

The following file contains two documents:

- A memorandum to the Joint Budget Committee members dated January 21, 2011. This memorandum includes a summary of the Judicial Department's supplemental request concerning the Drug Offender Treatment Fund and a staff suggestion concerning the Drug Offender Surcharge Fund (both are described in greater length in the next document). This memorandum also includes a new request submitted by the State Public Defender.
- A packet dated January 10, 2011, concerning Judicial Department supplemental requests for FY 2010-11.

MEMORANDUM

TO: Joint Budget Committee Members

FROM: Carolyn Kampman (303-866-4959)

SUBJECT: Staff "Comebacks" Concerning Mid-year Adjustments to FY 2010-11 Appropriations to the Judicial Department

DATE: January 21, 2011

The Joint Budget Committee acted on the Judicial Department's supplemental requests on January 10, 2011. The Committee chose to delay taking action on one Department request (Priority #4) and a related budget balancing option. The Committee also delayed consideration of one of staff's budget balancing options (concerning the H.B. 10-1352 General Fund appropriation to the Drug Offender Surcharge Fund). Staff has included brief summaries of both items below, along with staff's recommendation. In addition, staff has included one more supplemental request concerning the Office of the State Public Defender.

Supplemental Request, Department Priority #4 SB 03-318 Cash Funds Spending Authority

JBC delayed action on this request.

	Request	Recommendation
Total - Cash Funds (Drug Offender Treatment Fund)	\$150,000	\$150,000

Senate Bill 03-318 reduced the penalties for use and possession of certain controlled substances, and expanded the types of drug offenders who could be eligible for probation. This act contained a provision that would have revoked those sentencing changes if at least \$2.2 million in estimated cost-avoidance was achieved; the intent was to reinvest the savings in community-based substance abuse treatment. The General Assembly has annually appropriated \$2.2 million General Fund for community-based substance abuse treatment services since FY 2007-08.

The Interagency Task Force on Treatment (ITFT)¹ annually allocates the \$2.2 million across judicial districts, and local drug offender treatment boards distribute moneys to drug treatment programs based in each judicial district. Any General Fund moneys that are not expended are credited to the

¹ The Interagency Task Force on Treatment was established through S.B. 03-318 (see Section 16-11.5-102 (4), C.R.S.). Please note that this is one of three groups responsible for overseeing the allocation of state funds for substance abuse treatment and related activities. These three groups have overlapping memberships. To the extent possible, the Department has encouraged appointing authorities to appoint the same person(s) to all three groups and has coordinated meeting schedules.

Drug Offender Treatment Fund. Through S.B. 09-208, the General Assembly transferred \$350,000 from this fund to the General Fund in April 2009. The Fund currently has a balance of \$672,725.

The Department submitted a request to spend \$150,000 of the balance in the Drug Offender Treatment Fund in FY 2010-11, and another \$500,000 for FY 2011-12. These moneys would expand the availability of drug and alcohol treatment, education, and testing services.

Consistent with the legislative intent of S.B. 03-318, staff recommended approving the request. However, staff also suggested that the Committee consider transferring up to \$672,725 from the Fund to the General Fund to address the revenue shortfall – either in FY 2010-11 or FY 2011-12. If the Committee is interested in considering this option, staff recommended delaying and reducing or eliminating any increase in the cash funds appropriation.

**Supplemental Request, Department Priority #5
HB 10-1352 Cash Fund Spending Authority**

While the JBC approved the staff recommendation on this request, the JBC delayed acting on a budget balancing option suggested by staff.

	Request	Recommendation
Total - Cash Funds		
(Drug Offender Surcharge Fund)	\$1,400,000	\$0

House Bill 10-1352 made a number of changes to penalties for offenses related to controlled substances. The act is anticipated to reduce the number of offenders sentenced to prison and the length of other offenders' sentences for drug-related crimes, thus reducing state expenditures. The act directs the General Assembly to annually appropriate the General Fund savings generated by the act to the Drug Offender Surcharge Fund to cover the costs associated with the treatment of substance abuse or co-occurring disorders of adult offenders who are assessed to be in need of treatment and who are on diversion, on probation, on parole, in community corrections, or in jail.

For FY 2010-11, H.B. 10-1352 appropriated \$1,468,196 General Fund to the Judicial Department to be credited to the Drug Offender Surcharge Fund. This appropriation was based on the estimated FY 2010-11 savings to the Department of Corrections (DOC) and the Office of the State Public Defender (OSPD), offset by increased costs for Probation and the Department of Public Safety (for research and reporting requirements). The act did not, however, include a cash funds appropriation authorizing the expenditure of these moneys for treatment services.

The Department submitted a request to spend \$1,400,000 of the moneys credited to the Drug Offender Surcharge Fund in FY 2010-11. The Committee approved a staff recommendation to reject this request as it appears unlikely that any moneys would be spent before July 2011.

In addition, staff suggested that the Committee consider reducing or eliminating the \$1,468,196 General Fund appropriation to the Drug Offender Surcharge Fund. It is unclear at this point in time whether the estimated DOC savings related to H.B. 10-1352 will be realized in FY 2010-11. In addition, the Committee recently approved a \$16.2 million General Fund increase for the DOC based on higher than anticipated population trends. By eliminating the \$1,468,196 General Fund appropriation, the Committee can partially offset the increase required for DOC.

Supplemental #1 [NEW REQUEST]

Office of the State Public Defender - Budget Balancing Reductions

FY 2010-11	Request	Recommendation
Total - General Fund	(\$456,450)	(\$456,450)

Department Request: In light of the budget shortfall and the Governor's statewide personal services reduction request, the Department has requested a one-time reduction in General Fund appropriations for FY 2010-11. In an attempt to assist the General Assembly in balancing the FY 2010-11 budget, the State Public Defender has been holding vacant positions open longer than normal. This reduction of \$456,450 represents a 1.1 percent reduction in the existing Personal Services line item appropriation.

Staff Recommendation: Staff recommends approving the request.

**COLORADO GENERAL ASSEMBLY
JOINT BUDGET COMMITTEE**



SUPPLEMENTAL REQUESTS FOR FY 2010-11

JUDICIAL DEPARTMENT

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

**Prepared By:
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January 10, 2011**

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Prioritized Supplementals in Department-Assigned Order

**Supplemental Request, Department Priority #1
 Long Bill Reorganization Clean-Up**

	Request	Recommendation
Total	(\$174,100)	(\$174,100)
FTE	<u>3.5</u>	<u>3.5</u>
General Fund	(187,769)	(187,769)
Cash Funds (Supreme Ct. Library Fund)	0	0
FTE	1.5	1.5
Reappropriated Funds*	13,669	13,669
FTE	2.0	2.0

* Indirect cost recoveries and transfers from other agencies.

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
JBC staff and the Department agree that this request is the result of both <i>a technical error</i> and <i>data that was not available when the original appropriation was made</i> .	

Department Request: Last Session, the Joint Budget Committee (and ultimately the General Assembly) approved the Department's request to reorganize certain sections of the Long Bill. This request includes three appropriation changes to "clean-up" items related to this reorganization.

Staff Recommendation: Staff recommends approving all components of the Department's request.

Staff Analysis: Last Session, the Joint Budget Committee (and ultimately the General Assembly) approved the Department's request to reorganize certain sections of the Long Bill. The new structure better reflects the Department's operations and programs, organizes line items in a more clear and consistent manner, and provides the Department with more flexibility to manage the largest appropriations for personal services and operating expenses. The Department has identified three areas where adjustments are necessary to properly implement this reorganization:

- **Appellate Reports (\$0 net impact)** - The reorganization transferred funding for the printing of appellate opinions into the Appellate Court Programs line item. However, the amount

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transferred was not sufficient to cover these printing costs. The Department thus requests the transfer of an additional \$10,000 General Fund from the Trial Courts Program line item.

- **Law Library Staff (increase of 1.5 FTE)** – As a result of the Department’s budget balancing efforts in FY 2010-11, 1.5 FTE associated with the Supreme Court Library are now supported by the Supreme Court Library Fund rather than the General Fund. While these FTE and the associated General Fund appropriation were eliminated from the Appellate Court Programs line item, the FTE were not moved to the Law Library line item. The Department thus requests that 1.5 FTE be reflected, for informational purposes, in the Law Library line item.

- **Reappropriated Funds That Support Administrative Staff (decrease of \$187,769 General Fund; increase of \$13,669 reappropriated funds and 2.0 FTE)** – This component of the request includes two parts. First, the Judicial Department recovers statewide and department-wide indirect costs from various cash funds. The amounts recovered are reflected as reappropriated funds in the General Courts Administration line item, reducing the amount of General Fund needed to support staff in the State Court Administrator’s Office. The Department is now recovering \$187,769 in indirect costs from attorney regulation fees, but this amount was not included in the Long Bill. The Department thus requests a \$187,769 increase in reappropriated funds and a \$187,769 decrease in General Fund. The Department also requests an increase of 2.0 FTE to properly reflect the number of positions currently supported by indirect costs.

Second, the Long Bill previously included \$174,100 in reappropriated funds to reflect federal funds that were transferred from the Department of Public Safety for work associated with the Colorado Integrated Criminal Justice Information System (CICJIS). This transfer has not occurred in recent years, and no transfers are anticipated in the future. The Department is thus requesting that this amount be eliminated.

Staff recommends making all of the requested adjustments. The request results in a net General Fund reduction, it is consistent with the reorganization approved last session, and it more accurately reflects the Department’s current staffing structure.

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**Supplemental Request, Department Priority #2
 Family Violence Justice Grants**

	Request	Recommendation
Total - Cash Funds (Family Violence Justice Fund)	\$56,570	\$56,570

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
JBC staff and the Department agree that this request is the result of <i>data that was not available when the original appropriation was made.</i>	

Department Request: The Department requests an increase of \$56,570 cash funds from the Family Violence Justice Fund; \$16,570 of this requested increase would continue for FY 2011-12.

Staff Recommendation: Staff recommends approving the request.

Staff Analysis:

Background Information. The Family Violence Justice Grants line item provides funding for the State Court Administrator to award grants to qualifying organizations that provide civil legal services to indigent Colorado residents. This program is the only state-funded grant program for civil legal services in Colorado. Grant funds may be used to provide legal advice, representation, and advocacy for and on behalf of indigent clients who are victims of family violence (i.e., typically assistance with restraining orders, divorce proceedings, and custody matters). Colorado Legal Services, which provides legal services in almost every county, typically receives more than 80 to 90 percent of grant moneys each year.

In addition to General Fund appropriations for this grant program, the State Court Administrator is authorized to receive gifts, grants, and donations for this program; such funds are credited to the Family Violence Justice Fund [see Section 14-4-107, C.R.S.]. Further, S.B. 09-068 (Morse/McCann) increased the fees for petitions and responses in divorce proceedings by \$10 each (from \$220 and \$106, respectively); half of the resulting revenue is credited to the Family Violence Justice Fund (providing an estimated \$143,430 in new fund revenues)¹. The act directs the Judicial

¹ The other half of fee revenues are credited to the Colorado Domestic Abuse Program Fund, administered by the Department of Human Services.

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Department to use this fee revenue to award grants to qualifying organizations that provide services for or on behalf of indigent persons and their families who are married, separated, or divorced.

Reason for the Request. In FY 2009-10, actual fee revenues totaled \$153,858 – \$10,428 more than anticipated. In addition, the Department reverted \$32,518 of the cash funds appropriation in S.B. 09-068. Thus, the Department is seeking to spend down the fund balance by \$40,000 and to increase the annual spending authority to a level more commensurate with anticipated revenues (an increase of \$16,570). If this request is approved, the Department intends to increase the fourth quarterly payment to grantees proportionately.

Staff Recommendation. Consistent with the legislative intent of S.B. 09-068, staff recommends approving the request to increase resources available for civil legal services to indigent Colorado residents.

OPTION: Please note that this program is also currently supported by General Fund. During the last economic downturn, the General Assembly eliminated funding for this program (for two fiscal years); the \$500,000 General Fund appropriation was restored in FY 2005-06. In FY 2008-09, the General Assembly approved a Department request to increase the General Fund appropriation for this grant program by \$250,000 (50 percent) to address the demand for affordable legal services. The following table provides a recent history of appropriations for this program.

Recent History of State Appropriations for Family Violence Justice Grants			
Fiscal Year	General Fund	Cash Funds	Total
2002-03	\$500,000	\$0	\$500,000
2003-04	0	0	0
2004-05	0	0	0
2005-06	500,000	0	500,000
2006-07	500,000	0	500,000
2007-08	500,000	0	500,000
2008-09	750,000	0	750,000
2009-10	750,000	143,430	893,430
2010-11 (with supp. request)	750,000	200,000	950,000

The Joint Budget Committee may want to consider reducing or eliminating the General Fund appropriation for this grant program in FY 2011-12 as part of efforts to address the current revenue shortfall. If the Committee is interested in considering this option, staff recommends delaying any increase in the cash funds appropriation to FY 2011-12 to mitigate the impact of any such reduction.

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**Supplemental Request, Department Priority #3
 Spending Authority for Law Library**

	Request	Recommendation
Total - Reappropriated Funds (transfer from Dept. of Law)	\$12,500	\$12,500

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
JBC staff and the Department agree that this request is the result of <i>data that was not available when the original appropriation was made.</i>	

Department Request: The Department requests the authority to receive and spend \$12,500 transferred from the Department of Law for the purpose of supporting the ongoing costs of a joint project to consolidate two law libraries. The Department anticipates receiving another transfer of \$50,000 in FY 2011-12, and has requested \$50,000 reappropriated funds for FY 2011-12.

Staff Recommendation: Staff recommends approving the request.

Staff Analysis:

Background Information. The Supreme Court Library is a public library that is currently located in the Denver Newspaper Agency Building. The library is supported by appellate filing and other fees deposited in the Supreme Court Library Fund. These funds are shown in the Long Bill for informational purposes only, as they are continuously appropriated. They are part of the Supreme Court's constitutional responsibility for regulating the practice of law in Colorado.

Reason for the Request. The library will ultimately be located in the Ralph L. Carr Judicial Center, which is currently under construction. The Department has been working cooperatively with the other state agencies that will occupy the Judicial Center to plan for the move and discuss potential shared resources. The Department and the Attorney General's office (the Department of Law) are moving forward with a plan to share library resources, and are currently in the process of analyzing and comparing existing library resources.

Beginning in November, the Department of Law contracted with a temporary staff person to coordinate the effort, preparing the Department's print and electronic library for consolidation. This temporary staff person has worked closely with the Supreme Court Library staff and together they

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are developing a long-term plan for library resource efficiencies and cost-savings. These activities will improve services to the legal community and allow both departments to identify future cost savings and develop a coordinated library plan.

The Department of Law’s temporary contract will end in April; the contract cannot be extended due to state personnel rules. In order to keep this project moving forward, the Judicial Department intends to enter into a subsequent contract with the same temporary staff person. The Department of Law is willing to continue to support the associated costs due to the resulting current and future cost savings. The Judicial Department thus requests the authority to receive \$12,500 reappropriated funds in FY 2010-11.

Staff Recommendation. Staff recommends approving the request.

**Supplemental Request, Department Priority #4
 SB 03-318 Cash Fund Spending Authority**

	Request	Recommendation
Total - Cash Funds (Drug Offender Treatment Fund)	\$150,000	\$150,000

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
JBC staff and the Department agree that this request is the result of <i>data that was not available when the original appropriation was made.</i>	

Department Request: The Department requests \$150,000 cash funds spending authority from the Drug Offender Treatment Fund to make moneys that have been reverted in previous fiscal years available for drug and alcohol treatment, education, and testing. The Department has submitted a related request for \$500,000 cash funds spending authority for FY 2011-12.

Staff Recommendation: Staff recommends approving the request.

Staff Analysis:

Background Information. Senate Bill 03-318 (Gordon/Hefley) reduced the penalties for use and possession of certain controlled substances, and expanded the types of drug offenders who could be eligible for probation. This act contained a provision that would have revoked those sentencing

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changes if at least \$2.2 million in estimated cost-avoidance was achieved; the intent was to reinvest the savings in community-based substance abuse treatment beginning in FY 2007-08.

In January 2007, the Interagency Task Force on Treatment (ITFT)² submitted a report concerning S.B. 03-318 and the related cost savings. Joint Budget Committee staff evaluated the report and concluded that the minimum threshold of cost avoidance had likely been met. The General Assembly has annually appropriated \$2.2 million General Fund for community-based substance abuse treatment services since FY 2007-08. The substantive criminal omnibus bill (S.B. 07-114) repealed the language linking the appropriation and the sentencing changes.

The ITFT² annually allocates the \$2.2 million across judicial districts using a formula based on drug offense filings and population. Each judicial district is required to create a local Drug Offender Treatment Board consisting of the District Attorney (or a designee), the Chief Public Defender (or a designee), and a probation officer chosen by the Chief Judge [see Section 18-19-104, C.R.S.]. This local Board is required to distribute Drug Offender Treatment Fund [created by the act and established in Section 18-19-103 (5.5), C.R.S.] moneys to drug treatment programs based in the judicial district; no program may receive such moneys without a majority vote of the Board. Each local board must submit a plan for how it intends to utilize funds made available through this line item to the ITFT by September 1 of each year. These boards are also required to submit a report to the ITFT and to the Judiciary Committees by January 31 annually detailing the amount of moneys received and to whom the Board distributed its funding in the previous year.

Reason for the Request. The ITFT is seeking spending authority to supplement the \$2.2 million annual General Fund appropriation (\$150,000 for FY 2010-11 and \$500,000 for FY 2011-12). The Department indicates that the need for drug and alcohol treatment, education, and testing is substantially higher than available resources.

Since FY 2007-08, the Department has credited any unspent funds from the General Fund appropriation to the Drug Offender Treatment Fund. The Fund balance at the beginning of FY 2008-09 was \$349,592. Unspent General Fund appropriations and interest earnings provided revenues of \$446,452 and \$226,681 to the Fund in FY 2008-09 and FY 2009-10, respectively. Through S.B. 09-208, the General Assembly transferred \$350,000 from this fund to the General Fund in April 2009. The Fund currently has a balance of \$672,725. This fund balance is primarily due to the time

² The Interagency Task Force on Treatment was established through S.B. 03-318 (see Section 16-11.5-102 (4), C.R.S.). Please note that this is one of three groups responsible for overseeing the allocation of state funds for substance abuse treatment and related activities. These three groups have overlapping memberships. To the extent possible, the Department has encouraged appointing authorities to appoint the same person(s) to all three groups and has coordinated meeting schedules.

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required by some districts to establish working relationships with appropriate treatment providers and to set up strong mechanisms for determining treatment needs and allocating resources. In addition, when an offender's status changes and he/she is no longer able to complete all of the intended treatment, funds often remain unspent.

Staff Recommendation. Consistent with the legislative intent of S.B. 03-318, staff recommends approving the request to increase resources available for substance abuse treatment.

OPTION: As indicated above, the General Assembly transferred \$350,000 from the Drug Offender Treatment Fund to the General Fund in April 2009. The Joint Budget Committee may want to consider transferring up to \$672,725 from the Fund to the General Fund to address the revenue shortfall – either in FY 2010-11 or FY 2011-12. If the Committee is interested in considering this option, staff recommends delaying and reducing or eliminating any increase in the cash funds appropriation.

**Supplemental Request, Department Priority #5
 HB 10-1352 Cash Fund Spending Authority**

	Request	Recommendation
Total - Cash Funds (Drug Offender Surcharge Fund)	\$1,400,000	\$0

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
The Department indicates that this request is the result of a <i>technical error</i> . JBC staff disagrees, and instead would categorize this request as the result of <i>data that was not available when the original appropriation was made</i> .	

Department Request: Pursuant to H.B. 10-1352, the Department requests a \$1,400,000 cash funds appropriation from the Drug Offender Surcharge Fund (DOSF) to provide substance abuse treatment for adult offenders on diversion, on probation, on parole, in community corrections, or in jail.

Staff Recommendation: Staff does not recommend approving this request.

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Staff Analysis:

Background Information. House Bill 10-1352 (Waller/Steadman) made a number of changes to penalties for offenses related to controlled substances. The act is anticipated to reduce the number of offenders sentenced to prison and the length of other offenders' sentences for drug-related crimes, thus reducing state expenditures in the Department of Corrections (DOC). The act also anticipated a corresponding increase in workload for Probation and a decrease in workload for the Office of the State Public Defender (OSPD).

The act directs the General Assembly to annually appropriate the General Fund savings generated by the act to the DOSF, and requires that such moneys be allocated to cover the costs associated with the treatment of substance abuse or co-occurring disorders of adult offenders who are assessed to be in need of treatment and who are on diversion, on probation, on parole, in community corrections, or in jail. For FY 2010-11, the act appropriated \$1,468,196 General Fund to the Judicial Department to be credited to the DOSF. This appropriation was based on the estimated FY 2010-11 savings to the DOC and the OSPD, offset by increased costs for Probation and the Department of Public Safety (for research and reporting requirements). The act did not, however, include a cash funds appropriation authorizing the expenditure of these moneys for treatment services.

Implementation of H.B. 10-1352. The act created a new oversight body³ to manage the funds that are credited to the DOSF and to develop a coordinated plan to provide additional treatment services to adult offenders of drug-related crimes. This group has met (although the sheriffs' representative has not been able to attend any meetings yet and the counties' representative has not yet been appointed) and is currently in the process of defining an administrative structure and determining what types of treatment are most in demand and how to deliver such services. No formal plan has been designed, but the group plans to continue to meet over the next few months to develop a plan as required by the act.

The act also requires the Department of Public Safety's Division of Criminal Justice (DCJ) to analyze the amount of fiscal savings that H.B. 10-1352 has generated over the previous fiscal year and report annually to the Joint Budget Committee (JBC) beginning January 15, 2011. During the 2010 Session, the DOC estimated that H.B. 10-1352 would reduce their average daily population by 217.1 in FY 2011-12, the first full year of implementation. The Legislative Council Staff fiscal note for H.B. 10-1352 reflected this impact, and it also assumed that about half of this full-year impact (-108.6) would also occur in FY 2010-11. On January 6, 2011, the JBC held its budget hearing with

³ This oversight body includes representatives from the Judicial Branch, the Department of Corrections, the Department of Human Services, the Department of Public Safety, district attorneys, public defenders, counties, and sheriffs.

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DCJ. In response to a request from the JBC, DCJ provided data related to the first ten weeks of the act's implementation (mid-August through October 2010). However, the DCJ cautioned against using this limited data set to estimate the first-year impact of the act, stating that it is extremely unusual for an individual to commit an offense and receive a final sentence within 10 weeks.

Staff Analysis and Recommendation. Staff does not recommend approving the request. Instead, staff recommends providing spending authority from the DOSF beginning in FY 2011-12 for this purpose (the Judicial Department has requested a \$7.0 million appropriation).

The Department indicates that the need for drug and alcohol treatment, education, and testing is substantially higher than available resources. The Department is thus requesting spending authority in for FY 2010-11 in order to allow any formal treatment plan that is developed prior to July 1 to be implemented within this fiscal year. However, based on the activities that have occurred to implement H.B. 10-1352 to date as well as the experience of implementing S.B. 03-318, it does not appear likely that any moneys will be expended this year.

In addition, as some of this funding will be allocated to departments other than Judicial, the General Assembly will need to authorize other state agencies to receive and spend funds that are distributed through the Judicial Department. Without more information about the plan for service provision, staff cannot make any recommendations concerning the amounts that should be reappropriated to other agencies.

Finally, please note that it is unclear at this point in time whether the estimated DOC savings related to H.B. 10-1352 will be realized in FY 2010-11. If existing appropriations to the DOC are anticipated to fall short of the resource need (due to this bill, other bills, or the baseline forecast), the JBC may want to consider reducing the FY 2010-11 General Fund appropriation to the DOSF to offset the increase required for DOC. If the JBC approves this cash funds spending authority request, it would be more challenging to reduce the General Fund appropriation into the Fund.

Supplemental Request, Department Priority #6

Budget Balancing Reduction (Related to the statewide one percent across the board General Fund Personal Services reduction)

FY 2010-11	Request	Recommendation
Total - General Fund	(\$801,845)	(\$801,845)
FTE	(18.9)	(18.9)

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Department Request: In August 2010, the Governor submitted a budget balancing proposal that included a \$4,885,300 General Fund reduction in FY 2010-11 appropriations for personal services (including an \$801,845 reduction for the Judicial Department). For most departments, the proposed reduction was based on reducing the General Fund portion of every appropriation for personal services by 1.0 percent. For the Judicial Department, the Governor’s proposed reduction was based on the same premise, but it excluded judge salaries, probation staff, and the independent agencies within the Branch.

The Judicial Department, in anticipation of the General Assembly approving the Governor’s statewide personal services reduction request, has submitted this supplemental request to propose an allocation of the proposed reductions among line items. As detailed in the following table, the Department proposes funding reductions for the State Court Administrator’s Office, Trial Court Programs, and Probation Programs. The Department indicates that these savings will be achieved through delays in filling vacant positions.

One Percent "Across the Board" General Fund Personal Services Reduction				
Division, Line Item	General Fund	FTE	Existing Appropriation for Personal Services - Total Funds*	% Reduction
(2) Courts Administration, Administration and Technology				
General Courts Administration	(\$150,000)	(2.1)	\$15,093,757	-1.0%
(3) Trial Courts				
Trial Court Programs*	(325,923)	(8.4)	76,005,363	-0.4%
(4) Probation and Related Services				
Probation Programs	(325,923)	(8.4)	70,003,130	-0.5%
Total	(801,846)	(18.9)		

* Please note that the existing appropriation for Trial Court Programs excludes judge salaries. The Colorado Constitution prohibits any decrease in a justice’ or judge’s salary during his/her term of office. The Constitution also sets forth time frames for filling any judicial office vacancies. Thus, while the General Assembly can reduce state expenditures by delaying funding for newly authorized judgeships, the Department cannot reduce expenditures for salaries associated with any existing judgeships.

Staff Recommendation: Staff recommends approving the reduction as proposed by the Judicial Department. Based on the Governor’s August 2010 submission, the Department has implemented plans to achieve the one-time savings in FY 2010-11 outlined above. At this time the Department is not, however, planning to reduce personal services expenditures by twice this amount (\$1.6 million) in FY 2011-12, as proposed by the Governor in August.

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**Supplemental Request, Department Priority #7
 Senior Judge Program Reduction**

	Request	Recommendation
Total - General Fund	(\$258,680)	(\$258,680)

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
JBC staff and the Department agree that this request is the result of <i>data that was not available when the original appropriation was made.</i>	

Department Request: The Department requests an ongoing \$258,680 (13.7 percent) reduction in the appropriation for the Senior Judge Program.

Staff Recommendation: Staff recommends approving the request.

Staff Analysis:

Background Information. Pursuant to Section 24-51-1105, C.R.S., upon written agreement with the Chief Justice prior to retirement, a justice or judge may perform temporary judicial duties for between 60 and 90 days a year. These agreements may not exceed three years (most are currently one-year contracts), but a retiree may enter into subsequent agreements for a maximum of 12 years. These retired judges cover sitting judges in case of disqualifications, vacations, sick leave, over-scheduled dockets, judicial education, and conflicts of interest. Retired judges provide flexibility in coverage as they can fill a temporary need anywhere in the state.

A retired judge receives reimbursement for travel expenses for out-of-town assignments, and is compensated by receiving a retirement benefit increase equal to 20 to 30 percent of the current monthly salary of individuals serving in the same position as that held by the retiree at the time of retirement. The Judicial Branch is required to reimburse the PERA Judicial Division Trust Fund for the payment of retired judges' additional benefits during the previous fiscal year (i.e., costs incurred in FY 2009-10 will be reimbursed by the Branch in FY 2010-11). Travel expenditures are reimbursed in the fiscal year in which they are incurred.

Reason for the Request. From FY 2002-03 to FY 2008-09, the expenses of the Senior Judge Program more than doubled. Program expenses have historically been difficult to predict, requiring mid-year increases in appropriations for four of the last eight fiscal years. Beginning in FY 2009-10, the Department took actions to reduce the use of senior judges in order to reduce expenditures. The

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Department thus requests an ongoing reduction of \$258,680 General Fund (13.7 percent) for this program, beginning in FY 2010-11. The following table details the appropriation and expenditure history for this program.

Recent History of Funding for the Senior Judge Program						
Fiscal Year	Appropriation	Expenditures			Annual % Change	Approp.- Expend.
		PERA Payment	Travel	Total		
2002-03	\$882,825	\$788,018	\$94,807	\$882,825		\$0
2003-04*	1,121,775	1,026,968	40,408	1,067,376	20.9%	54,399
2004-05	1,384,006	1,292,979	103,991	1,396,970	30.9%	(12,964)
2005-06	1,384,006	1,433,085	90,383	1,523,468	9.1%	(139,462)
2006-07*	1,523,468	1,432,441	97,940	1,530,381	0.5%	(6,913)
2007-08*	1,665,571	1,574,544	121,411	1,695,955	10.8%	(30,384)
2008-09*	1,894,006	1,775,613	141,873	1,917,486	13.1%	(23,480)
2009-10	1,894,006	1,838,902	104,298	1,943,200	1.3%	(49,194)
2010-11**	1,894,006	1,485,326	150,000	1,635,326	-14.7%	258,680

* Appropriation includes a mid-year increase.

** Existing FY 2010-11 appropriation and estimated FY 2010-11 expenditures.

**Supplemental Request, Department Priority #8
 Courthouse Capital Funding Reduction**

	Request	Recommendation
Total - Cash Funds (Judicial Stabilization Cash Fund)	(\$435,000)	(\$435,000)

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
JBC staff and the Department agree that this request is the result of <i>data that was not available when the original appropriation was made.</i>	

Department Request: The Department requests a \$435,000 reduction in the cash funds appropriation from the Judicial Stabilization Cash Fund for courthouse facilities due to project delays. The Department has instead requested an appropriation of these funds for FY 2011-12.

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Staff Recommendation: Staff recommends approving the request.

Staff Analysis:

Background Information. Section 13-3-108, C.R.S, requires each county to provide and maintain adequate courtrooms and other court facilities, and Section 13-3-104, C.R.S., requires that the State pay for the "operations, salaries, and other expenses of all courts of record within the state, except for county courts in the city and county of Denver and municipal courts." The Courthouse Capital/Infrastructure Maintenance line item provides funding to fulfill the State's responsibility to furnish new and refurbished court facilities.

Historically, the appropriation for this purpose has varied significantly, depending on the number and size of new construction projects. Prior to FY 2009-10, the General Assembly provided \$1.0 million General Fund annually to meet the on-going capital and infrastructure needs of courthouses and probation programs. For FY 2009-10 and FY 2010-11, the General Fund appropriation was replaced with cash funds from the Judicial Stabilization Fund. This financing was made possible by delaying the implementation of the last 15 district and county court judgeships authorized by H.B. 07-1054. The one-time cash funds savings resulting from this delay were allocated to meet the State's obligation to furnish new and remodeled courthouses.

Reason for the Request. The existing \$2.8 million cash funds appropriation was intended to cover \$850,000 associated with the implementation of the final 15 judgeships pursuant to H.B. 07-1054, and \$1,950,000 for a variety of local courthouse projects (including projects in Denver, Arapahoe, Jefferson, *Broomfield, *Chaffee, Larimer, *Boulder, *Adams, Las Animas, Eagle, and various smaller projects in the 4th, 7th, 15th, and 21st judicial districts). Four of these projects (noted with asterisks) have been delayed. Thus, the Department has requested that \$435,000 of the existing appropriation be shifted to FY 2011-12.

**Supplemental Request, Independent Ethics Commission Priority #1
 Office Construction Costs**

	Request	Recommendation
Total - General Fund	\$12,771	\$12,771

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
JBC staff and the Department agree that this request is the result of <i>an unforeseen contingency</i> .	

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Department Request: The Independent Ethics Commission (IEC) requests a one-time appropriation of \$12,771 General Fund to cover a portion of the construction costs incurred after the IEC staff were relocated to the Judicial Department's office space.

Staff Recommendation: Staff recommends approving the request.

Staff Analysis:

Background Information. The IEC is a five-member body established through a constitutional amendment that was approved by voters in 2006⁴. The purpose of the IEC is to give advice and guidance on ethics-related matters arising under Article XXIX of the Colorado Constitution and any other standards of conduct or reporting requirements provided by law concerning public officers, members of the General Assembly, local government officials, or government employees. The IEC hears complaints, issues findings, assesses penalties and sanctions where appropriate, and issues advisory opinions. The members of the IEC are appointed by the Governor, the Chief Justice of the Supreme Court, the Senate, the House of Representatives, and the IEC itself. IEC members serve without compensation but are reimbursed for actual and necessary expenses incurred in carrying out their duties.

Transfer of IEC to Judicial Branch. Effective July 1, 2010, H.B. 10-1404 (McCann/Steadman) transferred the IEC out of the Department of Personnel and Administration's Office of Administrative Courts and established it as an independent agency within the Judicial Department. The Judicial Department has worked cooperatively to support this transfer. The Department indicated that it has adequate space within the Denver Newspaper Agency building (where it moved in July 2009) to accommodate the 2.0 FTE that support the IEC. Thus, the fiscal note and the appropriation clause in the act did not anticipate any additional funding necessary for leased space as a result of the bill.

Reason for the Request. The IEC staff moved into vacant cubicle space in the State Court Administrator's Office (SCAO). After a few weeks, it was obvious that such an open office environment was not appropriate for the sensitive and private issues that are discussed by IEC staff in the course of their duties. To address confidentiality concerns, the SCAO has worked cooperatively with the IEC staff to convert the cubicle spaces into a private office. Construction and related costs to accomplish this task totaled \$25,542. The IEC intends to use existing resources to cover half of the costs incurred, including \$10,771 for legal services and \$2,000 for operating expenses. This IEC supplemental request seeks a one-time appropriation of General Fund to cover that portion of these costs that cannot be absorbed within the existing IEC budget.

⁴ See Article XXIX of the Colorado Constitution and Section 24-18.5-101, C.R.S.

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Staff Analysis and Recommendation. The following table details the components of the IEC's FY 2010-11 appropriation and the requested change.

Independent Ethics Commission Components of FY 2010-11 General Fund Appropriation			
	Current Approp.	Supplemental Request	Resulting Appropriation
Personal Services and Employee Benefits (2.0 FTE)	\$187,173		\$187,173
Operating Expenses	15,807	12,771	28,578
Legal Services	67,842		67,842
Total	270,822	12,771	283,593

The IEC is a small, independent agency with a limited ability to cover unanticipated expenditures. The costs incurred to implement H.B. 10-1404 and ensure confidentiality to those individuals who call or visit the office represent more than nine percent of the current year appropriation. The IEC has taken appropriate steps to utilize existing funding, to the extent possible, to cover these unanticipated expenditures. Staff thus recommends approving the requested one-time appropriation.

Non-prioritized Supplementals

**JBC Staff-initiated Supplemental #1
 Technical Correction to Long Bill Footnote**

No fiscal impact

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
This supplemental is the result of a <i>technical error</i> .	

Department Request: The Department did not request this supplemental. However, the Department is aware of this recommendation and has no objection.

Staff Recommendation: Staff recommends making a technical correction to a Long Bill footnote concerning judicial compensation. Sections 13-30-103 and 104, C.R.S., establish judicial salaries for various fiscal years during the 1990s. These provisions state that any salary increases above those set forth in statute "shall be determined by the general assembly as set forth in the annual general appropriations bill." The General Assembly thus annually establishes judicial salaries

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through a footnote in the Long Bill. The footnote language approved by the Joint Budget Committee last Spring, consistent with previous years, included a statement establishing the salaries of the State Public Defender, the Alternate Defense Counsel, and the Executive Director of the Office of the Child's Representative. Staff neglected to include this approved language in the FY 2010-11 Long Bill, and thus recommends correcting this error through the 2011 Judicial supplemental bill.

Specifically, staff recommends amending the footnote as follows:

- 27 Judicial Department, Supreme Court/Court of Appeals, Appellate Court Programs; Trial Courts, Trial Court Programs; Public Defender, Personal Services; Alternate Defense Counsel, Personal Services; Office of the Child's Representative, Personal Services** -- In accordance with Section 13-30-104 (3), C.R.S., funding is provided for judicial compensation, as follows:

	<u>FY 2010-11</u> <u>Salary</u>
Chief Justice, Supreme Court	\$142,708
Associate Justice, Supreme Court	139,660
Chief Judge, Court of Appeals	137,201
Associate Judge, Court of Appeals	134,128
District Court Judge	128,598
County Court Judge	123,067

FUNDING IS ALSO PROVIDED IN THE LONG BILL TO MAINTAIN THE SALARY OF THE PUBLIC DEFENDER AT THE LEVEL OF AN ASSOCIATE JUDGE OF THE COURT APPEALS, AND TO MAINTAIN THE SALARIES OF THE ALTERNATE DEFENSE COUNSEL AND THE EXECUTIVE DIRECTOR OF THE OFFICE OF THE CHILD'S REPRESENTATIVE AT THE LEVEL OF A DISTRICT COURT JUDGE.

Statewide Common Policy Supplemental Requests

These requests are not prioritized and are not analyzed in this packet. The JBC will act on these items later when it makes decisions regarding common policies.

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Department's Portion of Statewide Supplemental Request	Total	General Fund	Cash Funds	Reapprop. Funds	Federal Funds	FTE
Annual Fleet Vehicle Replacement ⁵	\$2,940	\$2,940	\$0	\$0	\$0	0.0
Printing of Statewide Warrants and Mainframe Documents	15,187	11,073	3,634	251	229	0.0
Department's Total Statewide Supplemental Requests	18,127	14,013	3,634	251	229	0.0

Staff Recommendation: The staff recommendation for these requests is pending Committee approval of common policy supplementals. Staff asks permission to include the corresponding appropriations in the Department's supplemental bill when the Committee approves common policy supplementals. If staff believes there is reason to deviate from the common policy, staff will appear before the Committee later to present the relevant analysis.

⁵ This table reflects requested changes to the vehicle lease appropriation for probation and trial court staff only, and it excludes any proposed change to the appropriation for public defender staff. Staff will make adjustments to both line items as approved by the Committee.

	FY 2009-10	FY 2010-11	Fiscal Year 2010-11 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation

JUDICIAL BRANCH
Chief Justice Michael Bender

Supplemental #1 - Long Bill Reorganization Clean-Up

(1) Supreme Court/ Court of Appeals

Appellate Court Programs	11,824,879	11,086,903	10,000	10,000	11,096,903
FTE	<u>138.2</u>	<u>136.0</u>	<u>0.0</u>	<u>0.0</u>	<u>136.0</u>
General Fund	10,748,628	10,035,031	10,000	10,000	10,045,031
FTE	124.7	122.5	0.0	0.0	122.5
Cash Funds	1,076,251	1,051,872	0	0	1,051,872
FTE	13.5	13.5	0.0	0.0	13.5
Law Library - CF	332,080	500,000	0	0	500,000
FTE	0.0	0.0	1.5	1.5	1.5

(2) Courts Administration

(A) Administration and Technology

General Courts Administration	New	15,994,421	(174,100)	(174,100)	15,820,321
FTE	consolidated	<u>188.5</u>	<u>2.0</u>	<u>2.0</u>	<u>190.5</u>
General Fund	line item in	12,630,747	(187,769)	(187,769)	12,442,978
FTE	FY 2010-11	169.5	0.0	0.0	169.5
Cash Funds		1,825,845	0	0	1,825,845
FTE		19.0	0.0	0.0	19.0
Reappropriated Funds		1,537,829	13,669	13,669	1,551,498
FTE		0.0	2.0	2.0	2.0

	FY 2009-10	FY 2010-11	Fiscal Year 2010-11 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
<i>(3) Trial Courts</i>					
Trial Courts Program	114,457,217	115,739,757	(10,000)	(10,000)	115,729,757
FTE	<u>1,671.0</u>	<u>1,711.5</u>	<u>0.0</u>	<u>0.0</u>	<u>1,711.5</u>
General Fund	93,400,654	90,752,552	(10,000)	(10,000)	90,742,552
FTE	1,407.5	1,441.6	0.0	0.0	1,441.6
Cash Funds	20,020,057	24,022,205	0	0	24,022,205
FTE	263.5	269.9	0.0	0.0	269.9
Federal Funds	1,036,506	965,000	0	0	965,000
Total for Supplemental #1	N.A.	143,321,081	(174,100)	(174,100)	143,146,981
FTE		<u>2,036.0</u>	<u>3.5</u>	<u>3.5</u>	<u>2,039.5</u>
General Fund		113,418,330	(187,769)	(187,769)	113,230,561
FTE		1,733.6	0.0	0.0	1,733.6
Cash Funds		27,399,922	0	0	27,399,922
FTE		302.4	1.5	1.5	303.9
Reappropriated Funds		1,537,829	13,669	13,669	1,551,498
FTE		0.0	2.0	2.0	2.0
Federal Funds		965,000	0	0	965,000
Supplemental #2 - Family Violence Justice Grants					
<i>(2) Courts Administration</i>					
<i>(C) Centrally Administered Programs</i>					
Family Violence Justice Grants	<u>860,912</u>	<u>893,430</u>	<u>56,570</u>	<u>56,570</u>	<u>950,000</u>
General Fund	750,000	750,000	0	0	750,000
Cash Funds	110,912	143,430	56,570	56,570	200,000

	FY 2009-10	FY 2010-11	Fiscal Year 2010-11 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
Supplemental #3 - Spending Authority for Law Library					
<i>(1) Supreme Court/ Court of Appeals</i>					
Law Library	<u>332,080</u>	<u>500,000</u>	<u>12,500</u>	<u>12,500</u>	<u>512,500</u>
Cash Funds	332,080	500,000	0	0	500,000
Reappropriated Funds	0	0	12,500	12,500	12,500
Supplemental #4 - SB 03-318 Cash Fund Spending Authority					
<i>(4) Probation and Related Services</i>					
S.B. 03-318 Community Treatment Funding	<u>2,200,000</u>	<u>2,200,000</u>	<u>150,000</u>	<u>150,000</u>	<u>2,350,000</u>
General Fund	2,200,000	2,200,000	0	0	2,200,000
Cash Funds	0	0	150,000	150,000	150,000
Supplemental #5 - HB 10-1352 Cash Fund Spending Authority					
<i>(4) Probation and Related Services</i>					
Offender Treatment and Services	<u>8,658,982</u>	<u>11,181,773</u>	<u>1,400,000</u>	<u>0</u>	<u>11,181,773</u>
General Fund	0	0	0	0	0
Cash Funds	8,473,958	10,869,040	1,400,000	0	10,869,040
Reappropriated Funds	185,024	312,733	0	0	312,733

	FY 2009-10	FY 2010-11	Fiscal Year 2010-11 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
Supplemental #6 - Budget Balancing Reduction					
<i>Total - Various line items</i>	N.A.	193,188,895	(801,845)	(801,845)	192,387,050
FTE		<u>3,014.6</u>	<u>(18.9)</u>	<u>(18.9)</u>	<u>2,995.7</u>
General Fund		162,189,130	(801,845)	(801,845)	161,387,285
Cash Funds		28,496,936	0	0	28,496,936
Reappropriated Funds		2,502,829	0	0	2,502,829
Supplemental #7 - Senior Judge Program Reduction					
<i>(2) Courts Administration</i>					
<i>(C) Centrally Administered Programs</i>					
Senior Judge Program - GF	1,943,200	1,894,006	(258,680)	(258,680)	1,635,326
Supplemental #8 - Courthouse Capital Funding Reduction					
<i>(2) Courts Administration</i>					
<i>(C) Centrally Administered Programs</i>					
Courthouse Capital/ Infrastructure					
Maintenance	<u>3,064,041</u>	<u>2,880,791</u>	<u>(435,000)</u>	<u>(435,000)</u>	<u>2,445,791</u>
General Fund	0	80,791	0	0	80,791
Cash Funds	3,064,041	2,800,000	(435,000)	(435,000)	2,365,000

	FY 2009-10	FY 2010-11	Fiscal Year 2010-11 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
(8) INDEPENDENT ETHICS COMMISSION					
Jane Feldman, Executive Director					
Supplemental #1 - Office Construction Costs					
Operating Expenses - GF	31,638	15,807	12,771	12,771	28,578
Totals Excluding Pending Items					
Judicial Branch					
Totals for ALL Departmental line items	425,389,224	455,245,762	(37,784)	(1,437,784)	453,807,978
FTE	<u>3,745.8</u>	<u>4,084.4</u>	<u>(15.4)</u>	<u>(15.4)</u>	<u>4,069.0</u>
General Fund	319,455,895	332,423,582	(1,235,523)	(1,235,523)	331,188,059
Cash Funds	95,386,349	108,528,846	1,171,570	(228,430)	108,300,416
Reappropriated Funds	6,470,570	7,478,592	26,169	26,169	7,504,761
Federal Funds	4,076,410	6,814,742	0	0	6,814,742
Statewide Common Policy Supplemental Requests					
(see narrative for more detail)	<u>N.A.</u>	<u>N.A.</u>	<u>18,127</u>	<u>Pending</u>	<u>N.A.</u>
General Fund			14,013		
Cash Funds			3,634		
Reappropriated Funds			251		
Federal Funds			229		

	FY 2009-10	FY 2010-11	Fiscal Year 2010-11 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
Totals Including Pending Items					
Judicial Branch					
Totals for ALL Departmental line items	425,389,224	455,245,762	(19,657)	(1,437,784)	453,807,978
FTE	<u>3,745.8</u>	<u>4,084.4</u>	<u>(15.4)</u>	<u>(15.4)</u>	<u>4,069.0</u>
General Fund	319,455,895	332,423,582	(1,221,510)	(1,235,523)	331,188,059
Cash Funds	95,386,349	108,528,846	1,175,204	(228,430)	108,300,416
Reappropriated Funds	6,470,570	7,478,592	26,420	26,169	7,504,761
Federal Funds	4,076,410	6,814,742	229	0	6,814,742

Key:

N.A. = Not Applicable or Not Available