

# JOINT BUDGET COMMITTEE



## STAFF BUDGET BRIEFING FY 2017-18

### DEPARTMENT OF LAW

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

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# DEPARTMENT OF LAW

## DEPARTMENT OVERVIEW

The Attorney General is one of five independently elected constitutional officers of the State, whose powers and duties are prescribed by the General Assembly<sup>1</sup>. 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, with the exception of the legislative branch<sup>2</sup>, serves as the legal counsel and advisor to all state agencies. The statutory responsibilities of the Department are summarized below.

### **Legal Counsel and Advice to the State**

- Provide state agencies and elected officials with legal services such as legal representation, legal advice and opinions, contract review, and rule writing assistance.

### **Civil Enforcement**

- Protect Colorado consumers against fraud and enforce state and federal consumer protection, antitrust, charitable solicitation, consumer lending, and fair debt collection laws.
- Represent the State's interests in interstate and federal water cases.
- Lead enforcement actions at sites contaminated with hazardous substances under the federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).
- Pursue civil recoveries and damages from Medicaid providers for fraud and over billing.
- Enforce provisions of the tobacco master settlement agreements and protect the State's interests under the settlement payment calculation provision.

### **Criminal Enforcement**

- Investigate and prosecute certain complex and multi-jurisdictional cases, environmental crimes, election fraud, and foreign fugitives.
- Provide investigative and prosecutorial support to district attorneys in complex homicides, cold cases, human trafficking cases, and large-scale drug conspiracies.
- Investigate and prosecute securities, insurance, and workers' compensation fraud.
- Represent the State in criminal appeal cases in state and federal courts.
- Investigate and prosecute Medicaid provider fraud and patient abuse.
- Oversee the Peace Officers Standards and Training (P.O.S.T.) Board, which manages the training and certification of peace officers.
- Assure that the constitutional and statutory rights of victims are preserved in criminal cases being prosecuted or defended by the Department.

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<sup>1</sup> See Article IV, Section 1 of the Colorado Constitution and Article 31 of Title 24, C.R.S.

<sup>2</sup> Under certain circumstances the Legislative Branch does purchase legal services from the Department of Law, including requests for a legal opinion from the Attorney General or for legal representation when the interests of the Executive Branch and the Legislative Branch are consistent.

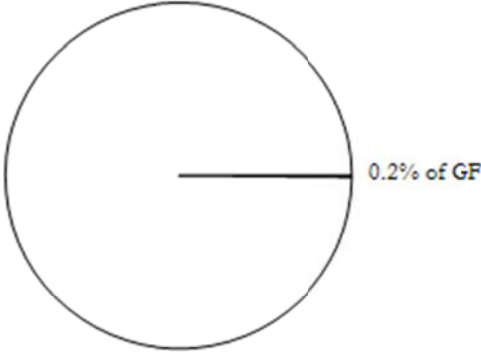
## DEPARTMENT BUDGET: RECENT APPROPRIATIONS

FUNDING SOURCE	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18 *
General Fund	\$13,575,405	\$15,283,511	\$15,138,947	\$16,509,593
Cash Funds	15,578,104	15,807,162	15,612,031	17,440,489
Reappropriated Funds	43,867,145	44,919,639	45,630,682	45,869,352
Federal Funds	1,747,272	1,796,425	1,783,034	1,825,084
<b>TOTAL FUNDS</b>	<b>\$74,767,926</b>	<b>\$77,806,737</b>	<b>\$78,164,694</b>	<b>\$81,644,518</b>
Full Time Equiv. Staff	469.0	477.6	483.5	496.5

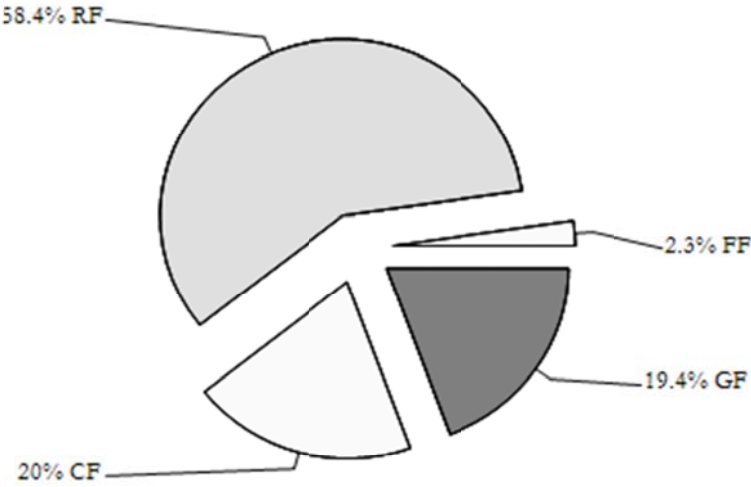
\*Requested appropriation.

# DEPARTMENT BUDGET: GRAPHIC OVERVIEW

Department's Share of Statewide General Fund

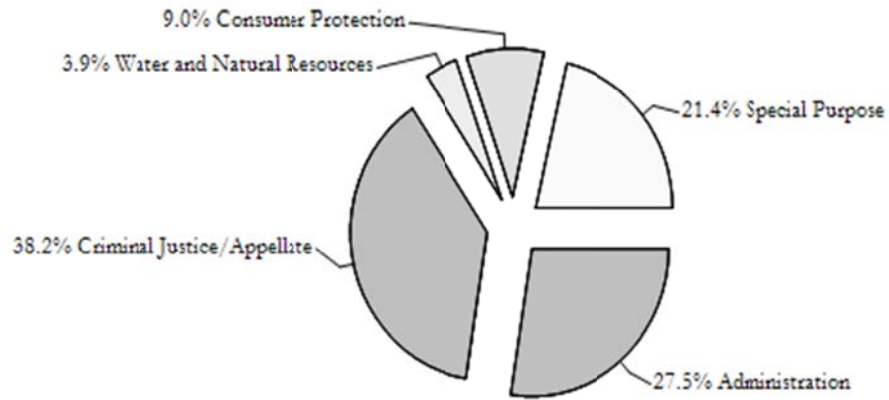


Department Funding Sources

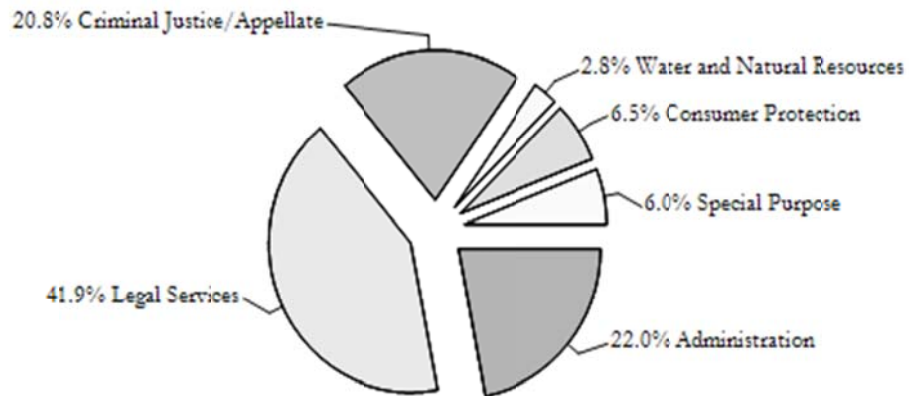


All charts are based on the FY 2016-17 appropriation.

### Distribution of General Fund by Division



### Distribution of Total Funds by Division



All charts are based on the FY 2016-17 appropriation.

## GENERAL FACTORS DRIVING THE BUDGET

### LEGAL SERVICES TO STATE AGENCIES

Prior to 1973, most state agencies were represented by "assistant solicitors" who were housed within and paid by the agencies they represented. The system became problematic as there were serious differences in legal policy between agencies, resulting in an inconsistent legal policy for the State in the courts. In 1973, the General Assembly passed legislation that moved all of the assistant solicitors into the Department of Law, and prohibited any state agency from employing a person to perform legal services. As a trade-off, the Department of Law became subject to the "Oregon Plan", whereby the General Assembly appropriates money for legal services to the various state agencies, who in turn purchase services from the Department of Law at hourly rates (one rate for attorneys and one rate for legal assistants). The General Assembly provides spending authority to the Department of Law to spend money received from other state agencies.

For FY 2016-17, the General Assembly has authorized the Department of Law to spend up to \$40.5 million providing legal services to state agencies (including associated central appropriations for items such as employee benefits, leased space, and information technology costs). This amount represents 51.8 percent of the Department's total appropriation. As shown in the table below, eight agencies account for more than 80.0 percent of these services. The table also details the total number of hours of legal services provided and the blended hourly rate charged by the Department.

LEGAL SERVICES TO STATE AGENCIES: FY 2012-13 TO FY 2016-17						
STATE DEPARTMENT	FY 12-13 ACTUAL	FY 13-14 ACTUAL	FY 14-15 ACTUAL	FY 15-16 APPROP./ ESTIM.	FY 16-17 APPROP./ ESTIM.	PERCENT OF TOTAL
Regulatory Agencies	\$7,383,603	\$8,969,467	\$9,965,585	\$10,464,959	\$10,562,762	26.1%
Personnel	2,379,484	3,504,482	4,262,304	4,636,956	5,743,414	14.2%
Natural Resources	3,514,961	4,563,407	5,105,845	4,842,850	4,844,889	12.0%
Revenue	2,740,083	3,409,251	3,971,975	4,183,656	4,565,981	11.3%
Public Health and Environment	2,393,330	2,840,844	2,958,702	3,249,247	2,929,751	7.2%
Human Services	1,401,843	1,680,642	2,122,858	1,751,889	1,675,594	4.1%
Corrections	1,273,306	1,240,836	1,985,056	1,876,733	1,877,523	4.6%
Transportation	956,102	1,265,248	1,488,468	1,561,205	1,561,862	3.9%
Other agencies <sup>1</sup>	<u>4,446,571</u>	<u>5,674,798</u>	<u>6,068,147</u>	<u>6,687,028</u>	<u>6,707,487</u>	16.6%
<b>Total Expenditures/ Appropriation</b>	<b>\$26,489,283</b>	<b>\$33,148,975</b>	<b>\$37,928,939</b>	<b>\$39,254,523</b>	<b>\$40,469,263</b>	100.0%
<i>% change of total from prior year</i>	<i>(2.3%)</i>	<i>25.1%</i>	<i>14.4%</i>	<i>3.5%</i>	<i>3.1%</i>	
<i>% of total Department of Law appropriations</i>	<i>45.3%</i>	<i>48.0%</i>	<i>50.7%</i>	<i>50.6%</i>	<i>51.8%</i>	
<i>% of total state operating appropriations</i>	<i>0.1%</i>	<i>0.1%</i>	<i>0.2%</i>	<i>0.1%</i>	<i>0.1%</i>	
<b>Blended Legal Rate</b>	<b>\$77.25</b>	<b>\$91.08</b>	<b>\$99.01</b>	<b>\$95.01</b>	<b>\$95.05</b>	
<i>% change from prior year</i>	<i>2.0%</i>	<i>17.9%</i>	<i>8.7%</i>	<i>(4.0%)</i>	<i>0.0%</i>	
<b>Total Hours</b>	363,602	413,097	383,082	413,097	425,770	
<i>% change from prior year</i>	<i>6.4%</i>	<i>13.6%</i>	<i>(7.3%)</i>	<i>7.8%</i>	<i>3.1%</i>	

<sup>1</sup> Actual expenditures are provided by the Department of Law. The appropriation columns include the Department's estimates of legal services to be provided to institutions of higher education and to the Public Employees' Retirement Association (PERA).

Fluctuations in legal services expenditures are due to: (1) changes in the Department's hourly rates; and (2) changes in the number of hours of legal services provided to state agencies by attorneys and legal assistants. The hourly rates fluctuate based on the costs of employee salaries and benefits as well as operating expenses.

## CRIMINAL JUSTICE AND APPELLATE

The largest allocation of General Fund in the Department is for the Criminal Justice and Appellate section, which accounts for 39.2 percent of General Fund appropriations to the Department for FY 2016-17. More than half of the General Fund in this section is devoted to the Appellate Unit, which represents the State in criminal appeals, and about one-third is devoted to the Special Prosecutions Unit, which investigates and prosecutes a variety of crimes. In FY 2013-14, the General Assembly appropriated funding to add 6.0 attorney FTE to allow the Department to address a growing backlog of criminal appeals cases. The FY 2014-15 appropriation added an additional administrative assistant to support the expanded Appellate Unit. The FY 2016-17 appropriation eliminates 1.0 attorney FTE added on a time-limited basis in FY 2014-15 to address the case backlog.

The following table provides expenditure and workload data for the Appellate Unit. Please note that because the Department has discovered an error in the case backlog calculations for FY 2013-14 and FY 2014-15, the case backlog for those years is higher than was previously reported by the Department. For additional discussion of the Appellate Unit's workload and staffing, see the issue paper beginning on page 22 this document.

APPELLATE UNIT DATA: FY 2012-13 TO FY 2016-17					
	FY 12-13 ACTUAL	FY 13-14 ACTUAL	FY 14-15 ACTUAL	FY 15-16 ACTUAL	FY 16-17 APPROP.
Expenditures/Appropriations (excluding central appropriations)	\$2,709,335	\$3,230,248	\$3,692,658	\$3,498,574	\$3,854,792
FTE	31.3	37.0	37.7	36.2	38.0
Opening briefs received	1,018	911	952	1,056	n/a
Answer briefs filed	885	1,149	1,017	911	n/a
Case backlog	564	320	264	428	n/a

## DISTRICT ATTORNEYS' SALARIES

The Colorado Constitution requires each judicial district to elect a district attorney. Similar to the Attorney General, district attorneys (DAs) are part of the executive branch of government and their powers and duties are prescribed by the General Assembly. Each DA is responsible for representing the legal interests of the people of the State of Colorado and prosecuting criminal cases for crimes committed within his or her judicial district on behalf of the people. Upon request, DAs provide legal advice and legal representation to county officers and employees, and render legal advice to peace officers pertaining to affidavits and warrants for arrests, searches, seizures, and court orders for the production of records.

While DAs' office budgets are primarily set and provided by their respective boards of county commissioners within each judicial district, the State provides direct funding for DAs, via state agencies, for certain purposes. The Department of Law's budget includes an annual appropriation for DA salaries. Pursuant to Section 20-1-306, C.R.S., the State contributes 80.0 percent of the funding for a minimum DA salary that is established in statute (including the associated costs of employer Public Employees' Retirement Association contributions). In 2007 (H.B. 07-1170), the General Assembly raised the statutory minimum salary for DAs over a four-year period. A judicial district may choose to pay a salary that exceeds the statutory minimum using local funds.



The appropriation to the Department of Law for the State's contribution for DA salaries currently accounts for 18.1 percent of total General Fund appropriations to the Department. The following table details recent expenditures/appropriations for this purpose.

STATE EXPENDITURES FOR DISTRICT ATTORNEY SALARIES: FY 2007-08 TO FY 2015-16			
FISCAL YEAR	EXPENDITURES/ APPROPRIATIONS	ANNUAL INCREASE	CUMULATIVE INCREASE
2007-08	\$1,315,985	n/a	n/a
2008-09	1,654,605	\$338,620	\$338,620
2009-10	2,096,027	441,422	780,042
2010-11	2,263,229	167,202	947,244
2011-12	2,479,847	216,618	1,163,862
2012-13	2,656,471	176,624	1,340,486
2013-14	2,676,960	20,489	1,360,975
2014-15	2,697,640	20,680	1,381,655
2015-16	2,718,249	20,609	1,402,264
2016-17 appropriation	2,738,841	20,592	1,422,856

## SUMMARY: FY 2016-17 APPROPRIATION & 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 this 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 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 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 this 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 this 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.

## ISSUE: 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.

### SUMMARY

The following ongoing legal cases involving the State could have a significant financial impact:

#### Health Care Policy and Financing

- *Pueblo Regional Center CMS Report*
- *TABOR Foundation v. Colorado Department of Health Care Policy and Financing, et al.*

#### Natural Resources

- *State of New Mexico v. State of Colorado*

#### Revenue

- *Agilent Technologies v. Department of Revenue*
- *Oracle Corp. & Subsidiaries v. Department of Revenue*
- *Target Brands, Inc. v. Department of Revenue*

#### State

- *National Federation of Independent Businesses v. Williams*

### RECOMMENDATION

Staff recommends that the Committee ask the Department to discuss the status of the various cases listed in the report, as well as any other cases the Attorney General believes warrant the Committee's attention, at the Department's upcoming hearing.

### DISCUSSION

The Department of Law submits an annual report to the State Controller concerning pending or threatened litigation, claims, and assessments involving significant dollar amounts, brought against the State and to which the Department has devoted substantial attention on behalf of the State. The Department's annual report describes the nature and status of each case, the claims asserted by the plaintiff and the objectives and/or damages sought, how management is responding to the litigation, the Attorney General's evaluation of the likelihood of an unfavorable outcome, and an estimate as to the amount or range of potential loss. This annual report does not, however, include information about two types of cases or claims:

- As the Department does not represent the General Assembly (except in cases under the Risk Management Fund) or the University of Colorado Board of Regents, this report excludes information about cases brought against these two entities.
- Although notices of claims in the nature of tort must be filed with the Attorney General pursuant to the Colorado Governmental Immunity Act (CGIA)<sup>3</sup>, the Department of Personnel's State Risk Management Office and the State Claims Board have the responsibility to investigate, adjust, and settle such claims before they become lawsuits<sup>4</sup>. All tort and federal claims alleging damages against state agencies and employees, if settled, are to be paid out of the Risk Management Fund to the limits of the CGIA. Thus, the report excludes information about claims that have not resulted in lawsuits.

The Department submitted the 2016 annual report to the State Controller on October 11, 2016. Based on the report, as well as additional information from the Department of Law, staff has provided a brief summary of unresolved cases in which the potential financial impact, either through damages, attorneys' fees and costs, or the cost of state compliance with court orders, exceeds \$5 million. The cases are organized by department, in the same order as they are listed on the previous page.

### **Health Care Policy and Financing**

#### ***Pueblo Regional Center CMS Report***

*Case.* In April 2015, the Department of Health Care Policy and Financing (HCPF) reported a number of serious incidents at the Pueblo Regional Center (PRC) to the Center for Medicare and Medicaid Services (CMS). In response, CMS conducted a detailed review of PRC documentation of the incidents and an on-site visit of the Pueblo Regional Center in 2016. In August 2016, the CMS sent the Department of Health Care Policy and Financing (HCPF) a report of its findings and requested development of a corrective action plan. The CMS asserts that HCPF violated federal administrative requirements regarding administration of the Medicaid Home and Community Based Services waiver program for the developmentally disabled. At this point, the CMS claims involve care provided pursuant to the waiver to approximately 60 individuals between November 2014 and November 2015.

The CMS seeks disallowances of payments to HCPF for services provided at the Pueblo Regional Center between at least November 1, 2014, and November 2015. The CMS has not provided a specific amount of damages to date but has indicated that it is considering an additional disallowance period beyond November 2015. The CMS is also seeking other sanctions, including: (1) the development and implementation of a corrective action plan within twelve months, including a variety of compliance measures; and (2) a moratorium on admissions to the Pueblo Regional Center until the Center decreases the annual staff turnover rate to 20 percent, eliminates double shifts on a routine basis, and implements other components of the corrective action plan as verified by an independent monitor.

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<sup>3</sup> See Section 24-10-109, C.R.S.

<sup>4</sup> See Section 24-30-1501, *et seq.*, C.R.S.

*Status.* On September 26, 2016, HCPF submitted its proposed Corrective Action Plan to CMS. The Department has indicated that this is the first step in what is expected to be an ongoing process. Following the CMS response to the initial HCPF submission, HCPF filed an appeal to CMS on October 14, 2016. That appeal is now pending. According to the Department, federal rules generally require a hearing to be set within 30 to 60 days after the filing of an appeal, although the federal rules also allow CMS to suspend proceedings in order to negotiate a resolution. As part of the appeal, HCPF has requested the suspension of the proceedings and an extension of 180 days. To date, CMS has not made a ruling regarding the request for an extension, and the timing of the case is uncertain.

*Financial Impact:* The CMS has not provided an amount for the disallowances. However, the Department reports that the disallowances may exceed \$5 million. The CMS report indicates that further disallowances are possible based on concerns about ongoing violations after November 2015. In addition, the CMS moratorium on new admissions would deny the PRC of additional revenues.

***TABOR Foundation v. Colorado Department of Health Care Policy and Financing, et al.***

*Case.* In June 2015, the TABOR Foundation sued the Department of Health Care Policy and Financing claiming that the hospital provider fee is a tax rather than a fee and thus requires a vote of the Colorado electorate before it may be levied or increased. According to the Department, the plaintiffs are challenging the fee imposed in FY 2010-11, FY 2011-12, and FY 2012-13 and seek a refund of all revenue collected, kept, or spent unconstitutionally, plus interest.

*Status.* The plaintiffs filed the complaint in Denver District Court on June 26, 2015. The Department filed a motion to dismiss on September 2, 2015, the plaintiffs responded, and the Department filed a reply on October 16, 2015. At this point, the motion is fully briefed and is pending before the district court. The timing of a potential decision is unknown.

*Financial Impact.* According to the Department, the estimated range of potential losses exceeds \$2.65 billion, plus 10 percent annual simple interest, although the refund mechanism is unknown.

**Natural Resources**

***State of New Mexico v. State of Colorado***

*Case.* In August 2015, a federal contractor conducting remediation efforts for the U.S. Environmental Protection Agency (EPA) breached a portion of a collapsed mine portal at the Gold King Mine near Silverton. The breach released approximately 3 million gallons of acidic mine water into Cement Creek, the Animas River, and the San Juan River. The Animas and San Juan Rivers flow through several tribal lands and New Mexico, with the San Juan continuing into Utah.

On June 20, 2016, New Mexico sought permission from the U.S. Supreme Court to file suit against Colorado in the Supreme Court. New Mexico is asserting that: (1) Colorado contributed to mine waste disposal in the Upper Animas Mining District (near Silverton, Colorado), creating an imminent and substantial endangerment to the citizens and environment of Utah and New Mexico; and (2) Colorado contributed to mine waste discharges into the Animas River which exceeded Utah's downstream surface water quality standards in the San Juan River and may impact groundwater quality. The Department notes that both New Mexico and the Navajo Nation have filed suit against the U.S. Environmental Protection Agency, its contractors, and others in federal district court in New Mexico; Colorado is not a defendant in those suits.



*Status.* New Mexico filed the petition seeking permission to sue Colorado in June 20, 2016, and its case was docketed on June 22, 2016. The Department filed a response on October 21. The future timeline of the case is unknown.

*Financial Impact.* New Mexico has not stated a dollar amount related to the potential suit against Colorado. Depending on whether other responsible parties contribute to the cleanup costs and the Natural Resource Damages costs, the Department reports that the state could incur more than \$100 million in costs. According to the Department, Risk Management would cover any judgment for damages but would not cover any injunctive relief.

## **Revenue**

### ***Agilent Technologies, Inc. V. Department of Revenue***

*Case.* In June 2014, Agilent Technologies, Inc. appealed the Department of Revenue's Notice of Final Determination to the Denver District Court, challenging the Department's determination of income tax, penalties, and interest for the period from June 3, 2000 through October 31, 2007. At issue in the case is the State income tax treatment of dividends paid to a holding company by foreign subsidiaries and whether the income of the holding company must be combined and included in the parent company's return and apportioned.

*Status.* The Department of Revenue prevailed after an administrative hearing, and Agilent appealed the Notice of Final Determination to the Denver District Court in June 2015. The parties to the case filed cross motions for determination of a question of law as well as cross motions for summary judgment. On January 20, 2016, the district court denied the Department of Revenue's motions for summary judgment and granted those filed by Agilent. The District Court entered its judgment and the Department decided to appeal the case. The deadline for submission of the opening brief is currently set for November 17, 2016. The Department reports that the issues in this case are novel issues in Colorado and that authorities across the country are split on many of the controlling issues.

*Financial Impact.* The amount at issue is \$13,345,601. The taxpayer has paid this tax pending the outcome of the proceedings. In the event of a loss the State would pay interest on this amount in the form of a refund of the amount at issue plus statutory interest.

### ***Oracle Corp. & Subsidiaries v. Department of Revenue***

*Case.* In April 2015, the Oracle Corporation and subsidiaries appealed the Department of Revenue's Notice of Final Determination to the Denver District Court, challenging the Department's determination of income tax, penalties, and interest for the period from June 1, 1999 through May 31, 2005. At issue in the case is the State income tax treatment of proceeds from the sale of stock received by Oracle's subsidiaries and whether the income of these subsidiaries must be combined and included in the parent company's return and apportioned.

*Status.* The Department of Revenue prevailed after an administrative hearing and Oracle appealed the Notice of Final Determination to the Denver District Court. The parties filed cross motions for summary judgment and argued those motions to the Court. On February 26, 2016, the District Court denied the Department's motion and granted Oracle's but determined that one issue could not be resolved on motions and stated that the remaining issue would be scheduled for trial. The parties settled the one issue that could not be resolved on motions. The District Court entered its judgment and the Department has decided to appeal the case. The record on appeal is due

November 17, 2016, after which the Court of Appeals will set a briefing schedule for the case. Similar to the Agilent Technologies case discussed above, the Department reports that the issues in this case are novel issues in Colorado and that authorities across the country are split on many of the controlling issues.

*Financial Impact.* The amount at issue is \$22,243,358, including \$20,448,602 assessed by the Department of Revenue's Final Determination and \$1,794,756 that Oracle alleges as overpayment (although the Department of Revenue disputes a portion of the overpayment). In the event of a loss the State would pay interest on the total amount in the form of a refund of the amounts plus statutory interest.

### ***Target Brands, Inc. v. Department of Revenue***

*Case.* Target Brands, Inc. (TBI, a wholly owned subsidiary of Target Corporation), is challenging the Department of Revenue's final determination that TBI was "doing business in Colorado" in tax years 2000 through 2009. According to the Department, TBI owns all of the Target Corporation's intellectual property, such as the Target logo. Under the company's structure, Target Corporation pays TBI royalties for the use of intellectual property and TBI provides the intellectual property back to Target Corp. TBI argues that TBI did not do business in Colorado during the years in question and therefore cannot be assessed state income tax. TBI also argues that if the company is taxable it should not pay any tax under the State's standard apportionment formula and the statute of limitations. The Department of Revenue disagrees and argues that TBI was doing business in Colorado and that income should be apportioned to Colorado.

*Status.* The case involves two separate audits. The Department of Revenue sent the first notice of deficiency (for tax years 2003-2005) in July 2007 and the remaining notices of deficiency (for tax years 2000-2003 and 2006-2009) in June 2012. TBI appealed the assessment to the Denver District Court on October 30, 2015 and the Department of Revenue filed its answer on December 10, 2015. The Court denied the Department's motion for summary judgement and the trial was held in District Court October 17 through 21, 2016. The timing of the case is somewhat uncertain and the Department does not expect a ruling for approximately two months.

*Financial Impact.* The amount at issue is \$40,616,869, including \$19,927,971 in income tax, \$13,865,425 in interest, and \$6,823,473 in penalties. Because the tax has never been paid, a potential loss in the case would not require a refund. However, the State would be deprived of the anticipated revenue, plus interest accrued since October 30, 2015.

### **State**

#### ***National Federation of Independent Businesses v. Williams***

*Case.* In December 2014, the National Federation of Independent Business (NFIB) sued the Secretary of State alleging that the use of business filing fees to support elections violates the Taxpayers Bill of Rights (TABOR).

*Status.* The parties filed cross-motions for summary judgement in Denver District Court in June 2015 and argued those motions in September 2015. On November 3, 2015, the Denver District Court issued an order granting summary judgement for the State. The Court did not decide whether the business and licensing fees are taxes but found that the statutory provisions authorizing the funding structure for the Secretary of State's office predate TABOR's enactment and are therefore

not subject to challenge under TABOR. The Plaintiff filed a timely appeal to the Colorado Court of Appeals, and the matter is now fully briefed.

*Financial Impact.* The plaintiffs seek a refund of allegedly unconstitutionally collected registration fees and the imposition of penalties, interest, fees, and costs. The complaint does not seek a precise monetary award but the Department estimates potential exposure of approximately \$20 million.

## ISSUE: 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.

### SUMMARY

- Currently, the appropriations for legal services provided to state agencies are based on estimates of the hours needed by each agency. The Department of Law (DOL) bills each agency monthly based on the actual hours of service provided in that month. The current calculations for legal services appropriations do not include any additional litigation costs outside of the hourly rate required by the Department of Law (such as experts, court reporting, travel for depositions, etc.). Instead, client agencies generally absorb those costs from other personal services and operating expenses line items.
- The Department is proposing to change the calculation of legal services appropriations and the administration of monthly billings to client agencies. The proposal would base legal services appropriations on each agency's actual usage of services over the past three years and would build in estimates of other litigation costs based on actual expenses over the past two years. Rather than monthly billings based on the actual hours of services provided and actual litigation costs in a given month, the Department would bill in 12 monthly installments based on the total appropriation (similar to other centrally provided services).
- The Department estimates that the change in billings and administration would allow for a reduction of approximately \$760,000 reappropriated funds in the FY 2017-18 appropriation for legal services to state agencies.

### RECOMMENDATION

Staff recommends that the Committee discuss this proposal with the Department at the upcoming hearing. The Committee may also wish to consider adding a common hearing question (for all departments) soliciting feedback on the proposed changes.

### DISCUSSION

With request R1, the Department is proposing to change the appropriations and monthly billings supporting legal services provided to other state agencies. The following sections describe the current system and the Department's proposed changes to each part of the process, from the calculation of the original appropriation to the administration of monthly billings to client agencies.

## BACKGROUND – CURRENT LEGAL SERVICES CALCULATIONS AND BILLING

As discussed in the Factors Driving the Budget section of this document, Colorado operates under the “Oregon Plan,” whereby the General Assembly appropriates money for legal services to the various state agencies, who in turn purchase services from the Department of Law at hourly rates (one rate for attorneys and one rate for legal assistants). The General Assembly approves the legal services rates through a footnote in the annual Long Bill, and the blended rate is multiplied by the budgeted hours for each agency to produce each client agency’s legal services appropriation. The General Assembly then provides spending authority (reappropriated funds) to the Department of Law to spend the money received from other state agencies. The Department of Law then bills client agencies on a monthly basis for the actual hours of legal services provided that month.

### REQUEST R1

With request R1, the Department is proposing modifications to three components of the legal services budget process: (1) the calculation of each agency’s annual “budgeted hours” of legal services; (2) the treatment of “other litigation costs” not included in the hourly rate; and (3) the monthly billing system for client agencies. The following subsections compare the current system and the Department’s proposed changes for each component.

#### BUDGETED HOURS

Budgeted hours of legal services provide the basis for annual legal services appropriations.

- *Current System:* Under the current system, each client agency and the associated JBC Staff analyst are responsible for estimating the number of legal services hours required for the year. The Committee then approves an allocation of hours for each agency during the figure setting process. The methods for estimating the hours required varies among agencies, with allocations often remaining unchanged from year to year.
- *Request R1:* The Department is proposing to standardize the process for estimating each agency’s hours of legal services by using a three-year average of *actual hours consumed* in the previous three fiscal years. Thus, for FY 2017-18, staff would use each agency’s usage from FY 2013-14, FY 2014-15, and FY 2015-16 to calculate the allocation of hours for the FY 2017-18 Long Bill.
- *Staff Analysis:* Staff agrees that standardizing calculations of the budgeted hours would better align appropriations with actual usage and may reduce unnecessary spending authority for both client agencies and the Department of Law.

#### OTHER LITIGATION COSTS

Some cases require the Department of Law to incur additional costs outside of the costs included in the hourly legal services rate. For example, such costs might include expert witness costs, court reporting, and travel for depositions, among others.

- *Current System:* Under the current system, which only includes anticipated hours and the hourly legal rate, client agencies’ legal services appropriations do not include any funds for these additional costs. Instead, the Department of Law “fronts” the additional costs for client agencies and then bills the clients. Clients generally have to absorb the costs from other (personal services or operating) line items. In some cases, this system may create challenges for agencies forced to absorb significant unexpected costs within other line items.
- *Request R1:* The Department proposes to include an estimate for additional litigation costs within each client agency’s legal services appropriation based on the average actual costs incurred over the previous two years (FY 2014-15 and FY 2015-16 would determine the FY 2017-18

appropriation). Including the changes to the budgeted hours above, each client agency's legal services appropriation would be calculated as:

$$(\text{budgeted hours} \times \text{blended legal rate}) + (\text{estimated additional litigation costs}) = \text{appropriation}$$

- *Staff Analysis:* Staff agrees that including estimated litigation costs in the legal services appropriation could increase the transparency of total legal services costs. In addition, for agencies that have absorbed such costs within other appropriations, the proposal would reduce pressure on other personal services and operating line items that currently absorb the expenses. However, given that litigation costs may “spike” in specific years, staff is concerned about the impact on subsequent client agency budgets and billing (see discussion of monthly billing below). For example, if litigation costs spiked in FY 2015-16 and the client agency absorbed those costs and fully reimbursed the DOL, then the spike in costs would continue to increase the client agency's bills in subsequent years (when the costs were no longer necessary and the client had already reimbursed the DOL). As a result, while staff agrees that including an estimate of litigation costs in the *appropriation* may be beneficial, staff is not comfortable with building the costs into the mandatory monthly billing (see below).

## MONTHLY BILLING

Finally, the Department is proposing to change the basis of monthly billings to client agencies.

- *Current System:* The Department of Law currently bills client agencies monthly for the actual hours of legal services provided to the agency during that month by legal assistants and attorneys. As discussed above, the Department also bills clients for actual “other litigation costs.” While this system is similar to a private law firm, the Department is the only “internal service” that currently bills based on actual monthly costs.
- *Request R1:* Consistent with other common policy services provided to state agencies, the proposal would shift the Department's billing structure from billing based on actual usage each month to billing based on monthly installments calculated to fully utilize the appropriation regardless of actual usage of either legal services hours or other litigation costs. Thus, each month's bill would represent one-twelfth of the portion of the total legal services appropriation.
- *Staff Analysis:* Staff agrees that the proposal would increase the predictability of legal services costs for client agencies and the DOL. Staff also agrees with the Department that installment billing may make sense for the hourly portion of the legal services appropriation. Up to some (unspecified) sensitivity limit, the DOL would absorb any monthly costs above that amount within the existing staffing levels, and staff agrees that those changes may even out over time. However, as discussed above with respect to “other litigation costs,” staff is concerned about building potentially volatile costs into mandatory/installment billing structure. For example, with respect to the FY 2017-18 budget, the Department of Natural Resources had \$577,481 in additional litigation costs in FY 2014-15, primarily attributed to one case associated with the State Land Board. The DOL billed the State Land Board for those costs and the State Land Board paid the bill. However, the Department's proposal to build the two-year average of additional litigation costs into the standard billing would effectively require the State Land Board to continue to pay for one-time costs that it has already covered.

## ANTICIPATED EFFICIENCIES

Based on preliminary projections, the Department believes that the proposed changes to standardized calculations and monthly billing would allow for a reduction in total legal services

appropriations to the DOL. The Department anticipates that the shift would allow for a total of \$763,273 in total reductions, including \$663,273 in LSSA personal services and \$100,000 in operating expenses.

## CONCLUSIONS

Staff believes that this proposal warrants further discussion with the Department and may warrant a common hearing question for all client agencies. Staff agrees that standardization of the *appropriation* calculations would likely be beneficial, including the adjustments to budgeted hours and probably including some estimate of likely litigation expenses. However, staff is more concerned about the proposed *billing* changes and believes that the shift away from billing based on actual hours and costs warrants further discussion (and possibly feedback from client agencies). Staff is particularly concerned about including additional litigation expenses in any mandatory or installment billing structure.

## ISSUE: 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.

### SUMMARY

- The Appellate Unit represents the prosecution when defendants challenge felony convictions before either state appellate courts or the federal courts. As a result of increasing workload, the Unit developed a backlog of appellate cases and has been working for several years to reduce the backlog. The backlog has been an ongoing topic of conversation for the Committee and the General Assembly for several years.
- In FY 2013-14, the General Assembly appropriated \$551,436 General Fund to add 6.0 attorney FTE to address the backlog of appellate cases. Based on the Department's original projections of workload and reductions in the backlog, the FY 2013-14 decision item assumed that 1.0 FTE could be eliminated at the end of FY 2015-16 (that position was eliminated for the FY 2016-17 budget) and an additional 3.0 FTE could be eliminated at the end of FY 2016-17.
- Based on increasing workload and increases in the appellate case backlog, the Department's FY 2017-18 budget request includes the continuation of \$256,468 General Fund and 3.0 FTE to retain the three attorney positions currently slated for elimination at the end of FY 2016-17.

### RECOMMENDATION

Staff recommends that the Committee discuss this request, and the future outlook for the workload of the Appellate Unit, with the Department at the upcoming hearing. Given the degree of uncertainty in the Department's workload projections, staff recommends that the Committee continue to monitor the Appellate Unit's backlog through an annual request for information and adjust the unit's staffing levels as necessary based on actual data.

### DISCUSSION

#### BACKGROUND – APPELLATE UNIT

The Appellate Unit handles all *criminal* appeals for the department, representing the prosecution when a defendant challenges his/her felony conviction before the state appellate courts or the



federal courts.<sup>5</sup> Most of the cases handled by this unit are in the Colorado Court of Appeals, with the remainder in the Colorado Supreme Court and the federal courts. The unit also prepares a weekly digest summarizing published cases to ensure that Appellate Unit attorneys and prosecutors throughout the state are informed about developments in criminal law and procedure. In addition, pursuant to Section 24-31-106, C.R.S., the unit also employs a victims' services coordinator. For FY 2016-17, the unit includes a total of 38.0 appropriated FTE (see table below).

APPELLATE UNIT <i>APPROPRIATED</i> FTE						
	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18 REQUEST
Deputy Attorney General	1.0	1.0	1.0	1.0	1.0	1.0
First AAG	3.0	3.0	3.0	3.0	3.0	3.0
Staff Attorneys	<u>24.0</u>	<u>29.5</u>	<u>30.0</u>	<u>30.0</u>	<u>29.0</u>	<u>29.0</u>
Subtotal Attorney FTE	28.0	33.5	34.0	34.0	33.0	33.0
Victims' Services Coordinator	1.0	1.0	1.0	1.0	1.0	1.0
Administrative Staff	3.0	3.0	3.9	4.0	4.0	4.0
Total FTE	32.0	37.5	38.9	39.0	38.0	38.0

#### APPELLATE BACKLOG AND THE FY 2013-14 DECISION ITEM

Since at least FY 2012-13, Committee's and the General Assembly's discussions of the unit have focused on the "appellate backlog," the backlog of cases awaiting response briefs from the appellate unit. For FY 2013-14, in response to growth in the backlog, the General Assembly approved an increase of \$551,436 General Fund to add 6.0 attorney FTE to the unit. As requested by the Department, the General Assembly approved 4.0 of the 6.0 new FTE on a time-limited basis, eliminating 1.0 FTE at the end of FY 2015-16 (this position was eliminated in the FY 2016-17 budget) and 3.0 additional FTE at the end of FY 2016-17 (for the FY 2017-18 budget). Thus, as approved by the General Assembly, the original decision item only included 2.0 of the additional FTE in FY 2017-18 and beyond.

Since the staffing increase in FY 2013-14, the Department has provided annual updates regarding the appellate backlog. As shown in the table on the following page, the unit's case backlog decreased each year through FY 2014-15. However, the backlog increased again in FY 2015-16. The Department points to two significant factors with respect to the increasing backlog:

- First, the unit's workload has increased. The number of cases and required briefs has increased overall, driven in part by the expansion of the Appellate Section within the Office of the State Public Defender (OSPD) in FY 2014-15 (for the past two years, approximately 45 percent of new appellate cases have been filed by the OSPD.) In addition, the complexity of briefs has also increased, increasing the time required for each brief.
- Second, the backlog figures for FY 2013-14 and FY 2014-15 do not align with the data previously submitted by the Department. When compiling the data for FY 2015-16, the Department realized that a calculation error had understated the backlog in the Department's responses for FY 2013-14 (272 vs. 320 in this year's report) and FY 2014-15 (168 vs. 264 in this year's report).

<sup>5</sup> See Sections 16-12-101 and 24-31-101 (1) (a), C.R.S.

APPELLATE UNIT WORKLOAD AND CASE BACKLOG						
	FY 2012-13 ACTUAL	FY 2013-14 ACTUAL	FY 2014-15 ACTUAL	FY 2015-16 ACTUAL	FY 2016-17 EST./APPR.	FY 2017-18 EST./REQ.
Incoming Cases	1,018	911	952	1,056	1,050	1,050
Briefs Filed	885	1,149	1,017	911	1,080	1,080
Attorney FTE	26.3	32.0	32.0	31.3	33.0	33.0
Briefs per Attorney	33.7	35.9	31.8	29.1	32.7	32.7
Case Backlog	398	320	264	428	398	368
Change in Backlog	n/a	(78)	(56)	164	(30)	(30)

The Department's goal is to achieve and maintain a case backlog of approximately 150 cases, requiring a reduction of 278 cases from the backlog existing at the end of FY 2015-16. Based on current projections, and assuming retention of the existing FTE (requested in R3), the Department anticipates reducing the backlog to 158 by the end of FY 2024-25. Without the 3.0 FTE in question, the Department would expect the backlog to increase by approximately 70 cases per year. However, staff notes that these estimates are based on specific assumptions regarding the unit's workload (incoming cases, briefs filed per attorney, etc.) and are uncertain.

### FY 2017-18 R3

In response to the increasing workload and backlog, the Department is requesting \$256,458 General Fund and 3.0 FTE to retain the three attorney FTE currently slated for elimination in the FY 2017-18 budget.<sup>6</sup> The following table shows the components of funding that would be eliminated if the General Assembly rejects R3 and requires the reduction of 3.0 FTE.

R3 - APPELLATE FTE RETENTION				
	FY 2017-18 REQUEST		FY 2018-19 IMPACT	
	GF	FTE	GF	FTE
Appellate Unit Personal Services Costs				
Salary/Personal Services	\$227,256	3.0	\$227,256	3.0
PERA (10.15%)	23,066		23,066	
Medicare (1.45%)	<u>3,295</u>		<u>3,295</u>	
<b>Subtotal, Personal Services</b>	<b>\$253,618</b>	<b>3.0</b>	<b>\$253,618</b>	<b>3.0</b>
Appellate Unit Operating Expenses				
Supplies (\$500/FTE)	\$1,500		\$1,500	
Telephone (\$450/FTE)	<u>1,350</u>		<u>1,350</u>	
<b>Subtotal, Operating Expenses</b>	<b>\$2,850</b>		<b>\$2,850</b>	
<b>Total, Request R3</b>	<b>\$256,468</b>	<b>3.0</b>	<b>\$256,468</b>	<b>3.0</b>

### CONCLUSIONS

The Department's data indicate that the appellate backlog has grown again and that retaining the attorney FTE in question will probably be necessary if the General Assembly intends to reduce and/or maintain the backlog. Staff recommends that the Committee discuss the issue at the Department's upcoming hearing. Given the uncertainty in the projections going forward, staff will

<sup>6</sup> Please note that R3 shows up as an increase because the Department's request first annualizes the FY 2013-14 decision item to eliminate the funding and FTE and then request R3 adds the funding and FTE back to continue the existing funding and FTE.

continue to monitor the situation and expects to recommend that the Committee continue the annual request for information related to the backlog.

## ISSUE: 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.

### SUMMARY

- In response to increasing workload, the Department is seeking additional resources to support consumer protection activities. In total, request R4 includes a net increase of \$574,847 total funds, including \$297,550 General Fund, and 5.8 FTE for FY 2017-18. The remainder of the increase is from custodial cash funds entirely under the control of the Department that would be reflected in the Long Bill for informational purposes only.
- The request includes three components: (1) resources (including \$66,550 General Fund) to realign and refinance 1.5 FTE currently focused on mortgage fraud activities to allow them to take on other work in addition to ongoing mortgage fraud responsibilities; (2) \$348,635 total funds (including \$231,000 General Fund) to support three new positions (two attorneys and one criminal investigator) specifically dedicated to oversight and enforcement of charitable organizations and charitable assets; and (3) \$226,211 custodial cash funds and 3.0 FTE to support a new public communications employee, an office manager for the Consumer Protection Section, and a custodial funds manager.

### RECOMMENDATION

Staff recommends that the Committee discuss request R4 with the Department at the upcoming hearing.

### DISCUSSION

#### BACKGROUND – CONSUMER PROTECTION AND ANTITRUST

The Consumer Protection and Antitrust line item supports two units:

- The Consumer Fraud Unit investigates and prosecutes traditional consumer protection matters such as fraudulent trade and false advertising. The Consumer Fraud Unit also brings cases under the Motor Vehicle Repair Act and, directly relevant to request R4, enforces the Charitable Solicitations Act. For FY 2016-17, the Consumer Fraud Unit includes a total of 18.0 appropriated FTE, including 7.0 attorney FTE.
- The Antitrust, Tobacco, and Consumer Protection Unit handles several specialized consumer protection provisions, including enforcement of the No-Call List Act [Section 6-1-901, et seq., C.R.S.] and the Attorney General's exclusive jurisdiction to enforce civil and criminal provisions of the Colorado Antitrust Act [Article 4 of Title 6, C.R.S.]. This unit is also responsible for enforcing the tobacco Master Settlement Agreement. Directly relevant to request R4, this unit is responsible for all of the consumer protection laws designed to address mortgage and

foreclosure rescue fraud. For FY 2016-17, this unit includes a total of 10.2 FTE, including 6.0 attorney FTE.

**R4 CONSUMER PROTECTION FTE AND CHARITIES UNIT**

With request R4, the Department is seeking a net increase of \$574,847 total funds (including \$297,550 General Fund) and 5.8 FTE for FY 2017-18 to support additional consumer protection efforts. With three components, the request proposes to: (1) realign and refinance a portion of the staff currently focused on mortgage and foreclosure fraud based on a decrease in mortgage-related workload; (2) add new FTE to establish a Charities Oversight Unit; and (3) add centralized administrative and outreach staff to support the consumer protection division.

While the request includes an increase of \$297,550 General Fund, the remainder of the increase is from custodial cash funds that are not subject to legislative appropriation and are entirely under the control of the Department (to be used in accordance with the requirements stipulated for the funds through legal action). For this request, the Department is requesting General Fund for all costs directly associated with attorney FTE and custodial funds for the requested non-attorney FTE. As a result, the custodial cash funds would be reflected in the Long Bill for informational purposes only. The following sections discuss each component of request R4.

**COMPONENT 1 – REFINANCE AND REALIGN MORTGAGE FRAUD FTE**

The Department is proposing to realign and refinance a portion of the existing FTE currently dedicated to mortgage fraud cases. Given the number of foreclosures, and amount of foreclosure fraud during the recent downturn, the Department prioritized a focus on mortgage fraud, with 3.0 FTE (1.0 FTE assistant attorney general and 2.0 FTE criminal investigators) supported by reappropriated funds transferred from the Department of Regulatory Agencies.

However, the Department has experienced a decrease in the mortgage fraud workload since the peak in 2012 (see table below) while the workload for non-mortgage cases continues to increase. The Department is asking to repurpose (and refinance) half of the staff currently focused on mortgage fraud (0.5 attorney FTE and the equivalent of 1.0 criminal investigator FTE) to investigate and respond to the increasing workload related other consumer protection complaints.

R4 Mortgage and Foreclosure Fraud Workload History (by Calendar Year)										
	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Mortgage-related complaints		100	397	903	728	1,185	904	676	531	277
Mortgage/foreclosure matters opened	8	18	21	13	6	5	5	3	3	4

This component of request R4 would reduce the unit’s reappropriated funds appropriation by \$133,445 and 1.5 FTE and offset that reduction with: (1) \$66,550 General Fund and 0.5 FTE to cover half of the costs associated with the 1.0 attorney FTE; and (2) \$97,277 custodial cash funds and 1.0 FTE to cover half of the costs associated with the 2.0 criminal investigator FTE. The following table shows the Department’s proposed change in funding for this component of the request.

R4 REFINANCE OF MORTGAGE FRAUD FTE				
	FY 2016-17 APPROP.		FY 2017-18 REQUEST	
	FUNDS	FTE	FUNDS	FTE
General Fund	\$0	0.0	\$66,550	0.5
Custodial Cash Funds	0	0.0	97,277	1.0
Mortgage Fraud RF	297,272	3.0	133,445	1.5
Total	\$297,272	3.0	\$297,272	3.0

**COMPONENT 2 – CHARITIES OVERSIGHT UNIT**

The Department is requesting an increase of \$348,635 total funds (including \$231,000 General Fund) and 2.8 FTE in FY 2017-18 (annualizing to \$348,574 total funds and 3.0 FTE in subsequent years) to establish a permanent unit to oversee charitable organizations and charitable assets. The Attorney General, acting through the Consumer Fraud Unit, has enforcement authority under the Charitable Solicitations Act and is vested with authority over all charitable assets under common law. However, the Department currently has no staff dedicated to full-time oversight of charitable organizations and assets. The Department has historically absorbed the work within existing resources but is now asking for dedicated staff to establish a Charities Oversight Unit. According to the Department, there are several drivers increasing the need for oversight and enforcement of this sector:

- The number of organizations and the assets in question has increased significantly. According to the Department, there are three times more charities registered with the Colorado Secretary of State than there were in 2006.
- The Department has seen increasing need for oversight particularly with respect nonprofit to for-profit conversions in the healthcare sector.
- Colorado is one of 14 pilot states involved in the Single Portal Multistate Registration Project, which will allow charities that solicit in multiple states to register in a single location. The Department has indicated that this project will provide more data and allow for better analysis and earlier detection of charitable fraud, but the Department argues that dedicated staff are necessary to utilize the data.

In order to provide dedicated staff, the Department is requesting resources to support 2.0 attorney FTE (supported entirely with General Fund) and 1.0 criminal investigator FTE (supported with consumer protection custodial funds) to create the Charities Oversight Unit. The following table shows the components of the request for the Charities Oversight Unit.

R4 - CONSUMER PROTECTION CHARITIES OVERSIGHT UNIT				
	FY 2017-18 REQUEST		FY 2018-19 IMPACT	
	\$	FTE	\$	FTE
Consumer Protection and Antitrust				
Attorney salary (GF)	\$154,484	1.8	\$168,528	2.0
Investigator salary (CF)	80,196	1.0	80,196	1.0
PERA (10.15%)	23,820		25,245	
Medicare (1.45%)	3,403		3,606	
AED (4.4%) /1	11,734		12,436	
SAED (4.25%) /1	11,734		12,436	
STD (0.022%) /1	516		547	

R4 - CONSUMER PROTECTION CHARITIES OVERSIGHT UNIT				
	FY 2017-18 REQUEST		FY 2018-19 IMPACT	
	\$	FTE	\$	FTE
Estimated HLD /1	<u>21,252</u>		<u>22,176</u>	
Subtotal, Personal Services	\$307,139	2.8	\$325,172	<b>3.0</b>
Operating Expenses				
Supplies (\$500)	\$1,500		\$1,500	
Computer (\$900)	2,700		0	
Office suite software (\$330)	990		0	
Office equipment (\$4,346)	13,038		0	
Telephone (\$450)	1,350		1,350	
Mileage on state vehicle (12,000 miles at \$0.212/mile)	2,544		2,544	
Assume 4 overnight stays per month (\$75/night)	3,600		3,600	
Per diem at \$66 per day for 4 nights per month	3,168		3,168	
Est. litigation expenses	5,000		5,000	
Badge and badge case	102		0	
Vest	840		0	
Body armor vest carrier	150		0	
Stinger rechargeable flashlight	206		0	
Response coat	68		0	
Cell phone (\$80 per month)	2,880		2,880	
Vehicle Lease Payments /1	<u>3,360</u>		<u>3,360</u>	
Subtotal, Operating Expenses	\$41,496		\$23,402	
<b>Total, Request R4 Charities Oversight Unit</b>	<b>\$348,635</b>	<b>2.8</b>	<b>\$348,574</b>	<b>3.0</b>
General Fund	231,000	1.8	237,881	2.0
Cash Funds (Custodial)	117,635	1.0	110,693	1.0

/1 These amounts would be addressed through centrally appropriated line items rather than within the Consumer Protection and Antitrust line item.

Staff notes that, contrary to the Committee's common policy, the Department is proposing to hire the attorneys and the criminal investigator at salaries above the range minimum for each position (hiring the attorneys at the second quartile of the assistant attorney general pay range and the criminal investigator at the average salary of the Department's existing criminal investigator II positions). The Department argues that the specialized skills required of the positions will require the elevated salary to attract qualified applicants.

### COMPONENT 3 – ADMINISTRATIVE AND OUTREACH FTE

Finally, the request includes an increase of \$226,211 custodial cash funds and 3.0 FTE in FY 2017-18 for administration and communication positions supporting consumer protection efforts. Please note that this component of the request is entirely funded with custodial funds and is therefore at the discretion of the Department. Any appropriations associated with this group of positions would be reflected in the Long Bill for informational purposes only. The proposed increases include:

- \$77,457 and 1.0 FTE for a communications and outreach specialist (requested as a marketing and communications specialist III) to improve proactive public outreach on consumer protection issues, particularly through the utilization of social media.
- \$74,787 and 1.0 FTE to hire an office manager to handle administrative oversight. The Department argues that growth in consumer protection administrative staffing has not kept pace with growth in the programmatic staffing and responsibilities and that the office manager position is necessary.
- \$73,968 and 1.0 FTE for custodial funds administration (requested as a program assistant I). The Department currently holds approximately \$35 million custodial funds from consumer protection related activities, including approximately \$21 million from a single settlement with Standard and Poors in 2014. The funds must be used for initiatives that are consistent with specified purposes. The Department does not currently have in-house grant making and supervision staff for the custodial funds and is requesting the additional position to both oversee the funds and more actively seek opportunities to effectively use the funds.

R4 - CONSUMER PROTECTION ADMINISTRATIVE AND OUTREACH FTE				
	FY 2017-18 REQUEST		FY 2018-19 IMPACT	
	CUSTODIAL CF	FTE	CUSTODIAL CF	FTE
Consumer Protection and Antitrust personal services costs				
Communications and outreach salary	\$48,336	1.0	\$48,336	1.0
Office manager salary	46,932	1.0	46,932	1.0
Program assistant salary	46,260	1.0	46,260	1.0
PERA (10.15%)	14,365		14,365	
Medicare (1.45%)	2,052		2,052	
AED (4.4%) /1	7,077		7,077	
SAED (4.25%) /1	7,077		7,077	
STD (0.022%) /1	311		311	
Estimated HLD /1	<u>33,264</u>		<u>33,264</u>	
<b>Subtotal, Personal Services</b>	<b>\$205,673</b>	<b>3.0</b>	<b>\$205,673</b>	<b>3.0</b>
Consumer Protection and Antitrust operating expenses				
Supplies (\$500)	\$1,500		\$1,500	
Computer (\$900)	2,700		0	
Office suite software (\$330)	990		0	
Office equipment (\$4,346)	13,038		0	
Telephone (\$450)	1,350		1,350	
Cell phone (\$80 per month)	<u>960</u>		<u>960</u>	
<b>Subtotal, Operating Expenses</b>	<b>\$20,538</b>		<b>\$3,810</b>	
<b>Total, R4 Administrative and Outreach FTE (Custodial CF)</b>	<b>\$226,211</b>	<b>3.0</b>	<b>\$209,483</b>	<b>3.0</b>

/1 These amounts would be addressed through centrally appropriated line items rather than within the Consumer Protection and Antitrust line item.

The Department is assuming that all three of the FTE requested through this component of the request would be hired at the range minimum salaries.



## ISSUE: 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.

### SUMMARY

- The P.O.S.T. Board is responsible for ensuring statewide consistency in the qualifications and training for peace officers. The Board certifies peace officers appointed by state and local law enforcement agencies, regulates peace officer training academies, and facilitates ongoing training for all state peace officers by disbursing grants and providing training sessions specifically developed by the P.O.S.T. Board and staff. The Department's FY 2017-18 budget request includes two decision items related to the P.O.S.T. Board.
- Request R6 includes an increase of \$500,010 cash funds from the existing balance of the P.O.S.T. Board Cash Fund to support subscriptions for online peace officer training for officers statewide. While the effort is particularly focused on rural jurisdictions, the Department expects training to be accessible to approximately 88 percent of peace officers statewide.
- Request R7 includes an increase of 3.0 FTE (but no additional funding) to support new staff as recommended in an external audit of the P.O.S.T. Board conducted in 2016. The audit recommended some reorganization of the P.O.S.T. Board staffing structure as well as the addition of 3.0 additional FTE to improve the Board's internal management and the auditing and oversight of grants and training supported by the Board.
- Based on the urgency of the audit's recommendations, the Department is using the P.O.S.T. Board's "program line item" appropriation to hire the new staff in FY 2016-17 within existing resources. The request is asking the General Assembly to reflect the FTE in the Long Bill to align with anticipated staffing.

### RECOMMENDATION

Staff recommends that the Committee discuss the requested changes for the P.O.S.T. Board at the Department's hearing.

## DISCUSSION

### BACKGROUND – PEACE OFFICERS STANDARDS AND TRAINING (P.O.S.T.) BOARD

The P.O.S.T. Board was established as a result of the enactment of federal legislation requiring equal protection by jurisdictions that receive federal funding [Title VII of the Rehabilitation Act of 1973]. The P.O.S.T. Board consists of 24 appointed members, including the Attorney General, the Executive Director of the Colorado Department of Public Safety, the Special Agent in charge of the Denver Division of the Federal Bureau of Investigation, as well as representatives of local government, sheriffs, chiefs of police, peace officers, and the general public.

The P.O.S.T. Board is responsible for ensuring statewide consistency in the qualifications and training for peace officers. The Board thus certifies peace officers appointed by state and local law enforcement agencies, regulates peace officer training academies, and facilitates on-going training for all state peace officers by disbursing grants and providing training sessions specifically developed by the P.O.S.T. Board and staff [see Section 24-31-301 *et seq.*, C.R.S.]. For FY 2014-15 and beyond, the P.O.S.T. Board is receiving funding from two major sources:

- The P.O.S.T. Board Cash Fund, which consists of fees paid by applicants seeking certification as well as a \$1.00 vehicle registration fee (S.B. 14-123 raised the vehicle registration fee from \$0.60 to \$1.00 for FY 2014-15 and subsequent years), supports the P.O.S.T. Board and provides the majority of funding for the line item (\$4.8 million in FY 2016-17); and
- Pursuant to S.B. 14-215, the Marijuana Tax Cash Fund, supported by taxes on marijuana, funds law enforcement training programs related to marijuana, including advanced roadside impaired driving enforcement training and drug recognition expert training (\$750,000 in FY 2016-17).

The Department's FY 2017-18 budget request includes two decision items affecting the P.O.S.T. Board (R6 and R7), which are summarized briefly in the following sections.

#### R6 – P.O.S.T. ONLINE TRAINING

Request R6 includes an increase of \$500,010 cash funds from the P.O.S.T. Board Cash Fund in FY 2017-18 to provide online peace officer training to peace officers statewide. The Department has submitted the request as a two-year request requiring \$500,010 per year. According to the Department, at an estimated \$42 per subscription, the request would sponsor 11,905 officers, representing approximately 88 percent of 13,500 certified peace officers statewide. While the training is intended to serve officers throughout the state, the Department's emphasis is on rural jurisdictions that find it difficult to train officers as a result of a lack of depth and inability to pay overtime to cover for officers that are away for training.

The P.O.S.T. Board Cash Fund has accumulated a balance as a result of the vehicle registration fee increase included in S.B. 14-123 (with a projected ending balance of \$1.2 million at the end of FY 2016-17). The Department is proposing to use the excess balance in the cash fund to support the proposed training program.

#### R7 – P.O.S.T. AUDIT FTE

Request R7 seeks an increase of 3.0 FTE (but no additional funding) in response to an external audit of the P.O.S.T. Board conducted in 2016. In 2015, the P.O.S.T. Director requested an external review of the P.O.S.T. Board efforts. The Department chose the International Association of

Directors of Law Enforcement Standards and Training (IADLEST) to conduct the audit, and the audit was presented to Board in June 2016.

While the audit was favorable overall it did identify areas of improvement and need within P.O.S.T. Board operations. The audit recommended a reorganization of the P.O.S.T. staff to reflect specific business functions, increased cross-training of staff within business functions to allow for improved operations during staff vacancies and absences, and increased standardization of operating procedures, including the development of a standard operating procedures manual. Directly relevant to this request to reflect additional FTE, the audit found:

- Inadequate auditing and oversight of grant recipients.
- Inadequate auditing and oversight of peace officer training programs.
- Insufficient staff to meet the increased needs of the agency, including the increased audit and oversight requirements discussed above.
- A need to create lead positions within each of three functional units to improve coordination and oversight within each unit.

With minor revisions to the recommended structure, the Department agreed with the audit findings and is moving forward with implementation. The Department notified JBC Staff of the outcome of the audit in July 2016. Given the degree of potential liability identified in the audit, the Department informed JBC Staff of its intent to use the flexibility afforded by the P.O.S.T. Board “program line item” appropriation (which supports the P.O.S.T. Board’s personal services, operating expenses, and grant funds in a single line item) to hire the new staff in the fall of 2016. The Department currently expects to fill the positions in November and December of 2016 and is requesting that the General Assembly reflect the FTE in the Long Bill to align with the anticipated staffing levels. Because the positions have not been filled, the costs remain uncertain. However, based on the available information, the Department expects the new positions will reduce 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.

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**Appendix A: Number Pages**

	<b>FY 2014-15 Actual</b>	<b>FY 2015-16 Actual</b>	<b>FY 2016-17 Appropriation</b>	<b>FY 2017-18 Request</b>	<b>Request vs. Appropriation</b>
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**DEPARTMENT OF LAW**  
**Cynthia Coffman, Attorney General**

**(1) ADMINISTRATION**

This section includes funding for the Attorney General, the Solicitor General, and other management staff, as well as the Department's human resources, accounting/budgeting, information technology, and legal support services units. These units are supported by General Fund and indirect cost recoveries. This section also includes central appropriations for the entire Department, including funding for employee benefits, facilities, vehicles, and information technology. Cash funds appropriations include moneys received by the Attorney General as an award of attorney fees or costs, and various other sources. Reappropriated funds derive from indirect cost recoveries and moneys transferred from a variety of other appropriations. For FY 2014-15 and subsequent years, federal funds are from the Medicaid Fraud Control Program. Prior years included federal funding from the Colorado Justice Review Project.

Personal Services	<u>3,361,926</u>	<u>3,371,481</u>	<u>3,805,907</u>	<u>3,876,422</u> *
FTE	37.0	38.0	46.2	46.2
General Fund	0	0	0	0
Cash Funds	45,985	0	0	0
Reappropriated Funds	3,315,941	3,371,481	3,805,907	3,876,422
Office of Community Engagement	<u>0</u>	<u>511,454</u>	<u>793,058</u>	<u>793,058</u>
FTE	0.0	4.4	7.0	7.0
General Fund	0	499,726	778,058	778,058
Cash Funds	0	11,728	15,000	15,000
Health, Life, and Dental	<u>2,878,006</u>	<u>3,761,551</u>	<u>3,789,903</u>	<u>4,131,512</u>
General Fund	791,193	987,967	1,014,768	1,148,851
Cash Funds	344,575	462,441	450,192	515,991
Reappropriated Funds	1,642,380	2,211,116	2,234,782	2,361,763
Federal Funds	99,858	100,027	90,161	104,907

**JBC Staff Budget Briefing: FY 2017-18**  
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	<b>FY 2014-15 Actual</b>	<b>FY 2015-16 Actual</b>	<b>FY 2016-17 Appropriation</b>	<b>FY 2017-18 Request</b>	<b>Request vs. Appropriation</b>
Short-term Disability	<u>79,509</u>	<u>73,366</u>	<u>75,164</u>	<u>79,252</u>	
General Fund	20,973	19,126	20,214	20,754	
Cash Funds	9,067	8,138	8,464	9,281	
Reappropriated Funds	47,051	44,162	44,602	47,492	
Federal Funds	2,418	1,940	1,884	1,725	
S.B. 04-257 Amortization Equalization Disbursement	<u>1,445,612</u>	<u>1,667,280</u>	<u>1,898,869</u>	<u>2,085,616</u>	
General Fund	381,335	431,939	510,666	546,163	
Cash Funds	164,849	181,373	213,828	244,244	
Reappropriated Funds	855,466	1,010,156	1,126,779	1,249,802	
Federal Funds	43,962	43,812	47,596	45,407	
S.B. 06-235 Supplemental Amortization Equalization					
Disbursement	<u>1,355,263</u>	<u>1,609,964</u>	<u>1,879,090</u>	<u>2,085,616</u>	
General Fund	357,502	413,839	505,347	546,163	
Cash Funds	154,546	178,001	211,601	244,244	
Reappropriated Funds	802,000	975,840	1,115,042	1,249,802	
Federal Funds	41,215	42,284	47,100	45,407	
Salary Survey for Classified Employees	<u>295,496</u>	<u>119,650</u>	<u>8,276</u>	<u>376,391</u>	
General Fund	91,353	40,723	1,861	125,323	
Cash Funds	74,976	30,754	857	97,945	
Reappropriated Funds	106,793	38,897	5,558	131,995	
Federal Funds	22,374	9,276	0	21,128	

**JBC Staff Budget Briefing: FY 2017-18**  
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	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	Request vs. Appropriation
Salary Survey for Exempt Employees	<u>358,827</u>	<u>965,318</u>	0	<u>1,008,795</u>	
General Fund	83,586	235,874	0	234,674	
Cash Funds	19,197	38,990	0	61,413	
Reappropriated Funds	252,482	680,763	0	704,317	
Federal Funds	3,562	9,691	0	8,391	
Workers' Compensation	<u>104,477</u>	<u>83,973</u>	<u>101,393</u>	<u>131,625</u>	
General Fund	28,278	23,257	28,528	37,304	
Cash Funds	12,196	9,807	11,694	15,491	
Reappropriated Funds	61,053	48,580	58,446	75,347	
Federal Funds	2,950	2,329	2,725	3,483	
Attorney Registration and Continuing Legal Education	<u>78,930</u>	<u>125,219</u>	<u>135,280</u>	<u>136,705</u>	
General Fund	18,248	30,680	32,680	33,630	
Cash Funds	2,475	3,234	4,275	4,275	
Reappropriated Funds	57,604	90,330	96,900	97,375	
Federal Funds	603	975	1,425	1,425	
Operating Expenses	<u>193,457</u>	<u>206,475</u>	<u>202,850</u>	<u>210,054</u> *	
General Fund	0	0	0	0	
Cash Funds	0	0	0	0	
Reappropriated Funds	193,457	206,475	202,850	210,054	
Federal Funds	0	0	0	0	
Legal Services	<u>5,931</u>	<u>34,239</u>	<u>39,066</u>	<u>40,796</u>	
General Fund	5,931	17,777	19,010	19,852	
Cash Funds	0	16,462	20,056	20,944	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	

**JBC Staff Budget Briefing: FY 2017-18**  
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	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	Request vs. Appropriation
Administrative Law Judge Services	<u>30,254</u>	<u>6,749</u>	<u>1,602</u>	<u>7,929</u>	*
General Fund	0	0	0	0	
Cash Funds	30,254	6,749	1,602	7,929	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	
Payment to Risk Management and Property Funds	<u>153,905</u>	<u>169,910</u>	<u>253,820</u>	<u>273,362</u>	
General Fund	0	47,059	71,416	77,476	
Cash Funds	0	19,845	29,271	32,171	
Reappropriated Funds	153,905	98,295	146,310	156,481	
Federal Funds	0	4,711	6,823	7,234	
Vehicle Lease Payments	<u>52,904</u>	<u>40,964</u>	<u>45,411</u>	<u>48,235</u>	*
General Fund	22,757	20,316	21,213	24,820	
Cash Funds	10,345	3,395	5,957	10,393	
Reappropriated Funds	17,595	15,554	17,566	12,482	
Federal Funds	2,207	1,699	675	540	
Information Technology Asset Maintenance	<u>608,783</u>	<u>623,770</u>	<u>645,206</u>	<u>833,595</u>	*
General Fund	171,927	173,591	174,663	238,725	
Cash Funds	55,045	61,669	75,291	97,694	
Reappropriated Funds	368,574	373,660	377,036	475,208	
Federal Funds	13,237	14,850	18,216	21,968	
Ralph L. Carr Colorado Judicial Center Leased Space	<u>2,981,368</u>	<u>3,126,117</u>	<u>3,202,517</u>	<u>3,261,575</u>	
General Fund	804,128	865,834	890,498	924,384	
Cash Funds	348,331	365,099	359,473	383,833	
Reappropriated Funds	1,743,005	1,808,498	1,865,577	1,867,046	
Federal Funds	85,904	86,686	86,969	86,312	

**JBC Staff Budget Briefing: FY 2017-18**  
**Staff Working Document - Does Not Represent Committee Decision**

	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	Request vs. Appropriation
Payments to OIT	<u>343,938</u>	<u>444,965</u>	<u>239,473</u>	<u>572,670</u>	*
General Fund	94,169	123,241	66,554	162,304	
Cash Funds	39,958	51,968	26,914	67,393	
Reappropriated Funds	199,951	257,417	139,502	327,819	
Federal Funds	9,860	12,339	6,503	15,154	
CORE Operations	<u>67,404</u>	<u>59,075</u>	<u>62,453</u>	<u>56,186</u>	
General Fund	0	16,362	17,572	16,090	
Cash Funds	0	6,898	7,202	6,585	
Reappropriated Funds	67,404	34,177	36,001	32,031	
Federal Funds	0	1,638	1,678	1,480	
Attorney General Discretionary Fund	<u>2,680</u>	<u>5,000</u>	<u>5,000</u>	<u>5,000</u>	
General Fund	2,680	5,000	5,000	5,000	
Merit Pay for Classified Employees	<u>104,360</u>	<u>114,830</u>	<u>0</u>	<u>0</u>	
General Fund	36,984	37,379	0	0	
Cash Funds	22,483	29,845	0	0	
Reappropriated Funds	36,301	39,991	0	0	
Federal Funds	8,592	7,615	0	0	
Merit Pay for Exempt Employees	<u>263,836</u>	<u>295,260</u>	<u>0</u>	<u>0</u>	
General Fund	62,917	71,154	0	0	
Cash Funds	11,284	11,730	0	0	
Reappropriated Funds	186,740	209,337	0	0	
Federal Funds	2,895	3,039	0	0	



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	<b>FY 2014-15 Actual</b>	<b>FY 2015-16 Actual</b>	<b>FY 2016-17 Appropriation</b>	<b>FY 2017-18 Request</b>	<b>Request vs. Appropriation</b>
<b>TOTAL - (1) Administration</b>	14,766,866	17,416,610	17,184,338	20,014,394	16.5%
<i>FTE</i>	<u>37.0</u>	<u>42.4</u>	<u>53.2</u>	<u>53.2</u>	<u>0.0%</u>
General Fund	2,973,961	4,060,844	4,158,048	4,939,571	18.8%
Cash Funds	1,345,566	1,498,126	1,441,677	1,834,826	27.3%
Reappropriated Funds	10,107,702	11,514,729	11,272,858	12,875,436	14.2%
Federal Funds	339,637	342,911	311,755	364,561	16.9%

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**(2) LEGAL SERVICES TO STATE AGENCIES**

The Department provides legal services on a fee-for-service basis to state agencies and enterprises. This section includes appropriations for the attorneys, legal assistants, and support personnel who provide these services. In most cases, the appropriations in this section are reflected as reappropriated funds because a duplicate appropriation for the purchase of legal services appears in the client agency's budget. Cash funds reflect payments the Department receives from state agencies that are not duplicated in appropriations elsewhere in the budget.

Personal Services	<u>24,312,388</u>	<u>24,498,604</u>	<u>27,314,973</u>	<u>26,849,380</u> *	
FTE	243.4	246.6	262.9	264.0	
Cash Funds	0	0	0	0	
Reappropriated Funds	24,312,388	24,498,604	27,314,973	26,849,380	
Operating and Litigation	<u>1,098,715</u>	<u>1,196,996</u>	<u>1,998,192</u>	<u>1,919,267</u> *	
Cash Funds	0	0	0	0	
Reappropriated Funds	1,098,715	1,196,996	1,998,192	1,919,267	
Indirect Cost Assessment	<u>3,211,050</u>	<u>2,913,265</u>	<u>3,455,011</u>	<u>3,262,644</u>	
Cash Funds	848,945	982,904	1,054,580	1,255,525	
Reappropriated Funds	2,362,105	1,930,361	2,400,431	2,007,119	
<b>TOTAL - (2) Legal Services to State Agencies</b>	28,622,153	28,608,865	32,768,176	32,031,291	(2.2%)
FTE	<u>243.4</u>	<u>246.6</u>	<u>262.9</u>	<u>264.0</u>	0.4%
Cash Funds	848,945	982,904	1,054,580	1,255,525	19.1%
Reappropriated Funds	27,773,208	27,625,961	31,713,596	30,775,766	(3.0%)

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**(3) CRIMINAL JUSTICE AND APPELLATE**

This division investigates and prosecutes fraud involving insurance, securities, Medicaid, and workers' compensation. It also handles foreign prosecutions, certifies peace officers, provides support to district attorneys in certain cases, and represents the state in criminal appeals. When the Department is involved in criminal appeals or in trial court criminal prosecution, this division is responsible for keeping crime victims informed about the case. Cash fund sources include moneys paid by insurance companies for the investigation and prosecution of insurance fraud, fees paid by peace officers for P.O.S.T. Board certification, the Marijuana Tax Cash Fund, and a statewide vehicle registration fee to support training for peace officers. Reappropriated funds are transferred from the Department of Regulatory Agencies and the Department of Public Safety. Federal funds are from the U.S. Department of Health and Human Services' Medicaid Fraud Control Program.

Special Prosecutions Unit	<u>3,744,427</u>	<u>4,331,725</u>	<u>4,308,283</u>	<u>4,588,290</u> *
FTE	34.9	35.8	38.7	40.8
General Fund	1,826,279	2,085,949	2,066,874	2,064,032
Cash Funds	1,276,824	1,568,043	1,528,836	1,765,337
Reappropriated Funds	641,324	677,733	712,573	758,921
Auto Theft Prevention Grant	<u>260,252</u>	<u>277,860</u>	<u>296,548</u>	<u>282,921</u>
FTE	2.0	2.0	2.0	2.0
Reappropriated Funds	260,252	277,860	296,548	282,921
Appellate Unit	<u>3,692,658</u>	<u>3,498,574</u>	<u>3,854,792</u>	<u>3,858,054</u> *
FTE	37.7	36.2	38.0	38.0
General Fund	3,201,247	3,194,349	3,280,780	3,568,258
Cash Funds	0	0	0	0
Reappropriated Funds	491,411	304,225	574,012	289,796
Medicaid Fraud Control Unit	<u>1,575,133</u>	<u>1,540,806</u>	<u>1,737,371</u>	<u>1,737,371</u>
FTE	15.8	15.6	17.0	17.0
General Fund	393,978	388,973	434,338	434,338
Federal Funds	1,181,155	1,151,833	1,303,033	1,303,033

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Peace Officers Standards and Training Board Support	<u>4,214,878</u>	<u>5,157,362</u>	<u>5,536,725</u>	<u>6,036,735</u> *	
FTE	7.6	9.0	9.0	12.0	
General Fund	0	0	0	0	
Cash Funds	4,214,878	5,157,362	5,536,725	6,036,735	
Indirect Cost Assessment	<u>484,762</u>	<u>457,717</u>	<u>537,858</u>	<u>540,674</u>	
Cash Funds	257,145	261,634	287,476	306,299	
Reappropriated Funds	80,929	56,064	82,136	76,885	
Federal Funds	146,688	140,019	168,246	157,490	
Safe2Tell	<u>371,727</u>	<u>0</u>	<u>0</u>	<u>0</u>	
FTE	2.7	0.0	0.0	0.0	
General Fund	367,187	0	0	0	
Cash Funds	4,540	0	0	0	
Reappropriated Funds	0	0	0	0	
<b>TOTAL - (3) Criminal Justice and Appellate</b>	<b>14,343,837</b>	<b>15,264,044</b>	<b>16,271,577</b>	<b>17,044,045</b>	<b>4.7%</b>
<b>FTE</b>	<b><u>100.7</u></b>	<b><u>98.6</u></b>	<b><u>104.7</u></b>	<b><u>109.8</u></b>	<b><u>4.9%</u></b>
General Fund	5,788,691	5,669,271	5,781,992	6,066,628	4.9%
Cash Funds	5,753,387	6,987,039	7,353,037	8,108,371	10.3%
Reappropriated Funds	1,473,916	1,315,882	1,665,269	1,408,523	(15.4%)
Federal Funds	1,327,843	1,291,852	1,471,279	1,460,523	(0.7%)

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**(4) WATER AND NATURAL RESOURCES**

This section provides funding for department staff who protect and defend the interests of the State and its citizens in all areas of natural resources law and environmental law, including the use of surface and ground water, oil and gas development, mining and minerals, wildlife, the clean-up of contaminated sites, the proper storage or disposal of hazardous waste, and protection of the state's air and water. Cash fund sources include the Colorado Water Conservation Board's Litigation Fund and moneys received by the Attorney General as an award of attorney fees or costs. Reappropriated funds are transferred from the Department of Public Health and Environment from the Hazardous Substance Response Fund.

Federal and Interstate Water Unit	<u>576,723</u>	<u>558,744</u>	<u>596,349</u>	<u>596,349</u>	
FTE	5.5	5.5	5.5	5.5	
General Fund	576,723	558,744	596,349	596,349	
Defense of the Colorado River Basin Compact	<u>334,627</u>	<u>307,288</u>	<u>428,639</u>	<u>428,639</u>	
FTE	3.0	3.0	3.5	3.5	
General Fund	0	0	0	0	
Cash Funds	334,627	307,288	428,639	428,639	
Defense of the Republican River Compact	<u>54,826</u>	<u>91,764</u>	<u>110,000</u>	<u>110,000</u>	
Cash Funds	54,826	91,764	110,000	110,000	
Consultant Expenses	<u>118,578</u>	<u>243,163</u>	<u>400,000</u>	<u>400,000</u>	
Cash Funds	118,578	243,163	400,000	400,000	
Comprehensive Environmental Response, Compensation and Liability Act	<u>315,861</u>	<u>364,596</u>	<u>495,577</u>	<u>495,577</u>	
FTE	2.9	3.3	3.5	3.5	
Reappropriated Funds	315,861	364,596	495,577	495,577	

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Comprehensive Environmental Response, Compensation and Liability Act Contracts	<u>0</u>	<u>0</u>	<u>100,000</u>	<u>100,000</u>	
Reappropriated Funds	<u>0</u>	<u>0</u>	<u>100,000</u>	<u>100,000</u>	
Indirect Cost Assessment	<u>45,686</u>	<u>42,199</u>	<u>46,367</u>	<u>43,403</u>	
Reappropriated Funds	<u>45,686</u>	<u>42,199</u>	<u>46,367</u>	<u>43,403</u>	
<b>TOTAL - (4) Water and Natural Resources</b>	1,446,301	1,607,754	2,176,932	2,173,968	(0.1%)
<i>FTE</i>	<u>11.4</u>	<u>11.8</u>	<u>12.5</u>	<u>12.5</u>	<u>0.0%</u>
General Fund	576,723	558,744	596,349	596,349	0.0%
Cash Funds	508,031	642,215	938,639	938,639	0.0%
Reappropriated Funds	361,547	406,795	641,944	638,980	(0.5%)

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**(5) CONSUMER PROTECTION**

This section provides funding for department staff who protect Colorado consumers against fraud and enforce state and federal consumer protection, antitrust, charitable solicitation, consumer lending, and fair debt collection laws. This section also provides funding to support one attorney who is responsible for enforcing the tobacco master settlement agreements and protecting the State's interests under the settlement payment calculation provision. Cash fund sources include fees paid by regulated entities, custodial moneys awarded to the Attorney General in consumer protection lawsuits, and tobacco settlement moneys. Reappropriated funds are transferred from the Department of Regulatory Agencies for consumer protection activities related to mortgage brokers.

Consumer Protection and Antitrust	<u>2,493,524</u>	<u>2,658,975</u>	<u>2,901,046</u>	<u>3,525,141</u> *	
FTE	25.8	27.7	29.2	36.0	
General Fund	1,106,625	1,289,565	1,368,420	1,662,610	
Cash Funds	1,141,733	1,106,357	1,235,354	1,729,086	
Reappropriated Funds	245,166	263,053	297,272	133,445	
Consumer Credit Unit	<u>1,605,601</u>	<u>1,418,728</u>	<u>1,714,816</u>	<u>1,714,816</u>	
FTE	19.4	17.9	20.0	20.0	
Cash Funds	1,605,601	1,418,728	1,714,816	1,714,816	
Indirect Cost Assessment	<u>451,364</u>	<u>448,515</u>	<u>463,671</u>	<u>446,428</u>	
Cash Funds	412,205	412,344	423,928	409,226	
Reappropriated Funds	39,159	36,171	39,743	37,202	
<b>TOTAL - (5) Consumer Protection</b>	4,550,489	4,526,218	5,079,533	5,686,385	11.9%
FTE	<u>45.2</u>	<u>45.6</u>	<u>49.2</u>	<u>56.0</u>	<u>13.8%</u>
General Fund	1,106,625	1,289,565	1,368,420	1,662,610	21.5%
Cash Funds	3,159,539	2,937,429	3,374,098	3,853,128	14.2%
Reappropriated Funds	284,325	299,224	337,015	170,647	(49.4%)

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**(6) SPECIAL PURPOSE**

The section includes funding to cover 80 percent of the statutory minimum salary for Colorado's twenty-two district attorneys, for unanticipated legal and technology expenses, and for litigation expenses associated with significant lawsuits. Cash fund sources include tobacco settlement moneys, moneys received from State Board of Land Commissioners from its Investment and Development Fund, and moneys received by the Attorney General as an award of attorney fees or costs.

District Attorneys' Salaries General Fund	<u>2,697,640</u> 2,697,640	<u>2,718,249</u> 2,718,249	<u>2,738,841</u> 2,738,841	<u>2,749,138</u> 2,749,138	
Deputy District Attorney Training General Fund	<u>350,000</u> 350,000	<u>350,000</u> 350,000	<u>405,000</u> 405,000	<u>405,000</u> 405,000	
Litigation Management Cash Funds	<u>119,583</u> 119,583	<u>7,336</u> 7,336	<u>200,000</u> 200,000	<u>200,000</u> 200,000	
Tobacco Litigation Cash Funds	<u>612,808</u> 612,808	<u>702,534</u> 702,534	<u>1,250,000</u> 1,250,000	<u>1,250,000</u> 1,250,000	
CORA OML Attorney FTE General Fund	<u>0</u> 0.0 0	<u>31,198</u> 0.4 31,198	<u>90,297</u> 1.0 90,297	<u>90,297</u> 1.0 90,297	
Lowry Range Litigation Expenses Cash Funds	<u>285,760</u> 285,760	<u>0</u> 0	<u>0</u> 0	<u>0</u> 0	

<b>TOTAL - (6) Special Purpose</b>	4,065,791	3,809,317	4,684,138	4,694,435	0.2%
FTE	<u>0.0</u>	<u>0.4</u>	<u>1.0</u>	<u>1.0</u>	(0.0%)
General Fund	3,047,640	3,099,447	3,234,138	3,244,435	0.3%
Cash Funds	1,018,151	709,870	1,450,000	1,450,000	0.0%



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<b>TOTAL - Department of Law</b>	67,795,437	71,232,808	78,164,694	81,644,518	4.5%
<i>FTE</i>	<u>437.7</u>	<u>445.4</u>	<u>483.5</u>	<u>496.5</u>	<u>2.7%</u>
General Fund	13,493,640	14,677,871	15,138,947	16,509,593	9.1%
Cash Funds	12,633,619	13,757,583	15,612,031	17,440,489	11.7%
Reappropriated Funds	40,000,698	41,162,591	45,630,682	45,869,352	0.5%
Federal Funds	1,667,480	1,634,763	1,783,034	1,825,084	2.4%

## APPENDIX B RECENT LEGISLATION AFFECTING DEPARTMENT BUDGET

### 2015 SESSION BILLS

**S.B. 15-014 (MEDICAL MARIJUANA):** Requires the Colorado Medical Board in consultation with the Department of Public Health and Environment (DPHE) and physicians who specialize in medical marijuana to establish guidelines for physicians who make medical marijuana recommendations. For FY 2015-16, provides \$56,706 reappropriated funds and 0.3 FTE to the Department of Law for the provision of legal services to the DPHE.

**S.B. 15-106 (SUNSET BARBER AND COSMETOLOGIST ACT):** Continues the Barber and Cosmetologist Act and the Cosmetology Advisory Committee until September 1, 2026. For FY 2015-16, provides \$8,506 reappropriated funds to the Department of Law for the provision of legal services to the Department of Regulatory Agencies (DORA).

**S.B. 15-110 (SUNSET MORTUARY SCIENCE REGULATION):** Continues the registration of funeral homes and crematories by the Department of Regulatory Agencies (DORA) until July 1, 2024. For FY 2015-16, provides \$4,726 reappropriated funds to the Department of Law for the provision of legal services to the Department of Regulatory Agencies (DORA).

**S.B. 15-196 (INDUSTRIAL HEMP CERTIFIED SEEDS CONCENTRATION TEST):** Requires the Department of Agriculture to administer an industrial hemp certified seed program to identify seeds that produce industrial hemp. For FY 2015-16, provides \$3,780 reappropriated funds to the Department of Law for the provision of legal services to the Department of Agriculture.

**S.B. 15-234 (LONG BILL):** General appropriations act for FY 2015-16.

**S.B. 15-239 (TRANSFER VOCATIONAL REHABILITATION FROM DHS TO CDLE):** Transfers the state's Vocational Rehabilitation Programs from the Department of Human Services (DHS) to the Colorado Department of Labor and Employment (CDLE) beginning July 1, 2016. For FY 2015-16, provides \$18,902 reappropriated funds and 0.1 FTE to the Department of Law for the provision of legal services to the Department of Labor and Employment.

**S.B. 15-288 (COMPENSATION PAID TO ELECTED OFFICIALS):** Effective January 2019, replaces the existing fixed dollar salaries listed in statute for certain state officials and state legislators with a new method for determining salaries that aligns them to certain judicial officers' salaries. The Attorney General's salary will be equal to 60.0 percent of the salary paid to the Chief Judge of the Colorado Court of Appeals.

**H.B. 15-1063 (PROHIBITED COMMUNICATION CONCERNING PATENTS):** Establishes a framework for communications between private parties concerning patent rights. Gives the Attorney General the sole authority to enforce the bill and to conduct civil investigations and bring civil actions for violations of the bill. Increases state revenues by up to \$100,000 per year (including up to \$50,000 General Fund) beginning in FY 2015-16 from civil penalties and the award of court-related costs to the Department of Law. For FY 2015-16, provides \$94,441 General Fund and 0.8 FTE to the Department of Law for consumer protection and antitrust activities related to the bill.

**H.B. 15-1309 (PROTECTIVE RESTORATIONS BY DENTAL HYGIENISTS):** Allows dental hygienists to receive a permit from the Colorado Dental Board to perform interim therapeutic restorations. Establishes the Interim Therapeutic Restorations Advisory Committee within the Department of Regulatory Agencies (DORA). For FY 2015-16, provides \$7,426 reappropriated funds to the Department of Law for the provision of legal services to the DORA.

**H.B. 15-1367 (RETAIL MARIJUANA TAXES):** Refers a ballot issue to voters in November 2015, asking whether the State may retain and spend revenue collected from the Proposition AA excise and special sales taxes on retail marijuana in FY 2014-15. Creates a \$58.0 million Proposition AA Refund Account (Refund Account) in the General Fund. Contingent on voter approval of the ballot issue, appropriates \$202,835 cash funds to the Department of Law for FY 2015-16, as detailed in the following table.

APPROPRIATIONS TO DEPARTMENT OF LAW THAT ARE CONTINGENT ON VOTER APPROVAL		
DIVISION AND LINE ITEM	FUND SOURCE	DOLLAR AMOUNT
Criminal Justice and Appellate		
Peace Officers Standards and Training Board Support	CF - Proposition AA Refund Account	\$200,000
Personal Services and Operating and Litigation	CF – Marijuana Tax Cash Fund	2,835
<b>TOTAL</b>		<b>\$202,835</b>

Independent of whether the voters approve the ballot issue, for FY 2015-16, makes the following appropriations to the Department of Law: (1) \$24,703 reappropriated funds and 0.1 FTE for legal services provided to the Department of Agriculture; and (2) \$1,890 reappropriated funds for legal services provided to the Department of Local Affairs.

**H.B. 15-1379 (MARIJUANA PERMITTED ECONOMIC INTEREST):** Allows people who are not residents of Colorado to apply to the Marijuana Enforcement Division within the Department of Revenue (DOR) for the authorization to hold a permitted economic interest (PEI) in a regulated medical or retail marijuana business. For FY 2015-16, provides \$33,254 reappropriated funds and 0.2 FTE to the Department of Law for the provision of legal services to the DOR.

## 2016 SESSION BILLS

**S.B. 16-036 (SURETY REQUIREMENT FOR APPEALING TAX BILLS CLAIMED):** Changes the circumstances under which a taxpayer is required to set aside money when he or she files a notice of appeal of a tax decision with a court. For FY 2016-17, provides \$100,000 reappropriated funds to the Department of Law for the provision of legal services to the Department of Revenue (DOR).

**S.B. 16-040 (MARIJUANA OWNER CHANGES):** Replaces the current statutory definition for owner of a licensed medical or retail marijuana business with two new ownership categories: direct beneficial interest owners and indirect beneficial interest owners and specifies statutory requirements regarding the categories of ownership. For FY 2016-17, provides \$71,258 reappropriated funds and 0.4 FTE to the Department of Law for the provision of legal services to the Department of Revenue (DOR).

**S.B. 16-058 (COLORADO FARM TO CONSUMER SALES):** Modifies the "Colorado Cottage Foods Act," which allows homemade food producers to sell certain food products directly to consumers. For FY 2016-17, provides \$3,800 reappropriated funds to the Department of Law for the provision of legal services to the Department of Agriculture.

**S.B. 16-069 (COMMUNITY PARAMEDICINE REGULATION):** Requires the Department of Public Health and Environment (DPHE) to establish rules governing the scope of practice of community integrated health care service, including the issuance of an endorsement in community integrated health care service to emergency medical service providers. For FY 2016-17, provides \$3,802 reappropriated funds to the Department of Law for the provision of legal services to the DPHE.

**S.B. 16-161 (REGULATE ATHLETIC TRAINERS):** Requires athletic trainers to be registered with the Division of Professions and Occupations, within the Department of Regulatory Agencies (DORA), and reinstates, with some modifications, the Athletic Trainer Practice Act as it existed prior to its 2015 repeal. For FY 2016-17, provides \$10,071 reappropriated funds and 0.1 FTE to the Department of Law for the provision of legal services to DORA.

**S.B. 16-193 (SAFE2TELL FREE MATERIALS AND TRAINING):** Requires the Department of Law to provide Safe2Tell program materials to Colorado preschools, elementary schools, middle schools, high schools, 4-H extension offices, and boys and girls clubs free of charge by June 30, 2017, and annually each year thereafter. Also requires the Department of law to develop a training curriculum and teaching materials for a train-the-trainer program which is to be held annually and at diverse geographic locations within Colorado at no cost to attendees. For FY 2016-17, appropriates \$135,942 General Fund and 1.0 FTE to the Department of Law.

**S.B. 16-197 (LIQUOR-LICENSED DRUGSTORES MULTIPLE LICENSES):** Allows a liquor-licensed drugstore to obtain additional liquor-licensed drugstore licenses, under which drugstores are permitted to sell malt, vinous, and spirituous liquors in sealed containers for consumption off the licensed premises. Specifies requirements for licensing and enforcement to be conducted by the Department of Revenue (DOR). For FY 2016-17, provides \$228,024 reappropriated funds and 1.3 FTE to the Department of Law for the provision of legal services to DOR.

**H.B. 16-1034 (EMERGENCY MEDICAL RESPONDER REGISTRATION):** Renames "first responders" as "emergency medical responders" and requires the Department of Public Health and Environment (DPHE) to begin a voluntary registration program on July 1, 2017. For FY 2016-17, provides \$3,800 reappropriated funds to the Department of Law for the provision of legal services to the DPHE.

**H.B. 16-1047 (INTERSTATE MEDICAL LICENSURE COMPACT):** Enacts the Interstate Medical Licensure Compact (compact) and authorizes the Governor to enter into the compact on behalf of Colorado. For FY 2016-17, provides \$47,505 reappropriated funds and 0.1 FTE to the Department of Law for the provision of legal services to the Department of Regulatory Agencies (DORA).

**H.B. 16-1097 (PUC PERMIT FOR MEDICAID TRANSPORTATION PROVIDERS):** Allows providers of non-emergency transportation services for Medicaid clients to operate under a limited regulation permit from the Public Utilities Commission (PUC), rather than a certificate of public convenience and necessity, and establishes parameters for the limited regulation permits. For FY 2016-17, provides \$23,753 reappropriated funds and 0.1 FTE to the Department of Law for the provision of legal services to the PUC.

**H.B. 16-1160 (SUNSET SURGICAL ASSISTANTS SURGICAL TECHNICIANS):** Continues the regulation of surgical assistants and surgical technologists until September 1, 2021. These health professions are regulated by the Division of Professions and Occupations in the Department of Regulatory Agencies (DORA). For FY 2016-17, provides \$15,202 reappropriated funds and 0.1 FTE to the Department of Law for the provision of legal services to DORA.

**H.B. 16-1197 (MILITARY VETERAN OCCUPATIONAL CREDENTIALS):** Requires each state agency that regulates a profession or occupation to evaluate and provide appropriate credit toward licensing and certification for military experience. Each state agency may consult with any military official, state agency, or post-secondary educational institution, and each post-secondary educational institution is obligated to cooperate. For FY 2016-17, provides \$2,850 reappropriated funds to the Department of Law for the provision of legal services to the Department of Regulatory Agencies (DORA).

**H.B. 16-1211 (MARIJUANA TRANSPORTER LICENSE):** Creates state medical and retail marijuana transporter licenses to be issued by the Marijuana Enforcement Division (MED) in the Department of Revenue (DOR), and allows for the issuance of a local medical marijuana transporter license. Specifies criteria and requirements for licensing and requires transporters to be licensed by July 1, 2017, with the exception of a marijuana transporter for a medical marijuana business or retail marijuana establishment that provides its own distribution. For FY 2016-17, provides \$9,501 reappropriated funds to the Department of Law for the provision of legal services to the DOR.

**H.B. 16-1244 (SUPPLEMENTAL BILL):** Supplemental appropriation bill for the Department of Law for FY 2015-16.

**H.B. 16-1261 (RETAIL MARIJUANA SUNSET):** Continues the Colorado Retail Marijuana Code until September 1, 2019, and makes changes regarding licensing, rulemaking, industry operations, county-initiated ballot measures, and criminal provisions. For FY 2016-17, provides \$9,501 reappropriated funds to the Department of Law for the provision of legal services to the Department of Revenue (DOR).

**H.B. 16-1280 (UPDATE AIR AMBULANCE REGULATION):** Provides the Department of Public Health and Environment (DPHE) with additional authority to establish state-level licensing of air ambulances that allows for air ambulance operators to receive a license either by gaining accreditation through an approved organization or by meeting licensing standards established by

DPHE and the State Board of Health. For FY 2016-17, provides \$3,800 reappropriated funds to the Department of Law for the provision of legal services to the DPHE.

**H.B. 16-1324 (VETERINARY ACCESS COMPOUNDED):** Authorizes a compounding pharmacy that possesses a valid manufacturing registration from the federal Drug Enforcement Administration to compound and distribute a drug to a veterinarian for office use or office stock. Additionally, the bill allows a veterinarian to administer to an animal patient a compounded drug maintained for office use and to dispense to a human client for later administration to an animal patient a compound drug. Authorizes the Colorado Board of Pharmacy, within the Department of Regulatory Agencies (DORA), to authorize and license a pharmacy outlet located outside of Colorado to provide compounded veterinary drugs for office use or office stock and to promulgate rules concerning compounded veterinary pharmaceuticals. For FY 2016-17, provides \$9,501 reappropriated funds to the Department of Law for the provision of legal services to DORA.

**H.B. 16-1328 (USE OF RESTRAINT AND SECLUSION ON INDIVIDUALS):** Directs the Department of Human Services (DHS) on the use of seclusion in youth corrections facilities. Requires the DHS to maintain prescribed documentation each time a youth is placed in seclusion as a result of an emergency in any secure state-operated and state-owned youth corrections facility. For FY 2016-17, provides \$4,900 reappropriated funds to the Department of Law for the provision of legal services to DHS.

**H.B. 16-1404 (REGULATE FANTASY CONTESTS):** Establishes the registration of small fantasy contest operators and the licensure of all other large fantasy contest operators by the Division of Professions and Occupations within the Department of Regulatory Agencies (DORA). For FY 2016-17, provides \$9,501 reappropriated funds to the Department of Law for the provision of legal services to DORA.

**H.B. 16-1405 (LONG BILL):** General appropriations act for FY 2016-17.

## APPENDIX C FOOTNOTES AND INFORMATION REQUESTS

### UPDATE ON LONG BILL FOOTNOTES

- 66 Department of Law, Legal Services to State Agencies – In making this appropriation, it is the intent of the General Assembly that hourly billing rates charged by the Department for legal services to state agencies not exceed \$98.26 per hour for attorneys and not exceed \$77.06 per hour for legal assistants, which equates to a blended legal rate of \$95.05 per hour.

**COMMENT:** The Department is billing client agencies at the stated rates.

- 67 Department of Law, Special Purpose, Litigation Management – It is the intent of the General Assembly to grant the Department of Law additional flexibility by allowing the Department to use money appropriated to this line item to address unanticipated state legal needs that arise during FY 2016-17. It is also the intent of the General Assembly that money spent from this line item shall not require the appropriation of additional FTE and will not be used for any type of salary increase, promotion, reclassification, or bonus related to any present or future FTE employed by the Department of Law. It is furthermore the intent of the General Assembly that money spent from this line item will not be used to offset present or future personal services deficits in any division in the Department.

**COMMENT:** The Department is complying with this footnote.

*Background Information on the Litigation Management Appropriation.* This line item was originally added to the Long Bill in FY 1994-95 to pay for unanticipated legal costs that arise over the course of the fiscal year (especially when the General Assembly is not in session) and to support technology costs that would otherwise require a General Fund appropriation. The line item has reduced the need for supplemental requests related to the Legal Services to State Agencies (LSSA) program and other unanticipated litigation. Funds for this appropriation come from two sources:

- 1 Excess revenues earned by the LSSA program during the previous fiscal year and retained in the Legal Services Cash Fund pursuant to H.B. 12-1248 (a JBC bill which created the Legal Services Cash Fund). This line item appropriation allows the Department to retain and roll forward a portion of any excess revenues to the next fiscal year. Please note that excess earnings fluctuate substantially from year to year and the amount is not known with certainty until after the close of the fiscal year. The following table provides a history of excess LSSA revenues, including the portion that reverted to the General Fund.

Excess Legal Services to State Agencies (LSSA) Revenues					
Fiscal Year	Excess LSSA Revenues Earned	Excess Revenues as Percent of Total LSSA Revenues	Fiscal Year	Expenditures of Excess LSSA Revenues	Excess LSSA Revenues Credited to the General Fund
2005-06	532,673	2.8%	2006-07	(180,221)	352,452
2006-07	362,515	1.8%	2007-08	(216,577)	145,938
2007-08	267,456	1.2%	2008-09	(267,456)	0
2008-09	496,834	2.0%	2009-10	(145,258)	351,576
2009-10	367,965	1.5%	2010-11	(262,256)	105,709
2010-11	491,912	1.9%	2011-12	(250,894)	241,018
2011-12	93,489	0.3%	2012-13	93,489	0
2012-13	16	0.0%	2013-14	n/a	n/a
2013-14	681,382	2.1%	2014-15	n/a	n/a
2014-15	3,355,613	8.8%	2015-16	n/a	n/a
2015-16	(277,979)	-0.8%	2016-17	n/a	n/a

- 2 Various court awards that are deposited into the Attorneys Fees and Costs Account, which is established in Section 24-31-108 (2), C.R.S. This account consists of any money received by the Attorney General as an award of attorney fees or costs that is not considered custodial funds. Funds in the Account are subject to annual appropriation by the General Assembly for legal services provided by the Department. For purposes of this appropriation, this source of funding serves as a backup, filling in the remainder of the appropriation to the Litigation Management appropriation when excess LSSA earnings come up short. The following table details revenues and expenditures for the Account.

ATTORNEY FEES AND COSTS ACCOUNT				
FISCAL YEAR	BEGINNING FUND BALANCE	REVENUES	EXPENDITURES	ENDING FUND BALANCE
2005-06	208,794	23,276	(100,477)	131,593
2006-07	131,593	244,420	(71,333)	304,680
2007-08	304,680	267,118	(142,251)	429,547
2008-09	429,547	105,671	(94,595)	440,623
2009-10	440,623	202,185	(54,021)	588,787
2010-11	588,787	123,861	(22,417)	690,231
2011-12	690,231	442,207	(7,426)	1,125,012
2012-13	1,125,012	438,169	(385,881)	1,177,299
2013-14	1,177,299	191,126	(263,135)	1,105,290
2014-15	1,105,290	805,397	(119,583)	1,791,104
2015-16	1,791,104	302,211	(7,336)	2,085,979

Any excess legal services revenues that are earned in FY 2016-17 will be retained in the Legal Services Cash Fund. In order to provide the Department flexibility to spend those revenues, the FY 2017-18 Long Bill appropriation for this line item will consist of two fund sources: excess revenues credited to the Legal Services Cash Fund in FY 2016-17 and various court awards that are deposited into the Attorneys Fees and Costs Account.

*Expenditure Update.* The Department has been utilizing the spending authority provided through the Litigation Management appropriation in the manner designated in the footnote. The Department's budget request reflects actual expenditures for this line item in FY 2014-15 and



FY 2015-16. The majority of expenditures reported for FY 2014-15 were related to internal and contracted legal analysis and litigation support. The majority of expenditures in FY 2015-16 were related to legal analysis and litigation associated with Nebraska v. Colorado and a mortgage fraud case.

## UPDATE ON REQUESTS FOR INFORMATION

- 1 Department of Law, Criminal Justice and Appellate, Appellate Unit – The Department is requested to provide by November 1, 2016, a report concerning the Appellate Unit’s progress in reducing its case backlog, including the following data for FY 2015-16: the number of opening briefs received; the number of answer briefs filed; and the case backlog as of June 30, 2016. In addition, the Department is requested to summarize the tasks completed by the inter-agency working group that was established to review the procedures, rules, and practices for handling post-conviction appeals, along with any recommended procedural, regulatory, or statutory changes.

**COMMENT:** The Department provided the report (summarized below) on November 1, 2016. For additional discussion of the Appellate Unit and the case backlog, see the second issue paper in this document.

*Case Backlog:* Although the Department saw a decrease in the Appellate Unit’s case backlog each year since FY 2012-13, this year’s report shows an increase in the backlog from FY 2014-15 to FY 2015-16 (see table below). At the end of FY 2014-15, the backlog stood at 264 cases/briefs, a reduction of 56 cases from the end of FY 2013-14.<sup>7</sup> However, as a result of increasing workload, the backlog had increased to 428 at the end of FY 2015-16, an increase of 164 cases above the level in FY 2014-15.

APPELLATE UNIT WORKLOAD AND CASE BACKLOG				
	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16
	ACTUAL	ACTUAL	ACTUAL	ACTUAL
Incoming Cases	1,018	911	952	1,056
Briefs Filed	885	1,149	1,017	911
Attorney FTE	26.3	32.0	32.0	31.3
Briefs per Attorney	33.7	35.9	31.8	29.1
Case Backlog	398	320	264	428
Change in Backlog	n/a	(78)	(56)	164

The Department attributes the increasing backlog to: (1) an increasing number of cases/briefs requiring responses, driven in part by the expansion of the appellate section of the Office of the State Public Defender in FY 2014-15; and (2) increasing complexity and quality of briefs submitted to appellate courts, requiring more time for each brief. As discussed in the earlier issue paper, the Department is requesting funds to retain 3.0 attorney FTE originally slated for elimination at the end of FY 2016-17 in an effort to manage and reduce the backlog going forward.

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<sup>7</sup> Please note that, as discussed in the second issue paper in this document, the data from FY 2013-14 and FY 2014-15 include increases from the backlog levels reported in previous years’ responses. The Department has corrected a calculation error that was understating the size of the backlog in those years.

*Interagency Working Group on Postconviction Appeals:* The working group included members from the Judicial Branch, the Attorney General’s Office, the Public Defender’s Office, and the Office of Alternate Defense Counsel. However, the Department reports that, in part due to staffing turnover within the Judicial Branch, the working group in not being pursued at this time and has been suspended indefinitely.

- 2 Department of Law, Criminal Justice and Appellate, Medicaid Fraud Control Unit – Pursuant to Section 25.5-4-310, C.R.S., the Department of Law’s Medicaid Fraud Control Unit is required to submit an annual report by January 15 concerning: actions filed under the “Colorado Medicaid False Claims Act”, the amount recovered as a result of such actions, and the amount of related expenditures. The General Assembly requests that the Department also include in this annual report information about expenditures and recoveries related to the Unit’s criminal investigations.

**COMMENT:** The Department plans to include as part of its statutorily required January 2017 report the requested information about expenditures and recoveries related to the Unit’s criminal investigations.

- 3 Department of Law, Special Purpose, District Attorney Training – Pursuant to Section 20-1-111 (4) (b), C.R.S., the Colorado District Attorneys’ Council (CDAC) allocated these dollars to provide prosecution training, seminar, continuing education programs, and other prosecution related services on behalf of District Attorneys who are members of the CDAC. The CDAC is requested to submit an annual report by November 1 detailing how the District Attorney Training appropriation is spent, including the number and type of training activities provided, the number of district attorney offices served by each type of training activity, the number of deputy district attorneys trained, and detail of the costs categorized by personnel, operating, and travel, for each training effort.

**COMMENT:** The CDAC provided the requested report to the Department of Law on October 19, 2016. The following table shows the CDAC’s reported use of funds for FY 2015-16.

District Attorney Training: FY 2015-16 Expenditures	
Use	Expenditures
Personnel (salary and benefits)	\$136,437
Supplies and Operating	\$8,851
Travel	20,067
Registration fee reductions	83,910
Scholarships for CDAC and non-CDAC trainings	100,735
Equipment	0
<b>TOTAL</b>	<b>\$350,000</b>

*Personnel:* The CDAC reports that, as contemplated in H.B. 14-1144, it is using this funding to cover the salary and benefits of 1.0 staff attorney FTE provided prosecution related

trainings and services to local prosecutors. The funding also covers small portions of two other administrative/training coordinating positions.

*Supplies and Operating:* The funding is used for a variety of supplies and operating expenses, including copies, postage, class materials, continuing legal education (CLE) accreditation for trainings, subscriptions to create publications or provide trainings, and books and materials. Funds also covered a one-day “Mental Conditions Defenses” course and a two-day “Advanced County Court” course for rural deputy district attorneys.

*Travel:* Funds covered mileage, transportation, lodging and per diem costs for CDAC staff attending trainings as well as for other district attorney office staff assisting other offices with mentoring and training.

*Registration Fees:* The funding allowed CDAC to reduce (and in some cases eliminate) registration fees charged for CDAC trainings. The \$83,910 represents the savings to send 634 attendees to a variety of trainings.

*Scholarships for CDAC and non-CDAC Trainings:* The CDAC provided reimbursements for offices sending employees to various CDAC and non-CDAC trainings. According to the CDAC, more than \$26,000 of the scholarship funds were used for registrations at non-CDAC trainings that district attorney staff would have been unlikely to be able to attend without the scholarship assistance. Additional funds were used for travel expenses to allow registrants to attend trainings. The CDAC reports that more than 125 attendees from throughout the State (representing all 22 district attorney offices) attended trainings using the scholarship funds.

*Equipment:* The CDAC did not use any funds for equipment in FY 2015-16.

## APPENDIX D

# DEPARTMENT ANNUAL PERFORMANCE REPORT

Pursuant to Section 2-7-205 (1) (b), C.R.S., the Department of Law is required to publish an Annual Performance Report by November 1 of each year. This report is to include a summary of the Department's performance plan and most recent performance evaluation. For consideration by the Joint Budget Committee in prioritizing the Department's budget request, the FY 2015-16 report dated November 2016 can be found at the following link:

[https://coag.gov/sites/default/files/contentuploads/bl/BudgetRequests/departement\\_of\\_law\\_nov\\_1\\_2016\\_performance\\_report.pdf](https://coag.gov/sites/default/files/contentuploads/bl/BudgetRequests/departement_of_law_nov_1_2016_performance_report.pdf)

Pursuant to Section 2-7-204 (3) (a) (I), C.R.S., the Department of Law is required to develop a performance plan and submit that plan to the Joint Budget Committee and appropriate Joint Committee of Reference by July 1 of each year. For consideration by the Joint Budget Committee in prioritizing the Department's budget request, the FY 2016-17 plan dated July 1, 2016 can be found at the following link:

<https://drive.google.com/file/d/0B-yDiMcBmTmhdThONIExVFdVQWM/view>

**APPENDIX E**

**RECENT LEGISLATION IMPACTING LEGAL SERVICES TO STATE AGENCIES (FY 2013-14 TO FY 2016-17)**

DEPARTMENT BILL (DESCRIPTION)	FY 2013-14		FY 2014-15		FY 2015-16		FY 2016-17	
	APPROP. TO LSSA /1	ORIGINAL FUNDING SOURCE	APPROP. TO LSSA /1	ORIGINAL FUNDING SOURCE	APPROP. TO LSSA /1	ORIGINAL FUNDING SOURCE	APPROP. TO LSSA /1	ORIGINAL FUNDING SOURCE
<b>APPROPRIATION/ BUDGET BILLS:</b>								
Long Bill Appropriation for Legal Services to State Agencies' section (excludes central appropriations)	26,129,383		30,644,538		31,710,423		32,211,407	
Supplemental Bill(s)	982,777		810,595					
<b>SUBTOTAL: Appropriation/ Budget Bills</b>	<b>27,112,160</b>		<b>31,455,133</b>		<b>31,710,423</b>		<b>32,211,407</b>	
<b>SEPARATE LEGISLATION:</b>								
<b>Agriculture</b>								
S.B. 13-241 (Registration of Industrial Hemp Growers)	13,905	GF						
S.B. 15-196 (Industrial Hemp Certified Seed Concentration Test)					3,780	CF		
H.B. 15-1367 (Retail Marijuana Taxes)					24,703	CF		
S.B. 16-058 (CO Farm to Consumer Sales)							3,800	CF
Subtotal	13,905				28,483		3,800	
<b>Corrections</b>								
None								
<b>Education</b>								
H.B. 14-1202 (Local Accountability Requirements for School Districts)			20,000	GF				
<b>Governor-Lt. Governor-State Planning and Budgeting</b>								
None								
<b>Health Care Policy and Financing</b>								
S.B. 13-200 (Expand Medicaid Eligibility)	24,910	CF						
<b>Higher Education</b>								
H.B. 14-1319 (Outcomes-based Funding for Higher Education)			18,216	GF				
<b>Human Services</b>								
H.B. 16-1328							4,900	GF

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RECENT LEGISLATION IMPACTING LEGAL SERVICES TO STATE AGENCIES (FY 2013-14 TO FY 2016-17)

DEPARTMENT BILL (DESCRIPTION)	FY 2013-14		FY 2014-15		FY 2015-16		FY 2016-17	
	APPROP. TO LSSA /1	ORIGINAL FUNDING SOURCE	APPROP. TO LSSA /1	ORIGINAL FUNDING SOURCE	APPROP. TO LSSA /1	ORIGINAL FUNDING SOURCE	APPROP. TO LSSA /1	ORIGINAL FUNDING SOURCE
<b>Judicial Branch</b>								
None								
<b>Labor and Employment</b>								
H.B. 13-1292 (Keep Jobs in Colorado Act)	34,762	GF						
S.B. 14-005 (Wage Protection Act)			23,225	GF				
S.B. 15-239 (Transfer Vocational Rehab from DHS to CDLE)					18,902	GF		
<b>Law</b>								
None								
<b>Legislative Branch</b>								
None								
<b>Local Affairs</b>								
S.B. 14-172 (Firefighter Heart Circulatory Malfunction Benefits)			182	CF				
H.B. 15-1367 (Retail Marijuana Taxes)					4,725	CF		
<b>Military and Veterans Affairs</b>								
None								
<b>Natural Resources</b>								
S.B. 14-188 (Species Conservation Trust Fund Project List)			163,944	CF				
<b>Personnel and Administration</b>								
H.B. 13-1292 (Keep Jobs in Colorado Act)	11,588	GF						
<b>Public Health and Environment</b>								
S.B. 13-219 (Methamphetamine Laboratory Remediation)	15,450	CF						
S.B. 14-029 (Architectural Paint Stewardship Program)			9,108	CF				
H.B. 14-1380 (Coroners Standards and Training Board)			3,643	CF				
S.B. 16-069 (Community Paramedicine Regulation)							3,802	GF
H.B. 16-1034 (Emergency Medical Responder Registration)							3,800	CF
H.B. 16-1280 (Update Air Ambulance Regulation)							<u>3,800</u>	CF
Subtotal	15,450		12,751				11,402	

APPENDIX E

RECENT LEGISLATION IMPACTING LEGAL SERVICES TO STATE AGENCIES (FY 2013-14 TO FY 2016-17)

DEPARTMENT BILL (DESCRIPTION)	FY 2013-14		FY 2014-15		FY 2015-16		FY 2016-17	
	APPROP. TO LSSA /1	ORIGINAL FUNDING SOURCE	APPROP. TO LSSA /1	ORIGINAL FUNDING SOURCE	APPROP. TO LSSA /1	ORIGINAL FUNDING SOURCE	APPROP. TO LSSA /1	ORIGINAL FUNDING SOURCE
<b>Public Safety</b>								
S.B. 13-083 (Creation of Prescribed Burn Program)	4,635	FF						
<b>Regulatory Agencies</b>								
S.B. 13-014 (Use of Opiate Antagonists)	2,318	CF						
S.B. 13-026 (Update Michael Skolnik Medical Transparency Act)	7,725	CF						
S.B. 13-039 (Regulation of Audiologists)	11,294	CF						
S.B. 13-151 (Sunset: Regulation of Massage Therapists)	21,244	CF						
S.B. 13-162 (Sunset: Examining Board of Plumbers)	5,794	CF						
S.B. 13-172 (Sunset: Regulation of Acupuncturists)	5,021	CF						
S.B. 13-180 (Sunset: Regulation of Occupational Therapists)	12,746	CF						
S.B. 13-207 (Auricular Acudetox)	6,180	CF						
S.B. 13-221 (Conservation Easement Tax Credit Certification Application)	69,525	CF						
S.B. 13-238 (Regulation of Hearing Aid Providers)	5,794	CF						
H.B. 13-1111 (Regulation of Naturopathic Doctors)	16,995	CF						
S.B. 14-099 (Provisional Physical Therapy License)				18,216	CF			
S.B. 14-125 (Transportation Network Companies Regulation)				9,108	CF			
S.B. 14-133 (Mandatory Licensure Private Investigators)				9,057	CF			
H.B. 14-1199 (Consumer Goods Service Contracts Regulation Changes)				3,643	CF			
H.B. 14-1227 (Sunset: Dental Examiners Board)				56,925	CF			
H.B. 14-1328 (Connect Colorado Broadband Act)				55,741	CF			
H.B. 14-1329 (Deregulate Internet Protocol Emerging Technology Telecommunications)				18,216	CF			
H.B. 14-1331 (Regulate Basic Local Exchange Service)				105,653	CF			
H.B. 14-1398 (Authorize Marijuana Financial Service)				14,573	GF			
S.B. 15-106 (Sunset Barber and Cosmetologist Act)						8,506	CF	
S.B. 15-110 (Sunset Mortuary Science Regulation)						4,726	CF	

**APPENDIX E**

**RECENT LEGISLATION IMPACTING LEGAL SERVICES TO STATE AGENCIES (FY 2013-14 TO FY 2016-17)**

DEPARTMENT BILL (DESCRIPTION)	FY 2013-14		FY 2014-15		FY 2015-16		FY 2016-17	
	APPROP. TO LSSA /1	ORIGINAL FUNDING SOURCE	APPROP. TO LSSA /1	ORIGINAL FUNDING SOURCE	APPROP. TO LSSA /1	ORIGINAL FUNDING SOURCE	APPROP. TO LSSA /1	ORIGINAL FUNDING SOURCE
H.B. 15-1309 (Protective Restorations by Dental Hygienists)					7,426	CF		
S.B. 16-161 (Regulate Athletic Trainers)							10,071	CF
H.B. 16-1047 (Interstate Medical Licensure Compact)							47,505	CF
H.B. 16-1097 (PUC Permit for Medicaid Transportation Providers)							23,753	GF/FF
H.B. 16-1160 (Sunset Surgical Assistants Surgical Techs)							15,202	CF
H.B. 16-1197 (Military Veteran Occupational Credentials)							2,850	CF
H.B. 16-1324 (Veterinary Access Compounded)							9,501	CF
H.B. 16-1404 (Regulate Fantasy Contests)							<u>9,501</u>	CF
Subtotal	164,636		291,132		20,658		118,383	
<b>Revenue</b>								
S.B. 13-251 (Driver's License and Identification Documentation)	7,725	GF						
H.B. 13-1317 (Implementation of Amendment 64 - Majority Recommendations)	70,684	CF						
S.B. 15-014 (Medical Marijuana)					56,706	CF		
H.B. 15-1379 (Marijuana Permitted Economic Interest)					33,254	CF		
S.B. 16-036 (Surety Requirement for Appealing Tax Bills Claimed)							100,000	GF
S.B. 16-040 (Marijuana Owner Changes)							71,258	CF
S.B. 16-197 (Liquor Licensed Drug Stores Multiple Licenses)							228,024	CF
H.B. 16-1211 (Marijuana Transporter License)							9,501	CF
H.B. 16-1261 (Retail Marijuana Sunset)							<u>9,501</u>	CF
Subtotal	78,409				89,960		418,284	
<b>State</b>								
None								
<b>Transportation</b>								
None								



APPENDIX E

RECENT LEGISLATION IMPACTING LEGAL SERVICES TO STATE AGENCIES (FY 2013-14 TO FY 2016-17)

DEPARTMENT BILL (DESCRIPTION)	FY 2013-14		FY 2014-15		FY 2015-16		FY 2016-17	
	APPROP. TO LSSA /1	ORIGINAL FUNDING SOURCE	APPROP. TO LSSA /1	ORIGINAL FUNDING SOURCE	APPROP. TO LSSA /1	ORIGINAL FUNDING SOURCE	APPROP. TO LSSA /1	ORIGINAL FUNDING SOURCE
<b>Treasury</b>								
None								
<b>SUBTOTAL: Separate legislation</b>	<b>348,295</b>		<b>529,450</b>		<b>162,728</b>		<b>556,769</b>	
<b>Number of Bills</b>	<b>19</b>		<b>16</b>		<b>10</b>		<b>17</b>	
<b>TOTAL</b>	<b>27,460,455</b>		<b>31,984,583</b>		<b>31,873,151</b>		<b>32,768,176</b>	
<b>Total FTE Appropriated</b>	<b>252.0</b>		<b>258.2</b>		<b>260.9</b>		<b>262.9</b>	

1/ This table lists appropriations to the Department of Law for the Legal Services to State Agencies section (which excludes centrally appropriated line items such as employee benefits and leased space), as well as appropriations to other state agencies in separate legislation for the purchase of legal services from the Department of Law. The fiscal impacts of the above bills on each department's need for legal services in subsequent fiscal years are reflected in the annual Long Bill appropriations at the top of the table. This table excludes acts that included appropriations impacting other divisions within the Department of Law.

**APPENDIX F: FY 2016-17 APPROPRIATIONS FOR THE PURCHASE OF LEGAL SERVICES FROM THE DEPARTMENT OF LAW, BY AGENCY**

DEPARTMENT/ LINE ITEM	HOURS PER APPROPRIATION/ FISCAL NOTE	GENERAL FUND	CASH FUNDS	REAPPROP. FUNDS	FEDERAL FUNDS	NON-APPROPRIATED SOURCES	TOTAL CLIENT AGENCY FUNDS
<b>Agriculture</b>							
Commissioner's Office and Administrative Services, Legal Services	8,253.0	\$149,982	\$619,286		\$15,180		\$784,448
Colorado State Fair, Program Costs	263.0		24,998				24,998
S.B. 16-058	<u>40.0</u>		<u>3,800</u>				<u>3,800</u>
Agriculture - Total	8,556.0	149,982	648,084	0	15,180		813,246
<b>Corrections</b>							
Management, Executive Director's Office Subprogram, Legal Services	19,753.0	1,813,744	63,779				1,877,523
<b>Education</b>							
Management and Administration, Administration and Centrally-Appropriated Line Items, Legal Services	6,071.0	264,429	293,610	19,010			577,049
<b>Governor</b>							
Office of the Governor, Special Purpose, Legal Services (general)	5,112.0	356,244		129,652			485,896
Colorado Energy Office, Legal Services	1,100.0		70,179		34,376		104,555
Office of Information Technology, Management and Administration of OIT, Legal Services	<u>489.0</u>			<u>46,479</u>			<u>46,479</u>
Governor - Total	6,701.0	356,244	70,179	176,131	34,376		636,930
<b>Health Care Policy and Financing</b>							
Executive Director's Office, General Administration, Legal Services	14,406.0	443,055	241,591		684,644		1,369,290
<b>Higher Education</b>							
Department Administrative Office, Legal Services	448.0		11,751	30,831			42,582
Estimated legal services purchased by institutions	<u>10,313.0</u>					<u>980,251</u>	<u>980,251</u>
Higher Education - Total	10,761.0	0	11,751	30,831		980,251	1,022,833

**APPENDIX F: FY 2016-17 APPROPRIATIONS FOR THE PURCHASE OF LEGAL SERVICES FROM THE DEPARTMENT OF LAW, BY AGENCY**

DEPARTMENT/ LINE ITEM	HOURS PER APPROPRIATION/ FISCAL NOTE	GENERAL FUND	CASH FUNDS	REAPPROP. FUNDS	FEDERAL FUNDS	NON-APPROPRIATED SOURCES	TOTAL CLIENT AGENCY FUNDS
<b>Human Services</b>							
Executive Director's Office, General Administration, Legal Services	17,577.0	1,590,837	79,857				1,670,694
H.B. 16-1328	<u>52.0</u>	<u>4,900</u>					<u>4,900</u>
Human Services - Total	17,629	1,595,737	79,857				1,675,594
<b>Judicial Branch</b>							
Courts Administration, Central Appropriations, Legal Services	2,000.0	190,100					190,100
Office of the Respondent Parents' Counsel	20.0	1,901					1,901
Office of the Child Protection Ombudsman	240.0	22,812					22,812
Independent Ethics Commission, Legal Services	<u>1,800.0</u>	<u>171,090</u>					<u>171,090</u>
Judicial - Total	4,060.0	385,903					385,903
<b>Labor and Employment</b>							
Executive Director's Office, Legal Services	8,415.0	76,509	185,024		538,313		799,846
Division of Workers' Compensation, Major Medical Insurance and Subsequent Injury Funds, Major Medical Legal Services	100.0		9,505				9,505
Division of Workers' Compensation, Major Medical Insurance and Subsequent Injury Funds, Subsequent Injury Legal Services	<u>100.0</u>		<u>9,505</u>				9,505
Labor - Total	8,615.0	76,509	204,034	0	538,313	0	818,856
<b>Law</b>	411.0	19,010	20,056				39,066
<b>Legislative Branch</b>							
General Assembly, Legal Services	188.0	17,869					17,869
<b>Local Affairs</b>							
Executive Director's Office, Legal Services	1,780.0	149,421	12,361	2,072	5,335		169,189
<b>Military and Veterans Affairs</b>							

**APPENDIX F: FY 2016-17 APPROPRIATIONS FOR THE PURCHASE OF LEGAL SERVICES FROM THE DEPARTMENT OF LAW, BY AGENCY**

DEPARTMENT/ LINE ITEM	HOURS PER APPROPRIATION/ FISCAL NOTE	GENERAL FUND	CASH FUNDS	REAPPROP. FUNDS	FEDERAL FUNDS	NON-APPROPRIATED SOURCES	TOTAL CLIENT AGENCY FUNDS
Executive Director and Army National Guard	110.0	10,456					10,456
<b>Natural Resources</b>							
Executive Director's Office, Legal Services	50,972.0	1,242,684	3,489,036	49,616	63,553		4,844,889
<b>Personnel</b>							
Executive Director's Office, Department Administration, Legal Services	2,563.0	172,695	42,721	28,197			243,613
Division of Human Resources, Risk Management Services, Liability Legal Services	41,932.2			3,985,654			3,985,654
Division of Human Resources, Risk Management Services, Workers' Compensation Legal Services	15,600.0			1,482,780			1,482,780
Constitutionally Independent Entities, Personnel Board, Legal Services	<u>330.0</u>	<u>31,367</u>					<u>31,367</u>
Personnel and Administration - Total	60,425.2	204,062	42,721	5,496,631	0	0	5,743,414
<b>PERA</b>							
Estimated legal services purchased by PERA	29.0					2,756	2,756
<b>Public Health and Environment</b>							
Administration and Support, Administration, Legal Services	28,427.0			2,701,987			2,701,987
Toxicology Unit Legal Services	0.0	0					0
Hazardous Materials and Waste Management Division, Administration, Legal Services	2,000.0		130,924	455	58,721		190,100
Hazardous Materials and Waste Management Division, Contaminated Site Cleanups and Remediation Programs, Rocky Flats Legal Services	275.0				26,262		26,262
S.B. 16-069	40.0	3,802					3,802
H.B. 16-1034	40.0		3,800				3,800
H.B. 16-1280	<u>40.0</u>		<u>3,800</u>				<u>3,800</u>

**APPENDIX F: FY 2016-17 APPROPRIATIONS FOR THE PURCHASE OF LEGAL SERVICES FROM THE DEPARTMENT OF LAW, BY AGENCY**

DEPARTMENT/ LINE ITEM	HOURS PER APPROPRIATION/ FISCAL NOTE	GENERAL FUND	CASH FUNDS	REAPPROP. FUNDS	FEDERAL FUNDS	NON-APPROPRIATED SOURCES	TOTAL CLIENT AGENCY FUNDS
Public Health and Environment - Total	30,822.0	3,802	138,524	2,702,442	84,983		2,929,751
<b>Public Safety</b>							
Executive Director's Office, Administration, Legal Services	4,005.0	0	111,118	269,557	0		380,675
<b>Regulatory Agencies</b>							
Executive Director's Office and Administrative Services, Legal Services	109,883.0	206,848	9,952,888	103,614	181,029		10,444,379
S.B. 16-161	106.0		10,071				10,071
H.B. 16-1047	500.0		47,505				47,505
H.B. 16-1097	250.0			23,753			23,753
H.B. 16-1160	160.0		15,202				15,202
H.B. 16-1197	30.0		2,850				2,850
H.B. 16-1324	100.0		9,501				9,501
H.B. 16-1404	<u>100.0</u>		<u>9,501</u>				<u>9,501</u>
Regulatory Agencies - Total	111,129.0	206,848	10,047,518	127,367	181,029		10,562,762
<b>Revenue</b>							
Executive Director's Office, Legal Services (includes Gaming and Lottery)	43,637.0	2,458,122	1,689,575				4,147,697
S.B. 16-036	1,052.5	100,000					100,000
S.B. 16-040	750.0		71,258				71,258
S.B. 16-197	2,400.0		228,024				228,024
H.B. 16-1211	100.0		9,501				9,501
H.B. 16-1261	<u>100.0</u>		<u>9,501</u>				<u>9,501</u>
Revenue - Total	48,039.5	2,558,122	2,007,859	0	0	0	4,565,981
<b>State</b>							

**APPENDIX F: FY 2016-17 APPROPRIATIONS FOR THE PURCHASE OF LEGAL SERVICES FROM THE DEPARTMENT OF LAW, BY AGENCY**

DEPARTMENT/ LINE ITEM	HOURS PER APPROPRIATION/ FISCAL NOTE	GENERAL FUND	CASH FUNDS	REAPPROP. FUNDS	FEDERAL FUNDS	NON-APPROPRIATED SOURCES	TOTAL CLIENT AGENCY FUNDS
Administration, Legal Services	4,300.0		408,715				408,715
<b>Transportation</b>							
Administration	6,580.0		625,429				625,429
Construction, Maintenance, and Operations	<u>9,852.0</u>		<u>936,433</u>				<u>936,433</u>
Transportation - Total	16,432.0		1,561,862				1,561,862
<b>Treasury</b>							
Administration, Legal Services	575.0	27,327	27,327				54,654
<b>GRAND TOTAL</b>	<b>425,769.7</b>	<b>\$9,525,204</b>	<b>\$19,479,982</b>	<b>\$8,873,657</b>	<b>\$1,607,413</b>	<b>\$983,007</b>	<b>\$40,469,263</b>
		23.5%	48.1%	21.9%	4.0%	2.4%	100.0%
Legislation Other Than Long Bill	5,861	\$108,702	\$424,314	\$23,753	\$0	\$0	\$556,769
<b>LONG BILL ONLY</b>	419,909.2	\$9,416,502	\$19,055,668	\$8,849,904	\$1,607,413	\$983,007	\$39,912,494
		23.6%	47.7%	22.2%	4.0%	2.5%	100.0%

APPENDIX G: HOURS OF LEGAL SERVICES PROVIDED, BY AGENCY (FY 2005-06 TO FY 2016-17)

DEPARTMENT	FY 05-06	FY 06-07	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12	FY 12-13	FY 13-14	FY 14-15	FY 15-16	FY 16-17 (APPROP./ ESTIM.)
Regulatory Agencies	81,361	84,589	90,369	98,008	99,427	100,781	95,895	94,212	96,755	99,183	88,489	111,129
Natural Resources	38,521	37,763	40,010	41,237	43,305	44,614	43,856	45,423	50,353	51,430	51,176	50,972
Revenue	8,943	11,133	12,630	12,789	12,836	23,227	37,466	35,215	36,795	39,408	39,888	48,040
Personnel	39,831	38,261	41,171	34,711	31,710	35,295	34,336	31,354	39,410	44,079	47,784	60,425
Public Health and Environment	24,462	23,608	26,495	28,816	28,245	27,475	29,745	31,103	30,845	29,549	31,567	30,822
Human Services	20,663	20,416	19,849	21,072	21,015	19,639	18,862	18,471	18,982	22,022	21,510	17,629
Transportation	17,159	16,467	16,902	18,242	15,846	14,894	15,143	12,392	13,875	15,000	15,516	16,432
Corrections	15,508	13,830	11,748	14,619	18,647	14,619	13,337	16,451	13,800	20,367	18,472	19,753
Health Care Policy and Financing	11,642	11,132	10,249	11,682	10,147	10,982	11,885	11,198	10,152	11,605	9,616	14,406
Higher Education	11,549	11,475	10,142	13,402	13,114	12,879	13,002	11,875	11,794	12,460	11,790	10,761
Labor and Employment	7,144	7,125	7,926	8,338	8,169	8,881	9,406	7,498	7,007	8,382	8,661	8,615
State	3,034	4,963	4,125	3,066	4,187	5,058	6,645	3,700	3,179	3,275	2,947	4,300
Governor	1,509	1,718	1,268	2,653	6,442	15,003	9,292	5,552	10,113	4,322	3,509	6,701
Education	4,792	4,827	4,786	5,712	4,610	4,080	3,685	3,142	4,799	6,552	6,910	6,071
Agriculture	3,079	3,460	4,315	4,501	4,129	3,841	4,712	4,325	5,508	4,824	5,550	8,556
Judicial Branch	3,990	2,838	2,698	2,949	2,458	1,700	2,145	2,309	3,025	3,057	4,618	4,060
Public Safety	1,971	2,040	1,953	2,146	1,682	2,161	3,856	4,156	4,375	3,717	3,484	4,005
Local Affairs	1,427	1,671	2,462	980	1,917	1,657	1,493	1,588	1,613	1,538	1,190	1,780
Treasury	576	599	756	1,220	1,675	1,635	2,186	1,697	1,051	1,068	929	575
Legislative Branch	225	55	264	152	106	98	66	70	19	34	68	188
Military and Veterans Affairs	107	24	15	43	131	510	124	78	17	44	150	110
PERA	27	10	5	13	29	2	2	7	7	0	14	29
Law	521	289	249	227	77	154	0	0	129	132	354	411
<b>GRAND TOTAL</b>	298,041	298,291	310,387	326,576	329,907	349,184	357,139	341,814	363,602	382,048	374,194	425,770
Annual change	5,082	250	12,096	16,189	3,331	19,277	7,955	(15,325)	21,788	18,446	(7,854)	43,722
<i>Annual % change</i>	1.7%	0.1%	4.1%	5.2%	1.0%	5.8%	2.3%	-4.3%	6.4%	5.1%	-2.1%	12.0%