



Legislative Council Staff

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Memorandum

Room 029 State Capitol, Denver, CO 80203-1784
Phone: (303) 866-3521 • Fax: (303) 866-3855
lcs.ga@state.co.us • leg.colorado.gov/lcs

January 9, 2023

TO: Members of the General Assembly

FROM: Katie Ruedebusch, Principal Research Analyst, 303-866-3001

SUBJECT: SMART Government Act Hearings

Summary

This memorandum provides an overview of the "State Measurement for Accountable, Responsive, and Transparent Government Act" (SMART Government Act). The act requires executive agencies to annually present specific information to joint legislative committees during the first two weeks of the legislative session. This memorandum summarizes the information that state agencies are required to submit to committees in advance of the hearings and the requirements of the hearings.

State Agencies Must Submit Specific Information to Committees

State agencies must annually submit a **performance plan** and **regulatory agenda** to committees of reference.¹ Departments are also annually required to submit their **budgets** for the upcoming fiscal year to the Joint Budget Committee.

A **performance plan** details a state department's management strategies and process improvement goals.

Performance plan. The SMART Government Act requires state agencies to develop a performance plan.² A **performance plan** is part of a performance management system, and discusses how the department's management strategies and continuous process improvement activities affect the costs and efficiency of government services. The performance plan identifies the department's major functions and is a tool to evaluate performance goals over time. A performance plan includes:

- a mission or vision statement;

¹Section 2-7-2, C.R.S.

²The Department of Higher Education (DHE) and Public Employees' Retirement Association (PERA) provide additional documents in lieu of a performance plan. DHE must submit the Colorado Commission on Higher Education's master plan for postsecondary education and other performance contracts. PERA must submit its annual actual valuation and report to the Governor.

Open records requirements: Pursuant to Section 24-72-202 (6.5)(b), C.R.S., research memoranda and other final products of Legislative Council Staff are considered public records and subject to public inspection unless: a) the research is related to proposed or pending legislation; and b) the legislator requesting the research specifically asks that the research be permanently considered "work product" and not subject to public inspection. If you would like to designate this memorandum to be permanently considered "work product" not subject to public inspection, or if you think additional research is required and this is not a final product, please contact the Legislative Council Librarian at (303) 866-4011 within seven days of the date of the memorandum.

- a list of what the department does;
- performance measures performance goals relating to the performance measures, for at least three years in the future;
- a discussion of how the department will meet its performance goals; and
- a summary of the department's most recent performance evaluation.

Departments must submit their performance plans to the Joint Budget Committee and the relevant joint committees of reference each July 1. Departments must also conduct performance evaluations and distribute them to the Joint Budget Committee at least twice each calendar year. Finally, a performance report for each department is published each November 1.

A **regulatory agenda** discusses a department's rulemaking activities.

Regulatory agenda. The SMART Government Act annually requires each department, with the exception of the Judicial Branch, to submit a **regulatory agenda** to its oversight committees on November 1. A regulatory agenda provides information on rules issued by the **department including:**

- a list of new rules or revisions to existing rules that the department expects to propose in the next calendar year;
- the authority under which the department is adopting the rules;
- the purpose of the rules;
- the schedule for adopting the rules;
- a list of any people or groups potentially affected by the rules; and
- a list and brief summary of all rules actually adopted since the previous year.

State departments prepare **annual budgets**, containing requests for new and continued funding and identifying the department's major initiatives and requested legislation.

Department budget submittal. State law requires state agencies to submit their **budget requests** for the upcoming fiscal year to the Joint Budget Committee each November 1.

Committee of Reference SMART Government Act Hearings

During the first two weeks of the legislative session, committees of reference are required to conduct hearings with each state department. Committees must meet at least *once* and up to *three* times during this time. Public testimony is allowed at each hearing. The hearings must include a presentation covering the department's:

- performance plan
- regulatory agenda; and
- budget request and associated legislative agenda for the upcoming legislative session.

Assignments of departments to committees of reference. For purposes of the SMART Government Act, the Speaker of the House of Representatives and the President of the Senate assign each state department to a House and Senate committee of reference. JR 25 of the Joint Legislative Rules lists

these assignments, unless the Speaker and President make the assignments in another manner. The assignments for the 2023 SMART Government Act hearings may be found in Attachment A.

Annual presentation of audits. The SMART Government Act requires the Office of the State Auditor (OSA) to conduct performance audits of one or more specific programs or services in at least two departments. The OSA must present the audits to the committees of reference to which the relevant departments are assigned. The following audits were conducted pursuant to this requirement, and will be presented to the designated committees during the 2023 SMART Government Act hearings.

- **Disaster Emergency Fund** — Department of Public Safety — released December 2022 (*Joint Judiciary*)
- **Driver License Services** — Department of Revenue — released September 2022 (*Joint Finance*)
- **Foster Care Education Initiative** — Department of Education — released February 2022 (*Joint Education*)
- **State Park Campsite Reservations** — Department of Natural Resources — released September 2022 (*Joint Agriculture*)
- **Sports Betting** — Department of Revenue — released June 2022 (*Joint Finance*)
- **Veterans Services** — Department of Military and Veterans Affairs — released September 2022 (*Joint State Affairs*)

Audit recommendations not fully implemented. In addition to presentations regarding recently released performance audits, the OSA will present information to the committees of reference from its annual report on recommendations that are not fully implemented at the following committee hearings.

- Joint Business
- Joint Education
- Joint Finance
- Joint Energy
- Joint Finance
- Joint Health
- Joint Judiciary
- Joint Technology Committee

Joint committee chairs. The chair of each joint committee of reference will preside over the SMART Government Act hearings. A list of the chairs for the 2023 hearings may be found in Attachment A. The chair will switch to the other chamber for the 2024 hearings.

2023 Committee Assignments Pursuant to the SMART Government Act and Joint Rule 25

Joint Committee	Agencies	Joint Committee Chair (Jan. 2023)
House Agriculture, Water, and Natural Resources and Senate Agriculture and Natural Resources	Agriculture Natural Resources (excluding COGCC)	Sen. Roberts
House Energy and Environment and Senate Transportation and Energy	COGCC Colorado Energy Office Public Utilities Commission ²	Sen. Winter
House Energy and Environment and Senate Health and Human Services ¹	Public Health and Environment – Air Pollution Control Division, Division of Environmental Health and Sustainability, Hazardous Materials and Waste Management Division, and Water Quality Control Division	Sen. Fields
House Business Affairs and Labor and Senate Business, Labor, and Technology	Labor and Employment Personnel and Administration Regulatory Agencies Office of Economic Development	Sen. Rodriguez
House Finance and Senate Finance	Public Employees' Retirement Association Revenue Treasury	Rep. Snyder
House Education and Senate Education	Education Higher Education	Rep. McLachlan
House Transportation, Housing, and Local Government and Senate Local Government and Housing	Local Affairs	Sen. Jaquez Lewis
House State, Civic, Veterans, and Military Affairs and Senate State, Veterans, and Military Affairs	Military Affairs State	Rep. Woodrow
House Transportation, Housing, and Local Government and Senate Transportation and Energy	Transportation	Rep. Froelich
House Health and Insurance, House Public and Behavioral Health and Human Services, and Senate Health and Human Services	Public Health and Environment (only certain divisions) Health Benefit Exchange ² Human Services Health Care Policy and Financing	Rep. Daugherty

Attachment A

House and Senate Judiciary	Corrections Judicial Law Public Safety State Public Defender Alternate Defense Counsel Office of the Child's Representative Colorado Commission on Criminal and Juvenile Justice ³	Sen. Gonzales
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The chairs designated will serve as the joint committee chair for the hearings held in January 2023. Beginning in January 2024, the designated chair will rotate to the chair of the committee in the other chamber.

¹This committee will not meet jointly in 2023. The Department of Public Health and Environment will report on all of its divisions to the Joint Health Committee. In addition, the department will present on its environmental divisions to the Joint Energy Committee.

²These agencies are assigned to a committee for oversight pursuant to Joint Rule 25, but are not included under the SMART Government Act.

³Only required to brief the committee, not required to comply with the other provisions of the SMART Government Act.

⁴The Department of Early Childhood will be added at a later date.