

JOINT BUDGET COMMITTEE



STAFF BUDGET BRIEFING FY 2018-19

DEPARTMENT OF REGULATORY AGENCIES

JBC WORKING DOCUMENT - SUBJECT TO CHANGE
STAFF RECOMMENDATION DOES NOT REPRESENT COMMITTEE DECISION

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DEPARTMENT OF REGULATORY AGENCIES

DEPARTMENT OVERVIEW

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

- Executive Director's Office
 - Provides administrative and technical support for department divisions and programs.
- Division of Banking
 - Regulates state-chartered banks and debt management companies. The Division also contains the eight-member Colorado State Banking Board.
- Division of Civil Rights
 - Enforces Colorado's civil rights laws that prohibit discrimination in employment, housing, and public accommodations.
- Office of Consumer Counsel
 - Represents the interests of residential, small business, and agricultural consumers on cases before the Public Utility Commission (PUC).
- Division Financial Services
 - Regulates state chartered credit unions; savings and loans associations; and life care institutions.
- Division of Insurance
 - Regulates and licenses life, health, property and casualty, and other types of insurance companies and agents.
- Public Utilities Commission
 - The three-member Public Utility Commission (PUC) regulates the rates and services of fixed utilities and transportation utilities.
- Division of Real Estate
 - Licenses real estate agents, appraisers, and mortgage loan originators; registers mortgage companies and homeowners associations; and administers the conservation easement program.
- Division of Professions and Occupations
 - Regulates licensees in over 30 professions and occupations to ensure a basic level of competence among licensees and to protect the public welfare. The Division also licenses or approves qualified facilities, programs, and equipment.
- Division of Securities
 - Monitors the conduct of broker-dealers and sales representatives; investigates citizen complaints; and investigates indicators of investment fraud.

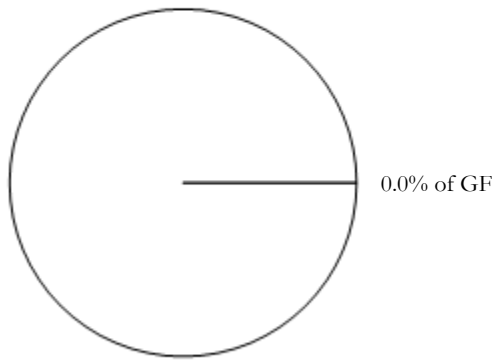
DEPARTMENT BUDGET: RECENT APPROPRIATIONS

FUNDING SOURCE	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19 *
General Fund	\$1,923,405	\$1,769,297	\$1,844,627	\$1,948,102
Cash Funds	80,625,258	78,137,343	91,024,582	92,762,994
Reappropriated Funds	4,875,289	4,852,173	5,060,383	5,208,784
Federal Funds	1,486,010	1,383,918	1,268,645	1,240,636
TOTAL FUNDS	\$88,909,962	\$86,142,731	\$99,198,237	\$101,160,516
Full Time Equiv. Staff	585.5	588.2	573.1	573.1

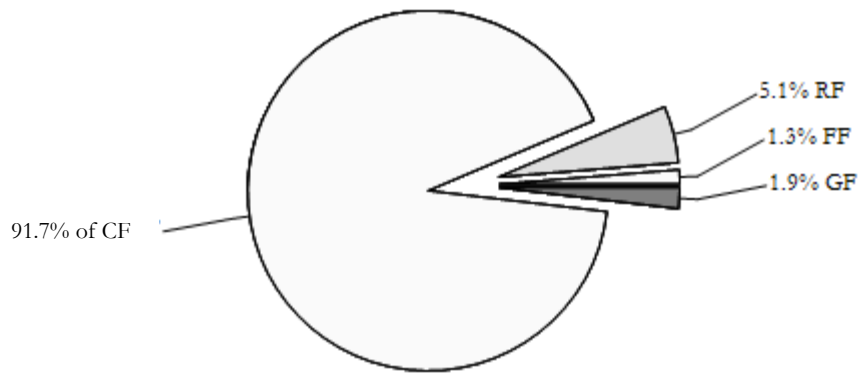
*Requested appropriation.

DEPARTMENT BUDGET: GRAPHIC OVERVIEW

Department's Share of Statewide General Fund

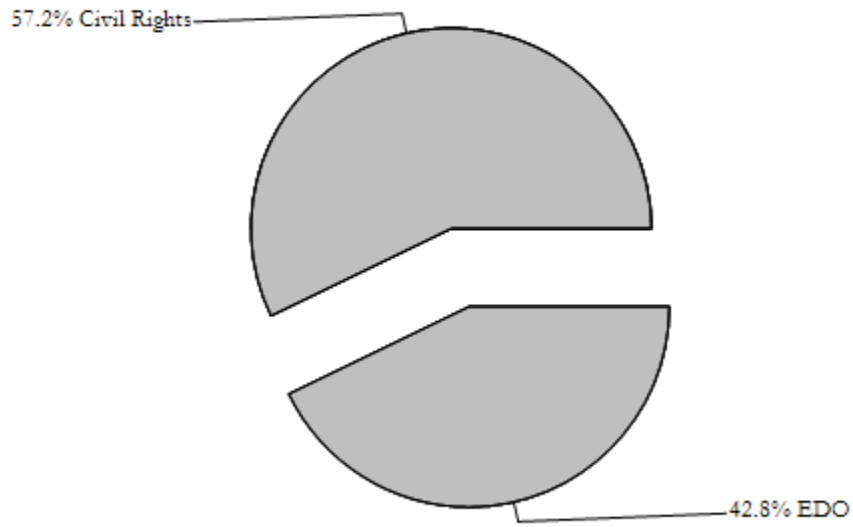


Department Funding Sources

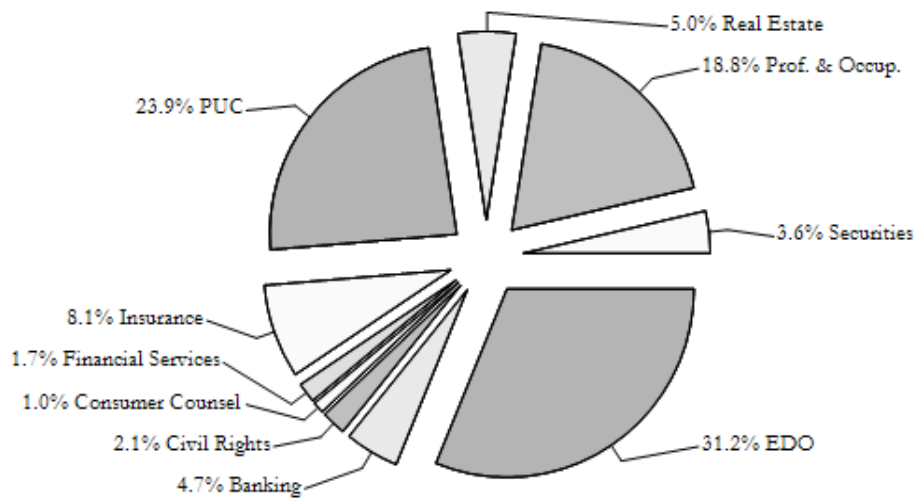


All charts are based on the FY 2017-18 appropriation.

Distribution of General Fund by Division



Distribution of Total Funds by Division



All charts are based on the FY 2017-18 appropriation.

GENERAL FACTORS DRIVING THE BUDGET

The Department's FY 2018-19 budget request consists of 1.9 percent General Fund, 91.7 percent cash funds, 5.1 percent reappropriated funds, and 1.3 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 10.6 percent of the Department's FY 2017-18 total appropriation and 25.5 percent of the total legal services provided to all state agencies by the Department of Law.

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 total number of licenses issued in FY 2016-17 for these divisions was 829,350.

Number of Examinations by the Divisions of Banking and Securities

Securities examinations increased in FY 2011-12 due to additional oversight requirements in federal law. These increases have remained relatively steady over the years. The number of inspections in FY 2016-17 was 334.

Other Legislation

The General Assembly has passed an average of 10.2 bills per session over the last ten sessions that impact the Department's regulatory responsibilities. The 2017 Session included 5 bills with appropriations for an additional \$93,891 cash funds. 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	REAPPROPRIATED FUNDS	TOTAL	FTE
2008	19	\$149,205	\$2,233,416	\$0	\$2,233,416	17.3
2009	10	0	947,305	0	947,305	7.5
2010	13	0	507,245	593,333	1,100,578	6.4
2011	11	0	954,420	0	954,420	6.8
2012	5	0	378,246	0	378,246	2.0
2013	16	0	334,518	0	334,518	12.8
2014	10	0	802,770	0	802,770	7.0
2015	5	0	148,422	0	148,422	0.0
2016	8	0	875,311	0	0	2.7
2017	5	0	93,891	0	0	0.0
Average	10.2	\$14,921	\$727,554	\$59,333	\$689,968	6.3

SUMMARY: FY 2017-18 APPROPRIATION & FY 2018-19 REQUEST

DEPARTMENT OF REGULATORY AGENCIES						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2017-18 APPROPRIATION:						
SB 17-254 (Long Bill)	99,104,340	1,844,627	90,930,685	5,060,383	1,268,645	572.5
Other legislation	93,897	0	93,897	0	0	0.6
TOTAL	\$99,198,237	\$1,844,627	\$91,024,582	\$5,060,383	\$1,268,645	573.1
FY 2018-19 APPROPRIATION:						
FY 2017-18 Appropriation	\$99,198,237	1,844,627	\$91,024,582	\$5,060,383	\$1,268,645	573.1
R1 PUC State safety vehicle lease	3,207	0	3,207	0	0	0.0
R2 Base reduction	(483,885)	0	(483,885)	0	0	0.0
Non-prioritized changes	91,461	220	90,878	293	70	0.0
Centrally appropriated line items	2,355,599	139,611	2,128,047	116,075	(28,134)	0.0
Indirect cost assessment	8,742	(8,742)	8,641	8,742	101	0.0
Annualize prior year salary survey	287,022	10,794	257,536	18,069	623	0.0
Annualize prior year merit pay	(299,867)	(11,268)	(269,082)	(18,848)	(669)	0.0
Technical changes	0	(27,140)	3,070	24,070	0	0.0
TOTAL	\$101,160,516	\$1,948,102	\$92,762,994	\$5,208,784	\$1,240,636	573.1
INCREASE/(DECREASE)	\$1,962,279	\$103,475	\$1,738,412	\$148,401	(\$28,009)	0.0
Percentage Change	2.0%	5.6%	1.9%	2.9%	(2.2%)	0.0%

R1 PUC STATE SAFETY VEHICLE LEASE: The request includes an increase of \$3,207 cash funds for FY 2018-19 for vehicle leases. These vehicles will be used for field inspections as required by the Federal Map-21 program in order for the state to be eligible for federal funds in this program.

R2 BASE REDUCTION: The request includes a decrease of \$483,885 cash funds, of which \$189,944 is from a reduction in the Public Utilities Commission and \$293,941 is from a reduction in the Division of Professions and Occupations. The Department was able to realize these savings without reducing the quality or services it provides.

NON-PRIORITIZED DECISION ITEMS: The request includes \$91,461 total funds, which consists of \$220 General Fund, \$90,878 cash funds, \$293 reappropriated funds, and \$70 federal funds for changes to annual fleet vehicle, Cybersecurity liability insurance policy, and Operating system suite.

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

INDIRECT COST ASSESSMENTS: The request includes an increase of \$8,742 total funds for adjustments to departmental indirect cost assessments included in the Statewide Indirect Cost Plan.

ANNUALIZE PRIOR YEAR SALARY SURVEY: The request includes an increase of \$287,022 total funds, including \$10,794 General Fund, \$257,536 cash funds, \$18,069 reappropriated funds, and \$623 federal funds for the annualization of prior year salary survey.

ANNUALIZE PRIOR YEAR MERIT PAY: The request includes a decrease of \$299,867 total funds, which consists of a decrease of \$11,268 General Fund, \$269,082 cash funds, \$18,848 reappropriated funds, and \$669 federal funds for the annualization of prior year merit pay.

TECHNICAL CHANGES: The request includes a net zero total funds change, which consists of a decrease of \$27,140 General Fund, an increase of \$3,070 cash funds, and a decrease of \$24,070 reappropriated funds for the sunset split adjustment.

ISSUE: RURAL BROADBAND

Rural broadband received an influx of spending authority and experienced process changes during the 2017 legislative session. This issue provides an overview and analysis of rural broadband.

SUMMARY

The addition of the Rural Broadband line item in the FY 2017-18 Long Bill added a one-time infusion of spending authority for rural broadband grants. Senate Bill 17-306 updated the process for how the grant payments were processed to awardees. Two glaring issues of concern remain in the program; the program has no dedicated funding streams and a component of the appeals process, while well intentioned, creates unintended consequences.

RECOMMENDATION

If the Joint Budget Committee (JBC) and the General Assembly (GA) desire to set rural broadband on a stable and sustainable footing, staff recommends the JBC pursue participation in a federal reverse auction for broadband (option 1 below). Staff also recommends a broadband mechanism similar to the High Cost Support Mechanism (HCSM) as an option for long-term broadband funding (option 3 below). Finally, staff recommends modification to the right of first refusal appeal process to meet the original intent without the negative unintended consequences.

DISCUSSION

Currently, funding for rural broadband comes after the PUC has found effective competition for basic voice service in a geographic area. The funds used in that area for basic phone service support are then freed up for broadband use. The 16 member Broadband Deployment Board (BDB) uses these funds for grant cycles. The finding of no competition is challengeable in court and was one of the reasons previous funding for broadband has been held up.

The appropriation provided in the FY 2017-18 Long Bill resulted in \$9.4 million of funding being made available for rural broadband grants. The initial award is scheduled to happen in December 2017, with awardees having two years to complete the work and receive reimbursements. There is no additional funding marked for rural broadband and no additional grant cycles are planned. This leaves the program with a lack of sustainable funding.

Another issue is the right of first refusal in the appeals process. While well intentioned to prevent the government from subsidizing competition against a company that already has a presence in a geographic area, its implementation is problematic. For example, this process can be used to take a grant award from a winning bidder by an entity that was not part of the bidding process. It also allows an entity who wins a right of first refusal appeal to provide an inferior product simply due to terminology. This could lead to reduced bidders and be damaging to business that attempt to bid on these projects. A couple of tweaks to this appeals process would be a cost effective method to deal with this issue.

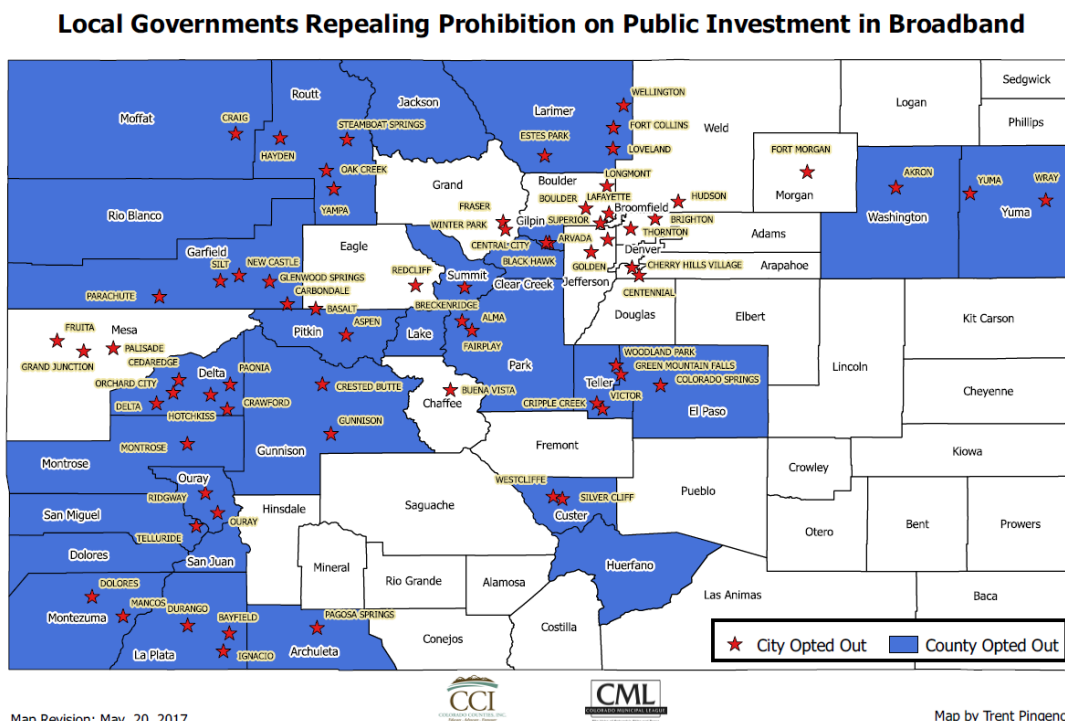
If the Joint Budget Committee and the General Assembly wants to continue expanding rural broadband in the state, Staff is confident that the combination of recommendations above will provide stability and self-sufficiency to the program.

Background

History

The current process of rural broadband has its beginnings in the FY 1995-96 session with House Bill 95-1355, which created the HCSM. The funds for the HCSM comes through a surcharge on several telephone items¹. This surcharge has been 2.6 percent since April 1, 2013. The items in the surcharge pool includes local exchange services, listing services, advanced calling features, and toll charges.

In FY 2005-2006, the GA passed Senate Bill 05-152 (Local Gov Competition Cable TV Telecom) which limited the ability of local governments to spend public funds on broadband. This limitation can be removed through local ballot measures. As seen in the map below, 28 counties and 68 cities have opted out of S.B. 05-152.



In FY 2014-15, the GA made changes to the HCSM through House Bill 14-1328 (Connect Colorado Broadband Act) which created the broadband process. This change established a process where the PUC could determine that a specific geographic area had effective competition for basic service. Once an area had effective completion, those funds could be transferred to the newly created BDB for use on rural broadband. However, this process can, and has been challenged in court. During any challenge, funds associated with the challenge cannot be used for rural broadband. This creates a problem as the process is lengthy to find an area not competitive, work through all the challenges, and transfer the money for use on rural broadband.

¹ For a breakdown of these items see Appendix G

The Broadband Deployment Board, created as part of this legislation, is tasked with:

“...administer[ing] the deployment of broadband in unserved areas by granting moneys from the Broadband Fund. Colorado law vests authority in the Board to determine whether an application for funds has met the statutory requirements and to determine which applications will receive funds based on criteria outlined in statute.

The Board’s goal is to provide infrastructure grants that increase, to the greatest extent possible, the number of Coloradoans with access to broadband internet service via a broadband network at measurable speeds at least equal to the Federal Communications Commission’s definition of high-speed internet or broadband, whichever is faster, at sufficiently low latency to enable the use of real time communications and either no usage limit or usage limits that are reasonably comparable to those found in urban areas for the same technology².”

The process for rural broadband changed slightly during the FY 2017-18 legislative session through the addition of a rural broadband line item in S.B. 17-254 (Long Bill) and S.B. 306 (Direct Transfer HCSPM To Broadband Grant Recipients). The Rural Broadband line item in the long bill provided an appropriation of \$9.45 million for rural broadband for FY 2017-18 and S.B. 306 changed the payment method thereby allowing the PUC to spend the appropriated funds.

These funds became part of the current 2017 grant cycle which was open for a two-month period resulting in a total request of just over a \$19.2 million. The grant process starts with applicants submitting an application to the BDB for review. The Board first reviews all applications for compliance with minimum requirements, then the board reviews the grants holistically to determine which grants to fund. This approach is used as it's not feasible to do a matrix or point-by-point system because of the varying aspects of the applications. Items like geography, type of speed, and equipment all come into play when looking at a proposal.

Once the grant is awarded (and any appeals are exhausted), the awardee has two years to complete the project and must maintain the approved rate structure for five years. The payment of the grants are based on a reimbursement model where the awardee submits invoices to the BDB. The invoices are reviewed, and if approved, submitted to the PUC for payment.

Entities that apply for grants through the BDB must be a for-profit entity. An exception is included in statute for a non-profit telephone cooperative or rural electric association to apply for funds if the non-profit was established at the time of enactment of House Bill 14-1328 (Connect Colorado Broadband Act).

Appeals Process

The broadband grant process contains an appeal mechanism. This mechanism has several components with most of them occurring simultaneously. Using this multi-dimensional approach, the BDB creates efficiencies by combining the comment period and the first mechanism of the appeal process. This first mechanism consists of appealing the BDB’s determination for minimum requirements. This type of appeal can be from a bidder who failed to meet the minimum requirements. Appeals against entities that the BDB determined met minimum requirements are also accepted at this point. For a non-applicant to use this appeal mechanism, they must have submitted comments during the 60-day comment period.

² Policy for Funding Broadband Infrastructure Projects (Appendix H)

The next part of the process is the Right of First Refusal. This process allows an entity already operating in an area where a grant was awarded to challenge the awarding of the grant. If the challenging entity can “offer substantially the same level of service in the same unserved areas...”³ then they can assume the grant and build the service⁴. One caveat of the RFR is that the entity that claims the RFR must complete the project within one year.

The right of first refusal process also has an appeal component that makes up the final mechanism of the overall appeals process. This mechanism allows both the entity that files the right of first refusal and the entity that it is filed against to appeal the BDB’s decision.

While appeals processes are a standard practice, and valuable in this program, the right of first refusal component of the appeals process is highly problematic. The original intent was to prevent the government from subsidizing a competitor in an area where an organization or company already operated. However, the way the process works creates a disincentive for applicants to go to all the effort and expense of submitting a grant. To illustrate this point, consider this; the process can be used to take a grant award from a winning bidder by an entity that was not part of the bidding process. It also allows an entity who wins a right of first refusal appeal to provide an inferior product due to the phrase “substantially” in the RFR policy. Substantially does not mean equal or better, which allows for an inferior product to be used.

The one-year completion aspect of the RFR is also problematic. An incumbent provider in a geographic area may not be able to complete the project on such a short time-frame. This could prevent it from filing an RFR, which creates a situation where the statute has created a negative unintended consequence.

Funding

The HCSM does not appear to be a sustainable funding source for rural broadband. According to the Annual Report of the Colorado High Cost Support Mechanism, dated December 1, 2016:

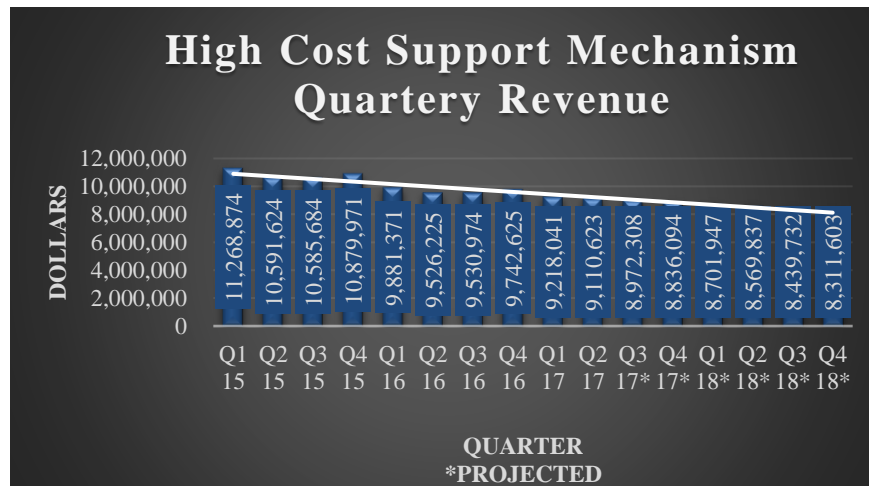
“The HCSM fund continues to be negatively affected by a decline in contributions. Total contributions in 2015 to the HCSM fund were \$43.3 million and are estimated to be \$38.4 million in 2016. Distributions in 2015 were \$37.2 million and are estimated to be \$33.9 million for 2016. There continues to be a steady decline in wireline revenues as consumers abandon traditional wireline service. Additionally, highly competitive wireless price plans and the proliferation of consumer data packages, which bundle voice and data together, have resulted in a significant decline in wireless contributions⁵.”

The decline in revenue, coupled with the effective competition clause in statute, means that funding from the HCSM will be long in coming and short in stature. The High Cost Support Mechanism Quarterly Revenue chart below shows this negative trend. The quarterly intake in the first quarter of 2015 was \$11.3 million dollars. The last quarter with actual expenditure data shows revenue of \$9.1 million. The projected revenue for the last quarter of 2018 is \$8.3 million showing a quarterly decline of \$3 million dollars in just a three-year period.

³ Right of first refusal policy (Appendix I)

⁴ Ibid.

⁵ Annual Report of the Colorado High Cost Support Mechanism, dated December 1, 2016



If the JBC and the General Assembly have a desire to fund rural broadband, several mechanisms exist to achieve this, each with its own pros and cons. The following are three funding options, with staff analysis and staff recommendations included for each option.

Option 1 – Do Nothing

The first option is to do nothing. In this option, the \$9.4 million appropriated in the FY 2017-18 Long Bill will be dispersed through grants. As the PUC finds geographic areas competitive for basic service, funds for those areas can be transferred for rural broadband. The disparity between the revenue and disbursements of the HCSM makes it unlikely funds will be available for rural broadband in underserved areas.

Option 2 – Reverse Auction

The reverse auction option would be to apply for federal funding for broadband. The Federal Communication Commission (FCC) is employing a descending clock reverse auction in the amount of \$1.98 billion over a ten year period through the Connect America Fund Phase II Auction⁶. This is a multi-phase auction that starts with a “short application,” which is reviewed to determine if the bidding entity is eligible to participate in the program. The short application requires information about the applying entity to show, “basic ownership...certifications regarding its qualifications to receive support, and information regarding its operational and financial capabilities⁷.” The short application portion is extremely important as failure at this juncture means there is no ability to obtain funding through this source.

If an entity is determined to be eligible as part of the review, it then submits a “long application,” which is thoroughly reviewed to determine qualifications to receive support.

As far as funding determinations, the auction proposes to:

“...reserve price for each census block group will be the sum of the support amounts calculated for each eligible census block in that census block group, subject to the cap on extremely high-cost locations. For all census blocks with average costs above the funding threshold but below the extremely high-cost threshold (i.e., high-cost census blocks), we propose to set a reserve price based on the support per-location calculated by the

⁶ More information can be found in the federal auction notice.

⁷ Ibid.

CAM for that census block. This would ensure that no high-cost census block will receive more Connect America Fund Phase II support than the CAM calculates is necessary for deploying and operating a voice and broadband-capable network in that census block⁸.”

The state of Colorado can apply for these funds (estimated to be as high as \$250 million for the state) with minor changes to statute. There is precedent for states to apply for these funds, as New York was successful in its attempts at obtaining funding from this program⁹.

The BDB currently has a broadband process that could handle the influx on funding and the industry is familiar with the process used by the BDB. Using this established board would prevent the need to create a new entity or to duplicate efforts in broadband. Additionally, this would allow for funding to be disbursed and projects to be completed in a timely manner.

This approach brings with it the positive aspect of federal funds helping the state increase its broadband infrastructure. Furthermore, as the money will be spent regardless of whether Colorado applies for funding, obtaining these funds will bring more of Coloradoan’s federal tax dollars back to the state.

The negative aspect of this approach is that it requires legislation. In order for the state to apply for these funds, an entity must be authorized to apply for and spend the funds for broadband in underserved areas. This requires legislation in order to designate an entity for such a purpose. This would need to be accomplished in a relatively quick timeframe to be eligible for the auction that is anticipated in the first quarter of 2018¹⁰. The descending clock nature of the auction adds to the urgency in time.

Staff recommends enactment of this option, which would require the JBC to sponsor legislation to authorize the Broadband Development Board to apply, and expend through grants, funds from the Connect America Fund Phase II Auction.

Option 3 – Update the HCSM statute to increase broadband funding

Current statutes could be updated to direct a larger share of funding to broadband from the HCSM. While this is not a long-term solution as the underlying funding for the HCSM is not sustainable, it could present a near-term funding solution for rural broadband.

The state is required to have basic service support through the Telecommunications Act 47 U.S.C. sec 254(f). It appears the state can end this requirement if it determines the entire state is competitive for basic service. This would free up the funds in the HCSM for use on rural broadband.

The upside to this approach is that the funding would be available quickly and is predicable. The downsides to this approach are numerous. One downside is the loss of basic service support. There are areas of the state that will likely suffer from the loss of HCSM funding at this time. While there is a decline in basic services, the need for it has not completely diminished at this point.

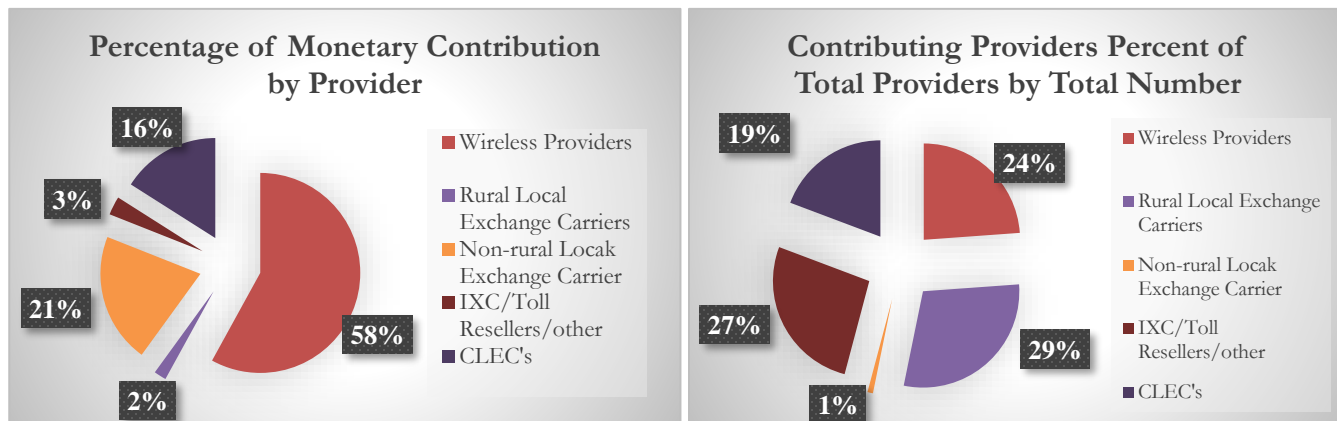
⁸ Ibid.

⁹ More information can be found in the FFC waiver for New York

¹⁰ More information can be found in the federal auction notice.

Another downside is the decline in the funding stream for the HCSM. This means broadband would be getting an increasing piece of a decreasing funding source. That is not sustainable over the long term. The advancement of technology has shifted the items and services used by consumers. The HCSM surcharge pool has not shifted with this advancement leaving the items and services showing growth outside the surcharge pool while items and services in decline remain in the pool. This raises the question of the continued need for the HCSM and whether shifting circumstances necessitates a review of the program.

Consider the following two charts:



The two charts above highlight an important aspect of the program. Wireless providers were a recent addition to the providers that paid into the HCSM. Some had hoped that the addition of wireless providers would stabilize the HCSM; however, this does not appear to be the case. Wireless providers make up 58 percent of the monetary contributions to the HCSM and are second in the number of providers that participate in the HCSM¹¹.

Considering that additional sources of funding to the HCSM has failed to slow its overall decline, the HCSM as a funding mechanism is clearly unsustainable. As such, Staff recommends that the HCSM not be considered a funding source at this time.

Option 4 – Establish an advanced services funding mechanism

During the early stages of the HCSM (circa 1995), the cost for phone service in underserved (typically rural) areas was restrictively high. Even when service was extended to these areas, the reliability was poor. Compare this to phone service in metro areas and the immediate suburbs of metro areas at the same point in time. Phone service in these areas had competition, costs were contained, and reliability was high. Even if you did not have a phone in your house, the local gas station had a pay phone for use.

Now compare this phone scenario to broadband today. The cost for broadband service in underserved (typically rural) areas is restrictively high. Even when service is extended to these areas, the redundancy is poor. Compare this to broadband in metro areas and the immediate suburbs of metro areas. Broadband in these areas have competition, costs are contained, and redundancy is

¹¹ 2016 Annual Report of the Colorado High Cost Support Mechanism

high. Even if you do not have internet in your house, local internet café's offer broadband services for a fee.

Furthermore, consider how much technology, and the need for high-speed data connections, are part of our daily lives. Consider how many people, at this very moment, are looking at their wireless device checking email, tweeting, or looking at Facebook. Even the audio from our budget briefings are being carried across the internet. All of this is possible because of high-speed data connections.

Broadband is at a similar stage when compared to basic service at the point the HCSM was established. As such, a similar mechanism for advance services could fill the same gaps in broadband that existed in basic service. The telecommunication act does not appear to prevent mechanisms other than basic service. Rather, 47 U.S.C. sec 254(f) states, [emphasis added]

"(f) State Authority. ... A State may adopt regulations to provide for additional definitions and standards to preserve and advance universal service within that State only to the extent that such regulations adopt additional specific, predictable, and *sufficient mechanisms* to support such definitions or standards that do not rely on or burden Federal universal service support mechanisms."

This seems to allow for additional support mechanism. Furthermore, Section 40-15-502 (4), C.R.S., provides, [emphasis added] "... the commission ... shall determine *whether additional support mechanisms may be necessary* ... if competition for local exchange services fails to deliver advanced services in all areas of the state."

The HCSM only includes a limited amount of items as part of the revenue pool. Items surrounding data are not currently paying a fee in a manner similar to voice¹². For example, a cellular phone user will pay a HCSM fee on package plans, minutes used, etc., but the user will not pay any fees on the data aspects of the plan. The HCSM could be modified to include the data components not currently part of the surcharge and the funds from those items could be directed towards broadband. This would provide a long-term dedicated funding source to address the needs of rural broadband.

Staff recommends enactment of this option, which would require legislation to modify the High Cost Support Mechanism to include data components as part of the fee structure and to have those fees directed to broadband in underserved areas.

Additional Recommendations

Staff's final recommendation is for changes to the Right of First Refusal policy. As discussed above, the RFR policy, while well intentioned, creates negative unintended consequences. The results of the policy allows inferior products to replace superior ones, and creates a disincentive for qualified companies to apply for the grants. This in turn, reduces the selection pool and has the potential to increase costs or prevent entire areas from realizing broadband.

The best realization of this policy would be to prevent government subsidized competition, while at the same time promoting robust and diverse applications from organizations of all sizes. This could be accomplished with small changes to the RFR policy. Specifically, requiring a party claiming the

¹² For a breakdown of these items see Appendix G.

right of first refusal to be a bidder in the grant cycle, removing the one-year project completion requirement, and changing the terminology on “substantially,” would address these issues. These changes would require legislation.

ISSUE: VEHICLES AND SAVINGS

The Departmental request includes two new vehicles for field inspections and savings across two divisions. The combination of these results in a decrease of \$480,678 cash funds.

SUMMARY

The Department of Regulatory Agencies (DORA) submitted two decision item requests for the FY 2018-19 budget. The first request is for vehicle lease payments for two vehicles and the second request is for efficiency savings from two divisions within the Department.

RECOMMENDATION

While there is no specific recommendation at this time, Staff's review and analysis of both requests did not raise any concerns.

DISCUSSION

DORA submitted two requests as part of the FY 2018-19 budget process. The first request is \$3,207 cash funds to be used for lease payments on two vehicles for the State Safety Organization (SSO). Federal Map-21 legislation requires that the SSO program make significant enhancements. These enhancements will increase the working hours to 7,280 requiring two additional FTE (paid through federal grants) and two vehicles for those FTE.

The SSO is responsible for the safety oversight of rail fixed guideway systems. These systems comprise of 173 light rail vehicles and 110 miles of track throughout metro Denver. The SSO's duties include investigation, inspection, enforcement, and auditing of light rail operations. The personnel that perform these duties must travel for fieldwork 60 percent of the time. The Department does not have the ability within existing vehicle resources to facilitate the needed fieldwork. An important point of note, the federal match for these vehicles will be an 80/20 split with the state responsible for 20 percent.

The second request is for a reduction of \$483,885 cash fund spending authority for the Public Utilities Commission and the Division of Professions and Occupations. The Department was able to find savings from the Personal Services lines in each division. The request includes a reduction of \$189,944 cash funds for the Public Utilities Commission and a reduction of \$293,941 cash funds for the Division of Professions and Occupations.

The Department believes that it can reduce these funds without affecting the quality or services that the division's offer. Regardless of that, the Department will monitor the divisions throughout the year to insure that the reductions do not cause any reduction in either quality or services.

Appendix A: Number Pages

	FY 2015-16 Actual	FY 2016-17 Actual	FY 2017-18 Appropriation	FY 2018-19 Request	Request vs. Appropriation
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DEPARTMENT OF REGULATORY AGENCIES

Marguerite Salazar, Executive Director

(1) EXECUTIVE DIRECTOR'S OFFICE AND ADMINISTRATIVE SERVICES

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

Personal Services	<u>2,374,551</u>	<u>1,963,161</u>	<u>2,430,854</u>	<u>2,490,883</u>
FTE	27.7	29.5	29.5	29.5
General Fund	0	22,262	46,890	19,750
Cash Funds	66,655	13,633	52,180	55,250
Reappropriated Funds	2,307,896	1,927,266	2,331,784	2,415,883
Health, Life, and Dental	<u>4,235,452</u>	<u>4,145,820</u>	<u>4,591,610</u>	<u>4,959,137</u>
General Fund	121,741	119,053	205,432	192,986
Cash Funds	3,826,198	3,749,831	4,135,242	4,430,048
Reappropriated Funds	240,598	236,639	238,099	272,833
Federal Funds	46,915	40,297	12,837	63,270
Short-term Disability	<u>81,112</u>	<u>65,892</u>	<u>70,408</u>	<u>65,876</u>
General Fund	2,622	2,000	2,576	2,285
Cash Funds	72,507	59,463	63,352	58,706
Reappropriated Funds	5,031	3,925	4,168	3,929
Federal Funds	952	504	312	956

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	FY 2015-16 Actual	FY 2016-17 Actual	FY 2017-18 Appropriation	FY 2018-19 Request	Request vs. Appropriation
S.B. 04-257 Amortization Equalization Disbursement	<u>1,644,105</u>	<u>1,670,094</u>	<u>1,859,709</u>	<u>1,957,010</u>	
General Fund	53,114	50,621	68,060	67,869	
Cash Funds	1,469,588	1,507,275	1,673,296	1,744,009	
Reappropriated Funds	102,083	99,342	110,144	116,736	
Federal Funds	19,320	12,856	8,209	28,396	
S.B. 06-235 Supplemental Amortization Equalization Disbursement	<u>1,588,056</u>	<u>1,651,221</u>	<u>1,859,709</u>	<u>1,957,010</u>	
General Fund	51,303	50,094	68,060	67,869	
Cash Funds	1,419,489	1,490,098	1,673,296	1,744,009	
Reappropriated Funds	98,603	98,307	110,144	116,736	
Federal Funds	18,661	12,722	8,209	28,396	
Salary Survey	<u>0</u>	<u>53,521</u>	<u>708,752</u>	<u>1,272,248</u>	
General Fund	0	0	25,931	44,121	
Cash Funds	0	51,472	637,718	1,133,773	
Reappropriated Funds	0	0	41,960	75,896	
Federal Funds	0	2,049	3,143	18,458	
Merit Pay	<u>0</u>	<u>0</u>	<u>299,867</u>	<u>0</u>	
General Fund	0	0	11,268	0	
Cash Funds	0	0	269,082	0	
Reappropriated Funds	0	0	18,848	0	
Federal Funds	0	0	669	0	

Appendix A: Number Pages

	FY 2015-16 Actual	FY 2016-17 Actual	FY 2017-18 Appropriation	FY 2018-19 Request	Request vs. Appropriation
Workers' Compensation	<u>83,843</u>	<u>105,010</u>	<u>131,874</u>	<u>192,398</u>	
General Fund	2,878	3,551	4,977	7,461	
Cash Funds	78,038	96,269	118,714	172,671	
Reappropriated Funds	2,927	3,611	6,614	9,914	
Federal Funds	0	1,579	1,569	2,352	
Operating Expenses	<u>99,182</u>	<u>148,968</u>	<u>210,344</u>	<u>210,344</u>	
General Fund	0	2,214	3,689	3,689	
Cash Funds	0	38,167	95,427	95,427	
Reappropriated Funds	99,182	108,587	111,228	111,228	
Legal Services	<u>8,499,000</u>	<u>9,228,663</u>	<u>10,112,352</u>	<u>9,974,310</u>	
General Fund	206,764	78,314	192,434	192,434	
Cash Funds	8,217,055	8,907,974	9,655,150	9,655,150	
Reappropriated Funds	75,181	61,346	96,393	96,393	
Federal Funds	0	181,029	168,375	30,333	
Administrative Law Judge Services	<u>357,148</u>	<u>201,827</u>	<u>242,917</u>	<u>395,778</u>	
General Fund	16,152	9,119	11,141	17,882	
Cash Funds	340,996	192,708	231,776	377,896	
Payment to Risk Management and Property Funds	<u>242,717</u>	<u>210,546</u>	<u>198,282</u>	<u>154,838</u>	*
General Fund	8,332	7,119	7,484	5,998	
Cash Funds	225,910	193,021	178,494	138,978	
Reappropriated Funds	8,475	7,240	9,944	7,970	
Federal Funds	0	3,166	2,360	1,892	
Vehicle Lease Payments	<u>210,100</u>	<u>192,375</u>	<u>173,575</u>	<u>244,643</u>	*
Cash Funds	210,100	192,375	173,575	244,643	

*Line item contains a decision item.

Appendix A: Number Pages

	FY 2015-16 Actual	FY 2016-17 Actual	FY 2017-18 Appropriation	FY 2018-19 Request	Request vs. Appropriation
Information Technology Asset Maintenance	<u>580,990</u>	<u>547,223</u>	<u>671,403</u>	<u>671,403</u>	
Cash Funds	390,346	396,379	480,646	480,646	
Reappropriated Funds	190,644	150,844	190,757	190,757	
Hardware/Software Maintenance	<u>680,610</u>	<u>566,970</u>	<u>729,218</u>	<u>590,939</u>	*
General Fund	800	800	800	800	
Cash Funds	421,696	412,494	469,816	331,537	
Reappropriated Funds	258,114	153,676	258,602	258,602	
Leased Space	<u>2,855,752</u>	<u>743,011</u>	<u>2,775,917</u>	<u>3,138,509</u>	
General Fund	91,692	0	0	95,362	
Cash Funds	2,415,030	625,115	2,368,767	2,648,218	
Reappropriated Funds	349,030	87,710	376,964	365,649	
Federal Funds	0	30,186	30,186	29,280	
Payments to OIT	<u>3,832,525</u>	<u>2,628,736</u>	<u>3,275,999</u>	<u>3,520,328</u>	*
General Fund	161,603	104,155	134,043	137,678	
Cash Funds	3,670,922	2,524,581	3,141,956	3,382,650	
CORE Operations	<u>179,876</u>	<u>161,891</u>	<u>193,497</u>	<u>242,310</u>	
General Fund	3,820	3,309	7,303	9,396	
Cash Funds	165,931	144,189	174,187	217,465	
Reappropriated Funds	10,125	8,769	9,704	12,486	
Federal Funds	0	5,624	2,303	2,963	
Consumer Outreach/Education Program	<u>136,834</u>	<u>167,790</u>	<u>205,000</u>	<u>205,000</u>	
Cash Funds	136,834	167,790	205,000	205,000	

*Line item contains a decision item.

Appendix A: Number Pages

	FY 2015-16 Actual	FY 2016-17 Actual	FY 2017-18 Appropriation	FY 2018-19 Request	Request vs. Appropriation
Broadband Deployment Board	<u>78,228</u>	<u>134,000</u>	<u>202,504</u>	<u>202,504</u>	
Cash Funds	78,228	134,000	202,504	202,504	
TOTAL - (1) Executive Director's Office and Administrative Services	27,760,081	24,586,719	30,943,791	32,445,468	4.9%
<i>FTE</i>	<u>27.7</u>	<u>29.5</u>	<u>29.5</u>	<u>29.5</u>	0.0%
General Fund	720,821	452,611	790,088	865,580	9.6%
Cash Funds	23,205,523	20,896,834	26,000,178	27,318,580	5.1%
Reappropriated Funds	3,747,889	2,947,262	3,915,353	4,055,012	3.6%
Federal Funds	85,848	290,012	238,172	206,296	(13.4%)

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	FY 2015-16 Actual	FY 2016-17 Actual	FY 2017-18 Appropriation	FY 2018-19 Request	Request vs. Appropriation
(2) DIVISION OF BANKING					
The Division of Banking regulates state-chartered banks and debt management companies. The Division conducts examinations and enforces compliance in areas including: Public Deposit Protection Act; electronic funds transfers; electronic data processing; and the Uniform Consumer Credit Code. The Division also contains the eight-member Colorado State Banking Board.					
Personal Services	<u>3,036,147</u>	<u>3,203,925</u>	<u>3,766,881</u>	<u>3,843,113</u>	
FTE	35.0	40.0	40.0	40.0	
Cash Funds	3,036,147	3,203,925	3,766,881	3,843,113	
Operating Expenses	<u>461,500</u>	<u>471,527</u>	<u>490,703</u>	<u>490,703</u>	
Cash Funds	461,500	471,527	490,703	490,703	
Board Meeting Costs	<u>15,412</u>	<u>17,264</u>	<u>23,500</u>	<u>23,500</u>	
Cash Funds	15,412	17,264	23,500	23,500	
Indirect Cost Assessment	<u>315,415</u>	<u>297,577</u>	<u>340,984</u>	<u>341,649</u>	
Cash Funds	315,415	297,577	340,984	341,649	
TOTAL - (2) Division of Banking	3,828,474	3,990,293	4,622,068	4,698,965	1.7%
FTE	<u>35.0</u>	<u>40.0</u>	<u>40.0</u>	<u>40.0</u>	0.0%
Cash Funds	3,828,474	3,990,293	4,622,068	4,698,965	1.7%

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	FY 2015-16 Actual	FY 2016-17 Actual	FY 2017-18 Appropriation	FY 2018-19 Request	Request vs. Appropriation
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(3) CIVIL RIGHTS DIVISION

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

Personal Services	<u>1,493,001</u>	<u>1,712,332</u>	<u>1,948,806</u>	<u>1,989,297</u>
FTE	22.6	27.2	27.2	27.2
General Fund	1,076,079	855,181	970,081	998,064
Reappropriated Funds	416,922	432,054	551,579	560,321
Federal Funds	0	425,097	427,146	430,912
Operating Expenses	<u>65,973</u>	<u>105,459</u>	<u>105,460</u>	<u>105,460</u>
General Fund	65,973	62,283	62,284	62,284
Federal Funds	0	43,176	43,176	43,176
Hearings Pursuant to Complaint	<u>14,998</u>	<u>6,896</u>	<u>18,000</u>	<u>18,000</u>
General Fund	14,998	5,896	17,000	17,000
Federal Funds	0	1,000	1,000	1,000
Commission Meeting Costs	<u>4,812</u>	<u>11,769</u>	<u>12,374</u>	<u>12,374</u>
General Fund	4,812	4,569	5,174	5,174
Federal Funds	0	7,200	7,200	7,200
Indirect Cost Assessment	<u>0</u>	<u>19,938</u>	<u>14,159</u>	<u>14,201</u>
Federal Funds	0	19,938	14,159	14,201
Federal Grants	<u>438,061</u>	<u>0</u>	<u>0</u>	<u>0</u>
FTE	0.0	0.0	0.0	0.0
Federal Funds	438,061	0	0	0

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	FY 2015-16 Actual	FY 2016-17 Actual	FY 2017-18 Appropriation	FY 2018-19 Request	Request vs. Appropriation
TOTAL - (3) Civil Rights Division	2,016,845	1,856,394	2,098,799	2,139,332	1.9%
<i>FTE</i>	<u>22.6</u>	<u>27.2</u>	<u>27.2</u>	<u>27.2</u>	<u>(0.0%)</u>
General Fund	1,161,862	927,929	1,054,539	1,082,522	2.7%
Reappropriated Funds	416,922	432,054	551,579	560,321	1.6%
Federal Funds	438,061	496,411	492,681	496,489	0.8%

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	FY 2015-16 Actual	FY 2016-17 Actual	FY 2017-18 Appropriation	FY 2018-19 Request	Request vs. Appropriation
(4) OFFICE OF CONSUMER COUNSEL					
The Office of Consumer Council represents the interests of residential, small business, and agricultural consumers on cases before the Public Utility Commission (PUC). These cases involve proposed changes to rates, services, and policies in the areas of electric, gas, and telecommunications. The Office of Consumer Council (OCC) is structured as a separate division but funded by PUC cash funds.					
Personal Services	<u>755,867</u>	<u>711,921</u>	<u>853,040</u>	<u>871,383</u>	
FTE	7.0	7.0	7.0	7.0	
Cash Funds	755,867	711,921	853,040	871,383	
Operating Expenses	<u>36,128</u>	<u>110,427</u>	<u>55,787</u>	<u>55,787</u>	
Cash Funds	36,128	110,427	55,787	55,787	
Indirect Cost Assessment	<u>55,197</u>	<u>52,076</u>	<u>59,672</u>	<u>59,788</u>	
Cash Funds	55,197	52,076	59,672	59,788	
TOTAL - (4) Office of Consumer Counsel	847,192	874,424	968,499	986,958	1.9%
FTE	<u>7.0</u>	<u>7.0</u>	<u>7.0</u>	<u>7.0</u>	0.0%
Cash Funds	847,192	874,424	968,499	986,958	1.9%

Appendix A: Number Pages

	FY 2015-16 Actual	FY 2016-17 Actual	FY 2017-18 Appropriation	FY 2018-19 Request	Request vs. Appropriation
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(5) DIVISION OF FINANCIAL SERVICES

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

Personal Services	<u>1,028,764</u>	<u>1,019,464</u>	<u>1,402,636</u>	<u>1,430,999</u>	
FTE	12.8	15.6	15.6	15.6	
Cash Funds	1,028,764	1,019,464	1,402,636	1,430,999	
Operating Expenses	<u>139,258</u>	<u>131,877</u>	<u>145,921</u>	<u>145,921</u>	
Cash Funds	139,258	131,877	145,921	145,921	
Indirect Cost Assessment	<u>123,011</u>	<u>116,055</u>	<u>132,984</u>	<u>133,243</u>	
Cash Funds	123,011	116,055	132,984	133,243	
TOTAL - (5) Division of Financial Services	1,291,033	1,267,396	1,681,541	1,710,163	1.7%
FTE	<u>12.8</u>	<u>15.6</u>	<u>15.6</u>	<u>15.6</u>	0.0%
Cash Funds	1,291,033	1,267,396	1,681,541	1,710,163	1.7%

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	FY 2015-16 Actual	FY 2016-17 Actual	FY 2017-18 Appropriation	FY 2018-19 Request	Request vs. Appropriation
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(6) DIVISION OF INSURANCE

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

Personal Services	<u>5,299,286</u>	<u>5,347,090</u>	<u>6,308,982</u>	<u>6,439,580</u>	
FTE	68.2	83.2	83.7	83.7	
Cash Funds	5,299,286	5,347,090	6,308,982	6,439,580	
Operating Expenses	<u>293,957</u>	<u>266,228</u>	<u>296,894</u>	<u>296,894</u>	
Cash Funds	293,957	266,228	296,894	296,894	
Out-of-State Travel Expenses	<u>1,656</u>	<u>9,702</u>	<u>50,000</u>	<u>50,000</u>	
Cash Funds	1,656	9,702	50,000	50,000	
Senior Health Counseling Program	<u>1,074,996</u>	<u>517,794</u>	<u>517,794</u>	<u>517,794</u>	
FTE	4.0	2.0	2.0	2.0	
Federal Funds	1,074,996	517,794	517,794	517,794	
Transfer to CAPCO Administration	<u>84,036</u>	<u>85,291</u>	<u>85,291</u>	<u>85,291</u>	
Cash Funds	84,036	85,291	85,291	85,291	
Indirect Cost Assessment	<u>656,063</u>	<u>698,660</u>	<u>729,245</u>	<u>730,687</u>	
Cash Funds	656,063	618,959	709,247	710,630	
Federal Funds	0	79,701	19,998	20,057	
TOTAL - (6) Division of Insurance	7,409,994	6,924,765	7,988,206	8,120,246	1.7%
FTE	<u>72.2</u>	<u>85.2</u>	<u>85.7</u>	<u>85.7</u>	0.0%
Cash Funds	6,334,998	6,327,270	7,450,414	7,582,395	1.8%
Federal Funds	1,074,996	597,495	537,792	537,851	0.0%

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	FY 2015-16 Actual	FY 2016-17 Actual	FY 2017-18 Appropriation	FY 2018-19 Request	Request vs. Appropriation
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(7) PUBLIC UTILITIES COMMISSION

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

Personal Services	<u>10,073,942</u>	<u>8,156,055</u>	<u>9,497,177</u>	<u>9,488,333</u> *
FTE	82.1	97.3	91.3	91.3
Cash Funds	10,073,942	8,156,055	9,497,177	9,488,333
Operating Expenses	<u>326,120</u>	<u>921,993</u>	<u>594,473</u>	<u>594,473</u>
Cash Funds	326,120	681,993	594,473	594,473
Reappropriated Funds	0	240,000	0	0
Expert Testimony	<u>0</u>	<u>4,988</u>	<u>25,000</u>	<u>25,000</u>
Cash Funds	0	4,988	25,000	25,000
Disabled Telephone Users Fund Payments	<u>1,278,825</u>	<u>995,583</u>	<u>1,300,542</u>	<u>1,300,542</u>
Cash Funds	1,278,825	995,583	1,300,542	1,300,542
Transfer to Reading Services for the Blind Cash Fund	<u>360,000</u>	<u>360,000</u>	<u>360,000</u>	<u>360,000</u>
Cash Funds	360,000	360,000	360,000	360,000
Commission for the Deaf and Hard of Hearing Cash Fund	<u>1,073,317</u>	<u>1,185,596</u>	<u>1,292,589</u>	<u>1,292,589</u>
Cash Funds	1,073,317	1,185,596	1,292,589	1,292,589
Colorado Bureau of Investigation Background Checks				
Pass-through	<u>55,024</u>	<u>0</u>	<u>104,377</u>	<u>104,377</u>
Cash Funds	55,024	0	104,377	104,377
Highway-Rail Crossing Signalization Fund	<u>0</u>	<u>0</u>	<u>244,800</u>	<u>244,800</u>
Cash Funds	0	0	244,800	244,800

*Line item contains a decision item.

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	FY 2015-16 Actual	FY 2016-17 Actual	FY 2017-18 Appropriation	FY 2018-19 Request	Request vs. Appropriation
Rural Broadband	<u>0</u>	<u>0</u>	<u>9,450,000</u>	<u>9,450,000</u>	
FTE	0.0	0.0	0.0	0.0	
Cash Funds	0	0	9,450,000	9,450,000	
Indirect Cost Assessment	<u>766,248</u>	<u>723,855</u>	<u>829,444</u>	<u>831,062</u>	
Cash Funds	766,248	723,855	829,444	831,062	
TOTAL - (7) Public Utilities Commission	13,933,476	12,348,070	23,698,402	23,691,176	(0.0%)
FTE	<u>82.1</u>	<u>97.3</u>	<u>91.3</u>	<u>91.3</u>	0.0%
Cash Funds	13,933,476	12,108,070	23,698,402	23,691,176	(0.0%)
Reappropriated Funds	0	240,000	0	0	0.0%

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	FY 2015-16 Actual	FY 2016-17 Actual	FY 2017-18 Appropriation	FY 2018-19 Request	Request vs. Appropriation
(8) DIVISION OF REAL ESTATE					
The Division of real Estate licenses real estate agents, appraisers, and mortgage loan originators, registers mortgage companies and homeowners associations, and administers the conservation easement tax credit certification programs. The Division also contains the five-member real Estate Commission and the seven-member Appraisal Board.					
Personal Services	<u>3,816,919</u>	<u>3,310,989</u>	<u>4,014,154</u>	<u>4,105,209</u>	
FTE	50.9	55.9	52.9	52.9	
Cash Funds	3,816,919	3,310,989	4,014,154	4,105,209	
Operating Expenses	<u>143,286</u>	<u>146,256</u>	<u>204,557</u>	<u>204,557</u>	
Cash Funds	143,286	146,256	204,557	204,557	
Commission Meeting Costs	<u>20,345</u>	<u>17,796</u>	<u>38,836</u>	<u>38,836</u>	
Cash Funds	20,345	17,796	38,836	38,836	
Hearings Pursuant to Complaint	<u>142</u>	<u>0</u>	<u>4,000</u>	<u>4,000</u>	
Cash Funds	142	0	4,000	4,000	
Mortgage Broker Consumer Protection	<u>388,345</u>	<u>348,964</u>	<u>208,811</u>	<u>208,811</u>	
Cash Funds	388,345	348,964	208,811	208,811	
Indirect Cost Assessment	<u>440,791</u>	<u>415,863</u>	<u>450,951</u>	<u>451,830</u>	
Cash Funds	440,791	415,863	450,951	451,830	
TOTAL - (8) Division of Real Estate	4,809,828	4,239,868	4,921,309	5,013,243	1.9%
FTE	<u>50.9</u>	<u>55.9</u>	<u>52.9</u>	<u>52.9</u>	0.0%
Cash Funds	4,809,828	4,239,868	4,921,309	5,013,243	1.9%

Appendix A: Number Pages

	FY 2015-16 Actual	FY 2016-17 Actual	FY 2017-18 Appropriation	FY 2018-19 Request	Request vs. Appropriation
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(9) DIVISION OF PROFESSIONS AND OCCUPATIONS

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

Personal Services	<u>13,488,337</u>	<u>11,949,912</u>	<u>14,715,472</u>	<u>14,742,246</u> *
FTE	188.8	201.5	194.9	194.9
General Fund	0	0	0	0
Cash Funds	13,144,533	11,356,461	14,122,021	14,148,795
Reappropriated Funds	343,804	593,451	593,451	593,451
Operating Expenses	<u>964,271</u>	<u>1,061,042</u>	<u>1,554,075</u>	<u>1,554,075</u>
Cash Funds	964,271	1,061,042	1,554,075	1,554,075
Office of Expedited Settlement Program Costs	<u>463,750</u>	<u>400,223</u>	<u>400,223</u>	<u>400,223</u>
FTE	5.0	5.0	5.0	5.0
General Fund	0	0	0	0
Cash Funds	463,750	400,223	400,223	400,223
Reappropriated Funds	0	0	0	0
Federal Funds	0	0	0	0
Hearings Pursuant to Complaint	<u>202,210</u>	<u>246,561</u>	<u>307,075</u>	<u>307,075</u>
Cash Funds	202,210	246,561	307,075	307,075
Payments to Department of Health Care Policy and Financing	<u>0</u>	<u>0</u>	<u>14,652</u>	<u>14,652</u>
General Fund	0	0	0	0
Cash Funds	0	0	14,652	14,652
Reappropriated Funds	0	0	0	0
Federal Funds	0	0	0	0

*Line item contains a decision item.

Appendix A: Number Pages

	FY 2015-16 Actual	FY 2016-17 Actual	FY 2017-18 Appropriation	FY 2018-19 Request	Request vs. Appropriation
Indirect Cost Assessment	<u>1,592,055</u>	<u>1,516,152</u>	<u>1,703,215</u>	<u>1,706,537</u>	
Cash Funds	1,592,055	1,516,152	1,703,215	1,706,537	
TOTAL - (9) Division of Professions and Occupations	16,710,623	15,173,890	18,694,712	18,724,808	0.2%
<i>FTE</i>	<u>193.8</u>	<u>206.5</u>	<u>199.9</u>	<u>199.9</u>	0.0%
General Fund	0	0	0	0	0.0%
Cash Funds	16,366,819	14,580,439	18,101,261	18,131,357	0.2%
Reappropriated Funds	343,804	593,451	593,451	593,451	0.0%
Federal Funds	0	0	0	0	0.0%

Appendix A: Number Pages

	FY 2015-16 Actual	FY 2016-17 Actual	FY 2017-18 Appropriation	FY 2018-19 Request	Request vs. Appropriation
(10) DIVISION OF SECURITIES					
The Division of Securities monitors the conduct of broker-dealers and sales representatives; investigates citizen complaints; and investigates indicators of investment fraud. The Division also enforces programs including: Colorado Securities Act; Colorado Commodity Code, Colorado Municipal Bond Supervision Act, and the Local Government Investment Pool Trust Fund Administration and Enforcement Act.					
Personal Services	<u>2,097,456</u>	<u>1,872,745</u>	<u>2,288,451</u>	<u>2,337,299</u>	
FTE	25.0	24.0	24.0	24.0	
Cash Funds	2,097,456	1,872,745	2,288,451	2,337,299	
Operating Expenses	<u>64,537</u>	<u>58,999</u>	<u>58,999</u>	<u>58,999</u>	
Cash Funds	64,537	58,999	58,999	58,999	
Hearings Pursuant to Complaint	<u>18,229</u>	<u>16,442</u>	<u>19,594</u>	<u>19,594</u>	
Cash Funds	18,229	16,442	19,594	19,594	
Board Meeting Costs	<u>2,320</u>	<u>596</u>	<u>4,500</u>	<u>4,500</u>	
Cash Funds	2,320	596	4,500	4,500	
Securities Fraud Prosecution	<u>937,897</u>	<u>937,823</u>	<u>1,004,776</u>	<u>1,004,776</u>	
Cash Funds	937,897	937,823	1,004,776	1,004,776	
Indirect Cost Assessment	<u>189,249</u>	<u>178,546</u>	<u>204,590</u>	<u>204,989</u>	
Cash Funds	189,249	178,546	204,590	204,989	
TOTAL - (10) Division of Securities	3,309,688	3,065,151	3,580,910	3,630,157	1.4%
FTE	<u>25.0</u>	<u>24.0</u>	<u>24.0</u>	<u>24.0</u>	0.0%
Cash Funds	3,309,688	3,065,151	3,580,910	3,630,157	1.4%

Appendix A: Number Pages

	FY 2015-16 Actual	FY 2016-17 Actual	FY 2017-18 Appropriation	FY 2018-19 Request	Request vs. Appropriation
TOTAL - Department of Regulatory Agencies	81,917,234	74,326,970	99,198,237	101,160,516	2.0%
<i>FTE</i>	<u>529.1</u>	<u>588.2</u>	<u>573.1</u>	<u>573.1</u>	<u>(0.0%)</u>
General Fund	1,882,683	1,380,540	1,844,627	1,948,102	5.6%
Cash Funds	73,927,031	67,349,745	91,024,582	92,762,994	1.9%
Reappropriated Funds	4,508,615	4,212,767	5,060,383	5,208,784	2.9%
Federal Funds	1,598,905	1,383,918	1,268,645	1,240,636	(2.2%)

APPENDIX B RECENT LEGISLATION AFFECTING DEPARTMENT BUDGET

2016 SESSION BILLS

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

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

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

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

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

the Division of Professions and Occupations Cash Fund and 0.3 FTE. Additionally, the amendment provides:

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

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

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

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

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

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

H.B. 16-1324 (Veterinary Access Compounded Pharmaceutical Drugs): Authorizes a compounding pharmacy that possesses a valid manufacturing registration from the federal Drug Enforcement Administration to compound and distribute a drug to a veterinarian for office use or office stock. Additionally, the bill allows a veterinarian to administer to an animal patient a compounded drug maintained for office use and to dispense to a human client for later

administration to an animal patient a compound drug. The Colorado Board of Pharmacy (board) may authorize and license a pharmacy outlet located outside of Colorado to provide compounded veterinary drugs for office use or office stock. Nonresident pharmacy licensees must provide the board with a copy of the most recent state inspection report and information about their state's inspection procedure and criteria for board approval as satisfactorily demonstrating proof of compliance with Colorado regulations. In addition, the nonresident pharmacy must pay for a third-party inspection of its facilities to be submitted to the board. The board may promulgate rules concerning its review of these reports, and as necessary concerning compounded veterinary pharmaceuticals. The bill appropriates \$12,941 cash funds to the Division of Professions and Occupations.

H.B. 16-1404 (Regulate Fantasy Contests): Establishes the registration of small fantasy contest operators and the licensure of all other large fantasy contest operators by the Division of Professions and Occupations. The bill defines a fantasy contest operator as an entity that offers a fantasy contest with an entry fee and cash prize to the public. The bill appropriates \$77,546 cash funds and 0.9 FTE to the Division of Professions and Occupations, \$9,501 reappropriated funds to the Department of Law for the provision of legal services, and \$527 to the Department of Public Safety for background checks.

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

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

2017 SESSION BILLS

SB 17-088 (PARTICIPATING PROVIDER NETWORK SELECTION CRITERIA): Requires a tiered network health insurer to develop and use standards for selecting and tiering participating providers. The insurer is required to make the standards available to the Commissioner of Insurance, participating healthcare providers, and the public. The bill appropriates \$42,006 cash funds to the Division of Insurance.

SB 17-148 (SUNSET CONTINUE OFFICE OF BOXING): Continues the Office of Boxing and the Colorado State Boxing Commission through September 1, 2026, and renames these agencies the Office of Combative Sports and the Colorado Combative Sports Commission respectively. The bill appropriates \$10,000 cash funds to the Division of Professions and Occupations.

SB 17-198 (PUBLIC PARTICIPATE REVIEW ACQUIRE CONTROL INSURER): Expands the public notice for the acquisition of either a domestic or foreign insurer that offers health plans in the state by requiring the Commissioner of Insurance to make the entire pre-acquisition notification available for public inspection promptly after filing. The bill appropriates \$9,505 cash funds to the Executive Director's Office, which is reappropriated to the Department of Law for legal services.

S.B. 17-254 (LONG BILL): General appropriations act for FY 2017-18.

HB 17-1057 (INTERSTATE PHYSICAL THERAPY LICENSURE COMPACT): Enacts the Interstate Physical Therapy Licensure Compact Act and requires the Governor to enter into the compact on behalf of Colorado. Under the compact, physical therapists and physical therapy assistants licensed or certified in a compact member state may obtain an expedited license or certificate allowing them to practice in another compact member state. The bill appropriates \$12,386 cash funds to the Division of Professions and Occupations.

HB 17-1165 (DORA BOARDS DISCIPLINARY ACTION RESOLUTION PROCESS): Modifies the disciplinary procedures for six health care boards for health care professionals with prescriptive authority (Colorado Podiatry Board, Colorado Dental Board, Colorado Medical Board, State Board of Nursing, State Board of Optometry, and State Board of Veterinary Medicine) within the Department of Regulatory Agencies. The bill appropriates \$20,000 cash funds to the Executive Director's Office.

APPENDIX C FOOTNOTES AND INFORMATION REQUESTS

UPDATE ON LONG BILL FOOTNOTES

84a Department of Regulatory Agencies, Public Utilities Commission, Rural Broadband – It is the General Assembly’s intent that these funds are spent in rural Colorado.

Comment: The funds have not been encumbered as of this briefing but the Department has stated that they will comply with the General Assembly’s intent. See *Issue: Rural Broadband* above for additional information.

UPDATE ON REQUESTS FOR INFORMATION

There were no requests for information from FY 2017-18.

APPENDIX D

DEPARTMENT ANNUAL PERFORMANCE REPORT

Pursuant to Section 2-7-205 (1)(b), C.R.S., the Department of Regulatory Agencies is required to publish an **Annual Performance Report** for the *previous fiscal year* by November 1 of each year. This report is to include a summary of the Department's performance plan and most recent performance evaluation for the designated fiscal year. In addition, pursuant to Section 2-7-204 (3)(a)(I), C.R.S., the Department is required to develop a **Performance Plan** and submit the plan for the *current fiscal year* to the Joint Budget Committee and appropriate Joint Committee of Reference by July 1 of each year.

For consideration by the Joint Budget Committee in prioritizing the Department's FY 2018-19 budget request, the FY 2016-17 Annual Performance Report dated June 30, 2017 and the FY 2017-18 Performance Plan dated July 01, 2017 can be found at the following link:

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

APPENDIX E

2016 SUNSET REVIEWS

Sunset Review	Recommendations
Colorado Auto Theft Prevention Authority and the Colorado Auto Theft Prevention Authority Board	Recommendation 1 – Continue the Colorado Auto Theft Prevention Authority and the Auto Theft Prevention Board for 11 years, until 2029.
Colorado Civil Rights Division & Colorado Civil Rights Commission	<p>Recommendation 1 – Continue the Colorado Civil Rights Division and the Colorado Civil Rights Commission for nine years, until 2027</p> <p>Recommendation 2 – Update the civil penalty amounts authorized in public accommodations cases, and authorize the Commission to assess such penalties</p> <p>Recommendation 3 – Make technical amendments to the Act</p> <p>Administrative Recommendation 1 – The Director should create two advisory committees, one for business groups and another for protected classes, for the purpose of recommending changes to Commission rules and the policies and procedures of the Division</p>
Certification of Conservation Easement Holders and the Conservation Easement Oversight Commission	<p>Recommendation 1 – Continue the Certification of Conservation Easement Holders for seven years, until 2025.</p> <p>Recommendation 2 – Continue the Conservation Easement Oversight Commission for seven years, until 2025.</p> <p>Recommendation 3 – Alter the size and composition of the Commission, effective July 1, 2019, to comprise seven members.</p> <p>Recommendation 4 – Authorize the Director to share conservation easement information with a third party vendor for the purpose of developing a registry of conservation easements that receive tax credits, and direct the Director to consult with the Commission on the types of information that should be reported into the registry.</p> <p>Recommendation 5 – Authorize the Division to establish, by rule and after consultation with the Commission, monthly caps on the number of applications for tax credit certificates and preliminary advisory opinions that will be accepted by the Division, to more evenly distribute the Division’s workload throughout the year.</p> <p>Administrative Recommendation 1 – The Commission and Division should require certified easement holders to develop plans addressing their own dissolution or inability to monitor their conservation easements.</p>
Community Association Management Practice Act	<p>Recommendation 1 – Continue the Community Association Management Practice Act for five years, until 2023.</p> <p>Recommendation 2 – Authorize the Director to establish renewal fees for Management Companies.</p> <p>Recommendation 3 – Amend the definitions of the terms, “community association management” and “Community Association Manager,” and authorize the Director to promulgate rules clarifying the supervision requirements for support staff who are providing clerical, ministerial, accounting or maintenance functions to a licensee and specify any activities that would trigger support staff to be licensed.</p> <p>Recommendation 4 – Amend the supervision requirements for the Apprentice license type, and require the Director to define by rule the appropriate level of supervision related to specific activities of an Apprentice and detail any supervision requirements that are necessary to protect the public.</p> <p>Recommendation 5 – Repeal any references to private, professional credentials and authorize the Director to approve, by rule, any credentials, examinations or education deemed equivalent or superior to the education and examination otherwise required by the director.</p> <p>Recommendation 6 – Enhance the due process protections of a cease and desist Order.</p> <p>Administrative Recommendation 1 – The Director should create an advisory committee to assist with drafting rules regarding the use of unlicensed support staff and licensed Apprentices.</p>
Requirements and Procedures Regarding the Preparation of a Cost-Benefit Analysis of Proposed Rules	<p>Recommendation 1 – Continue the requirements and procedures regarding the preparation of a cost-benefit analysis of proposed rules process indefinitely.</p> <p>Recommendation 2 – Require all state agencies to include information about the cost-benefit analysis process on all applicable websites that post rulemaking information.</p>
Custom Processing of Meat Animals Act	<p>Recommendation 1 – Continue the Custom Processing of Meat Animals Act for 13 years, until 2031.</p> <p>Recommendation 2 – Allow poultry producers licensed by the Division to sell their products to retail establishments.</p>

Sunset Review	Recommendations
Environmental Management System Permit Program	Recommendation 1 – Sunset the Environmental Management System Permit Program.
Home Food Service Plans	Recommendation 1 – Sunset the Sale of Meat Act.
Measurement Standards Act of 1983	Recommendation 1 – Continue the Measurement Standards Act of 1983 for 15 years, until 2033.
Mortgage Loan Originator Licensing and Mortgage Company Registration Act	<p>Recommendation 1 – Continue the Mortgage Loan Originator Licensing and Mortgage Company Registration Act for 11 years, until 2029.</p> <p>Recommendation 2 – Amend the Act such that the Board of Mortgage Loan Originators has 60 days to issue a license after all documentation, including any supplementary information, has been received.</p> <p>Recommendation 3 – Amend the SAFE Act education standards into the Act.</p> <p>Recommendation 4 – Amend the SAFE Act standards for convictions into the Act.</p> <p>Recommendation 5 – Allocate one of the three MLO-assigned Board seats to a representative from a small, Colorado-based MLO operation.</p>
Nursing Home Administrators Practice Act	<p>Recommendation 1 – Continue the Nursing Home Administrators Practice Act for seven years, until 2025.</p> <p>Recommendation 2 – Modify the composition of the Board from a professional member majority to a public member majority.</p>
Offender Re-Entry Grant Program	<p>Recommendation 1 – Continue the offender re-entry grant program for five years, until 2023.</p> <p>Recommendation 2 – Authorize the Department to release up to one quarter of the grant funds to community partners at the beginning of the fiscal year.</p>
Physical Therapy Practice Act	<p>Recommendation 1 – Continue the Physical Therapy Practice Act, and the regulation of physical therapists and physical therapist assistants by the State Board of Physical Therapy for nine years, until 2027.</p> <p>Recommendation 2 – Clarify that a PT may establish a physical therapy diagnosis for a patient.</p> <p>Recommendation 3 – Change “immediate supervision” of subordinates to “direct supervision” in the Act.</p> <p>Recommendation 4 – Add PTAs to the list of individuals for whom a PT must provide oversight.</p> <p>Recommendation 5 – Establish that it is a violation of the Act to fail to report an adverse action, the surrender of a license, or other discipline taken in any other jurisdiction.</p>
Weather Modification Act of 1972	<p>Recommendation 1 – Continue the Weather Modification Act of 1972 for 15 years, until 2033.</p> <p>Recommendation 2 - Repeal the provision which prohibits weather modification unless there is a quid pro quo.</p>

APPENDIX F DEPARTMENT FACTORS DRIVING BUDGET EXPANDED

The factors that drive the Department's budget has been relatively stable for years. 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 10.6 percent of the Department's FY 2017-18 total appropriation and 26 percent of the total legal services provided to all state agencies by the Department of Law.

Department of Regulatory Agencies Legal Services Expenditures					
	FY 13-14 Actual	FY 14-15 Actual	FY 15-16 Actual	FY 16-17 Actual	FY 17-18 Approp.
Legal Services	\$9,767,656	\$10,049,506	\$8,498,999	\$9,047,634	\$10,539,009
Legal Services Hours	107,243	101,500	89,454	95,188	110,879
Change in Hours	n/a	(5,743)	(12,046)	5,734	15,690
Percent Change in Hours	n/a	(5.4%)	(11.9%)	6.4%	16.5%
Percent of Department Total	12.0%	12.6%	10.8%	10.5%	12.2%
Dept. of Law Blended Legal Rate	\$91.08	\$99.01	\$95.01	\$95.05	\$95.05
Dept. of Law Total Legal Services to State Agencies	\$33,148,975	\$40,732,252	\$39,045,595	\$36,655,956	\$41,271,100
DORA Percent of State Agencies Total	29.5%	24.7%	21.8%	24.7%	25.5%

Over the period from FY 2012-13 through FY 2016-17, five divisions accounted for 82.9 to 89.2 percent of the Department's legal services.

Legal Services Expenditures by Top Five Divisions					
	FY 12-13 Actual	FY 13-14 Actual	FY 14-15 Actual	FY 15-16 Actual	FY 16-17 Actual
Professions & Occupations	\$3,426,052	\$3,806,424	\$4,186,650	\$3,400,984	\$3,847,912
PUC + OCC	1,759,139	2,358,562	2,857,499	2,461,920	2,448,338
Insurance	837,152	942,438	980,635	966,702	904,976
Securities	594,427	918,930	898,837	716,746	865,152
Top Five Subtotal	6,616,770	8,026,354	8,923,620	7,546,352	8,066,378
Department Total	\$8,165,123	\$9,767,656	\$10,049,506	\$8,498,999	\$9,047,634
Top Five Percent of Total	81.04%	82.17%	88.80%	88.79%	89.15%

Another factor driving the Department's budget is its licensing function. The following table outlines the number of licenses regulated by the top licensing divisions.

Number of Licenses Regulated by the Divisions of Insurance, Real Estate, Registrations, and Securities					
	FY 12-13	FY 13-14	FY 14-15	FY 15-16	FY 16-17
Div. of Insurance Producer Licenses					
New Licenses	30,900	31,603	33,160	37,198	57,429
Active Licenses	134,951	142,105	150,058	157,913	164,429
Div. of Real Estate					
Broker & Salesperson	37,439	38,729	40,268	35,276	37,581

Number of Licenses Regulated by the Divisions of Insurance, Real Estate, Registrations, and Securities					
	FY 12-13	FY 13-14	FY 14-15	FY 15-16	FY 16-17
Mortgage Loan Originators	7,182	8,074	8,494	9,538	14,597
Appraisers	3,068	2,833	2,734	2,637	2,704
Div. of Professions and Occupations					
New Licenses	36,152	35,793	40,257	42,096	45,843
Active Licenses	366,402	368,851	387,924	396,319	394,724
Div. of Securities					
Sales Representative License Renewals	165,433	171,999	187,878	195,108	201,148
Investment Advisor License Renewals	10,297	11,103	12,287	12,803	14,167

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

Examinations Conducted by the Divisions of Banking, Financial Services, and Securities							
	FY 11-12	FY 12-13	FY 13-14	FY 14-15	FY 15-16	FY 16-17	Change Since FY 11-12
Banking Examinations	171	180	141	146	161	153	(10.5%)
Credit Union Examinations	34	31	34	34	44	38	11.8%
Securities Examination	110	175	138	174	138	143	30.0%

APPENDIX G
HIGH COST SUPPORT MECHANISM APPLICABLE
REVENUE

CHCSM APPLIES	CHCSM DOES NOT APPLY
<p>Local exchange service, including access lines, one-time service charges, line connection charges, construction charges and special fees, optional and non-optional operator services, payphone lines, fixed wireless, extended area service, packages or bundled services where toll is part of, satellite services, WATS and WATS-like services,</p> <p>House riser cable--company side of the NID</p>	<p>Customer premises equipment, such as telephones, PBXs, key systems, etc.</p> <p>Interstate Charges, Taxes, or CPUC Program fees, including SLC, FUSC, Federal, State, County or Local taxes, TRS, E911, LITAP</p> <p>Inside wiring services—customer side of the NID</p>
<p>Listing Services, including non-pub, additional directory listings, directory assistance.</p>	<p>Directory Advertising</p>
<p>Premium Services, such as enhanced services like voice conferencing and Caller ID and Advanced services, such as calling features (3-way, call forwarding, call waiting), voice conferencing, video teleconferencing service.</p>	
<p>Long Distance/Toll services, including intrastate flat rate, usage charges, operator, call card, per-minute charges for originating or terminating calls including messages between a cellular customer and a landline customer, toll-free service, and 900 service.</p>	<p>Switched Access services, 800 DB access, or Switched Access service orders and associated non-recurring revenues</p>
<p>Special Access services, including all wide band circuits—DS-x, OC-x— and one-time charges such as Access Service orders and associated non-recurring revenues, and miscellaneous engineering, labor and maintenance charges, private line with capacity of less than 24 voice grade circuits and Frame Relay, ATM and Ethernet services with less than 10% interstate use.</p>	<p>Data services, including interstate Frame Relay, ATM, Ethernet, DSL, Internet Access (Dial-up or Broadband), IP-enabled service (VoIP, Video content, email, etc.), CPE (Routers, Modems, media control devices)</p>
<p>Wireless services, including access lines, features, flat rate packages, minute usage charges, prepaid, toll charges, roaming charges, one-time charges including set up fees, connection charges,</p>	<p>Wireless handsets, and accessories, such as batteries, phone covers, cases, chargers, etc.</p> <p>Wireless Data services, including Internet</p>

CHCSM APPLIES	CHCSM DOES NOT APPLY
reconnect charges, and termination charges.	access, text messaging, video messaging, IP-enabled applications, etc.

APPENDIX H

POLICY FOR FUNDING BROADBAND INFRASTRUCTURE PROJECTS

Broadband Deployment Board
Policy for Funding Broadband Infrastructure Projects
Adopted on March, 31, 2016

I. Introduction/Background

The Broadband Deployment Board (Board) was created to administer the deployment of broadband in unserved areas by granting moneys from the Broadband Fund. Colorado law vests authority in the Board to determine whether an application for funds has met the statutory requirements and to determine which applications will receive funds based on criteria outlined in statute.

The Board's goal is to provide infrastructure grants that increase, to the greatest extent possible, the number of Coloradoans with access to broadband internet service via a broadband network at measurable speeds at least equal to the Federal Communications Commission's definition of high-speed internet or broadband, whichever is faster, at sufficiently low latency to enable the use of real-time communications and either no usage limit or usage limits that are reasonably comparable to those found in urban areas for the same technology.

Applicants are encouraged to work closely with Board staff throughout the life cycle of an application and project to ensure minimum requirements and deadlines are met. Applicants are responsible for understanding and adhering to all applicable statutes, rules and Board policy.

II. Minimum Requirements

The Broadband Deployment Board only shall provide a grant to an eligible applicant that has demonstrated that its proposed project meets the following minimum project eligibility criteria:

- a. The area lies outside of municipal boundaries or is a city with a population of fewer than 5,000 inhabitants; and consists of one or more contiguous census blocks in which a majority of the households lack access to at least one provider of a broadband network that uses satellite technology and at least one provider of a broadband network that uses nonsatellite technology.
- b. The project for which funding is requested must be a new project, and not a project in progress already. A "project in progress" means one in which construction of infrastructure has started. Phased projects may be considered a new project if the phase for which funding is being requested would not otherwise be completed without funding from the Broadband Fund.
- c. Grant funds shall be used for infrastructure deployment only, and not for on-going operating costs.

- d. The project provides access to a broadband network.
- e. The project shall provide last mile service, which is defined as the portion of broadband service that delivers an internet connection to an end user that lacks access to broadband service at measurable speeds greater than fifty-six kilobits per second. Proposed projects may include middle mile or other infrastructure necessary to expand broadband networks into unserved areas.
- f. The applicant shall provide independent matching funds of at least 25% of the total cost of the proposed project. The Board may only consider in-kind matches for the purposes of infrastructure deployment. In-kind matching contributions shall not include consulting, planning or operational fees or costs. The applicant shall provide an appraisal of all in-kind matching contributions, sufficient to enable the Board to determine the fair market value of the in-kind matching funds.
- g. The project does not conflict with, or duplicate, federal or state sources of high cost support or broadband grants and programs.
- h. The applicant demonstrates to the satisfaction of the Board that the proposed network meets industry reliability standards.
- i. The applicant demonstrates to the satisfaction of the Board an ability to deliver on the proposed project within established timelines and within budget.
- j. The applicant demonstrates to the satisfaction of the Board the ability to operate the network as proposed for a minimum of 5 years following project completion.
- k. The project shall be completed within two years from the date in which the grant award contract is executed.
- l. The applicant shall demonstrate to the satisfaction of the Board an ability to provide broadband service at a reasonable cost per household and at reasonable service costs to end users in the area to be served.
- m. The applicant demonstrates to the satisfaction of the Board that the project is not in an area with a population density large enough to require service under an existing franchise agreement.
- n. The applicant has not been awarded a grant by the Board in the current calendar year.
- o. The applicant shall agree to all award contract terms required by the Board and State of Colorado including but not limited to reporting and accountability requirements.

III. Award Criteria

If an applicant meets the minimum requirements, the Board may grant funds after all grant applications for the applicable cycle have been reviewed using the criteria adopted by the Board at the time of application. Application funding will be prioritized based on a review of the following criteria, the availability of funds and any other information the Board deems pertinent to the funding decision.

In addition to all other requirements and assessments, the Board may consider but is not limited to considering the following criteria when awarding grants:

- a. The applicant has demonstrated that the proposed project is consistent with a regional broadband plan and if applicable, a more detailed sub-regional (city, town or county) plan or the project has been endorsed by local entities.
- b. The applicant has demonstrated the project will enhance economic development, telehealth, education and/or public safety.
- c. Downstream and upstream service speeds are offered in excess of the minimum.
- d. The amount of matching funds in excess of the minimum.
- e. Geographic distribution of grant awards with additional consideration to projects in areas that have not received an award from the Broadband Fund.
- f. Whether the project will provide services via licensed or unlicensed means of transmission.
- g. Whether the project includes network redundancy.
- h. The cost-effectiveness of the proposed project's proposed method for expanding broadband service into unserved areas.
- i. Whether the applicant has an established record of operation in the area of the grant application.

IV. Application Process

Applications shall be submitted by eligible applicants during a designated application acceptance period. Applications shall be submitted to the Board, the board of county commissioners, city council or other local entity with authority over the area to be served and to incumbent providers. Applications shall be reviewed for compliance with minimum requirements. If it is determined that the minimum requirements have not been met, the Board will notify the applicant in writing. Applicants that meet the minimum requirements shall be reviewed by the Board and a decision shall be made on whether to fund the application. The Board may require the applicant provide additional information or documentation at any time.

V. Availability of Funds

The Board shall decide the amount of funds available to be awarded in a grant cycle prior to accepting applications for that cycle. A set amount or percentage of total funds available may be designated for specific types or categories of applications. The Board, in its sole discretion, may modify the amount of funds awarded in an application cycle at any time. The Board is not required to award all grant funds available in an application cycle.

VI. Public Review

Applications are subject to review and comment by local entities with authority over the area to be served, incumbent providers and the public.

VII. Subject to Right of First Refusal

All grant awards are subject to an incumbent providers' right of first refusal as described in the Right of First Refusal Policy.

VIII. Subject to Appeal

All grant applications are subject to appeal as described in the Appeal Policy.

IX. Disclosures

The awarding of grant funds does not constitute an acknowledgment that the funded project is compliant with applicable laws and regulations. It is the responsibility of the applicant to ensure such compliance. Additional requirements, including but not limited to bonding and performance assurances, may be imposed by the Board.

X. Information Sharing

Applicants shall agree to share infrastructure location and network information (GIS) with the State of Colorado to assist in building an asset inventory and service maps.

APPENDIX I

RIGHT OF FIRST REFUSAL POLICY

Broadband Deployment Board
Right of First Refusal Policy
Adopted on June 28, 2017

I. Applicability

- a. An incumbent provider shall exercise a right of first refusal only after the Board's determination to award grant funds to an eligible applicant.
- b. An incumbent provider only shall exercise a right of first refusal once per grant project application, whether acting individually or jointly.
- c. The incumbent provider's proposed service shall be of sufficiently low latency to enable real-time communications.
- d. The total amount of Broadband Fund dollars requested shall not exceed the amount requested by the original applicant, and the amount of matching funds shall be the same or greater percentage as the original applicant.
- e. The number of addresses proposed to be served by the applicant shall be the same or greater than the amount served by the original applicant.
- f. The Board, in its discretion, shall determine whether the incumbent provider is proposing to offer substantially the same level of service in the same unserved areas using, but not limited to, the following criteria:
 - i. The downstream and upstream speeds offered within the project service area.
 - ii. The geographic area served as determined by the percentage of addresses served in the original application that would also be served by right of first refusal applicant.
 - iii. Total cost to the end user including all installation, equipment purchase, equipment lease, fees and monthly service costs. The Board may consider the cost for a 25/3Mbps plan, other service level offerings and average cost per Mbps;
 - iv. Usage limits for end users are the same as or greater than the lowest usage limits offered by the applicant or are non-existent for the entire service population, regardless of service plan offered;
 - v. The redundancy of the proposed broadband network's middle mile infrastructure and backhaul;
 - vi. The physical diversity of the proposed broadband network's middle mile infrastructure and backhaul;
 - vii. The upgradability and scalability of the proposed broadband network's last mile, middle mile and backhaul infrastructure and technologies;
 - viii. Accomplishing the same local or regional broadband plan objectives as the original applicant identified in their application; and

- ix. The incumbents broadband network will provide broadband service to the same community anchor institutions and public safety networks as the original applicant.

II. Notice

- a. An incumbent provider shall provide in writing a notice of intent to exercise the right of first refusal.
- b. The notice shall be sent to the Board and the applicant by certified mail and electronic mail. The electronic copy of the notice shall be received and the certified mail copy postmarked within (5) five calendar days of the Board's public posting on its website of the issuance of the Board's grant funding determination.
- c. The notice shall contain a description and evidence explaining why the entity filing the right of first refusal is an incumbent provider as defined in C.R.S. § 4015-102 (9.5).

III. Written Plan

- a. An incumbent provider shall provide the Board with a written plan of how, within one year, the incumbent provider will provide the same or substantially the same level of broadband service to the same unserved areas that are to be served by the applicant.
 - i. The written plan shall include answers to all questions on the "Right of First Refusal" form promulgated by the Board and shall provide all supporting documentation the incumbent provider wants the Board to consider in making a determination regarding the right of first refusal. ii. The plan shall include the amount of funds requested but in no circumstance, may the amount of funds exceed the applicant's award. iii. The plan shall be sent to the Board and the applicant by certified mail and electronic mail. The electronic copy of the notice shall be received and the certified mail copy postmarked within (20) twenty calendar days of the date in which the notice was filed.
 - iv. The Board shall determine if the incumbent provider's written plan demonstrates to the satisfaction of the Board that it provides substantially the same level of service as the applicant's plan.

IV. Multiple Incumbents

- a. Multiple incumbents may submit a joint right of first refusal notice and written plan.
- b. If two or more incumbent providers exercise their right of first refusal independently, the original applicant does not qualify as an incumbent provider, and two or more of the incumbent providers' proposals are determined to provide substantially the same level of service as the applicant, the Board in its discretion shall determine which right of first refusal to accept. The Board may choose to award funds to the party that agrees to complete the project for the least amount of Broadband Fund money. The Board in its discretion may request supplemental funding proposals from the parties to make a determination on who will receive

funds. The party that is awarded funds shall complete the project as described in the original application or the Right of First Refusal Written Plan.

- c. If the original applicant qualifies as an incumbent provider and the Board determines that one or more right of first refusal applicants provides substantially the same level of service, the Board in its discretion shall determine which party to award funds to. The Board may choose to award funds to the party that agrees to complete the project for the least amount of Broadband Fund money. The Board in its discretion may request supplemental funding proposals from the parties to make a determination on who will receive funds. The party that is awarded funds shall complete the project as described in the original application or the Right of First Refusal Written Plan.
- d. The Board shall determine the order in which incumbent providers and the applicant are eligible to receive funding if the incumbent provider whose right of first refusal was accepted forfeits its right of first refusal.

V. Contract

- a. If the Board accepts an incumbent provider's right of first refusal, within (90) ninety calendar days of such acceptance, the incumbent provider shall enter into a contract with the Board to provide the services described in the plan submitted to the Board.
- b. If the incumbent provider has not executed the contract within the timeline set by the Board, the incumbent provider forfeits its right of first refusal. The Board, in its discretion, may then award funds to the applicant or alternate incumbent provider, who timely exercised its right of first refusal.

VI. Forfeit of Right

- a. If an incumbent provider fails to give the Board and applicant notice within (5) five calendar days of the Board's public posting on its website of the issuance of the Board's grant funding determination, the incumbent provider forfeits its ability to exercise the right of first refusal.
- b. If an incumbent provider fails to provide the Board and applicant a written plan within (20) twenty calendar days of the date in which the notice was filed, the incumbent provider forfeits its ability to exercise the right of first refusal.
- c. If the Board receives a written notice forfeiting a party's right of first refusal, that party forfeits its ability to exercise the right of first refusal and the Board will not consider a right of first refusal application filed by or on behalf of that party.

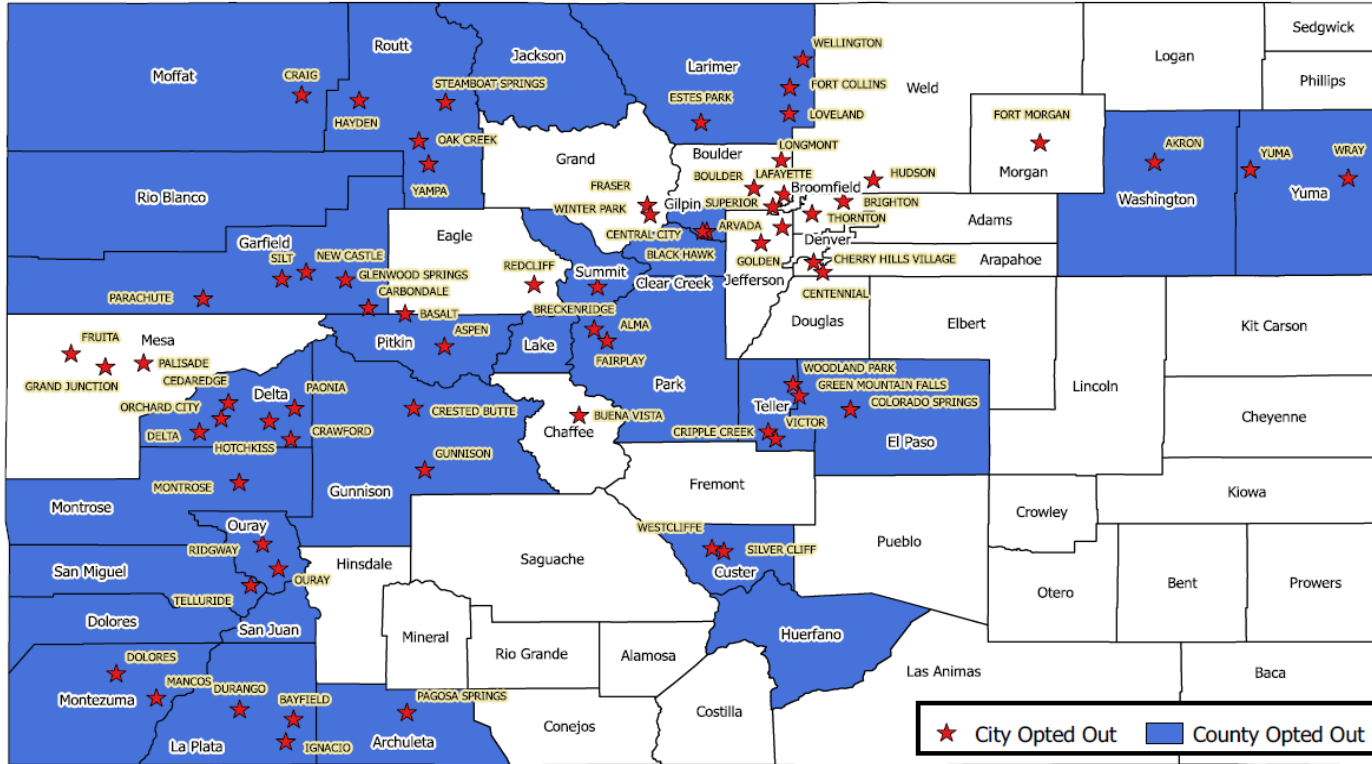
VII. It is within the sole discretion of the Board to grant an extension of time for any deadline set by the Board. Any such request to the Board shall be in writing.



JBC Staff FY 2018-19 Briefing Department of Regulatory Agencies

**Presented by:
Vance Roper, JBC Staff
November 15, 2017**

Local Governments Repealing Prohibition on Public Investment in Broadband



Map Revision: May 20, 2017



Map by Trent Pingot

HCSM Funding for Broadband

Surcharge on Basic Service

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graph TD; A[Surcharge on Basic Service] --> B[HCSM]; B --> C[Finding of Effective Competition in Geographic Area]; C --> D[Funds for that Geographic Area Transferred for Broadband Use];
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HCSM

Finding of Effective Competition in
Geographic Area

Funds for that Geographic Area
Transferred for Broadband Use

Application and Appeal Process

Application Submitted to BDB

Reviewed for Minimum Requirements



60 Day Comment Period and Appeal Process

Appeal Due to Determination of failure to meet minimum requirements

Appeal against an entity that was determined to meet the minimum requirements

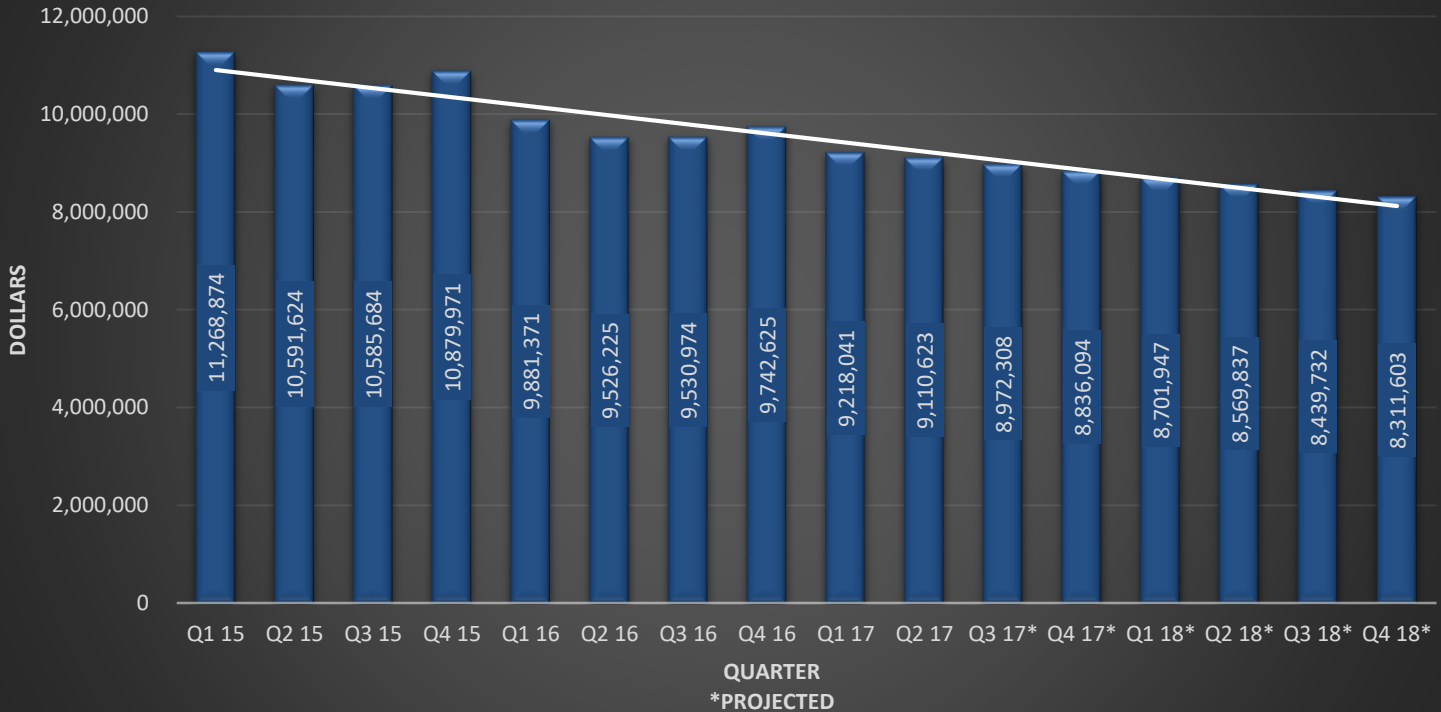
Right of First Refusal Process

Right of First Refusal

Incumbent area provider can appeal a denial of the right of first refusal

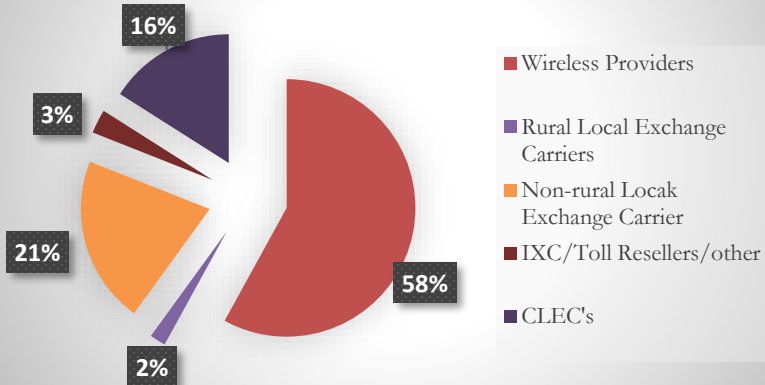
Awardee can appeal an acceptance of the right of first refusal

High Cost Support Mechanism Quarterly Revenue



HCSM Funding Breakdown

Percentage of Monetary Contribution by Provider



Contributing Providers Percent of Total Providers by Total Number

