



Colorado General Assembly  
Joint Budget Committee

# JOINT BUDGET COMMITTEE STAFF FY 2017-18 BUDGET BRIEFING SUMMARY *Department of Law*

The Attorney General is one of five independently elected constitutional officers of the State. As the chief executive officer of the Department of Law, the Attorney General represents and defends the legal interests of the people of the State of Colorado and serves as the legal counsel and advisor to state agencies. The Department's FY 2016-17 appropriation represents approximately 0.3 percent of statewide operating appropriations and 0.2 percent of statewide General Fund appropriations.

## FY 2016-17 APPROPRIATION AND FY 2017-18 REQUEST

DEPARTMENT OF LAW						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
<b>FY 2016-17 APPROPRIATION:</b>						
HB 16-1405 (Long Bill)	77,471,983	15,003,005	15,612,031	45,073,913	1,783,034	480.4
Other legislation	692,711	135,942	0	556,769	0	3.1
<b>TOTAL</b>	<b>78,164,694</b>	<b>15,138,947</b>	<b>15,612,031</b>	<b>45,630,682</b>	<b>1,783,034</b>	<b>483.5</b>
<b>FY 2017-18 APPROPRIATION:</b>						
FY 2016-17 Appropriation	78,164,694	15,138,947	15,612,031	45,630,682	1,783,034	483.5
R1 Legal allocations and billings	(760,273)	0	0	(760,273)	0	0.0
R2 Security asset maintenance and FTE	270,811	64,062	22,403	180,594	3,752	0.0
R3 Appellate FTE retention	256,468	256,468	0	0	0	0.0
R4 Consumer protection FTE and charities unit	574,847	297,550	441,124	(163,827)	0	5.8
R5 Financial fraud investigators	285,124	0	239,325	45,799	0	2.0
R6 POST online training	500,010	0	500,010	0	0	0.0
R7 POST audit FTE	0	0	0	0	0	3.0
NP Education legal services	167,042	0	0	167,042	0	0.9
NP OIT secure Colorado	49,623	14,064	5,840	28,406	1,313	0.0
NP Resources for Administrative Courts	74	0	74	0	0	0.0
NP Annual fleet vehicle request	(3,896)	247	1,076	(5,084)	(135)	0.0
Centrally appropriated line item adjustments	2,521,724	710,087	360,396	1,403,365	47,876	0.0
Custodial funds adjustment	56,990	0	56,990	0	0	1.0
Annualize prior year legislation	43,704	0	0	43,704	0	0.2
Fund source adjustments	0	287,478	0	(287,478)	0	0.0
Annualize prior year budget actions	(262,301)	(259,310)	(3,846)	855	0	0.1
Indirect cost assessment adjustments	(209,758)	0	205,066	(404,068)	(10,756)	0.0
Adjust anticipated grant funding	(10,365)	0	0	(10,365)	0	0.0
<b>TOTAL</b>	<b>\$81,644,518</b>	<b>\$16,509,593</b>	<b>\$17,440,489</b>	<b>\$45,869,352</b>	<b>\$1,825,084</b>	<b>496.5</b>
<b>Increase/(Decrease)</b>	<b>\$3,479,824</b>	<b>\$1,370,646</b>	<b>\$1,828,458</b>	<b>\$238,670</b>	<b>\$42,050</b>	<b>13.0</b>
Percentage Change	4.5%	9.1%	11.7%	0.5%	2.4%	2.7%

**R1 LEGAL ALLOCATIONS AND BILLINGS:** The Department is requesting a change in the administration of monthly legal allocations and billings to client agencies, resulting in an estimated reduction of \$760,263 reappropriated funds needed for legal services provided to state agencies. Currently, the Department bills client agencies each month for the hours of legal services actually provided to the client during that month. Similar to other common policies, the Department is proposing to base each client agency's annual appropriation on prior year usage of legal services and then bill agencies in twelve equal monthly installments rather than bill monthly based on actual usage. See the issue paper beginning on page 18 of the briefing document for further discussion of this request.

**R2 SECURITY ASSET MAINTENANCE AND FTE:** The request includes an increase of \$270,811 total funds (including \$64,062 General Fund) to improve information technology (IT) security based on the recommendations of a recent external audit of the Department's IT security procedures. The request, which anticipates and builds on a FY 2016-17 supplemental request, includes:

- \$188,389 total funds (including \$64,062 General Fund) for the Information Technology Asset Maintenance line item, including \$174,304 total funds to purchase additional IT security tools as recommended in the audit and \$14,085 to align the appropriation for annual computer replacement with FTE increases provided to the Department in recent years.
- \$82,422 reappropriated funds from indirect cost recoveries to support an additional position focused on IT security protocols recommended in the audit. The position would supplement one existing security administrator. The Department reports that an additional FTE is not necessary because the Administration has more appropriated FTE than can be filled with the current spending authority.

**R3 APPELLATE FTE RETENTION:** The request includes \$256,468 General Fund and 3.0 FTE to allow the Department to retain 3.0 attorney FTE in the Appellate Unit originally provided through a FY 2013-14 decision item to reduce the backlog of appellate cases. While the original decision item anticipated that the 3.0 FTE would no longer be necessary after FY 2016-17, the Department believes that the ongoing workload warrants retaining the FTE on an ongoing basis. The *base* request eliminates the positions as anticipated in the original decision item; request R3 adds the funding and FTE back to retain the existing FTE. See the issue paper beginning on page 22 of the briefing document for additional discussion of this request.

**R4 CONSUMER PROTECTION FTE AND CHARITIES UNIT:** The request includes a net increase of \$574,847 total funds (including \$297,550 General Fund) and 5.8 FTE to augment staffing of the Consumer Protection Section. The request includes three components: (1) realigning and refinancing a portion of the staff currently focused on mortgage and foreclosure fraud based on a decrease in mortgage-related workload; (2) adding 2.8 new FTE to establish a permanent unit focused on oversight of charitable organizations and charitable assets; and (3) adding 3.0 centralized administrative staff to support the consumer protection division. See the issue paper beginning on page 26 of the briefing document for further discussion of this request.

**R5 FINANCIAL FRAUD INVESTIGATORS:** The request includes an increase of \$281,764 total funds and 2.0 FTE to add two additional financial fraud investigators to the Special Prosecution Unit. The Department is requesting funds for an additional criminal investigator II position to support additional insurance fraud investigations and an additional criminal investigator III (chief investigator) position to both conduct investigations and oversee the insurance fraud unit.

**R6 POST ONLINE TRAINING:** The request includes an increase of \$500,010 cash funds from the P.O.S.T. Board Cash Fund to provide online peace officer training to 11,905 peace officers statewide. According to the Department, the request would focus particularly on rural peace officers but would provide training to 88 percent of the 13,500 certified peace officers in Colorado. The request, which anticipates operating the program for two years

(costing \$500,010 per year), would utilize the existing fund balance within the P.O.S.T. Board Cash Fund. See the issue paper beginning on page 31 of the briefing document for further discussion of this request.

**R7 POST AUDIT FTE:** The request seeks to add 3.0 FTE to the Peace Officers Standards and Training (P.O.S.T.) Board Support line item in response to an external audit of the P.O.S.T. Board. The audit recommended restructuring the P.O.S.T. Board staff and adding additional FTE for oversight purposes. The Department is hiring the additional staff within existing resources *in FY 2016-17* but is asking the General Assembly to reflect the FTE in the FY 2017-18 Long Bill to align with anticipated staffing levels. Hiring the additional FTE will reduce the funding available for P.O.S.T. grants by an estimated \$130,295 in FY 2016-17 and \$228,474 in FY 2017-18. See the issue paper beginning on page 31 of the briefing document for further discussion of this request.

**NP EDUCATION LEGAL SERVICES:** The request includes an increase of \$167,042 reappropriated funds and 0.9 FTE to support additional legal services provided to the Department of Education. *This request will be addressed in a separate staff briefing concerning the Department of Education scheduled for Wednesday, December 7, 2016.*

**NP OIT SECURE COLORADO:** The request includes an increase of \$49,623 total funds (including \$14,064 General Fund) to implement the next phase of the Secure Colorado project. *This request will be addressed in a separate staff briefing concerning the Office of the Governor scheduled for Thursday, November 17, 2016.*

**NP RESOURCES FOR ADMINISTRATIVE COURTS:** The request includes an increase for administrative law judge services as part of a statewide request seeking resources for administrative courts. *This request will be addressed in a separate staff briefing concerning the Department of Personnel scheduled for Wednesday, December 7, 2016.*

**NP ANNUAL FLEET VEHICLE REQUEST:** The request includes a net decrease in vehicle lease payments. *This request will be addressed in a separate staff briefing concerning the Department of Personnel scheduled for Wednesday, December 7, 2016.*

**CENTRALLY APPROPRIATED LINE ITEM ADJUSTMENTS:** The request includes an increase of \$2,521,724 total funds (including \$710,087 General Fund) related to employee benefits and other centrally appropriated items. This total includes the following major changes:

- An increase of \$1,376,910 total funds (including \$358,136 General Fund) for salary survey increases.
- An increase of \$403,570 total funds (including \$86,610 General Fund) for supplemental PERA payments.
- An increase of \$395,471 (including \$149,459 General Fund) for various types of insurance (health, life, and dental; short-term disability; workers' compensation; and risk management/property funds).
- An increase of \$345,773 total funds (including \$115,882 General Fund) for various other centrally appropriated line items.

**CUSTODIAL FUNDS ADJUSTMENT:** The request includes an increase of \$56,990 custodial cash funds and 1.0 FTE to reflect the Department's use of consumer protection custodial funds. Because custodial funds are continuously appropriated to the Department, these funds are shown in the Long Bill for informational purposes only.

**ANNUALIZE PRIOR YEAR LEGISLATION:** The request includes adjustments to reflect the FY 2017-18 impact of legislation that was passed in 2016, including the following acts: S.B. 16-058; S.B. 16-197; H.B. 16-1097; H.B. 16-1160; H.B. 16-1211; H.B. 16-1280; H.B. 16-1234; and H.B. 16-1404. Appendix B provides a short description of these acts.

**FUND SOURCE ADJUSTMENTS:** The request includes an increase of \$287,478 General Fund which is offset by a decrease of that amount of reappropriated funds from indirect cost recoveries.

**ANNUALIZE PRIOR YEAR BUDGET ACTIONS:** The request includes adjustments related to prior year budget actions. The \$259,310 reduction in General Fund is largely driven by a reduction of \$256,468 and 3.0 FTE from the Appellate Unit to eliminate 3.0 attorney FTE added through a FY 2013-14 decision item. The FY 2013-14 decision item added 6.0 attorney FTE to reduce a backlog of appeals and anticipated eliminating 3.0 FTE at the end of FY 2016-17. Please note that request R3 (discussed above) seeks an increase of \$256,468 General Fund to retain the 3.0 attorney FTE in question.

**INDIRECT COST ASSESSMENT ADJUSTMENTS:** The request includes a net decrease in the Department's indirect cost assessments.

**ADJUST ANTICIPATED GRANT FUNDING:** The request includes a decrease of \$10,365 reappropriated funds to reflect the total amount of grant funding anticipated to be available from the Department of Public Safety for efforts to investigate and prosecute multi-jurisdictional auto theft. Section 24-31-108 (1) (b) (I), C.R.S., continuously appropriates grant funds to the Department of Law, and these funds are reflected in the Long Bill for informational purposes only.

## SUMMARY OF ISSUES PRESENTED TO THE JOINT BUDGET COMMITTEE

**MAJOR LITIGATION PENDING AGAINST THE STATE:** The Department of Law submits an annual report to the State Controller discussing pending litigation against the State that could have a significant financial impact. The report for 2016 includes cases involving: the Department of Health Care Policy and Financing related to the hospital provider fee and operations at the Pueblo Regional Center; the Department of Natural Resources related to the Gold King Mine incident; the Department of Revenue related to tax collections; and the Department of State related to the financing of elections.

**R1 LEGAL SERVICES ALLOCATIONS AND BILLINGS:** The Department of Law is proposing to modify the process for the calculation of legal services appropriations provided to client agencies and the Department's process for monthly billings for legal services provided to client agencies. Similar to other centralized common policies, the proposal would calculate appropriations based on client agencies' usage of legal services in prior years and would shift to billing in equal monthly installments based on each agency's appropriation rather than billing for the actual hours of services provided in a given month.

**R3 APPELLATE UNIT WORKLOAD AND STAFFING:** The Department's FY 2017-18 request includes \$256,468 General Fund and 3.0 FTE to retain 3.0 attorney FTE in the Appellate Unit currently slated for elimination at the end of FY 2016-17. In FY 2013-14, the General Assembly provided 6.0 additional attorney FTE to the Appellate Unit to address a backlog of appellate cases awaiting action by the Department. The original decision item anticipated eliminating 1.0 FTE after FY 2015-16 and an additional 3.0 after FY 2016-17 based on projected reductions in the backlog. The FY 2016-17 appropriation eliminated 1.0 FTE as anticipated. However, as a result of changes in workload as well as the discovery of an error in prior years' calculations of the appellate backlog, the Department is requesting a continuation of current funding to retain the 3.0 FTE scheduled for elimination at the end of FY 2016-17.

**R4 CONSUMER PROTECTION FTE:** The Department of Law is requesting an increase of \$574,847 total funds (including \$297,550 General Fund) and 5.8 FTE in FY 2017-18 to augment the staff of the Consumer Protection Division. The request seeks to realign and refinance some existing staff based on changes in the enforcement

workload and to add new staff focused on oversight of charitable organizations, administration of the consumer protection program and consumer protection custodial funds, and improving public communications and outreach related to consumer protection programs.

**R6 AND R7 P.O.S.T. BUDGET REQUESTS:** The Department of Law is proposing two changes related to the Peace Officers Standards and Training (P.O.S.T.) Board for FY 2017-18: (1) request R6 includes an increase of \$500,010 cash funds from the P.O.S.T. Board Cash Fund to provide on-line peace officer training programs for peace officers statewide; and (2) request R7 includes an increase of 3.0 FTE (but no additional funding) to support increased oversight of P.O.S.T. grant programs and peace officer training programs as called for by an external audit conducted of the P.O.S.T. Board in 2016. The Department is hiring the three new positions within existing resources in FY 2016-17 (reducing the amount available for grants to local law enforcement agencies by an estimated \$130,295 in FY 2016-17 and \$228,474 in FY 2017-18) but is asking the General Assembly to reflect the FTE in the Long Bill to align with anticipated staffing levels.

## FOR MORE INFORMATION

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**TO READ THE ENTIRE BRIEFING:** [http://leg.colorado.gov/sites/default/files/fy2017-18\\_lawbrf.pdf](http://leg.colorado.gov/sites/default/files/fy2017-18_lawbrf.pdf)