

**COLORADO GENERAL ASSEMBLY  
JOINT BUDGET COMMITTEE**



**FY 2012-13 STAFF BUDGET BRIEFING**

**DEPARTMENT OF LAW**

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

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

**DEPARTMENT OF LAW**

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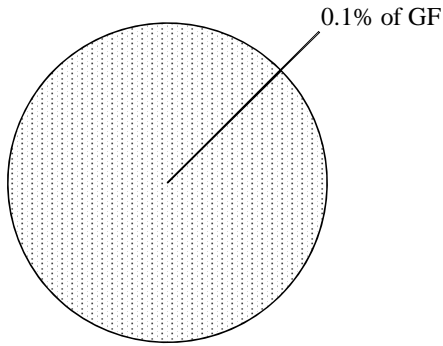
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*\* The State Auditor's Office has not identified any outstanding recommendations for this department.*

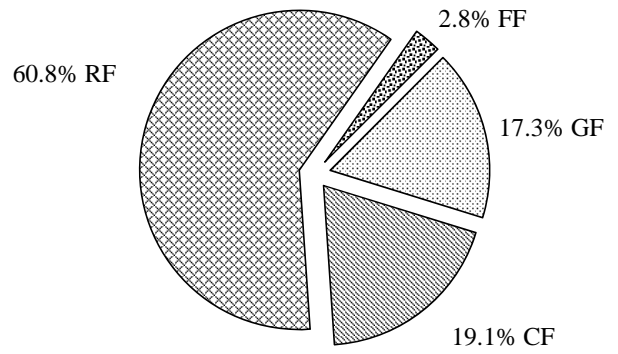
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**GRAPHIC OVERVIEW**

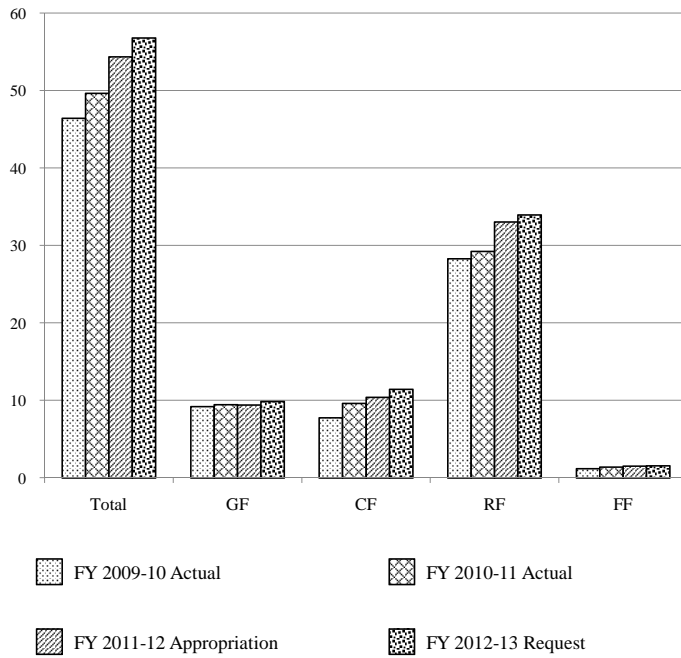
**Department's Share of Statewide General Fund**



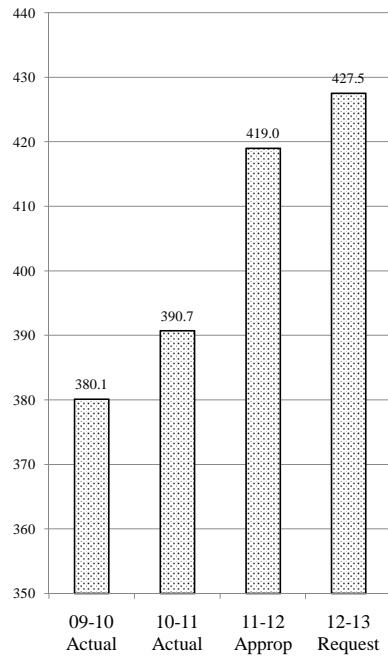
**Department Funding Sources**



**Budget History  
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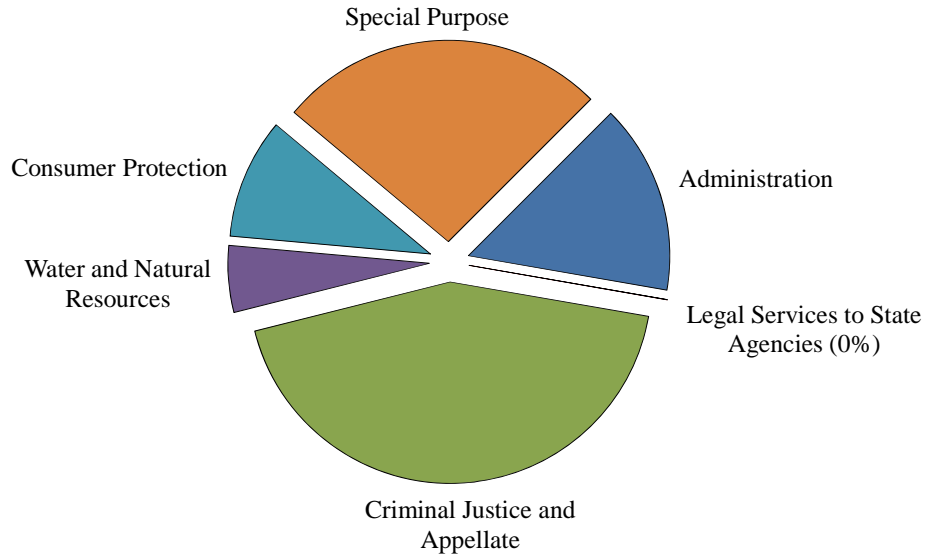


**FTE History**

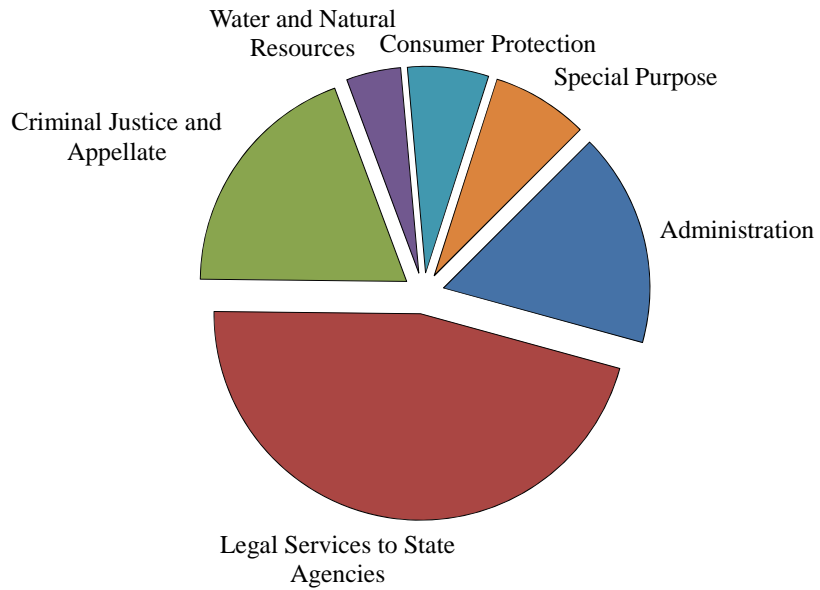


Unless otherwise noted, all charts are based on the FY 2011-12 appropriation.

### Distribution of General Fund by Division



### Distribution of Total Funds by Division



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**DEPARTMENT OVERVIEW**

**Key Responsibilities**

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 against Medicaid providers for incidents of fraud and over billing.

**Criminal Enforcement**

- ▶ Investigate and prosecute certain complex and multi-jurisdictional cases, environmental crimes, and foreign prosecutions.
- ▶ Provide investigative and prosecutorial support to district attorneys for certain homicide cases.
- ▶ Represent the State in criminal appeal cases in state and federal courts.
- ▶ Investigate and prosecute Medicaid provider fraud and patient abuse.
- ▶ Investigate and prosecute securities, insurance, and workers' compensation fraud.
- ▶ Certify and help train peace officers appointed by state and local law enforcement agencies (the Peace Officers Standards and Training or P.O.S.T. Board).
- ▶ 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 State 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.

## Factors Driving the Budget

In FY 2011-12, funding for this department consists of 17.3 percent General Fund, 19.1 percent cash funds, 60.8 percent reappropriated funds, and 2.8 percent federal funds. Cash funds include: fees and fines paid by regulated entities; funds awarded to the Department; a statewide vehicle registration fee that supports peace officer training programs; tobacco settlement moneys; fees paid by P.O.S.T. certification applicants; and the Colorado Water Conservation Board's Litigation Fund. Reappropriated funds primarily include: moneys transferred from other agencies for the purchase of legal services, the prosecution and enforcement of CERCLA cases, and the prosecution of securities fraud cases; indirect cost recoveries; and grants from other state agencies. Three significant factors driving the Department's budget are described below.

## 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 and the state lacked consistent legal policy in the courts. In 1973, the General Assembly passed legislation that moved all 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 moneys for legal services to the various state agencies, who in turn purchase services from the Department of Law at hourly rates (one rate for attorney time and one rate for paralegal time). The General Assembly provides appropriations to the Department of Law to allow it to spend moneys received from other state agencies.

For FY 2011-12, the General Assembly has authorized the Department of Law to spend up to \$28.9 million providing legal services to state agencies (including associated central appropriations). This amount represents 54 percent of the Department's total appropriation. As shown in the table below, eight agencies account for more than 80 percent of these services. The table also shows the total number of hours of legal services provided and the average hourly rate charged by the Department.

Legal Services to State Agencies: FY 2007-08 to FY 2011-12						
State Department	FY 07-08 Actual	FY 08-09 Actual	FY 09-10 Actual	FY 10-11 Actual	FY 11-12 Approp./ Estim.	FY 11-12 % of Total
Regulatory Agencies	\$6,804,123	\$7,396,788	\$7,546,070	\$7,485,354	\$8,088,494	28.0%
Natural Resources	2,985,212	3,082,235	3,260,139	3,283,382	3,437,991	11.9%
Revenue	956,666	965,319	974,158	1,738,069	2,896,336	10.0%
Public Health and Environment	1,996,830	2,178,418	2,146,754	2,021,921	2,644,009	9.2%
Personnel and Administration	3,075,061	2,579,276	2,363,953	2,555,590	2,631,150	9.1%
Human Services	1,460,099	1,558,179	1,550,136	1,409,467	1,396,017	4.8%
Transportation	1,259,910	1,361,947	1,187,488	1,081,661	1,244,067	4.3%
Corrections	880,952	1,096,327	1,401,307	1,075,919	1,239,958	4.3%
Other agencies <sup>1</sup>	4,824,022	5,279,478	4,456,697	5,158,978	5,308,517	18.4%
<b>Total expenditure/ appropriation</b>	<b>24,242,875</b>	<b>25,497,967</b>	<b>24,886,703</b>	<b>25,810,341</b>	<b>28,886,539</b>	<b>100.0%</b>
% change of total from prior year	n/a	5.2%	-2.4%	3.7%	11.9%	
% of total Dept. of Law appropriation	52.7%	53.4%	50.4%	47.9%	54.1%	
% of total state operating approps.	0.14%	0.14%	0.13%	0.13%	0.15%	

Legal Services to State Agencies: FY 2007-08 to FY 2011-12						
State Department	FY 07-08 Actual	FY 08-09 Actual	FY 09-10 Actual	FY 10-11 Actual	FY 11-12 Approp./ Estim.	FY 11-12 % of Total
<b>Blended Legal Rate</b>	\$72.03	\$75.10	\$75.38	\$73.37	\$75.71	
% change from prior year	n/a	4.3%	0.4%	-2.7%	3.2%	
<b>Total Hours</b>	310,387	326,575	326,576	329,907	379,693	
% change from prior year	n/a	5.2%	0.0%	1.0%	15.1%	

/1 Actual expenditures are provided by the Department of Law. The appropriation column is based on Appendix F of this document, and it includes the Department's estimates of legal services to be provided to institutions of higher education and to PERA.

The steady rise of the appropriation for legal services can be broken into two components: (1) changes in the Department's hourly rates; and (2) changes in the number of hours of legal services provided to state agencies. The hourly rates change with personal services costs and with the cost of benefits and operating expenses. In FY 2008-09, the blended rate declined due to the numerous cost reduction measures, including the reduction in the State's contribution to the Public Employees' Retirement Association (PERA). The issue brief that begins on page 15 provides information concerning changes in the number of hours of legal services provided to state agencies.

### **Criminal Justice and Appellate**

The largest allocation of General Fund in the Department is for the Criminal Justice and Appellate section, which accounts for 41.4 percent of General Fund appropriations to the Department for FY 2011-12. 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. The following table contains workload and appropriation measures for the Appellate Unit.

	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Actual	FY 2010-11 Actual	FY 2011-12 Approp.
Expenditures (excluding central approp.)	\$2,133,564	\$2,360,972	\$2,555,197	\$2,646,858	\$2,611,793
Incoming Cases	979	1,240	1,152	1,050	n/a
Pending Cases (Backlog)	270	400	434	398	n/a
Appellate Briefs Filed	865	1,029	1,054	1,021	n/a

Pursuant to H.B. 07-1054, the number of Colorado Appellate Court judgeships was increased from 19 to 22 in FY 2008-09. The Legislative Council Staff Fiscal Note for this bill anticipated that the Department's Appellate Unit would require an additional 2.0 FTE attorneys in FY 2008-09 (\$160,334 General Fund) and another 3.0 FTE attorneys (\$259,545 General Fund) in FY 2009-10. While the Department did receive the additional resources as scheduled in FY 2008-09, and another 1.0 FTE for FY 2009-10, the Department has proposed that the remaining 2.0 FTE be deferred until the state's fiscal situation recovers enough to support the required appropriation.

## District Attorneys' Salaries

The State 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<sup>3</sup>. Each DA is responsible for representing the legal interests of the people of the State of Colorado, and prosecuting on behalf of the people criminal cases for crimes committed within his or her judicial district. 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 boards of county commissioners within each respective 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 "District Attorneys' Salaries". Pursuant to Section 20-1-306, C.R.S., the State contributes 80 percent of the funding for DAs' salaries (including the associated costs of employer PERA contributions). In 2007 (H.B. 07-1170), the General Assembly raised the statutory minimum salary for district attorneys over a four-year period. A judicial district may choose to pay a salary that exceeds the statutory minimum using local funds. The following table details the scheduled increases in the minimum DA salary pursuant to Section 20-1-301, C.R.S.

Effective Date	Minimum DA Salary
Prior to January 1, 2009	\$67,000
January 1, 2009	100,000
January 1, 2010	110,000
January 1, 2011	120,000
January 1, 2012	130,000

The State's contribution for DAs' salaries is provided through an appropriation to the Department of Law. This appropriation currently accounts for 26.4 percent of total General Fund appropriations to the Department. The following table shows recent expenditures/ appropriations for this purpose.

Fiscal Year	Annual Expenditure	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 (appropriation)	2,479,796	216,567	1,163,811
FY 2012-13 (request)	2,656,368	176,572	1,340,383

<sup>3</sup> See Article VI, Section 13 of the State Constitution and Article 1 of Title 20, C.R.S.



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**DECISION ITEM PRIORITY LIST**

Request	GF	CF	RF	FF	Total	FTE
R-1	\$0	\$404,189	\$0	\$0	\$404,189	5.0
<p><b>Consumer Protection Enhancement</b></p> <p><b>Consumer Protection.</b> The Department requests a \$404,189 increase in the custodial cash funds that are reflected for informational purposes in the Long Bill. These funds would support 5.0 FTE to address an increasing number of consumer complaints and improve the overall efficiency and productivity of the consumer protection section. The Department proposes a fund source adjustment for this section, using General Fund to support attorneys and custodial cash funds to support administrative and support staff. This shift would address any perceived conflict of interest, and it would free up existing General Fund to support one additional attorney (one of the five requested FTE). <i>Statutory authority: Sections 6-1-101, et seq. (Colorado Consumer Protection Act), 6-4-101, et seq. (Colorado Antitrust Act), and 6-16-101 et seq. (Colorado Charitable Solicitations Act), C.R.S.</i></p>						
R-2	0	181,560	0	0	181,560	2.0
<p><b>Consumer Credit Unit - Unlicensed Entities Compliance Effort</b></p> <p><b>Consumer Protection.</b> The Department requests \$181,560 cash funds (including \$154,326 from the Uniform Consumer Credit Code Cash Fund and \$27,234 from the Collection Agency Cash Fund) and 2.0 FTE to improve consumer credit-related efforts. The requested staff would allow the Department to address an increase in the number of unlicensed entities offering products and services to Colorado citizens in violation of state law, and to respond to certain licensed entities' legal challenges to Department enforcement actions. <i>Statutory authority: Title 5, and Articles 14 and 14.5 of Title 12, C.R.S.</i></p>						
R-3	6,463	158,081	122,866	0	287,410	1.0
<p><b>Case Management System</b></p> <p><b>Administration.</b> The Department requests one-time funding of \$154,370 and ongoing funding of \$133,040 and 1.0 FTE to implement a case management system. The request includes \$154,370 cash funds from the Attorney's Fees and Cost Account to cover one-time expenditures, \$122,866 reappropriated funds from indirect cost recoveries, and \$3,711 cash funds from various sources that support the Department's consumer protection and criminal justice units. <i>Statutory authority: Section 24-31-101 (1) (a), C.R.S.</i></p>						
R-4	0	0	147,028	0	147,028	1.0
<p><b>Add Deputy Attorney General</b></p> <p><b>Legal Services to State Agencies (LSSA).</b> The Department requests \$147,028 reappropriated funds (from client agencies) to add a Deputy Attorney General position within the Legal Services to State Agencies (LSSA) division. The additional Deputy is needed to address a span of control concern that is the result of significant growth in client agencies' need for legal services provided by the Business and Licensing section. <i>Statutory authority: Section 24-31-101 (1) (a), C.R.S.</i></p>						

Request	GF	CF	RF	FF	Total	FTE
R-5	37,428	0	0	0	37,428	0.0
<p><b>Reinstate 1.5 percent Appellate Base Reduction</b></p> <p><b>Criminal Justice and Appellate.</b> The Department requests \$37,428 General Fund for the Appellate Unit to restore the 1.5 percent base reduction that was taken in FY 2011-12. The restored funding would allow the Department to provide modest salary increases for some of the attorneys within the Appellate Unit to partially address salary discrepancies between this unit and other areas of the Department. <i>Statutory authority: Section 24-31-101 (1) (a), C.R.S.</i></p>						
NPI-1	0	0	(382,500)	0	(382,500)	0.0
<p><b>Lobato Base Reduction</b></p> <p><b>Special Purpose.</b> This request corresponds to a budget request from the Governor's Office to reduce the appropriation for litigation expenses in the <i>Anthony Lobato, et al. v. The State of Colorado, et al</i> case. <i>Statutory authority: Section 24-31-101, C.R.S.</i></p>						
NPI-2	992	(2,442)	1,754	(195)	109	0.0
<p><b>Vehicle Lease Payments</b></p> <p><b>Administration.</b> This request reflects anticipated changes in the Department's vehicle lease payments to the Department of Personnel and Administration. <i>Statutory authority: Section 24-30-1117, C.R.S.</i></p>						
NPI-3	0	0	65,868	0	65,868	0.5
<p><b>Increase Services for Governor's Energy Office</b></p> <p><b>Legal Services to State Agencies (LSSA).</b> This request corresponds to a budget request from the Governor's Office to increase legal services provided to the Governor's Energy Office. <i>Statutory authority: Section 24-31-101, C.R.S.</i></p>						
NPI-4	0	0	35,000	0	35,000	0.3
<p><b>Increase Services for Governor's Office of Information Technology</b></p> <p><b>Legal Services to State Agencies (LSSA).</b> This request corresponds to a budget request from the Governor's Office to increase legal services provided to the Governor's Office of Information Technology. <i>Statutory authority: Section 24-31-101, C.R.S.</i></p>						
<b>Total</b>	<b>44,883</b>	<b>741,388</b>	<b>(9,984)</b>	<b>(195)</b>	<b>776,092</b>	<b>9.8</b>

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**OVERVIEW OF NUMBERS PAGES**

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

**Total Requested Change, FY 2011-12 to FY 2012-13 (millions of dollars)\***

Category	GF	CF	RAF	FF	Total	FTE
FY 2011-12 Appropriation	\$9.4	\$10.4	\$33.1	\$1.5	\$54.3	419.0
FY 2012-13 Request	9.9	11.4	33.9	1.6	56.8	427.5
Increase / (Decrease)	\$0.5	\$1.1	\$0.9	\$0.1	\$2.5	8.5
Percentage Change	5.0%	10.2%	2.6%	4.7%	4.6%	2.0%

\*Totals may not sum due to rounding.

The following table highlights the individual changes contained in the Department's FY 2012-13 budget request, as compared with the FY 2011-12 appropriation. For additional detail, see the numbers pages in Appendix A.

**Requested Changes, FY 2011-12 to FY 2012-13**

Category	GF	CF	RF	FF	Total	FTE
Reinstate employer's PERA contribution rate (S.B. 11-076)	\$180,082	\$69,016	\$502,668	\$22,903	\$774,669	0.0
Changes in employee benefits and other central appropriations	245,276	106,381	313,175	48,412	713,244	0.0
Enhance consumer protection (R-1)	0	404,189	0	0	404,189	5.0
Case management system (R-3)	6,463	158,081	122,866	0	287,410	1.0
Indirect cost/ fund source adjustments	(118,765)	138,492	231,672	(1,108)	250,291	0.0
Consumer Credit Unit - Unlicensed entities compliance effort (R-2)	0	181,560	0	0	181,560	2.0
Add Deputy Attorney General (R-4)	0	0	147,028	0	147,028	1.0
District attorney salaries (H.B. 07-1170)	121,572	0	0	0	121,572	0.0
Reinstate 1.5 percent Appellate Unit base reduction (R-5)	37,428	0	0	0	37,428	0.0
Legal service changes requested by other state agencies	0	0	(281,632)	0	(281,632)	0.8
Annualize 2011 session bills	0	0	(160,732)	0	(160,732)	(1.3)
<b>Total Change</b>	<b>\$472,056</b>	<b>\$1,057,719</b>	<b>\$875,045</b>	<b>\$70,207</b>	<b>\$2,475,027</b>	<b>8.5</b>

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DEPARTMENT OF LAW**

**BRIEFING ISSUE**

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

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

The issue brief assumes that the performance-based goals are appropriate for the Department. Pursuant to the SMART Government Act legislative committees of reference are responsible for reviewing the strategic plans and recommending changes to the departments. The issue brief also assumes that the performance measures are reasonable for the performance-based goals. Pursuant to the SMART Government Act, the State Auditor periodically assesses the integrity, accuracy, and validity of the reported performance measures. Please note that the Department's full strategic plan includes additional division-specific objectives and performance measures. This issue brief only deals with the five overarching objectives.

**DISCUSSION:**

**Performance-based Goals and Measures**

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The Department's five top priority objectives are:

**1. Represent Client Agencies**

*Objective: Provide quality legal counsel and representation and provide effort that is satisfactory or greater to client agencies.*

<b>Legal Representation: Annual Client Survey Results</b>		
<b>Fiscal Year</b>	<b>Percent Satisfied or Very Satisfied</b>	
	<b>Benchmark</b>	<b>Actual</b>
2008-09	95.0%	98.0%
2009-10	95.0%	95.5%
2010-11	95.0%	95.4%
2011-12	95.0%	n/a

**a. How is the Department measuring the specific goal/objective?**

The Department conducts an annual survey of client agencies to measure the quality of legal counsel and legal representation. The most recent survey included five multi-part questions concerning

clients' experience with individual Department attorneys, including: client relationship, communication skills, analytical skills, effectiveness, and overall quality of legal services. The final survey question asks the client to indicate the level of satisfaction with the quality of legal services provided by the Department of Law, which is the data point used for this performance measure. The Department's goal is to achieve a rate of at least 95 percent of respondents indicating that they are "satisfied" or "very satisfied".

**b. Is the Department meeting its objective, and if not, why?**

Yes. The Department has exceeded its goal in the last three fiscal years.

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

The Department indicates that the key to providing efficient and effective legal services is to attract and retain quality employees by: (1) providing competitive attorney compensation and benefits; (2) providing a dynamic work environment; and (3) providing high level and interesting work. The Department has submitted two requests that should further its efforts to provide efficient and effective legal services to state agencies:

- R-3: Implement a case management system, which will improve productivity and allow attorneys to spend more time practicing law rather than looking for files and documents.
- R-4: Add a Deputy Attorney General position to address a span of control concern in the Business and Licensing section.

**2. Complex and/or multi-jurisdictional securities and insurance fraud investigations and prosecutions.**

*Objective: Conduct a statewide program for investigating and prosecuting violations of applicable state laws pertaining to securities fraud and insurance fraud which local jurisdictions would be unable to effectively handle.*

<b>Securities and Insurance Fraud Investigations: Restitution Ordered</b>				
<b>Fiscal Year</b>	<b>Securities Fraud</b>		<b>Insurance Fraud</b>	
	<b>Benchmark</b>	<b>Actual</b>	<b>Benchmark</b>	<b>Actual</b>
2007-08	\$2,000,000	\$12,664,705	\$400,000	\$836,649
2008-09	2,500,000	12,921,409	450,000	274,905
2009-10	2,500,000	8,151,322	450,000	947,472
2010-11	4,000,000	20,680,887	450,000	164,386
2011-12	5,000,000	n/a	450,000	n/a

**a. How is the Department measuring the specific goal/objective?**

The Department tracks the amount of restitution ordered as a result of cases it investigates and prosecutes.

**b. Is the Department meeting its objective, and if not, why?**

Partially. The Department has exceeded its goals related to securities fraud in each of the last four fiscal years. With respect to insurance fraud restitution, the Department exceeded its goals in two of the last four fiscal years. However, total restitution over the last four fiscal years (\$2,223,412) exceeded the sum of the four corresponding benchmarks (\$1,750,000).

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

The Department notes that it previously received additional resources to pursue criminal prosecutions, particularly in the area of insurance and securities fraud, and these additional resources are providing excellent results. The Department’s FY 2012-13 budget request maintains these resource levels.

**3. Medicaid Fraud Unit**

*Objective: Defend the financial integrity of the state’s Medicaid program and the safety of patients in Medicaid-funded facilities.*

Medicaid Fraud Unit: Total Recoveries		
Fiscal Year	Benchmark	Actual
2007-08	\$450,000	\$3,528,936
2008-09	450,000	5,359,478
2009-10	450,000	4,149,928
2010-11	450,000	5,197,152
2011-12	450,000	n/a

**a. How is the Department measuring the specific goal/objective?**

The Department tracks the amount of fines, costs, and restitution that is recovered by the Unit.

**b. Is the Department meeting its objective, and if not, why?**

Yes. The Department has substantially exceeded its goal in each of the last four fiscal years. The Department has acknowledged that, based on past performance, the target for this performance measure should be increased to \$2,000,000 in criminal and civil recoveries for the coming year.

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

The Department’s FY 2012-13 budget request maintains current resource levels.

**4. Consumer Protection**

*Objective: Ensure compliance with consumer credit laws [this objective and the associated benchmarks on the next page were identified in the division-level detail concerning consumer credit unit].*

Consumer Credit: Number of Cases Opened		
Fiscal Year	Benchmark	Actual
2007-08	125	114
2008-09	105	103
2009-10	60	107
2010-11	100	207
2011-12	200	n/a

*Objective: Preserve competition in marketplaces affecting Colorado consumers and businesses by: (a) identifying and preventing deceptive trade practices; and (b) investigating and resolving conduct that is anti-competitive and unreasonably restricts trade in Colorado.* [This objective and the associated benchmarks below were identified in the division-level detail concerning consumer fraud and antitrust units].

Activities Related to Deceptive Trade Practices or Antitrust Violations			
Fiscal Year	Deceptive Trade Practices (investigations opened, settlements/judgements, and lawsuits filed)	Antitrust Violations (investigations opened and lawsuits filed)	Total
2007-08	65	15	80
2008-09	82	9	91
2009-10	79	7	86
2010-11	69	8	77

**a. How is the Department measuring the specific goal/objective?**

Each unit in the Department tracks certain activities that are initiated each year. With respect to the performance measures above, the Department tracks the following activities:

- Consumer Credit - the number of investigations that mature and are opened as a case
- Deceptive Trade Practices - the number of investigations opened; the number of settlements, assurances of discontinuance or stipulated final judgements reached in cases; and the number of lawsuits filed
- Antitrust Violations - the number of investigations opened and the number of lawsuits filed

**b. Is the Department meeting its objective, and if not, why?**

Partially. With respect to consumer credit activities, the Department has exceeded its goals in two of the last four fiscal years. However, the total number of cases over the last four fiscal years (531) exceeded the sum of the four corresponding benchmarks (390). The Department has not identified benchmarks or targets related to deceptive trade practices or antitrust violation activities.

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

The Department has submitted two requests that should further its consumer protection efforts:

- R-1: Add 5.0 FTE to the Consumer Protection and Antitrust Unit to address an increasing number of consumer complaints and improve the overall efficiency and productivity of the consumer protection section.
- R-2: Add 2.0 FTE to the Consumer Credit Unit to address an increase in the number of unlicensed entities offering products and services in violation of state law and to respond to certain licensed entities’ legal challenges to Department enforcement actions.

**5. Appellate Unit**

*Objective: Produce quality briefs appropriately tailored to the seriousness of the offense/ appellate challenge while maintaining or improving the Unit’s success rate.*

Appellate Unit			
Fiscal Year	Briefs Filed	Cases Resolved	Percent of Cases with Successful Outcome on Appeal
2007-08	865	964	90.0%
2008-09	1,029	1,116	90.0%
2009-10	1,054	1,116	93.0%
2010-11	1,021	1,087	90.0%
2011-12 (estimate)	1,060	1,100	90.0%

**a. How is the Department measuring the specific goal/objective?**

The Department tracks the number of “cases resolved,” which reflects the number of briefs filed by the Department plus the cases decided by the Court of Appeals via its expedited docket; expedited docket cases do not require a response from the Department of Law. The Department also tracks the percent of cases in which a successful outcome is reached on appeal.

**b. Is the Department meeting its objective, and if not, why?**

The Department has not identified benchmarks or targets related to this performance measure.

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

The Department has submitted one request which should further the Appellate Unit’s efforts to produce quality briefs and maintain or improve the number of cases in which a successful outcome is reached on appeal:

- R-5: Provide modest salary increases for some attorneys within the Appellate Unit to partially address salary discrepancies between this unit and other areas of the Department.



**FY 2012-13 Joint Budget Committee Staff Budget Briefing  
Department of Law**

**BRIEFING ISSUE**

**ISSUE: Trends in Appropriations for Legal Services**

This briefing issue details and discusses trends in state agencies' demand for legal services.

**SUMMARY:**

- ❑ The General Assembly appropriates moneys for legal services directly to each state agency, and these agencies purchase legal services from the Department of Law. Appropriations that authorize the Department of Law to spend moneys earned for the provision of legal services to other state agencies accounts for more than half of the Department of Law's total appropriation.
- ❑ Appropriations to the Department of Law for the provision of legal services have increased over the last decade due to: (1) increases in the cost of employee salaries and benefits and Department operating expenses; and (2) increases in the demand for legal services.
- ❑ The total number of hours of legal services purchased from the Department of Law has increased significantly over the last five fiscal years, primarily due to increases in the demands of four departments: Regulatory Agencies; Natural Resources; Revenue; and Public Health and Environment. These increased demands have been driven by statutory changes (e.g., the regulation of mortgage brokers, the regulation of medical marijuana, and conservation easement tax credits), as well as increases in regulatory activities.
- ❑ Within the Department of Law's budget, increases in the overall demand for legal services are reflected as increases in reappropriated funds and FTE. The actual financial impact on the General Fund or on another fund source is only apparent in each client agency's budget. For FY 2011-12, nearly half of legal services expenditures (\$14.1 million) are anticipated to be supported by various cash funds, and another 25.7 percent of legal services expenditures (\$7.4 million) are anticipated to be supported by the General Fund.

**DISCUSSION:**

*Changes in Appropriations for the Provision of Legal Services*

From FY 2001-02 to FY 2011-12, total appropriations to the Department of Law increased by \$20.5 million (from \$33.8 million to \$54.3 million), representing a compound annual growth rate of 4.9 percent. The amount of General Fund appropriated to the Department, however, has actually declined by approximately \$540,000 (5.4 percent) since FY 2001-02. In terms of the overall increase in appropriations, the largest contributing factor is the provision of legal services to other state agencies. As detailed in the table on the following page, appropriations for this purpose have increased annually in all but one of the last ten fiscal years, representing a compound annual growth rate of 4.6 percent.

<b>Recent Appropriations to the Department of Law for Legal Services to State Agencies</b>			
<b>Fiscal Year</b>	<b>Annual Appropriation /1</b>	<b>Annual Change</b>	
		<b>Dollars</b>	<b>Percent</b>
2001-02	\$15,900,447		
2002-03	16,372,904	472,457	3.0%
2003-04	17,196,120	823,216	5.0%
2004-05	16,848,012	(348,108)	-2.0%
2005-06	17,719,855	871,843	5.2%
2006-07	20,029,825	2,309,970	13.0%
2007-08	20,252,884	223,059	1.1%
2008-09	21,855,273	1,602,389	7.9%
2009-10	22,709,787	854,514	3.9%
2010-11	24,650,600	1,940,813	8.5%
2011-12	24,954,127	303,527	1.2%
<b>10 Year Change/ Compound Annual Growth Rate</b>		<b>\$9,053,680</b>	<b>4.6%</b>

1/ Please note that these figures exclude the associated employee benefits and other centrally appropriated amounts.

#### *Changes in Appropriations for the Purchase of Legal Services*

The General Assembly appropriates moneys for legal services directly to each state agency; these agencies, in turn, purchase services from the Department of Law. The General Assembly provides appropriations to the Department of Law to allow it to spend moneys earned for the provision of services. For example, for FY 2011-12, the General Assembly has authorized the Department of Law to spend up to \$28.9 million providing legal services to state agencies (including associated central appropriations). This amount represents 54 percent of the Department's total appropriation. As shown in the next table, eight agencies purchase more than 80 percent of the legal services provided by the Department of Law. The table also shows the total number of hours of legal services provided and the average hourly rate charged by the Department. [Appendix F details appropriations to each agency for FY 2011-12, by bill and fund source.]

<b>State Agency Payments to Department of Law for Legal Services: FY 2007-08 to FY 2011-12 /1</b>						
<b>State Department</b>	<b>FY 07-08 Actual</b>	<b>FY 08-09 Actual</b>	<b>FY 09-10 Actual</b>	<b>FY 10-11 Actual</b>	<b>FY 11-12 Approp./ Estim.</b>	<b>FY 11-12 % of Total</b>
Regulatory Agencies	\$6,804,123	\$7,396,788	\$7,546,070	\$7,485,354	\$8,088,494	28.0%
Natural Resources	2,985,212	3,082,235	3,260,139	3,283,382	3,437,991	11.9%
Revenue	956,666	965,319	974,158	1,738,069	2,896,336	10.0%
Public Health & Environment	1,996,830	2,178,418	2,146,754	2,021,921	2,644,009	9.2%
Personnel and Administration	3,075,061	2,579,276	2,363,953	2,555,590	2,631,150	9.1%
Human Services	1,460,099	1,558,179	1,550,136	1,409,467	1,396,017	4.8%
Transportation	1,259,910	1,361,947	1,187,488	1,081,661	1,244,067	4.3%
Corrections	880,952	1,096,327	1,401,307	1,075,919	1,239,958	4.3%

State Agency Payments to Department of Law for Legal Services: FY 2007-08 to FY 2011-12 /1						
State Department	FY 07-08 Actual	FY 08-09 Actual	FY 09-10 Actual	FY 10-11 Actual	FY 11-12 Approp./ Estim.	FY 11-12 % of Total
Other agencies	4,824,022	5,279,478	4,456,697	5,158,978	5,308,517	18.4%
<b>Total expenditure/ appropriation</b>	24,242,875	25,497,967	24,886,703	25,810,341	28,886,539	100.0%
% change of total from prior year	n/a	5.2%	-2.4%	3.7%	11.9%	
% of total Dept. of Law appropriation	52.7%	53.4%	50.4%	47.9%	54.1%	
% of total state operating approps.	0.14%	0.14%	0.13%	0.13%	0.15%	
<b>Blended Legal Rate</b>	\$72.03	\$75.10	\$75.38	\$73.37	\$75.71	
% change from prior year	n/a	4.3%	0.4%	-2.7%	3.2%	
<b>Total Hours</b>	310,387	326,575	326,576	329,907	379,693	
% change from prior year	n/a	5.2%	0.0%	1.0%	15.1%	

/1 Actual expenditures are provided by the Department of Law. The appropriation column is based on Appendix F of this document, and it includes the Department of Law's estimates of legal services to be provided to institutions of higher education and to PERA.

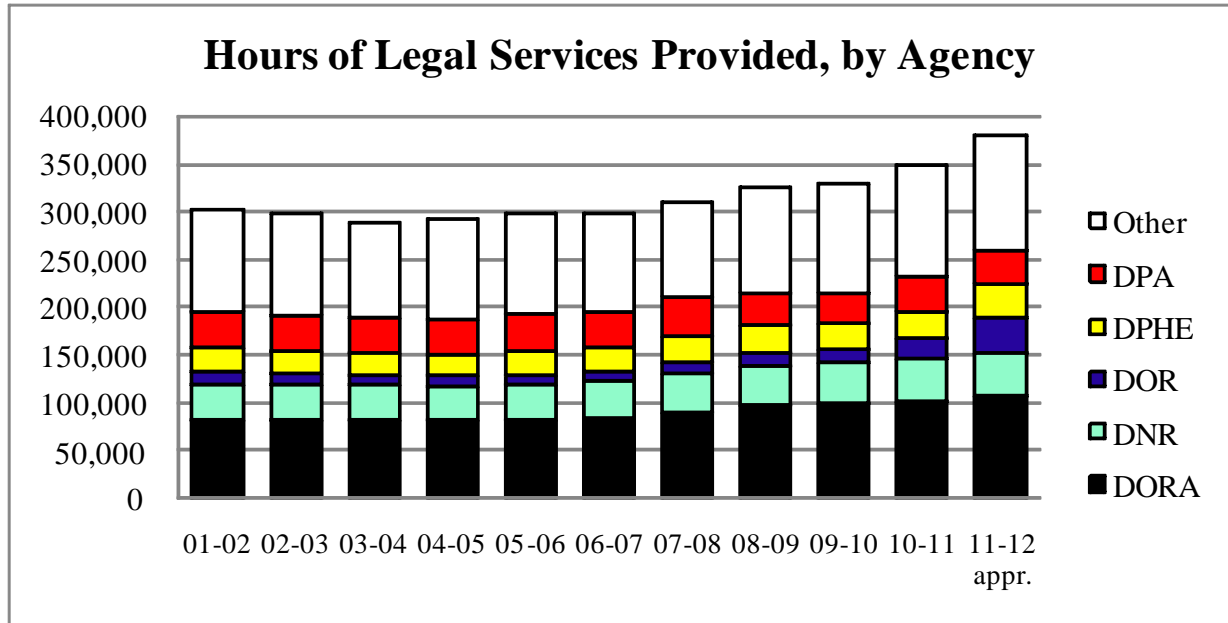
The steady rise of the appropriation for legal services can be broken into two components: (1) changes in the hourly rates charged by the Department of Law; and (2) changes in the number of hours of legal services provided to state agencies. Hourly rate changes generally reflect changes in the cost of employee salaries and benefits, as well as operating costs. For example, in FY 2008-09, the blended rate declined largely due to the temporary reduction in the State's contribution to the Public Employees' Retirement Association (PERA). Changes in the number of hours of legal services provided are driven by a number of factors, described below.

#### *Changes in Agencies' Demand for Legal Services*

The total number of hours of legal services purchased by state agencies increased by 46,518 from FY 2001-02 to FY 2010-11, representing a compound annual growth rate of 1.6 percent. [Appendix G details the hours of legal services purchased annually by each state agency, from FY 2001-02 to FY 2010-11. Appendix G also lists the estimated number of hours to be purchased by each agency in FY 2011-12 based on appropriations to each agency.] For most state agencies, the number of hours of legal services purchased each year has remained steady or declined over the last ten years. In some instances, the number of hours purchased by an agency has spiked in a particular fiscal year due to a time-limited effort such as the litigation of a major case (e.g., the *Lobato* lawsuit). However, the overall number of hours of legal services purchased has increased significantly over the last five fiscal years, primarily due to changes in demands of four state agencies. The chart on the following page illustrates changes in the demand for legal services over the past decade.

As illustrated in the chart on the following page, five state agencies account for about two-thirds of the legal services provided by the Department of Law:

- Department of Regulatory Agencies (DORA)
- Department of Natural Resources (DNR)
- Department of Revenue (DOR)
- Department of Public Health and Environment (DPHE)
- Department of Personnel and Administration (DPA)



Over the past five fiscal years, the demands of four of the largest agency clients has increased significantly, accounting for the overall increase in demand. To a large extent, these changes in demand have been required due to statutory changes. Those bills that have had the most significant impact on demands for legal services in the last five years, based on the initial appropriation for legal services that was included in each bill, is are listed below:

- Regulation of mortgage brokers (S.B. 07-085, S.B. 07-203, S.B. 07-216, and H.B. 07-1322)
- Regulation of medical marijuana (S.B. 10-109 and H.B. 10-1284)
- Resolving disputes concerning conservation easement tax credits (H.B. 11-1300)

In addition, each year, the legislature passes multiple bills that affect the Department of Regulatory Agencies’ need for legal services. While few of these bills have a significant individual impact, the sum total impact of these bills can be significant. For example, in 2011, the General Assembly passed nine bills that required appropriations totaling \$274,995 to the Department of Regulatory Agencies for the purchase of legal services. [Appendix E details recent legislation impacting each agency’s need for legal services over the last four fiscal years.]

Other changes in demand are due to other factors, such as an increase in the number of individuals or entities regulated, or the nature of regulatory activities. These types of changes are reflected in Long Bill appropriations to individual agencies for the purchase of legal services. For example, the Department of Natural Resources’ demand for legal services has increased by 7,647 hours (20.3 percent) since FY 2006-07. The increased demand is related to a number of Department duties and responsibilities, including: oil and gas regulation and permitting activities; conservation easements involving the Division of Wildlife; State Land Board mineral audits and other activities; Water Conservation Board activities; and activities of the Division of Reclamation, Mining, and Safety.

### *Fund Sources Used to Purchase Legal Services*

Within the Department of Law's budget, increases in the overall demand for legal services are reflected as increases in reappropriated funds and FTE. The actual financial impact on the General Fund or on another fund source is only apparent in each client agency's budget. Staff has prepared Appendix F to identify the costs of legal services anticipated to be provided in FY 2011-12, by client agency fund source. As indicated on page 3 of Appendix F, nearly half of legal services expenditures (\$14.1 million) are anticipated to be supported by various cash funds. Another 25.7 percent of legal services expenditures (\$7.4 million) are anticipated to be supported by the General Fund. Those state agencies that account for the largest General Fund expenditures for legal services include:

- Revenue (\$2,189,077, including \$1,349,581 pursuant to H.B. 11-1300);
- Corrections (\$1,200,579);
- Human Services (\$1,159,664);
- Natural Resources (\$832,772); and
- Governor's Office (\$616,705, including \$545,112 related to the *Lobato* case).

**FY 2012-13 Joint Budget Committee Staff Budget Briefing  
Department of Law**

**BRIEFING ISSUE**

**ISSUE: Major Litigation Pending Against the State**

This brief provides a summary of legal cases involving the State that could have a significant General Fund impact.

**SUMMARY:**

- This issue provides information concerning thirteen pending cases involving the State that have a potential General Fund impact in excess of \$1 million.

**RECOMMENDATION:**

- Staff recommends that the Committee ask the Department for an update on the status of the *Lobato* case, of Conservation Easement Tax Credit Denial cases, and of any other matters the Attorney General believes warrant the Committee's attention.

**DISCUSSION:**

The Department of Law submits an annual report to the State Controller concerning pending litigation. This 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. Based on the most recent annual report submitted by the Attorney General, staff has provided below a brief summary of unresolved cases in which the potential General Fund impact, either through damages, attorneys fees and costs, or the cost of state compliance with court orders, exceeds \$1 million.

**1. *Lobato, et al. v. the State of Colorado, et al.* [Education]**

*Case.* In June 2005 a complaint was filed alleging that Colorado's system of funding public schools is unconstitutional because it does not provide adequate funding, and funding is not allocated in a manner rationally related to the constitutional mandate that the General Assembly provide for the maintenance of a "thorough and uniform" public school system. The plaintiffs have asked the court to declare the entire existing system of funding public schools unconstitutional, and to require the General Assembly to enact and fund a new system.

*Status.* The trial court initially dismissed the case on the ground that the issue presented a non-justiciable political question. The Court of Appeals affirmed the decision, but the Colorado Supreme Court reversed and remanded the case for trial. The five week trial in Denver district court concluded in early September. The Denver district court issued a decision on December 9, 2011, concluding that the entire system of public school finance (including the Public School Finance Act,

categorical programs, and capital construction funding) is not rationally related to the constitutional "thorough and uniform" mandate.

The court enjoined the defendants from adopting, implementing, administering, or enforcing any laws and regulations that fail to establish, maintain, and fund a thorough and uniform system of schools that fulfills the qualitative mandate and that is in full compliance with constitutional local control requirements. The court further enjoined the defendants to design, enact, fund, and implement a system of public school finance that provides and assures that adequate, necessary, and sufficient funds are available in a manner rationally related to these constitutional requirements.

However, the court stayed the enforcement of the injunctive relief in order to provide the State a reasonable time to create and implement a system of public school finance that meets these constitutional mandates. This stay will continue in effect until final action by the Colorado Supreme Court upon appeal of the Denver district court's decision. If such an appeal is not made, the Denver district court will review the stay upon application of either party submitted no earlier than the conclusion of the 2012 legislative session. While this stay is in place and until further action by the Supreme Court or the Denver district court, the present financing formula and funding may remain in effect.

*Financial Impact.* Other than reasonable attorneys' and expert witness fees, the plaintiffs are not seeking a specific monetary judgement. However, the plaintiffs provided evidence during the trial estimating that an additional \$4.15 billion per year could be necessary to allow school districts to meet all state and federal standards and requirements (excluding transportation, food services, or facility-related expenses). With respect to facility needs, plaintiffs have argued that an additional \$5.7 billion to \$17.9 billion should be spent on capital facilities. Finally, if the plaintiffs prevail on their claim for attorneys' fees and costs, plaintiffs' attorneys' fees and costs will likely exceed \$1 million.

## **2. *Justus, Gary, et al. v. State of Colorado, Gov. Bill Ritter, PERA***

*Case.* Plaintiffs are former state and local government employees who can or will receive retirement benefits under PERA. They allege violations of the Colorado and U.S. Constitutions arising from changes to PERA's cost of living adjustment (COLA) pursuant to S.B. 10-001. Among other relief, plaintiffs sought class action status, a permanent injunction against the continued implementation of the revised COLA formula, payment of 2010 (and future) COLA amounts, as well as costs and attorney fees.

*Status.* The court granted defendants' motion for summary judgment and dismissed plaintiffs' lawsuit. Plaintiffs filed a notice of appeal in late July 2011. The case was set for trial beginning in February 2012.

*Financial Impact.* If S.B. 10-001 is found unconstitutional and enjoined, PERA could be required to pay more than \$150 million (including more than \$100 million for the 2010 COLA and \$49.5 million for the unpaid portion of the 2011 COLA). PERA would also be required to pay the full COLA (at 3.25 percent or 3.5 percent, as appropriate) in 2012 and beyond. In addition, if successful in their 42 U.S.C. § 1983 claims, plaintiffs would be entitled to receive their attorneys' fees and costs

(likely in excess of \$350,000). The Risk Management Fund would pay any attorneys' fees and costs judgment against the State defendants, if awarded under federal law.

### **3. Conservation Easement Tax Credit Denial cases [Revenue]**

*Case.* Approximately 600 conservation easement tax credit denial cases are pending at the Department of Revenue. The taxpayers seek to reverse the Department's denial of their tax credit claims. Pursuant to H.B. 11-1300, the litigation of the cases will be expedited in the coming year. Some cases will be litigated in district courts in three regions of the state, and others will be litigated through an administrative hearing. The taxpayers were required to elect one of several procedural tracks by September 30, 2011.

*Status.* The representatives of 455 donations elected to proceed in state district court and, after consolidation, a total of 188 cases were filed. Representatives of another 32 donations elected to have an administrative hearing to be completed by 2014. The representatives of the final 64 donations made no election and, by default, their administrative hearings must be completed by 2016.

*Financial Impact.* The amount at issue, if all penalties and interest assessed by Department is granted, is estimated to be \$220 million. The amount at issue in cases currently referred to the Attorney General's Office is estimated to be \$30 million. If the State does not prevail in these matters, much of these funds will be lost in the form of taxes not collectable. However, an unknown amount represents claims for refund plus statutory interest, payable by the Department.

### **4. Havens, Darrell v. William Johnson [Corrections, Public Safety, Natural Resources]**

*Case.* An inmate at the Fort Lyons Correctional Facility alleges tort and civil rights claims in connection with his initial arrest and subsequent denial of parole. On July 3, 2007, plaintiff was lured to a sting operation where he was to sell a stolen vehicle. During the sting operations, plaintiff attempted to escape and almost ran down a police officer in the vehicle he was driving. That officer shot the plaintiff, rendering him a quadriplegic. Plaintiff contends that he was shot without provocation and that the approximately 20 officers on the scene, including three Colorado State Patrol (CSP) Troopers and a State Parks Officer, conspired to wrongly convict him of attempted murder. On February 1, 2010, the Colorado Parole Board granted plaintiff medical parole. Parole was subsequently revoked based on a request from the Arvada Police Department and Jefferson County District Attorney's office. This request was submitted when the plaintiff refused to dismiss several previous federal lawsuits against various Arvada and Jefferson County personnel. As a result, the Parole Board members were also named as defendants.

*Status.* This case involves 22 named defendants, 38 John Doe defendants, two related federal cases, a related state case, and is a procedural quagmire. All of the defendants have moved to dismiss the case and stay discovery. The court has stayed discovery, and briefing on the various motions to dismiss continues. Despite the fact that discovery has not started, the court docket already shows 230 documents on file. This case was recently consolidated with another related case involving the same facts and parties; motions to dismiss are now due December 19, 2011.



*Financial Impact.* Plaintiffs' notice of claim states that he is seeking damages over \$122,774,145. In addition, plaintiff is seeking his legal costs incurred in prosecuting this action. The Risk Management Fund would cover any losses attributed to the CSP Troopers, State Parks Officers, and Parole Board Members.

##### **5. *Comprehensive Addiction Treatment Services Center v. Department of Human Services, Division of Behavioral Health***

*Case.* Plaintiffs, a methadone treatment facility and its owner, allege tort and civil rights claims pursuant to 42 U.S.C. § 1983 in connection with regulatory action taken against the clinic that resulted in a brief suspension of the clinic license and an 18-month period during which the clinic was barred from admitting new patients or re-admitting former patients. Following clinic reports of six patients dying of suspected overdoses over the course of a two-year period, the Division of Behavioral Health (DBH) found numerous deficiencies in the files of the deceased patients, as well as those selected at random. The DBH brought two adverse licensing actions against the plaintiffs. The licensing actions were later overturned by an Administrative Law Judge following two trials.

*Status.* The court set a quick trial date for March 2011, but the parties agreed that the trial date could not be met. The parties agreed to enter into a tolling agreement, which will result in the plaintiffs re-filing the complaint by December 31, 2011. The Department of Law anticipates that in addition to the claims in the first complaint, plaintiffs will be adding claims for retaliation and an injunctive relief claim. A trial is anticipated to be set by the end of 2012.

*Financial Impact.* Plaintiffs' notice of claim states the clinic is seeking damages in the amount of \$25 million. The Risk Management Fund would cover any losses.

##### **6. *Republican River Compact***

*Case.* In 1998, Kansas sued Nebraska and Colorado, alleging overuse of water from the Republican River, which flows from Colorado and Nebraska into Kansas. In 2003, the three states entered into a settlement decree to resolve the dispute. As a result of that decree, Colorado developed new water enforcement rules, retired thousands of acres of irrigated land and took additional actions such as the partial draining of Bonny Reservoir.

*Status.* In 2008 Kansas began arbitration proceedings against Nebraska and Colorado, alleging continued overuse of river water. Following the arbitrator's 2010 decision, which favored Kansas, Kansas asked the U.S. Supreme Court, which has original jurisdiction, to accept a suit against Nebraska for consuming too much river water. The United States Supreme Court has accepted the suit against Nebraska for violating the Republican River Compact by consuming more water than allowed. Although at this time Kansas has not asserted specific claims against Colorado, Kansas has reserved the right to seek relief at a later time against Colorado for its violations of the Compact.

*Financial Impact.* Kansas has not stated a specific dollar amount against Colorado; however, Kansas has sought over \$70 million from Nebraska for alleged violations of the Republican River Compact. The Department expects claims against Colorado from Kansas and/or Nebraska in the tens of millions of dollars. The Department of Law indicates that the likelihood of an unfavorable outcome on liability is probable. The numbers accepted by all three states show that Colorado has consumed

more water than is permitted under the Compact, although the states have not agreed on the exact amount. Therefore, the only issue will be damages and what Colorado will do in the future to achieve and maintain compliance. Colorado's liability for past over-consumption will likely be in the \$1 million to \$10 million range.

**7. *Public Service Company of Colorado v. Colorado Department of Revenue***

*Case.* Public Service of Company of Colorado (PSCo) claims a \$12 million refund of sales and use taxes paid on equipment used to generate electricity. PSCo claims the purchases were exempt from sales or use tax under the "manufacturing machinery" exemption. PSCo seeks a refund. PSCo also seeks declaratory relief that future generation of electricity qualifies for the exemption.

*Status.* The Executive Director of the Department ruled against PSCo in a hearing, but PSCo appealed to the Denver district court and prevailed. The Denver district court entered a \$9.9 million judgement, plus interest. The Department appealed the decision, and the Court of Appeals issued a decision in favor of the plaintiffs. The deadline for the Department to file a certiorari petition with the Colorado Supreme Court is December 15, 2011.

*Financial Impact.* The amount of refund claimed is approximately \$12 million. Interest will be ordered if the Department loses, which could result in up to \$20 million.

**8. *Safari 300, Ltd., et al. v. Department of Natural Resources, et al.***

*Case.* Plaintiffs assert both tort and contract claims against several defendants, including the Division of Parks and the Department of Natural Resources, concerning Parks' award of a contract in October 2003 to Hamilton Family Enterprises (HFE) to operate a shooting range located in Cherry Creek State Park. Plaintiffs, who operated the shooting range from 1993 to 2004, assert breach of contract claims and takings claims for property they claim that they purchased for the concession and were not allowed to remove. Plaintiffs also assert claims concerning closure of a nearby intersection that permitted free customer access to their range.

*Status.* In September 2011 the court dismissed the tort claims against the individual defendants. The contract claims against the State remain. A seven-day trial has been set for July 2012.

*Financial Impact.* Plaintiffs seek \$4.9 million for their tort, contract, and unreasonable use of police power claims. However, tort damages are no longer available because the tort claims were dismissed in September 2011.

**9. *BP America Production Co. v. Colorado Department of Revenue***

*Case.* BP America Production Co. claims a refund of severance taxes paid based on its claim that its expenses for transportation and processing should include a deduction for "return on investment."

*Status.* The Executive Director of the Department held that the Department was justified in denying the additional deduction. A trial in Denver district court has been set for May 2012.

*Financial Impact.* The potential loss is approximately \$2 million.

**10. Kemp, Keith, et al. v. Ivan Lawyer** [Public Safety]

*Case.* Plaintiffs allege tort and civil rights claims pursuant to 42 U.S.C. § 1983 in connection with the shooting death of Jason Kemp. On July 20, 2010, the Colorado State Patrol (CSP) received reports of three males driving while intoxicated and causing a minor crash. Sergeant Dunlap, Corporal Firko, and Trooper Lawyer responded to the reports by going to Mr. Kemp's residence. The allegations are that Trooper Lawyer pepper sprayed Mr. Kemp, and then broke the door down and shot Jason Kemp - who was unarmed - point blank in the chest. Mr. Kemp died at the scene. Ralph Turano of the CSP is also named as a defendant in a failure to train capacity.

*Status.* The Attorney General's office successfully obtained a stay of discovery based on motion to dismiss filed by defendants Dunlap and Turano. It is expected the motions to dismiss will be determined by January 2012. Both Trooper Lawyer and Corporal Firko have been indicted for their role, and the criminal trial is expected to proceed in February 2012.

*Financial Impact.* Plaintiffs have not stated the amount of damages sought. It is possible that a provoked jury may be willing to award plaintiff more than \$1 million in compensatory damages. If plaintiffs prevail on their claim that defendants violated federal law, they would be entitled to attorneys' fees in addition to damages. They are also seeking punitive damages. The Risk Management Fund would cover any judgment, unless the defendants are found to be acting outside the scope of their employment, or willfully and wantonly.

**11. Direct Marketing Association v. Colorado Department of Revenue**

*Case.* The Direct Marketing Association (DMA) sued the Department over implementation of H.B. 10-1193. This act requires retailers to notify consumers of their use tax obligations and to make annual reports to the Department, and establishes penalties for the failure to do so. The DMA claims that the law and regulations are unconstitutional. The DMA requests a declaration that H.B. 10-1193 and Department's related regulations are unconstitutional, an injunction against enforcement of the statute and regulations, and reimbursement for its attorneys' fees and costs.

*Status.* DMA filed a motion for preliminary injunction limited to its commerce clause claims. In January 2011, the U.S. district court granted DMA's motion, enjoining the Department from enforcing the three notice and reporting requirements. The parties submitted a joint status report proposing that the judge set a briefing schedule for cross-motions for summary judgment on DMA's commerce clause claims, stay DMA's remaining claims, and certify any order granting summary judgment for interlocutory appeal to the tenth circuit court. The judge approved the parties' proposal. Briefing on the cross-motions closed on June 10, 2011, and the parties are awaiting an order.

*Financial Impact.* No damages are sought. DMA's attorneys' fees and costs are estimated to total \$750,000 to \$1.5 million. An award of attorneys' fees under federal law would be covered by the Risk Management Fund.

**12. Montez, et al. v. Ritter, et al.** [Corrections]

*Case.* This is a certified class action filed on behalf of prison inmates with disabilities consisting of mobility, sight, and hearing impairments, and diabetes. Inmates brought this class action seeking

damages and declaratory and injunctive relief against the Governor, the Department of Corrections, and a lengthy list of prison officials based on federal law.

*Status.* The case settled in August 2003. The Department made physical changes at several prisons to comply with the ADA requirements, and was found to be in compliance. The Department was not initially found to be in compliance with regard to programmatic, tracking, and training issues. A subsequent compliance hearing ended in November 2010, both parties filed proposed findings of fact in May 2011, and related responses in August 2011. A court ruling is pending.

Approximately 1,440 individual members of the class filed claims with the Special Master concerning injuries suffered as a result of any alleged violation of the ADA. The State has won most of the claims that have been decided. Rulings of the Special Master are appealable to U.S. district court. To date, the Special Master has awarded minimal damages in a few cases and the court has reversed very few of the Special Master orders.

*Financial Impact.* Risk Management has paid \$60,498 in damages, plus over \$6 million for plaintiffs' attorneys' fees and for Special Masters' fees. The few damages claims yet to be litigated may result in insignificant awards. Attorneys' fees, Special Masters' fees, and costs will continue to be paid during the compliance and monitoring periods and could amount to more than \$1 million. Risk Management will cover damages, costs, and attorneys' fees.

**13. *Davis v. Birch, et al.*** [Human Services; Health Care Policy and Financing].

*Case.* Plaintiffs are recipients of public benefits provided by the State of Colorado. Plaintiffs claim that the implementation of the Colorado Benefits Management System (CBMS) has violated their right to receive timely public assistance benefits, in violation of state and federal law. Plaintiffs' main objective is to force the State to issue food stamps, Medicaid, and other public benefits in a timely manner 95 percent of the time.

*Status.* In December 2004 the court found that the Departments were in violation of state and federal laws requiring applications for public benefits to be processed within specific time limits, and ordered the State to take steps to resolve the late processing of benefits. The Departments have each entered into settlement agreements containing specific goals for timely processing and increasing the percentage of cases timely processed every six months. If the Departments are unable to comply with the goals, there is a process of reports and meetings with the mediator. Ultimately, if the improvements in timely processing do not meet the time frames in the settlement agreement, the plaintiffs can choose to return to litigation.

*Financial Impact.* Any further costs to achieve compliance on timely processing of applications is uncertain. Risk Management remains responsible for the periodic payment of plaintiffs' attorneys' fees; expenditures to date have exceeded \$1 million.

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	<b>Actual</b>	<b>Actual</b>	<b>Approp</b>	<b>Request</b>	<b>Request</b>
<b>(1) ADMINISTRATION</b>					
This Division provides funding for the Office of the Attorney General, human resources, financial services, budgeting, information technology services, and special projects and facility management. This Division also includes centrally appropriated line items. This Division is supported by indirect cost recoveries, as well as a number of cash funds and other sources of reappropriated funds. Federal funds reflect centralized appropriations related to the Medicaid Fraud Control Unit.					
Personal Services - RF	2,723,687	2,939,483	2,942,096	3,065,063	R-3
FTE	36.6	38.5	40.7	41.7	R-3
Health, Life, and Dental	<u>1,940,668</u>	<u>1,967,131</u>	<u>2,281,572</u>	<u>2,415,841</u>	
General Fund	534,414	474,390	577,900	642,316	
Cash Funds	152,611	216,077	237,546	317,507	R-1, R-2
Reappropriated Funds	1,194,594	1,226,397	1,385,970	1,362,479	
Federal Funds	59,049	50,267	80,156	93,539	
Short-term Disability	<u>36,556</u>	<u>42,246</u>	<u>49,196</u>	<u>54,275</u>	
General Fund	11,079	11,893	13,008	15,188	
Cash Funds	2,962	3,829	4,457	5,889	R-1, R-2
Reappropriated Funds	21,527	25,271	30,127	30,957	
Federal Funds	988	1,253	1,604	2,241	
S.B. 04-257 Amortization Equalization	<u>560,822</u>	<u>654,314</u>	<u>775,756</u>	<u>981,232</u>	
General Fund	159,454	183,131	203,279	274,591	
Cash Funds	40,983	58,252	70,505	106,458	R-1, R-2
Reappropriated Funds	344,034	393,530	476,591	559,668	
Federal Funds	16,351	19,401	25,381	40,515	

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	<b>Actual</b>	<b>Actual</b>	<b>Approp</b>	<b>Request</b>	<b>Request</b>
S.B. 06-235 Supplemental Amortization					
Equalization Disbursement	<u>348,889</u>	<u>477,318</u>	<u>622,261</u>	<u>843,245</u>	
General Fund	98,034	133,747	162,234	235,977	
Cash Funds	25,614	42,475	56,656	91,487	R-1, R-2
Reappropriated Funds	215,022	286,950	382,975	480,964	
Federal Funds	10,219	14,146	20,396	34,817	
Salary Survey for Classified Employees	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	0	0	0	0	
Cash Funds	0	0	0	0	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	
Salary Survey for Exempt Employees	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	0	0	0	0	
Cash Funds	0	0	0	0	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	
Performance-based Pay Awards for Classified Employees	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	0	0	0	0	
Cash Funds	0	0	0	0	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	

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Performance-based Pay Awards for Exempt					
Employees	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	0	0	0	0	
Cash Funds	0	0	0	0	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	
Workers' Compensation	<u>50,893</u>	<u>50,863</u>	<u>66,843</u>	<u>79,763</u>	
General Fund	15,272	14,877	18,378	21,109	
Cash Funds	4,136	5,038	6,919	8,348	
Reappropriated Funds	30,125	29,605	39,449	47,854	
Federal Funds	1,360	1,343	2,097	2,452	
Attorney Registration and Continuing Legal					
Education	<u>92,626</u>	<u>92,626</u>	<u>92,626</u>	<u>92,626</u>	
General Fund	22,238	22,238	22,238	22,238	
Cash Funds	3,750	4,538	4,538	4,538	
Reappropriated Funds	66,075	65,287	65,287	65,287	
Federal Funds	563	563	563	563	
Operating Expenses	<u>169,420</u>	<u>182,724</u>	<u>189,679</u>	<u>193,513</u>	
General Fund	0	0	0	0	
Reappropriated Funds	169,420	182,724	189,679	193,513	R-3
Administrative Law Judge Services	<u>0</u>	<u>0</u>	<u>0</u>	<u>1,100</u>	
General Fund	0	0	0	301	
Cash Funds	0	0	0	118	
Reappropriated Funds	0	0	0	681	

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	<b>Actual</b>	<b>Actual</b>	<b>Approp</b>	<b>Request</b>	<b>Request</b>
Purchase of Services from Computer Center	<u>68,003</u>	<u>37,522</u>	<u>73,188</u>	<u>109,715</u>	
General Fund	68,003	0	0	0	
Reappropriated Funds	0	37,522	73,188	109,715	
Payment to Risk Management and Property Funds	<u>92,968</u>	<u>28,842</u>	<u>92,047</u>	<u>87,789</u>	
General Fund	0	0	0	0	
Reappropriated Funds	92,968	28,842	92,047	87,789	
Vehicle Lease Payments	<u>73,969</u>	<u>74,330</u>	<u>70,176</u>	<u>70,285</u>	
General Fund	23,891	22,184	18,988	19,980	NPI-1
Cash Funds	14,773	21,848	23,943	21,501	NPI-1
Reappropriated Funds	30,621	25,484	24,435	26,189	NPI-1
Federal Funds	4,684	4,814	2,810	2,615	NPI-1
ADP Capital Outlay	<u>13,764</u>	<u>0</u>	<u>0</u>	<u>154,370</u>	
General Fund	9,176	0	0	0	
Cash Funds	0	0	0	154,370	R-3
Reappropriated Funds	4,588	0	0	0	
Federal Funds	0	0	0	0	
IT Asset Maintenance	<u>407,667</u>	<u>407,667</u>	<u>407,667</u>	<u>445,807</u>	
General Fund	15,291	15,291	15,291	21,754	R-3
Cash Funds	47,298	59,588	59,588	63,299	R-3
Reappropriated Funds	343,697	331,407	331,407	359,373	R-3
Federal Funds	1,381	1,381	1,381	1,381	



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	<b>FY 2009-10</b>	<b>FY 2010-11</b>	<b>FY 2011-12</b>	<b>FY 2012-13</b>	<b>Change</b>
	<b>Actual</b>	<b>Actual</b>	<b>Approp</b>	<b>Request</b>	<b>Request</b>
Leased Space	<u>32,502</u>	<u>26,220</u>	<u>26,220</u>	<u>27,789</u>	
General Fund	5,357	4,321	4,321	4,580	
Cash Funds	3,570	2,880	2,880	3,052	
Reappropriated Funds	23,374	18,857	18,857	19,985	
Federal Funds	201	162	162	172	
Capitol Complex Leased Space	<u>1,276,139</u>	<u>1,252,757</u>	<u>1,284,061</u>	<u>1,429,495</u>	
General Fund	382,931	368,073	352,895	378,315	
Cash Funds	103,874	124,080	132,910	149,602	
Reappropriated Funds	755,229	727,537	757,812	857,628	
Federal Funds	34,105	33,067	40,444	43,950	
Security for State Services Building	<u>196,693</u>	<u>120,919</u>	<u>125,430</u>	<u>140,489</u>	
General Fund	73,989	34,587	34,472	37,180	
Cash Funds	15,512	11,976	12,983	14,704	
Reappropriated Funds	101,938	71,164	74,024	84,287	
Federal Funds	5,254	3,192	3,951	4,318	
Communication Services Payments	<u>6,208</u>	<u>7,744</u>	<u>8,365</u>	<u>11,726</u>	
General Fund	2,308	2,748	2,946	4,160	
Cash Funds	575	2,092	2,269	3,168	
Reappropriated Funds	1,773	1,056	1,146	1,600	
Federal Funds	1,552	1,848	2,004	2,798	
Attorney General Discretionary Fund - GF	5,000	5,000	5,000	5,000	

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					<i>Request v. Approp.</i>
<b>SUBTOTAL - Administration</b>	8,096,474	8,367,706	9,112,183	10,209,123	12.0%
FTE	<u>36.6</u>	<u>38.5</u>	<u>40.7</u>	<u>41.7</u>	2.5%
General Fund	1,426,437	1,292,480	1,430,950	1,682,689	17.6%
Cash Funds	415,658	552,673	615,194	944,041	53.5%
Reappropriated Funds	6,118,672	6,391,116	6,885,090	7,353,032	6.8%
Federal Funds	135,707	131,437	180,949	229,361	26.8%

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

This Division provides funding for the attorneys, paralegals, and support staff who provide legal services to other state agencies. The Division is primarily supported by reappropriated funds received from various state agencies. Cash funds are received from state enterprises.

Personal Services	18,075,032	18,649,052	20,500,893	21,033,044	
FTE	<u>212.7</u>	<u>218.0</u>	<u>237.8</u>	<u>238.3</u>	R-4, NPI-2, NPI-3
Cash Funds	1,659,140	1,582,388	1,659,140	1,671,962	
Reappropriated Funds	16,415,892	17,066,664	18,841,753	19,361,082	R-4, NPI-2, NPI-3
Operating and Litigation - RF	849,568	898,698	1,643,735	1,650,051	R-4, NPI-2, NPI-3
Indirect Cost Assessment - RF	2,665,207	2,608,316	2,809,499	2,935,070	
					<i>Request v. Approp.</i>
<b>SUBTOTAL - Legal Services to State Agencies</b>	21,589,807	22,156,066	24,954,127	25,618,165	2.7%
FTE	<u>212.7</u>	<u>218.0</u>	<u>237.8</u>	<u>238.3</u>	0.2%
Cash Funds	1,659,140	1,582,388	1,659,140	1,671,962	0.8%
Reappropriated Funds	19,930,667	20,573,678	23,294,987	23,946,203	2.8%

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**(3) CRIMINAL JUSTICE AND APPELLATE**

This section provides funding for the investigation and prosecution of insurance, securities, Medicaid, and workers' compensation fraud, as well as gang-related criminal activity, complex crimes, and environmental crimes. This section represents the prosecution when defendants challenge their felony convictions before the state appellate courts or federal courts, assists district attorneys investigating and prosecuting homicide cases, handles foreign prosecutions, and certifies and helps train peace officers. Finally, this section provides funding for the Safe2Tell toll-free hotline, and keeps crime victims informed about cases handled by the Department. Cash funds include the P.O.S.T. Board Cash Fund, the Insurance Fraud Cash Fund, and moneys received from Pinnacle Assurance. Reappropriated funds include moneys from the Division of Securities Cash Fund that are transferred from the Department of Regulatory Agencies, indirect cost recoveries, grant moneys transferred from the Department of Public Safety, and Victims Assistance and Law Enforcement Funds. Federal funds are from the U.S. Department of Health and Human Services' Medicaid Fraud Control Program.

Special Prosecutions Unit	2,685,907	2,759,362	2,774,265	2,830,320	
FTE	<u>29.1</u>	<u>28.5</u>	<u>30.5</u>	<u>30.5</u>	
General Fund	1,480,003	1,570,474	1,359,303	1,391,287	
Cash Funds	203,794	794,728	861,711	879,039	
Reappropriated Funds	1,002,110	394,160	553,251	559,994	
Auto Theft Prevention Grant	57,463	227,976	239,075	239,075	
FTE	<u>0.5</u>	<u>2.0</u>	<u>2.0</u>	<u>2.0</u>	
Cash Funds	57,463	0	0	0	
FTE	0.5	0.0	0.0	0.0	
Reappropriated Funds	0	227,976	239,075	239,075	
FTE	0.0	2.0	2.0	2.0	

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	<b>Actual</b>	<b>Actual</b>	<b>Approp</b>	<b>Request</b>	<b>Request</b>
Appellate Unit	2,555,197	2,646,858	2,611,793	2,703,455	
FTE	<u>30.7</u>	<u>31.6</u>	<u>32.0</u>	<u>32.0</u>	
General Fund	2,302,221	2,449,993	2,224,371	2,197,268	R-5
FTE	30.0	31.0	31.0	31.0	
Reappropriated Funds	252,976	196,865	387,422	506,187	
FTE	0.7	0.6	1.0	1.0	
Medicaid Fraud Control Unit	1,272,725	1,495,791	1,548,974	1,579,511	
FTE	<u>13.9</u>	<u>15.0</u>	<u>17.0</u>	<u>17.0</u>	
General Fund	318,208	381,574	387,242	394,876	
Federal Funds	954,517	1,114,217	1,161,732	1,184,635	
Peace Officers Standards and Training Board Support - CF	2,107,154	2,485,503	2,674,700	2,683,620	
FTE	6.5	6.5	7.0	7.0	
Victims Assistance	72,651	See Appellate Unit	See Appellate Unit	See Appellate Unit	
FTE	<u>1.0</u>				
General Fund	0				
Reappropriated Funds	72,651				
Safe2Tell - GF	n/a	94,765	100,686	100,686	
FTE		1.0	1.0	1.0	
Indirect Cost Assessment	<u>328,276</u>	<u>382,767</u>	<u>451,504</u>	<u>443,402</u>	
Cash Funds	77,430	205,732	222,031	214,311	
Reappropriated Funds	138,920	46,101	71,943	72,669	
Federal Funds	111,926	130,934	157,530	156,422	

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<b>SUBTOTAL - Criminal Justice and Appellate</b>	9,079,373	10,093,022	10,400,997	10,580,069	1.7%
FTE	<u>81.7</u>	<u>84.6</u>	<u>89.5</u>	<u>89.5</u>	0.0%
General Fund	4,100,432	4,496,806	4,071,602	4,084,117	0.3%
Cash Funds	2,445,841	3,485,963	3,758,442	3,776,970	0.5%
Reappropriated Funds	1,466,657	865,102	1,251,691	1,377,925	10.1%
Federal Funds	1,066,443	1,245,151	1,319,262	1,341,057	1.7%

**(4) WATER AND NATURAL RESOURCES**

This section provides funding to represent the State in legal cases involving water and natural resources, such as oil, gas, mining and minerals. This section also handles cases involving wildlife, pollution, hazardous waste, and protection of the state's air and water. Cash funds are from the Colorado Water Conservation Board's Litigation Fund, the Hazardous Substance Response Fund, and the Attorney Fees and Costs Account. Reappropriated funds are from the Colorado Water Conservation Board's Litigation Fund.

Federal and Interstate Water Unit	499,637	497,751	502,159	513,883
FTE	<u>5.5</u>	<u>5.5</u>	<u>5.5</u>	<u>5.5</u>
General Fund	487,168	497,751	502,159	513,883
FTE	5.5	5.5	5.5	5.5
Cash Funds	12,469	0	0	0
Defense of the Colorado River Basin Compact	275,383	279,249	330,920	335,198
FTE	<u>3.4</u>	<u>3.0</u>	<u>3.0</u>	<u>3.0</u>
Cash Funds	275,383	274,544	330,920	335,198
FTE	3.4	3.0	3.0	3.0
Reappropriated Funds	0	4,705	0	0
Defense of the Republican River Compact - CF	65,190	66,133	110,000	110,000

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Consultant Expenses	<u>82,678</u>	<u>49,358</u>	<u>400,000</u>	<u>400,000</u>	
Cash Funds	55,267	34,378	400,000	400,000	
Reappropriated Funds	27,411	14,980	0	0	
Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)	291,374	310,097	452,682	460,629	
FTE	<u>3.4</u>	<u>3.4</u>	<u>3.5</u>	<u>3.5</u>	
General Fund	276,351	0	0	0	
FTE	3.4	0.0	0.0	0.0	
Reappropriated Funds	15,023	310,097	452,682	460,629	
FTE	0.0	3.4	3.5	3.5	
CERCLA Contracts - RF	447,550	337,085	425,000	425,000	
Natural Resource Damage Claims at Rocky Mountain Arsenal - CF	2,420	0	50,000	50,000	
Indirect Cost Assessment - RF	0	41,384	43,414	43,108	
					<i>Request v.</i>
					<i>Approp.</i>
<b>SUBTOTAL - Water and Natural Resources</b>	1,664,232	1,581,057	2,314,175	2,337,818	1.0%
FTE	<u>12.3</u>	<u>11.9</u>	<u>12.0</u>	<u>12.0</u>	0.0%
General Fund	763,519	497,751	502,159	513,883	2.3%
Cash Funds	410,729	375,055	890,920	895,198	0.5%
Reappropriated Funds	489,984	708,251	921,096	928,737	0.8%

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<b>(5) CONSUMER PROTECTION</b>					
This section provides funding for the protection of Colorado consumers and business against fraud, enforcement of Colorado's Antitrust Act, and enforcement of the tobacco Master Settlement Agreement and related tobacco laws. Cash funds are from fees paid by regulated businesses, court-ordered awards, custodial funds, and the Tobacco Settlement Defense Account. Reappropriated funds are from moneys in the Mortgage Company and Loan Originator Licensing Cash Fund that are transferred from the Department of Regulatory Agencies.					
Consumer Protection and Anti-Trust	1,627,090	1,794,040	1,781,681	2,175,106	
FTE	<u>19.5</u>	<u>19.7</u>	<u>21.0</u>	<u>26.0</u>	
General Fund	794,743	907,056	908,598	928,104	
FTE	10.7	11.6	10.0	9.0	R-1
Cash Funds	592,455	644,928	634,152	1,003,297	R-1
FTE	5.8	5.8	8.0	14.0	R-1
Reappropriated Funds	239,892	242,056	238,931	243,705	
FTE	3.0	2.3	3.0	3.0	
Consumer Credit Unit - CF	n/a	1,338,218	1,331,207	1,521,916	R-2
FTE		18.0	18.0	20.0	R-2
Collection Agency Board - CF	312,025	See Consumer Credit	See Consumer	See Consumer Credit	
FTE	5.3	Unit	Credit Unit	Unit	
Uniform Consumer Credit Code (UCCC) - CF	971,349	See Consumer Credit	See Consumer	See Consumer Credit	
FTE	12.0	Unit	Credit Unit	Unit	
Indirect Cost Assessment	<u>311,188</u>	<u>307,418</u>	<u>334,907</u>	<u>468,035</u>	
Cash Funds	273,977	271,947	297,695	431,085	
Reappropriated Funds	37,211	35,471	37,212	36,950	

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	FY 2009-10 Actual	FY 2010-11 Actual	FY 2011-12 Approp	FY 2012-13 Request	Change Request
					<i>Request v. Approp.</i>
<b>SUBTOTAL - Consumer Protection</b>	3,221,652	3,439,676	3,447,795	4,165,057	20.8%
FTE	<u>36.8</u>	<u>37.7</u>	<u>39.0</u>	<u>46.0</u>	17.9%
General Fund	794,743	907,056	908,598	928,104	2.1%
Cash Funds	2,149,806	2,255,093	2,263,054	2,956,298	30.6%
Reappropriated Funds	277,103	277,527	276,143	280,655	1.6%

**(6) SPECIAL PURPOSE**

This section contains special purpose appropriations and programs. This section currently includes funding to support District Attorneys' salaries, funding for litigation expenses associated with two significant lawsuits, and spending authority for excess revenues earned by the Legal Services to State Agencies program in the previous fiscal year.

District Attorneys' Salaries - GF	2,096,027	2,263,229	2,479,796	2,656,368	
Litigation Management and Technology Fund - CF	145,258	382,256	325,000	325,000	
Statewide HIPAA Legal Services - GF	3,538	0	0	0	
Tobacco Litigation - CF	535,462	972,823	880,000	880,000	
Lobato Litigation Expenses - RF	0	417,573	432,500 a/	50,000	R-6 <i>Request v. Approp.</i>
<b>SUBTOTAL - Special Purpose</b>	<u>2,780,285</u>	<u>4,035,881</u>	<u>4,117,296</u>	<u>3,911,368</u>	-5.0%
General Fund	2,099,565	2,263,229	2,479,796	2,656,368	7.1%
Cash Funds	680,720	1,355,079	1,205,000	1,205,000	0.0%
Reappropriated Funds	0	417,573	432,500	50,000	-88.4%

a/ In addition to the appropriation of \$432,500 for FY 2011-12, the Department has rolled forward \$617,051 of the FY 2010-11 appropriation to cover expenditures that will occur in FY 2011-12.



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	<b>FY 2009-10</b>	<b>FY 2010-11</b>	<b>FY 2011-12</b>	<b>FY 2012-13</b>	<b>Change</b>
	<b>Actual</b>	<b>Actual</b>	<b>Approp</b>	<b>Request</b>	<b>Request</b>
					<i>Request v. Approp.</i>
<b>DEPARTMENT OF LAW</b>					
<b>TOTAL FUNDS</b>	46,431,823	49,673,408	54,346,573	56,821,600	4.6%
FTE	<u>380.1</u>	<u>390.7</u>	<u>419.0</u>	<u>427.5</u>	2.0%
General Fund	9,184,696	9,457,322	9,393,105	9,865,161	5.0%
Cash Funds	7,761,894	9,606,251	10,391,750	11,449,469	10.2%
Reappropriated Funds	28,283,083	29,233,247	33,061,507	33,936,552	2.6%
Federal Funds	1,202,150	1,376,588	1,500,211	1,570,418	4.7%

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**APPENDIX B: SUMMARY OF MAJOR LEGISLATION<sup>4</sup>**

- ❑ **H.B. 11-1300 (Looper/ Grantham): Conservation Easement Tax Credit Dispute Resolution.** Creates an expedited process for resolving disputed claims for conservation easement tax credits. Appropriates \$1,351,933 reappropriated funds and 9.1 FTE to the Department of Law for the provision of legal services in FY 2011-12, including \$1,349,581 for the Department of Revenue and \$2,352 for the Department of Regulatory Agencies.
  
- ❑ **H.B. 09-1036 (S. King/ Morse): Automobile Registration Fee for P.O.S.T. Board Cash Fund.** Effective July 1, 2009, increases the motor vehicle registration fee (from 25¢ to 60¢) that funds the Peace Officers Standards and Training Board. Appropriates \$1,494,995 cash funds and 1.0 FTE to the Criminal Justice and Appellate Division for FY 2009-10.
  
- ❑ **H.B. 07-1054 (T. Carroll/ Shaffer): Increase the Number of Court of Appeals, District, and County Court Judges.** In FY 2007-08, creates nine new district court judgeships. Subject to available appropriations, also creates three new judgeships on the Colorado Court of Appeals, 22 new district court judgeships, and eight new county court judgeships to be phased in during FY 2008-09 and FY 2009-10. Associated staffing increases anticipated for the Department of Law's Appellate Division included 2.0 FTE attorneys in FY 2008-09 and 3.0 FTE attorneys in FY 2009-10. [While the Department did receive the additional resources as scheduled in FY 2008-09, and another 1.0 FTE for FY 2009-10, the Department has proposed that the remaining 2.0 FTE be deferred until the state's fiscal situation recovers enough to support the required appropriation.]
  
- ❑ **H.B. 07-1170 (Sonnenberg/ Morse): Compensation of Elected District Attorneys.** Increases the minimum salary for district attorneys from \$67,000 to \$130,000 over a four year period, beginning January 1, 2009. Requires commensurate increases in annual General Fund appropriations to the Department of Law to cover the State's 80 percent share of the statutory minimum salary for the state's 22 district attorneys.

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<sup>4</sup> Appendix E provides a complete listing of legislation that included appropriations for departments to purchase legal services from the Department of Law for the period: FY 2008-09 through FY 2011-12.

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

**Long Bill Footnotes**

**39 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 \$78.49 per hour for attorneys and not exceed \$62.39 per hour for paralegals, which equates to a blended rate of \$75.71 per hour.

Comment: As expected, the Department is billing client agencies at the stated rates.

**40 Department of Law, Special Purpose, Litigation Management and Technology Fund** -- It is the intent of the General Assembly to grant the Department of Law additional flexibility by allowing the Department to use funds appropriated in this line item to address unanticipated state legal needs that arise during FY 2011-12, as well as information technology asset maintenance needs that would otherwise require General Fund appropriations during FY 2011-12. It is also the intent of the General Assembly that moneys spent from this fund 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 moneys spent from this fund will not be used to offset present or future personal services deficits in any division in the Department. The Department is requested to submit a quarterly report to the Joint Budget Committee detailing the purpose for which moneys from this fund have been expended. Such a report is also requested with any supplemental requests for additional legal services funding within or outside of the Legal Services to State Agencies program.

Comment: The Department is complying with this footnote.

*Background Information on the Litigation Management and Technology Fund appropriation.* This line item, which despite its name does not involve a cash fund, was 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 technology costs that would otherwise require a General Fund appropriation. This appropriation has reduced the need for legal services supplementals related to the Legal Services to State Agencies program and other unanticipated litigation.

Moneys for this appropriation come from two sources:

1. Excess earnings of the Legal Services to State Agencies (LSSA) program during the previous fiscal year. These excess earnings arise when the revenues earned by the LSSA program exceed program expenditures. Absent this line item appropriation, these excess

earnings would revert to the General Fund. This line item appropriation allows the Department to retain and roll forward a portion of any excess revenues to the next fiscal year. Moneys that have been rolled forward that are not spent in the following fiscal year revert to the General Fund.

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 moneys received by the Attorney General as an award of attorney fees or costs, that are not considered custodial moneys. Moneys 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 and Technology Fund appropriation when excess LSSA earnings are insufficient.

*Expenditure Update.* The Department has been utilizing the spending authority provided through the Litigation Management and Technology Fund appropriation in the manner designated in this footnote. The Department's budget request reflects actual expenditures for this line item in FY 2009-10 and FY 2010-11. The majority of the expenditures reported for these two fiscal years were related to the purchase information technology equipment and software, and for DNA analyses related to the *Peggy Hettrick* homicide case. The Department also provided a report concerning this line item appropriation for FY 2011-12. To date, the Department has allocated \$60,000 for costs associated with the *Stapleton v. PERA* case, and \$10,000 for a case concerning Douglas Bruce.

## **Requests for Information**

### *Requests Applicable to All Departments, Including Law*

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

**Comment:** The Department's budget request includes schedules (2, 3, and 4) that reflect cash and federal grants that are received. The Department has provided information related to two grants:

- The Department received a cash grant from the Department of Public Safety from the Colorado Auto Theft Prevention Cash Fund. Pursuant to Section 42-5-112 (4), C.R.S., this fund consists of a \$1.00 fee on automobile insurance policies, and gifts, grants, and donations. In FY 2010-11, this grant provided \$227,976 to support 2.0 FTE (an attorney and an investigator) who assist local law enforcement agencies and district attorneys in

the investigation of complex crimes relate to automobile theft through use of the Statewide Grand Jury. The Department anticipates ongoing funding in FY 2012-13 (\$239,075 and 2.0 FTE).

- The Department previously received a federal grant to review about 5,000 murder, manslaughter, and sexual assault cases which may involve a wrongful conviction. When warranted, the associated DNA evidence is tested by the Colorado Bureau of Investigation, and the court is notified if it appears that someone may be innocent. The Department has been awarded a subsequent federal grant to review other types of cases, based on applications from inmates. In FY 2010-11, the Department received \$429,688 to support 2.5 FTE (1.5 FTE attorneys and 1.0 FTE investigator). The Department anticipates ongoing funding in FY 2012-13 (\$480,264 and 2.3 FTE).

The Department's budget request also reflects actual and planned expenditures of various custodial moneys. Custodial moneys are defined as those funds received by the Attorney General from a source other than the State of Colorado, for a particular purpose. Pursuant to Section 24-31-108, C.R.S., these moneys are not subject to annual appropriation, but the Department is required to: (1) provide the Joint Budget Committee with a copy of the notification sent to the State Treasurer concerning custodial funds received; and (2) provide with its annual budget request an accounting of how custodial moneys have been or will be expended.

#### *Requests Applicable to Department of Law Only*

- 1. Department of Law, Criminal Justice and Appellate, Medicaid Fraud Control Unit --** The General Assembly requests that the Department of Law's Medicaid Fraud Control Unit produce a progress report on the Department's efforts to reduce Medicaid fraud and abuse in Colorado. The report should include: (1) the most recent estimates on the total amount of Medicaid fraud and abuse in Colorado; (2) a summary of total fines, costs, and restitutions recovered, attributable to the Medicaid Fraud Control Unit's efforts; (3) a detailed explanation of the Medicaid Fraud Control Unit's participation in global or national Medicaid fraud settlements, including total awards received due to them; and (4) evidence of the effectiveness of the Medicaid Fraud Control Unit in reducing the amount of Medicaid fraud and abuse in Colorado. The Medicaid Fraud Control Unit is requested to submit the report to the Joint Budget Committee by November 1, 2011.

Comment: The Department submitted the report as requested.

*Background Information on the Unit.* The Medicaid Fraud Control Unit, operational in Colorado since 1978, is mandated by federal law to assist in maintaining the financial integrity of the State's Medicaid program and the safety of patients in Medicaid-funded facilities. By federal law and Executive Order D1787, the Unit has statewide authority to criminally investigate and prosecute Medicaid provider fraud and patient abuse<sup>5</sup>. The

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<sup>5</sup> Fraud committed by Medicaid clients is investigated by county departments of human services.

Colorado False Claims Act, adopted in May 2010, expanded the Unit's authority by allowing it to pursue civil recoveries and damages against providers for incidents of fraud and over billing. The Unit cooperates and coordinates with several entities, including district attorneys, the Department of Health Care Policy and Financing (DHCPF), the Department of Public Health and Environment, the Department of Regulatory Agencies, and numerous federal agencies. In addition to recovering improperly received Medicaid funds, remedies include suspension, sometimes permanently, from the Medicaid program.

The Medicaid fraud program qualifies for an enhanced Medicaid matching rate; the federal government pays 75 percent of the Unit's operating costs and the State provides the remaining 25 percent. Federal and state laws require that a state's fraud program be independent of DHCPF, the "single state agency" that administers Colorado's Medicaid program. Federal rules also mandate that this program be kept separate from all other units at the Department of Law.

Although the federal government pays 75 percent of the Unit's operating costs, the State retains at least 50 percent of the recovered funds. Recovered funds are used to reduce the amount of General Fund that is appropriated for support of the Medicaid program in DHCPF's Medical Services Premiums Division.

*2011 Progress Report.* For FY 2011-12, the General Assembly appropriated a total of \$1,548,974 and 17.0 FTE for the Medicaid Fraud Control Unit, including \$387,242 (25 percent) General Fund and \$1,161,732 federal funds. The Unit is responsible for monitoring the financial integrity of approximately \$4.6 billion worth of payments made to over 10,000 Medicaid providers (such as nursing homes, hospitals, doctors, psychiatrists, dentists, pharmacies, laboratories, and durable equipment companies) on behalf of more than 600,000 Medicaid clients.

In FY 2010-11, \$5.2 million was recovered for Colorado's Medicaid program as a result of the Unit's investigations, prosecutions, and settlements. Additional amounts were recovered by other entities, including the DHCPF's Program Integrity section. The Unit's recoveries are accomplished through criminal restitution orders, settlements with providers, and participation with other states' Medicaid fraud programs in civil and criminal litigation (called "global" cases). During FY 2010-11 there were 17 global settlements. The amount recovered by the Unit in FY 2010-11 included \$114,168 in civil recoveries for local fraud and overpayments unrelated to global cases. This amount exceeded the \$69,145 in additional state moneys that were appropriated for the new civil unit. The table on the following page details amounts recovered by the Unit in the last three fiscal years.

<b>Medicaid Fraud Control Unit</b>	
<b>Fiscal Year</b>	<b>Total Amount Recovered by Unit</b>
2008-09	\$5,312,041
2009-10	4,149,928
2010-11	5,197,152
<b>Total</b>	<b>\$14,659,121</b>

The Unit's caseload has been increasing, and is anticipated to continue to increase in FY 2011-12 with the expanded civil enforcement authority. During FY 2010-11, the Unit resolved and closed 68 cases and opened 152 cases, leaving 169 ongoing cases; this compares to 78 open cases at the end of FY 2009-10. More than half of these cases (96) involve pharmaceutical manufacturers and providers of durable medical equipment and supplies.

During FY 2010-11, the Unit referred 154 individuals or businesses to the U.S. Department of Health and Human Services' Office of the Inspector General for administrative action excluding the provider from participation in all federally funded health care programs for various periods of time.

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**Department of Law**  
**Recent Legislation Impacting Legal Services to State Agencies (LSSA)**

Department Bill (Description)	FY 2008-09		FY 2009-10		FY 2010-11		FY 2011-12	
	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	21,346,712		22,294,568		22,741,379		23,762,512	
Supplemental Bill(s)	286,661		259,425		910,498			
S.B. 11-076 (PERA contribution rates)							(416,933)	
<b>SUBTOTAL: Appropriation/ Budget Bills</b>	<b>21,633,373</b>		<b>22,553,993</b>		<b>23,651,877</b>		<b>23,345,579</b>	
<b>SEPARATE LEGISLATION:</b>								
<b>Agriculture</b>								
S.B. 10-072 (Colorado Seed Potato Act)					905	CF		
<b>Corrections</b>								
none								
<b>Education</b>								
H.B. 08-1335 (Building Excellent Schools Today)	32,414	CF						
S.B. 09-123 (Healthy choices dropout prevention)			751	GF				
S.B. 09-163 (Education accountability system)			7,135	GF				
H.B. 09-1319 (Concurrent enrollment of public school students)			10,139	FF				
H.B. 11-1121 (Bar felons from school employment)							11,005	CF
Subtotal	32,414		18,025		0		11,005	
<b>Governor-Lt. Governor-State Planning and Budgeting</b>								
none								
<b>Health Care Policy and Financing</b>								
none								
<b>Higher Education</b>								
none								
<b>Human Services</b>								
H.B. 08-1314 (Local gaming funds gambling addiction)	2,866	CF (from DOLA)						
<b>Judicial Branch</b>								
none								
<b>Labor and Employment</b>								
H.B. 08-1325 (Seasonal agricultural worker program)	4,322	CF						
<b>Law</b>								
none								
<b>Legislative Branch</b>								
none								
<b>Local Affairs</b>								
none								
<b>Military and Veterans Affairs</b>								
none								
<b>Natural Resources</b>								
H.B. 08-1161 (Strengthen mining reclamation standards)	14,406	CF						



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**Recent Legislation Impacting Legal Services to State Agencies (LSSA)**

Department Bill (Description)	FY 2008-09		FY 2009-10		FY 2010-11		FY 2011-12	
	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>Personnel and Administration</b>								
H.B. 10-1176 (Require government recovery audits)					2,000	GF		
<b>Public Health and Environment</b>								
S.B. 08-153 (License home care agencies by CDPHE)	2,881	CF			15,076	CF		
H.B. 10-1018 (Reduce waste tire stockpile risks)					<u>7,538</u>	CF		
H.B. 10-1125 (Regulate grease collection and disposal)					22,614			
Subtotal	2,881		0				0	
<b>Public Safety</b>								
S.B. 11-251 (Division of fire safety duties)							7,337	CF
<b>Regulatory Agencies</b>								
S.B. 08-029 (Continuing education architects)	9,004	CF						
S.B. 08-152 (Regulate practice occupational therapy)	10,805	CF						
S.B. 08-200 (Expand discrimination prohibitions)	60,073	GF						
S.B. 08-219 (Licensure of massage therapists)	18,008	CF						
H.B. 08-1058 (Uniform Athlete Agents Act)	7,564	CF						
H.B. 08-1226 (Mobility of practice of non-Colorado CPAs)	3,602	CF						
H.B. 08-1227 (Sunset continue Public Utilities Commission)	43,218	CF						
H.B. 08-1383 (Nursing license inactive status)	720	CF						
S.B. 09-026 (Regulation of athletic trainers)			21,779	CF				
S.B. 09-138 (Sunset certified nurse aides)			3,755	CF				
S.B. 09-167 (Sunset board of chiropractic examiners)			4,882	CF				
S.B. 09-239 (Sunset state board of nursing)			33,795	CF				
H.B. 09-1086 (Continuing competency mental health professionals)			30,000	CF				
H.B. 09-1136 (Electrical education licensing requirements)			11,265	CF				
H.B. 09-1188 (Modify Michael Skolnik medical transparency)	1,127	CF						
H.B. 09-1202 (Mortuary science registration)			24,783	CF				
S.B. 10-109 (Medical marijuana Dr patient relations)					612,463	CF		
S.B. 10-124 (Michael Skolnik medical transparency)					7,538	CF (from DPHE)		
H.B. 10-1128 (Registrations regulatory efficiency)					(9,799)	CF		
H.B. 10-1141 (Mortgage company registration)					6,407	CF		
H.B. 10-1148 (Architect license renewal professional competency)					(11,307)	CF		
H.B. 10-1224 (Sunset Colorado podiatry board)					2,261	CF		
H.B. 10-1260 (Sunset review board medical examiners)					17,262	CF		
H.B. 10-1278 (Create HOA ombudsman)					15,679	CF		
H.B. 10-1365 (Incent utility convert coal to natural gas)					13,041	CF		
H.B. 10-1415 (Sunrise surgical technologist registration)					3,769	CF		

**FY 2012-13 Joint Budget Committee Staff Budget Briefing**  
**Department of Law**  
**Recent Legislation Impacting Legal Services to State Agencies (LSSA)**

Department Bill (Description)	FY 2008-09		FY 2009-10		FY 2010-11		FY 2011-12	
	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
S.B. 11-088 (Sunset review direct-entry midwives)							4,109	CF
S.B. 11-091 (Sunset board veterinary medicine)							4,402	CF
S.B. 11-094 (Sunset continue optometric board)							4,402	CF
S.B. 11-128 (Child-only health insurance plans)							2,935	FF
S.B. 11-169 (Sunset continue physical therapy board)							38,886	CF
S.B. 11-187 (Sunset review mental health professionals)							176,088	CF
H.B. 11-1100 (Military experience license certificate)							34,484	CF
H.B. 11-1195 (Flexibility in funding family services)							7,337	CF
H.B. 11-1300 (Conservation easement tax credit dispute resolution)							<u>2,352</u>	CF
Subtotal	154,121		130,259		657,314		274,995	
<b>Revenue</b>								
H.B. 09-1173 (Contraband cigarettes & tobacco products)			7,510	CF				
H.B. 10-1193 (Sales tax out-of-state retailers)					40,000	GF		
H.B. 10-1284 (Medical marijuana regulation)					271,368	CF		
H.B. 11-1300 (Conservation easement tax credit dispute resolution)							<u>1,349,581</u>	GF
Subtotal	0		7,510		311,368		1,349,581	
<b>State</b>								
S.B. 10-203 (Independent expenditures after Citizens United)					4,522	CF		
<b>Transportation</b>								
H.B. 08-1257 (Overweight motor vehicle permits and fees)	10,890	CF						
<b>Treasury</b>								
none								
<b>SUBTOTAL: Separate legislation</b>	<b>221,900</b>		<b>155,794</b>		<b>998,723</b>		<b>1,642,918</b>	
<b>Number of bills</b>	<b>15</b>		<b>11</b>		<b>17</b>		<b>12</b>	
<b>TOTAL</b>	<b>21,855,273</b>		<b>22,709,787</b>		<b>24,650,600</b>		<b>24,988,497</b>	
<b>Total FTE Appropriated</b>	<b>216.5</b>		<b>220.4</b>		<b>237.5</b>		<b>237.8</b>	

1/ This table lists appropriations 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 bills that included appropriations impacting other divisions within the Department of Law.

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Department of Law**

<b>FY 2011-12 Appropriations for the Purchase of Legal Services from the Department of Law, by Agency</b>							
<b>Department/ Line Item</b>	<b>Hours Per Appropriation/ Fiscal Note</b>	<b>General Fund</b>	<b>Cash Funds</b>	<b>Reapprop. Funds</b>	<b>Federal Funds</b>	<b>Non- appropriated Sources</b>	<b>Total Client Agency Funds</b>
<b>Agriculture</b>							
Commissioner's Office and Administrative Services, Legal Services	4,653.0	\$105,770	\$246,509				\$352,279
Colorado State Fair, Program Costs	<u>180.0</u>		<u>13,628</u>				<u>13,628</u>
Agriculture - Total	4,833.0	105,770	260,137	0	0		365,907
<b>Corrections</b>							
Management, Executive Director's Office Subprogram, Legal Services	15,298.0	1,200,579	39,379				1,239,958
<b>Education</b>							
Management and Administration, Administration and Centrally-Appropriated Line Items, Legal Services	5,600.0	210,625	160,354	52,997			423,976
H.B. 11-1121	<u>150.0</u>		<u>11,005</u>				<u>11,005</u>
Education - Total	5,750.0	210,625	171,359	52,997	0		434,981
<b>Governor</b>							
Office of the Governor, Special Purpose, Legal Services (general)	1,451.0	71,593		38,263			109,856
Office of the Governor, Special Purpose, Legal Services (Lobato)	7,200.0	545,112					545,112
Governor's Energy Office, Legal Services	230.0				17,413		17,413
Office of Information Technology, Management and Administration of OIT, Legal Services	<u>26.0</u>			<u>1,968</u>			<u>1,968</u>
Governor - Total	8,907.0	616,705	0	40,231	17,413		674,349
<b>Health Care Policy and Financing</b>							
Executive Director's Office, General Administration, Legal Services and Third Party Recovery Legal Services	12,638.0	347,930	130,482		478,411		956,823
<b>Higher Education</b>							0
Department Administrative Office, Legal Services	448.0		9,360	24,558			33,918
Estimated legal services purchased by institutions	<u>13,006.0</u>					<u>984,684</u>	<u>984,684</u>
Higher Education - Total	13,454.0	0	9,360	24,558	0	984,684	1,018,602
<b>Human Services</b>							
Executive Director's Office, General Administration, Legal Services	18,439.0	1,159,664	171,125	13,339	51,889		1,396,017
<b>Judicial Branch</b>							
Courts Administration, Central Appropriations, Legal Services	3,000.0	227,130					227,130
Independent Ethics Commission, Legal Services	<u>900.0</u>	<u>68,139</u>					<u>68,139</u>
Judicial - Total	3,900.0	295,269	0	0	0		295,269
<b>Labor and Employment</b>							
Executive Director's Office, Legal Services	7,905.0		159,331	0	439,157		598,488
Division of Workers' Compensation, Major Medical Insurance and Subsequent Injury Funds, Major Medical Legal Services	100.0		7,571				7,571
Division of Workers' Compensation, Major Medical Insurance and Subsequent Injury Funds, Subsequent Injury Legal Services	<u>350.0</u>		<u>26,499</u>				<u>26,499</u>
Labor - Total	8,355.0	0	193,401	0	439,157		632,558
<b>Law</b>							
Law - Total	0.0	0	0	0	0		0

**FY 2012-13 Joint Budget Committee Staff Budget Briefing  
Department of Law**

<b>FY 2011-12 Appropriations for the Purchase of Legal Services from the Department of Law, by Agency</b>							
<b>Department/ Line Item</b>	<b>Hours Per Appropriation/ Fiscal Note</b>	<b>General Fund</b>	<b>Cash Funds</b>	<b>Reapprop. Funds</b>	<b>Federal Funds</b>	<b>Non- appropriated Sources</b>	<b>Total Client Agency Funds</b>
<b>Legislative Branch</b>							
General Assembly, Legal Services	188.0	14,233					14,233
<b>Local Affairs</b>							
Executive Director's Office, Legal Services	1,790.0	122,962	6,364	1,277	4,918		135,521
<b>Military and Veterans Affairs</b>							
Executive Director and Army National Guard	110.0	8,328					8,328
<b>Natural Resources</b>							
Executive Director's Office, Legal Services	45,410.0	832,772	2,515,078	39,520	50,621		3,437,991
<b>Personnel and Administration</b>							
Executive Director's Office, Department Administration, Legal Services	2,563.0	126,759		67,286			194,045
Division of Human Resources, Risk Management Services, Legal Services	31,860.0			2,412,121			2,412,121
Constitutionally Independent Entities, Personnel Board, Legal Services	<u>330.0</u>	<u>24,984</u>					<u>24,984</u>
Personnel and Administration - Total	34,753.0	151,743	0	2,479,407	0	0	2,631,150
<b>PERA</b>							
Estimated legal services purchased by PERA	29.0					2,196	2,196
<b>Public Health and Environment</b>							
Administration and Support, Administration, Legal Services	29,042.0			2,198,770			2,198,770
Hazardous Materials and Waste Management Division, Administration, Legal Services	<u>6,145.0</u>		<u>299,619</u>	<u>536</u>	<u>165,084</u>		<u>465,239</u>
Public Health and Environment - Total	35,187.0	0	299,619	2,199,306	165,084		2,664,009
<b>Public Safety</b>							
Executive Director's Office, Administration, Legal Services	2,113.0			159,975			159,975
S.B. 11-251	<u>100.0</u>		<u>7,337</u>				<u>7,337</u>
Public Safety - Total	2,213.0	0	7,337	159,975	0		167,312
<b>Regulatory Agencies</b>							
Executive Director's Office and Administrative Services, Legal Services	103,203.0	153,464	7,487,586	30,433	142,016		7,813,499
S.B. 11-088	56.0		4,109				4,109
S.B. 11-091	60.0		4,402				4,402
S.B. 11-094	60.0		4,402				4,402
S.B. 11-128	40.0		2,935				2,935
S.B. 11-169	530.0		38,886				38,886
S.B. 11-187	2,400.0		176,088				176,088
H.B. 11-1100	470.0		34,484				34,484
H.B. 11-1195	100.0		7,337				7,337
H.B. 11-1300	<u>32.1</u>		<u>2,352</u>				<u>2,352</u>
Regulatory Agencies - Total	106,951.1	153,464	7,762,581	30,433	142,016		8,088,494
<b>Revenue</b>							
Executive Director's Office, Legal Services (includes Gaming and Lottery)	20,430.0	839,496	707,259				1,546,755
H.B. 11-1300	<u>16,933.1</u>	<u>1,349,581</u>					<u>1,349,581</u>
Revenue - Total	37,363.1	2,189,077	707,259	0	0		2,896,336

**FY 2012-13 Joint Budget Committee Staff Budget Briefing  
Department of Law**

<b>FY 2011-12 Appropriations for the Purchase of Legal Services from the Department of Law, by Agency</b>							
<b>Department/ Line Item</b>	<b>Hours Per Appropriation/ Fiscal Note</b>	<b>General Fund</b>	<b>Cash Funds</b>	<b>Reapprop. Funds</b>	<b>Federal Funds</b>	<b>Non- appropriated Sources</b>	<b>Total Client Agency Funds</b>
<b>State</b>							
Administration, Legal Services	7,118.0		538,904				538,904
<b>Transportation</b>							
Administration	6,580.0		498,172				498,172
Construction, Maintenance, and Operations	9,852.0		745,895				745,895
Transportation - Total	16,432.0		1,244,067				1,244,067
<b>Treasury</b>							
Administration, Legal Services	575.0	21,767	21,767				43,534
<b>GRAND TOTAL</b>	<b>379,693.2</b>	<b>7,430,888</b>	<b>14,078,219</b>	<b>5,041,043</b>	<b>1,349,509</b>	<b>986,880</b>	<b>28,886,539</b>
		25.7%	48.7%	17.5%	4.7%	3.4%	100.0%
Legislation Other Than Long Bill	20,931.2	1,349,581	293,337	0	0	0	1,642,918
<b>LONG BILL ONLY</b>	358,762.0	6,081,307	13,784,882	5,041,043	1,349,509	986,880	27,243,621
		22.3%	50.6%	18.5%	5.0%	3.6%	100.0%

**FY 2012-13 Joint Budget Committee Staff Budget Briefing  
Department of Law**

<b>Hours of Legal Services Provided to State Agencies, by Agency</b>											
<b>DEPARTMENT</b>	<b>FY 01-02</b>	<b>FY 02-03</b>	<b>FY 03-04</b>	<b>FY 04-05</b>	<b>FY 05-06</b>	<b>FY 06-07</b>	<b>FY 07-08</b>	<b>FY 08-09</b>	<b>FY 09-10</b>	<b>FY 10-11</b>	<b>FY 11-12 (Approp./ Estim.)</b>
Regulatory Agencies	82,652	81,783	81,668	82,080	81,361	84,589	90,369	98,008	99,427	100,781	106,951
Natural Resources	36,769	37,809	36,857	35,944	38,521	37,763	40,010	41,237	43,305	44,614	45,410
Revenue	12,690	11,050	10,532	10,079	8,943	11,133	12,630	12,789	12,836	23,227	37,363
Public Health and Environment	25,827	24,061	23,782	21,794	24,462	23,608	26,495	28,816	28,245	27,320	35,187
Personnel and Administration	36,951	35,934	35,840	37,923	39,831	38,261	41,171	34,711	31,710	35,295	34,753
Human Services	20,762	19,258	17,776	19,477	20,663	20,416	19,849	21,072	21,015	19,639	18,439
Transportation	15,843	18,080	16,151	16,002	17,159	16,467	16,902	18,242	15,846	14,894	16,432
Corrections	18,759	17,082	15,863	17,875	15,508	13,830	11,748	14,619	18,647	14,619	15,298
Higher Education	11,043	11,610	10,283	10,747	11,549	11,475	10,142	13,402	13,114	12,879	13,454
Health Care Policy and Financing	12,740	14,945	13,260	12,300	11,642	11,132	10,249	11,682	10,147	10,982	12,638
Governor	396	1,193	3,210	3,326	1,509	1,718	1,268	2,653	6,442	15,003	8,907
Labor and Employment	10,317	9,307	7,788	7,086	7,144	7,125	7,926	8,338	8,169	8,881	8,355
State	1,490	1,507	2,258	2,490	3,034	4,963	4,125	3,066	4,187	5,058	7,118
Education	3,352	3,099	3,014	3,147	4,792	4,827	4,786	5,712	4,610	4,080	5,750
Agriculture	4,148	3,302	3,148	3,365	3,079	3,460	4,315	4,501	4,129	3,841	4,833
Judicial Branch	4,306	4,201	4,084	3,588	3,990	2,838	2,698	2,949	2,458	1,700	3,900
Public Safety	2,015	2,067	1,946	1,966	1,971	2,040	1,953	2,146	1,682	2,161	2,213
Local Affairs	912	1,999	1,598	2,248	1,427	1,671	2,462	980	1,917	1,657	1,790
Treasury	930	642	188	1,190	576	599	756	1,220	1,675	1,635	575
Legislative Branch	246	138	247	179	225	55	264	152	106	98	188
Military and Veterans Affairs	344	64	15	100	107	24	15	43	131	510	110
PERA	9	21	13	38	27	10	5	13	29	2	29
Law	<u>10</u>	<u>13</u>	<u>12</u>	<u>17</u>	<u>521</u>	<u>289</u>	<u>249</u>	<u>227</u>	<u>77</u>	<u>154</u>	<u>0</u>
<b>GRAND TOTAL</b>	302,511	299,165	289,529	292,959	298,041	298,291	310,387	326,576	329,907	349,029	379,693
Annual change		-3,346.3	-9,635.8	3,429.8	5,082.1	250.0	12,095.9	16,188.7	3,331.4	19,122.1	30,664.0
Annual % change		-1.1%	-3.2%	1.2%	1.7%	0.1%	4.1%	5.2%	1.0%	5.8%	8.8%