COLORADO GENERAL ASSEMBLY
JOINT BUDGET COMMITTEE

FY 2012-13 STAFF BUDGET BRIEFING

DEPARTMENT OF REGULATORY AGENCIES

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

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FY 2012-13 BUDGET BRIEFING
STAFF PRESENTATION TO THE JOINT BUDGET COMMITTEE

DEPARTMENT OF REGULATORY AGENCIES

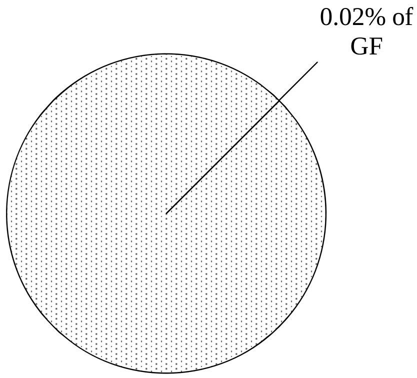
Table of Contents

* *The State Auditor's Office has not identified any outstanding recommendations for this department.*

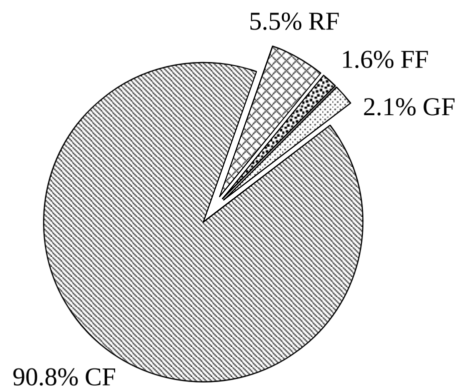
FY 2012-13 Joint Budget Committee Staff Budget Briefing
Department of Regulatory Agencies

GRAPHIC OVERVIEW

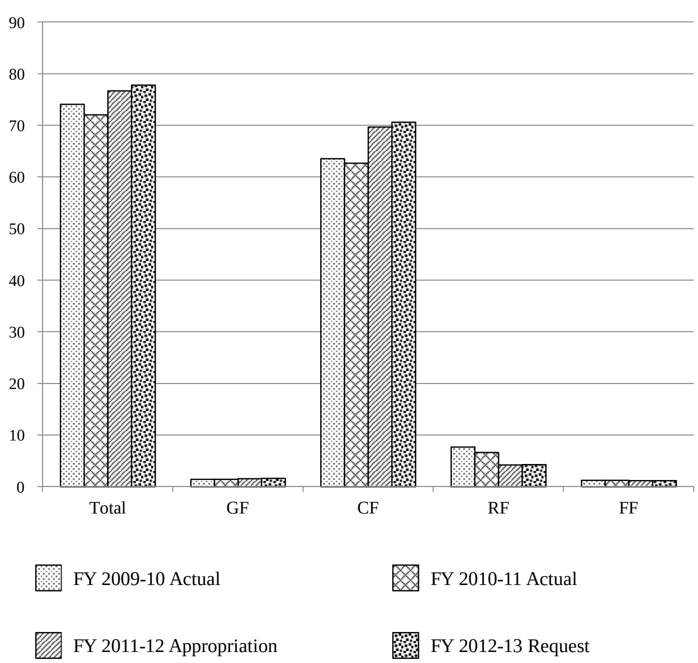
Department's Share of Statewide General Fund



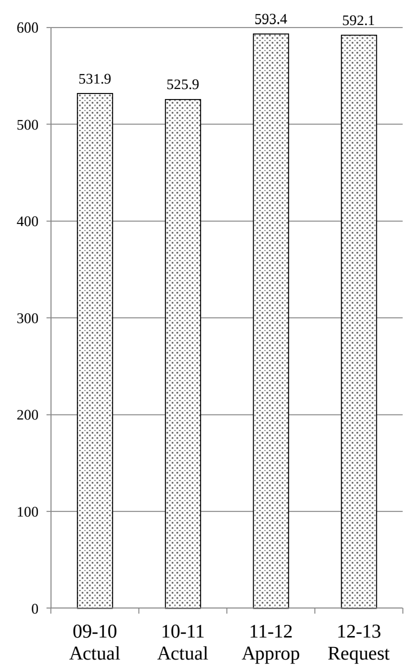
Department Funding Sources



Budget History
(Millions of Dollars)

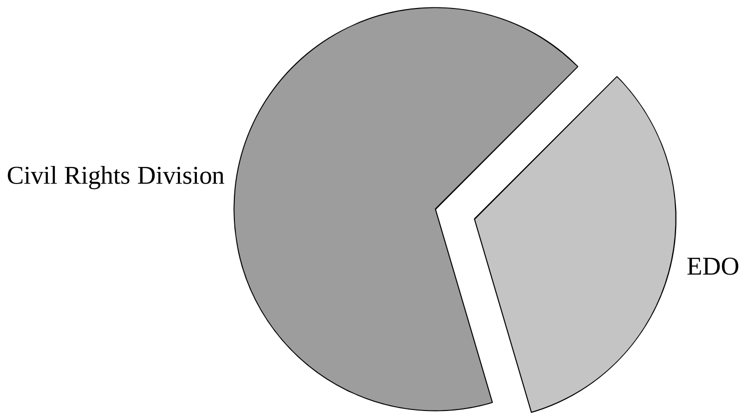


FTE History

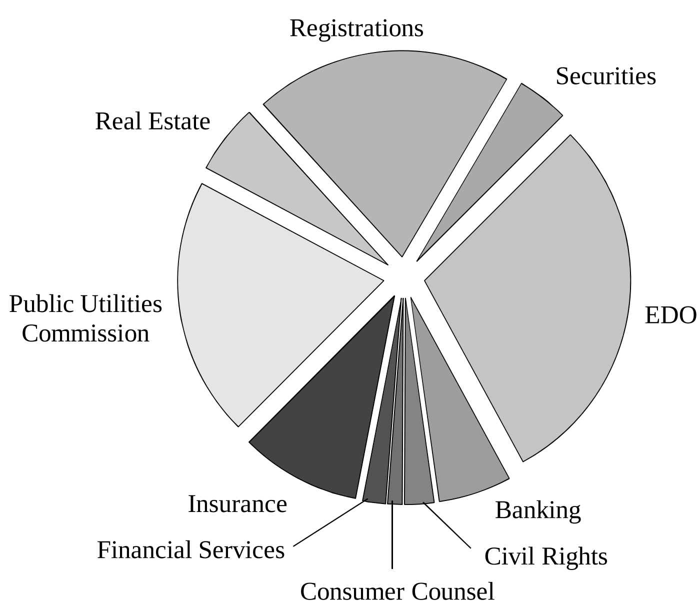


Unless otherwise noted, all charts are based on the FY 2011-12 appropriation.

Distribution of General Fund by Division



Distribution of Total Funds by Division



FY 2012-13 Joint Budget Committee Staff Budget Briefing
Department of Regulatory Agencies

DEPARTMENT OVERVIEW

Key Responsibilities

The Department is comprised of 10 divisions, each of which is responsible for the regulation of various industries, professionals and programs.

- The **Office of Policy and Research** resides in the **Executive Director's Office** and provides sunset and sunrise evaluations and policy recommendations on state programs.

- The **Division of Banking** is responsible for the enforcement of banking laws on state-chartered commercial banks, trust companies, industrial banks and money transmitters.

- The **Civil Rights Division** investigates claims of alleged discrimination and carries out enforcement activities.

- The **Office of Consumer Counsel** represents the interest of businesses and consumers at Public Utilities Commission hearings.

- The **Division of Financial Services** administers the Public Deposit Protection Act and regulates state-chartered credit unions, savings and loans, and life care institutions.

- The **Division of Insurance** licenses insurance producers and companies, investigates alleged violations of insurance laws and responds to consumer complaints.

- The **Public Utilities Commission** regulates the rates and services of utilities in the state.

- 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 certification programs.

- The **Division of Registrations** licenses individuals in 52 professions and occupations.

- The **Division of Securities** monitors the conduct of securities broker-dealers and sale representatives, and performs examinations of securities institutions.

Factors Driving the Budget

Legal Services

Due to the stakes 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 10.1 percent of the Department's FY 2012-13 total request and 31.3 percent of the state's FY 2012-13 total legal services appropriation request in the Department of Law.

Department of Regulatory Agencies Legal Services Expenditures Since FY 2008-09					
	FY 08-09 Actual	**FY 09-10 Actual**	**FY 10-11 Actual**	**FY 11-12 Approp.**	**FY 12-13 Request**
Legal Services	$7,472,664	$7,616,109	$7,877,947	$8,088,494	$7,896,902
Percent of Dept. Approp.	9.9%	10.3%	10.9%	10.5%	10.1%
% Change in Budget		**1.9%**	**3.4%**	**2.7%**	**-2.4%**
Number of Hours	99,503	101,036	107,373	106,835	104,305
% Change in Hours		**1.5%**	**6.3%**	**-0.5%**	**-2.4%**
Blended Legal Rate	$75.10	$75.38	$73.37	$75.71	
% Change in Rate		**0.4%**	**-2.7%**	**3.2%**	
State Tot Legal Svcs.	$24,532,648	$24,532,997	$25,240,327	$24,954,127	$25,244,699
% of State LS Total	30.5%	31.0%	31.2%	32.4%	31.3%

From FY 2008-09 through FY 2011-12, the Department’s legal services budget increased 8.2 percent. Over those fiscal years, legal services hours increased 7.4 percent, and the statewide *blended legal rate* increased 0.8 percent. The Department's FY 2012-13 budget request represents a decrease of 2.4 percent. From FY 2008-09 through FY 2010-11, seven divisions accounted for 96.3 percent of the Department's legal services.

Legal Services Used by Division					
	FY 2008-09	**FY 2009-10**	**FY 2010-11**	**Total**	**Percentage**
Registrations	$3,378,450	$3,515,106	$3,286,424	**$10,179,980**	**44.3%**
PUC	$1,180,036	$1,240,536	$1,225,399	**$3,645,971**	**15.9%**
Real Estate	$918,223	$906,652	$781,201	**$2,606,076**	**11.3%**
Insurance	$706,081	$671,086	$890,231	**$2,267,398**	**9.9%**
Securities	$484,612	$465,174	$487,937	**$1,437,723**	**6.3%**
OCC	$448,613	$452,314	$438,677	**$1,339,604**	**5.8%**
Civil Rights	$212,024	$232,521	$201,923	**$646,468**	**2.8%**
Dept. Total	**$7,472,664**	**$7,616,109**	**$7,877,947**	**$22,966,720**	
				7 Divisions' Share	**96.3%**

Growth in Regulated Programs

Outside of budget-related requests, statutory programs placing regulatory oversight in the Department have been added. The Department is almost entirely cash funded with fees and assessments from regulated entities flowing to fund those new programs.

Department Non-budget Initiated Bills					
Fiscal Year	**Number of Bills**	**Number of Bills Increasing FTE**	**Number of Bills Decreasing FTE**	**FTE Approp.**	**Non-budget Bills Total Approp.**
FY 2006-07	11	4	0	7.2	$1,340,428
FY 2007-08	22	9	1	12.2	$2,855,841
FY 2008-09	18	10	1	17.3	$2,371,210
FY 2009-10	10	6	2	7.5	$947,305
FY 2010-11	13*	9	1	6.0	$1,100,578
5-yr Avg	15	8	1	10.0	$1,723,072
5-yr Total	**74**	**38**	**5**	**50.2**	**$8,615,362**

* FY 2010-11 bill count excludes HB 10-1385 that reduces the Department's appropriation from the Division of Insurance Cash Fund by $860,186 and appropriates it to the Department of Law for Insurance Fraud Prosecutions.

Over the five years charted in the table above, the Department has averaged 15 non-budget initiated bills per year – bills outside of long bill or supplemental requests – that account for an average increase of 10.0 FTE per year, and $1.7 million in additional appropriations.

Increased Need for Financial Services Oversight

The slow economy, the financial services crisis at the end of 2008 and ongoing challenges in the financial services industry since then, have increased the need for oversight among the Divisions overseeing financial services - Banking, Financial Services and Securities. The table below shows the additional FTE and appropriations related to these decision item requests.

Decision Item Requests in Financial Services Divisions		
Fiscal Year	**Additional FTE**	**Additional Appropriation**
FY 2009-10	10.0	$934,618
FY 2010-11	1.0	$67,848
FY 2011-12	6.0	$617,762
3-Year Total	**17.0**	**$1,620,228**

DECISION ITEM PRIORITY LIST

The FY 2012-13 Department budget request includes no decision item requests.

NON-PRIORITIZED PRIORITY LIST

1	**NP-1 Vehicle Fleet Replacement**		
	Executive Director's Office and Administrative Services This non-prioritized request reflects assumed adjustments in the billing for the centralized provision of vehicles by the Department of Personnel and Administration. This request will be considered in a separate staff briefing.	**Total Funds**	**$69,452**
		FTE	0.0
		CF	69,452
	TOTAL NON-PRIORITIZED PRIORITY LIST		
		Total Funds	**$69,452**
		FTE	0.0
		CF	69,452

BUDGET BASE CHANGE NOT RELATED TO A POLICY ISSUE (TECHNICAL OR BASE CHANGE IN NATURE) PRIORITY LIST

1	**Restore PERA Adjustment - SB 11-076**		
	All Divisions. The FY 2012-13 budget request restores the FY 2011-12 reduced State contribution to the Public Employees' Retirement Association (PERA) pursuant to S.B. 11-076.	**Total Funds**	**$826,773**
		FTE	0.0
		GF	24,058
		CF	749,724
		RF	47,038
		FF	5,953

2	**Health, Life and Dental Adjustment**		
	Executive Director's Office and Administrative Services. The FY 2012-13 budget request includes adjustments to common policy items directed by the Department of Personnel and Administration.	**Total Funds**	**$447,744**
		FTE	0.0
		GF	18,923
		CF	386,521
		RF	10,444
		FF	31,856
3	**Purchase of Services from Computer Center Adjustment**		
	Executive Director's Office and Administrative Services. The FY 2012-13 budget request includes adjustments to common policy items directed by the Governor's Office of Information Technology.	**Total Funds**	**$156,036**
		FTE	0.0
		GF	5,418
		CF	150,618
4	**Annualize Prior Year Legislation**		
	Executive Director's Office and Administrative Services, Division of Insurance, Public Utilities Commission, Division of Real Estate, and Division of Registrations. The FY 2012-13 budget request annualizes prior year legislation including, S.B. 11-088, S.B. 11-091, S.B. 11-094, S.B. 11-128, S.B. 11-169, S.B. 11-187, S.B. 11-192, H.B. 11-1033, H.B. 11-1100, H.B. 11-1195, H.B. 11-1198, and H.B. 11-1300.	**Total Funds**	**($394,040)**
		FTE	(1.3)
		CF	(388,585)
		FF	(5,455)
5	**Annualize FY 2011-12 Decisions Items**		
	Division of Banking and Division of Securities. The FY 2012-12 budget request annualizes prior year decision items in the Divisions of Banking and Securities.	**Total Funds**	**($29,694)**
		FTE	0.0
		CF	(29,694)
	TOTAL BUDGET BASE CHANGE NOT RELATED TO A POLICY ISSUE (TECHNICAL OR BASE CHANGE IN NATURE) PRIORITY LIST		
		Total Funds	**$1,006,819**
		FTE	(1.3)
		GF	48,399
		CF	868,584
		RF	57,482
		FF	32,354

FY 2012-13 Joint Budget Committee Staff Budget Briefing
Department of Regulatory Agencies

OVERVIEW OF NUMBERS PAGES

The following table summarizes the total change, in dollars and as a percentage, between the Department's FY 2011-12 appropriation and its FY 2012-13 request.

Table 1: Total Requested Change, FY 2011-12 to FY 2012-13 (millions of dollars)

Category	GF	CF	RF	FF	Total	FTE
FY 2011-12 Appropriation	$1.6	$69.7	$4.2	$1.2	$76.7	593.4
FY 2012-13 Request	1.6	70.6	4.3	1.2	77.8	592.1
Increase / (Decrease)	$0.0	$0.9	$0.1	$0.0	$1.1	(1.3)
Percentage Change	3.0%	1.3%	1.4%	2.7%	1.4%	(0.2%)

The following table highlights categories of changes contained in the Department's FY 2012-13 budget request, as compared with the FY 2011-12 appropriation.

Table 2: Total Department Requested Changes, FY 2011-12 to FY 2012-13 (millions of dollars)

Category	GF	CF	RF	FF	Total	FTE
Non-Prioritized Items	0.0	0.6	0.0	0.0	0.7	0.0
Technical/Base Changes	0.0	0.3	0.0	0.0	0.4	(1.3)
TOTAL	$0.0	$0.9	$0.1	$0.0	$1.1	(1.3)

BRIEFING ISSUE

ISSUE: Performance-based Goals and the Department's FY 2012-13 Budget Request

This issue brief summarizes the Department of Regulatory Agencies report on its performance relative to its strategic plan and discusses how the FY 2012-13 budget request advances the Department's performance-based goals. Pursuant to the State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act (H.B. 10-1119), the full strategic plan for the Department of Regulatory Agencies can be accessed from the Office of State Planning and Budgeting web site.

The issue brief assumes that the performance-based goals are appropriate for the Department. Pursuant to the SMART Government Act legislative committees of reference are responsible for reviewing the strategic plans and recommending changes to the departments. The issue brief also assumes that the performance measures are reasonable for the performance-based goals. Pursuant to the SMART Government Act the State Auditor periodically assesses the integrity, accuracy, and validity of the reported performance measures.

DISCUSSION:

Performance-based Goals and Measures

The Department's top priority objectives are:

1. **Consumer Outreach**
2. **Professional Outreach**
3. **Complaint Resolution**
4. **Timely Access**
5. **Qualified Professionals**
6. **Economic Environment**

1. Consumer Outreach

Objective: Consumers are educated about their rights and understand how the violation of those rights can be addressed and resolved.

Increase in Number of Department Website Hits			
Year	**Web Hits**	**Benchmark**	**Actual**
FY 2008-09	123,993,673		
FY 2009-10	177,498,380	10.0%	43.2%
FY 2010-11	200,163,133	10.0%	12.8%

a. How is the Department measuring the specific goal/objective?
The Department's performance measure for this objective is based on the number of Department website hits. The Department seeks a 10.0 percent increase in the number of hits each year as its benchmark.

b. Is the Department meeting its objective, and if not, why?
Yes. The Department experienced an increase in website hits of 12.8 percent in FY 2010-11 over FY 2009-10.

c. How does the budget request advance the performance-based goal?
The Department has not submitted a decision item related to website maintenance or improvement, but such administrative responsibilities are included in ongoing appropriations in the Executive Director's Office.

2. Professional Outreach.

Objective: Businesses and professionals are educated about consumer rights and the standards and regulations that apply.

Percent of Licensees Subscribed to Department Listservs			
Year	**Listserv Subscriptions**	**Benchmark**	**Actual**
FY 2009-10	260,541	50.0%	39.0%
FY 2010-11	290,122	50.0%	42.0%

a. How is the Department measuring the specific goal/objective?
The Department's performance measure for this objective is the percentage of business and professional licensees subscribed to Department listservs. Department listservs enable the Department to communicate timely information to licensees about their responsibilities to consumers. The Department's benchmark for this performance measure is 50%.

b. Is the Department meeting its objective, and if not, why?
No. Based on the Department's own performance measure and benchmark, the Department has not met its objective. While it slightly improved its performance in FY 2010-11 over the year before, it is still below its benchmark.

However, the Department also notes that not all license types have an associated listserv, and of those licensees that do, the subscription rate was 62.0 percent in FY 2010-11 – an improvement over the prior year's 57.0 percent. Additionally, the average subscription rate for individual boards was 75.9 percent in FY 2010-11.

c. How does the budget request advance the performance-based goal?
The Department has not submitted a decision item related to promoting or expanding Department listservs. The Department's ongoing appropriations fund the management and administration of listservs.

3. Complaint Resolution.

Objective: Consumer complaints are resolved in a timely and efficient manner.

Consumer Complaint Resolution within 180 Days				
Year	**Complaints**	**Resolved**	**Benchmark**	**Actual**
FY 2009-10	13,836	13,324	75.0%	96.3%
FY 2010-11	14,809	14,809	75.0%	100.0%
FY 2011-12 Estimate	14,000		75.0%	

a. How is the Department measuring the specific goal/objective?
The Department's performance measure for this objective is the percentage of consumer complaints resolved within 180 days. Six of the Department's Divisions have consumer complaint measures that are applicable to the 180-day period performance measure.

b. Is the Department meeting its objective, and if not, why?
Yes. The Department resolved 100.0% of consumer complaints within 180 days in FY 2010-11.

c. How does the budget request advance the performance-based goal?
The Department has not submitted a decision item related to consumer complaint resolution. The Department's ongoing appropriations fund Division operations that include resolving consumer complaints.

4. Timely Access.

Objective: Businesses and professionals can access the regulatory process in a timely and efficient manner.

Divisions' Licensing Timeliness Measures		
Year	**Benchmark**	**Actual***
FY 2009-10	100.0%	100.0%
FY 2010-11	100.0%	100.0%
FY 2011-12 Estimate	100.0%	

* Department judgment.

a. How is the Department measuring the specific goal/objective?
The Department's performance measure for this objective is judging its major licensing Divisions, the Divisions of Real Estate and Registrations, respective timely licensing performance.

b. Is the Department meeting its objective, and if not, why?
The Department's narrative states that the Divisions "showed substantive compliance with their licensing measures, and so performance is reported here as 100%." Additionally, the data in the table above is the only timeliness data included in the strategic plan for this objective. The additional data

provided as key workload indicators are the number of new and renewal licenses, which do not speak to the timeliness performance measure.

By the Department's judgment, yes, it is meeting its licensing timeliness measures.

The Division of Real Estate timeliness measure sets a benchmark of *75.0% within 3 days*, but reports actual timeliness of 100.0% and 95.0% *within 5 days*. Additionally its narrative section claims that it "surpassed the benchmark during FY 2010-11 at 95%." It appears that the actual percentage reported and the benchmark measure are not capturing equivalent information, so it is not clear whether the Division has met its timeliness measure.

Division of Real Estate Licensing Timeliness Applications Processed within 3 Business Days		
Year	**Benchmark**	**Actual**
FY 2009-10	75.0% within 3 days	100.0% within 5 days
FY 2010-11	75.0% within 3 days	95.0% within 5 days
FY 2011-12	75.0% within 3 days	

The Division of Registrations timeliness measure sets a benchmark of "90% of qualified applicants are licensed or approved for exam within 14 days of receipt of an application that includes all required documentation." The Division reports actual timeliness by this measure of 92 percent in FY 2009-10 and 90 percent in FY 2010-11. Its narrative sections states that its timeliness percentages are based on a sampling due to the reporting limitations of the current licensing system. However it provides no data related to that sampling, simply reporting the percentage. According to its own reporting, it is meeting its performance measure, however without the sampling data available in the strategic plan, staff is unable to confirm that the Division has met its performance measure.

c. How does the budget request advance the performance-based goal?

The Department has not submitted a decision item related to licensing timeliness. The Department's ongoing appropriations fund Division operations that include license processing.

5. Qualified Professionals.

Objective: DORA's employees have the knowledge, skills, and abilities to effectively and fairly regulate Colorado professionals and industries.

Percent of Employees Participating in Training				
Year	**Employees Participating in Training**	**Total Employees**	**Benchmark**	**Actual**
FY 2009-10			85.0%	94.0%
FY 2010-11	480	552	85.0%	87.0%

a. How is the Department measuring the specific goal/objective?
The Department's performance measure for this objective is the percentage of employees participating in job-specific training. The Department provided 88 sessions of 30 different classes in FY 2010-11.

b. Is the Department meeting its objective, and if not, why?
Yes, based on its actual data provided in the strategic plan, the Department exceeded its benchmark in FY 2010-11. The strategic plan did not include employee data for FY 2009-10, including only a reported percentage.

c. How does the budget request advance the performance-based goal?
The Department has not submitted a decision item related to promoting or expanding Department training. The Department’s ongoing appropriations fund staff training programs.

6. Economic Environment.

Objective: DORA plays an active part in improving Colorado's economic environment.

Department Return on Investment					
Year	**Total Savings (in millions)**	**Baseline Appropriation (in millions)**	**Total Return (in millions)**	**ROI Benchmark**	**ROI Actual**
FY 2009-10	$183.9	$69.5	$114.4	100.0%	164.6%
FY 2010-11	$142.7	$66.9	$75.8	100.0%	113.3%

a. How is the Department measuring the specific goal/objective?
While the Department titles this objective somewhat abstractly as *Economic Environment*, and lists its objective in an equally abstract manner, more specifically the Department measures a return on investment achieved predominantly through consumer savings attributable to PUC and Division of Insurance rate reviews. Savings identified are the difference between utility or insurance company rate requests and the Divisions' determinations of necessary and appropriate rate increases. The investment measure is the entire Department’s baseline appropriations, defined as actual state cost – costs to operate the Department without including pass-through and federal funding.

The Department states that it takes this conservative approach in measuring savings and return because the savings to consumers are empirically measurable based on actual rate requests and rate decisions, while consumer savings attributable to professional and business regulation and licensing is empirically less measurable.

b. Is the Department meeting its objective, and if not, why?
Yes. The Department had a return on investment based on its performance measure of 113.3 percent in FY 2010-11.

c. How does the budget request advance the performance-based goal?
The Department has not submitted a decision item related to the PUC or Division of Insurance,

however the Department's ongoing appropriations fund the operations of these divisions for which the majority of the consumer savings generated in this performance measure are attributable. Ongoing appropriations funding the PUC and Division of Insurance are specifically tied to this Department performance measure.

FY 2012-13 Joint Budget Committee Staff Budget Briefing
Department of Regulatory Agencies

BRIEFING ISSUE

ISSUE: Financial Services Divisions

Over the prior three budget years, the Department requested and was appropriated an additional 17.0 FTE in financial examiner, auditor or investigator classifications for its financial services divisions – the Divisions of Banking, Financial Services, and Securities. This issue brief provides an update on the status of those appropriations as they relate to workload management. Additionally this issue brief introduces the concept of consolidating the financial services divisions as a single line item in the budget to encourage the Department to identify efficiencies in better allocating staff resources across Divisions.

SUMMARY:

- ❏ Over the prior three budget years, the Department requested an additional $1,767,629 and 17.0 FTE and was authorized $1,620,228 and 17.0 FTE. Examiners and auditors represented 16.0 FTE, while a securities investigator represented the additional 1.0 FTE.

- ❏ The Division of Banking currently reports 10.0 FTE in examiner vacancies, equal to 25.0 percent of its authorized examiner FTE; while the Division of Securities reported examiner vacancies equal to 32.5 percent for FY 2010-11, prior to its authorization for an additional 3.0 FTE for FY 2011-12.

- ❏ The Division of Banking's (bank) examinations per examiner was 6.5 in FY 2010-11 and is projected to be 7.7 for FY 2011-12; while the Division of Financial Services (credit unions and savings and loan) examinations per examiner was 4.5 in FY 2010-11 and is projected to be 3.9 for FY 2011-12.

- ❏ The Division of Securities Enforcement Section (investigations) experienced an increase in enforcement cases of 118.8% over two years from FY 2008-09 to FY 2010-11, and an increase in enforcement cases per investigator to 48.1 from 24.3 over the same period, despite an additional authorized 1.0 FTE for an investigator in FY 2010-11.

- ❏ The three Divisions share similar patterns of examiner oversight responsibility for related institutions within the same industry. There may be advantages in encouraging the Department to find efficiencies across Divisions through a consolidated line item, while requiring ongoing reporting to the Committee regarding the allocation of resources across Divisions.

RECOMMENDATION: Staff recommends the Committee discuss with the Department the advantages and disadvantages of consolidating line items for the Divisions of Banking, Financial Services and Securities.

DISCUSSION:

Budget Requests

Due to the financial crisis at the end of 2008, there was an increased need for financial service institution examinations due to deteriorating financial conditions and changes in federal laws regarding oversight. The financial services divisions budget requests for the last three budget years reflect that need and are summarized in the following table.

Division	**FY 2009-10 Request**		**Appropriated**
Securities	DI-3: Increase Securities Field Examiners	$148,982 and 2.0 FTE: 2 – FCE II	$141,482 and 2.0 FTE
Financial Services	DI-5: Increase Resources for Division of Financial Services	$266,789and 2.0 FTE: 1 – FCE III 1 – Auditor IV PS to increase salaries for FCEs	$199,874 and 2.0 FTE
Banking	DI-6: Increase Resources for Division of Banking	$707,579 and 6.0 FTE: 1 – FCE I 4 – FCE II 1 – Auditor IV Funding for vacant FCE II	$593,262 and 6.0 FTE and funding for vacant FCE II
Division	**FY 2010-11 Request**		**Appropriated**
Securities	DI-2: Increase Securities Investigators	$67,848 and 1.0 FTE: 1 – Criminal Investigator I	$67,848 and 1.0 FTE
Division	**FY 2011-12 Request**		**Appropriated**
Banking	DI-1: Increase Resources for Division of Banking	$364,276 and 3.0 FTE: 1 – FCE III 1 – FCE IV 1 – FCE V	$409,981 and 3.0 FTE (Exam travel costs added)
Securities	DI-2: Increase Funding for Securities Field Examiners	$212,155 and 3.0 FTE: 3 – FCE II	$207,781 and 3.0 FTE
3-Year Total		**$1,767,629 and 17.0 FTE**	**$1,620,228 and 17.0 FTE**

Examination Workload, FTE and Assessments

The following tables include data from each of the Divisions regarding examination workload, examiner FTE, and where provided, assessments or fees.

The Division of Financial Services was authorized an additional 2.0 FTE in examiners in FY 2009-10. The Division currently has 2.0 FTE in vacancies, but is expecting to fill 1.0 FTE within the fiscal year. Exams completed each year have increased gradually, totaling a cumulative 22.9 percent growth over the three-year period. Exams completed per examiner increased to 4.5 in FY 2010-11, but is expected to average 3.9 in FY 2011-12 at the projected level of 11.0 FTE of examiners. Assessments increased by 3.9 percent for credit unions and 17.0 percent for savings and loans over the three-year period.

Division of Financial Services Workload-FTE-Assessments						
	FY 08-09	FY 09-10	FY 10-11	Actual YTD FY 11-12	Projected FY 11-12 Nov-June	Projected FY 11-12 Total
Credit Union Exams Completed	33	38	39	9	30	39
Savings and Loan Exams Completed	2	1	2	1	3	4
Total Exams Completed	35	39	41	10	33	43
Exams per Examiner	3.6	3.8	4.5			3.9
Number of Examiners	9.6	10.4	9.1	10.0	11.0	11.0
Total FTE Authority	10.0	12.0	12.0	12.0	12.0	12.0
Examiner Vacancies	0.4	1.6	2.9	2.0	1.0	1.0
Additional Examiner FTE		**2.0**				
CU Assessment Level (per $1,000)	$0.2039	$0.2214	$0.2113			$0.2118
Annual Percent Change		8.6%	-4.6%			0.2%
3-Year Cumulative Change						3.9%
SL Assessment Level (per $1,000)	$0.1415	$0.1725	$0.1583			$0.1656
Annual Percent Change		21.9%	-8.2%			4.6%
3-Year Cumulative Change						17.0%

The Division of Banking continues to experience a high level of vacancies, currently totaling 10.0 FTE – more than the number of additional authorized FTE during the three-year period. Despite the number of vacancies, the Division is completing a higher number of mandated bank examinations. Cumulative growth in bank examination over the three-year period totals 40.2 percent based on the total projected for FY 2011-12. Exams per examiner increased to 6.5 in FY 2010-11, and is projected to increase to 7.7 in FY 2011-12 based on the current FTE vacancy level. It is unclear whether the Division is expecting to fill additional vacancies since the information provided by the Division included only actual data.

Division of Banking Workload-FTE-Assessments						
	FY 08-09	FY 09-10	FY 10-11	Actual YTD FY 11-12	Projected Nov-June FY 11-12	Total Projected FY 11-12
Mandated Exams Completed	164	154	195	70	160	230
Exams per Examiner	5.7	5.7	6.5	2.3	5.3	7.7
Number of Examiners	28.7	27.1	30.1	30.0	30.0	30.0
FCE I	5.8	3.6	8.1	8.0		
FCE II	9.0	11.5	9.0	8.0		
FCE III	8.3	6.6	7.0	8.0		
FCE IV	3.6	3.4	4.0	4.0		
FCE V	1.0	1.0	1.0	1.0		
Auditor IV	1.0	1.0	1.0	1.0		
Total FTE Authority	31.0	36.5	37.5	40.0	40.0	40.0
Examiner Vacancies						
FCE I						
FCE II	1.3	7.4	5.4	6.0		
FCE III	1.0	1.0	1.0	1.0		
FCE IV				1.0		
FCE V				1.0		
Auditor IV		1.0	1.0	1.0		
Total Examiner Vacancies	2.3	9.4	7.4	10.0	10.0	10.0
Additional Examiner FTE		**6.0**		**3.0**		

Three items related to the Division's FTE vacancies stand out:

- It appears that the Auditor IV position authorized in FY 2009-10 has never been filled.
- The higher classification positions, FCE III, FCE IV, and FCE V, authorized for FY 2011-12 are likewise vacant almost five months into the fiscal year, and over seven months since the long bill authorizing the positions, was signed by the Governor.
- It also appears that the 4.0 FTE of FCE II, authorized in FY 2009-10, have also never been filled.

The Division has stated that it experiences challenges related to filling examiner vacancies due to the difference in pay and career growth opportunities relative to federal authorities. The Division has suggested that it has problems retaining entry-level examiners once they are trained examiners, as those examiners move on to work for federal authorities.

On its surface, it appears that the additional FTE authorized over the prior three budget years have done very little if anything to improve the number of examiners actually available to and working for the Division. The Division used 28.7 FTE of examiners in FY 2008-09, and is currently using 30.0 FTE. Higher-level examiners equal to FCE III and higher, totaled 13.9 FTE in FY 2008-09, and currently total 14.0 FTE. While it is still less than halfway into the current fiscal year, it may be too soon to judge whether the Division can more effectively add the most recently appropriated examiners, and particularly the 4.0 FTE of higher-level examiners available in their FTE authority.

Further it appears that although the Division has not been effective at adding or keeping examiners, it has nevertheless completed more examinations, and therefore its examination per examiner average has increased.

The Division of Securities consists of its Enforcement Section (investigations) and its Examinations Section (examinations), and the workload indicators for each are shown in the following tables. Additionally, securities examination violations are also included as a table.

Division of Securities Examiner Workload-FTE				
	FY 08-09	FY 09-10	FY 10-11	FY 11-12
Broker/Dealer Exams		24	14	
Investment Adviser Exams		44	51	
Total Exams Completed	50	68	65	
Exams per Examiner	25.0	22.7	24.1	
Number of Examiners	2.0	3.0	2.7	
Examiner Vacancies		1.0	1.3	
Additional Examiner FTE		**2.0**		**3.0**

The Division has consistently filled one of the additional 2.0 FTE authorized in FY 2009-10, however it has remained at least 1.0 FTE short of authorized examiners over the two years of actual data available. Although the Division has only 1.3 FTE of examiner vacancies in FY 2010-11, that vacancy rate represents 32.5 percent of authorized examiner FTE.

The Division was authorized an additional 3.0 FTE of examiners in FY 2011-12, but did not provide YTD or quarterly actual data, therefore staff is unable to determine how the Division is acting on filling the additional authorized examiner FTE.

Division of Securities Examination Violations					
	FY 09-10	FY 10-11	2-Year Total	Percentage	FY 11-12 Budget Request Percentage*
Books and Records Violations	30	27	57	43.2%	51.3%
Supervision	2	2	4	3.0%	1.7%
Unlicensed Activity	2	2	4	3.0%	2.0%
Fraud and Prohibited Conduct	2	7	9	6.8%	4.6%
Sales of Unregistered Securities	0	0	0	0.0%	0.5%
Statutory Disqualifications	1	0	1	0.8%	3.0%
Dishonest and Unethical Practices	18	4	22	16.7%	9.5%
Total Violations	55	42	97	73.5%	72.5%
No Violations	13	22	35	26.5%	27.5%
Total Examinations	68	64	132	100.0%	

***FY 2011-12 budget request percentage from prior five years of violations data.**

Securities examination violations have remained consistent with data reported in the FY 2011-12 budget request, that reported on the prior five years of violations data. However, *fraud and prohibited conduct* increased to 6.8 percent from 4.6 percent, over the five-year average included in the last budget request. Additionally, dishonest and unethical practices increased to 16.7 percent from 9.5 percent.

Division of Securities Enforcement Section - Investigator Workload-FTE				
	FY 08-09	FY 09-10	FY 10-11	FY 11-12
Enforcement Cases	165	282	361	
Case Filings	38	45	51	
Number of Sanctions	100	46	48	
Case Filings Percentage	23.0%	16.0%	14.1%	
Enforcement Cases per Investigator	24.3	42.1	48.1	
Case Filings per Investigator	5.6	6.7	6.8	
Number of Investigators	6.8	6.7	7.5	8.0
Investigator Vacancies	0.2	0.3	0.5	0.0
Additional Investigator FTE			**1.0**	

An additional 1.0 FTE of securities investigator was authorized in FY 2010-11. It appears that the Division added an investigator in that fiscal year and the data suggests that the Division will show no investigator vacancies for FY 2011-12. Case filings have increased as has case filings per investigator. However the number of enforcement cases has increased by 118.8 percent over two years equal to 48.1 enforcement cases per investigator, an increase of 97.9 percent over two years, causing case filings to drop to 14.1 percent of enforcement cases in FY 2010-11 from 23.0 percent two years earlier.

Additionally, the number of sanctions has dropped by over one-half in each of the last two fiscal years compared to FY 2008-09. The number of sanctions is related to the complexity of a securities case, in which more violations and therefore sanctions result from an investigation and enforcement action. The drop suggests that either cases have become less complex, or that complex cases are not receiving the same level of investigation attention due to the increase in number of enforcement cases.

Financial Services Divisions Observations

Of the additional 17.0 FTE authorized over the prior three budget years, 1.0 FTE was an investigator for the Division of Securities. That authorization appears to have been justified based on the follow-up data. In fact the Division's current investigator appropriation level may be falling short of keeping up with increased workload factors. As an aside, the Department's budget request for that investigator stated that the Division had not added an investigator since 1994.

The remaining additional 16.0 FTE authorized were for examiners in the three Divisions, including 9.0 FTE for the Division of Banking, 2.0 FTE for the Division of Financial Services, and 5.0 FTE for the Division of Securities. Of those additional authorized FTE, the following major issues standout when considered across the Divisions:

- The Division of Banking shows 10.0 FTE in current vacancies, equal to 25 percent of its authorized examiner FTE. The Division of Securities likewise had a vacancy rate of 32.5 percent for FY 2010-11. It's unknown whether the additional 3.0 FTE of examiners authorized for FY 2011-12 will further contribute to an already high examiner vacancy rate in the Division.

- The Division of Financial Services has an examination per examiner average projected at 3.9 for FY 2011-12, while the Division of Banking has an examination per examiner average projected at 7.7 for FY 2011-12. The last year of actual data, FY 2010-11, shows averages of 4.5 and 6.5 respectively, suggesting that banking examiners are 44 to 97 percent more productive at their examinations, or that credit union and savings and loan examinations are that much more complex relative to bank examinations.

Financial Services Similarities

While each Division has regulatory oversight of particular financial services institutions, each with its own rules and role in the economy, all of the Divisions share similar oversight responsibilities and have all experienced similar needs in the current economic environment.

The Division of Banking is responsible for the regulation of:

- state-chartered commercial banks;
- trust companies;
- industrial banks; and
- money transmitters.

The Division of Financial Services is responsible for the regulation of:

- state-chartered credit unions;
- savings and loans; and
- life-care institutions.

The Division of Securities is responsible for the regulation of:

- securities broker-dealers;
- sales representatives;
- investment advisers and investment adviser representatives;
- as well as other securities-related oversight in the state.

Traditionally, each Division's regulatory institutions have remained unique and separate, although at times of crisis some institutions have changed based on updated regulatory requirements or shifting realities in the economic environment. As an example, the last two industrial banks in Colorado ceased to exist in 2009, with one converting to a commercial state-chartered bank and the other becoming a non-depository trust company. Change and evolution happen in the financial services industry despite the traditions associated with the industry.

Financial Services Staff Allocation Flexibility

The three divisions share similar patterns of examiner oversight responsibility for related institutions within the same industry. This suggests that there may be management and operations advantages in a consolidated examiner resource pool, that would encourage the Department to allocate staff resources more efficiently in order to better respond to changing or sudden oversight needs, while possibly providing broader career track opportunities for examiners.

Securities Industry Differences

Of the three divisions, it might be less reasonable to include the Division of Securities in a grouping with the Divisions of Banking and Financial Services, as its oversight responsibilities may be less similar than the other two, involving more consumer protection and investigations as opposed to institution examinations. Although, examinations are an increasing part of the Division of Securities responsibilities due to the federal Dodd-Frank act increasing responsibility for examination of investment adviser firms with up to $100 million in assets.

Maximized Examiner Efficiencies

It is not clear that a single line item incorporating the three divisions would produce substantial efficiencies given that each division is heavily weighted toward examiner staff. A single line item representing the divisions would still have to complete in total the same number of examinations that each of the three distinct divisions currently completes. And each type of review, examination, or investigation would still require each institution's particular rules and laws.

However the follow-up data show that there are variances in workload numbers, particularly between the Division of Banking and the Division of Financial Services, suggesting that there may be efficiencies in re-allocating examiner staff across the financial service institutions regulated by the Divisions. Additionally, there may be administrative efficiencies available to the Department based on how it might reconfigure administrative support functions related to financial services examinations.

Examiner Lateral Movement

While particular financial institution rules may differ, the general principles of financial examination, the tasks and professional responsibilities expected of an examiner, and the knowledge, experience and abilities of examiners likely carry across financial institution type.

However, it may also be the case that an experienced, senior-level bank examiner might have to go through an additional multiple-year retraining process to become an experienced credit union or savings and loan examiner. Specialization in oversight training and experience may be required and necessary from one financial services institution to another to an extent that in practice, the barriers to lateral movement as an examiner across institution types argues for maintaining distinct separations in institution type as the current divisions are structured.

Rather than assume that lateral movement of examiners can and will work, requesting that the Department more efficiently manage examiner resources across the Divisions would allow the Department to test those limits.

Additionally, the current Banking and Securities Commissioner, who was also a Deputy Financial Services Commissioner for a time, suggests that a trained, seasoned or experienced examiner might reasonably move across institutions over a career without having to begin at an entry-level understanding when changing institution type.

Commissioner of Banking and Securities

The current Banking Commissioner is also the current Securities Commissioner. The Executive Director chose a unique solution to the leadership needs of the Divisions of Banking and Securities. Likewise, a single appropriation for the three financial services Divisions would enable the Department to find additional solutions and efficiencies.

Based on FY2011-12 appropriations, the Banking and Securities Commissioner currently oversees the two larger of the three Divisions, encompassing 73.5 FTE and $7,505,243 in appropriations. The Financial Services Commissioner currently oversees 15.0 FTE and $1,370,969 in appropriations, equivalent to 15.4 percent of the three Divisions' total appropriations ($8,876,212) and 16.9 percent of the three Divisions' total appropriated FTE (88.5).

Other Division Models

The Division of Registrations regulates 345,000 licensees within 52 professions, occupations, and entities, including health care providers such as physicians, dentists, and nurses, as well as accountants, architects, barbers and cosmetologists. The Division of Registrations provides administrative support for 212 board and commission members serving on 26 boards, commissions, or committees, as well as 11 director model programs. The FY 2011-12 appropriation for the Division of Registrations totaled $15,618,807 and 198.9 FTE.

Similarly, the Public Utilities Commission (PUC) regulates three broad categories of utilities including energy, telecommunications, and transportation, as well as having responsibility for rail-transit safety and gas pipeline safety. The FY 2011-12 appropriation for the PUC totaled $15,598,995 and 101.1 FTE.

While the Division of Registrations has a broad range of professions and industries, the PUC is so specialized in its need for knowledge of utility industry economics and regulation that it has its own administrative hearings section, separate and apart from the Department of Personnel and Administration's Division of Administrative Courts.

The Divisions of Banking, Financial Services and Securities, particularly when considered together, appear to organizationally lie somewhere between these two models of Divisions in terms of carrying out regulatory oversight responsibilities for the broader financial services industry in the state.

Statutory Guidance Regarding Divisions

All three Divisions, Commissioners and Boards are located in Title 11, C.R.S., regarding Financial Institutions.

The statutes specify separate divisions with separate boards and cash funds. Given the history of how financial institutions have been regulated in the state, and the ongoing preference from the financial services industry that the Divisions remain distinct, providing the Department with flexibility to administer and allocate its appropriation across the Divisions would both afford the Department the opportunity to identify efficiencies while providing the industry with the comfort of retaining a known regulatory structure.

Regardless of Division and appropriations structure, given the statutes separate charges to the respective Boards regarding oversight of particular financial services institutions, retaining separation of policy-making and rule-making authority by separate boards should remain distinct as specified in statute. This structure allows each Division's industry members to seek policy decisions from each's respective board, regardless of the administrative or budget structure. Additionally, it is reasonable that the current separate cash fund structure should likewise be retained.

Advantages of Line Item Consolidation

The primary advantage to providing the Department with this kind of budget flexibility, is in giving it an opportunity to identify efficiencies in allocating staff across the Divisions.

The downside to this option is that the Department would allocate resources exactly as they are structured in the current budget; i.e. there would be no organizational efficiency advantage gained. The upside is that the Department would in fact find efficiencies in reallocating resources across the Divisions, and better identify solutions to its vacancy challenges and examiner career-track issues.

Required examiner workload, FTE and vacancy reports from the Department, such as the data collected and presented in this issue brief, would still provide the Committee and the General Assembly the opportunity to determine a justified appropriation to fund the Divisions' examiner operations. Much as a program appropriation in a single line item comprising personal services and operating expenses are still broken out for clarity and transparency, for both requested/appropriated and actual amounts as reported by a Department, the line item consolidation of the Divisions need not reduce the authority over the appropriations process, might increase the reporting and transparency of Department allocations, and provide the Department with the means to seek efficiencies across the Divisions.

Legislative History

H.B. 88-1227 transferred authority for credit unions from the commissioner of banking to the state commissioner of savings and loan associations.

S.B. 89-206 changed the name of the Division of Savings and Loan to the Division of Financial Services, and changed the name of the Commissioner of Savings and Loan Associations to the Commissioner of Financial Services.

H.B. 93-1275 created the Financial Services Board.

S.B. 94-022 created the Securities Board.

Important Statutory Provisions

Division of Banking:

> ***11-102-102. Powers of commissioner.*** *(3) The commissioner shall be responsible for all examination and enforcement functions of the division of banking subject to the policy-making and rule-making authority of the banking board.*

Division of Financial Services:

> ***11-44-101.7. Powers of the financial services board.*** *(1) The board is the policy-making and rule-making authority for the division and has the power to:*
> *(a) Regulate its own procedure and practice; and*
> *(b) Make, modify, reverse, and vacate rules for the proper enforcement and administration of articles 30 and 40 to 46 of this title and article 13 of title 12, C.R.S.*
> *(2) In addition to any other powers conferred on it by articles 30 and 40 to 46 of this title, the board has the power to:*
> *(a) Make all final decisions with respect to the organization, conversion, or merger of credit unions and savings and loan associations and administration of life care institutions or providers pursuant to article 13 of title 12, C.R.S.;*

Section 11-44-103, C.R.S., appears to be inexplicably in need of amending regarding the powers of the financial services commissioner, and refers to powers over savings and loans from when the Commissioner was the Commissioner of Savings and Loan Associations.

Division of Securities:

> ***11-51-703. Administration of article.*** *(1) The securities commissioner is hereby empowered to administer and enforce all provisions of this article...*
>
> ***11-51-702.5. Securities board - creation - duties - repeal.*** *(4) The securities board shall provide oversight to the securities commissioner and shall be available to advise the securities commissioner at the request of the securities commissioner on issues affecting the division of securities and securities regulation in the state.*

Statutory Structure

The Division of Banking is headed by the Commissioner of Banking, *appointed and serving as provide by law*, pursuant to section 11-102-101 (2), C.R.S. The Commissioner administers the Division and is *responsible for all examination and enforcement functions of the division of banking subject to the policy-making and rule-making authority of the banking board*, pursuant to section 11-102-102 (3), C.R.S. The Banking Board consists of nine members appointed by the Governor and confirmed by the Senate, pursuant to sections 11-102-103 (1) (a) and (5), C.R.S.

The Division of Financial Services is headed by the Commissioner of Financial Services, *appointed by the executive director for the department of regulatory agencies*, pursuant to section 11-44-102 (1), C.R.S. The Financial Services Board *is the policy-making and rule-making authority for the division*, pursuant to section 11-44-101.7, (1) C.R.S. The Financial Services Board consists of five members appointed by the Governor and confirmed by the Senate, pursuant to sections 11-44-101.6 (1) and (3), C.R.S.

The Division of Securities is headed by the Commissioner of Securities, *appointed by the executive director of the department of regulatory agencies*, pursuant to section 11-51-701, C.R.S. The Securities Commissioner is *empowered to administer and enforce all provisions of* Article 51 of Title 11, C.R.S., pursuant to section 11-51-703 (1), C.R.S. The Securities Board provides oversight to the securities commissioner and aids and advises the Commissioner at the Commissioner's request, pursuant to sections 11-51-702.5 (4) and (6), C.R.S. The Securities Board consists of five members appointed by the Governor and confirmed by the Senate, pursuant to section 11-51-702.5 (1), C.R.S.

BRIEFING ISSUE

ISSUE: Department FTE Actual-Appropriated Disparity
The Department consistently experiences a disparity between appropriated FTE and actual FTE usage. This issue brief visually summarizes the differences in actual-to-appropriated FTE as well as the differences in actual-to-appropriated personal services funding experienced by the Department and by division.

SUMMARY:

❑ From FY 2006-07 through FY 2010-11, the Department expended 89.2 to 92.7 percent of its appropriated FTE and 93.5 to 98.6 percent of its personal services appropriation.

❑ The PUC expended 86.3 to 88.8 of its FTE over the five-year period – including 88.1 FTE for FY 2010-11, while its FTE appropriation increased from 93.5 to 101.6 over that period.

❑ The Division of Real Estate expended relatively equal percentages of its FTE and personal services appropriations over FY 2009-10 and FY 2010-11, having expended less than 88 percent of its appropriation on either, over the two-year period.

❑ The general-funded Division of Civil Rights expended 100.0% of its personal services appropriation but has filled only about 80 percent of its FTE appropriation since FY 2007-08.

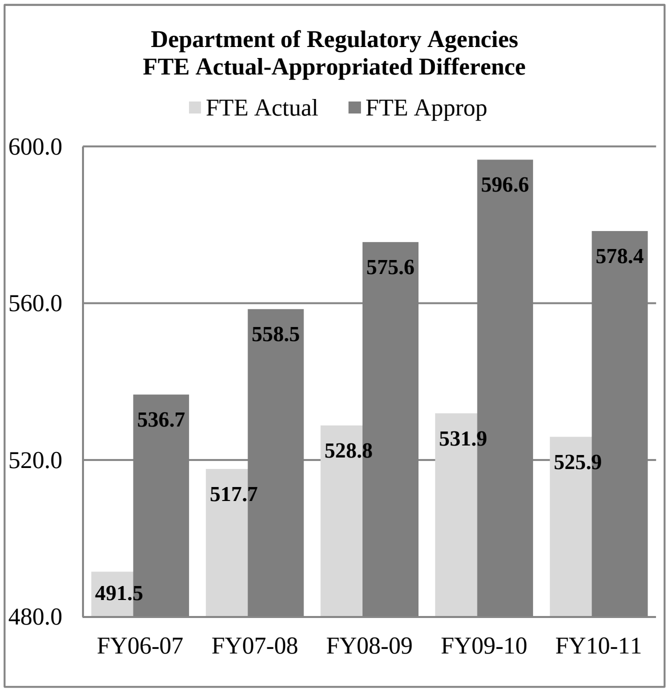
❑ The OCC and the Division of Securities stand out in that they generally expended more of their FTE appropriation than their personal services appropriation.

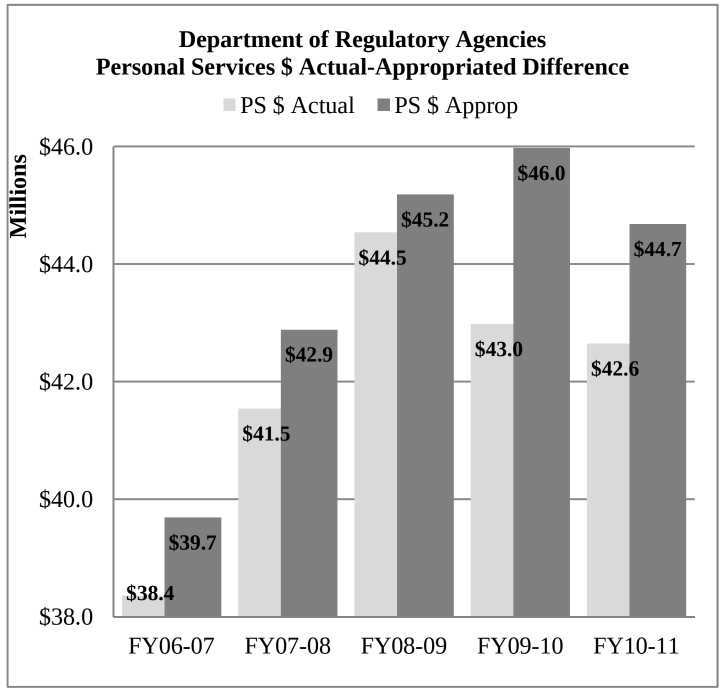
RECOMMENDATION: Based on the separation of powers authority over FTE allocation that has been accorded to the executive branch pursuant to current statutory law and Colorado Supreme Court decisions, staff recommends the Committee eliminate consistently vacant FTE in the Department's budget in order to align with the executive branch's actual usage.

DISCUSSION:

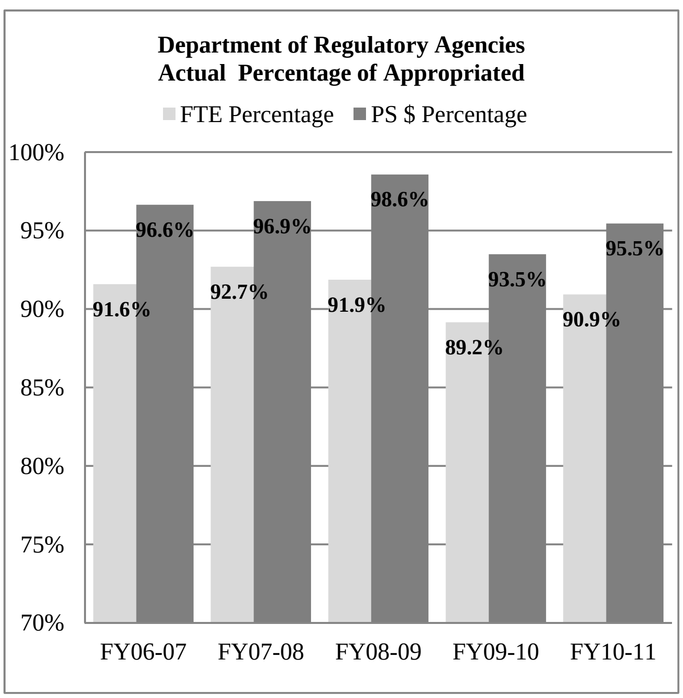
When looking at the Department's FTE history as presented in the Graphic Overview section on page 1, there is a distinct increase in FTE between the two years of actual data and the two years of appropriated data. At first glance, the graph appears to suggest that the FTE level in FY 2011-12 increased by 67.5 FTE or 12.8 percent in a single year. However, the apparent difference is a reflection of the chart illustrating actual FTE usage in FY 2010-11 and appropriated FTE in FY 2011-12.

The following charts illustrate the difference between the actual and appropriated FTE and actual and appropriated personal services for the last five years of actual data, providing a visual representation of the disparity between actual and appropriated FTE and personal services.





The Department has used fewer authorized FTE and less of its personal services appropriation. However, as seen in the percentage chart below, as a percentage of appropriated, FTE usage consistently runs lower than personal services funding usage. This may suggest that over time, personal services funding for additional FTE, might instead be funding existing FTE allocations or commitments to some extent.



Disparity by Division

The charts located at the end of this issue brief illustrate differences by division. While the Department-wide data and charts indicate an FTE actual-appropriated disparity, in order to more effectively address or resolve the actual-appropriated disparity issue it is necessary to consider the divisions individually, as their data and charts indicate different experiences in their FTE and personal services appropriations usage.

The Executive Director's Office (EDO) charts illustrate the transfer of resources to the Governor's Office of Information Technology in FY 2010-11. Otherwise the charts suggest that the EDO is consistently expending its FTE and personal services appropriations.

The Division of Banking charts illustrate that the Division consistently expends about six percent more of its personal services appropriations relative to its FTE usage when compared to appropriated amounts. The last two years, FY 2009-10 and FY 2010-11, suggest that the Division may have experienced difficulty filling additional authorized FTE, reflected as the percentage drop from FY 2008-09 in the percentage chart. Nevertheless there remains a consistent disparity of about six percent between actual FTE and personal services percentages of appropriated.

The Division of Civil Rights consistently expends all of its personal services appropriation, but has filled only about 80 percent of its FTE since FY 2007-08.

The Office of Consumer Counsel is unique among the Divisions in that it consistently comes very close to filling its authorized FTE, while also expending 90 to 95 percent of its personal services appropriation. Of the Department's Divisions, OCC appears to be both using its appropriated FTE and expending its personal services funds efficiently.

The Division of Financial Services charts illustrate that the Division is experiencing a widening gap between its FTE and personal services appropriations expenditures in FY 2009-10 and FY 2010-11. However, prior to FY 2009-10, the Division experienced a more consistently aligned pattern of FTE usage and personal services expended as a percentage of appropriations.

The Division of Insurance percentage chart illustrates that the Division has likewise had a consistent alignment between its FTE and personal services expenditures relative to appropriations. The FY 2010-11 data suggests that there may be some widening between the two elements. However this possibly one-year disparity may indicate a year of extraordinary vacancies, and particularly retirements, contributing to a relatively higher personal services expenditure for that year.

The Public Utilities Commission FTE chart illustrates a consistent difference between actual and appropriated FTE. Specifically, actual FTE has essentially remained constant between 86 and 89 FTE over the five years, while appropriated FTE have increased by 8.1 FTE. The spread between percentages has increased from about six percent in FY 2006-07 to about nine percent in FY 2010-11. For FY 2010-11, the PUC is expending 95.5% of its personal services appropriation on 86.7% of its appropriated FTE.

The Division of Real Estate has consistently used approximately seven fewer FTE than appropriated from FY 2008-09 through FY 2010-11, and used fewer in the years prior to FY 2008-09. However, the percentage chart suggests that the Division is very closely aligning its FTE and personal services expenditures, relative to appropriated amounts. The Division appears to be performing with less than 90 percent of its FTE and personal services appropriation.

The Division of Registrations appears to consistently fill its appropriated FTE, and appears to spend a few percentage points more in personal services appropriations. For FY 2010-11, the Division filled 96.9% of its authorized FTE and expended 99.7% of its personal services appropriation. What stands out in the Division's charts is its growth, likely a result of new, non-budget-initiated programs added by the General Assembly over the years.

The Division of Securities percentage chart shows a consistent expenditure of FTE and personal services appropriations. Similar to the OCC, with the exception of FY 2010-11, the Division has filled a greater percentage of its appropriated FTE than expended its personal services appropriation.

<u>FY 2011-12 Department Hearing Response</u>

For last year's budget hearing, the Department responded to addendum question 6, which required only a written response, regarding the difference between actual and appropriated FTE for FY 2008-09 and FY 2009-10, as follows (bold added for emphasis, bolding was not included in the Department's response):

> *Reverted FTE occur for two primary reasons.* ***First, the General Assembly does not appropriate a separate or centralized funding source for retirement and leave payouts, and so FTE must remain vacant to cover these costs each year.*** *This automatically creates the environment for FTE reversions in order to respect legislative FTE limits. Second, turnover and attrition recur each year. This requires time to be spent filling positions upon a departure, which also leads to FTE reversions. In some cases time spent searching for qualified candidates can be significant.*
>
> *The differential in most areas for FY 09-10 was greater than 5%. However, these reversions are partially attributable to the previous hiring freeze, internal efforts to be diligent stewards of state resources by carefully reviewing staffing plans in all areas of the Department, and also for reasons of recruitment difficulty. Through attrition, positions are regularly filled and become vacant, and this creates unused increments of FTE each year.* ***However, it would not be feasible to adjust Department appropriations to align with FY 09-10 actual FTE, because it would require the elimination of needed positions to perform the Department's statutory mission. Given the fact that there is no separate funding source for retirement and leave payouts, the Department would have to reduce not simply the number of positions created, but the actual usage of those positions as well in order to fund non-FTE related personal services costs.***

The Department suggests that one of its two primary reasons for leaving authorized FTE vacant is the lack of budget line item funding for retirement and leave payouts. According to the FY 2012-13 budget request, historical actual data for FY 2009-10, *Sick and Annual Leave Payouts* total $177,377, equal to 0.41 percent of the Department's total personal services actual expenditures of $42,978,748, and equal to 0.38 percent of the Department's total personal services appropriation of $45,974,084. While FY 2010-11, *Sick and Annual Leave Payouts* were higher, totaling $316,192, that budget item represented 0.74 percent of the Department's total personal services actual expenditures of $42,646,771, and 0.71 percent of the Department's total personal services appropriation of $44,678,832.

The Department's personal services reversion was $2,995,336 for FY 2009-10 and $2,032,061 for FY 2010-11. *Sick and Annual Leave Payouts* equal 5.9 and 15.6 percent of the respective years' total personal services reversions. While there is a variation over those two budget years, the scale of this budget item relative to the personal services budget does not appear to represent a substantial reason for the actual-appropriated disparity issue.

RECOMMENDATION:
Based on the legal memorandum of October 6, 2011, provided by the Office of Legislative Legal Services to the Joint Budget Committee, regarding the General Assembly's Control over FTEs, and included in the Compensation-Related Common Policy briefing on November 10, 2011:

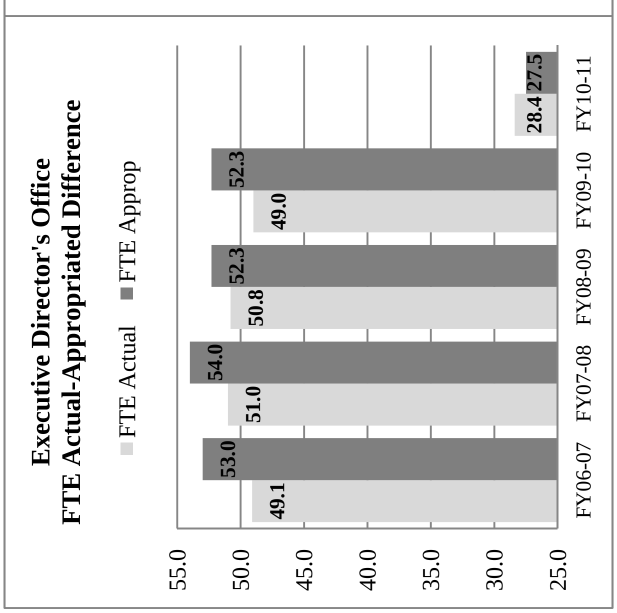
- The Governor has the power to determine the appropriate number of FTE, regardless of the number of FTE specified by the General Assembly in the long bill; and
- Pursuant to current statutory law and the Colorado Supreme Court's decisions, the General Assembly cannot limit or reduce a department's actual FTE through an FTE designation in the long bill.

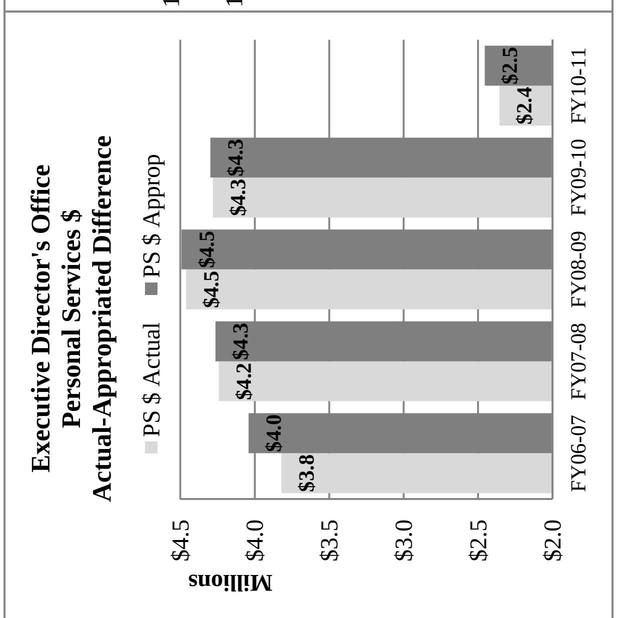
The Committee and the General Assembly have authority to address the personal services appropriation amount. The FTE numbers or allocations in the budget do not restrict the executive branch from using a different number of FTE, and, if anything, simply represents a measuring tool for budget and appropriations authority purposes.

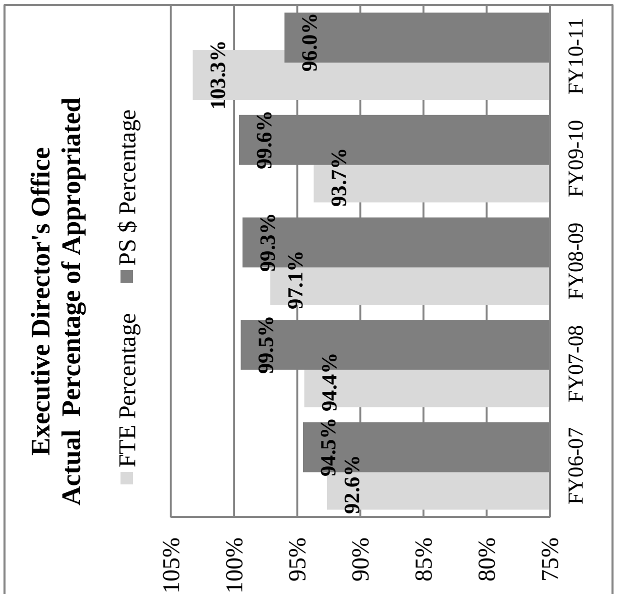
Therefore, regarding the consistently vacant, sometimes described or identified as *unfunded*, FTE in the Department's budget, it seems reasonable that the number of FTE recognized in the budget should be reduced to more closely align with the Department's actual usage. Resolving this disparity may provide additional clarity and transparency going forward, particularly when addressing decision item requests or appropriation amendments for additional resources.

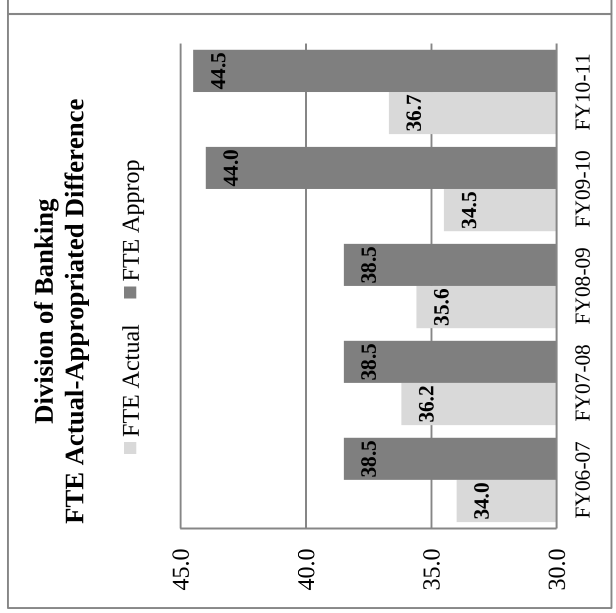
The Committee may also want to consider adjusting the personal services appropriations amount, particularly on a Division or program basis, as is considered in the figure-setting process, based to some extent on the number of consistently vacant FTE being eliminated. It appears that personal services expenditures as a percentage of appropriations are consistently higher than FTE usage. Nevertheless there appears to be some percentage of personal services appropriations consistently reverted, and in recognition of consistently vacant FTE in particular Divisions, it may be appropriate for the Committee to reduce personal services appropriations with that in mind.

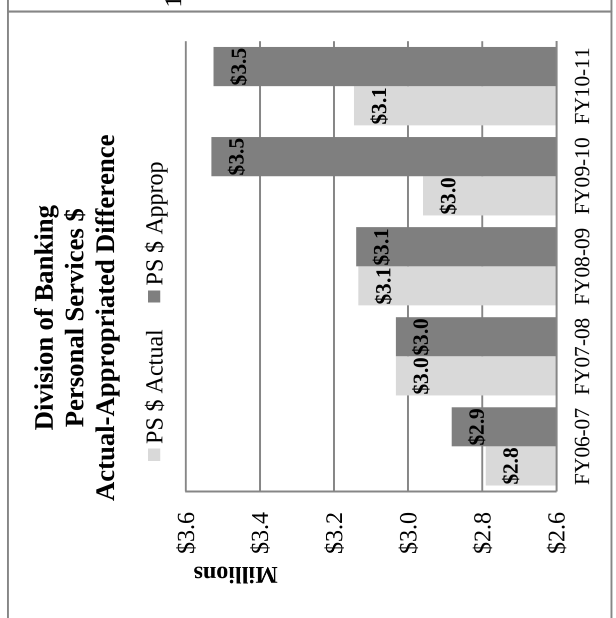
However as a first step, consistently vacant FTE should be eliminated from being recognized in the budget in order to align with the executive branch's actual usage.

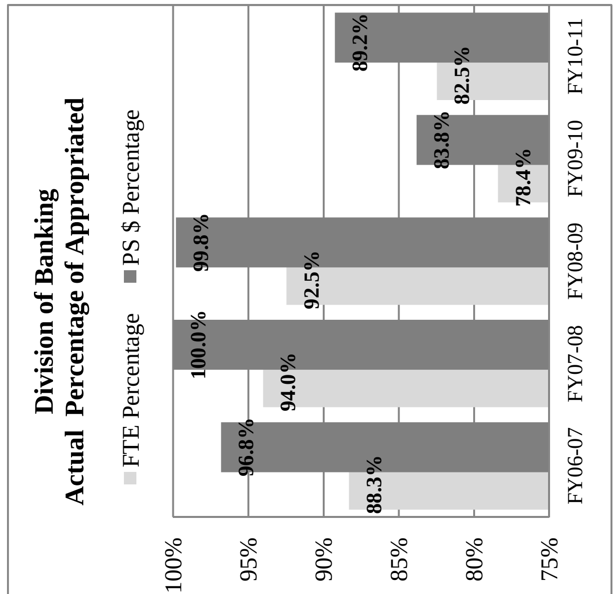

Executive Director's Office
FTE Actual-Appropriated Difference
FTE Actual
FTE Approp
49.1
53.0
51.0
54.0
50.8
52.3
49.0
52.3
28.4
27.5
FY06-07
FY07-08
FY08-09
FY09-10
FY10-11

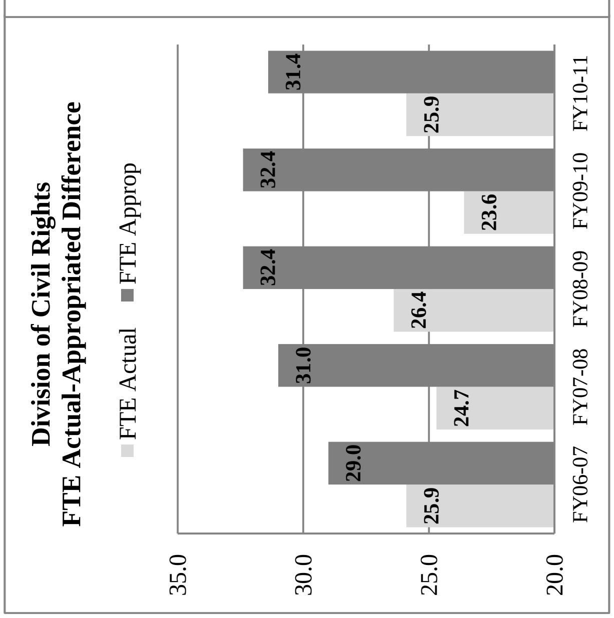

Executive Director's Office
Personal Services $
Actual-Appropriated Difference
PS $ Actual
PS $ Approp
Millions
$3.8
$4.0
$4.2
$4.3
$4.5
$4.5
$4.3
$4.3
$2.4
$2.5
FY06-07
FY07-08
FY08-09
FY09-10
FY10-11

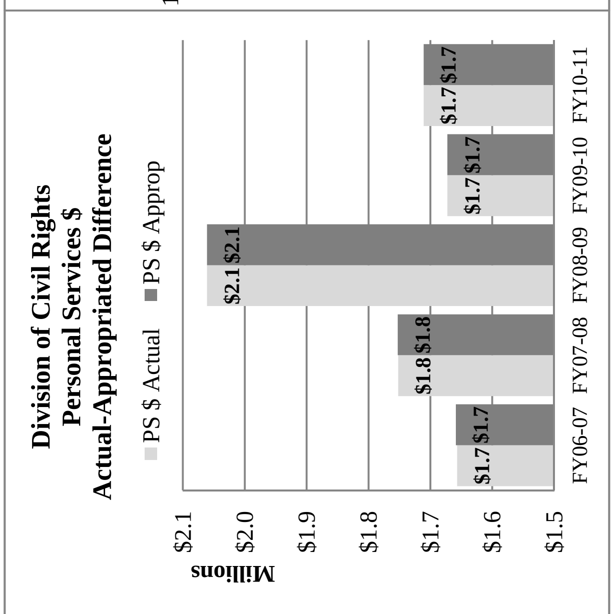

Executive Director's Office
Actual Percentage of Appropriated
FTE Percentage
PS $ Percentage
92.6%
94.5%
94.4%
99.5%
97.1%
99.3%
93.7%
99.6%
103.3%
96.0%
FY06-07
FY07-08
FY08-09
FY09-10
FY10-11

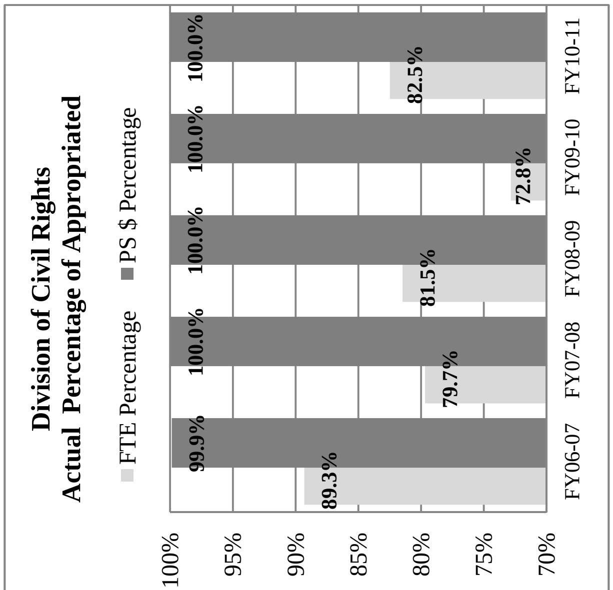

Division of Banking
FTE Actual-Appropriated Difference
FTE Actual
FTE Approp
34.0
38.5
36.2
38.5
35.6
38.5
34.5
44.0
36.7
44.5
FY06-07
FY07-08
FY08-09
FY09-10
FY10-11

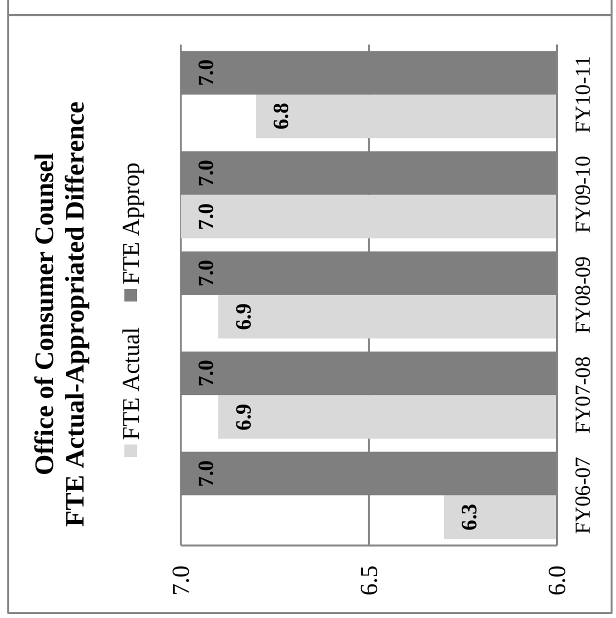

Division of Banking
Personal Services $
Actual-Appropriated Difference
PS $ Actual
PS $ Approp
Millions
$2.8
$2.9
$3.0
$3.0
$3.1
$3.1
$3.0
$3.5
$3.1
$3.5
FY06-07
FY07-08
FY08-09
FY09-10
FY10-11

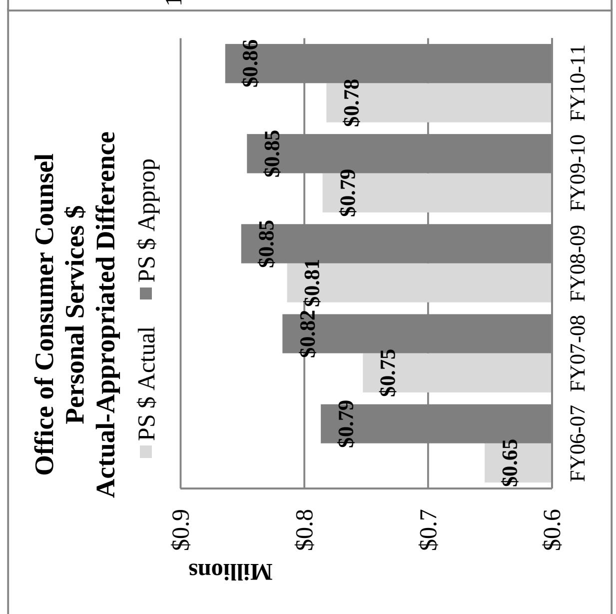

Division of Banking
Actual Percentage of Appropriated
FTE Percentage
PS $ Percentage
88.3%
96.8%
94.0%
100.0%
92.5%
99.8%
78.4%
83.8%
82.5%
89.2%
FY06-07
FY07-08
FY08-09
FY09-10
FY10-11

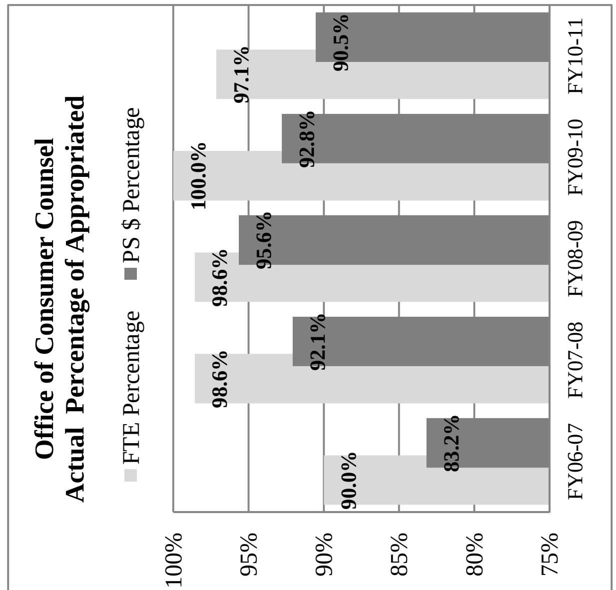

Division of Civil Rights
FTE Actual-Appropriated Difference
FTE Actual
FTE Approp
35.0
30.0
25.0
20.0
25.9
29.0
24.7
31.0
26.4
32.4
23.6
32.4
25.9
31.4
FY06-07
FY07-08
FY08-09
FY09-10
FY10-11


Division of Civil Rights
Personal Services $
Actual-Appropriated Difference
PS $ Actual
PS $ Approp
Millions
$2.1
$2.0
$1.9
$1.8
$1.7
$1.6
$1.5
$1.7 $1.7
$1.8 $1.8
$2.1 $2.1
$1.7 $1.7
$1.7 $1.7
FY06-07
FY07-08
FY08-09
FY09-10
FY10-11


Division of Civil Rights
Actual Percentage of Appropriated
FTE Percentage
PS $ Percentage
100%
95%
90%
85%
80%
75%
70%
89.3%
99.9%
79.7%
100.0%
81.5%
100.0%
72.8%
100.0%
82.5%
100.0%
FY06-07
FY07-08
FY08-09
FY09-10
FY10-11


Office of Consumer Counsel
FTE Actual-Appropriated Difference
FTE Actual
FTE Approp
7.0
6.5
6.0
6.3
7.0
6.9
7.0
6.9
7.0
7.0
7.0
6.8
7.0
FY06-07
FY07-08
FY08-09
FY09-10
FY10-11


Office of Consumer Counsel
Personal Services $
Actual-Appropriated Difference
PS $ Actual
PS $ Approp
Millions
$0.9
$0.8
$0.7
$0.6
$0.65
$0.79
$0.75
$0.82
$0.81
$0.85
$0.79
$0.85
$0.78
$0.86
FY06-07
FY07-08
FY08-09
FY09-10
FY10-11


Office of Consumer Counsel
Actual Percentage of Appropriated
FTE Percentage
PS $ Percentage
100%
95%
90%
85%
80%
75%
90.0%
83.2%
98.6%
92.1%
98.6%
95.6%
100.0%
92.8%
97.1%
90.5%
FY06-07
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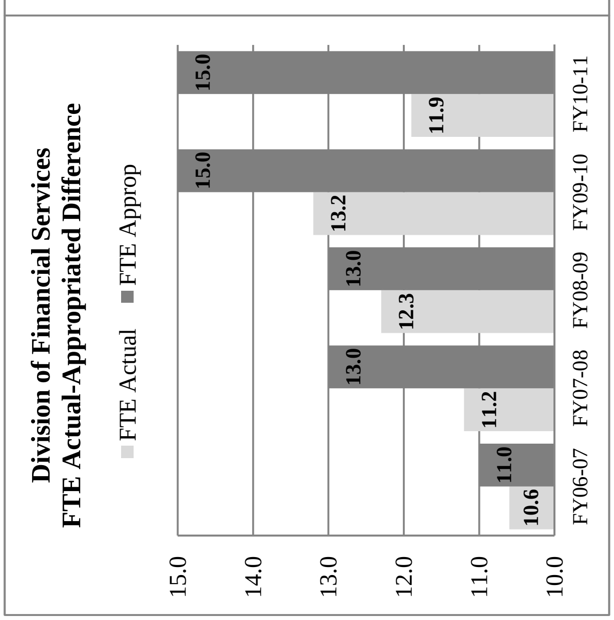
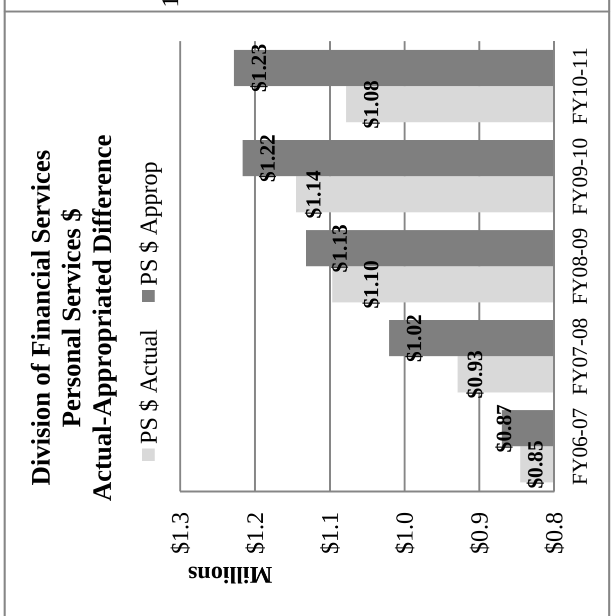
FY09-10
FY10-11


Division of Financial Services
FTE Actual-Appropriated Difference
FTE Actual
FTE Approp
15.0
14.0
13.0
12.0
11.0
10.0
10.6
11.0
11.2
13.0
12.3
13.0
13.2
15.0
11.9
15.0
FY06-07
FY07-08
FY08-09
FY09-10
FY10-11


Division of Financial Services
Personal Services $
Actual-Appropriated Difference
PS $ Actual
PS $ Approp
Millions
$1.3
$1.2
$1.1
$1.0
$0.9
$0.8
$0.85
$0.87
$0.93
$1.02
$1.10
$1.13
$1.14
$1.22
$1.08
$1.23
FY06-07
FY07-08
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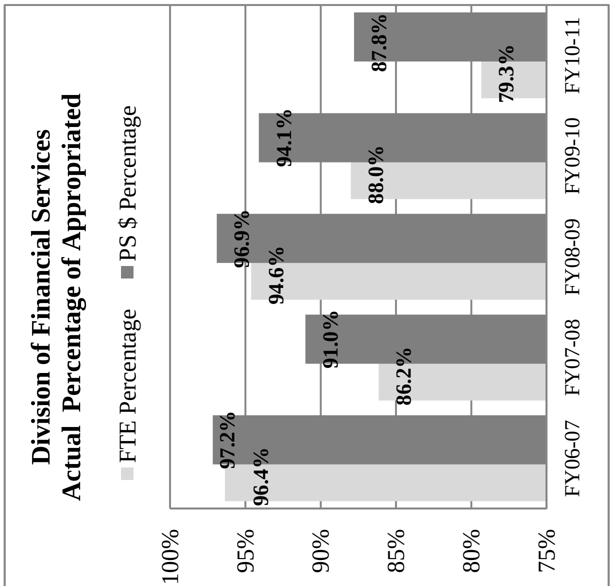
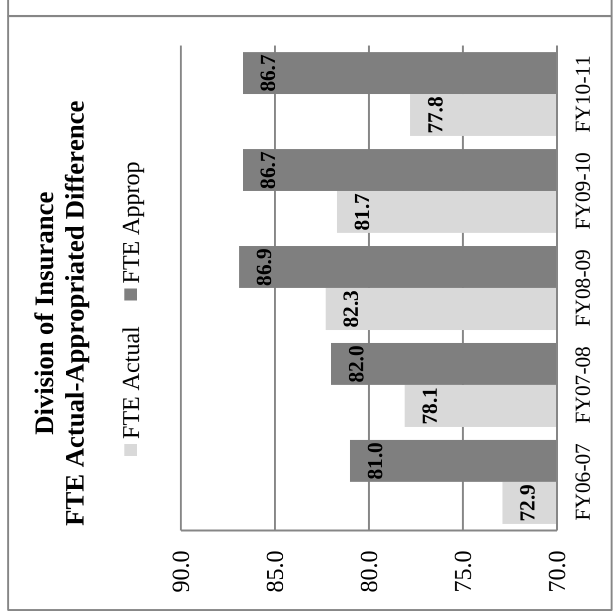
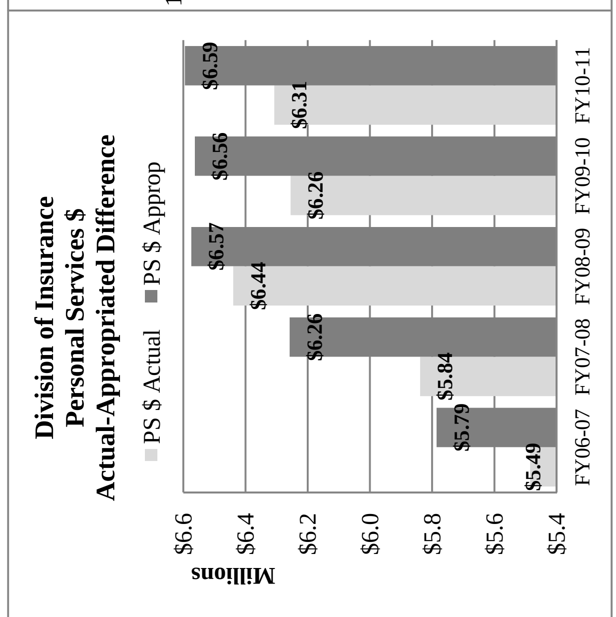
FY09-10
FY10-11


Division of Financial Services
Actual Percentage of Appropriated
FTE Percentage
PS $ Percentage
100%
95%
90%
85%
80%
75%
96.4%
97.2%
86.2%
91.0%
94.6%
96.9%
88.0%
94.1%
79.3%
87.8%
FY06-07
FY07-08
FY08-09
FY09-10
FY10-11


Division of Insurance
FTE Actual-Appropriated Difference
FTE Actual
FTE Approp
90.0
85.0
80.0
75.0
70.0
72.9
81.0
78.1
82.0
82.3
86.9
81.7
86.7
77.8
86.7
FY06-07
FY07-08
FY08-09
FY09-10
FY10-11


Division of Insurance
Personal Services $
Actual-Appropriated Difference
PS $ Actual
PS $ Approp
Millions
$6.6
$6.4
$6.2
$6.0
$5.8
$5.6
$5.4
$5.49
$5.79
$5.84
$6.26
$6.44
$6.57
$6.26
$6.56
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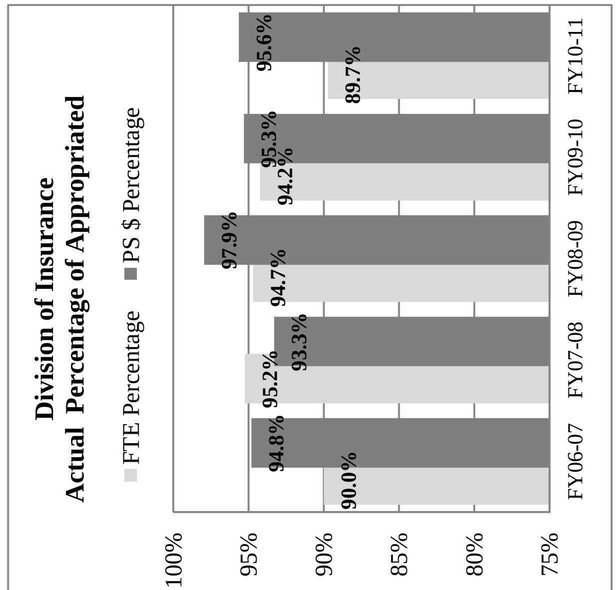
FY09-10
FY10-11


Division of Insurance
Actual Percentage of Appropriated
FTE Percentage
PS $ Percentage
100%
95%
90%
85%
80%
75%
90.0%
94.8%
95.2%
93.3%
94.7%
97.9%
94.2%
95.3%
89.7%
95.6%
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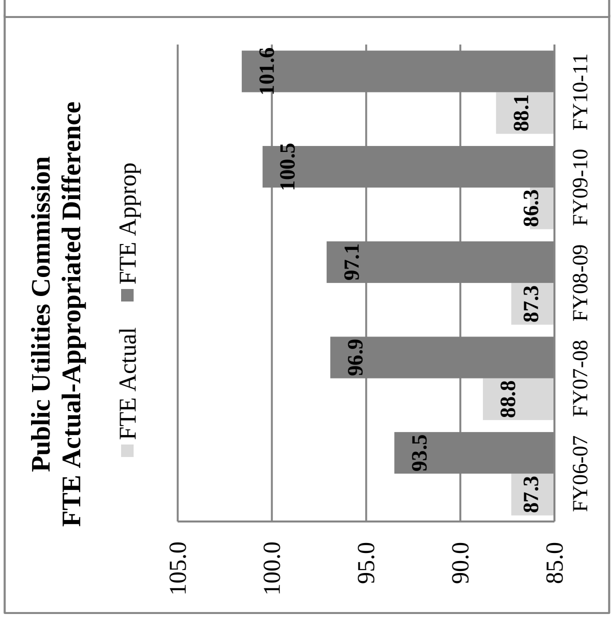
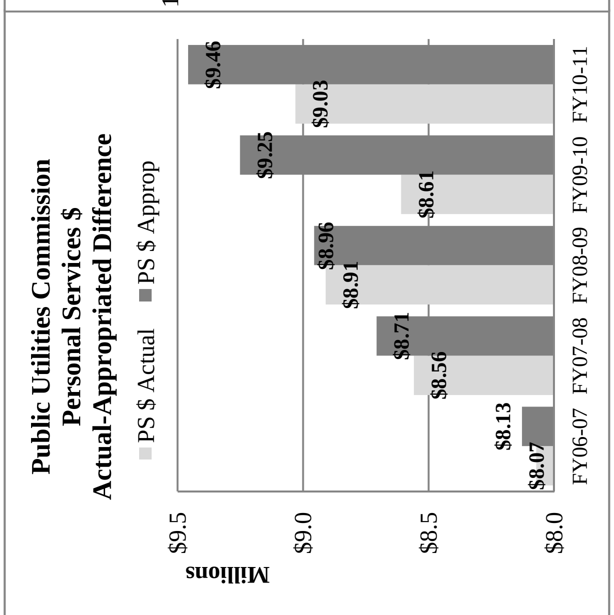
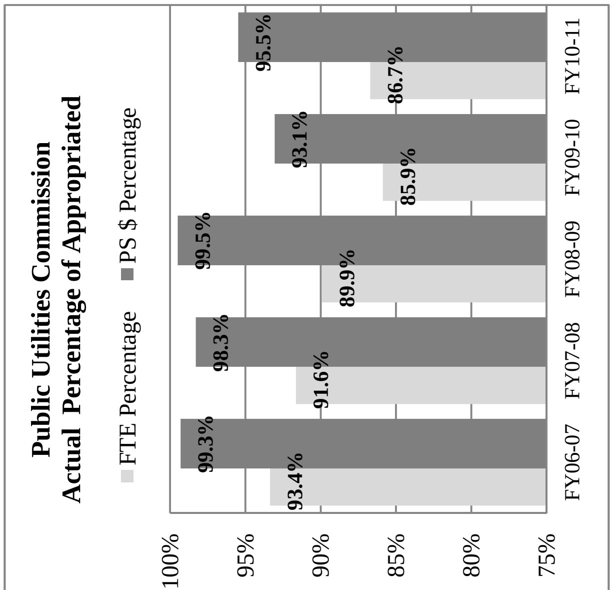
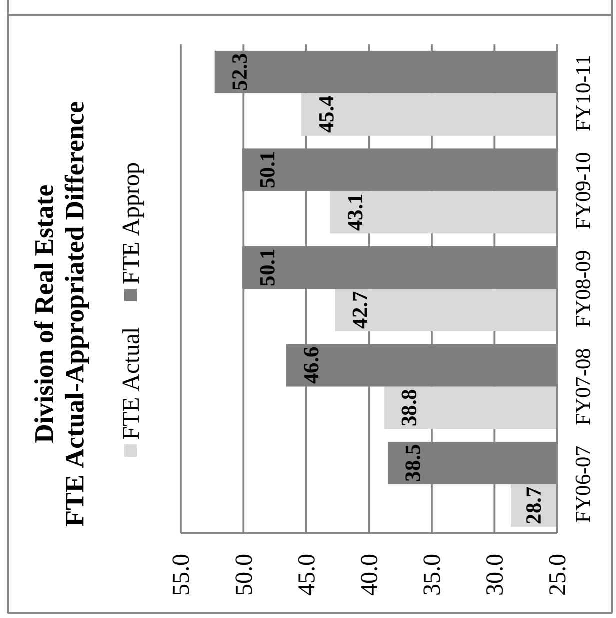
FY09-10
FY10-11


Public Utilities Commission
FTE Actual-Appropriated Difference
FTE Actual
FTE Approp
105.0
100.0
95.0
90.0
85.0
87.3
93.5
88.8
96.9
87.3
97.1
86.3
100.5
88.1
101.6
FY06-07
FY07-08
FY08-09
FY09-10
FY10-11


Public Utilities Commission
Personal Services $
Actual-Appropriated Difference
PS $ Actual
PS $ Approp
Millions
$9.5
$9.0
$8.5
$8.0
$8.07
$8.13
$8.56
$8.71
$8.91
$8.96
$8.61
$9.25
$9.03
$9.46
FY06-07
FY07-08
FY08-09
FY09-10
FY10-11


Public Utilities Commission
Actual Percentage of Appropriated
FTE Percentage
PS $ Percentage
100%
95%
90%
85%
80%
75%
93.4%
99.3%
91.6%
98.3%
89.9%
99.5%
85.9%
93.1%
86.7%
95.5%
FY06-07
FY07-08
FY08-09
FY09-10
FY10-11


Division of Real Estate
FTE Actual-Appropriated Difference
FTE Actual
FTE Approp
55.0
50.0
45.0
40.0
35.0
30.0
25.0
28.7
38.5
38.8
46.6
42.7
50.1
43.1
50.1
45.4
52.3
FY06-07
FY07-08
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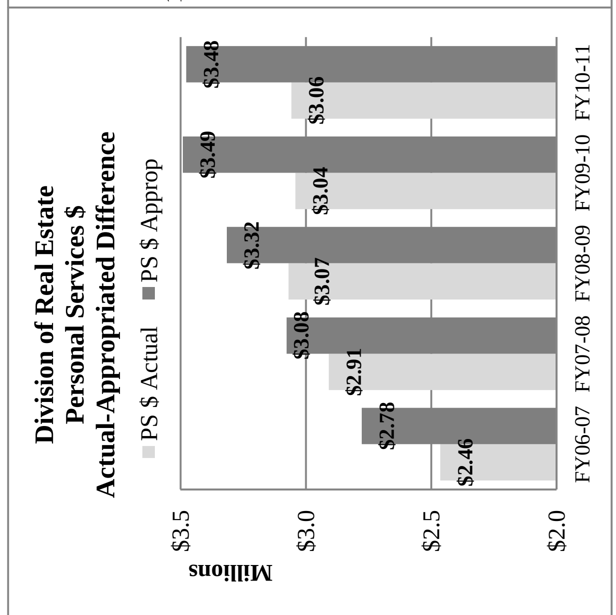
FY09-10
FY10-11


Division of Real Estate
Personal Services $
Actual-Appropriated Difference
PS $ Actual
PS $ Approp
Millions
$3.5
$3.0
$2.5
$2.0
$2.46
$2.78
$2.91
$3.08
$3.07
$3.32
$3.04
$3.49
$3.06
$3.48
FY06-07
FY07-08
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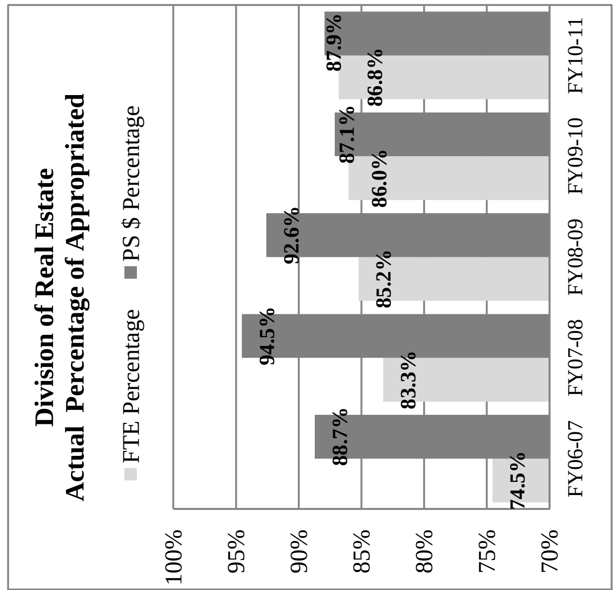
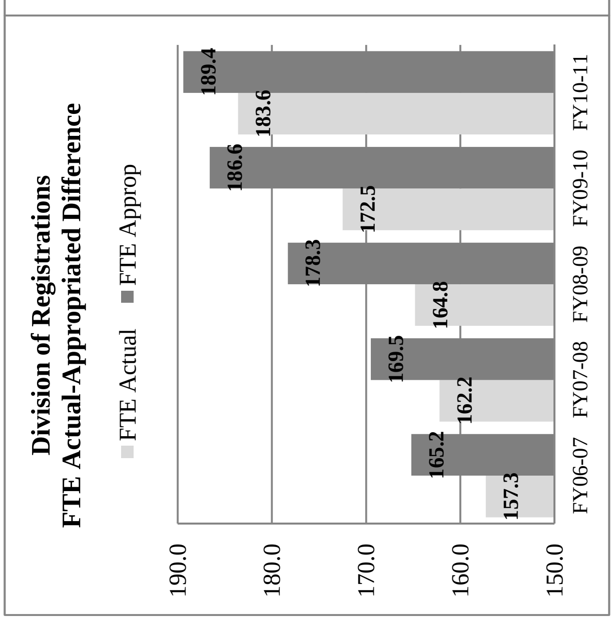
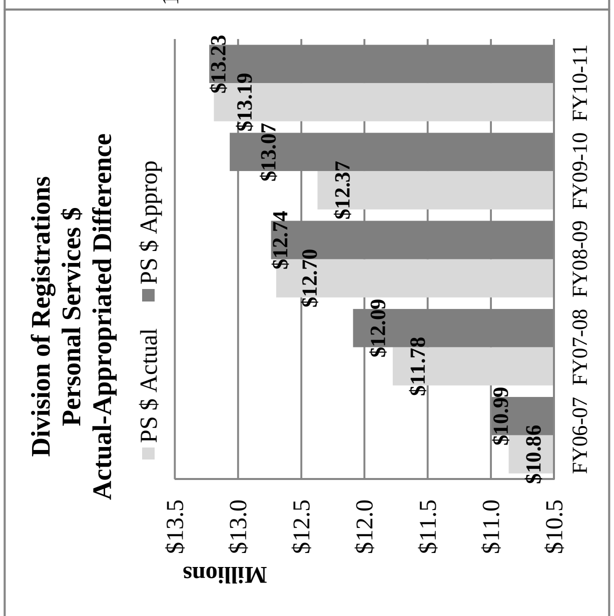
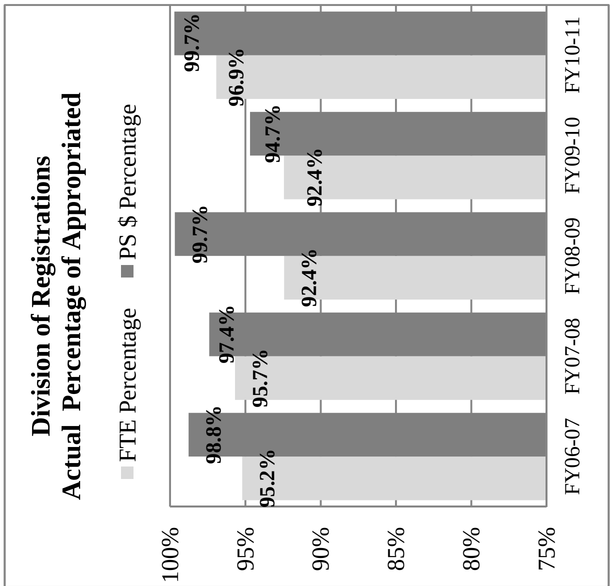
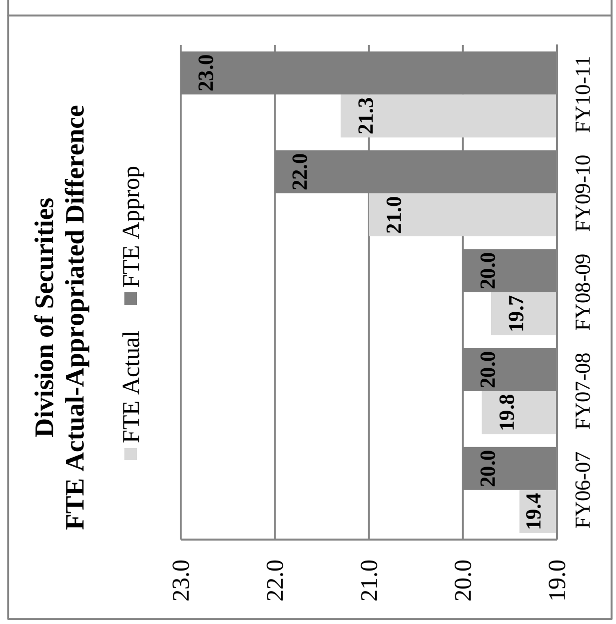
FY09-10
FY10-11

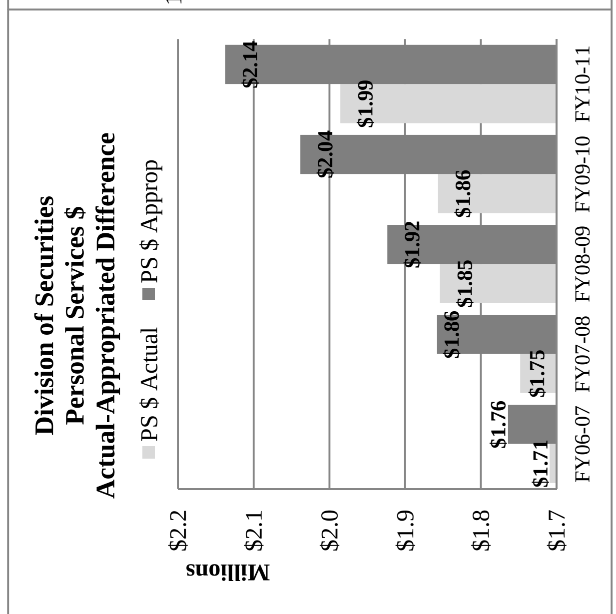

Division of Real Estate
Actual Percentage of Appropriated
FTE Percentage
PS $ Percentage
100%
95%
90%
85%
80%
75%
70%
74.5%
88.7%
83.3%
94.5%
85.2%
92.6%
86.0%
87.1%
86.8%
87.9%
FY06-07
FY07-08
FY08-09
FY09-10
FY10-11

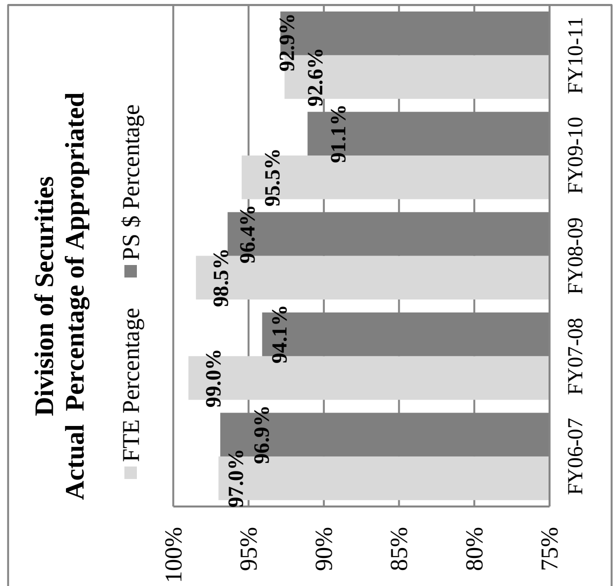

Division of Registrations
FTE Actual-Appropriated Difference
FTE Actual
FTE Approp
190.0
180.0
170.0
160.0
150.0
157.3
165.2
162.2
169.5
164.8
178.3
172.5
186.6
183.6
189.4
FY06-07
FY07-08
FY08-09
FY09-10
FY10-11


Division of Registrations
Personal Services $
Actual-Appropriated Difference
PS $ Actual
PS $ Approp
Millions
$13.5
$13.0
$12.5
$12.0
$11.5
$11.0
$10.5
$10.86
$10.99
$11.78
$12.09
$12.70
$12.74
$12.37
$13.07
$13.19
$13.23
FY06-07
FY07-08
FY08-09
FY09-10
FY10-11


Division of Registrations
Actual Percentage of Appropriated
FTE Percentage
PS $ Percentage
100%
95%
90%
85%
80%
75%
95.2%
98.8%
95.7%
97.4%
92.4%
99.7%
92.4%
94.7%
96.9%
99.7%
FY06-07
FY07-08
FY08-09
FY09-10
FY10-11


Division of Securities
FTE Actual-Appropriated Difference
FTE Actual
FTE Approp
23.0
22.0
21.0
20.0
19.0
19.4
20.0
19.8
20.0
19.7
20.0
21.0
22.0
21.3
23.0
FY06-07
FY07-08
FY08-09
FY09-10
FY10-11


Division of Securities
Personal Services $
Actual-Appropriated Difference
PS $ Actual
PS $ Approp
Millions
$2.2
$2.1
$2.0
$1.9
$1.8
$1.7
$1.71
$1.76
$1.75
$1.86
$1.85
$1.92
$1.86
$2.04
$1.99
$2.14
FY06-07
FY07-08
FY08-09
FY09-10
FY10-11


Division of Securities
Actual Percentage of Appropriated
FTE Percentage
PS $ Percentage
100%
95%
90%
85%
80%
75%
97.0%
96.9%
99.0%
94.1%
98.5%
96.4%
95.5%
91.1%
92.6%
92.9%
FY06-07
FY07-08
FY08-09
FY09-10
FY10-11

	FY 2009-10 Actual	FY 2010-11 Actual	FY 2011-12 Appropriation	FY 2012-13 Request	Request vs. Appropriation

DEPARTMENT OF REGULATORY AGENCIES
Barbara Kelley, Executive Director

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

	FY 2009-10 Actual	FY 2010-11 Actual	FY 2011-12 Appropriation	FY 2012-13 Request	Request vs. Appropriation
Personal Services	4,022,230	2,141,818	2,207,730	2,254,768	
FTE	49.0	28.4	27.5	27.5	
General Fund	15,619	0	3,500	3,500	
Cash Funds	25,500	0	29,000	29,000	
Reappropriated Funds	3,981,111	2,141,818	2,175,230	2,222,268	
Health, Life, and Dental	2,878,828	2,633,444	2,873,888	2,957,012	*
General Fund	92,248	89,650	92,463	104,395	
Cash Funds	2,200,431	2,362,286	2,596,890	2,658,390	
Reappropriated Funds	542,780	181,508	157,668	147,996	
Federal Funds	43,369	0	26,867	46,231	
Short-term Disability	48,080	49,782	56,574	60,597	*
General Fund	1,113	1,730	1,956	1,975	
Cash Funds	41,117	44,915	49,889	54,427	
Reappropriated Funds	5,401	3,137	4,325	3,502	
Federal Funds	449	0	404	693	
S.B. 04-257 Amortization Equalization Disbursement	623,700	767,991	880,361	1,095,520	*
General Fund	14,244	26,415	30,573	35,706	
Cash Funds	539,181	693,014	789,205	983,984	
Reappropriated Funds	70,275	48,562	54,187	63,307	
Federal Funds	0	0	6,396	12,523	

*This line item includes a decision item.

	FY 2009-10 Actual	FY 2010-11 Actual	FY 2011-12 Appropriation	FY 2012-13 Request	Request vs. Appropriation
S.B. 06-235 Supplemental Amortization Equalization Disbursement	**389,309**	**559,808**	**707,267**	**941,462**	*
General Fund	8,719	19,067	24,403	30,685	
Cash Funds	336,721	505,331	634,182	845,611	
Reappropriated Funds	43,869	35,410	43,543	54,404	
Federal Funds	0	0	5,139	10,762	
Workers' Compensation	**74,629**	**80,268**	**70,066**	**76,436**	*
General Fund	2,825	2,850	2,328	2,538	
Cash Funds	67,940	72,476	64,296	70,145	
Reappropriated Funds	2,571	4,942	2,337	2,548	
Federal Funds	1,293	0	1,105	1,205	
Operating Expenses	**188,850**	**131,851**	**210,344**	**210,344**	
General Fund	3,689	0	3,689	3,689	
Cash Funds	74,164	23,238	95,427	95,427	
Reappropriated Funds	110,997	108,613	111,228	111,228	
Legal Services	**7,616,109**	**7,877,947**	**8,088,494**	**7,896,902**	
General Fund	152,809	148,721	153,464	153,464	
Cash Funds	7,324,753	7,081,789	7,759,646	7,570,989	
Reappropriated Funds	138,547	647,437	30,433	30,433	
Federal Funds	0	0	144,951	142,016	
Administrative Law Judge Services	**324,818**	**300,459**	**405,007**	**287,849**	*
General Fund	14,964	13,842	18,658	13,261	
Cash Funds	309,854	286,617	386,349	274,588	

*This line item includes a decision item.

FY 2012-13 Joint Budget Committee Staff Budget Briefing
Department of Regulatory Agencies
Appendix A: Numbers Pages

	FY 2009-10 Actual	FY 2010-11 Actual	FY 2011-12 Appropriation	FY 2012-13 Request	Request vs. Appropriation
Purchase of Services from Computer Center	**48,916**	**1,484,641**	**1,695,122**	**1,818,880**	*
General Fund	0	24,265	60,624	64,934	
Cash Funds	0	1,371,730	1,634,498	1,753,946	
Reappropriated Funds	48,916	88,646	0	0	
Multiuse Network Payments	**0**	**127,783**	**149,825**	**328,794**	*
General Fund	0	4,625	5,385	11,738	
Cash Funds	0	112,232	144,440	317,056	
Reappropriated Funds	0	10,926	0	0	
Management and Administration of OIT	**60,444**	**139,117**	**278,679**	**131,988**	*
General Fund	1,376	2,574	9,957	4,712	
Cash Funds	49,277	122,801	268,722	127,276	
Reappropriated Funds	9,246	13,742	0	0	
Federal Funds	545	0	0	0	
Payment to Risk Management and Property Funds	**90,734**	**27,792**	**106,459**	**129,003**	*
General Fund	3,286	987	3,537	4,281	
Cash Funds	73,272	25,094	97,694	118,394	
Reappropriated Funds	12,179	1,711	3,550	4,297	
Federal Funds	1,997	0	1,678	2,031	
Vehicle Lease Payments	**191,507**	**205,660**	**151,802**	**221,254**	*
Cash Funds	191,507	205,660	151,802	221,254	
Information Technology Asset Maintenance	**586,737**	**668,485**	**671,403**	**671,403**	
Cash Funds	398,480	478,227	480,646	480,646	
Reappropriated Funds	188,257	190,258	190,757	190,757	

*This line item includes a decision item.

	FY 2009-10 Actual	FY 2010-11 Actual	FY 2011-12 Appropriation	FY 2012-13 Request		Request vs. Appropriation
Leased Space	**2,839,367**	**2,791,912**	**3,038,518**	**3,038,518**		
General Fund	99,836	96,132	106,866	106,866		
Cash Funds	2,285,655	2,262,957	2,536,022	2,536,022		
Reappropriated Funds	453,876	432,823	356,190	356,190		
Federal Funds	0	0	39,440	39,440		
Capitol Complex Leased Space	**6,325**	**6,358**	**6,098**	**5,585**	*	
Cash Funds	6,325	6,358	6,098	5,585		
Hardware/Software Maintenance	**872,377**	**690,689**	**805,010**	**686,330**		
General Fund	800	0	800	800		
Cash Funds	613,822	433,268	545,608	426,928		
Reappropriated Funds	257,755	257,421	258,602	258,602		
Consumer Outreach/Education Program	**193,834**	**200,000**	**200,000**	**200,000**		
Cash Funds	193,834	200,000	200,000	200,000		
Total Funds - (1) Executive Director's Office and Administrative Services	**21,056,794**	**20,885,805**	**22,602,647**	**23,012,645**		**1.8%**
FTE	**49.0**	**28.4**	**27.5**	**27.5**		**0.0%**
General Fund	411,528	430,858	518,203	542,544		4.7%
Cash Funds	14,731,833	16,287,993	18,470,414	18,769,668		1.6%
Reappropriated Funds	5,865,780	4,166,954	3,388,050	3,445,532		1.7%
Federal Funds	47,653	0	225,980	254,901		12.8%

*This line item includes a decision item.

	FY 2009-10 Actual	FY 2010-11 Actual	FY 2011-12 Appropriation	FY 2012-13 Request	Request vs. Appropriation
(2) DIVISION OF BANKING					

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

	FY 2009-10 Actual	FY 2010-11 Actual	FY 2011-12 Appropriation	FY 2012-13 Request	Request vs. Appropriation
Personal Services	**2,703,233**	**2,860,656**	**3,552,422**	**3,612,383**	
FTE	34.5	36.7	47.5	47.5	
Cash Funds	2,703,233	2,860,656	3,552,422	3,612,383	
Operating Expenses	**411,694**	**432,187**	**506,387**	**490,703**	
Cash Funds	411,694	432,187	506,387	490,703	
Board Meeting Costs	**21,876**	**19,167**	**23,500**	**23,500**	
Cash Funds	21,876	19,167	23,500	23,500	
Indirect Cost Assessment	**513,677**	**309,464**	**315,930**	**315,930**	
Cash Funds	513,677	309,464	315,930	315,930	
Total Funds - (2) Division of Banking	**3,650,480**	**3,621,474**	**4,398,239**	**4,442,516**	**1.0%**
FTE	**34.5**	**36.7**	**47.5**	**47.5**	**0.0%**
Cash Funds	3,650,480	3,621,474	4,398,239	4,442,516	1.0%

*This line item includes a decision item.

	FY 2009-10 Actual	FY 2010-11 Actual	FY 2011-12 Appropriation	FY 2012-13 Request	Request vs. Appropriation
(3) CIVIL RIGHTS DIVISION					
The Civil Rights Division enforces state laws that prohibit discrimination in employment, housing, and public accommodations on the basis of race, sex (gender), national origin, ancestry, physical or mental disability, religion, color, marital status, or sexual orientation.					
Personal Services	**1,556,303**	**1,574,017**	**1,580,295**	**1,609,144**	
FTE	23.6	25.9	31.4	31.4	
General Fund	960,212	945,538	999,488	1,023,546	
Reappropriated Funds	272,752	297,629	232,343	232,343	
Federal Funds	323,339	330,850	348,464	353,255	
Operating Expenses	**68,224**	**85,637**	**100,438**	**100,438**	
General Fund	63,336	59,318	59,318	59,318	
Federal Funds	4,888	26,319	41,120	41,120	
Hearings Pursuant to Complaint	**17,000**	**17,000**	**18,000**	**18,000**	
General Fund	17,000	17,000	17,000	17,000	
Federal Funds	0	0	1,000	1,000	
Commission Meeting Costs	**5,174**	**5,168**	**12,374**	**12,374**	
General Fund	5,174	5,168	5,174	5,174	
Federal Funds	0	0	7,200	7,200	
Indirect Cost Assessment	**37,208**	**33,295**	**51,798**	**51,798**	
Federal Funds	37,208	33,295	51,798	51,798	
Total Funds - (3) Civil Rights Division	**1,683,909**	**1,715,117**	**1,762,905**	**1,791,754**	**1.6%**
FTE	**23.6**	**25.9**	**31.4**	**31.4**	**0.0%**
General Fund	1,045,722	1,027,024	1,080,980	1,105,038	2.2%
Reappropriated Funds	272,752	297,629	232,343	232,343	0.0%

*This line item includes a decision item.

	FY 2009-10 Actual	FY 2010-11 Actual	FY 2011-12 Appropriation	FY 2012-13 Request	Request vs. Appropriation
(4) OFFICE OF CONSUMER COUNSEL					
The Office of Consumer Counsel represents the interests of residential, agricultural and small business consumers at electric, gas, and telecommunications utility rate and service proceedings before the Public Utility Commission. The Division is cash funded by the Public Utilities Commission Fixed Utility Fund pursuant to section 40-2-114, C.R.S.					
Personal Services	**723,873**	**708,610**	**778,171**	**792,953**	
FTE	7.0	6.8	7.0	7.0	
Cash Funds	723,873	708,610	778,171	792,953	
Operating Expenses	**41,802**	**48,022**	**55,787**	**55,787**	
Cash Funds	41,802	48,022	55,787	55,787	
Indirect Cost Assessment	**76,032**	**49,233**	**46,558**	**46,558**	
Cash Funds	76,032	49,233	46,558	46,558	
Total Funds - (4) Office of Consumer Counsel	**841,707**	**805,865**	**880,516**	**895,298**	**1.7%**
FTE	**7.0**	**6.8**	**7.0**	**7.0**	**0.0%**
Cash Funds	841,707	805,865	880,516	895,298	1.7%
(5) DIVISION OF FINANCIAL SERVICES					
The Division of Financial Services regulates state-chartered credit unions, savings and loans, and life care institutions; and conducts examinations of institutions to ensure continued compliance with regulatory standards. The Division is entirely cash funded by the Division of Financial Services Cash Fund pursuant to section 11-40-106 (2), C.R.S.					
Personal Services	**1,048,009**	**978,162**	**1,109,414**	**1,134,247**	
FTE	13.2	11.9	15.0	15.0	
Cash Funds	1,048,009	978,162	1,109,414	1,134,247	

*This line item includes a decision item.

	FY 2009-10 Actual	FY 2010-11 Actual	FY 2011-12 Appropriation	FY 2012-13 Request	Request vs. Appropriation
Operating Expenses	**129,434**	**95,719**	**161,788**	**161,788**	
Cash Funds	129,434	95,719	161,788	161,788	
Indirect Cost Assessment	**162,927**	**105,499**	**99,767**	**99,767**	
Cash Funds	162,927	105,499	99,767	99,767	
Total Funds - (5) Division of Financial Services	**1,340,370**	**1,179,380**	**1,370,969**	**1,395,802**	**1.8%**
FTE	**13.2**	**11.9**	**15.0**	**15.0**	**0.0%**
Cash Funds	1,340,370	1,179,380	1,370,969	1,395,802	1.8%

(6) DIVISION OF INSURANCE

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

	FY 2009-10 Actual	FY 2010-11 Actual	FY 2011-12 Appropriation	FY 2012-13 Request	Request vs. Appropriation
Personal Services	**5,700,543**	**5,762,069**	**5,659,555**	**5,787,409**	
FTE	81.7	77.8	84.7	84.7	
Cash Funds	5,700,543	5,762,069	5,657,035	5,787,409	
Federal Funds	0	0	2,520	0	
Operating Expenses	**373,227**	**305,487**	**291,716**	**291,716**	
Cash Funds	373,227	305,487	291,716	291,716	
Out-of-State Travel Expenses	**0**	**0**	**100,000**	**100,000**	
Cash Funds	0	0	100,000	100,000	

*This line item includes a decision item.

	FY 2009-10 Actual	FY 2010-11 Actual	FY 2011-12 Appropriation	FY 2012-13 Request	Request vs. Appropriation
Senior Health Counseling Program	**869,262**	**869,262**	**507,838**	**509,000**	
FTE			2.0	2.0	
Federal Funds	869,262	869,262	507,838	509,000	
Transfer to CAPCO Administration	**79,196**	**79,593**	**80,281**	**80,281**	
Cash Funds	79,196	79,593	80,281	80,281	
Indirect Cost Assessment	**911,898**	**613,227**	**571,561**	**571,561**	
Cash Funds	911,898	613,227	563,353	563,353	
Federal Funds	0	0	8,208	8,208	
Insurance Fraud Prosecution	**830,262**	**0**	**0**	**0**	
Cash Funds	830,262	0	0	0	
Total Funds - (6) Division of Insurance	**8,764,388**	**7,629,638**	**7,210,951**	**7,339,967**	**1.8%**
FTE	**81.7**	**77.8**	**86.7**	**86.7**	**0.0%**
Cash Funds	7,895,126	6,760,376	6,692,385	6,822,759	1.9%
Federal Funds	869,262	869,262	518,566	517,208	(0.3%)

*This line item includes a decision item.

	FY 2009-10 Actual	FY 2010-11 Actual	FY 2011-12 Appropriation	FY 2012-13 Request	Request vs. Appropriation

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

	FY 2009-10 Actual	FY 2010-11 Actual	FY 2011-12 Appropriation	FY 2012-13 Request	Request vs. Appropriation
Personal Services	**7,937,847**	**8,323,065**	**8,570,623**	**8,759,799**	
FTE	86.3	88.1	101.1	101.1	
Cash Funds	7,937,847	8,323,065	8,570,623	8,759,799	
Operating Expenses	**453,045**	**430,361**	**445,689**	**445,689**	
Cash Funds	453,045	430,361	445,689	445,689	
Expert Testimony	**25,000**	**24,450**	**25,000**	**25,000**	
Cash Funds	25,000	24,450	25,000	25,000	
Disabled Telephone Users Fund Payments	**2,009,738**	**1,890,099**	**2,439,591**	**2,439,591**	
Cash Funds	2,009,738	1,890,099	2,439,591	2,439,591	
Transfer to Reading Services for the Blind Cash Fund	**250,000**	**250,000**	**250,000**	**250,000**	
Cash Funds	250,000	250,000	250,000	250,000	
Commission for the Deaf and Hard of Hearing Cash Fund	**730,626**	**910,190**	**873,778**	**878,964**	
Cash Funds	730,626	910,190	873,778	878,964	
Colorado Commission for Individuals who are Blind or Visually Impaired	**98,822**	**98,089**	**111,002**	**112,067**	
Cash Funds	98,822	98,089	111,002	112,067	
Low Income Telephone Assistance	**1,094,729**	**253,580**	**2,143,752**	**2,143,752**	
Cash Funds	1,094,729	253,580	2,143,752	2,143,752	

*This line item includes a decision item.

	FY 2009-10 Actual	FY 2010-11 Actual	FY 2011-12 Appropriation	FY 2012-13 Request	Request vs. Appropriation
Colorado Bureau of Investigation Background Checks Pass-through	**46,649**	**66,795**	**67,128**	**104,377**	
Cash Funds	46,649	66,795	67,128	104,377	
Indirect Cost Assessment	**1,095,953**	**706,846**	**672,432**	**672,432**	
Cash Funds	1,095,953	706,846	672,432	672,432	
Total Funds - (7) Public Utilities Commission	**13,742,409**	**12,953,475**	**15,598,995**	**15,831,671**	**1.5%**
FTE	**86.3**	**88.1**	**101.1**	**101.1**	**0.0%**
Cash Funds	13,742,409	12,953,475	15,598,995	15,831,671	1.5%

(8) DIVISION OF REAL ESTATE
The Division of Real Estate licenses real estate brokers, real estate appraisers, and mortgage brokers; and administers enforcement programs to ensure compliance with state and federal regulatory laws.

	FY 2009-10 Actual	FY 2010-11 Actual	FY 2011-12 Appropriation	FY 2012-13 Request	Request vs. Appropriation
Personal Services	**2,692,133**	**2,744,215**	**3,275,140**	**3,323,782**	
FTE	43.1	45.4	52.3	52.3	
Cash Funds	2,692,133	2,744,215	3,275,140	3,323,782	
Operating Expenses	**189,346**	**181,370**	**221,306**	**219,546**	
Cash Funds	189,346	181,370	221,306	219,546	
Commission Meeting Costs	**23,972**	**30,472**	**38,836**	**38,836**	
Cash Funds	23,972	30,472	38,836	38,836	
Hearings Pursuant to Complaint	**0**	**1,808**	**4,000**	**4,000**	
Cash Funds	0	1,808	4,000	4,000	

*This line item includes a decision item.

	FY 2009-10 Actual	FY 2010-11 Actual	FY 2011-12 Appropriation	FY 2012-13 Request	Request vs. Appropriation
Mortgage Broker Consumer Protection	**304,252**	**305,312**	**303,770**	**308,544**	
Cash Funds	304,252	305,312	303,770	308,544	
Indirect Cost Assessment	**533,316**	**352,365**	**347,856**	**347,856**	
Cash Funds	533,316	352,365	347,856	347,856	
Total Funds - (8) Division of Real Estate	**3,743,019**	**3,615,542**	**4,190,908**	**4,242,564**	**1.2%**
FTE	**43.1**	**45.4**	**52.3**	**52.3**	**0.0%**
Cash Funds	3,743,019	3,615,542	4,190,908	4,242,564	1.2%

(9) DIVISION OF REGISTRATIONS
The Division of Registrations oversees boards and commissions that promulgate rules to ensure continued competency of regulated professionals; enforces laws; and takes action against individuals failing to follow laws and regulations.

	FY 2009-10 Actual	FY 2010-11 Actual	FY 2011-12 Appropriation	FY 2012-13 Request	Request vs. Appropriation
Personal Services	**10,919,756**	**11,816,640**	**12,244,406**	**12,384,462**	
FTE	172.5	183.6	193.9	192.6	
Cash Funds	9,307,088	9,603,281	11,625,467	11,765,523	
Reappropriated Funds	1,612,668	2,213,359	618,939	618,939	
Operating Expenses	**1,301,438**	**1,284,616**	**1,419,979**	**1,379,648**	
Cash Funds	1,301,438	1,284,616	1,419,504	1,379,173	
Reappropriated Funds	0	0	475	475	
Office of Expedited Settlement Program Costs	**315,127**	**349,130**	**355,008**	**361,397**	
FTE			5.0	5.0	
Cash Funds	315,127	349,130	355,008	361,397	

*This line item includes a decision item.

	FY 2009-10 Actual	FY 2010-11 Actual	FY 2011-12 Appropriation	FY 2012-13 Request	Request vs. Appropriation
Hearings Pursuant to Complaint	**215,768**	**256,617**	**307,075**	**307,075**	
Cash Funds	215,768	256,617	307,075	307,075	
Payments to Department of Health Care Policy and Financing	**14,652**	**14,652**	**14,652**	**14,652**	
Cash Funds	14,652	14,652	14,652	14,652	
Indirect Cost Assessment	**4,021,952**	**3,422,037**	**1,277,687**	**1,277,687**	
Cash Funds	4,021,952	3,422,037	1,277,687	1,277,687	
Total Funds - (9) Division of Registrations	**16,788,693**	**17,143,692**	**15,618,807**	**15,724,921**	**0.7%**
FTE	**172.5**	**183.6**	**198.9**	**197.6**	**(0.7%)**
Cash Funds	15,176,025	14,930,333	14,999,393	15,105,507	0.7%
Reappropriated Funds	1,612,668	2,213,359	619,414	619,414	0.0%

(10) DIVISION OF SECURITIES

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

	FY 2009-10 Actual	FY 2010-11 Actual	FY 2011-12 Appropriation	FY 2012-13 Request	Request vs. Appropriation
Personal Services	**1,700,013**	**1,804,415**	**2,116,333**	**2,157,670**	
FTE	21.0	21.3	26.0	26.0	
Cash Funds	1,700,013	1,804,415	2,116,333	2,157,670	
Operating Expenses	**57,696**	**52,921**	**73,009**	**58,999**	
Cash Funds	57,696	52,921	73,009	58,999	

*This line item includes a decision item.

FY 2012-13 Joint Budget Committee Staff Budget Briefing
Department of Regulatory Agencies
Appendix A: Numbers Pages

	FY 2009-10 Actual	FY 2010-11 Actual	FY 2011-12 Appropriation	FY 2012-13 Request	Request vs. Appropriation
Hearings Pursuant to Complaint	**12,271**	**19,371**	**19,594**	**19,594**	
Cash Funds	12,271	19,371	19,594	19,594	
Board Meeting Costs	**2,505**	**4,182**	**4,500**	**4,500**	
Cash Funds	2,505	4,182	4,500	4,500	
Securities Fraud Prosecution	**473,028**	**493,081**	**720,638**	**727,381**	
Cash Funds	473,028	493,081	720,638	727,381	
Indirect Cost Assessment	**238,960**	**160,809**	**172,930**	**172,930**	
Cash Funds	238,960	160,809	172,930	172,930	
Total Funds - (10) Division of Securities	**2,484,473**	**2,534,779**	**3,107,004**	**3,141,074**	**1.1%**
FTE	**21.0**	**21.3**	**26.0**	**26.0**	**0.0%**
Cash Funds	2,484,473	2,534,779	3,107,004	3,141,074	1.1%
Total Funds - Department of Regulatory Agencies	**74,096,242**	**72,084,767**	**76,741,941**	**77,818,212**	**1.4%**
FTE	**531.9**	**525.9**	**593.4**	**592.1**	**(0.2%)**
General Fund	1,457,250	1,457,882	1,599,183	1,647,582	3.0%
Cash Funds	63,605,442	62,689,217	69,708,823	70,646,859	1.3%
Reappropriated Funds	7,751,200	6,677,942	4,239,807	4,297,289	1.4%
Federal Funds	1,282,350	1,259,726	1,194,128	1,226,482	2.7%

*This line item includes a decision item.

APPENDIX B: SUMMARY OF MAJOR LEGISLATION

- **S.B. 11-076 (Steadman/Becker): PERA Refinance.** For FY 2011-12 only, reduces the employer contribution rate for the State and Judicial divisions of the Public Employees' Retirement Association (PERA) by 2.5 percent and increases the member contribution rate for these divisions by the same amount. In effect, continues the FY 2010-11 PERA contribution adjustments authorized through S.B. 10-146 for one additional year. Reduces the Department's total appropriation by $826,773 total funds, of which $24,058 is General Fund, $749,724 is cash funds, $47,038 is reappropriated funds, and $5,953 is federal funds.

- **S.B. 11-088 (Carroll/Acree): Direct-entry Midwives Continuation.** Continues the regulation of direct-entry midwives in the Division of Registrations until September 1, 2016, and implements changes recommended in the 2010 sunset review. Broadens the scope of practice for direct-entry midwives to include limited prescriptive authority to obtain and administer vitamin K, immune globulin and antihemorrhagic drugs, and authorizes the administration of intravenous fluids. Expands the mandatory disclosures for direct-entry midwives to address the new authorities, informed consent, and emergency procedures. Clarifies the distinction between serious and less serious violations, and requires the director of the division to establish a fine schedule and the circumstances under which fines may be imposed. Appropriates $5,859 cash funds to the Department and reappropriates $4,109 to the Department of Law for the provision of legal services.

- **S.B. 11-091 (Brophy/McKinley): Veterinary Medicine Continuation.** Continues the State Board of Veterinary Medicine and its functions until September 1, 2022. Creates an exemption to the veterinarian-client-patient relationship (VCPR) for the purpose of dispensing prescription drugs and modifies the definition of the VCPR to allow for emergency coverage by another veterinarian. Allows veterinarians to establish professional service corporations under statutory guidelines, and directs the Board to develop a uniform system and schedule of fines for violations. Modifies the grounds for discipline, and imposes a two-year waiting period for a veterinarian whose license was revoked to reapply for licensure. Exempts the practice of animal physical therapy by a licensed physical therapist from the licensing requirements of the Colorado Veterinary Practice Act. Requires all veterinary clinics to have a Colorado-licensed veterinarian designated as responsible for all veterinary medical decisions and care provided to a patient present in the facility. Subjects a corporate veterinary practice that fails to do so a fine. Allows an unlicensed person to assist in a surgical procedure if the person is under the immediate supervision of a licensed veterinarian. Appropriates $12,075 cash funds to the Department and reappropriates $4,402 to the Department of Law for the provision of legal services.

- **S.B. 11-094 (Boyd/Summers): Optometric Examiners Continuation.** Implements the recommendations of the 2010 sunset review of the Colorado State Board of Optometric Examiners and continues the functions of the board until September 1, 2022. Appropriates $5,460 cash funds to the Department of Regulatory Agencies and reappropriates $4,410 to the Department of Law for the provision of legal services.

- **S.B. 11-128 (Newell/McCann): Child Only Health Plans.** Requires all insurance carriers selling individual health benefit plans in Colorado to provide at least one child-only health benefit plan for children up to age 19, without regard to preexisting conditions, during two specified month-long enrollment periods per year. Specifies when the first enrollment must occur and time periods of subsequent enrollment. Requires insurance carriers to give notice of the open enrollment opportunities, instructions for enrolling, a link to the public programs administered by the Department of Health Care Policy and Financing on their website. Requires the Commissioner of Insurance to collect information about the number of applicants for a child-only plan, the number enrolled, the number of applicants denied enrollment, and the reasons for the denials in conjunction with the annual Health Cost Report Survey. Provides an informational only appropriation of $5,455 federal funds to the Division of Insurance, and reappropriates $2,935 to the Department of Law for the provision of legal services.

- **S.B. 11-151 (Hodge/Gerou): Supplemental Appropriation.** Supplemental appropriation to the Department of Regulatory Agencies for FY 2010-11.

- **S.B. 11-169 (Boyd/Summers): Physical Therapists Continuation.** Implements the recommendations in the 2010 sunset review of the regulation of physical therapists, and continues the regulatory program until 2018. Creates the State Physical Therapy Board, a new certification program for assistants to physical therapists, and establishes requirements for physical therapists to demonstrate continued competency. Appropriates $101,814 cash funds and 1.4 FTE to the Division of Registrations, and $62,566 to the Executive Director's Office. Reappropriates $23,680 to the Governor's Office of Information Technology for the provision of information technology services, and $38,886 to the Department of Law for the provision of legal services.

- **S.B. 11-187 (Newell/Fields): Mental Health Boards Continuation.** Continues the State Boards of Psychologist Examiners, Social Work Examiners, Marriage and Family Therapist Examiners, Licensed Professional Counselor Examiners, and the State Grievance Board and implements recommendations from the 2010 sunset review. Creates the State Board of Addiction Counselor Examiners and eliminates the regulatory authority of the director of the Division of Registrations over addiction counselors. Establishes a new sunset date of September 1, 2020, for these oversight boards. Appropriates $261,540 cash funds and 3.4 FTE to the Division of Registrations, and $271,088 to the Executive Director's Office. Reappropriates $176,088 to the Department of Law for the provision of legal services.

- **S.B. 11-192 (Aguilar/Massey): Prescription Drug Monitoring Program Continuation.** Continues the Prescription Drug Monitoring Program (PDMP), and clarifies that only prescriptions that have been dispensed are to be tracked, repeals the prescription controlled substance abuse monitoring advisory committee, and makes changes to the administration of the program. Expands access to the PDMP to law enforcement officials and regulatory boards in the Department of Regulatory Agencies. Requires physicians and pharmacies to disclose to the patient that their information will be entered into the PDMP database. Appropriates $50,326 cash funds and 1.0 FTE to the Division of Registrations.

- **S.B. 11-209 (Hodge/Gerou): Long Bill.** General appropriations act for FY 2011-12.

- **H.B. 11-1033 (A. Williams/Jahn): Repeal Schedule P Filings.** Eliminates the requirement for property and casualty insurance companies to file an annual schedule of their aggregate Colorado claims data with the Division of Insurance in the Department of Regulatory Agencies. Reduces the appropriation to the Division of Insurance by $5,333 cash funds.

- **H.B. 11-1100 (Looper/Morse): Military Experience Licensure Qualifications.** Requires the Division of Registrations in the Department of Regulatory Agencies to accept an applicant's education, training, or service completed while a member of the armed services towards the qualifications to receive a professional license or certification. Appropriates $94,388 cash funds to the Department of Regulatory Agencies, and reappropriates $34,484 along with 0.4 FTE to the Department of Law for the provision of legal services.

- **H.B. 11-1195 (B. Gardner/Newell): Voluntary Licensure of Private Investigators.** Creates a voluntary license for private investigators in Colorado. Establishes licensure requirements and grounds for discipline. Appropriates $82,533 cash funds and 1.0 FTE to the Department of Regulatory Agencies, and reappropriates $7,337 to the Department of Law for the provision of legal services. Appropriates $19,750 cash funds to the Department of Public Safety for background checks.

- **H.B. 11-1300 (Looper/Grantham): Disputed Conservation Easements.** Authorizes the use of an expedited process for resolving disputed claims over conservation easement tax credits with certain provisions. Modifies the aggregate cap for claims for conservation easements that was a part of H.B. 10-1197. Appropriates $12,112 cash fund from the Conservation Easement Holder Certification Fund to the Department of Regulatory Agencies and reappropriates $2,352 to the Department of Law for the provision of legal services.

FY 2012-13 Joint Budget Committee Staff Budget Briefing
Department of Department of Regulatory Agencies

APPENDIX C: UPDATE OF FY 2011-12 LONG BILL FOOTNOTES AND REQUESTS FOR INFORMATION

Long Bill Footnotes

There were no Long Bill footnotes for FY 2011-12 for the Department of Regulatory Agencies.

Requests for Information

5. **All Departments, Totals** -- Every department is requested to submit to the Joint Budget Committee, by November 1, 2011 information on the number of additional federal and cash funds FTE associated with any federal grants or private donations that were received in FY 2010-11 The Departments are also requested to identify the number of additional federal and cash funds FTE associated with any federal grants or private donations that are anticipated to be received during FY 2011-12.

Response: Although no permanent FTE have been added using federal grants, several temporary federal grants involving temporary FTE have been continued since the date of the last RFI request for this information. All of these grants are one-time in nature and none have associated cash funded FTE. These grants and funding amounts are listed as follows:

Grant Source/ Name	Division/ Program	Award Amount	FF FTE	CF FTE	Expires	Description
Department of Transportation, Enhance 911 Program	Public Utilities Commission, Local 911	487,500	0.0	N/A	Sept 2012	Pass-through funding to local governments for 911 purposes, not spent by the Department.
Department of Energy, SERA Electricity Grant (ARRA)	Public Utilities Commission, Utility Regulation (State Electricity Regulators Assistance)	875,899	1.5	N/A	Oct 2013	One-time funding associated with the American Recovery and Reinvestment Act to assist state utility regulators in monitoring utility performance of ARRA-related initiatives.

Grant Source/ Name	Division/ Program	Award Amount	FF FTE	CF FTE	Expires	Description
Department of Energy, pass-through from Governor's Energy Office (ARRA)	Public Utilities Commission, Utility Regulation	100,000	1.0	N/A	Sept 2011	One-time funding associated with American Recovery and Reinvestment Act funding in the Governor's Office. The funding is a pass-through from the Governor's Office and is intended to support a specific project involving the study of transmission infrastructure and smart grid technology in Colorado, as a small part of a larger overall project conducted by the Governor's Energy Office on the same subject.
Department of Health and Human Services	Division of Insurance, Health Insurance Premium Review (Special Project)	4,031,000	7.5	N/A	Sept 2014	Grants made to states for the review of health insurance premiums related to the federal Patient Protection and Affordable Care Act. This grant presently supports 7.5 temporary federally-funded positions for the duration of the grant, which is October 1, 2011 through September 30, 2014.