

DEPARTMENT OF LAW
FY 2024-25 JOINT BUDGET COMMITTEE HEARING AGENDA

Thursday, December 7, 2023

9:00 am – 10:00 am

9:00-9:05 INTRODUCTIONS AND OPENING COMMENTS

Presenter: Philip J. Weiser, Colorado Attorney General

9:05-9:10 COMMON QUESTIONS

Main Presenters:

- Presenter: Philip J. Weiser, Colorado Attorney General

Supporting Presenters:

- Kurt Morrison, Deputy Attorney General Intergovernmental Affairs
- Jeff Riester, Director of Legislative Affairs
- Jon Reitan, Budget Director

Topics:

- Question 1, One Time State and Federal Stimulus Funds: Page 1
- Question 2 Fiscal Impacts of COWINS Partnership Agreement: Pages 1-2
- Question 3 10% GF Reduction: Page 3

9:15-9:40 DEPARTMENT BUDGET REQUESTS

Main Presenters:

- Presenter: Philip J. Weiser, Colorado Attorney General

Supporting Presenters:

- Kurt Morrison, Deputy Attorney General Intergovernmental Affairs
- Jeff Riester, Director of Legislative Affairs
- Jon Reitan, Budget Director

Topics:

- Statewide R1: Expand Prosecution of Federal Gun Crimes, Question 4, Pages 2-3
- R1 Special Prosecution Rural Support, Questions 5-10, Pages 3-6
- R3 Federal and Interstate Water FTE, Question 11, Pages 6-7
- Other Budget Related Items, Question 12, Page 7

9:40-10:00 EXECUTIVE SESSION

Main Presenters:

- Philip J. Weiser, Colorado Attorney General
- Natalie Hanlon-Leh, Chief Deputy Attorney General

Topics:

- Discussion of Pending Litigation Question 13-14.

DEPARTMENT OF LAW
FY 2024-25 JOINT BUDGET COMMITTEE HEARING

Thursday, December 7, 2023

9:00 am – 10:00 am

COMMON QUESTIONS FOR DISCUSSION AT DEPARTMENT HEARINGS

- 1 Please describe one-time state and federal stimulus funds that have been allocated to the Department but are not expended as of September 30, 2023, by bill, budget action, executive action, or other source that allocated funds. The description should include but are not limited to funds that originate from one-time or term-limited General Fund or federal funds originating from the American Rescue Plan Act (ARPA)/State and Local Fiscal Recovery Funds/Revenue Loss Restoration Cash Fund. Please describe the Department's plan to obligate or expend all allocated funds that originate from ARPA by December 2024.

Please further describe any budget requests that replace one-time General Fund or ARPA funded programs with ongoing appropriations, including the following information:

- a. Original fund source (General Fund, ARPA, other), amount, and FTE;
- b. Original program time frame;
- c. Original authorization (budget decision, legislation, other);
- d. Requested ongoing fund source, amount, and FTE; and
- e. Requested time frame (one-time extension or ongoing).

Response: The Department of Law ("Department" or "DOL") received a small one-time apportionment of federal stimulus funds for the Safe2Tell program through House Bill 20-1411, which has since been expended. The Department does not presently have any State or federal stimulus funds that have not been expended as of September 30, 2023. Furthermore, the DOL's FY 2024-2025 budget request does not include any request for funds that would backfill one-time General Fund or ARPA funds.

- 2 Please provide a description, calculation, and the assumptions for the fiscal impact of implementing the provisions of the Partnership Agreement, including but not limited to changes in compensation, annual leave accrual, holiday pay, and paid family and medical leave. Please describe any compensation and leave changes for employees exempt from the Agreement if applicable.

Response: In many instances, the COWINS Partnership agreement has codified existing state salary and benefit packages. As examples, the agreement addresses state paid contributions to employee insurance, processes for tuition reimbursements up to specified caps, state paid holidays, and cost of living salary adjustments. Two areas that were enhanced by the Partnership for DOL employees is the Paid Family Medical Leave ("PFML") benefit and the timing, amount of leave accrual hours and the cap on leave hours.

The Partnership Agreement expanded the number of PFML hours a state employee may qualify for during a 12-month period from 80 hours to 160 hours. Additionally, the Partnership Agreement changed the annual leave accruals. Prior to the agreement accruals were as described in Tables 1 and 2.

**Table 1.
Old Leave Accruals**

Years of Service	Hours Earned Per Month	Maximum Accrual Rate
1-60 months	8	192
61-120 months	10	240
121-180 months	12	288
181 months or greater	14	336

**Table 2.
New Leave Accruals**

Years of Service	Hours Earned Per Month	Maximum Accrual Rate
1-36 months	8	192
37-60 months	9	216
61-120 months	11	264
121-180 months	13	312
181 months or greater	16	384

- 3 **Provide a prioritized list of budget reductions the Department would propose if 10.0 percent General Fund appropriation reductions were required of every Department.**

Response: The DOL FY 2023-2024 General Fund (“GF”) appropriation is \$24,270,302. This GF is comprised of \$18.5M for staff salaries, benefits, and associated operating; \$3.8M to cover statutory salary and benefits for elected district attorneys (“DA”s) and other DA trainings and grants; and \$2M for DOL contributions to statewide expenses such as Workers’ Compensation, Risk Management, fleet vehicles, and other like central appropriations.

A 10 percent GF reduction calculates to \$2.4M. In the event of such a reduction, given the personnel-weighted DOL budget, any such cut would need to be sustained by DOL staffing reductions. Several DOL sections and units would be particularly impacted by a 10 percent GF reduction. The Criminal Appeals section is the largest GF funded DOL program, followed by the Special Prosecutions Unit, and the Consumer Protection Section. Other budget lines supported by the GF include the Office of Community Engagement, Patterns and Practices Investigations, Medicaid Fraud Control Unit, and the Federal and Interstate Water Unit. As of November 30, 2023, the average monthly salary and all State paid benefits for a GF DOL employee is \$13,498. This includes salary, PERA, Medicare, STD, AED, SAED, and state provided insurance. To achieve a \$2.4M GF reduction if required by the General Assembly, 180 months of payroll (assuming the \$13,498/month average) would need to be reduced, calculating to 15.0 FTE.

DEPARTMENT BUDGET REQUEST

STATEWIDE R1 EXPAND PROSECUTION OF FEDERAL GUN CRIMES

- 4 **Describe the proposed agreement between the U.S. Attorney’s Office and the Attorney General’s Office. Does the state get reimbursed for supporting the federal prosecution?**

Response: According to the Department’s federal partners, the federal government lacks necessary resources to prosecute the increasing number of firearms crimes occurring in Colorado. State assistance was identified as an option that could support federal prosecution of federal firearms cases.

The United States Attorney’s Office (“USAO”) for the Colorado District has established agreements with the City and County of Denver and City of Aurora to bolster the dedicated resources and skills to combat gun-related crimes in those specific jurisdictions. This request will expand those efforts, incorporating Department employees, who would be loaned to the federal government in a cross-jurisdictional initiative, thereby broadening the scope of this important public safety effort statewide.

This initiative would be staffed by the DOL Special Prosecution Unit (“SP Unit”). The SP Unit serves as a statewide prosecution resource for law enforcement and district attorneys, because of the need to investigate and prosecute crimes that occur beyond county or judicial district boundaries. Generally, the SP Unit investigates and prosecutes complex, multi-jurisdictional matters that require a certain level of expertise. The SP Unit utilizes expertise to address wiretap investigations, state tax fraud, human trafficking, environmental crimes, complex auto theft rings, and violent crimes. Given current constraints on the Department’s criminal justice work, the DOL is not positioned to support this partnership without additional, dedicated resources and within a structure that continues to build collaborative public safety solutions. If such a partnership were approved, no mechanism would exist for reimbursement of State funds devoted to this effort.

R1 SPECIAL PROSECUTIONS RURAL SUPPORT

5 Provide a list of all cases the Governor has required the Attorney General to provide special prosecution support.

Response: Since 2019, the Governor issued the following executive orders directing the Attorney General to provide prosecution support or to act as the State’s attorney. Two executive orders directed the Attorney General to investigate and prosecute specific cases; and two executive orders required the Attorney General to act as State prosecutor for all current cases handled during vacancies in two district attorney offices. These instances are in addition to routine prosecutorial support provided on individual cases as described in the response to Question 9.

- On August 15, 2019, the Governor issued Executive Order D 2019 010, appointing the Attorney General to “be the State’s Prosecutor and direct[ing] him to take all necessary actions to investigate and prosecute . . . all potential crimes relating to misconduct by [the] 13th Judicial District Attorney.”
- On June 25, 2020, the Governor issued Executive Order D 2020 115 which was subsequently amended by Executive Orders D 2020 246 and D 2020 267, appointing the Attorney General to investigate and prosecute any potential criminal activity by law enforcement officers and any other individuals who caused the death of Elijah McClain. That appointment continues until the cases are completed.
- On July 13, 2022, the Governor issued Executive Order D 2022 033, appointing the Attorney General to “be the State’s Prosecutor in the Twelfth Judicial District and to appear for the State and prosecute all criminal actions and proceedings in which the state is a party in the Twelfth Judicial District.” That appointment expired upon the appointment by the Governor of District Attorney Anne Kelly on August 29, 2022. However, the Special Prosecutions Unit was asked by the District Attorney to provide continued support on homicide cases following the appointment.

- On February 24, 2023, the Governor issued Executive Order D 2023 006, appointing the Attorney General to “be the State’s Prosecutor in the Twenty-Second Judicial District and to appear for the State and prosecute all criminal actions and proceedings in which the state is a party in the Twenty-Second Judicial District.” That appointment expired upon the appointment of District Attorney Christian Hatfield on April 17, 2023. However, the Special Prosecutions Unit was asked by the District Attorney to provide additional support on a child abuse case and homicide cases.

6 Discuss the Attorney General’s role in serving as District Attorney when the elected position is vacant. Describe the authority that grants the Attorney General to serve in these roles and the length of service allowed.

Response: Under state law, the Attorney General “may independently initiate and bring civil and criminal actions to enforce state laws” and “shall . . . prosecute and defend all actions, civil and criminal . . . when required to do so by the governor.” § 24-31-101 (1)(i), (1)(b), C.R.S. The Governor’s authority to name the Attorney General as the State’s prosecutor is one routinely used as needed, and is an original authority vested with the Governor at statehood. COLO. GEN. LAWS 1877, Ch. 33, § 1103, at 412 (1877) (amended and codified at § 24-31-101 (1)(b), C.R.S. (2023)). In interpreting the Governor’s statutory authority to direct the Attorney General to prosecute criminal cases, the Colorado Supreme Court has held that the Attorney General functions as a district attorney. *People v. Gibson*, 125 P. 531, 536 (Colo. 1912) (“[W]hen the Governor . . . requires the Attorney General to prosecute a criminal case in which the state is a party, he becomes to all intents and purposes the district attorney, and may in his own name and official capacity exercise all the powers of such officer, for he is then, and in that case, the public prosecutor. Being authorized and empowered to appear and prosecute, he can do each and every thing essential to prosecute in accordance with the law of the land.”).

When a district attorney vacancy occurs, the Colorado Constitution requires that the Governor fill the vacancy. Colo. Const. art. VI, § 20 (4). When such a vacancy occurs and there is not an assistant district attorney to run the office on an interim basis, the Governor has traditionally issued an executive order designating the Attorney General to serve as the State’s prosecutor, pursuant to § 24-31-101(1)(b), during the pendency of the vacancy to ensure continuity of operations and prosecutorial work. Upon the Governor’s announcement of a permanent appointment to fill the vacancy, or upon a stated date in the Governor’s executive order, the Attorney General’s designation as the State’s attorney for the applicable judicial district terminates.

To the Joint Budget Committee’s question, there is no statutory or constitutional limit on the length of time the Governor’s may name the Attorney General as the State’s prosecutor. Rather, this is a matter left to the Governor’s discretion as stated in his executive order. Furthermore, no statute authorizes a judicial district assistant district attorney to automatically assume the role of district attorney—temporarily or otherwise.

In recent examples, the Attorney General was appointed by the Governor to assume the prosecutions of all criminal actions and proceedings in the 12th and 22nd Judicial Districts. These appointments were made because there were vacancies in the assistant district attorney positions in both jurisdictions. Additionally, the 12th Judicial District Attorney’s Office was significantly understaffed and subject to an agreement to reform its practices and procedures related to extensive violations of the Victim Rights Act.

While, when designated as the State’s prosecutor, the Attorney General is authorized to manage cases and their proceedings, under current law, he is not authorized to expend funds in order to operate the office. The DOL intends to raise this matter for the General Assembly’s awareness and consideration in the 2024 legislative session.

- 7 **Discuss the resources the Attorney General can assist providing to local district attorneys related to prosecuting cybercrime.**

Response: Generally, the Special Prosecutions Unit investigates and prosecutes complex, multi-jurisdictional matters that require a certain level of expertise. The cases are diverse; however, most investigations involve electronic evidence. There is a State statute that defines computer crime, which is somewhat narrow in its applicability to unlawful conduct. The SP Unit has investigated and prosecuted computer crimes charges and considers whether evidence supports that charge in consultation with district attorney offices, especially rural jurisdictions. More broadly, the use of computers and the internet to commit crimes is common. Moreover, such electronic evidence can be critical to prove other charges—to show the location of a person, communication between targets/victims, and to document financial transactions for example.

- 8 **The Department has requested new FTE with salaries that are above the range minimum for the position. Explain the impact of the Equal Pay for Equal Work Act and any other factors the Department considers when requesting new positions above the minimum pay range for the position.**

Response: The Equal Pay for Equal Work Act (“EPEWA” or “Act”) prohibits wage disparities between employees of like circumstances. The DOL ensures compliance with the Act by paying employees a similar salary based on qualifications for the profession (e.g., education, years of experience in that particular profession, etc.). The DOL is primarily a large law firm, currently employing 387 attorneys and 65 legal assistants. The balance of the positions includes criminal investigators, administrative support, program management, and general human resources, information technology, and accounting disciplines. The DOL does not currently employ any staff member who is paid at the range minimum for their job classification. In most instances, because of the nature and sensitivity of DOL work, the DOL does not employ attorneys, legal assistants, or criminal investigators lacking significant experience. As such, the DOL will attract and offer employment to those candidates that have a specified number of years with specified responsibilities and, as such, will require a salary commensurate with their peers of similar qualifications.

The DOL requests salaries at the average of the job classification to ensure compliance with the EPEWA and because it is more realistic and transparent with the actual implementation costs of a position. If the DOL is appropriated resources at the range minimum for a position, the DOL will be unable to fill that position within the budgeted amount and will be forced to utilize dollars from other vacant positions, assuming they exist, to make the position whole with the required resources.

- 9 **Which judicial districts have requested assistance of the Attorney General on special prosecutions. Include relevant workload indicators, e.g. volume of cases, hours expended, or other helpful data points. Do counties reimburse the Attorney General’s Office for any special prosecution assistance?**

Response: During FY 2022-2023 the Special Prosecutions Unit assisted in all 22 Judicial Districts. This assistance ranged from providing advice and responding to inquiries from deputy district attorneys to being named the State’s prosecutor for the 12th and 22nd Judicial Districts. Such requests for support are most often received from rural district attorney offices. Rural district attorney offices disproportionately experience challenges recruiting and retaining prosecutors. As a result, the SP Unit is routinely requested for support. Sometimes that support is in the form of a quick consultation. But often the SP Unit is asked to take over violent and complex cases (i.e. homicides, sexual assaults, cases requiring grand jury investigation, multi-jurisdictional financial crimes, etc.).

Representative matters in which district attorney offices have requested assistance from the Department in recent years include:

- co-chairing a contractor fraud case that was investigated and prosecuted in the 13th Judicial District;
- co-chairing an election fraud case that involved grand jury investigation in Mesa County;
- leading post-conviction briefing on a homicide case that the SP Unit co-prosecuted in the 7th Judicial District;
- investigating and prosecuting a multi-jurisdictional sovereign citizen case involving threats to judges and elected officials that is filed and going to trial in Gunnison County;
- leading post-conviction briefing on a human trafficking case that the SP Unit prosecuted in Weld County;
- leading numerous multi-jurisdictional organized retail crime investigations requiring use of the statewide grand jury (cases pending);
- leading numerous drug trafficking investigations requiring use of the statewide grand jury and often involving wiretaps; and
- leading homicide prosecutions in the 12th and 22nd Judicial Districts.

These cases are a small sample of the work the SP Unit does to support rural law enforcement, victims, and prosecutors. Generally, the Department does not receive reimbursement for the costs associated with travel, investigation, and prosecution of these cases.

Specific to the 12th and 22nd Judicial Districts, while the Attorney General was engaged in the 12th Judicial District, the SP Unit opened 64 criminal investigations and prosecuted 33 criminal cases. After the Governor appointed the new district attorney, the office requested that the SP Unit remain the lead prosecutors on two homicide cases and a firearms case that resulted in the death of a juvenile. All three of those cases required extensive staff resources, including case work, victim support, pretrial motions work, and trials. While supporting the 22nd Judicial District, the SP Unit prosecuted 480 cases. After the Governor appointed the new district attorney, the office requested that the SP Unit remain involved in a child abuse case that had complex medical issues and resulted in the permanent disability of the victim. That case also required extensive work, victim consultations, pretrial motions, and a trial.

- 10 **Why, after being appointed by the Governor to handle a high-profile case involving allegations of manslaughter by police and paramedics, did the Attorney General appoint two partners from civil law firms in Chicago and Los Angeles to handle the prosecution? Were those civil lawyers licensed in Colorado and what was the cost associated with the trial and the outside attorneys?**

Response: The cases cited in the question, regarding use of pro bono attorneys, are either presently pending before a jury trial or awaiting a sentencing hearing before the 17th Judicial District Court. The Colorado Rules of Professional Conduct, specifically Rule 3.6 (“Trial Publicity”) and Rule 3.8 (Special Responsibilities of a Prosecutor”), restrict extrajudicial statements by a prosecutor in a criminal case and statements known to be disseminated by means of public communication. Accordingly, in compliance with Rule 3.6, Rule 3.8, and Department practice, the DOL is unable to comment on pending prosecutions before a court.

R3 FEDERAL AND INTERSTATE WATER FTE

- 11 **The General Assembly provided additional resources to the Federal and Interstate Water unit in FY 2023-24 on an ongoing basis, what *new* information is driving the request for additional resources in the upcoming fiscal year.**

Response: The two additional FTE requested for FY 2024-2025 will add additional resources to bolster the South Platte/Rio Grande, in addition to any emerging issues in the Arkansas River Basin, and provide additional support for the Colorado River. This request is driven by current and projected litigation risks

in the South Platte, Rio Grande, Arkansas, and Colorado River Basins, as well as the need to provide dedicated policy analysis and greater coordination on state water issues within the DOL and with tribal, state, and federal partners.

With respect to the South Platte River, Nebraska continues to move ahead with steps to pursue the Perkins County Canal—a canal mentioned in the South Platte River Compact in 1923—to be built in Colorado for irrigation in Nebraska. The Nebraska Unicameral voted during the 2023 legislative session to fully fund a canal twice the size authorized by the Compact.

Current actions in the Rio Grande River Basin to address the sustainability of groundwater will be coming to a head in the coming years as the deadline to reach groundwater sustainability approaches, thus increasing the risk for litigation that impact Colorado's compact compliance with the Rio Grande Compact.

Additionally, there is a growing need for additional legal support to assist clients in maintaining compact compliance with Kansas. Lastly, there are numerous and significant federal processes currently underway in the Colorado Basin are creating increased projected future litigation risk if Colorado seeks to protect its extensive interests in the Colorado River Basin and to continue to protect current and future uses for Colorado water users.

OTHER BUDGET-RELATED TOPICS

- 12 **Discuss the idea for legislation that arose during FY 2023-24 budget cycle where fiscal analyses would include a section about the potential liability of *not* taking action to avoid the liability.**

Response: In recent legislative sessions, several bills were considered and/or enacted that created new claims against the State for various matters. Aside from the merits of such new claims, the cumulative effect of adding new claims that may be brought for judgments against the State creates the potential for added fiscal liability. Presently, legislative fiscal notes do not account for estimated costs stemming from such new claims. Greater information and data available to the General Assembly on such costs could provide useful information and estimates for budget-setting purposes in future fiscal years.

EXECUTIVE SESSION

DISCUSSION OF PENDING LITIGATION

- 13 **Provide a discussion of the pending case against the Department of Health Care Policy and Financing regarding CHIPRA Bonus Recovery.**

Response: The Department recommends addressing this matter within Executive Session.

- 14 **Highlight any other pending litigation before the state to prepare the Joint Budget Committee for future obligations that may arise.**

Response: The Department recommends addressing this matter within Executive Session.

DEPARTMENT OF LAW
FY 2024-25 JOINT BUDGET COMMITTEE HEARING
WRITTEN RESPONSES ONLY

COMMON QUESTIONS: PLEASE RETAIN THE NUMBERING IN ORDER TO MAINTAIN CONSISTENT LABELING ACROSS DEPARTMENTS.

- 1 **Please describe any budgetary or administrative impacts from the implementation of H.B. 21-1110 (Laws for Persons with Disabilities) as it pertains to IT accessibility. Please describe any budget requests that include components related to the implementation of IT accessibility requirements.**

Response: The DOL has invested significant staff time assessing the DOL's web presence and other public facing documents to determine HB 21-1110 compliance and, in those instances of lack of compliance, establishing processes to meet statutory compliance timelines. In most instances, compliance is being addressed by internal staff. To date, the DOL has only invested specific dollars to bring the Peace Officers Standards and Training peace officer training and certification database into compliance. The DOL has prioritized current spending authority within the POST spending authority and revenue to ensure this database is compliant. The DOL has invested roughly \$90K to date to this effort. The DOL is estimating roughly \$25K annually in expenditures to ensure this database, which houses training information and other peace officer data on roughly 48,000 law enforcement professionals meets the requirements of HB 21-1110. The DOL is continually assessing ongoing resource needs to mitigate risk and to ensure compliance with this effort.

- 2 **Please identify rules the Department promulgated in FY 2022-23. With respect to these rules, has the Department done any cost-benefit analyses pursuant to Section 24-4-103 (2.5), C.R.S., regulatory analyses pursuant to Section 24-4-103 (4.5), C.R.S., or any other similar analysis? Has the Department conducted a cost-benefit analysis of Department rules as a whole? If so, please provide an overview of each analysis.**

Response: The DOL promulgated a number of rules associated with the Peace Officers Standards and Training Board ("POST"), the Consumer Credit Unit ("CCU"), and the Colorado Privacy Act during CY 2023. The DOL did not receive any requests for cost benefit analyses on any rule changes or new rule promulgations associated with the POST and CCU rule makings. The DOL proactively conducted a cost benefit analysis on the Colorado Privacy Act rules. That analysis can be found at <https://coag.gov/colorado-privacy-act-rulemaking/>.

- 3 **Provide a list of any legislation with a fiscal impact that the Department has: (a) not implemented, (b) partially implemented, or (c) missed statutory deadlines. Please specifically describe the implementation of ongoing funding established through legislation in the last two legislative sessions. Explain why the Department has not implemented, has only partially implemented, or has missed deadlines for the legislation on this list. Please explain any problems the Department is having implementing any legislation and any suggestions you have to modify legislation.**

Response: As of the date of this communication, there is no legislation with a fiscal impact that the Department has failed to implement or has partially implemented, within statutory deadlines.

- 4 State revenues are projected to exceed the TABOR limit in each of the next two fiscal years. Thus, increases in cash fund revenues that are subject to TABOR will require an equivalent amount of General Fund for taxpayer refunds. Using the attached Excel Template A, please:
- List each source of non-tax revenue (e.g., fees, fines, parking revenue, etc.) collected by the Department that is subject to TABOR and that exceeds \$100,000 annually. Describe the nature of the revenue, what drives the amount collected each year, and the associated fund where these revenues are deposited.
 - For each source, list actual revenues collected in FY 2021-22, and projected revenue collections for FY 2022-23 and FY 2023-24.
 - List each decision item that the Department has submitted that, if approved, would increase revenues subject to TABOR collected in FY 2024-25.

Response:

Non-Tax Revenues Collected by Department That Are Subject to TABOR (excluding sources that amount to less than \$100,000/year)					
Revenue Source	Associated Cash Fund	FY 2021-22 Actual	FY 2022-23 Actual	FY 2023-24 Projection	FY 2024-25 Projection
Insurance Fraud Fee	Insurance Fraud Cash Fund #16Z0.	2,360,165	2,357,375	2,606,450	2,806,450
Business Registrations	Collection Agency Board Cash Fund #1500	862,300	827,900	960,000	
Business Registrations	Uniform Consumer Credit Code Cash Fund #1510	2,494,796	1,594,813	1,900,000	
Business Registrations	Consumer Credit Unit Cash Fund #1515				3,300,000
Business Registrations	Student Loan Ombudsperson and Student Loan Servicer Cash Fund #1511	596,483	470,133	490,000	525,000
Certification and Inspection Fees	Peace Officers Standards and Training Board Cash Fund	190,496	196,014	190,000	190,000
TOTALS		6,504,240	5,446,235	6,146,450	6,821,450

The DOL has submitted one decision items that would be partly funded by the cash funds listed above. The DOL's budget request #2 "Increase DOL Administrative Support" seeks funding for 4.0 administrative support FTE. These FTE are funded by indirect recoveries on DOL cash funds and federal

grant to support department-wide program growth in an increasingly complex fiscal, legal, and policy environment.

- 5 **Please use the attached Excel Template B to summarize the Department's funded and actual FTE for the last three fiscal years and identify the origin of changes in funded FTE. If positions have not been filled, please describe challenges in preventing positions from being filled and how vacancy savings are being utilized.**

Response: The DOL manages each budget line to ensure compliance with spending authority and revenue limitations. The DOL annually receives a variety of spending authority and associated FTE from special legislation. In many instances, the associated FTE are partial FTE.

The first chart, below, demonstrates the number of appropriated FTE for the past 4 actual years and the actual FTE utilized for each year. The second chart demonstrates the buildup of FTE for FY 2023 appropriated in the Long Bill and all special bills. The DOL does not track FTE that may leave during the course of a fiscal year differently from any new FTE from decision items or special legislation. Instead, the DOL manages each budget line and program within to ensure the highest priority work is addressed and the appropriate staffing is in place to meet state enterprise workload needs within available resources.

New hires for existing FTE and from decision items or special legislation are incorporated into the hiring practices and when practical and appropriate multiple, like positions are filled from one job announcement. Except for the Medicaid Fraud Control Unit ("MFCU"), the DOL has managed to hire all FTE during FY 23 associated with special bills and the Long Bill including specific budget requests.

The DOL received 7.3 FTE for the MFCU, annualized to 8.0 FTE for FY23-24 from a specific budget request. This request included a Legal Assistant, Data Analyst, an Assistant Attorney General and a number of Criminal Investigator positions. Additionally, the DOL lost the managing supervisor for this unit during FY2022-23 as well as implemented a new case management and document software. As such, the DOL waited for a new managing supervisor to be hired, so that the new supervisor could assess the business changes from the new software, workload, priorities, and determine the necessary skills to carry out these efforts.

During FY 2022-2023, the DOL used the personal services budgets to pay for salaries, state paid benefits, sick and annual leave retirement payments, temporary staff, expert witnesses, and other professional services, as well as reverted some spending authority in each budget line in those instances vacancies existed.

Part A: Please summarize the Department's funded and actual FTE for the last three fiscal years.

Trend Information: Funded FTE and Actual FTE				
Fiscal Year	Funded FTE*	Actual FTE	Actual Above/(Below) Funded FTE	% Difference
2019-20	512.8	486.1	(26.7)	5.2%
2020-21	523.8	500.0	(23.8)	4.5%
2021-22	565.1	531.3	(33.8)	6.0%
2022-23	592.1	574.9	(17.2)	2.9%
FTE Change over 3 years				
% Change over 3 years				

* "Funded FTE" equals the number of full time equivalent positions specified in the annual Long Bill or in appropriation clauses in other acts. These FTE figures reflect the number of positions that correspond to the amounts appropriated.

**Funded FTE and Actual FTE data pulled from annual FTE Burn Report.

Part B: Please identify the origin of changes in funded FTE for FY 2022-23, including the number of new positions the Department has been able to fill.

FY 2022-23: Status of New Funded FTE

Fiscal Year	Funded FTE
TOTAL BASE: 2022-23	560.2
<i>Decision Items:</i>	
Annualize Prior Year Budget Actions	2.0
R1 Restore FY2021-22 Budget Reductions	5.5
R2 Admin Section Support of Agency	3.0
R3 POST Board Funding	1.0
BA1 Medicaid Fraud Control Unit	7.3
<i>Bills:</i>	
HB22-1242 Regulate Tiny Homes	0.3
HB22-1244 Public Protections Toxic Air Contaminants	0.4
HB22-1256 Modifications to Civil Involuntary Commitment	1.0
HB22-1269 Health-Care Sharing Plan Reporting Requirements	0.1
HB22-1278 Behavioral Health Administration	1.0
HB22-1284 Health Insurance Surprise Billing Protections	0.5
HB22-1295 Dept of Early Childhood	0.7
HB22-1355 Producer Responsibility Program for Recycling	0.1
HB22-1359 Colorado Household Financial Recovery Program	0.3
SB22-025 Security Token Offerings State Capital Financing	0.2
SB22-070 K-12 Licensed Personnel Evaluations	0.1
SB22-097 Whistleblower Protection Health and Safety	0.8
SB22-130 State Entity Authority Public Private Partnership	0.3
SB22-160 Loan Program Resident Owned Communities	0.2
SB22-161 Enf. of Laws Governing the Employee Employer Relationship	0.2
SB22-201 Independent Oversight of Judicial Discipline	0.5
SB22-219 Regulate Dental Therapists	0.1
SB22-230 Collective Bargaining for Counties	0.3
HB22-1119- False Claims Act	2.0
SB22-161 Enf. of Laws Governing the Employee Employer Relationship	0.8
SB22-205 Intoxicating Hemp and THC Products	3.0
SB22-034 Business Filing Address and Name Fraud	0.3
<i>Funded FTE*</i>	592.1
Actual FTE	574.9
Actual Above/(Below) Funded FTE	(17.2)
% Difference	2.9%