

**COLORADO GENERAL ASSEMBLY  
JOINT BUDGET COMMITTEE**



**FY 2008-09 BRIEFING  
DEPARTMENT OF LAW**

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

**Prepared By:**

**Stephen Allen, JBC Staff**

**November 7, 2007**

**For Further Information Contact:**

**Joint Budget Committee  
200 East 14th Avenue, 3rd Floor  
Denver, Colorado 80203  
Telephone: (303) 866-2061  
Facsimile: (303) 866-2150**

**FY 2008-09 BUDGET BRIEFING  
STAFF PRESENTATION TO THE JOINT BUDGET COMMITTEE:**

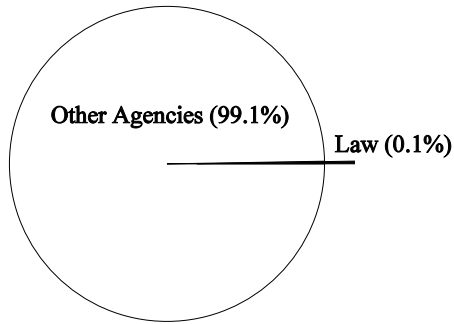
**DEPARTMENT OF LAW**

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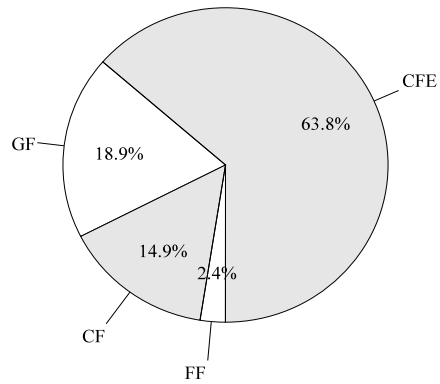
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# DEPARTMENT OF LAW GRAPHIC OVERVIEW

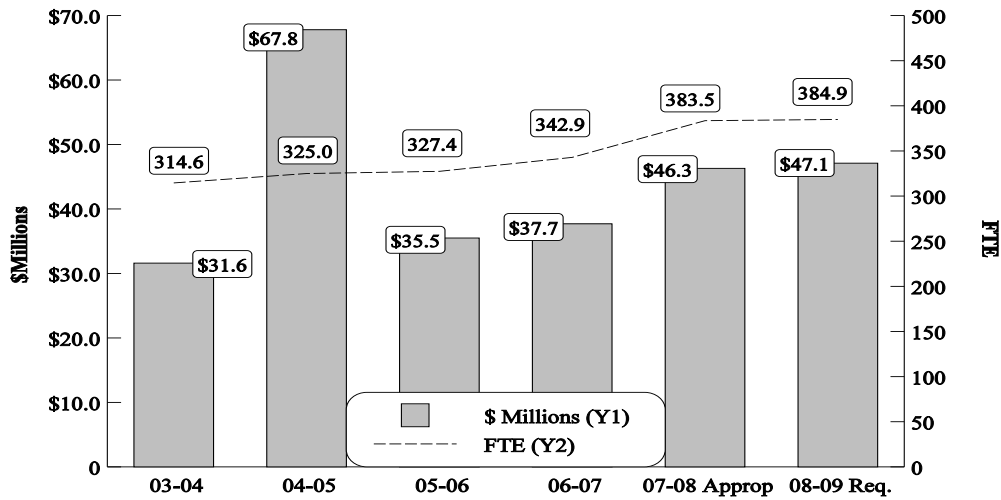
### Share of State General Fund FY 2007-08



### Funding Source Split FY 2007-08



### Budget History



## **DEPARTMENT OF LAW DEPARTMENT OVERVIEW**

### **Key Responsibilities**

#### Civil Litigation

- ▶ Enforce compliance with State law and recover funds due to the State.
- ▶ Protect and defend state property rights.
- ▶ Enforce consumer credit, debt collection, consumer protection, and antitrust laws.

#### Criminal Enforcement

- ▶ Represent the State in virtually all criminal appeal cases.
- ▶ Assist local district attorneys in handling death penalty cases.
- ▶ Investigate and prosecute Medicaid related crimes.

#### Legal Counsel and Advice to the State

- ▶ Provide opinions, contract review, and other counsel to the State and its agencies.

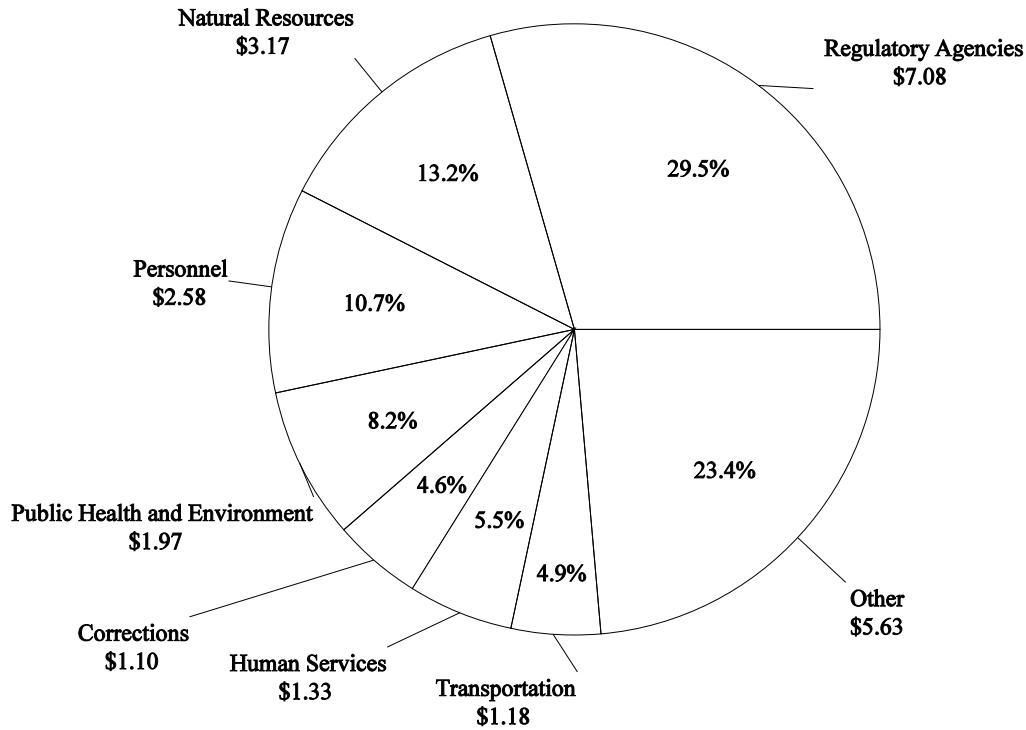
### **General Factors Driving the Budget**

#### **Legal Services Provided to State Agencies**

The Department of Law provides legal services to other state agencies under the "Oregon" plan. The General Assembly makes legal-services appropriations to state agencies and these agencies use the spending authority to purchase legal services from the Department of Law, much as they would purchase legal services from a private-sector law firm. The Department of Law collects the payments when it provides the legal services, billing at a "blended" legal rate that equals \$72.03 per hour in FY 2007-08. Since the Department of Law cannot spend the money it collects unless it too has an appropriation, the General Assembly must make dual appropriations for legal services, one to the state agency that buys the services and another equal appropriation to the Department of Law's Legal Services to State Agencies (LSSA) Division, which delivers the services. A portion of the appropriations to LSSA actually appear in the Administration Division as central appropriations of Health, Life and Dental, Short Term Disability, etc., on behalf of LSSA. The total LSSA appropriation for FY 2007-08, including amounts appropriated on LSSA's behalf within the Administration Division, equals \$24.1 million, approximately 95 percent of it cash funds exempt, and constitutes a little more than half of the Department of Law's overall appropriation. As shown in the following table and pie chart, seven departments account for 76.6 percent of the legal services that the Department supplies to state agencies. (The dollar amounts in the pie chart are in millions of dollars.)

### Legal Services Expenditures by State Agencies

	FY 02-03 Actual	FY 03-04 Actual	FY 04-05 Actual	FY 06-07 Actual	FY 07-08 Approp.
Regulatory Agencies	\$4,984,120	\$5,075,682	\$5,310,731	\$5,761,082	\$7,083,214
Natural Resources	2,229,281	2,198,168	2,471,139	2,555,184	3,165,863
Personnel	2,152,987	2,315,498	2,548,690	2,578,495	2,584,869
Public Health & Envirmt.	1,464,533	1,354,044	1,599,380	1,616,692	1,974,054
Human Services	1,050,906	1,173,984	1,301,464	1,354,909	1,328,161
Transportation	978,367	981,602	1,098,635	1,110,286	1,181,076
Corrections	959,650	1,095,811	1,012,821	948,962	1,101,915
Other	<u>3,767,120</u>	<u>3,821,461</u>	<u>3,950,421</u>	<u>4,328,159</u>	<u>5,637,932</u>
<b>Total</b>	<b>\$17,586,964</b>	<b>\$18,016,250</b>	<b>\$19,293,281</b>	<b>\$20,253,769</b>	<b>\$24,057,084</b>



### Criminal Justice and Appellate

The largest user of General Fund in the Department is the Criminal Justice and Appellate Division,

which accounts for about 55 percent of the Department's FY 2007-08 General Fund appropriation, including central appropriation to the Administration Division made on behalf of the Division. Slightly more than half of the Criminal Justice and Appellate Division's General Fund is devoted to the Special Prosecutions Unit and about a quarter of the Division's General Fund is devoted to the Appellate Unit. The former is composed of investigators and attorneys who primarily handle cases related to insurance, securities and workers' compensation fraud, while the latter represents the State in the civil and criminal appeals process.

**District Attorney Salaries**

Prior to passage of H.B. 07-1170, Section 20-1-306, C.R.S., set the base salary of a District Attorney at \$67,000 and required the state to pay 80 percent of that cost plus 80 percent of the PERA, Medicare, AED and SAED on that base salary. The corresponding General Fund appropriation is contained in the Department's Special Purpose Division and equals 15.0 percent of the Department's FY 2007-08 General Fund appropriation. County commissioners in the judicial districts could set the salary higher than the base, and many did, with the counties in the district paying the entire amount in excess of the base from local funds.

H.B. 07-1170, Compensation of Elected District Attorneys (Sonnenberg/Morse), increased the minimum salary for district attorneys to the following.

<b>Beginning</b>	<b>Minimum Salary</b>
January 1, 2009	\$100,000
January 1, 2010	\$110,000
January 1, 2011	\$120,000
January 1, 2012	\$130,000

The final Legislative Council Staff Fiscal Note for H.B. 07-1170, dated July 16, 2007, estimates that the bill will require the following increases in General Fund appropriations.

<b>Fiscal Year</b>	<b>Total cost to the state relative to the amount the state would have contributed had H.B. 07-1170 not become law</b>	<b>Increase relative to previous year</b>
2008-09	\$332,218	\$332,211
2009-10	768,513	436,295
2010-11	978,252	209,739
2011-12	1,191,159	212,907
2012-13	1,301,177	110,018

The Department is requesting an \$867,823 increase of its General Fund appropriation for FY 2008-09, a 9.9 percent increase over the FY 2007-08 appropriation. As the above table shows, about \$330 of this increase is due to H.B. 07-1170. Subtracting the effect of H.B. 07-1170, the Department's

requested General Fund increase equals 6.2 percent.

### **Water and Natural Resources**

After the Criminal Justice and Appellate Division and District Attorney Salaries, the Water and Natural Resources Division is the next largest user of General Fund in the Department, accounting for about 14.0 percent of the Department's FY 2007-08 General Fund appropriation. This division is comprised of the Federal and Interstate Water Unit and moneys appropriated to represent the State in specific water rights litigation. Lawsuits and remediation contracts related to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) also represent a significant portion of the Long Bill appropriation made to this division.

## **Summary of Major Legislation**

- **S.B. 07-57 (Veiga/T. Carroll): Regulate Debt Settlement Services.** Enacts the Uniform Debt-Management Services Act, which requires that providers who develop debt repayment plans for clients register with the Attorney General's Office and regulates the services that these providers supply. Appropriates \$69,717 cash funds and 1.0 FTE to the Department and \$11,850 to the Department of Public Safety.
- **S.B. 07-110 (Tapia/Buescher): Natural Resource Damage Assessment Costs.** Requires natural resource damage assessment costs and other costs recovered by the state to be returned to the fund from which such costs were originally paid.
- **S.B. 07-113 (Tapia/Buescher): Use of Tobacco Settlement Defense Account Moneys.** Allows moneys in the Defense Account of the Tobacco Litigation Settlement Cash Fund, which derives its fund balance from payments the state received under the tobacco Master Settlement Agreement (MSA), to be used to pay for MSA litigation expenses and the enforcement of state laws concerning tobacco manufacturers who do not participate in the MSA. The FY 2007-08 Long Bill appropriated an extra \$100,000 General Fund to prepare for an MSA arbitration proceeding. Senate Bill 07-113 replaces this appropriation with a \$100,000 cash funds exempt appropriation from the Defense Account of the Tobacco Litigation Settlement Cash Fund.
- **S.B. 07-168 (Tapia/Buescher):** Supplemental appropriation to the FY 2006-07 Long Bill for the Department of Law.
- **S.B. 07-203 (Groff/Marshall): Mortgage Broker Licensing.** Changes the regulatory framework for mortgage brokers from a registration system to a licensing system and generally subjects mortgage brokers to more stringent regulation. The bill expands the list of prohibited acts in Section 38-40-105, C.R.S. Violations of this section are violations of the Colorado Consumer Protection Act, which is enforced by the Attorney General. Provides \$59,299 and 0.5 FTE to the Department for the provision of legal services to the Department

of Regulatory Agencies and provides \$186,349 and 2.3 FTE to the Department for the enforcement of the expanded Consumer Protection rules.

- **S.B. 07-216 (Veiga/Marshall): Mortgage Loan Fraud.** Regulates the marketing of non-traditional mortgage-loan products. Specifies that a mortgage broker engages in deceptive trade practices in violation of the Colorado Consumer Protection Act, which is enforced by the Attorney General, if he or she does not act for the benefit of the borrower or does not make reasonable efforts to understand the borrower's financial circumstances prior to arranging a loan. Appropriates \$48,456 cash funds exempt and 0.4 FTE to the Department for the provision of legal services to the Department of Regulatory Agencies and appropriates \$265,085 cash funds exempt and 3.0 FTE to the Department for enforcement of the bill's Consumer Protection Act provisions.
- **H.B. 07-1054 (T. Carroll/Shaffer): Increase Number of Judges.** Adds 43 judges to various state courts over 3 years. Adds 264.2 support personnel for these judges over the same period, including 2.0 Attorney FTEs in the Department of Law in FY 2008-09 and an additional 1.0 Attorney FTEs in the Department of Law in FY 2009-10.
- **H.B. 07-1170 (Sonnenberg/Morse): Compensation of Elected District Attorneys.** Establishes a schedule of minimum annual salaries for District Attorneys beginning January 1, 2009. The minimum salary is set at \$100,000 on January 1, 2009 and increases by \$10,000 on each succeeding January 1 through 2012. Requires the state to pay 80 percent of this salary.
- **H.B. 07-1322 (Marshall/ Groff): Mortgage Fraud Prevention.** Prohibits mortgage brokers, real estate agents, real estate appraisers, and other parties involved in real estate transactions from engaging in a number of practices. Specifies that a mortgage broker engages in deceptive trade practices in violation of the Colorado Consumer Protection Act, which is enforced by the Attorney General, if he or she does not act for the benefit of the borrower or does not make reasonable efforts to understand the borrower's financial circumstances prior to arranging a loan. Appropriates \$118,598 cash funds exempt and 1.0 FTE to the Department for the provision of legal services to the Department of Regulatory Agencies and appropriates \$264,608 cash funds exempt and 3.0 FTE to the Department for enforcement of the bill's Consumer Protection Act provisions.
- **H.B. 07-1357 (Buescher/Johnson): Use of the Hazardous Substance Response Fund.** Allows moneys in the Hazardous Substance Response Fund to be used to pay for litigation expenses at superfund pollution sites. The FY 2007-08 Long Bill includes an appropriation of \$2,661,667 General Fund for such an action at Rocky Mountain Arsenal. This bill substitutes a \$2,661,667 appropriation from the Hazardous Substance Response Fund for the General Fund appropriation in the Long Bill.
- **S.B. 06S-1014 (Buescher/Tapia): Federal Reimbursement for Illegal Immigration Costs.**



Directs the Attorney General to pursue all available remedies to recover moneys owing from the federal government to the state of Colorado for the reimbursement of costs incurred by the state of Colorado in dealing with illegal immigration. Requires the Attorney General, on or before the end of the 2006 and 2007 calendar years, to file written reports with specified persons detailing the status of the pursuit of remedies. For the 2006-07 fiscal year, appropriates \$45,822 and 0.5 FTE from the General Fund to the Department.

- **S.B. 06S-1017 (Solano/Bacon): Employer Verification Requirements.** Requires employers to attest that they have verified the legal work status of each employee, have retained copies of certain required documents, have not falsified these documents, and have not knowingly hired an unauthorized alien. Upon request, employers must submit the retained documents to the Department of Labor and Employment. Department of Labor and Employment can conduct random employer audits to ensure compliance. Employers who violate these rules are subject to fines. Appropriates \$3,223 to the department of labor and employment for allocation to the executive director's office for legal services.
- **S.B. 06-38 (Knodeler/Tapia): Insurance Fraud Investigation.** Increases the annual registration fee for insurance companies regulated by the Department of Regulatory Agencies from \$120 to \$425 so that additional funds are available for the prosecution of insurance fraud. Requires the Attorney General's Office to provide annual reports to the Joint Budget Committee, the Senate Business, Labor and Technology Committee, and the House Business Affairs and Labor Committee, as well as to post a statistical report of the number of referrals, convictions, arrests, actions initiated and restitutions, fines, costs, and forfeitures obtained from the investigation and prosecution of insurance fraud on the Department of Law's website. Appropriates \$379,950 cash funds exempt and 5.0 FTE to the Department of Law for the provision of legal services.
- **S.B. 06-110 (M. May/Weins):** Creates a minimum \$50,000 fine for any person who knowingly forges, counterfeits, alters, falsely makes or provides any document listed in Title 8, Section 274a.2 (b)(1)(v) of the Code of Federal Regulations. Such documents are generally used for verification of employment eligibility. Deposits any fines collected into the Judicial Stabilization Cash Fund for the pursuit of legal actions brought pursuant to this legislation. Appropriates \$68,879 cash funds and 1.0 FTE to the Department of Law for the provision of legal services.
- **H.B. 06-1028 (T. Carroll/Mitchell): Increase Number of Judges -** Creates three new judgeships on the Colorado Court of Appeals, and four new county court judgeships (located in Jefferson, Douglas, Mesa, and Weld counties). Appropriates \$75,300 General Fund and 1.0 FTE to the Department of Law to process and prosecute the increased caseload from the creation of these judgeships.
- **H.B. 06-1222 (Plant/Tapia):** Supplemental appropriation to the FY 2005-06 Long Bill for the Department of Law.

- **H.B. 06-1274 (Hodge/Entz): License Private Pesticide Applicators** - Makes changes to the regulation of pesticide applicators. Appropriates \$76,051 cash funds exempt and 0.8 FTE to the Department of Law for the provision of legal services.
- **S.B. 05-226 (Owen/Plant): Resolution of *Kansas v. Colorado* Litigation** - Authorizes the transfer of moneys from the Severance Tax Trust Fund and the Local Government Severance Trust Fund to the *Kansas v. Colorado* Plaintiff's Damages Payment Fund in the amount of \$34,796,129. Appropriates these moneys in FY 2004-05, but they may be spent through the end of FY 2005-06.

## Major Funding Changes FY 2006-07 to FY 2007-08

Source	Total	GF	CF	CFE	FF	FTE
FY 2006-07 Appropriation	40,031,464	9,080,436	3,926,951	26,140,331	883,746	362.2
<b>Actions taken in the 2007-08 Long Bill:</b>						
Rocky Mountain Arsenal Natural Resource Damage Assessment Decision Item.	1,922,695	1,922,695	0	0	0	0.0
Annualize salary and benefits adjustments	1,093,226	316,835	32,417	723,438	20,536	0.0
Changes of central appropriations	664,618	222,858	66,408	346,992	28,360	0.0
Changes of indirect cost assessments	431,491	0	55,190	376,301	0	0.0
Increased legal services to support Decision Items of other departments	283,849	0	0	283,849	0	3.1
Medicaid Fraud	194,967	48,742	0	0	146,225	3.0
Operating adjustments	137,833	28,396	19,702	83,097	6,638	0.0
Tobacco Litigation Decision Item	100,000	100,000	0	0	0	0.0
FTE for the Uniform Consumer Credit Code Unit and the Collection Agency Board Decision Item	99,514	0	0	99,514	0	1.5
Special Prosecutions Decision Item	88,531	88,531	0	0	0	1.0
Additional information technology professional Decision Item	85,345	7,225	0	78,120	0	1.0
FTE for consumer protection Decision Item	84,483	84,483	0	0	0	1.0
ADP capital outlay	55,050	26,394	0	13,525	15,131	0.0
Digitize P.O.S.T. Board records Decision Item	44,638	44,638	0	0	0	0.0
Other	3,654	3,654	0	0	0	0.0
Fund mix adjustments	0	(388,192)	25	393,095	(4,928)	0.0
Legal rate reconciliation for Legal Services to State Agencies Division	( 320,508)	0	59,725	(380,233)	0	(2.7)
Arkansas River litigation Decision Item	(49,346)	(28,013)	0	(21,333)	0	0.5

Source	Total	GF	CF	CFE	FF	FTE
Second year impact of prior session bills	(39,549)	(52,212)	(3,005)	15,668	0	0.0
<b>Fiscal Actions Contained in 2007 Session Special Bills:</b>						
JBC Bills that were part of the Long Bill Package						
H.B. 07-1357 Use of Hazardous Substance Response Fund	0	(2,661,667)	2,661,667	0	0	0.0
S.B. 07-113 Use of Tobacco Defense Account	0	(100,000)	0	100,000	0	0.0
Mortgage Bills (H.B. 07-1322, S.B. 07-203, and S.B. 07-216)	942,395	0	0	942,395	0	10.2
S.B. 07-57 Regulate Debt Settlement Services	69,717	0	69,717	0	0	1.0
Bills requiring the Department to provide legal services	345,712	0	0	345,712	0	1.7
<b>Total = FY 2007-08 Appropriation</b>	46,269,779	8,744,803	6,888,797	29,540,471	1,095,708	383.5
Change	6,238,315	(335,633)	2,961,846	3,400,140	211,962	21.3
Percentage Change	15.6%	-3.7%	75.4%	13.0%	24.0%	5.9%

## FY 2006-07 Decision Items and Base Reduction Items

### Decision Items

Pri- ority	Item: Description <i>[Statutory Authority]</i>	Total	GF	CF	CFE	FF	FTE
1 or 2	<b>Attorney Registration Fees and Continuing Legal Education Costs:</b> Establish a program that will pay the \$225 annual fee that the Department's attorneys must pay to practice law in Colorado and will pay a portion of continuing legal education (CLE) expenses of the Department's attorneys. <i>[Sections 24-31-101, C.R.S.]</i>	\$66,976	\$22,238	\$2,250	\$41,925	\$563	0.0
1 or 2	<b>Security for the Attorney General's Office:</b> This item results from the Department of Public Safety's review of Capital-Complex security. The Department of Law believes that it faces unique security issues and asked for an accelerated review. Because the Department has only received a preliminary review, it is unable to attach dollar figures to this Decision Item. The Decision Item will be submitted later as a Budget Amendment.	Not Yet Available					
3	<b>Accountant III for Administration:</b> Hire one additional FTE Accountant for the Department's Administration Section to deal with the increased number of financial transactions that the department must process and the increased complexity of these transactions. <i>[Sections 24-31-101, C.R.S.]</i>	70,825	8,044	0	62,781	0	1.0
4	<b>Information Technology Asset Management Base Increase:</b> Alter the Information Technology Asset Maintenance funding formula to allow for the replacement of the IT assets that are acquired when FTE increase. <i>[Sections 24-31-101, C.R.S.]</i>	28,452	8,812	2,008	16,836	796	0.0
5	<b>IT Disaster Recovery:</b> Hire a consultant who will put together a disaster recovery plan for the Department. <i>[Sections 24-37.5-4, C.R.S.]</i>	45,600	13,955	3,235	27,128	1,282	0.0

<b>Pri- ority</b>	<b>Item: Description</b> <i>[Statutory Authority]</i>	<b>Total</b>	<b>GF</b>	<b>CF</b>	<b>CFE</b>	<b>FF</b>	<b>FTE</b>
6	<b>Additional spending authority for the Legal Services to State Agencies Division:</b> Provide the spending authority needed to supply 1,375 additional hours of legal services to the Department of Education as required by that Department's Decision Item number 6 (increased legal services related to charter schools). <i>[Sections 24-31-101, C.R.S.]</i>	97,535	0	0	97,535	0	1.0
	<b>Total Prioritized Requests</b>	\$309,388	\$53,049	\$7,493	\$246,205	\$2,641	2.0
NP 1	<b>Vehicle Replacement:</b> Replace 4 vehicles that are eligible for replacement due to high mileage. The vehicles are used by Special Prosecutions and Legal Services to State Agencies. <i>[Sections 24-31-101, C.R.S.]</i>	3,560	380	(2,000)	4,075	1,105	0.0
	<b>Total Nonprioritized Requests</b>	\$3,560	\$380	(\$2,000)	\$4,075	\$1,105	0.0
	<b>Total Request</b>	\$312,948	\$53,429	\$5,493	\$250,280	\$3,746	2.0

## Numbers Pages Overview

The following table summarizes the differences between the Department's FY 2007-08 appropriation and the Department's FY 2008-09 request.

Source	Total	GF	CF	CFE	FF	FTE
FY 2007-08 Appropriation	46,269,779	8,744,803	6,888,797	29,540,471	1,095,708	383.5
Increase base salaries by Salary Survey and Performance Based Pay	1,338,525	384,517	66,999	853,769	33,240	0.0
Personal-Services related central appropriations (Pots)	461,845	147,557	64,375	233,448	16,465	0.0
Legal Services to State Agencies - Second year impact of special bills and other adjustments	353,077	16,241	(74,562)	411,429	(31)	2.2
Second year impact H.B. 07-1170 District Attorney Compensation	328,106	328,106	0	0	0	0.0
FY 2008-09 Decision Items	312,948	53,597	5,476	250,136	3,739	2.0
Second year impact H.B. 07-1054 Increase Judges	160,334	160,334	0	0	0	2.0
S.B. 07-57, Debt Settlement Services	28,943	0	28,943	0	0	0.5
Fund Mix Adjustments	0	(93,788)	60,962	32,826	0	0.0
Second year impact of FY 2007-08 Decision Items	(1,502,374)	(44,549)	(1,457,825)	0	0	0.0
Unneeded funding in mortgage bills (H.B. 07-1322, S.B. 07-203 and S.B. 07-216)	(471,132)	0	0	(471,132)	0	(5.3)
Eliminate one time ADP funding for Decision Items and Special Bills	(86,810)	(34,715)	0	(40,350)	(11,745)	0.0
OSPB Base Reduction	(59,396)	(11,442)	(4,845)	(41,256)	(1,853)	0.0
Other	(5,998)	(38,035)	6,515	26,016	(494)	0.0
<b>Total = FY 2008-09 Request</b>	<b>47,127,847</b>	<b>9,612,626</b>	<b>5,584,835</b>	<b>30,795,357</b>	<b>1,135,029</b>	<b>384.9</b>
Change	858,068	867,823	(1,303,962)	1,254,886	39,321	1.4
Percentage Change	1.9%	9.9%	-18.9%	4.2%	3.6%	0.4%

	<b>FY 2005-06</b>	<b>FY 2006-07</b>	<b>FY 2007-08</b>	<b>FY 2008-09</b>	<b>DI</b>
	<b>Actual</b>	<b>Actual</b>	<b>Appropriation</b>	<b>Request</b>	<b>Req v. Approp</b>

<b>DEPARTMENT OF LAW</b> <b>John W. Suthers, Attorney General</b>
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**(1) ADMINISTRATION**

*Primary Functions are comprised of Department administration including budgeting, accounting, and information technology.*

Personal Services	2,404,272	2,431,972	2,630,408	2,788,007	DI # 3
FTE	<u>36.7</u>	<u>38.7</u>	<u>39.7</u>	<u>40.7</u>	
General Fund	0	0	0	0	
Cash Funds	5,000	5,000	5,000	4,990	
Cash Funds Exempt	2,399,272	2,426,972	2,625,408	2,783,017	
Health, Life and Dental	<u>918,370</u>	<u>1,166,472</u>	<u>1,423,679</u>	<u>1,619,043</u>	
General Fund	263,367	363,616	461,603	494,799	
Cash Funds	73,885	63,732	90,556	108,300	
Cash Funds Exempt	566,360	720,233	847,378	988,496	
Federal Funds	14,758	18,891	24,142	27,448	
Short-term Disability	<u>31,786</u>	<u>25,199</u>	<u>31,935</u>	<u>36,361</u>	
General Fund	8,310	7,560	9,571	10,673	
Cash Funds	2,743	1,515	1,832	2,420	
Cash Funds Exempt	19,370	15,625	19,631	22,126	
Federal Funds	1,363	499	901	1,142	



	<b>FY 2005-06</b>	<b>FY 2006-07</b>	<b>FY 2007-08</b>	<b>FY 2008-09</b>	<b>DI</b>
	<b>Actual</b>	<b>Actual</b>	<b>Appropriation</b>	<b>Request</b>	<b>Req v. Approp</b>
S.B. 04-257 Amortization Equalization disbursement	<u>52,568</u>	<u>172,286</u>	<u>303,805</u>	<u>449,368</u>	DI #3, DI #6
General Fund	7,448	51,310	92,272	132,252	
Cash Funds	5,124	10,027	17,229	29,790	
Cash Funds Exempt	38,512	107,570	185,792	273,265	
Federal Funds	1,484	3,379	8,512	14,061	
S.B. 06-235 Supplemental Amortization Equalization Disbursement	n/a	n/a	<u>62,558</u>	<u>147,798</u>	DI #3, DI #6
General Fund			17,229	44,626	
Cash Funds			3,692	10,272	
Cash Funds Exempt			39,813	88,133	
Federal Funds			1,824	4,767	
Salary Survey for Classified Employees	<u>233,165</u>	<u>246,897</u>	<u>278,941</u>	<u>342,511</u>	
General Fund	95,590	104,828	114,731	134,509	
Cash Funds	33,861	31,760	37,397	51,958	
Cash Funds Exempt	87,853	95,857	108,862	133,304	
Federal Funds	15,861	14,452	17,951	22,740	
Salary Survey for Exempt Employees	<u>806,921</u>	<u>987,957</u>	<u>759,834</u>	<u>663,252</u>	
General Fund	189,218	241,127	196,085	166,975	
Cash Funds	12,937	12,940	12,305	18,039	
Cash Funds Exempt	598,087	723,918	541,856	471,157	
Federal Funds	6,679	9,972	9,588	7,081	

	<b>FY 2005-06</b>	<b>FY 2006-07</b>	<b>FY 2007-08</b>	<b>FY 2008-09</b>	<b>DI</b>
	<b>Actual</b>	<b>Actual</b>	<b>Appropriation</b>	<b>Request</b>	<b>Req v. Approp</b>
Performance-based Pay Awards for Classified					
Employees	<u>84,436</u>	<u>0</u>	<u>122,210</u>	<u>142,813</u>	
General Fund	32,647	0	25,543	56,672	
Cash Funds	11,757	0	17,488	20,604	
Cash Funds Exempt	34,114	0	71,444	55,516	
Federal Funds	5,918	0	7,735	10,021	
Performance-based Pay Awards for Exempt Employees					
	<u>201,260</u>	<u>0</u>	<u>256,353</u>	<u>286,937</u>	
General Fund	44,132	0	66,582	68,603	
Cash Funds	3,153	0	4,133	8,084	
Cash Funds Exempt	152,212	0	182,369	206,730	
Federal Funds	1,763	0	3,269	3,520	
Attorney Registration and Continuing Legal Education					
	n/a	n/a	<u>0</u>	<u>92,626</u>	DI #1
General Fund			0	22,238	
Cash Funds			0	2,250	
Cash Funds Exempt			0	67,575	
Federal Funds			0	563	
Workers' Compensation					
	<u>45,668</u>	<u>55,453</u>	<u>78,836</u>	<u>66,606</u>	
General Fund	13,728	17,031	24,714	20,226	
Cash Funds	3,161	3,930	5,680	5,220	
Cash Funds Exempt	27,667	33,141	46,191	39,302	
Federal Funds	1,112	1,351	2,251	1,858	

	<b>FY 2005-06</b>	<b>FY 2006-07</b>	<b>FY 2007-08</b>	<b>FY 2008-09</b>	<b>DI</b>
	<b>Actual</b>	<b>Actual</b>	<b>Appropriation</b>	<b>Request</b>	<b>Req v. Approp</b>
Operating Expenses	<u>184,865</u>	<u>184,592</u>	<u>190,643</u>	<u>191,593</u>	DI #3
General Fund	21,164	170,978	0	0	
Cash Funds Exempt	163,701	13,614	190,643	191,593	
Administrative Law Judges	<u>0</u>	<u>1,268</u>	<u>1,282</u>	<u>0</u>	
Cash Funds	0	1,268	1,282	0	
Cash Funds Exempt	0	0	0	0	
Purchase of Services from Computer Center	<u>29,862</u>	<u>54,978</u>	<u>43,802</u>	<u>36,606</u>	
General Fund	29,862	54,978	0	0	
Cash Funds Exempt	0	0	43,802	36,606	
Payment to Risk Management and Property Funds	<u>26,082</u>	<u>89,130</u>	<u>79,868</u>	<u>86,255</u>	
General Fund	26,082	89,130	0	0	
Cash Funds Exempt	0	0	79,868	86,255	
Vehicle Lease Payments	<u>25,353</u>	<u>39,904</u>	<u>57,483</u>	<u>61,043</u>	NP DI
General Fund	7,448	15,637	12,066	12,446	
Cash Funds	3,543	4,724	13,753	11,753	
Cash Funds Exempt	6,452	10,270	23,023	27,098	
Federal Funds	7,910	9,273	8,641	9,746	
ADP Capital Outlay	<u>49,543</u>	<u>23,385</u>	<u>91,325</u>	<u>15,138</u>	DI #3, DI #6
General Fund	0	2,725	35,844	6,881	
Cash Funds	2,165	0	0	0	
Cash Funds Exempt	1,083	20,660	40,350	8,257	
Federal Funds	46,295	0	15,131	0	

	<b>FY 2005-06</b>	<b>FY 2006-07</b>	<b>FY 2007-08</b>	<b>FY 2008-09</b>	<b>DI</b>
	<b>Actual</b>	<b>Actual</b>	<b>Appropriation</b>	<b>Request</b>	<b>Req v. Approp</b>
IT Asset Maintenance	<u>322,625</u>	<u>358,296</u>	<u>358,296</u>	<u>432,348</u>	DI #4, DI #5
General Fund	0	0	0	22,935	
Cash Funds	1	37,982	37,699	47,236	
Cash Funds Exempt	316,311	320,314	320,597	360,106	
Federal Funds	6,313	0	0	2,071	
Leased Space	<u>26,292</u>	<u>26,292</u>	<u>29,686</u>	<u>30,001</u>	
General Fund	4,372	4,372	4,961	4,945	
Cash Funds	3,583	3,583	3,657	3,295	
Cash Funds Exempt	0	18,337	20,901	21,576	
Federal Funds	18,337	0	167	185	
Capitol Complex Leased Space	<u>976,506</u>	<u>1,009,085</u>	<u>1,147,113</u>	<u>1,156,773</u>	
General Fund	294,071	309,995	361,739	351,273	
Cash Funds	67,717	71,503	82,425	90,661	
Cash Funds Exempt	590,939	603,008	670,290	682,570	
Federal Funds	23,779	24,579	32,659	32,269	
Communications Services Payments	<u>4,624</u>	<u>6,042</u>	<u>6,030</u>	<u>6,297</u>	
General Fund	1,986	2,399	2,471	2,341	
Cash Funds	318	431	377	300	
Cash Funds Exempt	1,166	1,270	1,486	2,082	
Federal Funds	1,154	1,942	1,696	1,574	
Attorney General Discretionary Fund - GF	5,000	4,983	5,000	5,000	

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriation	FY 2008-09 Request	DI Req v. Approp Req v. Approp
<b>SUBTOTAL - Administration</b>	<b>6,429,198</b>	<b>6,884,191</b>	<b>7,959,087</b>	<b>8,656,376</b>	<b>8.8%</b>
<b>FTE</b>	<b><u>36.7</u></b>	<b><u>38.7</u></b>	<b><u>39.7</u></b>	<b><u>40.7</u></b>	<b><u>1.0</u></b>
General Fund	1,044,425	1,440,669	1,430,411	1,557,394	8.9%
Cash Funds	228,948	248,395	334,505	415,172	24.1%
Cash Funds Exempt	5,003,099	5,110,789	6,059,704	6,544,764	8.0%
Federal Funds	152,726	84,338	134,467	139,046	3.4%

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

*Primary Functions include the representation of state agencies in disputes and general legal advice for all areas of state government.*

*Cash Funds Exempt are earned from state agencies through the blended hourly rate for the provision of legal services.*

*Cash Funds are earned from non-state agencies and state enterprises such as PERA and the State Lottery Commission.*

Personal Services	14,055,579	14,414,186	16,446,532	17,471,104	DI #1, DI #6
FTE	<u>186.2</u>	<u>188.7</u>	<u>204.2</u>	<u>207.4</u>	
Cash Funds	1,000,000	945,000	1,000,000	1,000,000	
Cash Funds Exempt	13,055,579	13,469,186	15,446,532	16,471,104	
Operating and Litigation - CFE	690,050	895,240	1,124,851	1,273,327	
Indirect Cost Assessment - CFE	2,088,238	2,109,083	2,458,442	2,474,186	

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriation	FY 2008-09 Request	DI Req v. Approp Req v. Approp
<b>SUBTOTAL - Legal Services to State Agencies</b>	<b>16,833,867</b>	<b>17,418,509</b>	<b>20,029,825</b>	<b>21,218,617</b>	<b>5.9%</b>
<b>FTE</b>	<b><u>186.2</u></b>	<b><u>188.7</u></b>	<b><u>204.2</u></b>	<b><u>207.4</u></b>	<b><u>3.2</u></b>
Cash Funds	1,000,000	945,000	1,000,000	1,000,000	0.0%
Cash Funds Exempt	15,833,867	16,473,509	19,029,825	20,218,617	6.2%

### (3) CRIMINAL JUSTICE AND APPELLATE

*Primary Functions include investigation and provision of legal services related to criminal appeals and crimes against the state such as tax evasion and workers' compensation fraud. Cash funds are from the Manufactured Home Fund and cash exempt are from custodial funds.*

<b>Special Prosecution Unit</b>	1,006,677	1,037,044	1,194,091	1,241,118
FTE	<u>11.5</u>	<u>11.2</u>	<u>12.8</u>	<u>12.8</u>
General Fund	822,591	841,248	990,007	1,027,780
FTE		8.7	10.3	
Cash Funds	184,086	195,796	204,084	213,338
FTE		2.5	2.5	
Cash Funds Exempt	0	0	0	0
 Insurance Fraud Unit - CFE	 221,422	 520,376	 594,563	 618,916
FTE	2.6	5.9	7.6	7.6
 Securities Fraud Unit	 411,977	 436,306	 463,762	 483,389
FTE	<u>5.3</u>	<u>5.3</u>	<u>5.6</u>	<u>5.6</u>
General Fund	89,264	101,424	116,799	122,785
FTE		2.0	2.0	2.0
Cash Funds Exempt	322,713	334,882	346,963	360,604
FTE		3.3	3.6	3.6

	<b>FY 2005-06</b>	<b>FY 2006-07</b>	<b>FY 2007-08</b>	<b>FY 2008-09</b>	<b>DI</b>
	<b>Actual</b>	<b>Actual</b>	<b>Appropriation</b>	<b>Request</b>	<b>Req v. Approp</b>
Appellate Unit - GF	1,857,271	2,025,366	2,177,260	2,454,388	
FTE	25.1	26.2	28.0	30.0	
Medicaid Fraud Grant	928,786	1,013,655	1,281,613	1,328,336	
FTE	<u>11.0</u>	<u>11.0</u>	<u>14.0</u>	<u>14.0</u>	
General Fund	236,137	266,408	320,372	332,353	
Federal Funds	692,649	747,247	961,241	995,983	
Capital Crimes Prosecution Unit - GF	330,535	323,225	361,781	375,974	
FTE	3.9	3.8	4.0	4.0	
Peace Officers Standards and Training Board Support	1,155,937	1,115,318	1,208,125	1,176,008	
FTE	<u>6.0</u>	<u>6.0</u>	<u>6.0</u>	<u>6.0</u>	
General Fund	0	0	44,638	0	
Cash Funds	1,144,444	1,115,318	1,163,487	1,176,008	
Cash Funds Exempt	11,493	0	0	0	
Victims Assistance	65,718	67,519	69,191	72,149	
FTE	<u>1.0</u>	<u>1.0</u>	1.0	<u>1.0</u>	
General Fund	0	0	0	2,958	
Cash Funds Exempt	65,718	67,519	69,191	69,191	
Federal Funds	0	0	0	0	
Indirect Cost Assessment	<u>141,503</u>	<u>158,262</u>	<u>241,673</u>	<u>241,673</u>	
Cash Funds	76,396	91,512	104,275	104,275	
Cash Funds Exempt	65,107	66,750	137,398	137,398	

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriation	FY 2008-09 Request	DI Req v. Approp Req v. Approp
<b>SUBTOTAL - Criminal Justice and Appellate</b>	<b>6,119,826</b>	<b>6,697,071</b>	<b>7,592,059</b>	<b>7,991,951</b>	<b>5.3%</b>
<b>FTE</b>	<b><u>66.4</u></b>	<b><u>70.4</u></b>	<b><u>79.0</u></b>	<b><u>81.0</u></b>	<b><u>2.0</u></b>
General Fund	3,335,798	3,557,671	4,010,857	4,316,238	7.6%
Cash Funds	1,404,926	1,402,626	1,471,846	1,493,621	1.5%
Cash Funds Exempt	686,453	989,527	1,148,115	1,186,109	3.3%
Federal Funds	692,649	747,247	961,241	995,983	3.6%

#### (4) WATER AND NATURAL RESOURCES

Primary Functions are comprised of investigative duties and legal services associated with environmental lawsuits.

Federal and Interstate Water Unit - GF	404,926	406,164	482,426	504,608	
FTE	4.6	4.9	5.5	5.5	
Defense of Arkansas River Compact	<u>140,000</u>	<u>140,000</u>	<u>0</u>	<u>0</u>	
General Fund	68,667	68,667	0	0	
Cash Funds Exempt	71,333	71,333	0	0	
Defense of Republican River Compact	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	0	0	0	0	
Cash Funds Exempt	0	0	0	0	
Defense of the Colorado River Basin Compact	10,307	359,106	758,880	772,153	
FTE	<u>0.5</u>	<u>3.9</u>	<u>4.0</u>	<u>4.0</u>	
General Fund	0	0	0	13,273	
Cash Funds Exempt	10,307	359,106	758,880	758,880	



	<b>FY 2005-06</b>	<b>FY 2006-07</b>	<b>FY 2007-08</b>	<b>FY 2008-09</b>	<b>DI</b>
	<b>Actual</b>	<b>Actual</b>	<b>Appropriation</b>	<b>Request</b>	<b>Req v. Approp</b>
Consultant Expenses	<u>0</u>	<u>0</u>	<u>50,000</u>	<u>50,000</u>	
General Fund	0	0	0	0	
Cash Funds Exempt	0	0	50,000	50,000	
Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)	412,100	439,286	452,001	471,129	
FTE	<u>4.8</u>	<u>4.8</u>	<u>4.8</u>	<u>4.8</u>	
General Fund	30,129	413,286	426,123	445,299	
Cash Funds Exempt	381,971	26,000	25,878	25,830	
CERCLA Contracts	<u>736,850</u>	<u>600,000</u>	<u>600,000</u>	<u>600,000</u>	
General Fund	0	175,000	175,000	175,000	
Cash Funds Exempt	736,850	425,000	425,000	425,000	
Natural Resource Damage Claims at Rocky Mountain Arsenal	n/a	565,915	2,661,667	1,212,924	
FTE		<u>1.9</u>	<u>2.0</u>	<u>2.0</u>	
General Fund		565,915	0	0	
FTE		1.9	0.0	0.0	
Cash Funds		0	2,661,667	1,212,924	
FTE		0.0	2.0	0.0	
Indirect Cost Assessment - CFE	46,205	0	0	0	

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriation	FY 2008-09 Request	DI Req v. Approp Req v. Approp
<b>SUBTOTAL - Water and Natural Resources</b>	<b>1,750,388</b>	<b>2,510,471</b>	<b>5,004,974</b>	<b>3,610,814</b>	<b>-27.9%</b>
<b>FTE</b>	<b><u>9.9</u></b>	<b><u>15.5</u></b>	<b><u>16.3</u></b>	<b><u>16.3</u></b>	<b><u>0.0</u></b>
General Fund	503,722	1,629,032	1,083,549	1,138,180	5.0%
Cash Funds			2,661,667	1,212,924	-54.4%
Cash Funds Exempt	1,246,666	881,439	1,259,758	1,259,710	0.0%

**(5) CONSUMER PROTECTION**

*Primary Functions include investigative duties and legal services associated with consumer protection and anti-trust litigation as well as enforcement of statutes related to collection agencies and the uniform consumer credit code.*

Consumer Protection and Anti-Trust	1,273,739	1,249,400	2,197,271	1,781,939
FTE	<u>15.8</u>	<u>15.1</u>	<u>25.3</u>	<u>20.0</u>
General Fund	680,423	620,160	841,874	881,053
FTE			11.5	11.5
Cash Funds	63,605	64,737	65,799	68,004
FTE			1.5	1.5
Cash Funds Exempt	529,711	564,503	1,289,598	832,882
FTE			12.3	7.0
Collection Agency Board	186,236	230,759	285,667	296,905
FTE	<u>3.5</u>	<u>4.5</u>	<u>5.2</u>	<u>5.2</u>
Cash Funds	142,118	230,759	238,098	249,336
Cash Funds Exempt	44,118		47,569	47,569

	<b>FY 2005-06</b>	<b>FY 2006-07</b>	<b>FY 2007-08</b>	<b>FY 2008-09</b>	<b>DI</b>
	<b>Actual</b>	<b>Actual</b>	<b>Appropriation</b>	<b>Request</b>	<b>Req v. Approp</b>
Uniform Consumer Credit Code (UCCC)	718,844	792,521	943,154	971,854	
FTE	<u>8.9</u>	<u>10.3</u>	<u>12.3</u>	<u>12.8</u>	
Cash Funds	718,844	737,382	836,323	865,219	
Cash Funds Exempt	0	55,139	106,831	106,635	
Indirect Cost Assessment	<u>182,894</u>	<u>212,631</u>	<u>263,756</u>	<u>263,756</u>	
Cash Funds	140,890	169,567	214,685	214,685	
Cash Funds Exempt	42,004	43,064	49,071	49,071	
					Req v. Approp
<b>SUBTOTAL - Consumer Protection</b>	<b>2,361,713</b>	<b>2,485,311</b>	<b>3,689,848</b>	<b>3,314,454</b>	<b>-10.2%</b>
<b>FTE</b>	<b><u>28.2</u></b>	<b><u>29.9</u></b>	<b><u>42.8</u></b>	<b><u>38.0</u></b>	<b><u>(4.8)</u></b>
General Fund	680,423	620,160	841,874	881,053	4.7%
Cash Funds	1,065,457	1,202,445	1,354,905	1,397,244	3.1%
Cash Funds Exempt	615,833	662,706	1,493,069	1,036,157	-30.6%

**(6) SPECIAL PURPOSE**

*Primary Functions are comprised of the investigation and legal services associated with various special purpose programs especially large, one-time lawsuits. Funding also includes the State subsidy for district attorney salaries.*

District Attorneys' Salaries - GF	1,301,835	1,307,731	1,313,037	1,654,706
Litigation Management and Technology Fund - CFE	280,175	180,221	325,000	325,000
Statewide HIPAA Legal Services - GF	27,596	20,331	21,609	21,609

	<b>FY 2005-06</b>	<b>FY 2006-07</b>	<b>FY 2007-08</b>	<b>FY 2008-09</b>	<b>DI</b>
	<b>Actual</b>	<b>Actual</b>	<b>Appropriation</b>	<b>Request</b>	<b>Req v. Approp</b>
Tobacco Litigation	221,411	125,000	225,000	225,000	
General Fund	221,411	125,000	0	0	
Cash Funds Exempt	0	0	225,000	225,000	
Federal Reimbursement for Illegal Immigration Costs (S.B. 06S-1014) - GF	n/a	6,360	0	0	
FTE		0.0	0.0	0.0	
Fraudulent Documents (S.B. 06-110)	n/a	n/a	65,874	65,874	
FTE			<u>1.0</u>	<u>1.0</u>	
General Fund			0	0	
FTE			0.0	0.0	
Cash Funds			65,874	65,874	
FTE			1.0	1.0	
Referendum K - GF	n/a	13,019	43,466	43,446	
FTE		0.5	0.5	0.5	
					Req v. Approp
<b>SUBTOTAL - Special Purpose</b>	<b>1,831,017</b>	<b>1,652,662</b>	<b>1,993,986</b>	<b>2,335,635</b>	<b>17.1%</b>
<b>FTE</b>	<b><u>0.0</u></b>	<b><u>0.5</u></b>	<b><u>1.5</u></b>	<b><u>1.5</u></b>	<b><u>0.0</u></b>
General Fund	1,550,842	1,472,441	1,378,112	1,719,761	24.8%
FTE	0.0	0.5	0.5	0.5	0.0
Cash Funds	0	0	65,874	65,874	0.0%
FTE	0.0	0.0	1.0	1.0	0.0
Cash Funds Exempt	280,175	180,221	550,000	550,000	0.0%
FTE	0.0	0.0	0.0	0.0	0.0

	<b>FY 2005-06</b>	<b>FY 2006-07</b>	<b>FY 2007-08</b>	<b>FY 2008-09</b>	<b>DI</b>
	<b>Actual</b>	<b>Actual</b>	<b>Appropriation</b>	<b>Request</b>	<b>Req v. Approp</b>
<b>DEPARTMENT OF LAW</b>					
<b>TOTAL FUNDS</b>	<b>35,326,009</b>	<b>37,648,215</b>	<b>46,269,779</b>	<b>47,127,847</b>	<b>1.9%</b>
<b>FTE</b>	<b><u>327.4</u></b>	<b><u>343.7</u></b>	<b><u>383.5</u></b>	<b><u>384.9</u></b>	<b><u>1.4</u></b>
General Fund	7,115,210	8,719,973	8,744,803	9,612,626	9.9%
Cash Funds	3,699,331	3,798,466	6,888,797	5,584,835	-18.9%
Cash Funds Exempt	23,666,093	24,298,191	29,540,471	30,795,357	4.2%
Federal Funds	845,375	831,585	1,095,708	1,135,029	3.6%

**FY 2008-09 JBC BUDGET BRIEFING  
DEPARTMENT OF LAW  
FOOTNOTE UPDATE**

- 4 All Departments, Totals** -- The General Assembly requests that copies of all reports requested in other footnotes contained in this act be delivered to the Joint Budget Committee and the majority and minority leadership in each house of the General Assembly.

Comment: The Department has complied with this footnote. Copies of all reports requested in other footnotes have been submitted to the Joint Budget Committee and the majority and minority leadership in each house of the General Assembly. Further, the Department's rules and regulations are available on the State's Internet site at the following address: <http://www.sos.state.co.us/CCR/AlphabeticalList.do>.

- 5 All Departments, Totals** – Every Department is requested to submit to the Joint Budget Committee information on the number of additional federal and cash funds exempt FTE associated with any federal grants or private donations that are applied for or received during FY 2007-08. The information should include the number of FTE, the associated costs (such as workers' compensation, health and life benefits, need for additional space, etc.) that are related to the additional FTE, the direct and indirect matching requirements associated with the federal grant or donated funds, the duration of the grant, and a brief description of the program and its goals and objectives.

Comment: The Department has complied with this footnote. All federal moneys received by the Department of Law are related to the Medicaid Fraud Grant program in the Criminal Justice and Appellate section.

- 97 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 \$74.64 per hour for attorneys and not exceed \$60.79 per hour for paralegals, which equates to a blended rate of \$72.03 per hour.

Comment: The Department is utilizing these rates.

- 98 Department of Law, Criminal Justice and Appellate, Medicaid Fraud Grant** -- 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, 2007.

Comment: The report was submitted as requested. The report states that Medicaid fraud, waste and abuse has been estimated at 10 percent nationally. In contrast, the report reiterates the findings of a July 1999 Medicaid Fraud and Abuse Programs Performance Audit, which estimated fraud and abuse in Colorado at about 1.8 percent. The Medicaid Fraud Control Unit (MFCU) is responsible for monitoring the financial integrity of more than \$3.2 billion worth of payments made to 10,000 Medicaid providers all over the State on behalf of more than 393,000 program recipients.

During FY 2006-07, the Fraud Unit was responsible for convictions and settlements that generated approximately \$2.2 million in restitution. More than 99 percent of this amount was returned to the State, with the remainder going to the Federal Government. The Fraud Unit also cooperates with federal agencies and with other states to investigate and prosecute multi-jurisdictional Medicaid fraud cases. During FY 2006-07, the State received \$1.3 million of restitution from three global settlement cases, money that is included in the \$1.1 million restitution total.

During FY 2006-07, the Fraud Unit referred 29 Colorado health care providers whom to the U.S. Department of Health and Human Services' Office of the Inspector General for further action. Of these 29, 15 were banned from Medicare and Medicaid programs for 5 years.

- 99 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 2007-08, as well as information technology asset maintenance needs that would otherwise require General Fund appropriations during FY 2007-08. 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 has been utilizing the Litigation and Management Technology Fund in the fashion designated in this footnote and has been submitting the required quarterly reports.

**FY 2007-08 JBC BUDGET BRIEFING  
DEPARTMENT OF LAW  
Compensation of Colorado's Attorney General**

**ISSUE:**

The passage of H.B. 07-1170 (Sonnenberg/Morse), Compensation of Elected District Attorneys, which will substantially increase the compensation of a number of Colorado's District Attorneys, has highlighted the relatively low compensation of Colorado's Attorney General.

**SUMMARY:**

The annual salary of Colorado's Attorney General ranks 47th among the states, tied with the state of West Virginia. Beginning on January 1, 2009, after H.B. 07-1170 goes into effect, Colorado's Attorney General will earn less than all of the District Attorneys in the state. The purchasing power of the Attorney General's salary has declined 28 percent since 1987.

**RECOMMENDATION:**

This is an informational issue. There is no staff recommendation regarding this matter.

**DISCUSSION:**

The salary of Colorado's Attorney General is established in Section 24-9-101, C.R.S., which sets salaries of all elected officials. The current salary of Colorado's Attorney General went into effect in January 1999, when it was increased by S.B. 97-201 from \$60,000 to \$80,000 annually, a level that was set in 1987. Pursuant to Section 11 of Article 12 of the Colorado Constitution, this salary cannot be changed during the term of office for which the Attorney General was elected. As the following table shows, this salary makes the AG one of the lowest paid attorneys general in the country.

Annual Salaries of Attorneys General					
California	175,525	Alaska	124,752	Nebraska	95,000
Alabama	152,027	Iowa	123,669	New Mexico	95,000
New York	151,500	North Carolina	115,289	Kansas	94,596
Tennessee	150,000	Minnesota	114,000	South Carolina	92,007
Virginia	150,000	Hawaii	111,427	Indiana	91,400
New Jersey	141,000	Connecticut	110,000	Arizona	90,000
Delaware	140,200	Nevada	110,000	Maine	90,000
Washington	137,268	Vermont	109,000	Montana	89,601
Pennsylvania	134,096	Mississippi	108,960	South Dakota	87,600
Illinois	133,000	New Hampshire	105,396	Louisiana	85,000
Georgia	132,600	Ohio	105,186	North Dakota	80,800



Annual Salaries of Attorneys General					
Wisconsin	132,525	Missouri	104,332	<b>Colorado</b>	<b>80,000</b>
Florida	131,604	Wyoming	104,313	West Virginia	80,000
Oklahoma	126,500	Rhode Island	99,768	Oregon	77,200
Maryland	125,000	Kentucky	99,060	Arkansas	67,373
Texas	125,000	Utah	98,900		
Michigan	124,900	Idaho	95,200	Average	111,739

Source: National Association of Attorneys General and the offices of selected attorney's general.

As the following table shows, the Attorney General's salary is less than that of selected Colorado District Attorneys.

District	Annual Salary
Larmier	\$154,350
Adams	145,000
Denver	144,720
Jefferson	142,553
Boulder	140,608
Weld	115,000
Mesa	105,000

While there are currently a number of District Attorneys in rural areas of the state who make less than the Attorney General, the passage of H.B. 07-1170, which sets the minimum salary of Colorado District Attorneys at \$100,000 beginning on January 1, 2009, means that slightly over a year from now, the Attorney General will earn less than every District Attorney in the state.

In addition, a review of the Department of Law's budget submission demonstrates that the Attorney General now makes less than all of his top deputies.

As the following table shows, the inflation-adjusted buying power of the Colorado Attorney General's salary, which was set at \$60,000 in 1987, has steadily eroded over the ensuing 20 years.

Year	AG's Salary	Denver-Boulder CPI	Purchasing power of AG's salary in 2007 dollars	As a percentage of 1987 buying power
1987	60,000	110.8	\$110,794	100.0%
1989	60,000	115.8	106,010	95.7%
1991	60,000	125.6	97,739	88.2%
1993	60,000	135.8	90,398	81.6%
1995	60,000	147.9	83,002	74.9%
1997	60,000	158.1	77,647	70.1%

Year	AG's Salary	Denver-Boulder CPI	Purchasing power of AG's salary in 2007 dollars	As a percentage of 1987 buying power
1999	80,000	166.6	98,247	88.7%
2001	80,000	181.3	90,281	81.5%
2003	80,000	186.8	87,623	79.1%
2005	80,000	190.9	85,741	77.4%
2007	80,000	204.6	80,000	72.2%

Source: Legislative Council Data.

Thus, in 2007, the Attorney General's salary has fallen to an inflation-adjusted level that is approximately equal to the level that prompted the General Assembly to increase the Attorney General's salary, as well as that of other elected officials, in 1999.

**FY 2007-08 JBC BUDGET BRIEFING  
DEPARTMENT OF LAW  
Major Litigation Pending Against the State**

**ISSUE:**

A summary of the potential General Fund liabilities that could result from major lawsuits pending against the State.

**SUMMARY:**

- This issue summarizes eight large active cases involving the state and one recently concluded cases.

**RECOMMENDATION:**

There is no staff recommendation regarding this issue. It is designed to provide the Committee and the General Assembly with pertinent information related to potential significant liabilities that would be paid from the General Fund. This is not an exhaustive compilation of all litigation to which the State is a party.

**DISCUSSION:**

**Status of Current Litigation**

This is a list of unresolved cases for which the final outcome is not yet known and there is a possibility that the state will be required to pay \$1 million or more from the General Fund in excess of any amounts that have already been paid.

**Arkansas River Compact (Kansas vs. Colorado).** Colorado was found liable for violations of the Arkansas River Compact related to excessive groundwater pumping and, in April 2005, paid Kansas \$34.6 million in compensation. Kansas has agreed that this amount is correct. In June 2006, the Special Master who oversees the case ordered Colorado to pay \$1.4 million to Kansas as reimbursement for costs that Kansas incurred when pursuing its case. Kansas could file an exception to the Special Master's recommendation and seek up to \$9 million more in costs.

**Barber v. Owens.** Between FY 2001-02 and FY 2003-04, the General Assembly enacted several pieces of legislation authorizing cash fund transfers of \$442.6 million to maintain a balanced budget and to reduce the need for budget cuts. The plaintiffs assert that these transfers turned program fees into taxes and thus violated Article X, Section 20 of the Colorado Constitution (more commonly known as 'TABOR'). Plaintiffs seek the establishment of a constructive trust to replenish the applicable cash funds, as well as a declaratory judgment regarding the alleged constitutional violations. The State prevailed on its motion for summary judgment in Denver District Court and the case was dismissed. The plaintiffs appealed to the Colorado Court of Appeals, which upheld the district court ruling. A petition for certiorari is pending in the Colorado Supreme Court.

**Cendant Corp v. Department of Revenue.** Cendant wants to file an amended corporate tax return that would result in an \$8 million refund and would reduce General Fund revenues. The case was heard by the Executive Director of the Department of Revenue, who ruled against Cendant. Cendant is appealing the ruling in District Court.

**Lobato, et al v. State of Colorado.** School districts in the San Luis Valley as well as students in the districts' schools and their parents have challenged the constitutionality of Colorado's K-12 funding system. Plaintiffs seek attorneys' fees and costs and they seek a declaration that the current school financing system violates the Colorado Constitution. Plaintiffs' goal is to require significant additional funding for K-12 education and to have the courts maintain continuing jurisdiction over the case. Attorneys fees and costs are well over \$1 million. Plaintiffs assert that the extra funding needed for capital facilities alone is \$5-10 billion. The State won in District Court and the case is on appeal.

**Martinez et al. v. Department of Human Services, et al.** Colorado's Aid To The Needy Disabled (AND) program provides cash assistance to low-income Colorado residents, age 18 and over, who have had a total disability for at least six-months. AND benefits are reduced if a recipient receives other income, such as Supplemental Security Income (SSI) benefits. The state requires AND recipients to apply for SSI; if they qualify, AND benefits are reduced. Some AND recipients hired attorneys to help them when they had difficulty qualifying for SSI. These individuals assert, in a class action lawsuit, that the state should pay a portion of their attorney fees because the state benefited from their expenditure. Class certification has been granted, the case will go to trial in 2008. Potential damages could range as high as \$12 million.

**Republican Riven Compact.** Kansas has threatened to file suit against Colorado and Nebraska for violating the Republican River Compact by consuming more water than allowed under the Compact. Kansas could seek millions of dollars from Colorado and Nebraska, however it appears that the bulk of Kansas' claims will be against Nebraska. The Attorney General's office has indicated that a 1331 supplemental may be needed in December 2007 to prepare for this case. The Attorney General anticipates that moneys in the Water Conservation Board Litigation Fund will be available to cover the costs of this legal action.

**State of Colorado v. U.S. Department of Agriculture.** This is an administrative action in which the Federal Government asserts that Colorado over issued food stamps in 2004-05. Colorado lost the appeal administratively and has filed for review in federal court. The Federal Government was awarded \$10.8 million. No trial date has been set.

**Thompson v. Colorado.** Plaintiffs allege that a fee that the Department of Revenue formerly charged for disabled parking permits violated the Americans with Disabilities Act. The plaintiffs seek \$1 to \$2 million in damages. The State lost in District Court but won in 2001 on an Appeal to the Tenth Circuit. The case has long been inactive, but it sprang back to life when plaintiffs argued that the Tenth Circuit implicitly reversed its 2001 ruling when it decided a similar case in 2004.

### Recently Resolved Cases

**Mandy R., et al vs. Bill Owens, et al.** Plaintiffs asserted a statutory claim for residential services

for the developmentally disabled. The state prevailed in District court and in the Tenth Circuit Court of Appeals. The case is concluded.