this question. As the Department's analyst noted, the Exchange is not a part of the Department and is not part of any Department operations or programs. As such the Department has no basis to speak to this issue.

ADDENDUM: OTHER QUESTIONS FOR WHICH SOLELY WRITTEN RESPONSES ARE REQUESTED

1. Provide a list of any legislation that the Department has: (a) not implemented or (b) partially implemented. Explain why the Department has not implemented or partially implemented the legislation on this list.

Response: The Department of Regulatory Agencies is not aware of any legislation that is not implement or is partially implemented.

2. Does the Department have any outstanding high priority recommendations as identified in the "Annual Report of Audit Recommendations Not Fully Implemented" that was published by the State Auditor's Office on June 30, 2013? What is the department doing to resolve the outstanding high priority recommendations?

Response: The only such recommendation affecting the Department is Recommendation 12 from the Cash Funds Uncommitted Reserves Report Statewide Audit (February 2013), which pertains to the management of cash funds within the 16.5% maximum reserve set forth in S.B. 98-194. The Department agrees with the recommendations and continually monitors all fund balances for compliance with Senate Bill 98-194's limitations on excess uncommitted reserves as soon as possible. While license renewal cycles, fluctuations in licensee population, and expenditure trends can in some cases prevent immediate compliance, in all cases fee adjustments are made at the earliest available opportunity to bring the funds into compliance as quickly as possible. The Department does fully carry out the audit recommendations to monitor fund balances and make fee adjustments on a continual basis each year in order to both carry out the recommendation and comply with the provisions of Senate Bill 98-194.

Colorado Health Benefit Exchange Responses

For Connect for Health Colorado:

15. Did the Exchange include inflation in any of their budget projections in future years?

The Pro Forma budget is a fairly high-level document. The budget projection does have built-in inflation for those areas that would increase over time, such as salaries, occupancy costs, and services. Because Connect for Health Colorado's projected operational budget, during the years shown, ranges from \$22M to \$26M, for simplification, the highest number in the range was carried in the budget document. In addition, in order to reduce the complexity and number of variables modeled, there are, also, expected revenues that were not presented in the budget document.

16. Please provide additional information about any anticipated long term savings associated with the Exchange. Why is the administrative fee for the Colorado Exchange so much lower than the fee for the federal exchange?

There are several possible reasons that Connect for Health Colorado fees may differ from the fees on the Federal exchange. We do not have access to how the federal budget was developed. Our fees are set by our Board on an annual basis for the upcoming plan year's policies sold on the Marketplace. The factors that are considered to determine Connect for Health Colorado's administrative fees include: revenue sources, budget requirements, technology and operational reserves, average premiums, and enrollment projections.

With the encouragement of our Legislative implementation Review Committee, Connect for Health Colorado is committed to keeping expenses as low as possible.

ADDENDUM: OTHER QUESTIONS FOR WHICH SOLELY WRITTEN RESPONSES ARE REQUESTED

1. Provide a list of any legislation that the Department has: (a) not implemented or (b) partially implemented. Explain why the Department has not implemented or partially implemented the legislation on this list.
2. Does the Department have any outstanding high priority recommendations as identified in the "Annual Report of Audit Recommendations Not Fully Implemented" that was published by the State Auditor's Office on June 30, 2013? What is the department doing to resolve the outstanding high priority recommendations?