

**COLORADO GENERAL ASSEMBLY
JOINT BUDGET COMMITTEE**



**FY 2016-17 STAFF FIGURE SETTING
DEPARTMENT OF LAW**

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

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How to Use this Document

The Department Overview contains a table summarizing the staff recommended incremental changes followed by brief explanations of each incremental change. A similar overview table is provided for each division, but the description of incremental changes is not repeated, since it is available under the Department Overview. More details about the incremental changes are provided in the sections following the Department Overview and the division summary tables.

Decision items, both department-requested items and staff-initiated items, are discussed at the beginning of the most relevant division. Within a section, decision items are listed in the requested priority order, if applicable.

Department Overview

The Attorney General is one of five independently elected constitutional officers of the State. 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 serves as the legal counsel and advisor to state agencies. The Department's FY 2015-16 appropriation represents 0.3 percent of statewide operating appropriations and 0.2 percent of statewide General Fund appropriations.

SUMMARY OF STAFF RECOMMENDATIONS

Department of Law						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2015-16 Appropriation						
SB 15-234 (Long Bill)	\$77,257,689	\$14,963,624	\$15,796,431	\$44,703,757	\$1,793,877	476.1
Other legislation	254,334	94,441	0	159,893	0	1.5
H.B. 15-1367 Contingent appropriations	202,835	200,000	0	2,835	0	0.0
HB 16-1244 (Supplemental)	<u>91,879</u>	<u>25,446</u>	<u>10,731</u>	<u>53,154</u>	<u>2,548</u>	<u>0.0</u>
TOTAL	\$77,806,737	\$15,283,511	\$15,807,162	\$44,919,639	\$1,796,425	477.6
FY 2016-17 Recommended Appropriation						
FY 2015-16 Appropriation	\$77,806,737	\$15,283,511	\$15,807,162	\$44,919,639	\$1,796,425	477.6
R1 Safe2Tell software	60,000	60,000	0	0	0	0.0
R2 Ralph L. Carr Center leased space	21,527	6,089	1,999	12,908	531	0.0
R3 Senior AAG special prosecution	133,734	133,734	0	0	0	0.9
R4 Consumer protection compliance investigator	58,538	0	58,538	0	0	1.0
R5 Accounting technician III	52,632	0	0	52,632	0	1.0
NP2 Colorado River 0.5 FTE	64,314	0	64,314	0	0	0.5
BR1 POST marijuana reduction	(618,000)	0	(618,000)	0	0	0.0
Staff initiated Special Prosecutions marijuana reduction	(150,000)	0	(150,000)	0	0	0.0
Centrally appropriated line item adjustments	664,888	99,002	130,281	463,622	(28,017)	0.0
Indirect cost assessment adjustments	406,574	0	1,368,640	(977,392)	15,326	0.0
BA NP1 and NP3 OIT marijuana adjustment	73,975	0	73,975	0	0	0.0
Change in anticipated grant funding	9,882	0	0	9,882	0	0.0
Fund source adjustments	0	(271,223)	0	271,223	0	0.0
LSSA appropriation adjustment	(544,034)	0	0	(544,034)	0	0.0
Annualize prior year budget actions	(97,273)	(170,906)	11,410	62,223	0	(0.7)

JBC Staff Figure Setting: FY 2016-17
Staff Working Document – Does Not Represent Committee Decision

Department of Law						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
Annualize prior year legislation	(18,199)	(182,061)	200,000	(36,138)	0	0.1
TOTAL	\$77,925,295	\$14,958,146	\$16,948,319	\$44,234,565	\$1,784,265	480.4
Increase/(Decrease)	\$118,558	(\$325,365)	\$1,141,157	(\$685,074)	(\$12,160)	2.8
Percentage Change	0.2%	(2.1%)	7.2%	(1.5%)	(0.7%)	0.6%
FY 2016-17 Executive Request	\$78,159,652	\$14,987,655	\$17,132,672	\$44,255,060	\$1,784,265	480.4
Request Above/(Below) Recommendation	\$234,357	\$29,509	\$184,353	\$20,495	\$0	(0.0)

Description of Incremental Changes

FY 2016-17

R1 Safe2Tell software: The recommendation includes an increase of \$60,000 General Fund to support the Department's contract for anonymous tip reporting software for the Safe2Tell Program.

R2 Ralph L. Carr Center leased space: The recommendation includes an increase of \$21,527 total funds (including 6,089 General Fund) above the FY 2015-16 appropriation as adjusted by the Department's FY 2015-16 supplemental bill (H.B. 16-1244). The incremental increase in FY 2016-17 (above the supplemental appropriation) would allow the Department to secure additional space to build out a dedicated computer training room to support a variety of training activities, including: new employee orientation; continuing legal education (CLE) and professional development requirements; Department of Law Training Program classes on a variety of topics; monthly software training programs; and a variety of other training activities.

R3 Senior AAG special prosecution: The recommendation includes an increase of \$133,734 General Fund and 1.0 FTE to add a senior assistant attorney general to the Special Prosecutions Unit to focus on complex drug trafficking cases. The request and recommendation respond to an increasing drug trafficking prosecution workload, in part driven by increasing use and complexity of wiretap investigations for drug trafficking prosecutions..

R4 Consumer protection compliance investigator: The recommendation includes an increase of \$58,538 cash funds from custodial funds and 1.0 FTE to support an additional consumer protection compliance investigator. Because the request and recommendation are for custodial funds, the appropriation would be reflected in the Long Bill for informational purposes only.

R5 Accounting technician III: The recommendation includes an increase of \$52,632 reappropriated funds from indirect cost recoveries to allow the Department to hire an additional accounting technician based on increasing workload.

NP2 Colorado River 0.5 FTE: The recommendation includes an increase of \$64,314 cash funds from the Colorado Water Conservation Board Litigation Fund and 0.5 FTE to support an

additional 0.5 attorney FTE focused on the defense of the State's interests in the Colorado River Compact.

BR1 POST marijuana reduction: The recommendation includes a reduction of \$618,000 cash funds from the Marijuana Tax Cash Fund appropriated to the Peace Officers' Standards and Training (P.O.S.T.) Board for marijuana training and development grants. The recommendation includes the following reductions: (1) \$418,000 (out of \$1,168,000) that was appropriated as cash funds from the Marijuana Tax Cash Fund in the FY 2015-16 Long Bill; and (2) \$200,000 that was appropriated as General Fund (from the Proposition AA Refund Account) in H.B. 15-1367, contingent upon voter approval of Proposition BB during the November 2015 Election. Because the funds appropriated in H.B. 15-1367 annualize as cash funds from the Marijuana Tax Cash Fund in FY 2016-17, the reduction is shown as a reduction from that fund source. The reductions are intended to align the appropriation with the P.O.S.T. Board's anticipated expenditures for marijuana related training in FY 2016-17.

Staff initiated special prosecutions MTCF reduction: The recommendation includes a staff initiated reduction of \$150,000 cash funds from the Marijuana Tax Cash Fund for the Special Prosecutions Unit in FY 2016-17 to better align the appropriation with the Special Prosecution Unit's anticipated marijuana training expenditures.

Centrally appropriated line item adjustments: The recommendation includes adjustments to centrally appropriated line items for the following: state contributions for health, life, and dental benefits; salary survey; short-term disability; supplemental state contributions to the Public Employees' Retirement Association (PERA) pension fund; workers' compensation; legal services; payment to risk management and property funds; Ralph L. Carr Colorado Judicial Center leased space; payments to OIT; and CORE operations. The amount shown reflects a combination of recommended (for common policy items on which the Committee has taken action) and requested items (for common policy items that are still pending).

Indirect cost assessment adjustments: The recommendation includes a net increase in the Department's indirect cost assessments.

BA NP1 and NP3 OIT marijuana data collection: The request includes the Department's share of a request in the Governor's Office of Information Technology to create a data platform to identify, combine, store, and present marijuana-related information. This item is pending the Committee's decisions regarding the Governor's Office of Information Technology and the amounts shown represent the request.

Change in anticipated grant funding: The recommendation reflects an anticipated increase of \$9,882 in the total amount of grant funding available from the Department of Public Safety for efforts to investigate and prosecute multi-jurisdictional auto theft. Section 24-31-108 (1) (b) (I), C.R.S., continuously appropriates grant funds to the Department of Law. Thus, the appropriation is shown in the Long Bill for informational purposes only, and the Department does not require a decision item for changes in spending authority.

Fund source adjustments: The recommendation includes a decrease in General Fund that is offset by an increase in reappropriated funds from indirect cost recoveries.

LSSA Appropriation adjustment: The request and recommendation include a decrease in reappropriated funds from the Legal Services Cash Fund to align with preliminary estimates of legal services expenditures for FY 2016-17. The overall appropriation for legal services to state agencies is pending Committee decisions regarding the number of legal services hours required by each client agency and setting the legal services rate for FY 2016-17.

Annualize prior year budget actions: The recommendation includes adjustments related to prior year budget actions. The \$170,906 reduction in General Fund is largely driven by a reduction of \$84,959 and 1.0 FTE from the Appellate Unit to eliminate 1.0 attorney FTE added through a FY 2013-14 decision item. The FY 2013-14 decision item added 6.0 attorney FTE to reduce a backlog of appeals and anticipated eliminating 1.0 FTE at the end of FY 2015-16 and eliminating 3.0 additional FTE at the end of FY 2016-17.

Annualize prior year legislation: The recommendation includes adjustments to reflect the FY 2016-17 impact of legislation that was passed during the 2015 Session, including the following acts: S.B. 15-106; S.B. 15-110; S.B. 15-239; S.B. 15-123; H.B. 15-1063; H.B. 15-1309; and H.B. 15-1367.

Major Differences from the Request

The recommendation includes a total of reduction of \$350,000 cash funds from the Marijuana Tax Cash Fund beyond the reduction requested by the Department. With request BR1, the request includes a reduction of \$418,000 cash funds from the Marijuana Tax Cash Fund appropriated to the Peace Officers Standards and Training (P.O.S.T.) Board to better align the appropriation with anticipated expenditures. The staff recommendation includes two additional reductions associated with marijuana programs that are also intended to align appropriations with expenditures:

- An additional \$200,000 from the P.O.S.T. Board (appropriated by H.B. 15-1367 as General Fund from the Proposition AA Refund Account in FY 2015-16) to reach the Department's target appropriation (to the P.O.S.T. Board) of \$750,000 cash funds from the Marijuana Tax Cash Fund in FY 2016-17. The Department's request did not address the additional \$200,000 provided in FY 2015-16, which was appropriated contingent upon voter approval of Proposition BB during the November 2015 election. However, the Department supports the recommended reduction.
- \$150,000 appropriated to the Special Prosecutions Unit. As with the P.O.S.T. Board Reduction, the recommendation is intended to better align appropriations with the Special Prosecutions' Unit anticipated expenditures associated with marijuana-related training activities in FY 2016-17. The Department supports the staff recommendation.

(1) Administration

The Administration section of the Long Bill includes central appropriations for the entire Department, including funding for employee benefits, facilities, vehicles, and information technology. This section also includes funding for the following Department sections:

- *Office of the Attorney General* - includes the Attorney General, the Chief Deputy Attorney General, the Chief of Staff, the Solicitor General, and associated administrative staff;
- *Office of Community Engagement* – created in the FY 2015-16 Long Bill, leads and supports the Departments partnership efforts with outside agencies as well as the Safe2Tell program;
- *Human Resources* - hires new employees, manages employee benefits, and consults with employees and managers regarding applicable state and federal personnel laws and regulations;
- *Financial Services/Budgeting* - includes accounting, financial reporting, payroll, and budgeting functions;
- *Information Technology Services* - handles the Department's computer needs including maintenance, computer training, and operation of the Attorney General's website; and
- *Legal Support Services* - produces a significant number of the Department's documents including legal briefs and other court-related manuscripts, distributes mail, oversees the Department's vehicle fleet, files materials with courts, and manages general office documents.

The above sections are supported by General Fund and by indirect cost assessments that are collected from the Department's various sections and transferred as reappropriated funds to this section. The central appropriations that relate to the entire department reflect the same funding sources that support each section within the Department.

JBC Staff Figure Setting: FY 2016-17
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Administration						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2015-16 Appropriation						
SB 15-234 (Long Bill)	\$17,643,502	\$4,243,874	\$1,412,760	\$11,619,525	\$367,343	51.0
HB 16-1244 (Supplemental)	<u>91,879</u>	<u>25,446</u>	<u>10,731</u>	<u>53,154</u>	<u>2,548</u>	<u>0.0</u>
TOTAL	\$17,735,381	\$4,269,320	\$1,423,491	\$11,672,679	\$369,891	51.0
FY 2016-17 Recommended Appropriation						
FY 2015-16 Appropriation	\$17,735,381	\$4,269,320	\$1,423,491	\$11,672,679	\$369,891	51.0
R1 Safe2Tell software	60,000	60,000	0	0	0	0.0
R2 Ralph L. Carr Center leased space	21,527	6,089	1,999	12,908	531	0.0
R5 Accounting technician III	52,632	0	0	52,632	0	1.0
Centrally appropriated line item adjustments	644,296	78,410	130,281	463,622	(28,017)	0.0
BA NP1 and NP3 OIT marijuana adjustment	73,975	0	73,975	0	0	0.0
Annualize prior year budget actions	<u>(1,431,100)</u>	<u>(383,395)</u>	<u>(111,319)</u>	<u>(906,765)</u>	<u>(29,621)</u>	<u>0.2</u>
TOTAL	\$17,156,711	\$4,030,424	\$1,518,427	\$11,295,076	\$312,784	52.2
Increase/(Decrease)	(\$578,670)	(\$238,896)	\$94,936	(\$377,603)	(\$57,107)	1.2
Percentage Change	(3.3%)	(5.6%)	6.7%	(3.2%)	(15.4%)	2.4%
FY 2016-17 Executive Request:	\$17,177,206	\$4,030,424	\$1,518,427	\$11,315,571	\$312,784	52.2
Request Above/(Below) Recommendation	\$20,495	\$0	\$0	\$20,495	\$0	(0.0)

DECISION ITEMS - ADMINISTRATION



R1 Safe2Tell Software

Request: With R1, the Department requests an increase of \$60,000 General Fund in FY 2016-17 (ongoing in subsequent years) to support the Department's contract for anonymous tip reporting software for the Safe2Tell Program.

Recommendation: Staff recommends approving the request. The software is central to Safe2Tell's operations, the contract is in place, and the Department reports that the new software is working well. While the Department has been able to support the contract in the current year with temporary vacancy savings (holding positions open), that is not a viable solution for the long term and the additional appropriation is necessary for FY 2016-17.

Analysis:

Background - Safe2Tell

The Safe2Tell Program provides students and the community with a means to anonymously report information concerning unsafe, potentially harmful, dangerous, violent, or criminal activities – or the threat of these activities – to appropriate law enforcement and public agencies and school officials. Prior to FY 2014-15, Safe2Tell operated as a 501(c)(3) not-for-profit organization. The program was exclusively supported by private grants until FY 2008-09, when the General Assembly approved a request from the Department of Public Safety to provide funding and 1.0 FTE to support the Program Director. In FY 2009-10, the General Assembly approved a request to move the program/director from the Department of Public Safety to the Department of Law. The program continued to operate through FY 2013-14 as a non-profit, with only the Director supported by state funds. The enactment of S.B. 14-002 repealed and reenacted the statutes related to Safe2Tell and recreated the program as a state program within the Department of Law, with a total of 4.0 FTE (including the Director).

FY 2015-16 Appropriation – Safe2Tell and the Office of Community Engagement

The FY 2015-16 appropriation includes \$398,536 total funds (including \$383,536 General Fund) and 4.0 FTE specifically associated with Safe2Tell. The General Assembly also approved the Department's request to add \$196,845 General Fund and 1.8 FTE (annualizing to 2.0 FTE in FY 2016-17) to create a new Office of Community Engagement in FY 2015-16. The FY 2015-16 Long Bill consolidates Safe2Tell funding and FTE into the newly created office (see the following table).

FY 2015-16 Appropriation - Office of Community Engagement (OCE)				
Component	Total Funds	General Fund	Cash Funds	FTE
Safe2Tell Program	\$398,536	\$383,536	\$15,000	4.0
New OCE Staff	<u>196,845</u>	<u>196,845</u>	<u>0</u>	<u>1.8</u>
Total FY 2015-16 OCE Budget	\$595,381	\$580,381	\$15,000	5.8

Tip Reporting Software

Safe2Tell uses encrypted and anonymous web-based database software to facilitate the intake of information from students and the transfer of intelligence information to local jurisdictions (including schools and law enforcement). Dispatch and communication centers use the software to capture information from reporting parties through phone calls, web based reports, mobile apps, and text message tips. The software allows for two-way dialogue with reporting parties, the collection of standardized information, and the direct transfer of necessary information to local authorities.

Through FY 2014-15, Safe2Tell used software developed in collaboration with a vendor roughly twelve years ago when the program was operating as an independent non-profit. The vendor supported the software for \$10,000 per year. As a result, the Safe2Tell Program's base budget includes \$10,000 General Fund for the support of tip reporting software. Several years ago, the original vendor sold the software product to a second vendor, who continued to support the software for \$10,000 per year through the end of FY 2014-15.

In FY 2014-15, the Department decided that new software was necessary based on a desire for additional software upgrades and a lack of responsiveness from the existing vendor. The Department submitted a budget amendment (FY 2015-16 BA1) requesting an increase of \$50,000 General Fund (for a total of \$60,000 to support the tip software, including the \$10,000 in base budget) to support new software. Based on uncertainty regarding the status of the Department's contracting process and the necessary cost of the system at the time, the Committee denied the request for additional funding in the FY 2015-16 Long Bill and asked the Department to return with more complete information regarding the necessary cost of the system.

The Department signed a contract for the new software system on May 27, 2015, effective June 1, 2015. The Department and the vendor tested the new system and trained staff from June 1 to July 1 and officially started the system July 1, 2015. The contract requires a total payment of \$72,500 in FY 2015-16 (\$62,500 above the \$10,000 included in the base budget) and \$70,000 per year in FY 2016-17 and FY 2017-18 (\$60,000 per year above the base budget).

The Department reports that the new system is working very well. According to the Department, the new system allows for faster communication and relay of information, the new mobile "apps" are very popular and allow for better collection of evidence and intelligence (e.g., through the submission of photos, videos, and "screen shots"), and the Department is receiving more reports than in prior years.

FY 2015-16 Supplemental and FY 2016-17 Budget Requests

Given the timing of the contracting process, the Department did not have updated cost information in time for the original FY 2015-16 appropriation but moved forward with the contract based on the need to have a new system in place for the 2015-16 school year. As a result, the Department requested increases of \$62,500 General Fund as a supplemental for FY 2015-16 and \$60,000 per year in subsequent years.

As discussed during the FY 2015-16 supplemental process, the Department had already taken proactive measures (holding positions open to create vacancy savings) to support the costs of the system without an increase in funds in FY 2015-16. However, as was also discussed during the supplemental process, those measures are not viable beyond FY 2015-16 without impacting departmental operations. Based on the need to sustain the contract going forward, staff recommends approving the requested increase for FY 2016-17.



R2 Ralph L. Carr Center Leased Space

Request: The Department requests an increase of \$113,406 total funds (including \$31,535 General Fund) above the *original FY 2015-16 appropriation* to support additional leased space within the Ralph L. Carr Colorado Judicial Center (Carr Center) in FY 2016-17. The request represents an increase of \$21,527 total funds (including 6,089 General Fund) above the FY 2015-16 appropriation as adjusted by the Department's FY 2015-16 supplemental bill (H.B. 16-1244). The incremental increase in FY 2016-17 (above the supplemental appropriation) would allow the Department to secure additional space to build out a dedicated computer training room to support a variety of training activities, including: new employee orientation; continuing legal

education (CLE) and professional development requirements; Department of Law Training Program classes on a variety of topics; monthly software training programs; and a variety of other activities.

Recommendation: Staff recommends approving the request. The Department has already secured and occupied the additional office space addressed through the FY 2015-16 supplemental. Based on the Department's frequent need for training facilities and the current requirement to set up and "tear down" training facilities for each training event, staff recommends approving the incremental increase to allow the Department to establish a dedicated room for training in FY 2016-17. The following table shows the impact of the request and staff recommendation, including the impact of the FY 2015-16 supplemental appropriation and the incremental impact of the request and recommendation for FY 2016-17.

R2 - Carr Center Leased Space						
	Square Footage*	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds
<u>Approved FY 2015-16 Supplemental</u>						
Original FY 2015-16 Appropriation	205,690	\$3,034,238	\$840,388	\$354,368	\$1,755,344	\$84,138
Approved Supplemental	<u>6,154</u>	<u>91,879</u>	<u>25,446</u>	<u>10,731</u>	<u>53,154</u>	<u>2,548</u>
Current FY 2015-16 Appropriation	211,844	\$3,126,117	\$865,834	\$365,099	\$1,808,498	\$86,686
<u>FY 2016-17 Department Request</u>						
Current FY 2015-16 Appropriation	211,844	\$3,126,117	\$865,834	\$365,099	\$1,808,498	\$86,686
Anticipated Carr Center Adjustment	0	54,873	18,575	(7,625)	44,171	(248)
R2 - Carr Center Leased Space	<u>1,307</u>	<u>21,527</u>	<u>6,089</u>	<u>1,999</u>	<u>12,908</u>	<u>531</u>
Total FY 2016-17 Request	213,151	\$3,202,517	\$890,498	\$359,473	\$1,865,577	\$86,969

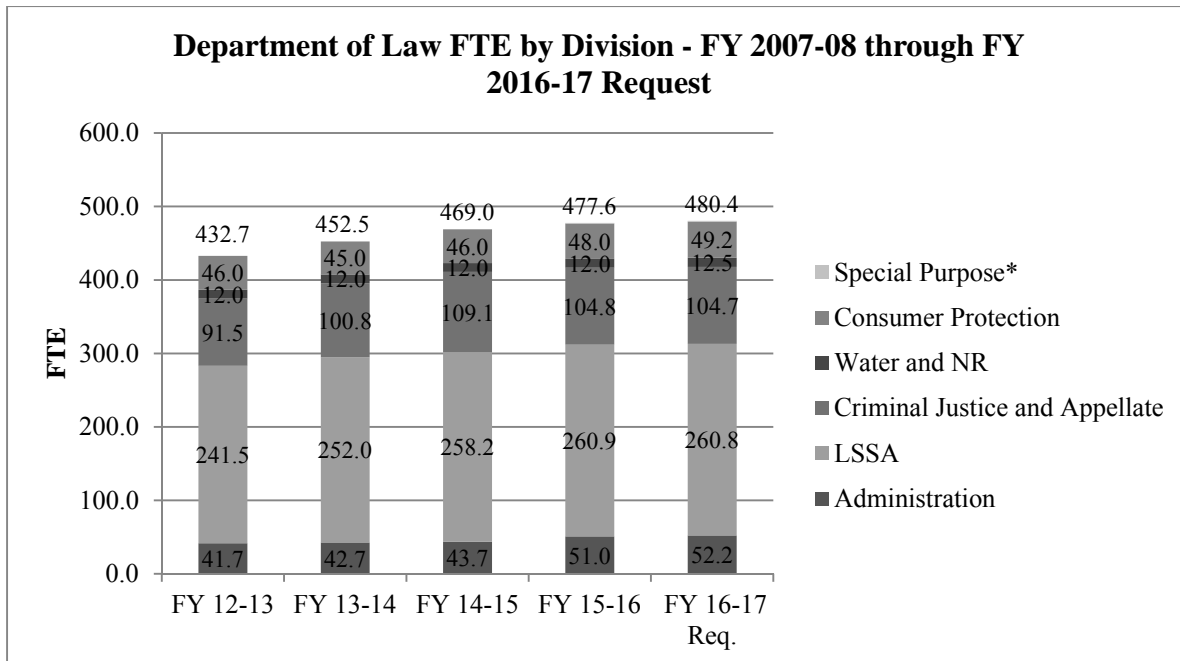
* Includes 5,529 square feet of storage space each year, at a cost of \$8.29 per square foot in FY 2015-16 and estimated cost of \$8.44 per square foot in FY 2016-17.

Analysis:

Background

The Department of Law moved into the Carr Center when the building opened in January 2013. Since that time, the Department has occupied floors six through 10 (a total of approximately 200,161 square feet of office space) and 5,529 square feet of storage space in the building. When the Department moved into the building, management anticipated that this amount of space would be sufficient for many years to come. However, the Department has grown from 432.7 appropriated FTE in FY 2012-13 to 477.6 FTE in FY 2015-16, an increase of 44.9 FTE (10.4 percent) in three years (see chart below).¹ As indicated in the chart, 19.4 of the additional FTE (43.2 percent of the increase) are in the Legal Services to State Agencies section of the Long Bill and are driven by legal services needs in client agencies, while the Criminal Justice and Appellate section has experienced an increase of 13.3 FTE over that period.

¹ For additional context, the Department added 99.2 appropriated FTE (26.2 percent) from FY 2007-08 to FY 2015-16, and the earlier growth was one reason for the move to the Carr Center in FY 2012-13.



*The Special Purpose section includes 0.9 FTE in FY 2015-16 and 1.0 FTE in the FY 2016-17 request for the Colorado Open Records and Open Meetings Law attorney added in the FY 2015-16 Long Bill.

Given current staffing levels and anticipated future growth, particularly in the Civil Litigation Unit (within the Legal Services to State Agencies section) associated with workers' compensation and Corrections legal support, the Department determined that additional space was necessary. In March 2015, the Department learned that the Office of Attorney Regulation Counsel intended to leave the Carr Center at the end of FY 2014-15, making space available as of July 1, 2015. In May 2015, the Department elected to take over the newly available space as of July 1, 2015, to acquire the new space and retain all departmental staff in the Carr Center. At that time, the Department notified JBC Staff of the intent to add office space understanding that the new space would require a supplemental request in FY 2015-16 as well as a decision item in FY 2016-17.

FY 2015-16 Supplemental

The Department added 6,154 square feet of office space as of July 1, 2015, and relocated 14 information technology support positions to the new space on the second floor of the Carr Center. The Committee approved the Department's request for a supplemental increase of \$91,879 total funds (including \$25,446 General Fund) in FY 2015-16.

FY 2016-17 Request R2 – Computer Training Room

For FY 2016-17, the request includes an increase of 7,461 square feet above the *original* FY 2015-16 appropriation and 1,307 square feet above the square footage now occupied for FY 2015-16. The Department is requesting the 1,307 additional square feet in FY 2016-17, at an estimated cost of \$19,866 total funds, to build out a dedicated computer training room to support a variety of training activities, including: new employee orientation; continuing legal education (CLE) and professional development requirements; Department of Law Training Program

classes on a variety of topics; monthly software training programs; and a variety of other training activities.

Staff assumes that the Committee intends to continue to support the additional office space approved through the FY 2015-16 supplemental and does not intend to require the Department to vacate that space in FY 2016-17. As a result, the incremental increase for the dedicated computer training room is the primary decision remaining for the Committee's consideration. Without a dedicated computer training room, the Department currently has to set up and "tear down" equipment for each training event, requiring significant information technology staff time (an estimated two hours of support per event). Based on the Department's frequent need for training for attorneys (including continuing legal education (CLE) classes among other programs) and other staff, staff recommends approving the requested increase to allow the Department to build out the dedicated space.

➔ **R5 Accountant Technician III**

Request: The Department requests an increase of \$73,127 reappropriated funds from indirect cost recoveries and 1.0 FTE in FY 2016-17 (annualizing to \$63,130 reappropriated funds in FY 2017-18) to hire an additional accounting technician within the Administration section. The Department indicates that the position is necessary to accommodate increasing accounting workload associated with growth in the Department, particularly recent increases related to workers' compensation and the Peace Officers Standards and Training (P.O.S.T.) Board marijuana grant distributions.

Recommendation: Staff recommends approving an increase of \$52,632 reappropriated funds and 1.0 FTE for FY 2016-17. The recommended changes from the request are based on two of the Committee's common policies associated with new FTE: (1) the recommendation does not fund centrally appropriated amounts associated with new FTE in the first year (a reduction of \$15,811 from the Department's request); and (2) the recommendation provides the common policy amount of \$3,473 for the purchase of office equipment and furniture (a reduction of \$5,294 from the \$8,767 requested by the Department). The following table compares the Department's request and the staff recommendation.

Request R5 - Accounting Tech III						
	FY 2016-17 Request		FY 2016-17 Staff Rec.		FY 2017-18 Impact	
	RF	FTE	RF	FTE	RF	FTE
Personal Services Costs						
Salary/Personal Services	\$42,096	0.9	\$42,096	1.0	\$42,096	1.0
PERA (10.15%)	4,273		4,273		4,273	
Medicare (1.45%)	610		610		610	
AED (4.8%)*	2,021		0		2,021	
SAED (4.75%)*	2,000		0		2,000	
STD (0.022%)*	93		0		93	

JBC Staff Figure Setting: FY 2016-17
Staff Working Document – Does Not Represent Committee Decision

Request R5 - Accounting Tech III						
	FY 2016-17 Request		FY 2016-17 Staff Rec.		FY 2017-18 Impact	
	RF	FTE	RF	FTE	RF	FTE
Estimated HLD*	<u>11,087</u>		<u>0</u>		<u>11,087</u>	
Subtotal, Personal Services	\$62,180	0.9	\$46,979	1.0	\$62,180	1.0
Operating Expenses						
Supplies (\$500)	\$500		\$500		\$500	
Computer (\$900)	900		900		0	
Office Suite Software (\$330)	330		330		0	
Office Equipment (\$8,767)**	8,767		3,473		0	
Telephone (\$450/FTE)	<u>450</u>		<u>450</u>		<u>450</u>	
Subtotal, Operating Expenses	\$10,947		\$5,653		\$950	
Total, Request R5	\$73,127	0.9	\$52,632	1.0	\$63,130	1.0

* By common policy the Committee does not generally fund these items in the first year for new FTE. These items will be addressed through common policy implementation in the second year (FY 2017-18) rather than through the personal services line item.

** The common policy amount for office furniture based on Legislative Council Staff's guidance for fiscal notes is \$3,473 rather than the \$8,767 requested by the Department to match existing furniture.

Analysis:

The Department justifies the request based on an increasing accounting workload. The Department currently has a total of 6.5 FTE dedicated to accounting and purchasing oversight, with the most recent addition being 0.5 contract administrator FTE in FY 2015-16. However, according to the request, the Department's accounting staff has not been able to keep pace with increasing accounting workload. The Department cites three major drivers of the increasing workload:

- First, the Department has experienced a growing workers' compensation workload driven by the policy decision to have the Department handle an increasing amount of the State's workers' compensation legal work (including an increase from 7,122 billable hours for workers' compensation cases in FY 2013-14 to 10,949 hours in FY 2014-15, a 54 percent increase in one year). According to the Department, workers' compensation cases are workload intensive for accounting staff because of the large number of documents and records involved, for which the Department must often pay processing and copying fees.
- Second, the Department has seen an increase in grant and contract management associated with Peace Officers Standards and Training (P.O.S.T.) Board contracts to provide training associated with marijuana. The grant awards are all reimbursable and require recipients to document and demonstrate costs incurred within the scope of the award, requiring timely review by the Department.
- Finally, As discussed above with respect to the additional Carr Center leased space, the Department has experienced significant programmatic and staffing growth in recent years, increasing the need for accounting services associated with payroll and expenses for each new FTE.

Prior to this request (R5), the Department has neither requested nor received additional accounting staff to assist with the growing workload in recent years. Staff agrees that the changes in recent years have driven a significant increase in workload for the accounting and administrative staff and recommends that the Committee approve the request (with the modifications discussed above based on the Committee's common policies regarding centrally appropriated line items and the amount provided for office furniture and equipment for new FTE).

LINE ITEM DETAIL – ADMINISTRATION

Personal Services

This line item provides funding to support personal services expenditures in the Administration section. Like all subsequent personal services appropriations in this document, this appropriation funds salaries of regular employees, as well as the associated state contribution to the Public Employees Retirement Association (PERA) and the state share of federal Medicare taxes. Also included are wages of temporary employees, payments for contracted services, and termination/retirement payouts for accumulated vacation and sick leave.

Statutory Authority: Section 24-31-101 and 102, C.R.S.

Request: The Department requests \$3,821,108 reappropriated funds and 46.2 FTE for FY 2016-17. The request includes the following increases above the FY 2015-16 appropriation:

- \$71,629 to annualize the FY 2015-16 salary survey and merit pay; and
- \$62,180 and 1.0 FTE associated with request R5 (Accountant Technician III, discussed above).

Recommendation: Staff recommends approving an appropriation of \$3,805,907 reappropriated funds and 46.2 FTE for FY 2016-17. The recommendation includes the following increases above the FY 2015-16 appropriation: (1) \$71,629 to annualize the FY 2015-16 salary survey and merit pay as requested; and (2) \$46,979 and 1.0 FTE associated with request R5 (Accountant Technician III, discussed above), a reduction of \$15,201 from the request based on the Committee's common policies. The following table details the recommended change from the FY 2015-16 appropriation.

Administration, Personal Services				
	Total Funds	General Fund	Reappropriated Funds	FTE
FY 2015-16 Appropriation				
SB 15-234 (Long Bill)	<u>\$3,687,299</u>	<u>\$0</u>	<u>\$3,687,299</u>	<u>45.2</u>
TOTAL	\$3,687,299	\$0	\$3,687,299	45.2
FY 2016-17 Recommended Appropriation				
FY 2015-16 Appropriation	\$3,687,299	\$0	\$3,687,299	45.2

JBC Staff Figure Setting: FY 2016-17
Staff Working Document – Does Not Represent Committee Decision

Administration, Personal Services				
	Total Funds	General Fund	Reappropriated Funds	FTE
R5 Accounting tech III	46,979	0	46,979	1.0
Annualize prior year budget actions	<u>71,629</u>	<u>0</u>	<u>71,629</u>	<u>0.0</u>
TOTAL	\$3,805,907	\$0	\$3,805,907	46.2
Increase/(Decrease)	\$118,608	\$0	\$118,608	1.0
Percentage Change	3.2%	0.0%	3.2%	2.2%
FY 2016-17 Executive Request:	\$3,821,108	\$0	\$3,821,108	46.2
Request Above/(Below) Recommendation	\$15,201	\$0	\$15,201	0.0

Office of Community Engagement

Created in FY 2015-16, this line item supports statewide community engagement efforts, including 2.0 FTE added in the FY 2015-16 appropriation to lead a newly created Office of Community Engagement as well as 4.0 FTE dedicated to the Safe2Tell program (which had been funded as a separate line item prior to FY 2015-16). The office is charged with improving relationships with partner organizations and agencies regarding domestic violence prevention, consumer protection outreach and education, safe communities and safe schools, and anti-human trafficking efforts.

The Safe2Tell program, now included in the Office of Community Engagement, provides students and the community with a means to anonymously report information concerning unsafe, potentially harmful, dangerous, violent, or criminal activities – or the threat of these activities – to appropriate law enforcement and public safety agencies and school officials. Safe2Tell also makes presentations to students and communities around the state to educate youth about the dangers of the "Code of Silence" which often keeps children from telling authorities of potential dangers. The appropriation includes \$15,000 cash funds from the Safe2Tell Cash Fund, from payments by school districts and other entities requesting educational materials from the Safe2Tell program

Statutory Authority: Sections 24-31-601 and 24-31-103 (3), C.R.S.

Request: The Department requests \$657,116 total funds (including \$642,116 General Fund and \$15,000 cash funds from the Safe2Tell Cash Fund) and 6.0 FTE for FY 2016-17. The request includes the following changes from the FY 2015-16 appropriation:

- An increase of \$60,000 General Fund associated with request R1 (Safe2Tell Software, discussed above);
- An increase of \$6,075 General Fund to annualize FY 2015-16 salary survey and merit pay; and
- A decrease of \$4,340 and an increase of 0.2 FTE to annualize FY 2015-16 BA1 (Office of Community Engagement).

JBC Staff Figure Setting: FY 2016-17
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Recommendation: Staff recommends approving the request, including the \$60,000 General Fund increase requested through R1 (Safe2Tell Software, discussed above). The remainder of the request is in accordance with the Committee's common policies. The following table summarizes the recommended changes from the FY 2015-16 appropriation.

Administration, Office of Community Engagement				
	Total Funds	General Fund	Cash Funds	FTE
FY 2015-16 Appropriation				
SB 15-234 (Long Bill)	<u>\$595,381</u>	<u>\$580,381</u>	<u>\$15,000</u>	<u>5.8</u>
TOTAL	\$595,381	\$580,381	\$15,000	5.8
FY 2016-17 Recommended Appropriation				
FY 2015-16 Appropriation	\$595,381	\$580,381	\$15,000	5.8
R1 Safe2Tell software	60,000	60,000	0	0.0
Annualize prior year budget actions	<u>1,735</u>	<u>1,735</u>	<u>0</u>	<u>0.2</u>
TOTAL	\$657,116	\$642,116	\$15,000	6.0
Increase/(Decrease)	\$61,735	\$61,735	\$0	0.2
Percentage Change	10.4%	10.6%	0.0%	3.4%
FY 2016-17 Executive Request:	\$657,116	\$642,116	\$15,000	6.0
Request Above/(Below) Recommendation	\$0	\$0	\$0	0.0

Health, Life, and Dental

This line item provides funding for the employer's share of the cost of group benefit plans providing health, life, and dental insurance for state employees.

Statutory Authority: Pursuant to Section 24-50-611, C.R.S., and defined in Section 24-50-603 (9), C.R.S.

Request: The Department requests \$3,789,903 total funds for FY 2016-17, an increase of \$234,770 from the FY 2015-16 appropriation.

Recommendation: Staff recommends approving the request for FY 2016-17, consistent with Committee policy with respect to employer contribution rates.

Short-term Disability

This line item provides funding for the employer's share of state employees' short-term disability insurance premiums.

Statutory Authority: Pursuant to Section 24-50-611, C.R.S., and defined in Section 24-50-603 (13), C.R.S.

Request: The Department requests \$75,164 total funds for FY 2016-17, a decrease of \$9,550 from the FY 2015-16 appropriation.

Recommendation: Staff recommends approving the request for FY 2016-17, which is consistent with the Committee's common policy to apply a rate of 0.19 percent of employee salaries.

S.B. 04-257 Amortization Equalization Disbursement (AED)

Pursuant to S.B. 04-257, this line item provides additional funding to increase the state contribution for the Public Employees' Retirement Association (PERA).

Statutory Authority: Section 24-51-411, C.R.S.

Request: The Department requests \$1,898,869 total funds for FY 2016-17, an increase of \$204,579 from the FY 2015-16 appropriation.

Recommendation: Staff recommends approving the request for FY 2016-17, which is consistent with the Committee's common policy to apply a contribution rate of 4.8 percent of base salaries.

S.B. 06-235 Supplemental Amortization Equalization Disbursement (SAED)

Pursuant to S.B. 06-235, this line item provides additional funding to increase the state contribution for PERA.

Statutory Authority: Section 24-51-411, C.R.S.

Request: The Department requests \$1,879,090 total funds for FY 2016-17, an increase of \$242,560 from the FY 2015-16 appropriation.

Recommendation: Staff recommends approving the request, based on the Committee's common policy to apply a contribution rate of 4.75 percent to base salaries.

Background Information – Salaries for Classified and Exempt Employees. The Department of Law employs both classified and non-classified or "exempt" employees. Classified employees are governed by state personnel rules and procedures; exempt employees are not. The Department employs about 283 attorney FTE, who collectively make up about 59 percent of the Department's staff. These attorneys are all exempt employees, and the remaining 41 percent of the Department's staff are classified employees.

Salary Survey and Merit Pay for classified employees, when provided, are set by common policy. Thus, staff has calculated the following recommendations for Salary Survey and Merit Pay increases for classified employees in the same manner as all other classified employees.

The Department of Personnel's "Annual Compensation Survey Report" does not include compensation data related to attorneys. In order to evaluate the compensation for its attorneys, the Department annually contracts with an independent compensation research and consulting firm to assess market compensation practices for attorneys in comparable positions in Colorado

public sector attorney organizations. For the 2015 survey, the Department, the Office of the State Public Defender (OSPD), and the Office of Legislative Legal Services contracted to conduct a joint salary survey.

The latest survey, prepared by the Fox Lawson Group (FLG), was published in September 2015. This study utilized data reported as of July 1, 2015 for a "primary market" that includes:

- Front Range City Attorney Offices (participants included the cities of: Arvada, Aurora, Boulder, Broomfield, Colorado Springs, Denver, Greeley, Lakewood, Littleton, and Westminster);
- Front Range County Attorney Offices (participants included the counties of: Arapahoe, Boulder, Douglas, and Jefferson); and
- The United States Office of the Attorney General.

This study also utilized data for a "supplementary market" that includes:

- Judicial Districts (participants included the following districts: 1st (Jefferson and Gilpin counties); 4th (El Paso and Teller); 8th (Larimer and Jackson); 9th (Garfield, Pitkin, and Rio Blanco); 10th (Pueblo); 17th (Adams and Broomfield); 18th (Arapahoe and Douglas); and 20th (Boulder));
- Public Defender's Offices for the City of Aurora and the City and County of Denver; and
- The Office of the State Public Defender.

The study compares the Department's actual attorney salaries and salary ranges as of July 2014 to the primary market data (which reflects survey participants' salary data as of July 1, 2014). Thus, to the extent that the study's primary market data is used to determine Department salaries as of July 2015, such salaries will lag the market by 12 months.

After four years without funding attorney salary survey and merit pay during the recent economic downturn (FY 2009-10 through FY 2012-13), the 2012 FLG survey indicated that the Department's salaries were well below the market. For FY 2013-14, the General Assembly appropriated \$4.1 million for salary survey increases for the Department's attorneys in an effort to improve parity with the market. As a result, the 2013 survey found that the Department's *average attorney* salaries were competitive with the market for the first time since 2009. In FY 2014-15 and FY 2015-16, the General Assembly appropriated smaller amounts to maintain parity with the market based on each year's survey results.

This year's (2015) survey found that the Department's average attorney salaries and salary ranges are competitive with (though below) the market. The Department's overall average salaries are 4.2 percent below the primary market, with differences ranging from 7.9 percent below the market for deputy attorney general positions to 6.0 percent *above* the market for assistant attorney general positions. Overall, the midpoints of the Department's existing pay ranges are 8.3 percent below those of the primary market (based on the responding agencies); these gaps in pay range midpoints range from 3.8 percent below the market for Senior Assistant Attorney General positions to 13.1 percent below the primary market for Attorney I positions

(which the Department uses for new hires that have recently graduated from law school). The Department's salary midpoints are 7.6 percent below the market if the Attorney I positions are omitted from the analysis.

The following table details these two types of salary comparisons, based on the 2015 FLG study for each attorney classification. Negative percentages indicate a position below the market, while positive percentages indicate a position above the market. Please note that the survey is comparing current year Department salaries to prior year market data.

2015 Fox Lawson & Associates Salary Survey Report for the Department of Law						
Benchmark Job Title	Average Actual Salaries			Salary Range Midpoints		
	Dept. Average	Primary Market Average	Percent Difference	Dept. Average	Primary Market Average	Percent Difference
Deputy Attorney General	\$153,601	\$165,702	-7.9%	\$145,694	\$164,447	-12.9%
1st Assistant Attorney General	130,107	138,655	-6.6%	128,725	135,060	-4.9%
Senior Attorney General	113,290	117,909	-4.1%	111,516	115,717	-3.8%
Assistant Attorney General	86,751	81,551	6.0%	86,147	92,922	-7.9%
Attorney I	69,544	70,280	-1.1%	69,544	78,621	-13.1%
Average Salary Difference			-4.2%			-8.3%

In parity with the Executive Branch common policy for classified employees, the Department's FY 2016-17 budget request does not include any funding for attorney salary survey or merit pay. While this year's FLG survey recommended both pay increases and pay range shifts to maintain parity with the market, the Department's request does not include such changes for FY 2016-17. As discussed below, staff notes that not providing incremental salary increases for an extended period can require a much larger increase to "catch up" to the market when revenues are available (as demonstrated by the \$4.1 million salary survey increase required in FY 2013-14).

Salary Survey for Classified Employees

The Department uses this line item to pay for salary increases for *classified* employees.

Statutory Authority: Section 24-50-104 (4) (c), C.R.S.

Request: The Department requests \$8,276 total funds for FY 2016-17. The request would cover increases related to employee salary adjustments for classified employees below the requested salary range minimums. The request does not include an across-the-board salary survey increase.

Recommendation: Staff recommends approving the request, pursuant to the Committee's common policy.

Salary Survey for Exempt Employees

The Department uses this line item to pay for salary increases for employees who are *exempt from the state personnel system (attorneys)*.

Statutory Authority: Section 24-50-104 (4) (c), C.R.S.

Request: In accordance with the Executive Branch common policy for classified employees, the Department is not requesting any salary survey increases for attorneys.

Recommendation: Based on anticipated revenue constraints in FY 2016-17 and an effort to treat attorneys and classified staff equitably, staff recommends approving the request (which is consistent with the Committee’s common policy for classified employees). However, staff also recommends that the Committee provide funding for attorney salary increases in order to maintain parity with the market as soon as revenues allow. As demonstrated by the need for a \$4.1 million appropriation in FY 2013-14 to “catch up” after four years of not providing salary increases, achieving parity after an extended period is difficult. Staff also notes that if and when the General Assembly does provide salary increases for the attorneys at the Department of Law, staff would also recommend providing comparable increases to attorneys at the Office of the State Public Defender in order to maintain parity between the two agencies.

Merit Pay for Classified Employees

This line item funds pay increases relating to employee performance evaluations for *classified* employees.

Statutory Authority: Section 24-50-104 (1) (c), C.R.S.

Request: The Department is not requesting any merit pay funds for FY 2016-17, pursuant to the Governor’s common policies for FY 2016-17.

Recommendation: Staff recommends approving the request, pursuant to the Committee’s common policy.

Merit Pay for Exempt Employees

This line item funds pay increases relating to employee performance evaluations for employees who are *exempt from the state personnel system (attorneys)*.

Statutory Authority: Section 24-50-104 (1) (c), C.R.S.

Request: The Department is not requesting any merit pay funds for FY 2016-17, pursuant to the Governor’s common policies for classified staff for FY 2016-17.

Recommendation: Staff recommends approving the request, which is consistent with the Committee’s common policies for classified employees.

Workers' Compensation

This line item supports the Department's estimated share for inclusion in the state's workers' compensation program for state employees. This program is administered by the Department of Personnel and Administration.

Statutory Authority: Section 24-30-1510.7, C.R.S.

Request: The Department requests \$108,820 total funds for FY 2016-17.

Recommendation: The staff recommendation is pending the development of the Committee's common policies for FY 2016-17.

Attorney Registration and Continuing Legal Education

This line item provides funding for the Department to cover the annual registration fee for each attorney (\$325 per attorney) and to provide some funding for required continuing legal education expenses (\$150 per attorney). This line item was established in FY 2008-09 in response to a request from the Department, and it is designed to make the salary and benefit package offered by the Department more competitive with other public sector law firms.

Statutory Authority: Section 24-31-101 (6), C.R.S.

Request: The Department requests \$135,280 total funds for FY 2016-17, an increase of \$5,367 total funds relative to the FY 2015-16 appropriation to align with anticipated expenditures in FY 2016-17.

Recommendation: Staff recommends approving the request based on the assumption that the Committee intends to continue to provide \$325 per attorney to cover the annual registration fee and an average of \$150 per attorney for continuing legal education expenses.

Operating Expenses

This line item provides funding for operating expenses of the Administration section. The reappropriated funds are from indirect cost recoveries.

Statutory Authority: Section 24-31-101 (6), C.R.S.

Request: The Department requests \$208,144 reappropriated funds for FY 2016-17. The request includes the following changes from the FY 2015-16 appropriation:

- An increase of \$10,947 reappropriated funds associated with FY 2016-17 request R5 (Accountant Technician III, discussed above);
- A decrease of \$4,703 reappropriated funds to annualize FY 2015-16 request R4 (Contract Administrator); and
- A decrease of \$4,703 reappropriated funds to annualize FY 2015-16 request BA3 (Legislative Liaison).

Recommendation: Staff recommends an appropriation of \$202,850 reappropriated funds, including an increase of \$5,653 associated with request R5 (Accountant Technician III, discussed above). The recommendation is \$5,294 below the request because, as discussed above with respect to request R5, the recommendation provides the common policy amount for office furniture for new FTE. The recommendation includes the requested changes to annualize FY 2015-16 decision items.

Legal Services

This line item, first created in the Department's FY 2014-15 supplemental bill, provides appropriations for anticipated legal services expenses for both Safe2Tell and the Peace Officers Standards and Training (P.O.S.T.) Board, the two Department of Law programs expected to utilize legal services in FY 2016-17.

Statutory Authority: Section 24-31-101, C.R.S.

Request: The Department requests \$39,518 for FY 2016-17, based on an estimated need for 200 hours of legal services for the Safe2Tell Program within the Office of Community Engagement (\$19,002 General Fund) and 211 hours of legal services for the P.O.S.T. Board (\$20,047 cash funds).

Recommendation: Staff recommends approving funding sufficient to purchase 411 hours of legal services based on the anticipated need for legal services for Safe2Tell (200 hours supported by General Fund) and P.O.S.T. (211 hours supported by cash funds) in FY 2016-17. The recommendation for the dollar amount is pending the Committee's setting of a legal services rate for FY 2016-17. The associated appropriation will be calculated after the Committee sets the common policy for the legal services rate.

Administrative Law Judge Services

This line item provides funding for the Department to purchase Administrative Law Judge services from the Department of Personnel and Administration.

Statutory Authority: Sections 24-30-1001 (3) and 24-30-1002, C.R.S.

Request: The Department requests \$1,609 cash funds for FY 2016-17, a reduction of \$5,140 from the FY 2015-16 appropriation.

Recommendation: The staff recommendation is pending the development of the Committee's common policy for this line item for FY 2016-17.

Payment to Risk Management and Property Funds

This line item provides funding for the Department's share of the statewide costs for two programs operated by the Department of Personnel: (1) the liability program, and (2) the property program. The state's liability program is used to pay liability claims and expenses

brought against the State. The property program provides insurance coverage for state buildings and their contents.

Statutory Authority: Sections 24-30-1510 and 24-30-1510.5, C.R.S.

Request: The Department requests \$277,503 total funds for FY 2016-17. The request represents an increase of \$107,593 total funds from the FY 2015-16 appropriation.

Recommendation The staff recommendation is pending the development of the Committee's common policies for this line item for FY 2016-17.

Vehicle Lease Payments

This line item provides funding for annual payments to the Department of Personnel for the cost of administration, loan repayment, and lease-purchase payments for new and replacement motor vehicles [see Section 24-30-1117, C.R.S.]. The current appropriation covers costs associated with a total of 32 vehicles, including 16 that are used by the Criminal Justice and Appellate Division, nine that are used by the Legal Services for State Agencies Division, five that are used by the Consumer Protection Division, one that is used by the Office of Community Engagement, and one that is used by the Attorney General.

Statutory Authority: Section 24-30-1104 (2), C.R.S.

Request: The Department requests \$46,619 total funds for FY 2016-17, a decrease of \$23,797 relative to the FY 2015-16 appropriation.

Recommendation: The staff recommendation is pending the development of the Committee's common policies for vehicle lease payments for FY 2016-17.

IT Asset Maintenance

This appropriation funds the maintenance and replacement of computer equipment as well as software maintenance and licensing agreements. The requested amount provides for the replacement of the Department's information technology according to a regular schedule in accord with guidelines established by the Governor's Office of Information Technology.

Statutory Authority: Sections 24-37.5-108 and 112, C.R.S.

Request: The Department requests \$645,206 total funds in FY 2016-17, a continuation of the funding level in FY 2015-16.

Recommendation: Staff recommends approving the request. The request represents the amount necessary for the Department's information technology maintenance plan in FY 2016-17.

Ralph L. Carr Colorado Judicial Center Leased Space

Created in FY 2013-14 to reflect the Department's relocation to the Ralph L. Carr Colorado Judicial Center (Carr Center), this line item supports the Department's lease payments for space in the building. As of July 1, 2015, and as discussed during the FY 2015-16 supplemental

process (as well as with request R2, discussed above), the Department now occupies 211,844 square feet in the Carr Center. This line item also supports the Department's share of State Patrol security services at the Carr Center.

Statutory Authority: Section 13-32-101 (7), C.R.S.

Request: The Department requests \$3,202,517 total funds for this line item, reflecting the anticipated lease payment in FY 2016-17. The request includes the following increases above the FY 2015-16 appropriation (as adjusted by the Department's FY 2015-16 supplemental bill, which provided an increase of \$91,879 total funds for FY 2015-16):

- \$21,527 total funds (including \$6,089 General Fund) associated with FY 2016-17 request R2 (Ralph L. Carr Center Leased Space, discussed above); and
- \$54,873 total funds based on revised estimates of lease rates from the Judicial Branch based on the Department's prior use of space.

Recommendation: Staff's recommendation for the dollar amount of this appropriation is pending. Staff will ultimately reflect the amounts approved by the Committee when it considers the Judicial Branch budget request related to the Carr Center and the Department of Public Safety's budget request for State Patrol Services. However, as discussed above, staff does recommend approving the additional funding requested through request R2 to allow the Department to continue to occupy the additional space secured in FY 2015-16 and to develop the dedicated training room requested for FY 2016-17.

Payments to OIT

This line item, created in FY 2014-15, supports various payments to the Governor's Office of Information Technology (OIT) for services provided to the Department. The line item includes funds previously appropriated to a variety of line items associated with OIT.

Statutory Authority: Section 24-37.5-104, C.R.S.

Request: The Department requests \$313,746 total funds for payments to OIT in FY 2016-17, a decrease of \$131,219 total funds below the FY 2015-16 appropriation. The request includes the following changes from the FY 2015-16 appropriation:

- An increase of \$73,975 cash funds from the Marijuana Tax Cash Fund associated with two non-prioritized budget amendments related to marijuana funding (BA NP1 and BA NP3); and
- A net decrease of \$205,194 total funds associated with the Department's share of other (non-marijuana) payments to OIT.

Recommendation: The staff recommendation for this line item is pending the development of the Committee's common policy for Payments to OIT.

CORE Operations

This line item provides the Department's share of funding for replacement of the statewide accounting system (COFRS) used by the Office of the State Controller to record all state revenues and expenditures.

Statutory Authority: Section 24-30-209, C.R.S.

Request: The Department requests \$63,718 total funds for this purpose for FY 2016-17, an increase of \$4,643 above the FY 2015-16 appropriation.

Recommendation: The staff recommendation for this line item is pending the development of the Committee's common policy for CORE operations.

Attorney General Discretionary Fund

Section 24-9-105 (1) (c), C.R.S., authorizes the General Assembly to appropriate \$5,000 of discretionary funds to the Attorney General to use for official business purposes.

Statutory Authority: Section 24-9-105 (1) (c), C.R.S.

Request: The Department requests continuation of the \$5,000 General Fund appropriation.

Recommendation: Staff recommends approving the request.

LINE ITEMS SHOWN IN THE NUMBERS PAGES BECAUSE OF PRIOR YEAR FUNDING

The Department is not requesting, and staff is not recommending, funding for the following line items for FY 2016-17. However, the line items remain in the numbers pages at the end of this document because of funding provided in prior years.

Purchase of Services from Computer Center

This line item provided funding for the Department's share of statewide computer services provided by the Governor's Office of Information Technology. In FY 2014-15, the Committee eliminated this line item and consolidated the funding into the "Payments to OIT" line item in the FY 2014-15 Long Bill.

Colorado State Network

This line item provided funding for the Department's share of the costs of the State's data, voice, video, text, and graphics communication services. In FY 2014-15, the Committee eliminated this line item and consolidated the funding into the "Payments to OIT" line item in the FY 2014-15 Long Bill.

Communication Services Payments

This line item provided funding to pay the Governor's Office of Information Technology for the Department's share of the costs associated with operating the public safety communications infrastructure. In FY 2014-15, the Committee eliminated this line item and consolidated the funding into the "Payments to OIT" line item in the FY 2014-15 Long Bill.

(2) Legal Services to State Agencies

The Legal Services to State Agencies (LSSA) section of the Long Bill provides appropriations to the Department to allow it to spend moneys received from other state agencies for the provision of legal services as required by Section 24-31-101, C.R.S. Since 1973, the General Assembly has appropriated moneys for legal services to the various state agencies, which in turn purchase services from the Department of Law at hourly rates. The Department of Law collects payments from these agencies when it provides legal services. In order to spend the money it receives to pay salaries and related expenses, the Department of Law also requires an appropriation. Thus, whenever the General Assembly makes an appropriation to a state agency for legal services, an equal appropriation must be made to the Department of Law so it can spend the money it receives. For example, for FY 2015-16, the General Assembly has authorized the Department of Law to spend up to \$39.0 million providing legal services to state agencies (including associated central appropriations).

In most cases, the appropriation to the Department of Law is classified as reappropriated funds because a duplicate appropriation for the purchase of legal services appears in the client agency's budget. In some instances, however, the Department receives payments from state agencies that are not duplicated in appropriations elsewhere in the budget (*e.g.*, payments from PERA). When received, these payments are classified as cash funds.

Please note that FTE that are funded through this section of the Long Bill have been organized into seven sections based on subject matter expertise and the need to separate staff where ethical conflicts of interest exist. Seven Deputy Attorneys General oversee each of these sections. Five of the seven Deputy Attorneys General are funded through this Long Bill section; the remaining two are funded through the Criminal Justice and Appellate, and Consumer Protection sections of the Long Bill.

The Department evaluates its performance as legal counsel and advisor to the other state agencies through an annual customer satisfaction survey. The Department has exceeded its goal of 95 percent of client agencies satisfied or very satisfied with the Department's performance in each of the past three years (including 96.6 percent in FY 2014-15).

Legal Services to State Agencies						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2015-16 Appropriation						
SB 15-234 (Long Bill)	\$31,710,423	\$0	\$982,904	\$30,727,519	\$0	260.2
Other legislation	159,893	0	0	159,893	0	0.7
H.B. 15-1367 Contingent appropriations	<u>2,835</u>	<u>0</u>	<u>0</u>	<u>2,835</u>	<u>0</u>	<u>0.0</u>
TOTAL	\$31,873,151	\$0	\$982,904	\$30,890,247	\$0	260.9

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Legal Services to State Agencies						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2016-17 Recommended Appropriation						
FY 2015-16 Appropriation	\$31,873,151	\$0	\$982,904	\$30,890,247	\$0	260.9
Annualize prior year budget actions	929,524	0	0	929,524	0	0.0
Indirect cost assessment adjustments	324,378	0	1,317,096	(992,718)	0	0.0
LSSA appropriation adjustment	(544,034)	0	0	(544,034)	0	0.0
Annualize prior year legislation	<u>(36,138)</u>	<u>0</u>	<u>0</u>	<u>(36,138)</u>	<u>0</u>	<u>(0.1)</u>
TOTAL	\$32,546,881		\$2,300,000	\$30,246,881	\$0	260.8
Increase/(Decrease)	\$673,730	\$0	\$1,317,096	(\$643,366)	\$0	(0.1)
Percentage Change	2.1%	0.0%	134.0%	(2.1%)	0.0%	(0.0%)
FY 2016-17 Executive Request:	\$32,546,881	\$0	\$2,300,000	\$30,246,881	\$0	260.8
Request Above/(Below) Recommendation	\$0		\$0	\$0	\$0	(0.0)

LINE ITEM DETAIL – LEGAL SERVICES TO STATE AGENCIES

Personal Services

The appropriation in the Long Bill for personal services in the LSSA section is a reflection of the State's need for legal services. The LSSA section has two types of employees who bill client agencies: attorneys and legal assistants. Each "billing" attorney and legal assistant provides 1,800 hours of legal services annually². All attorneys bill at a uniform hourly attorney rate, and all legal assistants bill at a uniform hourly legal assistant rate. The "blended" legal rate is a weighted average of these two rates, which is used to compute the appropriations to other state agencies for the purchase of legal services.

Once the Committee has acted on all state agencies' requests for legal services hours for FY 2016-17, staff will present a memorandum that describes the calculation of the hourly rates applicable for FY 2016-17 and the appropriations required by the Department to provide the legal services. Staff will ask the Committee at that time to approve a blended hourly rate that will then be used to calculate Long Bill appropriations for the purchase of legal services for FY 2016-17. Based on the Department of Law's budget request and the common policies adopted by the Committee to date concerning increases for employee salaries and in the state contributions for insurance and retirement benefits, the blended hourly rate is projected to increase to \$96.15 (1.2 percent).

Statutory Authority: Section 24-31-101 (1) (a), C.R.S.

² When annual leave and state holidays are taken into account, an individual needs to bill 7.5 hours/day to bill a total of 1,800 hours per year. The Department's personnel evaluations are based, in part, on the number of hours billed. The Department indicates that most attorneys work more than eight hours per day or periodically work on weekends or holidays to achieve this billing objective.

Request: The Department requests \$27,145,203 and 260.8 FTE for FY 2016-17. The request is largely impacted by annualization of funding provided for FY 2015-16 and the Department's November 1, 2015, estimates of the legal rate for FY 2016-17.

Recommendation: The staff recommendation for this line item is pending the Committee's decisions regarding legal services appropriations to the various client agencies. Staff will return to the Committee with a memorandum at the end of the figure setting process to finalize the legal services rate and the necessary appropriations to the Department of Law.

Staff recommends that the Committee authorize staff to assume the following numbers of hours for certain state agencies that purchase legal services from the Department of Law. The Long Bill does not include specific appropriations to these agencies to purchase legal services. However, staff needs to make an assumption about the number of hours that will be required by these agencies for purposes of calculating the costs of the LSSA section and the corresponding hourly legal rate.

- *Higher Education Institutions: 10,313 hours* – Based on recent usage of legal services, staff recommends assuming that the higher education institutions will utilize 10,313 hours in FY 2016-17.
- *PERA: 29 hours* – Staff recommends maintaining the assumption that PERA will need 29 hours of legal services in FY 2016-17.

Operating and Litigation

This line item supports operating and litigation expenses related to the provision of legal services to state agencies.

Statutory Authority: Section 24-31-101 (1) (a), C.R.S.

Request: The Department requests \$1,942,517 for FY 2016-17. The request is largely impacted by annualization of funding provided for FY 2015-16.

Recommendation: The staff recommendation for this line item is pending the Committee's decisions regarding legal services appropriations to the various client agencies. Staff will return to the Committee with a memorandum at the end of the figure setting process to finalize the legal services rate and the necessary appropriations to the Department of Law.

Indirect Cost Assessment

Indirect cost assessments are charged to cash and federally-funded programs for departmental and statewide overhead costs. The indirect assessments for this department are based upon the number of cash and federally funded FTE who work in each division. The source of funds for this line item is revenue collected from other State agencies for legal services provided by the Department of Law.

Statutory Authority: Sections 24-31-101 (1) (a), C.R.S.

Request: The Department requests an appropriation of \$3,459,161 total funds for FY 2016-17.

Recommendation: Staff recommends approving the request. However, staff requests permission to adjust these amounts as necessary once the Committee has finalized all common policies and determined the demand for legal services for FY 2016-17.

(3) Criminal Justice and Appellate

This section provides funding for department staff who:

- investigate and prosecute certain complex and multi-jurisdictional cases, environmental crimes, election fraud, tax fraud, and foreign fugitives;
- investigate and prosecute Medicaid provider fraud and patient abuse;
- investigate and prosecute securities, insurance, and workers' compensation fraud;
- provide investigative and prosecutorial support to local district attorneys in complex homicides, cold cases, human trafficking cases, and large-scale drug conspiracies;
- represent the State in criminal appeal cases in state and federal courts; and
- assure that the constitutional and statutory rights of victims are preserved in criminal cases being prosecuted or defended by the Department.

This section also provides funding to support the Peace Officers Standards and Training (P.O.S.T.) Board.

Cash fund sources include moneys paid by insurance companies for the investigation and prosecution of insurance fraud, fees paid by peace officers for P.O.S.T. Board certification, and a statewide vehicle registration fee to support training for peace officers. Reappropriated fund sources include departmental indirect cost recoveries, moneys transferred from the Department of Public Safety from the Colorado Auto Theft Prevention Cash Fund and from the Victims Assistance and Law Enforcement (VALE) Fund, and moneys transferred from the Department of Regulatory Agencies from fees paid by regulated entities for the investigation and prosecution of securities fraud. Federal moneys help support the Medicaid Fraud Control Unit.

Please note that organizationally, the Deputy Attorney General who oversees the Criminal Justice section oversees the activities of the staff who are funded through this Long Bill section, as well as those who are funded through the Legal Services to State Agencies (LSSA) Long Bill section and provide legal services to the Department of Public Safety. The funding that supports this Deputy is appropriated in the Special Prosecutions Unit line item in this section of the Long Bill.

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Criminal Justice and Appellate						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2015-16 Appropriation						
SB 15-234 (Long Bill)	\$16,407,802	\$5,777,690	\$7,849,731	\$1,353,847	\$1,426,534	104.8
H.B. 15-1367 Contingent appropriations	<u>200,000</u>	<u>200,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0.0</u>
TOTAL	\$16,607,802	\$5,977,690	\$7,849,731	\$1,353,847	\$1,426,534	104.8
FY 2016-17 Recommended Appropriation						
FY 2015-16 Appropriation	\$16,607,802	\$5,977,690	\$7,849,731	\$1,353,847	\$1,426,534	104.8
R3 Senior AAG special prosecution	133,734	133,734	0	0	0	0.9
BR1 POST marijuana reduction	(618,000)	0	(618,000)	0	0	0.0
Staff Initiated Special Prosecutions MTCF Reduction	(150,000)	0	(150,000)	0	0	0.0
Annualize prior year budget actions	239,810	143,614	45,464	21,111	29,621	(1.0)
Indirect cost assessment adjustments	48,995	0	26,187	7,482	15,326	0.0
Change in anticipated grant funding	9,882	0	0	9,882	0	0.0
Fund source adjustments	0	(271,223)	0	271,223	0	0.0
Annualize prior year legislation	<u>0</u>	<u>(200,000)</u>	<u>200,000</u>	<u>0</u>	<u>0</u>	<u>0.0</u>
TOTAL	\$16,272,223	\$5,783,815	\$7,353,382	\$1,663,545	\$1,471,481	104.7
Increase/(Decrease)	(\$335,579)	(\$193,875)	(\$496,349)	\$309,698	\$44,947	(0.1)
Percentage Change	(2.0%)	(3.2%)	(6.3%)	22.9%	3.2%	(0.1%)
FY 2016-17 Executive Request:	\$16,451,732	\$5,813,324	\$7,503,382	\$1,663,545	\$1,471,481	104.7
Request Above/(Below) Recommendation	\$179,509	\$29,509	\$150,000	\$0	\$0	0.0

DECISION ITEMS – CRIMINAL JUSTICE AND APPELLATE



R3 Senior AAG Special Prosecution

Request: The request includes an increase of \$163,243 General Fund and 0.9 attorney FTE in FY 2016-17 (annualizing to \$163,295 and 1.0 FTE in FY 2017-18) to add a senior assistant attorney general to the Special Prosecutions Unit to focus on complex drug trafficking cases. The request responds to a growing drug trafficking prosecution workload, in part driven by the increasing use and complexity of wiretap investigations for drug trafficking prosecutions.

Recommendation: Staff recommends approving an increase of \$133,734 General Fund and 0.9 attorney FTE to support the requested position. As requested, the staff recommendation funds the position at the midpoint of the salary range for a senior assistant attorney general based on the Department's need to attract an attorney with significant prosecutorial experience in complex cases including wiretap investigations. The recommendation is \$26,369 below the request based

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on the Committee's common policies not to fund centrally appropriated items for new FTE in the first year and to provide \$3,473 for new office furniture and equipment rather than the \$8,767 requested by the Department. The following table shows the components of the Department's request and the staff recommendation (the total shown for the request does not match the official request because staff has corrected a calculation error in the Department's submission).

Request R3 - Senior AAG Special Prosecution						
	FY 2016-17 Request		FY 2015-16 Staff Rec.		FY 2017-18 Impact	
	GF	FTE	GF	FTE	GF	FTE
Criminal Justice and Appellate, Special Prosecutions Unit						
Personal Services Costs						
Salary/Personal Services	\$102,223	0.9	\$102,223	0.9	\$111,516	1.0
PERA (10.15%)	10,376		10,376		11,319	
Medicare (1.45%)	1,482		1,482		1,617	
AED (4.4%)*	4,907		0		5,353	
SAED (4.25%)*	4,856		0		5,297	
STD (0.022%)*	225		0		245	
Estimated HLD*	<u>11,088</u>		<u>0</u>		<u>11,088</u>	
Subtotal, Personal Services	\$135,156	0.9	\$114,081	0.9	\$146,435	1.0
Operating Expenses						
Supplies (\$500)	\$500		\$500		\$500	
Computer (\$900)	900		900		0	
Office Suite Software (\$330)	330		330		0	
Office Equipment (\$8,767)	8,767		3,473		0	
Telephone (\$450/FTE)	450		450		450	
Cell phone (\$80 per month)	960		960		960	
Mileage on State Vehicle (6,000 miles)	1,272		1,272		1,272	
Hotel (4 nights/month at \$75 per night)	3,600		3,600		3,600	
Per Diem (4 nights/month at \$66)	3,168		3,168		3,168	
Litigation Expenses (\$5,000)	<u>5,000</u>		<u>5,000</u>		<u>5,000</u>	
Subtotal, Operating Expenses	\$24,947		\$19,653		\$14,950	
Total, Request R3	\$160,103	0.9	\$133,734	0.9	\$161,385	1.0

* By common policy the Committee does not generally fund these items in the first year for new FTE. These items will be addressed through common policy implementation in the second year (FY 2017-18) rather than through the personal services line item.

Analysis:

Background

In Colorado, criminal prosecution is generally the responsibility of locally elected district attorneys. However, statute (Section 24-31-105, C.R.S.) establishes a criminal enforcement section within the Department of Law and allows the Department to prosecute criminal cases for the Attorney General. The Special Prosecutions Unit within the Department of Law directly

prosecutes a variety of crimes, including multi-jurisdictional cases such as drug trafficking and human trafficking, gang activities, environmental crimes, foreign prosecutions (in which a foreign national commits a crime in Colorado and is subsequently tried in another country), and certain violent crimes prosecuted by the Violent Crime Assistance Team (VCAT).

The Special Prosecutions Unit currently has four attorneys and three investigators focused on complex crimes, with one senior assistant attorney general focused exclusively on drug trafficking cases. The Department works in conjunction with federal prosecutors, local district attorneys, and various law enforcement entities and task forces to investigate and prosecute international and national drug rings operating within Colorado.

Increasing Drug Trafficking Prosecution Workload

The Department reports that the workload related to drug trafficking cases, and particularly cases involving complex wiretap investigations, requires the support of an additional senior assistant attorney general. The Department has discussed several drivers for the increase in workload:

- The Department entered into an agreement with the United States Department of Justice, Drug Enforcement Administration (DEA), in the spring of 2014 that directs the Department to dedicate a criminal investigator within the Special Prosecution Unit to the Denver Organized Crime Drug Enforcement Task Force. The dedicated resources have allowed the task force to investigate more potential crimes, increasing the prosecution workload.
- The Department points specifically to an increase in the workload associated with complex wiretap investigations, which require specific expertise from prosecutors and investigators. The Department indicates that there are several drivers for the increase in the number of wiretaps, including the increasing use of disposable cell phones (“burners”) by drug traffickers because each new phone generally requires a new wiretap application and warrant. For example, the Department worked on four complex drug trafficking cases in calendar year 2014 with a total of 87 wiretaps used in those four cases. The efforts have been successful. For example, the 2014 cases included “Operation Chump Change,” a two year investigation that culminated in multiple arrests and the confiscation of 273 pounds of heroin in 2015. Based on the ongoing agreement with the DEA, the increase in investigative resources, and the Department’s demonstrated expertise and success in assisting major prosecutions, the Department expects the increased wiretap workload to continue. The following table shows statistics related to the number of wiretaps in Colorado for the past several years.

Calendar Year	Wiretaps Statewide	Number of Judicial Districts	Dept. of Law Wiretaps	Law Percentage of Statewide
1997	4	3	0	0.0%
2010	102	8	17	16.7%
2011	74	7	12	16.2%
2012	91	8	11	12.1%
2013	95	8	22	23.2%
2014	185	11	87	47.0%

- The Department has also seen more multi-state marijuana activity, potentially associated with the legalization of marijuana.

In 2014, the Department supplemented the dedicated senior assistant attorney general's efforts with assistance from two other attorneys within the Special Prosecution Unit but does not see that as a sustainable solution going forward. The Department also reports that the Special Prosecution Unit had to decline involvement in at least seven additional cases from October 2014 to October 2015 because of an inability to take on the additional work.

FY 2016-17 Request and Recommendation

The Department is requesting an increase of \$163,243 General Fund and 0.9 FTE in FY 2016-17 (annualizing to \$163,295 and 1.0 FTE in subsequent years) to hire an additional senior assistant attorney general to support drug trafficking prosecutions. The Department believes that the individual must have prosecuting experience, specifically including experience with wiretap investigations and the statewide grand jury. Based on those requirements, the Department is requesting funding for a midpoint salary for a senior assistant attorney general.

Based on the Department's evidence of an increasing workload associated with complex drug trafficking cases, staff recommends approving the request (with the modifications to align with common policy discussed above). In accordance with the request and recognition of the requirements for the new position, staff does recommend deviating from the Committee's common policy to start all positions at the range minimum salary. Thus, staff's recommendation includes the midpoint salary requested by the Department.

➔ BR1 P.O.S.T. Marijuana Budget Reduction

Request: The Department's request includes a decrease of \$418,000 cash funds from the Marijuana Tax Cash Fund appropriated to the Peace Officers Standards and Training (P.O.S.T.) Board for marijuana training and development grants. Senate Bill 14-215 (Disposition of Legal Marijuana Related Revenue) appropriated \$1,168,000 cash funds from the Marijuana Tax Cash Fund to the P.O.S.T. Board for marijuana training programs in FY 2014-15, and that amount was continued in the FY 2015-16 Long Bill. Over the past year, the Department has assessed the P.O.S.T. Board's marijuana-related workload and the ongoing need for training programs. The Department believes that \$750,000 per year will be sufficient to meet the training needs of the law enforcement community in FY 2016-17 and subsequent years and is requesting a reduction of \$418,000 in FY 2016-17 to reach that amount.

Recommendation: Staff recommends reducing the appropriation to the P.O.S.T. Board by a total of \$618,000 cash funds from the Marijuana Tax Cash Fund in FY 2016-17 (below the continuation funding amount of \$1,368,000). The recommendation includes the following reductions: (1) the \$418,000 reduction requested by the Department which was appropriated as cash funds from the Marijuana Tax Cash Fund in the FY 2015-16 Long Bill; and (2) \$200,000 that was appropriated as General Fund from the Proposition AA Refund Account in H.B. 15-1367 (Retail Marijuana Taxes) and was contingent upon voter approval of Proposition BB during the November 2015 election. The latter amount would annualize to become cash funds from the

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Marijuana Tax Cash Fund in FY 2016-17. Thus, the recommendation supports the Department's requested reduction and also eliminates the additional \$200,000 appropriated through H.B. 15-1367 (and not addressed in the Department's request) to reach the Department's target appropriation of \$750,000 from the Marijuana Tax Cash Fund in FY 2016-17. The following table shows the recommended progression from the current FY 2015-16 appropriation to the staff recommendation for FY 2016-17.

BR1 - P.O.S.T. Marijuana Budget Reduction			
	Total Funds	General Fund (Prop AA Refund Account)	Cash Funds (MTCF)
<u>FY 2015-16 P.O.S.T. Appropriation Related to Marijuana</u>			
SB 15-234 (Long Bill)	\$1,168,000	\$0	\$1,168,000
HB 15-1367 (Retail Marijuana Taxes - Contingent)	<u>200,000</u>	<u>200,000</u>	<u>0</u>
Current FY 2015-16 Appropriation	\$1,368,000	\$200,000	\$1,168,000
<u>FY 2016-17 Continuation Budget</u>			
Current FY 2015-16 Appropriation	\$1,368,000	\$200,000	\$1,168,000
Annualize HB 15-1367 - Contingent	<u>0</u>	<u>(200,000)</u>	<u>200,000</u>
FY 2016-17 Continuation Budget	\$1,368,000	\$0	\$1,368,000
<u>FY 2016-17 Staff Recommendation</u>			
FY 2016-17 Continuation Budget	\$1,368,000	\$0	\$1,368,000
Staff Recommended Reduction	<u>(618,000)</u>	<u>0</u>	<u>(618,000)</u>
FY 2016-17 Staff Recommendation	\$750,000	\$0	\$750,000

Analysis:

Background – Marijuana Related Appropriations to the P.O.S.T. Board

Senate Bill 14-215 appropriated \$1,168,000 cash funds from the Marijuana Tax Cash Fund and 1.0 FTE to the P.O.S.T. Board for FY 2014-15, and the FY 2015-16 Long Bill continued that level of funding. The appropriations is intended to support expanded law enforcement training activities and associated costs related to marijuana. The Department has used those funds to support the 1.0 state FTE provided in the bill, develop training materials, support marijuana-related grants to P.O.S.T. grant recipients, and to conduct a variety of trainings and conferences associated with marijuana (including advanced roadside impaired driving enforcement (ARIDE) and Standard Field Sobriety Test (SFST) activities).

House Bill 15-1367 appropriated an additional \$200,000 General Fund (from the Proposition AA Refund Account) to the P.O.S.T. Board for FY 2015-16, contingent upon voter approval of Proposition BB during the November 2015 election. As discussed during the FY 2015-16 supplemental process, current law (Section 24-31-310 (3), C.R.S.) actually prohibits the P.O.S.T. Board from using General Fund moneys to cover the costs of training activities. Thus, the Department is restricting those funds for FY 2015-16. However, H.B. 15-1367 assumed that level of funding would continue in FY 2016-17, with the \$200,000 appropriated as cash funds from the Marijuana Tax Cash Fund (rather than the General Fund) in FY 2016-17 and

subsequent years. As a result, the continuation level of funding for FY 2016-17 would be a total of \$1,368,000 cash funds from the Marijuana Tax Cash Fund and 1.0 FTE.

Recommended Budget Reduction – BR1

Based on actual expenditure information for FY 2014-15 (the Department spent a total of \$712,991 out of the \$1.2 million appropriation) and the Department's planning for FY 2015-16 and subsequent years, the continuation level of funding does not appear to be necessary. The Department's planning indicates that a total of \$750,000 per year would be sufficient for the P.O.S.T. Board's marijuana activities in FY 2016-17 and beyond (see the following table for an estimated breakdown of expenditures). Because the request predated the November 2015 election and did not consider the \$200,000 contingent appropriation, the Department proposed a reduction of \$418,000 below the then-current FY 2015-16 appropriation to reach the target of \$750,000. Based on further discussions since the election, the Department continues to believe that a total marijuana-related appropriation of \$750,000 will be adequate for FY 2016-17. Thus, staff recommends the total reduction of \$618,000.

FY 2016-17 P.O.S.T. Marijuana Expenditure Estimates	
Purpose	Est. Need
Total personnel (1.0 FTE), salary and benefits	\$90,421
Marijuana related operating expenses	30,000
Region ARIDE courses (20 classes, 2 per region)	58,905
Denver ARIDE courses (2 classes)	5,000
Printing	7,500
ARIDE and SFST student travel and lodging costs	50,000
SFST Instructor, SFST Refresher and Course Operator courses (20 classes)	75,123
SFST 2 (8hour annual updates)	20,000
Court Room Testimony (Consultant Trainer)	80,000
DUI Checkpoint Training (Consultant Trainer)	80,000
Marijuana 101 Class instructor cost and travel (20 Classes) - train the trainer	12,000
Refreshments and room rentals for DUI, checkpoint, and Marijuana 101	5,000
Marijuana 101 class printing	6,000
ACADIS LMS (IT system) hosting	40,000
Continued contract for introduction to marijuana training	78,000
School Outreach Campaign	60,000
Misc. Expenses	<u>52,051</u>
Total Estimated FY 2016-17 Expenses	\$750,000

➔ Staff Initiated Special Prosecutions Unit Marijuana Budget Reduction

Request: The Department is not requesting a reduction in Marijuana Tax Cash Fund moneys appropriated to the Special Prosecutions Unit in FY 2016-17.

Recommendation: Staff recommends reducing the appropriation of cash funds from the Marijuana Tax Cash Fund to the Special Prosecutions Unit by \$150,000 below the FY 2015-16 appropriation. The FY 2015-16 appropriation from the Marijuana Tax Cash Fund of \$436,766 and 2.0 FTE, originally appropriated in S.B. 14-215, has proven unnecessarily large and the Department anticipates significant reversions in FY 2015-16 and in FY 2016-17 based on the current appropriation. Although the Department did not officially propose the reduction, staff has discussed the recommendation with the Department and the Department supports the staff recommendation.

Analysis:

Background – Marijuana Related Appropriations to the Special Prosecutions Unit

Senate Bill 14-215 appropriated \$456,760 cash funds from the MTCF and 2.0 FTE to the Special Prosecutions Unit for FY 2014-15 to support additional legal research and training activities serving law enforcement and prosecutors. The FY 2015-16 Long Bill reduced that amount by \$19,994 to annualize the FY 2015-16 appropriation and therefore provided a total of \$436,766 from the MTCF and 2.0 FTE for FY 2015-16.

The Special Prosecutions Unit has hired 1.0 attorney FTE (Assistant Attorney General) and 1.0 program assistant I FTE to support the Unit's marijuana related activities. According to the Department, the marijuana "team's" primary focus is training law enforcement officers, and the team has scheduled between 10 and 15 trainings per month in that effort in addition to completing train the trainer programs. The team also provides training for prosecutors, city, and state officials regarding current marijuana law and the prosecution of related cases. The team's goal is to reach 75 percent of Colorado law enforcement officers by 2019, using at least one of the curricula created by P.O.S.T. under the marijuana program.

Based on the available information, staff is somewhat concerned about the potential duplication of effort between the Special Prosecutions Unit and the P.O.S.T. Board. Staff recommends that the Committee continue to monitor the potential redundancy going forward as the two program's become established. However, even without the concerns about redundancy, in a situation similar to the P.O.S.T. Board discussion (request BR1, above), the current appropriation has proven larger than necessary to meet the programmatic need. In FY 2014-15, because the Department was not able to hire the new staff until September and the program was only active for a portion of the year, the Special Prosecutions Unit spent a total of \$117,012 from the MTCF appropriation (out of a total of \$456,760). Going forward, the Department anticipates a need for approximately \$287,000 for the Special Prosecution Unit's marijuana training activities in FY 2016-17. Based on the new and developing nature of the program, that amount leaves a "cushion" of \$75,000 to accommodate potential changes in program requirements (see table below). Based on the anticipated programmatic need, staff recommends a reduction of \$150,000 cash funds from the Marijuana Tax Cash Fund for FY 2016-17.

FY 2016-17 Special Pros. Marijuana Budget	
Purpose	Est. Need
Personal Services (2.0 FTE) salary and benefits	\$193,830
Marijuana related operating expenses	17,936
Misc. Expenses to Accommodate Program Growth	<u>75,000</u>
Total Estimated FY 2016-17 Budget	\$286,766
FY 2016-17 Continuation Funding	\$436,766
Staff Recommended Reduction	(\$150,000)

LINE ITEM DETAIL – CRIMINAL JUSTICE AND APPELLATE

Special Prosecutions Unit

This unit investigates and prosecutes crimes in a number of areas, under the general authorization of Section 24-31-105, C.R.S., and other specific provisions of statute. This unit prosecutes cases through direct filings as well as the use of the statewide grand jury. This line item is supported by General Fund, cash funds, and reappropriated funds.

General Fund supports the investigation and prosecution of a wide range of crimes and activities, described below.

- *Complex Crimes and Multi-jurisdictional Cases* – These cases would be difficult or impossible for local law enforcement personnel to pursue because local units lack the authority to investigate and prosecute crimes that occur outside of their jurisdiction. This includes a wide variety of criminal activity including: racketeering; domestic terrorism; identity theft; large check and credit card fraud schemes; methamphetamine rings; auto theft rings; mortgage and bank fraud; tax fraud; and human trafficking cases.
- *Criminal Activity by Gangs* – These are cases brought under the Colorado Organized Crime Control Act (which is similar to federal racketeering laws).
- *Environmental Crimes* – These cases involve environmental crimes related to hazardous waste, hazardous substances, water, and air.
- *Foreign Prosecutions* – A foreign national who commits murder or other crimes in Colorado and subsequently flees to Mexico may be prosecuted, convicted, and sentenced to prison in Mexico. These prosecutions require specialized knowledge and resources that are usually lacking in the offices of local district attorneys. This unit also assists in returning victims and witnesses from Mexico to Colorado to testify in court.

General Fund also supports the *Violent Crimes Assistance Team (VCAT)*, which provides investigative and prosecutorial support to local District Attorneys for active, cold-case, and death penalty-eligible homicides. The assistance must be requested by a local District Attorney and approved by the Attorney General. Cases are prioritized based on complexity and the unique expertise that the Department may provide. The team also handles appeals of death penalty

convictions in both state and federal appellate courts, and provides training concerning complex homicide prosecutions and cold cases for prosecutors and investigators.

Cash funds provide exclusive support for the investigation and prosecution of *insurance and workers' compensation fraud*. Funding for the program comes from the Insurance Fraud Cash Fund. Reappropriated funds transferred from the Department of Regulatory Agencies' Division of Securities support the investigation and prosecution of *securities fraud*.

As discussed above, beginning in FY 2014-15 the Special Prosecutions Unit also receives appropriations from the Marijuana Tax Cash Fund to support training activities related to marijuana.

Statutory Authority: Sections 24-31-105, C.R.S.

Request: The Department requests \$4,487,792 total funds and 38.7 FTE for this line item for FY 2016-17. The request includes the following changes from the FY 2015-16 appropriation:

- An increase of \$163,243 General Fund and 0.9 FTE associated with request R3 (Senior AAG Special Prosecutions, discussed above); and
- An increase of \$120,531 total funds to annualize FY 2015-16 salary survey and merit pay.

Recommendation: Staff recommends an appropriation of **\$4,308,283 total funds, including \$2,066,874 General Fund, consistent with Committee common policy.** The recommendation is \$179,509 total funds below the request because of the following changes: (1) a staff initiated reduction of \$150,000 cash funds from the Marijuana Tax Cash Fund (discussed above); and (2) a reduction of \$29,509 General Fund from the requested amount for request R3 (Senior AAG Special Prosecutions, also discussed above). The following table details the recommended changes from the FY 2015-16 appropriation. The Department's primary measures of success for the Special Prosecutions Unit (in the SMART Act strategic plans) focus on restitution ordered for victims of securities fraud and insurance fraud cases. While the measures do not cover other crimes prosecuted by the Special Prosecutions Unit, the Department has generally met its strategic plan's expectations for restitution provided to victims.

Criminal Justice and Appellate, Special Prosecutions Unit					
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	FTE
FY 2015-16 Appropriation					
SB 15-234 (Long Bill)	<u>\$4,204,018</u>	<u>\$1,871,430</u>	<u>\$1,641,126</u>	<u>\$691,462</u>	<u>37.8</u>
TOTAL	\$4,204,018	\$1,871,430	\$1,641,126	\$691,462	37.8
FY 2016-17 Recommended Appropriation					
FY 2015-16 Appropriation	\$4,204,018	\$1,871,430	\$1,641,126	\$691,462	37.8
R3 Senior AAG special prosecution	133,734	133,734	0	0	0.9

JBC Staff Figure Setting: FY 2016-17
Staff Working Document – Does Not Represent Committee Decision

Criminal Justice and Appellate, Special Prosecutions Unit					
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	FTE
Annualize prior year budget actions	120,531	61,710	37,710	21,111	0.0
Staff Initiated Special Prosecutions MTCF Reduction	<u>(150,000)</u>	<u>0</u>	<u>(150,000)</u>	<u>0</u>	<u>0.0</u>
TOTAL	\$4,308,283	\$2,066,874	\$1,528,836	\$712,573	38.7
Increase/(Decrease)	\$104,265	\$195,444	(\$112,290)	\$21,111	0.9
Percentage Change	2.5%	10.4%	(6.8%)	3.1%	2.4%
FY 2016-17 Executive Request:	\$4,487,792	\$2,096,383	\$1,678,836	\$712,573	38.7
Request Above/(Below) Recommendation	\$179,509	\$29,509	\$150,000	\$0	0.0

Auto Theft Prevention Grant

This informational appropriation reflects the Department's anticipated expenditures from a multi-year auto theft prevention grant that was awarded by the Colorado Automobile Theft Prevention Authority. Current law (Section 24-31-108 (1) (b) (I), C.R.S.) continuously appropriates the grant funds to the Department of Law. Thus, the appropriation is included in the Long Bill for informational purposes only. The Authority's grants are supported by a \$1 annual fee on Colorado auto insurance policies. The Authority awards grants to a number of entities, including police and sheriff's offices for the creation of auto-theft task forces. Moneys available to the Authority are appropriated to the Department of Public Safety (e.g., \$6,213,420 and 3.0 FTE for FY 2015-16). Therefore, the Department of Law's budget reflects this grant as reappropriated funds.

This grant supports a full time prosecutor and an investigator who are involved in several theft-prevention endeavors, including a multi-jurisdictional investigation and prosecution effort that combats auto theft. The Department's auto theft unit also helps increase public awareness of auto theft and provides auto theft training and assistance to local law enforcement investigators and deputy district attorneys.

Statutory Authority: Section 24-31-108 (1), C.R.S.

Request: The Department requests an informational appropriation of \$296,548 reappropriated funds and 2.0 FTE for FY 2016-17, an increase of \$9,882 from the FY 2015-16 appropriation to reflect increased grant funding anticipated from the Department of Public Safety.

Recommendation: Staff recommends approving the request. This is an informational appropriation to reflect the Department's anticipated use of the grant from the Department of Public Safety.

Appellate Unit

This unit handles *criminal appeals* for the Department, representing the prosecution when a defendant challenges his/her felony conviction before the state appellate court or the federal

courts³. Most of the cases handled by this unit are in the Colorado Court of Appeals, with the remainder in the Colorado Supreme Court and the federal courts. This unit also prepares a weekly digest summarizing published cases to ensure that Appellate Unit attorneys and prosecutors throughout the state are informed about developments in criminal law and procedure. This portion of the Appellate Unit is funded by General Fund and indirect cost recoveries. In FY 2014-15, the 33 attorneys in this unit filed 1,017 briefs, and argued 134 cases before the appellate court.

Pursuant to Section 24-31-106, C.R.S., the Appellate Unit also employs a *Victims' Services Coordinator*, who assures compliance with Article II, Section 16a of the State Constitution, which states that crime victims have the "right to be heard when relevant, informed, and present at all critical stages of the criminal justice process." When the Department of Law is involved in a trial court prosecution or a criminal appeal, the Coordinator keeps victims informed about their cases, helps them understand the legal process, and sometimes accompanies them to court. The Coordinator position is supported by General Fund and the Victims Assistance and Law Enforcement (VALE) Fund⁴, which is administered by the Department of Public Safety's Division of Criminal Justice⁵. Currently, this position is supported by \$79,862 in VALE funds and \$13,724 General Fund.

Statutory Authority: Sections 16-12-101, 24-31-101 (1) (a), 24-31-106, and 24-33.5-506 (1), C.R.S.

Request: The Department requests a continuation appropriation of \$3,854,603 and 38.0 FTE for FY 2016-17. The request includes the following changes from the FY 2015-16 appropriation:

- annualization of FY2015-16 salary survey and merit pay;
- annualization of FY 2013-14 decision item R1 (a requested reduction of \$84,959 General Fund and 1.0 FTE); and
- a fund source adjustment (increasing the use of indirect cost recoveries and decreasing the use of General Fund).

Recommendation: Staff recommends approving the request, which is consistent with the Committee's common policies. The following table details the recommended changes from the FY 2015-16 appropriation. Please note that the recommendation also includes the requested indirect cost assessment adjustment based on the Department's estimate of the amount of indirect

³ See Sections 16-12-101 and 24-31-101 (1) (a), C.R.S.

⁴ See Section 24-33.5-506 (1), C.R.S.

⁵ In addition to this state-level fund, each judicial district also has its own local VALE fund, which receives revenues from surcharges on fines imposed for felonies, misdemeanors, juvenile offenses, class 1 and 2 traffic offenses, and certain traffic infractions within the district. Pursuant to Section 24-4.2-105 (1), C.R.S., 13 percent of each district's surcharge revenue is transferred to the state-level VALE Fund. Section 24-33.5-506 (1) (c), C.R.S., mandates that a portion of the moneys in the state-level VALE fund be allocated to the Department of Law to pay for its Victims' Services Coordinator. The remainder of the fine-surcharge revenue collected by each judicial district is used by the district's local VALE Board to make grants to the local district attorney, local law enforcement, and local agencies for victim-service work within the district. The remainder of the revenue collected by the State VALE fund is used for administrative costs of the Division of Criminal Justice and to make statewide VALE grants.

cost recoveries that will be available to offset General Fund expenditures. **Staff requests permission to modify this indirect cost assessment adjustment as necessary once indirect cost assessments and Administration appropriations are finalized.** The Department measures the performance of the Appellate Unit based on the percentage of cases with a successful outcome upon appeal. The Department's goal is a 90 percent success rate each year and the Unit has maintained that level for at least the past several years. Staff also notes that through the use of additional staff approved by the General Assembly in FY 2013-14, the Unit has reduced the backlog of appellate cases from a peak of 608 cases in FY 2011-12 to 168 by the end of FY 2014-15.

Criminal Justice and Appellate, Appellate Unit				
	Total Funds	General Fund	Reappropriated Funds	FTE
FY 2015-16 Appropriation				
SB 15-234 (Long Bill)	<u>\$3,782,761</u>	<u>\$3,481,795</u>	<u>\$300,966</u>	<u>39.0</u>
TOTAL	\$3,782,761	\$3,481,795	\$300,966	39.0
FY 2016-17 Recommended Appropriation				
FY 2015-16 Appropriation	\$3,782,761	\$3,481,795	\$300,966	39.0
Annualize prior year budget actions	72,031	72,031	0	(1.0)
Fund source adjustments	<u>0</u>	<u>(271,223)</u>	<u>271,223</u>	<u>0.0</u>
TOTAL	\$3,854,792	\$3,282,603	\$572,189	38.0
Increase/(Decrease)	\$72,031	(\$199,192)	\$271,223	(1.0)
Percentage Change	1.9%	(5.7%)	90.1%	(2.6%)
FY 2016-17 Executive Request:	\$3,854,792	\$3,282,603	\$572,189	38.0
Request Above/(Below) Recommendation	\$0	\$0	\$0	0.0

Medicaid Fraud Control 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, as well as physical and financial abuse of residents in federally-funded long-term care facilities⁶. The 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.

Federal and state laws require that a state's fraud program be independent of the Department of Health Care Policy and Financing (HCPF), the "single state agency" that administers Colorado's Medicaid program. Federal rules also mandate that this program be kept separate from all other

⁶ Fraud committed by Medicaid clients is investigated by county departments of human services.

units at the Department of Law. The Unit cooperates and coordinates with several entities, including District Attorneys, HCPF, 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.

This 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. In FY 2014-15, the Unit's operating costs totaled \$1,874,965; the State paid 26 percent (\$468,934) of this amount.

Although the federal government pays 75 percent of the Unit's operating costs, the State retains at least 50 percent of the recovered funds⁷. Recovered funds reduce the General Fund appropriation supporting the Medicaid program in HCPF's Medical Services Premiums Division. During FY 2014-15, the Unit returned \$5,472,722 in restitution and recoveries, including \$4,767,788 in civil damages and penalties and \$704,934 in criminal recoveries.

Statutory Authority: Sections 24-31-101 (1) (a) and 26-4-101, C.R.S.

Request: The Department requests a continuation appropriation of \$1,737,371 and 17.0 FTE for FY 2016-17, annualizing FY 2015-16 salary survey and merit pay.

Recommendation: Staff recommends approving the request, which is consistent with the Committee's common policy. With a relatively low (25.0 percent) state investment, the Medicaid Fraud Control Unit is prosecuting complex civil and criminal Medicaid fraud cases, with recoveries far exceeding the state investment. In FY 2014-15, total recoveries of \$5.5 million significantly exceeded the Department's strategic plan goal of \$3.5 million in recoveries.

Peace Officers Standards and Training (P.O.S.T.) Board

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

The P.O.S.T. Board is responsible for ensuring statewide consistency in the qualifications and training for peace officers. The Board thus certifies peace officers appointed by state and local law enforcement agencies, regulates peace officer training academies, and facilitates on-going training for all state peace officers by disbursing grants and providing training sessions

⁷ Under federal law, if a state's False Claims Act is approved by the federal Department of Health and Human Services' Office of the Inspector General as being compliant with the federal Deficit Reduction Act, that state is entitled to retain more than 50 percent of its civil Medicaid recoveries. The Department of Law indicates that Colorado's Act was not approved, so Colorado is entitled to 50 percent of its civil Medicaid recoveries.

specifically developed by the P.O.S.T. Board and staff [see Section 24-31-301 *et seq.*, C.R.S.]. For FY 2014-15 and beyond, the P.O.S.T. Board is receiving funding from two major sources:

- The P.O.S.T. Board Cash Fund, which consists of fees paid by applicants seeking certification as well as a \$1.00 vehicle registration fee (S.B. 14-123 raised the vehicle registration fee from \$0.60 to \$1.00 for FY 2014-15 and subsequent years), supports the P.O.S.T. Board and provides the majority of funding for the line item (\$4.8 million in FY 2015-16); and
- Pursuant to S.B. 14-215, the Marijuana Tax Cash Fund, supported by taxes on marijuana, funds law enforcement training programs related to marijuana, including advanced roadside impaired driving enforcement training and drug recognition expert training. Senate Bill 14-215 appropriated \$1,168,000 and 1.0 FTE to the P.O.S.T. Board for such expanded training efforts in FY 2014-15, and that level was continued in the FY 2015-16 Long Bill. As discussed above, H.B. 15-1367 provided additional funding (\$200,000 General Fund from the Proposition AA Refund Account) to support the P.O.S.T. Board's marijuana-related activities in FY 2015-16.

Statutory Authority: Section 24-31-303, C.R.S.

Request: The Department requests a total of \$5,536,725 cash funds and 9.0 FTE for FY 2016-17. The request includes the following changes from the FY 2015-16 appropriation:

- An increase of \$7,754 to annualize FY 2015-16 salary survey and merit pay; and
- A decrease of \$418,000 cash funds from the Marijuana Tax Cash Fund associated with request BR1 (P.O.S.T. Marijuana Budget Reduction, discussed above.)⁸

Recommendation: Staff recommends approving the request for an appropriation of \$5,536,725 cash funds (including \$4,786,725 from the P.O.S.T. Board Cash Fund and \$750,000 from the Marijuana Tax Cash Fund) and 9.0 FTE for FY 2016-17. The following table summarizes the recommended changes from the FY 2015-16 appropriation.

⁸ As discussed above, the request does not consider the \$200,000 General Fund appropriated to the P.O.S.T. Board in FY 2015-16 (by H.B. 15-1367) contingent upon voter approval of Proposition BB during the November 2015 election.

JBC Staff Figure Setting: FY 2016-17
Staff Working Document – Does Not Represent Committee Decision

Criminal Justice and Appellate, Peace Officers Standards and Training Board Support				
	Total Funds	General Fund	Cash Funds	FTE
FY 2015-16 Appropriation				
SB 15-234 (Long Bill)	\$5,946,971	\$0	\$5,946,971	9.0
H.B. 15-1367 Contingent appropriations	<u>200,000</u>	<u>200,000</u>	<u>0</u>	<u>0.0</u>
TOTAL	\$6,146,971	\$200,000	\$5,946,971	9.0
FY 2016-17 Recommended Appropriation				
FY 2015-16 Appropriation	\$6,146,971	\$200,000	\$5,946,971	9.0
Annualize prior year budget actions	7,754	0	7,754	0.0
Annualize prior year legislation	0	(200,000)	200,000	0.0
BR1 POST marijuana reduction	<u>(618,000)</u>	<u>0</u>	<u>(618,000)</u>	<u>0.0</u>
TOTAL	\$5,536,725	\$0	\$5,536,725	9.0
Increase/(Decrease)	(\$610,246)	(\$200,000)	(\$410,246)	0.0
Percentage Change	(9.9%)	(100.0%)	(6.9%)	0.0%
FY 2016-17 Executive Request:	\$5,536,725	\$0	\$5,536,725	9.0
Request Above/(Below) Recommendation	\$0	\$0	\$0	(0.0)

Indirect Cost Assessment

Indirect cost assessments are charged to cash and federally-funded programs for departmental and statewide overhead costs. The indirect cost assessments for this department are based upon the number of cash and federally funded FTE who work in each division. The sources of funds for this line item include: fees paid by insurance companies for insurance fraud investigation and prosecution activities; the P.O.S.T. Board Cash fund; fees collected by the Division of Securities within the Department of Regulatory Agencies; and the federal Medicaid Fraud Control Program.

Statutory Authority: Sections 24-31-101 and 102, C.R.S.

Request: The Department requests an appropriation of \$538,504 for FY 2016-17.

Recommendation: Staff recommends approving the request. However, staff requests permission to adjust these amounts as necessary once the Committee has finalized all common policies and appropriations for FY 2016-17.

LINE ITEMS SHOWN IN THE NUMBERS PAGES BECAUSE OF PRIOR YEAR'S FUNDING

The Department is not requesting, and staff is not recommending, funding for the following line item for FY 2016-17. However, the line item remains in the numbers pages at the end of this document because of funding provided in prior years.

Safe2Tell

Prior to FY 2015-16, this line item supported the Safe2Tell Program, which provides students and the community with a means to anonymously report information concerning unsafe, potentially harmful, dangerous, violent, or criminal activities – or the threat of these activities – to appropriate law enforcement and public safety agencies and school officials. The FY 2015-16 Long Bill consolidated the Safe2Tell Program within the newly created Office of Community Engagement line item in the Administration section of the Long Bill. As a result, the Department's request and the staff recommendation for FY 2016-17 include funding for the Safe2Tell Program within the Office of Community Engagement line item.

(4) Water and Natural Resources

This section provides funding for department staff who protect and defend the interests of the State and its citizens in all areas of natural resources law and environmental law, including:

- the use of surface and ground water;
- oil and gas development;
- mining and minerals;
- wildlife;
- the clean-up of contaminated sites (pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act or "CERCLA");
- the proper storage or disposal of hazardous waste; and
- protection of the state's air and water.

This section also advocates on behalf of the Colorado Natural Resource Trustees⁹ to recover damages for injuries to natural resources and to restore, replace, and acquire the equivalent of the natural resources injured.

Cash fund sources include the Colorado Water Conservation Board's Litigation Fund and moneys received by the Attorney General as an award of attorney fees or costs. Reappropriated funds are transferred from the Department of Public Health and Environment from the Hazardous Substance Response Fund.

Please note that organizationally, the Deputy Attorney General for Natural Resources and Environment oversees the activities of the staff who are funded through this Long Bill section, as well as those who are funded through the Legal Services to State Agencies (LSSA) Long Bill section and provide legal services to most program areas within the Department of Natural Resources, the environment-related programs within Department of Public Health and Environment, and any other state agency or official with a natural resource, water right, or environmental issue. The funding that supports this Deputy is appropriated in the LSSA section of the Long Bill.

⁹ The State Natural Resource Trustees were initially designated by Governor Roy Romer in 1990 pursuant to CERCLA. The Trustees include: the Attorney General, the Executive Director of the Department of Natural Resources, and the Executive Director of the Department of Public Health and Environment.

JBC Staff Figure Setting: FY 2016-17
Staff Working Document – Does Not Represent Committee Decision

Water and Natural Resources						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2015-16 Appropriation						
SB 15-234 (Long Bill)	<u>\$2,120,141</u>	<u>\$578,087</u>	<u>\$861,685</u>	<u>\$680,369</u>	<u>\$0</u>	<u>12.0</u>
TOTAL	\$2,120,141	\$578,087	\$861,685	\$680,369	\$0	12.0
FY 2016-17 Recommended Appropriation						
FY 2015-16 Appropriation	\$2,120,141	\$578,087	\$861,685	\$680,369	\$0	12.0
NP2 Colorado River 0.5 FTE	64,314	0	64,314	0	0	0.5
Annualize prior year budget actions	38,309	18,262	12,640	7,407	0	0.0
Indirect cost assessment adjustments	<u>4,224</u>	<u>0</u>	<u>0</u>	<u>4,224</u>	<u>0</u>	<u>0.0</u>
TOTAL	\$2,226,988	\$596,349	\$938,639	\$692,000	\$0	12.5
Increase/(Decrease)	\$106,847	\$18,262	\$76,954	\$11,631	\$0	0.5
Percentage Change	5.0%	3.2%	8.9%	1.7%	0.0%	4.2%
FY 2016-17 Executive Request:						
Request Above/(Below) Recommendation	\$0	\$0	\$0	\$0	\$0	0.0

DECISION ITEMS – WATER AND NATURAL RESOURCES



NP2 Defense of the Colorado River Compact 0.5 FTE

Request: The request includes an increase of \$64,314 cash funds from the Colorado Water Conservation Board (CWCB) Litigation Fund to support an additional 0.5 attorney FTE focused on defense of the Colorado River Compact. The request responds to an increasing workload associated with Colorado River counsel, representation, and litigation. The Department's efforts related to the Colorado River are funded from the CWCB Litigation Fund, which is continuously appropriated to the Department of Natural Resources. Please note that although the Department of Law submitted the request as a non-prioritized item, the Department of Natural Resources has not submitted a request for the additional legal costs because the fund source is continuously appropriated to the Department of Natural Resources and the funding for the Department of Natural Resources is not reflected in the Long Bill.

Recommendation: Staff recommends approving the request in order to allow the Department to utilize the spending authority if the Department and the CWCB agree that the additional resources are necessary.

Analysis:

The Department's request is based on an increasing workload associated with Colorado River Compact representation, counsel, and litigation. The Defense of the Colorado River Subunit currently includes 2.0 attorney FTE and 1.0 legal assistant FTE. As discussed in the Department's FY 2016-17 Joint Budget Committee hearing responses, since its inception in 2006 the Subunit has focused its efforts on both interstate and intrastate negotiation and litigation related to the Colorado River. The Department reports that the extended drought affecting the Colorado River Basin has increased competition for the river's water and, as a result, increased the demands on the Subunit to help client agencies to protect the State's entitlements to and authorities over Colorado River water.

Staff notes that current law (Section 37-60-121 (2.5) (b), C.R.S.) requires the Attorney General to make a specific request for Litigation Fund moneys *to the CWCB*, including the identification of lawsuits meeting the criteria set out in the Litigation Fund statutes. The statute then requires Board (CWCB) approval of the request in order for the Department of Law to receive the funds. Because the Litigation Fund is continuously appropriated to the CWCB (Department of Natural Resources), the General Assembly has given the CWCB control over the use of those funds. To date, the Department of Law has not submitted a request to the CWCB for additional funds in FY 2016-17.

Given the complexity of the issues involved, the collective expertise of the Department of Law and the CWCB, and the statutory process guiding the use of Litigation Fund moneys, staff recommends that the Committee approve the requested increase in spending authority in order to allow the two agencies to utilize the funds *if the Department and the CWCB agree that the additional resources are necessary*. Rather than specifically approving the funds, the staff recommendation is intended to allow the two agencies to implement the process in statute without needing to return for a supplemental appropriation in FY 2016-17.

LINE ITEM DETAIL – WATER AND NATURAL RESOURCES

Federal and Interstate Water Unit

This unit protects the state's interests in the waters of interstate rivers, with respect to both interstate water allocation and federal environmental requirements, including, among others, the National Environmental Policy Act, the Endangered Species Act, and the Wild and Scenic Rivers Act. The major litigation currently within the unit involves the Rio Grande Compact, the Arkansas Compact, and the Republican River Compact. This unit also works with state water users to protect the state's interests in the timely and reasonable resolution of federal claims for water rights, including reserved water rights and claims for in-stream flows.

This line item supports 4.5 attorney FTE and 1.0 legal assistant FTE.

Statutory Authority: Sections 37-60-113, 114, 120, and 121.1, C.R.S.; Sections 37-80-116 and 37-81-102, C.R.S.

Request: The Department requests a continuation appropriation of \$596,349 General Fund and 5.5 FTE for FY 2016-17 (annualizing FY 2015-16 salary survey and merit pay).

Recommendation: Staff recommends approving the request, which is consistent with the Committee's common policies. The program's efforts are important to the State's interests with respect to water, and the program utilizes the appropriation on an annual basis.

Defense of the Colorado River Basin Compact

The Department uses this appropriation to defend Colorado's interests in the 1922 Colorado River Compact [see Section 37-61-101, C.R.S.], which apportioned Colorado River water between Upper and Lower Basin states, and the 1948 Upper Colorado River Compact [see Section 37-62-101, C.R.S.], which apportioned upper basin water among Colorado, Utah, Wyoming, and New Mexico. The staff who are supported by this line item provide legal counsel and representation to the Department of Natural Resources, the Colorado Water Conservation Board, the State Engineer, and the Colorado Commissioner to the Upper Colorado River Commission on issues pertaining to the Colorado River and the related Compacts. The cash funds supporting this line item are from the Colorado Water Conservation Board's Litigation Fund.

The unit's major tasks include the following:

- Providing real-time counsel during interstate negotiations concerning reservoir operations including Glen Canyon and Hoover Dams, application of the 1944 Water Treaty with Mexico, and compliance with federal environmental laws ;
- Researching issues relevant to potential litigation;
- Preparing a litigation database of the voluminous documents relevant to the Colorado River;
- Assisting the State Engineer in preparing rules for any in-state curtailment of water rights resulting from a Colorado River Compact call.

This line item currently supports 2.0 FTE attorneys and 1.0 FTE Legal Assistant.

Statutory Authority: Sections 37-60-113, 114, 120, and 121.1, C.R.S.; Sections 37-80-116 and 37-81-102, C.R.S.

Request: The Department requests an appropriation of \$428,639 cash funds and 3.5 FTE for FY 2016-17. The request includes the following changes from the FY 2015-16 appropriation:

- an increase of \$64,314 cash funds and 0.5 FTE associated with request NP2 (Defense of the Colorado River Compact 0.5 FTE, discussed above); and
- an increase of \$12,640 cash funds to annualize FY 2015-16 salary survey and merit pay.

Recommendation: Staff recommends approving the request, including the increased requested through NP2 (Defense of the Colorado River Compact 0.5 FTE). The fund source is the Colorado Water Conservation Board's Litigation Fund, or payments received from New Mexico, Wyoming, and Utah.

Defense of the Republican River Compact

The Republican River Compact between Colorado, Kansas, and Nebraska governs the use of water in the Republican River Basin, which lies in northeastern Colorado, southwestern Nebraska and northwestern Kansas [see Section 37-67-101, C.R.S.]. In 1998, Kansas sued Nebraska and Colorado, alleging overuse of river water. In 2003, the three states entered into a settlement decree to resolve the dispute, but in 2007 Kansas began legal action against Nebraska, claiming that state was not doing enough to comply. This line item is supported by the Colorado Water Conservation Board's Litigation Fund.

Statutory Authority: Sections 37-60-113, 114, 120, and 121.1, C.R.S.; Sections 37-80-116 and 37-81-102, C.R.S.

Request: The Department requests a continuation level of funding (\$110,000 cash funds) for FY 2016-17, with no change from the FY 2015-16 appropriation.

Recommendation: Staff recommends approving the request. The Department's expenditures under this line item fluctuate significantly from year to year based on need, and staff recommends maintaining the continuation appropriation to allow the Department to respond as necessary.

Consultant Expenses

This line item provides funding for private counsel that represents Colorado in litigation with Kansas concerning the Arkansas River Compact.

In 1985 Kansas filed a complaint with the U.S. Supreme Court, which had original jurisdiction, asserting that Colorado was violating the 1948 Arkansas River Compact by consuming too much river water. In 1994, a Supreme Court-appointed Special Master concluded that Colorado had violated the Compact by pumping too much water from wells near the River. The Supreme Court agreed with the Special Master's findings, and in 2005 Colorado paid Kansas \$34 million in damages for violations dating back to the 1950's. In 2006 Colorado paid another \$1.1 million for Kansas' legal costs, an amount that the Supreme Court upheld in 2009 following a Kansas challenge. In the wake of the Supreme Court's 1994 ruling, Kansas and Colorado worked jointly with the Special Master to develop a decree, finalized in 2009, that implemented the Supreme Court's decision. The decree includes a complex Hydrologic-Institute Model which is used to determine compact compliance.

Since the beginning of the dispute, Colorado has relied on outside counsel for legal work associated with the dispute. The most difficult parts of the case have now been resolved and the Department has been shifting the work in-house. However, outside counsel is still required when complex issues arise.

Statutory Authority: Sections 37-60-113, 114, 120, and 121.1, C.R.S.; Sections 37-80-116 and 37-81-102, C.R.S.

Request: The Department requests a continuation level of funding (\$400,000 cash funds) for FY 2016-17.

Recommendation: Staff recommends approving the request. This line item is supported by \$350,000 from the Colorado Water Conservation Board's Litigation Fund and \$50,000 from the Attorney Fees and Costs Account. The Department has not required the full appropriation in recent years (actual expenditures of \$80,375 in FY 2013-14 and \$118,578 in FY 2014-15) but staff recommends continuing the existing appropriation to allow the Department to respond to additional needs if necessary.

Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

This line item provides funding for the Department's CERCLA Litigation Unit, which handles the legal work for sites that have been seriously contaminated by hazardous substances (known as "Superfund" sites), most of which are being cleaned up under consent decrees by those who contaminated them. Most CERCLA cases can be divided into two phases that are handled in separate legal proceedings. The first phase focuses on remediation -- the disposal and treatment of hazardous substances at a pollution site. The second phase focuses on compensation for the environmental degradation that remains after remediation.

During the first phase of a CERCLA case, this unit works closely with the Colorado Department of Public Health and Environment (CDPHE), providing legal advice helping CDPHE to induce the responsible party, via negotiation or litigation, to undertake appropriate cleanup measures. In some cases this unit is also able to recover costs that the State incurred while dealing with the polluted site and the polluter.

During the second phase of a CERCLA case, the Department tries to win compensation from the polluter for natural resource damages ("NRDs") – the environmental degradation that remains after remediation – on behalf of the State's Natural Resource Trustees. Under CERCLA rules, any recovery that the State receives must be spent on the restoration, replacement, or acquisition of equivalent natural resources. This unit serves the Trustees by negotiating or litigating to recover NRDs, and assisting the Trustees in determining how to allocate the NRDs to restore or replace the injured natural resources such as ground water, wildlife habitat, and fish populations.

Statutory Authority: Section 24-31-101 (1) (a), C.R.S.; Sections 25-15-301 to 313, C.R.S.; and Sections 25-16-101 to 200, C.R.S.

Request: The Department requests a continuation appropriation of \$495,577 reappropriated funds and 3.5 FTE for FY 2016-17 (annualizing the FY 2015-16 salary survey and merit pay).

Recommendation: Staff recommends approving the request, which is consistent with the Committee's common policy. This appropriation is supported by a transfer from DPHE from the Hazardous Substance Response Fund.

CERCLA Contracts

This line item provides funding for contractors who support the work of the CERCLA Litigation Unit. These contractors include expert witnesses, scientists knowledgeable about hazardous waste, hydrologists knowledgeable about the movement of polluted ground water, and economists knowledgeable about the value to be placed on natural resource damages.

Statutory Authority: Section 24-31-101 (1) (a), C.R.S.; Sections 25-15-301 to 313, C.R.S.; and Sections 25-16-101 to 200, C.R.S.

Request: The Department requests a continuation appropriation of \$100,000 reappropriated funds for FY 2016-17, with no change from the FY 2015-16 appropriation.

Recommendation: Staff recommends approving the request. As with the previous line item, this appropriation is supported by a transfer from the DPHE from the Hazardous Substance Response Fund.

Natural Resource Damage Claims at Rocky Mountain Arsenal

In 2008 the Department of Law and the State Natural Resource Trustees settled their natural resource damage case against Shell Oil Company and the U.S. Army over pollution at the Rocky Mountain Arsenal. The Trustees are now expending the \$27.4 million settlement on projects to restore, rehabilitate or replace natural resources damaged by the release of hazardous substances from the Arsenal. The appropriation for this line item pays an outside contractor who helps the Trustee staff evaluate proposed projects, ensure compliance with statutory requirements, and maximize the natural resource benefits from the settlement moneys.

Statutory Authority: Section 24-31-101 (1) (a), C.R.S.

Request: The Department requests a continuation level of funding (\$50,000 reappropriated funds) for FY 2016-17, with no change from the FY 2015-16 appropriation.

Recommendation: Staff recommends approving the request. As with the previous line item, this appropriation is supported by a transfer from the DPHE from the Hazardous Substance Response Fund. The Department has not required the funding in recent years but staff recommends maintaining the spending authority to allow the Department to respond to needs as necessary.

Indirect Cost Assessment

Indirect cost assessments are charged to cash and federally-funded programs for departmental and statewide overhead costs. The indirect assessments for this department are based upon the number of cash and federally funded FTE who work in each division. The source of funds for this line item is moneys in the Hazardous Substance Response Fund that are transferred from the Department of Public Health and Environment.

Please note that the Department has not historically charged an indirect cost assessment to the Colorado Water Conservation Board's Litigation Fund. This fund supports the appropriations for the Defense of the Republican River Compact and the Defense of the Colorado River Compact. Staff recommends that this practice continue for two reasons: (1) the Water Conservation Board allocated these moneys believing that they would not be charged overhead; and (2) the Department of Law has never charged overhead to special litigation line items.

Statutory Authority: Sections 24-31-101 and 102, C.R.S.

Request: The Department requests \$46,423 reappropriated funds for FY 2016-17.

Recommendation: Staff recommends approving the request. However, staff requests permission to work with the Department to adjust these amounts as necessary once the Committee has finalized all common policies for FY 2016-17.

(5) Consumer Protection

This Long Bill section provides funding for Department staff that protect Colorado consumers against fraud and maintain a competitive business environment by enforcing state and federal laws regarding consumer protection, antitrust, consumer lending, mortgage fraud, predatory lending, debt collection, rent-to-own, and credit repair. This section also provides funding to support one attorney who is responsible for enforcing the tobacco Master Settlement Agreement.

Please note that organizationally, the Deputy Attorney General for Consumer Protection oversees the activities of the staff who are funded through this Long Bill section, as well as those who are funded through the Legal Services to State Agencies (LSSA) Long Bill section and provide legal services to the Office of the Consumer Counsel. The funding that supports this Deputy is appropriated in the Consumer Protection and Antitrust line item in this section of the Long Bill.

Consumer Protection						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2015-16 Appropriation						
SB 15-234 (Long Bill)	\$4,769,937	\$1,208,089	\$3,239,351	\$322,497	\$0	47.2
Other legislation	<u>94,441</u>	<u>94,441</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0.8</u>
TOTAL	\$4,864,378	\$1,302,530	\$3,239,351	\$322,497	\$0	48.0
FY 2016-17 Recommended Appropriation						
FY 2015-16 Appropriation	\$4,864,378	\$1,302,530	\$3,239,351	\$322,497	\$0	48.0
R4 Consumer protection compliance investigator	58,538	0	58,538	0	0	1.0
Annualize prior year budget actions	123,522	47,951	64,625	10,946	0	0.0
Indirect cost assessment adjustments	28,977	0	25,357	3,620	0	0.0
Annualize prior year legislation	<u>17,939</u>	<u>17,939</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0.2</u>
TOTAL	\$5,093,354	\$1,368,420	\$3,387,871	\$337,063	\$0	49.2
Increase/(Decrease)	\$228,976	\$65,890	\$148,520	\$14,566	\$0	1.2
Percentage Change	4.7%	5.1%	4.6%	4.5%	0.0%	2.5%
FY 2016-17 Executive Request:	\$5,127,707	\$1,368,420	\$3,422,224	\$337,063	\$0	49.2
Request Above/(Below) Recommendation	\$34,353	\$0	\$34,353	\$0	\$0	0.0

DECISION ITEMS – CONSUMER PROTECTION

➔ R4 Consumer Protection Compliance Investigator

Request: The request includes an increase of \$92,891 custodial cash funds spending authority and 1.0 FTE in FY 2016-17 (annualizing to \$82,894 custodial funds and 1.0 FTE in FY 2017-18) to add a permanent FTE compliance investigator supporting the Consumer Fraud Unit and the Antitrust, Tobacco and Consumer Protection Unit. The request responds to an increasing investigative workload related to consumer protection efforts. Because the funds are custodial funds under the control of the Attorney General, the appropriation would be reflected in the Long Bill for informational purposes only.

Recommendation: Staff recommends approving an increase of \$58,538 custodial cash funds spending authority (to be reflected in the Long Bill for informational purposes only) and 1.0 FTE for FY 2016-17 (annualizing to \$69,552 custodial funds and 1.0 FTE in FY 2017-18). The recommendation is \$34,352 below the request based adherence to three of the Committee's common policies: (1) the recommendation funds the requested position at the range minimum salary (a reduction of \$12,268 from the request, including PERA and Medicare amounts); (2) the recommendation does not include funding for centrally appropriated line items in the first year for new FTE (a reduction of \$16,790 from the request); and (3) the recommendation provides the common policy amount for new office furniture and equipment (\$3,473, a reduction of \$5,294 from the request).

Please note that because the request utilizes custodial funds, the use of funds is entirely at the discretion of the Department. The following table compares the Department's request and the staff recommendation for FY 2016-17 and shows the anticipated FY 2017-18 impact of the staff recommendation.

Request R4 - Consumer Protection Compliance Investigator						
	FY 2016-17 Request		FY 2016-17 Staff Rec.		FY 2017-18 Impact	
	CF	FTE	CF	FTE	CF	FTE
Personal Services Costs						
Salary/Personal Services	\$58,380	1.0	\$47,388	1.0	\$47,388	1.0
PERA (10.15%)	5,926		4,810		4,810	
Medicare (1.45%)	847		687		687	
AED (4.8%)*	2,802		0		2,275	
SAED (4.75%)*	2,773		0		2,251	
STD (0.022%)*	128		0		104	
Estimated HLD*	<u>11,088</u>		<u>0</u>		<u>11,088</u>	
Subtotal, Personal Services	\$81,944	1.0	\$52,885	1.0	68,603	1.0
Operating Expenses						
Supplies (\$500)	\$500		\$500		\$500	

JBC Staff Figure Setting: FY 2016-17
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Request R4 - Consumer Protection Compliance Investigator					
	FY 2016-17 Request		FY 2016-17 Staff Rec.		FY 2017-18 Impact
	CF	FTE	CF	FTE	CF FTE
Computer (\$900)	900		900		0
Office Suite Software (\$330)	330		330		0
Office Equipment (\$8,767)**	8,767		3,473		0
Telephone (\$450/FTE)	<u>450</u>		<u>450</u>		<u>450</u>
Subtotal, Operating Expenses	\$10,947		\$5,653		\$950
Total, Request R4	\$92,891	1.0	\$58,538	1.0	\$69,553 1.0

* By common policy the Committee does not generally fund these items in the first year for new FTE. These items will be addressed through common policy implementation in the second year (FY 2017-18) rather than through the personal services line item.

** The common policy amount for office furniture based on Legislative Council Staff's guidance for fiscal notes is \$3,473 rather than the \$8,767 requested by the Department to match existing furniture.

Analysis:

The request proposes to hire a permanent compliance investigator FTE to support the Consumer Fraud Unit and the Antitrust, Tobacco, and Consumer Protection Unit in response to an increasing consumer protection workload. According to the Department, the Consumer Fraud Unit is experiencing an increasing workload and need for litigation as a result of increasing consumer complaints and deceptive business practices, while the Antitrust, Tobacco, and Consumer Protection Unit has experienced an increase in complaints related to mortgage and foreclosure fraud. The following table shows the number of consumer protection complaints submitted to the Department each year since 2009.

Consumer Protection Complaints Submitted Annually							
	CY 2009	CY 2010	CY 2011	CY 2012	CY 2013	CY 2014	CY 2015
Number of Complaints	4,723	6,462	7,297	7,911	7,215	7,648	7,700
Percent Change		36.8%	12.9%	8.4%	-8.8%	6.0%	0.7%

As discussed in the Department's FY 2016-17 JBC Hearing Responses, the Department points to three potential factors contributing to the increasing level of complaints and the apparent increase in deceptive business practices: (1) increasing state population; (2) increasing awareness of the Department's consumer fraud programs because of the Department's outreach (including the program's outreach website, StopFraudColorado.gov, which launched in December 2014); and (3) publicity surrounding cases pursued and prosecuted by the Department.

In CY 2013, the consumer protection complaint intake program evaluated its business practices and identified a need for additional help in processing complaints and a secondary need for investigative support for the program's two criminal investigators. In FY 2014-15, the General Assembly approved an additional complaint intake FTE (also funded with custodial funds) to assist with the receipt and processing of the increasing number of consumer complaints. Since November 2013, the Department has utilized temporary (time limited) staff to provide the

investigative support identified as a need in 2013. The temporary position has allowed the Department to conduct in-depth fraud analysis of 6,768 consumer complaints (from November 2013 to August 2015) in addition to business reviews as well as other investigative work. Based on the ongoing need for investigative support, particularly with complaints remaining at a high level, the Department is seeking to hire a permanent FTE to fill that role.

According to the Department, the compliance investigator position is necessary to manage the ongoing workload, which can involve review of vast quantities of documents in addition to witness depositions and interviews for each case. The inability to keep pace creates bottlenecks in the process and can delay the Department's response to consumers and the investigation of complaints.

Staff agrees that the ongoing consumer protection workload appears to warrant permanent staff and that the ongoing use of temporary employees is not ideal. There is no indication of a likely decline in consumer complaints, and staff recommends authorizing an additional permanent FTE and the associated funding. Staff notes the following about the request.

- First, as discussed above, the custodial funds that would support the requested FTE are continuously appropriated to the Department. Thus, the General Assembly does not control the use of those funds. Staff appreciates the Department's intent to keep the Committee informed and to seek authorization to add the additional permanent FTE. However, the request is for an informational appropriation – and the use of the funds is entirely at the Department's discretion, whether the General Assembly approves the appropriation or not.
- Second, the Department is requesting a mid-range salary for the requested compliance investigator I position because of the complexity of the cases to be addressed. Pursuant to Committee policy, staff recommends reflecting an appropriation at the range minimum for a compliance investigator I position (a reduction of \$12,268 including PERA and Medicare impacts in FY 2016-17). Related to the first point, however, staff notes that the funds are entirely at the discretion of the Department and the Department may elect to provide the higher salary if necessary to recruit a qualified candidate.

LINE ITEM DETAIL – CONSUMER PROTECTION

Consumer Protection and Antitrust

This line item supports two units that enforce provisions of the Colorado Consumer Protection Act [Section 6-1-101, *et seq.*, C.R.S.]. The Consumer Fraud Unit investigates and prosecutes traditional consumer protection matters such as fraudulent trade, and false advertising practices in a variety of areas, such as automobile repossession, health clubs, and manufactured homes. This unit also brings cases under the Charitable Solicitations Act and the Motor Vehicle Repair Act. With respect to Colorado cases, the Attorney General shares enforcement responsibilities with locally elected District Attorneys. In addition, the staff in this unit also participate in national or multi-state enforcement activities with their counterparts in Attorney General offices in other states and with the Federal Trade Commission.

The Antitrust, Tobacco, and Consumer Protection Unit handles several specialized consumer protection provisions, including enforcement violations of the No-Call List Act [Section 6-1-901, *et seq.*, C.R.S.] and all of the consumer protection laws designed to address mortgage and foreclosure rescue fraud¹⁰. This unit is also responsible for exercising the Attorney General's exclusive jurisdiction to enforce civil and criminal provisions of the Colorado Antitrust Act [Article 4 of Title 6, C.R.S.]. This unit thus investigates and prosecutes price fixing, bid rigging, and mergers that would unreasonably restrain fair competition. This unit also participates in merger reviews in conjunction with the Federal Trade Commission where the industry at issue implicates statewide interests of concern to Colorado. Finally, pursuant to Section 24-31-402, C.R.S., this unit is responsible for enforcing the tobacco Master Settlement Agreement (MSA) and related tobacco laws [Section 39-28-201, *et seq.*, C.R.S.]. This unit thus monitors compliance with the numerous MSA injunctive terms and ensures that Colorado's interests are protected under the payment calculation provisions. This unit works with the Department of Revenue to enforce escrow payment obligations of non-participating tobacco manufacturers.

Finally, this line item currently supports the Deputy Attorney General for the Consumer Protection section.

The cash funds for this line item derive from:

- various court-ordered awards that the Department has received as the result of its enforcement work;
- the Defense Account of the Tobacco Litigation Settlement Cash Fund for non-participating-tobacco manufacturer enforcement work; and
- the Public Utilities Commission for work supporting Colorado's no call list.

The reappropriated funds for this line item are transferred from Department of Regulatory Agencies' Division of Real Estate from the Mortgage Brokers Cash Fund; these funds support consumer protection activities related to mortgage brokers.

Statutory Authority: Sections 6-4-101 through 122, C.R.S.

Request: The Department requests \$2,935,399 total funds (including \$1,368,420 General Fund) and 28.2 FTE for FY 2016-17. The request includes the following changes from the FY 2015-16 appropriation:

- An increase of \$92,891 cash funds associated with request R4 (Consumer Protection Compliance Investigator), discussed above;
- An increase of \$84,627 total funds to annualize FY 2015-16 salary survey and merit pay;
- An increase of \$17,939 General Fund and 0.2 FTE to annualize H.B. 15-1063 (Prohibited Communications Concerning Patents); and
- A decrease of \$1,230 cash funds to annualize FY 2015-16 R3 (Tobacco Litigation Legal Assistant).

¹⁰ The Department of Regulatory Agencies is responsible for handling licensing and disciplinary issues, while this Department handles false advertising and litigation issues.

Recommendation: Staff recommends an appropriation of 2,901,046 total funds (including \$1,368,420 General Fund). The recommendation is \$34,353 cash funds below the request based on the common policy changes to request R4 (Consumer Protection Compliance Investigator, discussed above). The Department has created several new performance measures to evaluate the success of the consumer protection programs, largely focused on the timely response to and resolution of complaints and cases. At present, there are not data available to evaluate the measures. However, based on the relatively small staff and the large number of complaints and cases handled, the unit appears to prioritize both resources and cases successfully. The following table summarizes the recommended changes from the FY 2015-16 appropriation.

Consumer Protection, Consumer Protection and Antitrust					
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	FTE
FY 2015-16 Appropriation					
SB 15-234 (Long Bill)	\$2,646,731	\$1,208,089	\$1,152,316	\$286,326	27.2
Other legislation	<u>94,441</u>	<u>94,441</u>	<u>0</u>	<u>0</u>	<u>0.8</u>
TOTAL	\$2,741,172	\$1,302,530	\$1,152,316	\$286,326	28.0
FY 2016-17 Recommended Appropriation					
FY 2015-16 Appropriation	\$2,741,172	\$1,302,530	\$1,152,316	\$286,326	28.0
R4 Consumer protection compliance investigator	58,538	0	58,538	0	1.0
Annualize prior year budget actions	83,397	47,951	24,500	10,946	0.0
Annualize prior year legislation	<u>17,939</u>	<u>17,939</u>	<u>0</u>	<u>0</u>	<u>0.2</u>
TOTAL	\$2,901,046	\$1,368,420	\$1,235,354	\$297,272	29.2
Increase/(Decrease)	\$159,874	\$65,890	\$83,038	\$10,946	1.2
Percentage Change	5.8%	5.1%	7.2%	3.8%	4.3%
FY 2016-17 Executive Request:	\$2,935,399	\$1,368,420	\$1,269,707	\$297,272	29.2
Request Above/(Below) Recommendation	\$34,353	\$0	\$34,353	\$0	(0.0)

Consumer Credit Unit

This appropriation supports the enforcement of eight state laws relating to consumer credit and debt collections. Pursuant to Section 5-6-103, C.R.S., the Attorney General designates an attorney to act as the Uniform Consumer Credit Code (UCCC) Administrator. Any legal action filed in court is brought in the Administrator's name, and she is the final adjudicator in any administrative disciplinary action initially assigned to the Office of Administrative Courts. Staff supported by this line item are organized into two functional groups.

With respect to *consumer credit*, this unit enforces the UCCC [Title 5, C.R.S.]. Important components of the UCCC include the following:

- the Deferred Deposit Loan Act [Article 3.1], which applies to payday lenders;
- the Consumer Equity Protection Act [Article 3.5], which restricts certain terms in high-cost loans; and
- the Rental Purchase Agreement Act [Article 10], which governs rent-to-own agreements.

This unit protects borrowers from abusive lender practices, such as interest rates that exceed legal limits, prepayment penalties, inadequate disclosure of the cost of credit, fraudulent rent-to-own schemes, abusive repossessions, and unreasonable collection costs.

Lenders who are subject to the UCCC are licensed by the Department and are known as "supervised lenders". In FY 2014-15, the Department supervised 690 licensed lenders consisting of: mortgage companies (50 percent); payday lenders (31 percent); finance companies (16 percent); and small installment/other lenders (3 percent). License fees, which are established by the Administrator pursuant to Sections 5-6-203 (5), 5-10-805 (3), and 12-14.5-205 (b) (1), C.R.S., and are deposited in the *Uniform Consumer Credit Code Cash Fund* established in Section 5-6-204 (1), C.R.S., cover the cost of operating the program. The Administrator adjusts these fees annually to cover the cost of operating the unit.

This unit also enforces the Credit Services Organization Act, which limits "credit repair" services, and the Uniform Debt Management Services Act, which regulates debt management services [see Article 14.5 of Title 12, C.R.S.].

With respect to *debt collection*, this unit enforces the Colorado Fair Debt Collection Practices Act [Article 14 of Title 12, C.R.S.] and the related Colorado Child Support Collection Consumer Protection Act [Article 14.1 of Title 12, C.R.S.]. These laws protect: (1) creditor firms that engage collection agencies to collect debts on their behalf; and (2) the debtor consumers who are the subject of the collection efforts of those agencies. The laws forbid a number of abusive debt collection practices and require collection agencies to obtain bonds that are designed to increase the likelihood that creditor firms will receive funds recovered on their behalf.

This unit regulates and supervises collection agencies and credit counseling/ debt settlement companies, including investigating complaints of unlawful activity, taking disciplinary action against agencies that violate the law, and providing consumers with self-help information about the law. In FY 2014-15, the Department supervised 726 licensed collection agencies and 47 credit counseling/ debt settlement companies. Collection agency license fees, which are deposited in the *Collection Agency Cash Fund* established in Section 12-14-136 (1) (a), C.R.S., cover the costs of operating the unit. These fees are set by the Administrator and are adjusted annually to cover costs, pursuant to Section 12-14-119 (3) and (4), C.R.S. Penalties assessed against licensees are typically split between the General Fund and the Collection Agency Board Custodial Fund.

Statutory Authority: Sections 12-24-101 through 12-24-137, C.R.S.; Sections 5-1-101 through 5-9-102.5, C.R.S.; Sections 5-10-101 through 5-10-1001, C.R.S.; and Sections 12-14.5-101 through 12-14.5-113, C.R.S.

Request: The Department requests a continuation appropriation of \$1,714,816 cash funds and 20.0 FTE for FY 2016-17 (annualizing FY 2015-16 salary survey and merit pay).

Recommendation: Staff recommends approving the request, which is consistent with the Committee's policies. The Consumer Credit Unit utilizes nearly the entire appropriation annually and targets timely resolution of consumer complaints, meeting its initial goals (for a new performance measure) of investigating and resolving 80 to 90 percent of complaints within 60 days or less.

Indirect Cost Assessment

Indirect cost assessments are charged to cash and federally-funded programs for departmental and statewide overhead costs. The indirect assessments for this department are based upon the number of cash and federally funded FTE who work in each division. The sources of funds for this line item include: the Uniform Credit Code Cash Fund; the Collection Agency Cash Fund; court-ordered awards; fees collected by the Department of Regulatory Agencies from mortgage companies and loan originators; and the Tobacco Settlement Defense Account.

Statutory Authority: Sections 24-31-101 and 102, C.R.S.

Request: The Department requests \$477,492 total funds for FY 2016-17.

Recommendation: Staff recommends approving the request. However, staff requests permission to adjust these amounts as necessary once the Committee has finalized all common policies for FY 2016-17 as well as decisions specific to the Department of Law.

(6) Special Purpose

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

Special Purpose						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2015-16 Appropriation						
SB 15-234 (Long Bill)	<u>\$4,605,884</u>	<u>\$3,155,884</u>	<u>\$1,450,000</u>	<u>\$0</u>	<u>\$0</u>	<u>0.9</u>
TOTAL	\$4,605,884	\$3,155,884	\$1,450,000	\$0	\$0	0.9

JBC Staff Figure Setting: FY 2016-17
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	Special Purpose					
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2016-17 Recommended Appropriation						
FY 2015-16 Appropriation	\$4,605,884	\$3,155,884	\$1,450,000	\$0	\$0	0.9
Centrally appropriated line item adjustments	20,592	20,592	0	0	0	0.0
Annualize prior year budget actions	<u>2,662</u>	<u>2,662</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0.1</u>
TOTAL	\$4,629,138	\$3,179,138	\$1,450,000	\$0	\$0	1.0
Increase/(Decrease)	\$23,254	\$23,254	\$0	\$0	\$0	0.1
Percentage Change	0.5%	0.7%	0.0%	0.0%	0.0%	11.1%
FY 2016-17 Executive Request:	\$4,629,138	\$3,179,138	\$1,450,000	\$0	\$0	1.0
Request Above/(Below) Recommendation	\$0	\$0	\$0	\$0	\$0	0.0

LINE ITEM DETAIL – SPECIAL PURPOSE

District Attorneys' Salaries

Background Information – State Funding for DAs. Colorado's district attorneys' offices (DAs) are responsible for prosecuting all criminal and traffic cases filed in district and county courts. While DAs' budgets are primarily set and provided by boards of county commissioners within each respective judicial district, the State provides direct funding for DAs in the following five areas:

1. The Department of Law's budget includes an appropriation for "District Attorneys' Salaries" (\$2,718,249 for FY 2015-16). This line item is described below.
2. The Judicial Branch's budget includes an appropriation for "District Attorney Mandated Costs" (\$2,492,350 total funds for FY 2015-16).
3. The Department of Corrections' budget includes an appropriation for "Payments to District Attorneys" for costs associated with prosecuting a crime alleged to have been committed by a person in the custody of the Department (\$681,102 General Fund for FY 2015-16).
4. The Judicial Branch's budget includes an appropriation for "District Attorney Adult Pretrial Diversion Programs" for adult pretrial diversion programs that meet the established statutory guidelines [established through H.B. 13-1156] (\$477,000 for FY 2015-16).
5. Pursuant to H.B. 14-1144, and beginning in FY 2014-15, the Department of Law's budget includes an appropriation of \$350,000 General Fund to be transferred to the CDAC for the provision of prosecution training, seminars, continuing education programs, and other

prosecution-related services. The FY 2015-16 Long Bill included a new line item to support this appropriation.

6. The Department of Public Safety's budget includes an appropriation for "Witness Protection Fund Expenditures" to pay DAs for qualifying expenses related to security personnel, travel expenses, lodging, and other immediate needs (\$83,000 for FY 2015-16).

In addition, the General Assembly appropriates funds to the State Court Administrator's Office, the Office of the State Public Defender (OSPD), the Office of the Alternate Defense Counsel (OADC), and the Office of the Child's Representative to cover the costs of obtaining discoverable materials¹¹.

District Attorneys' Salaries line item. Pursuant to Section 20-1-306, C.R.S., the State contributes 80 percent of the statutory minimum salary for the state's 22 District Attorneys (including the associated costs of employer PERA contributions). In 2007 the General Assembly raised the statutory minimum salary for district attorneys from \$67,000 to \$130,000 over a four-year period. A judicial district may choose to pay a salary that exceeds the statutory minimum using local funds. Every four years, the House and Senate Judiciary Committees are required to review the compensation of elected District Attorneys and make recommendations, if appropriate, to the General Assembly regarding such compensation. The next compensation review is scheduled to occur during the current (2016) legislative session.¹²

The State's contribution for District Attorneys' salaries is provided through a General Fund appropriation to the Department of Law. This appropriation currently accounts for 18.1 percent of total General Fund appropriations to the Department.

Statutory Authority: Section 20-1-306, C.R.S.

Request: The Department requests \$2,738,841 General Fund for FY 2016-17. The request reflects a full 12 months of funding \$104,000 of the minimum \$130,000 salary for each district attorney, plus \$20,493 (19.7 percent) for each district attorney for the associated employer contributions for PERA, PERA amortization equalization disbursement (AED), and PERA supplemental amortization equalization disbursement (SAED). The request reflects an increase of \$20,592, based on the scheduled increase in AED and SAED rates.

Recommendation: Staff recommends approving the request, which is consistent with current law.

¹¹ Under Colorado Supreme Court Rule 16, the prosecuting attorney is required to make available to the defense certain material and information that is within his or her control and to provide duplicates upon request. The State pays the costs of duplicating discoverable material when legal representation is provided for an indigent defendant.

¹² See Section 20-1-301, C.R.S.

Deputy District Attorney Training

The General Assembly created this line item in FY 2015-16 to continue appropriations originally provided through H.B. 14-1144 (District Attorney Training). House Bill 14-1144 provided \$350,000 General Fund to the Department of Law in FY 2014-15 to support additional training for local district attorneys' staff; the Department passes the money through to the Colorado District Attorneys' Council (CDAC) to support additional training activities. The General Assembly created this line item to support that funding on an ongoing basis.

Statutory Authority: Section 20-111-4 (b), C.R.S.

Request: The Department requests a continuation appropriation of \$350,000 General Fund, with no change from the FY 2015-16 appropriation.

Recommendation: Staff recommends approving the request. Staff assumes that the General Assembly intended to support the additional training on an ongoing basis.

Litigation Management

This line item was added to the Long Bill in FY 1994-95 to pay for: (1) unanticipated legal costs that arise over the course of the fiscal year, especially when the General Assembly is out of session; and (2) technology costs that would otherwise require General Fund appropriations. This appropriation has reduced the need for supplemental requests related to the Legal Services to State Agencies (LSSA) program and other unanticipated litigation, and it historically provided the Department with a source of funds to maintain information technology equipment (over and above the funding appropriated for the Information Technology Asset Maintenance line item).

In FY 2014-15, at the Department's request, the General Assembly reduced the appropriation to this line item by \$125,000 cash funds to consolidate information technology expenditures within the Information Technology Asset Maintenance line item. As a result, the line item now only supports litigation expenses.

Moneys for this appropriation come from two sources:

1. Excess revenues earned by the LSSA program during the previous fiscal year. 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. Please note that excess earnings fluctuate substantially from year to year and the amount is not known with certainty until after the close of the fiscal year. The excess earnings for FY 2015-16, for example, will not be known with certainty until July 2016, the first month of the fiscal year in which such earnings can be expended. The following table provides a history of excess LSSA revenues, and the portion that reverted to the General Fund in prior years.

JBC Staff Figure Setting: FY 2016-17
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Excess Legal Services to State Agencies (LSSA) Revenues					
Fiscal Year	Excess LSSA Revenues Earned	Excess Revenues as Percent of Total LSSA Revenues	Fiscal Year	Expenditures of Excess LSSA Revenues	Excess LSSA Revenues Credited to the General Fund
2005-06	\$532,673	2.8%	2006-07	(\$180,221)	\$352,452
2006-07	362,515	1.8%	2007-08	(216,577)	145,938
2007-08	267,456	1.2%	2008-09	(267,456)	0
2008-09	496,834	2.0%	2009-10	(145,258)	351,576
2009-10	367,965	1.5%	2010-11	(262,256)	105,709
2010-11	491,912	1.9%	2011-12	(250,894)	241,018
2011-12	93,489	0.3%	2012-13	93,489	0
2012-13	0	0.0%	2013-14	0	0
2013-14	0	0.0%	2014-15	0	0
2014-15	136,364	0.4%	2015-16	n/a	n/a

2. Various court awards that are deposited into the Attorneys Fees and Costs Account, which is established in Section 24-31-108 (2), C.R.S. This account consists of any 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 come up short. The following table details revenues and expenditures for this account.

Attorney Fees and Costs Account				
Fiscal Year	Beginning Fund Balance	Revenues	Expenditures	Ending Fund Balance
2005-06	\$208,794	\$23,276	(\$100,477)	\$131,593
2006-07	131,593	244,420	(71,333)	304,680
2007-08	304,680	267,118	(142,251)	429,547
2008-09	429,547	105,671	(94,595)	440,623
2009-10	440,623	202,185	(54,021)	588,787
2010-11	588,787	123,861	(22,417)	690,231
2011-12	690,231	442,207	(7,426)	1,125,012
2012-13	1,125,012	438,169	(385,881)	1,177,299
2013-14	1,177,299	191,126	(263,135)	1,105,290
2014-15	1,105,290	805,396	(119,583)	1,791,104

Statutory Authority: Sections 24-31-101 and 102, C.R.S.

Request: The Department requests a continuation appropriation of \$200,000 cash funds, with no change from the FY 2015-16 appropriation.

Recommendation: Staff recommends approving the request. Please note that H.B. 12-1248 (which was sponsored by the Joint Budget Committee) requires the Department to credit all moneys received from state agencies as payment for legal services to the newly created Legal Services Cash Fund, beginning in FY 2012-13. Moneys in the Fund are subject to annual appropriation to the Department for the direct and indirect costs associated with providing legal services to state agencies and for any of the Department's litigation expenses. Thus, for FY 2016-17, this line item will consist of two fund sources: the Legal Services Cash Fund and various court awards that are deposited into the Attorneys Fees and Costs Account.

Tobacco Litigation

This line item supports the costs of outside counsel (Hale, Westfall, LLP) and other arbitration-related expenses. Department attorneys helped develop and continue to assist the non-participating manufacturer (NPM) enforcement program that is operated by the Department of Revenue. The Department of Law's efforts are essentially "on trial" before the arbitrators; attorneys from the Department of Law are likely to be called to testify during the arbitration proceeding. Thus, the Department is required to utilize outside counsel.

Background Information. When the tobacco Master Settlement Agreement (MSA) was signed in 1998, participants recognized that the extra costs that the settlement imposed on participating manufacturers would place them at a competitive disadvantage when compared with manufacturers who have not joined the agreement. In an effort to level the playing field, the agreement required states to enact "qualifying statutes" that force NPMs to make payments into escrow accounts that are comparable to what they would have paid had they participated in the agreement. House Bill 99-1208 added the qualifying statute to Colorado law. The MSA requires states to "diligently enforce" their qualifying statutes. If certain preconditions are met, settlement payments to states that do not diligently enforce are reduced.

Since 2006, Colorado and the other states have been involved in a legal dispute with the participating manufacturers, who allege that the states are not diligently enforcing their NPM laws. Due to this dispute, some tobacco companies have withheld a portion of their settlement payments, placing them in escrow. When a diligent enforcement question arises, it is settled by a panel of arbitrators who must decide the issue in a unified national proceeding in which a separate decision will be made on the diligent enforcement efforts of each participating state. Thus the arbitrators might decide that one state should receive a reduced payment because it failed to diligently enforce, while another state diligently enforced and is entitled to its full payment.

Statutory Authority: Section 24-31-402, C.R.S.

Request: The Department requests a continuation appropriation of \$1,250,000 cash funds from the Tobacco Settlement Defense Account, with no change from the FY 2015-16 appropriation.

Recommendation: Staff recommends approving the request. The Defense Account of the Tobacco Litigation Settlement Cash Fund was established out of MSA moneys received in

compensation for attorney fees, and other costs that Colorado incurred in its legal action against tobacco manufacturers.

CORA and OML Attorney

The General Assembly created this line item in FY 2015-16 to support an attorney dedicated to enhancing the Department's expertise with respect to the Colorado Open Records Act (CORA) and Open Meetings Law (OML). The position is specifically focused on CORA and OML legal issues and compliance to provide centralized expertise within the Department and to facilitate other agencies' CORA and OML compliance.

Statutory Authority: Section 24-31-101 (1) (a), C.R.S.

Request: The Department requests a continuation appropriation of \$90,297 General Fund and 1.0 FTE for FY 2016-17, including an increase of \$2,662 General Fund and 0.1 FTE to annualize FY 2015-16 R2 (CORA and OML Attorney).

Recommendation: Staff recommends approving the request. The Department filled the position in September 2015 and reports that the attorney is facilitating a variety of processes to improve the consistency of the Department's (and client agencies') responses to CORA requests. The individual has responded to a number of particularly complicated requests in addition to serving as an educational and training resource for the Department and beginning to develop the Department's office policy with respect sophisticated CORA requests.

Long Bill Footnotes and Requests for Information

LONG BILL FOOTNOTES

Staff recommends **continuing** the following footnotes, with modifications in struck type and small caps:

- 45 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 ~~\$97.95~~ \$_____ per hour for attorneys and not exceed ~~\$78.85~~ \$_____ per hour for legal assistants, which equates to a blended rate of ~~\$95.04~~ \$_____ per hour.

Comment: The blended legal rate is used to compute the Long Bill appropriations for legal services for the various agencies of state government. The blended rate is also used to compute legal-service appropriations in other legislation. This footnote contains a clear statement of legislative intent regarding the blended legal rate and the rates to be charged for the services provided by attorneys and legal assistants. **Staff will ultimately fill in the hourly rates that correspond to appropriations that are included in the FY 2016-17 Long Bill.**

- 46 Department of Law, Special Purpose, Litigation Management** -- It is the intent of the General Assembly to grant the Department of Law additional flexibility by allowing the

Department to use moneys appropriated in this line item to address unanticipated state legal needs that arise during ~~FY 2015-16~~ FY 2016-17. It is also the intent of the General Assembly that moneys spent from this line item shall not require the appropriation of additional FTE and will not be used for any type of salary increase, promotion, reclassification, or bonus related to any present or future FTE employed by the Department of Law. It is furthermore the intent of the General Assembly that moneys spent from this line item will not be used to offset present or future personal services deficits in any division in the Department.

Comment: Since FY 1994-95 the Department's appropriations have included this line item, which allows the Department to pay for unanticipated legal costs that arise over the course of the fiscal year (especially when the General Assembly is not in session). The Department has also historically used this line item for technology costs that would otherwise require a General Fund appropriation. This appropriation has reduced the need for legal services supplemental requests related to the Legal Services to State Agencies program (LSSA) and other unanticipated litigation.

Historically, moneys for this appropriation came from two sources:

1. Excess revenues earned by the LSSA program during the previous fiscal year; and
2. Various court awards that are deposited into the Attorneys Fees and Costs Account.

The Department collected \$136,364 in excess LSSA revenues in FY 2014-15 that are available for this line item in FY 2015-16. Any excess legal services revenues that are earned in FY 2015-16 will be retained in the Legal Services Cash Fund. In order to provide the Department flexibility to spend those revenues, the FY 2016-17 Long Bill appropriation for this line item will consist of two fund sources: excess revenues credited to the Legal Services Cash Fund in FY 2015-16 and various court awards that are deposited into the Attorneys Fees and Costs Account.

REQUESTS FOR INFORMATION

Staff recommends continuing the following requests for information, with modifications in struck type and small caps:

- 1 Department of Law, Criminal Justice and Appellate, Appellate Unit --** The Department is requested to provide by November 1, ~~2015~~ 2016, a report concerning the Appellate Unit's progress in reducing its case backlog, including the following data for FY ~~2014-15~~ 2015-16: the number of opening briefs received; the number of answer briefs filed; ~~the number of cases resolved through the expedited docket;~~ and the case backlog as of June 30, ~~2015~~ 2016. In addition, the Department is requested to summarize the tasks completed by the inter-agency working group that was established to review the procedures, rules, and practices for handling post-conviction appeals, along with any recommended procedural, regulatory, or statutory changes.

Comment: This report provides detail on the backlog of cases in the Appellate Unit. The revised request strikes language related to the “expedited docket” because the Court has eliminated the expedited docket.

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

Comment: Section 25.5-4-310, C.R.S., requires the Attorney General to submit an annual report to the Health and Human Services Committees and to the Joint Budget Committee each January 15 concerning claims brought under the "Colorado Medicaid False Claims Act" during the previous fiscal year. The report is required to include:

- The number of actions filed by the Attorney General, the number which were completed, and the amount that was recovered through settlement or through a judgment and (if known) the amount recovered for damages, penalties, and litigation costs;
- The number of actions filed by a person other than the Attorney General, the number which were completed, the amount that was recovered through settlement or through a judgment and (if known) the amount recovered for damages, penalties, and litigation costs, and the amount recovered by the state and the person; and
- The amount expended by the state for investigation, litigation, and all other costs for claims related to the "Colorado Medicaid False Claims Act".

This request for information is designed to allow the Department to submit a single, comprehensive annual report concerning the expenditures and recoveries associated with the Medicaid Fraud Control Unit's efforts.

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

Comment: The CDAC submitted the requested report in October 2015. The following table shows the various categories of expenditures in FY 2014-15.

Colorado District Attorneys' Council (CDAC) Use of FY 2014-15 Training Funds	
Category	FY 2014-15 Expenditures
Personnel (One full-time attorney and a portion of a training coordinator)	\$124,605
Supplies and Operating	14,260
Travel Expenses for Staff and DA Staff Providing Training	7,076
CDAC Training Registration Fees (Reduced or Eliminated)	77,420
Scholarships for CDAC and non-CDAC Trainings	122,347
Equipment	<u>4,292</u>
Total	\$350,000

JBC Staff Staff Figure Setting - FY 2016-17
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Appendix A: Number Pages

	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	FY 2016-17 Recommendation
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DEPARTMENT OF LAW
Cynthia Coffman, Attorney General

(1) ADMINISTRATION

This section includes funding for the Attorney General, the Solicitor General, and other management staff, as well as the Department's human resources, accounting/budgeting, information technology, and legal support services units. These units are supported by General Fund and indirect cost recoveries. This section also includes central appropriations for the entire Department, including funding for employee benefits, facilities, vehicles, and information technology. Cash funds appropriations include moneys received by the Attorney General as an award of attorney fees or costs, and various other sources. Reappropriated funds derive from indirect cost recoveries and moneys transferred from a variety of other appropriations. For FY 2014-15 through FY 2016-17, federal funds are from the Medicaid Fraud Control Program. Prior years included federal funding from the Colorado Justice Review Project.

Personal Services	<u>3,074,899</u>	<u>3,361,926</u>	<u>3,687,299</u>	<u>3,821,108</u>	<u>3,805,907</u> *
FTE	38.2	37.0	45.2	46.2	46.2
General Fund	0	0	0	0	0
Cash Funds	0	45,985	0	0	0
Reappropriated Funds	3,074,899	3,315,941	3,687,299	3,821,108	3,805,907
Office of Community Engagement	<u>0</u>	<u>0</u>	<u>595,381</u>	<u>657,116</u>	<u>657,116</u> *
FTE	0.0	0.0	5.8	6.0	6.0
General Fund	0	0	580,381	642,116	642,116
Cash Funds	0	0	15,000	15,000	15,000
Health, Life, and Dental	<u>2,817,584</u>	<u>2,878,006</u>	<u>3,555,133</u>	<u>3,789,903</u>	<u>3,789,903</u>
General Fund	742,890	791,193	1,020,527	1,014,768	1,014,768
Cash Funds	281,594	344,575	382,756	450,192	450,192
Reappropriated Funds	1,697,754	1,642,380	2,040,181	2,234,782	2,234,782
Federal Funds	95,346	99,858	111,669	90,161	90,161

JBC Staff Staff Figure Setting - FY 2016-17
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	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	FY 2016-17 Recommendation
Short-term Disability	<u>60,761</u>	<u>79,509</u>	<u>84,714</u>	<u>75,164</u>	<u>75,164</u>
General Fund	14,917	20,973	23,392	20,214	20,214
Cash Funds	6,023	9,067	8,611	8,464	8,464
Reappropriated Funds	38,675	47,051	50,245	44,602	44,602
Federal Funds	1,146	2,418	2,466	1,884	1,884
 S.B. 04-257 Amortization Equalization					
Disbursement	<u>1,233,515</u>	<u>1,445,612</u>	<u>1,694,290</u>	<u>1,898,869</u>	<u>1,898,869</u>
General Fund	298,320	381,335	467,856	510,666	510,666
Cash Funds	120,194	164,849	172,221	213,828	213,828
Reappropriated Funds	776,652	855,466	1,004,900	1,126,779	1,126,779
Federal Funds	38,349	43,962	49,313	47,596	47,596
 S.B. 06-235 Supplemental Amortization					
Equalization Disbursement	<u>1,112,660</u>	<u>1,355,263</u>	<u>1,636,530</u>	<u>1,879,090</u>	<u>1,879,090</u>
General Fund	268,385	357,502	451,906	505,347	505,347
Cash Funds	108,507	154,546	166,350	211,601	211,601
Reappropriated Funds	701,147	802,000	970,642	1,115,042	1,115,042
Federal Funds	34,621	41,215	47,632	47,100	47,100
 Salary Survey for Classified Employees	<u>337,857</u>	<u>295,496</u>	<u>119,650</u>	<u>8,276</u>	<u>8,276</u>
General Fund	73,571	91,353	40,723	1,861	1,861
Cash Funds	70,627	74,976	30,754	857	857
Reappropriated Funds	167,876	106,793	38,897	5,558	5,558
Federal Funds	25,783	22,374	9,276	0	0

JBC Staff Staff Figure Setting - FY 2016-17
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	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	FY 2016-17 Recommendation
Salary Survey for Exempt Employees	<u>4,115,142</u>	<u>358,827</u>	<u>965,318</u>	<u>0</u>	<u>0</u>
General Fund	880,758	83,586	235,874	0	0
Cash Funds	125,575	19,197	38,990	0	0
Reappropriated Funds	3,057,736	252,482	680,763	0	0
Federal Funds	51,073	3,562	9,691	0	0
Merit Pay for Classified Employees	<u>153,103</u>	<u>104,360</u>	<u>114,830</u>	<u>0</u>	<u>0</u>
General Fund	47,536	36,984	37,379	0	0
Cash Funds	27,435	22,483	29,845	0	0
Reappropriated Funds	65,178	36,301	39,991	0	0
Federal Funds	12,954	8,592	7,615	0	0
Merit Pay for Exempt Employees	<u>388,765</u>	<u>263,836</u>	<u>295,260</u>	<u>0</u>	<u>0</u>
General Fund	90,935	62,917	71,154	0	0
Cash Funds	10,972	11,284	11,730	0	0
Reappropriated Funds	282,623	186,740	209,337	0	0
Federal Funds	4,235	2,895	3,039	0	0
Workers' Compensation	<u>74,775</u>	<u>104,477</u>	<u>83,973</u>	<u>108,820</u>	<u>108,820</u> *
General Fund	20,002	28,278	23,257	30,259	30,259
Cash Funds	8,804	12,196	9,807	12,216	12,216
Reappropriated Funds	43,798	61,053	48,580	63,390	63,390
Federal Funds	2,171	2,950	2,329	2,955	2,955

JBC Staff Staff Figure Setting - FY 2016-17
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	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	FY 2016-17 Recommendation
Attorney Registration and Continuing Legal					
Education	<u>98,138</u>	<u>78,930</u>	<u>129,913</u>	<u>135,280</u>	<u>135,280</u>
General Fund	21,769	18,248	31,041	32,680	32,680
Cash Funds	3,000	2,475	4,275	4,275	4,275
Reappropriated Funds	72,525	57,604	93,528	96,900	96,900
Federal Funds	844	603	1,069	1,425	1,425
Operating Expenses	<u>190,629</u>	<u>193,457</u>	<u>206,603</u>	<u>208,144</u>	<u>202,850</u> *
General Fund	0	0	0	0	0
Cash Funds	0	0	0	0	0
Reappropriated Funds	190,629	193,457	206,603	208,144	202,850
Federal Funds	0	0	0	0	0
Legal Services	<u>0</u>	<u>5,931</u>	<u>39,049</u>	<u>39,518</u>	<u>39,518</u>
General Fund	0	5,931	19,002	19,230	19,230
Cash Funds	0	0	20,047	20,288	20,288
Reappropriated Funds	0	0	0	0	0
Federal Funds	0	0	0	0	0
Administrative Law Judge Services	<u>4,362</u>	<u>30,254</u>	<u>6,749</u>	<u>1,609</u>	<u>1,609</u>
General Fund	0	0	0	0	0
Cash Funds	4,362	30,254	6,749	1,609	1,609
Reappropriated Funds	0	0	0	0	0
Federal Funds	0	0	0	0	0

JBC Staff Staff Figure Setting - FY 2016-17
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	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	FY 2016-17 Recommendation
Payment to Risk Management and Property Funds	<u>128,371</u>	<u>153,905</u>	<u>169,910</u>	<u>277,503</u>	<u>277,503</u>
General Fund	0	0	47,059	77,162	77,162
Cash Funds	0	0	19,845	31,148	31,148
Reappropriated Funds	128,371	153,905	98,295	161,657	161,657
Federal Funds	0	0	4,711	7,536	7,536
Vehicle Lease Payments	<u>62,019</u>	<u>52,904</u>	<u>70,416</u>	<u>46,619</u>	<u>46,619</u>
General Fund	18,377	22,757	34,669	21,573	21,573
Cash Funds	19,889	10,345	7,255	6,144	6,144
Reappropriated Funds	21,138	17,595	26,290	18,202	18,202
Federal Funds	2,615	2,207	2,202	700	700
Information Technology Asset Maintenance	<u>445,807</u>	<u>608,783</u>	<u>645,206</u>	<u>645,206</u>	<u>645,206</u>
General Fund	21,754	171,927	174,663	174,663	174,663
Cash Funds	63,299	55,045	75,291	75,291	75,291
Reappropriated Funds	359,373	368,574	377,036	377,036	377,036
Federal Funds	1,381	13,237	18,216	18,216	18,216
Ralph L. Carr Colorado Judicial Center Leased Space	<u>2,926,487</u>	<u>2,981,368</u>	<u>3,126,117</u>	<u>3,202,517</u>	<u>3,202,517</u> *
General Fund	760,611	804,128	865,834	890,498	890,498
Cash Funds	359,753	348,331	365,099	359,473	359,473
Reappropriated Funds	1,718,514	1,743,005	1,808,498	1,865,577	1,865,577
Federal Funds	87,609	85,904	86,686	86,969	86,969

JBC Staff Staff Figure Setting - FY 2016-17
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	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	FY 2016-17 Recommendation
Payments to OIT	<u>0</u>	<u>343,938</u>	<u>444,965</u>	<u>313,746</u>	<u>313,746</u> *
General Fund	0	94,169	123,241	66,669	66,669
Cash Funds	0	39,958	51,968	100,889	100,889
Reappropriated Funds	0	199,951	257,417	139,676	139,676
Federal Funds	0	9,860	12,339	6,512	6,512
CORE Operations	<u>46,431</u>	<u>67,404</u>	<u>59,075</u>	<u>63,718</u>	<u>63,718</u>
General Fund	0	0	16,362	17,718	17,718
Cash Funds	0	0	6,898	7,152	7,152
Reappropriated Funds	46,431	67,404	34,177	37,118	37,118
Federal Funds	0	0	1,638	1,730	1,730
Attorney General Discretionary Fund	<u>5,000</u>	<u>2,680</u>	<u>5,000</u>	<u>5,000</u>	<u>5,000</u>
General Fund	5,000	2,680	5,000	5,000	5,000
Capitol Complex Leased Space	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	0	0	0	0	0
Cash Funds	0	0	0	0	0
Reappropriated Funds	0	0	0	0	0
Federal Funds	0	0	0	0	0
Purchase of Services from Computer Center	<u>55,762</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	0	0	0	0	0
Cash Funds	0	0	0	0	0
Reappropriated Funds	55,762	0	0	0	0
Federal Funds	0	0	0	0	0

JBC Staff Staff Figure Setting - FY 2016-17
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	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	FY 2016-17 Recommendation
Colorado State Network	<u>166,319</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	0	0	0	0	0
Cash Funds	0	0	0	0	0
Reappropriated Funds	166,319	0	0	0	0
Federal Funds	0	0	0	0	0
Communication Services Payments	<u>8,988</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	3,598	0	0	0	0
Cash Funds	2,019	0	0	0	0
Reappropriated Funds	1,226	0	0	0	0
Federal Funds	2,145	0	0	0	0
Information Technology Security	<u>2,328</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	0	0	0	0	0
Cash Funds	0	0	0	0	0
Reappropriated Funds	2,328	0	0	0	0
Federal Funds	0	0	0	0	0
Leased Space	<u>27,789</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	4,580	0	0	0	0
Cash Funds	3,052	0	0	0	0
Reappropriated Funds	19,985	0	0	0	0
Federal Funds	172	0	0	0	0

JBC Staff Staff Figure Setting - FY 2016-17
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	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	FY 2016-17 Recommendation
TOTAL - (1) Administration	17,537,491	14,766,866	17,735,381	17,177,206	17,156,711
<i>FTE</i>	<u>38.2</u>	<u>37.0</u>	<u>51.0</u>	<u>52.2</u>	<u>52.2</u>
General Fund	3,273,003	2,973,961	4,269,320	4,030,424	4,030,424
Cash Funds	1,215,105	1,345,566	1,423,491	1,518,427	1,518,427
Reappropriated Funds	12,688,939	10,107,702	11,672,679	11,315,571	11,295,076
Federal Funds	360,444	339,637	369,891	312,784	312,784

JBC Staff Staff Figure Setting - FY 2016-17
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	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	FY 2016-17 Recommendation
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(2) LEGAL SERVICES TO STATE AGENCIES

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

Personal Services	<u>19,442,071</u>	<u>24,312,388</u>	<u>26,793,372</u>	<u>27,145,203</u>	<u>27,145,203</u>
FTE	228.5	243.4	260.9	260.8	260.8
Cash Funds	0	0	0	0	0
Reappropriated Funds	19,442,071	24,312,388	26,793,372	27,145,203	27,145,203
Federal Funds	0	0	0	0	0
Operating and Litigation	<u>1,089,188</u>	<u>1,098,715</u>	<u>1,944,996</u>	<u>1,942,517</u>	<u>1,942,517</u>
Cash Funds	0	0	0	0	0
Reappropriated Funds	1,089,188	1,098,715	1,944,996	1,942,517	1,942,517
Indirect Cost Assessment	<u>3,264,492</u>	<u>3,211,050</u>	<u>3,134,783</u>	<u>3,459,161</u>	<u>3,459,161</u>
Cash Funds	1,186,099	848,945	982,904	2,300,000	2,300,000
Reappropriated Funds	2,078,393	2,362,105	2,151,879	1,159,161	1,159,161
TOTAL - (2) Legal Services to State Agencies	23,795,751	28,622,153	31,873,151	32,546,881	32,546,881
FTE	<u>228.5</u>	<u>243.4</u>	<u>260.9</u>	<u>260.8</u>	<u>260.8</u>
Cash Funds	1,186,099	848,945	982,904	2,300,000	2,300,000
Reappropriated Funds	22,609,652	27,773,208	30,890,247	30,246,881	30,246,881
Federal Funds	0	0	0	0	0

JBC Staff Staff Figure Setting - FY 2016-17
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	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	FY 2016-17 Recommendation
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(3) CRIMINAL JUSTICE AND APPELLATE

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

Special Prosecutions Unit	<u>3,222,813</u>	<u>3,744,427</u>	<u>4,204,018</u>	<u>4,487,792</u>	<u>4,308,283</u> *
FTE	0.0	34.9	37.8	38.7	38.7
General Fund	1,607,134	1,826,279	1,871,430	2,096,383	2,066,874
Cash Funds	1,054,122	1,276,824	1,641,126	1,678,836	1,528,836
Reappropriated Funds	561,524	641,324	691,462	712,573	712,573
Auto Theft Prevention Grant	<u>278,271</u>	<u>260,252</u>	<u>286,666</u>	<u>296,548</u>	<u>296,548</u>
FTE	2.3	2.0	2.0	2.0	2.0
Reappropriated Funds	278,271	260,252	286,666	296,548	296,548
Appellate Unit	<u>3,230,248</u>	<u>3,692,658</u>	<u>3,782,761</u>	<u>3,854,792</u>	<u>3,854,792</u>
FTE	37.0	37.7	39.0	38.0	38.0
General Fund	2,589,243	3,201,247	3,481,795	3,282,603	3,282,603
Reappropriated Funds	641,005	491,411	300,966	572,189	572,189
Medicaid Fraud Control Unit	<u>2,020,026</u>	<u>1,575,133</u>	<u>1,697,877</u>	<u>1,737,371</u>	<u>1,737,371</u>
FTE	16.6	15.8	17.0	17.0	17.0
General Fund	1,859,531	393,978	424,465	434,338	434,338
Federal Funds	160,495	1,181,155	1,273,412	1,303,033	1,303,033

JBC Staff Staff Figure Setting - FY 2016-17
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	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	FY 2016-17 Recommendation
Peace Officers Standards and Training Board					
Support	<u>2,832,236</u>	<u>4,214,878</u>	<u>6,146,971</u>	<u>5,536,725</u>	<u>5,536,725</u> *
FTE	6.0	7.6	9.0	9.0	9.0
General Fund	0	0	200,000	0	0
Cash Funds	2,832,236	4,214,878	5,946,971	5,536,725	5,536,725
Indirect Cost Assessment	<u>520,638</u>	<u>484,762</u>	<u>489,509</u>	<u>538,504</u>	<u>538,504</u>
Cash Funds	263,029	257,145	261,634	287,821	287,821
Reappropriated Funds	82,780	80,929	74,753	82,235	82,235
Federal Funds	174,829	146,688	153,122	168,448	168,448
Safe2Tell	<u>94,261</u>	<u>371,727</u>	<u>0</u>	<u>0</u>	<u>0</u>
FTE	1.0	2.7	0.0	0.0	0.0
General Fund	94,261	367,187	0	0	0
Cash Funds	0	4,540	0	0	0
TOTAL - (3) Criminal Justice and Appellate	12,198,492	14,343,837	16,607,802	16,451,732	16,272,223
FTE	<u>62.9</u>	<u>100.7</u>	<u>104.8</u>	<u>104.7</u>	<u>104.7</u>
General Fund	6,150,169	5,788,691	5,977,690	5,813,324	5,783,815
Cash Funds	4,149,387	5,753,387	7,849,731	7,503,382	7,353,382
Reappropriated Funds	1,563,580	1,473,916	1,353,847	1,663,545	1,663,545
Federal Funds	335,324	1,327,843	1,426,534	1,471,481	1,471,481

JBC Staff Staff Figure Setting - FY 2016-17
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	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	FY 2016-17 Recommendation
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(4) WATER AND NATURAL RESOURCES

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

Federal and Interstate Water Unit	<u>457,066</u>	<u>576,723</u>	<u>578,087</u>	<u>596,349</u>	<u>596,349</u>
FTE	5.3	5.5	5.5	5.5	5.5
General Fund	457,066	576,723	578,087	596,349	596,349
Defense of the Colorado River Basin Compact	<u>286,873</u>	<u>334,627</u>	<u>351,685</u>	<u>428,639</u>	<u>428,639</u> *
FTE	2.8	3.0	3.0	3.5	3.5
General Fund	0	0	0	0	0
Cash Funds	286,873	334,627	351,685	428,639	428,639
Defense of the Republican River Compact	<u>221,385</u>	<u>54,826</u>	<u>110,000</u>	<u>110,000</u>	<u>110,000</u>
Cash Funds	221,385	54,826	110,000	110,000	110,000
Consultant Expenses	<u>80,735</u>	<u>118,578</u>	<u>400,000</u>	<u>400,000</u>	<u>400,000</u>
Cash Funds	80,735	118,578	400,000	400,000	400,000
Comprehensive Environmental Response, Compensation and Liability Act	<u>278,835</u>	<u>315,861</u>	<u>488,170</u>	<u>495,577</u>	<u>495,577</u>
FTE	2.8	2.9	3.5	3.5	3.5
Reappropriated Funds	278,835	315,861	488,170	495,577	495,577

JBC Staff Staff Figure Setting - FY 2016-17
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	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	FY 2016-17 Recommendation
Comprehensive Environmental Response, Compensation and Liability Act Contracts	<u>127,924</u>	<u>0</u>	<u>100,000</u>	<u>100,000</u>	<u>100,000</u>
Reappropriated Funds	127,924	0	100,000	100,000	100,000
Natural Resource Damage Claims at Rocky Mountain Arsenal	<u>0</u>	<u>0</u>	<u>50,000</u>	<u>50,000</u>	<u>50,000</u>
Cash Funds	0	0	0	0	0
Reappropriated Funds	0	0	50,000	50,000	50,000
Indirect Cost Assessment	<u>46,731</u>	<u>45,686</u>	<u>42,199</u>	<u>46,423</u>	<u>46,423</u>
Reappropriated Funds	46,731	45,686	42,199	46,423	46,423
Federal Funds	0	0	0	0	0
TOTAL - (4) Water and Natural Resources	1,499,549	1,446,301	2,120,141	2,226,988	2,226,988
<i>FTE</i>	<u>10.9</u>	<u>11.4</u>	<u>12.0</u>	<u>12.5</u>	<u>12.5</u>
General Fund	457,066	576,723	578,087	596,349	596,349
Cash Funds	588,993	508,031	861,685	938,639	938,639
Reappropriated Funds	453,490	361,547	680,369	692,000	692,000
Federal Funds	0	0	0	0	0

JBC Staff Staff Figure Setting - FY 2016-17
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	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	FY 2016-17 Recommendation
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(5) CONSUMER PROTECTION

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

Consumer Protection and Antitrust	<u>1,981,645</u>	<u>2,493,524</u>	<u>2,741,172</u>	<u>2,935,399</u>	<u>2,901,046</u> *
FTE	23.8	25.8	28.0	29.2	29.2
General Fund	931,023	1,106,625	1,302,530	1,368,420	1,368,420
Cash Funds	812,275	1,141,733	1,152,316	1,269,707	1,235,354
Reappropriated Funds	238,347	245,166	286,326	297,272	297,272
Consumer Credit Unit	<u>1,495,275</u>	<u>1,605,601</u>	<u>1,674,691</u>	<u>1,714,816</u>	<u>1,714,816</u>
FTE	19.8	19.4	20.0	20.0	20.0
Cash Funds	1,495,275	1,605,601	1,674,691	1,714,816	1,714,816
Indirect Cost Assessment	<u>467,308</u>	<u>451,364</u>	<u>448,515</u>	<u>477,492</u>	<u>477,492</u>
Cash Funds	427,253	412,205	412,344	437,701	437,701
Reappropriated Funds	40,055	39,159	36,171	39,791	39,791
Federal Funds	0	0	0	0	0
TOTAL - (5) Consumer Protection	3,944,228	4,550,489	4,864,378	5,127,707	5,093,354
FTE	43.6	45.2	48.0	49.2	49.2
General Fund	931,023	1,106,625	1,302,530	1,368,420	1,368,420
Cash Funds	2,734,803	3,159,539	3,239,351	3,422,224	3,387,871
Reappropriated Funds	278,402	284,325	322,497	337,063	337,063
Federal Funds	0	0	0	0	0

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	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	FY 2016-17 Recommendation
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(6) SPECIAL PURPOSE

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

District Attorneys' Salaries	<u>2,676,960</u>	<u>2,697,640</u>	<u>2,718,249</u>	<u>2,738,841</u>	<u>2,738,841</u>
General Fund	2,676,960	2,697,640	2,718,249	2,738,841	2,738,841
Federal Funds	0	0	0	0	0
Deputy District Attorney Training	<u>0</u>	<u>350,000</u>	<u>350,000</u>	<u>350,000</u>	<u>350,000</u>
General Fund	0	350,000	350,000	350,000	350,000
Litigation Management and Technology	<u>263,135</u>	<u>119,583</u>	<u>200,000</u>	<u>200,000</u>	<u>200,000</u>
Cash Funds	263,135	119,583	200,000	200,000	200,000
Tobacco Litigation	<u>321,831</u>	<u>612,808</u>	<u>1,250,000</u>	<u>1,250,000</u>	<u>1,250,000</u>
General Fund	0	0	0	0	0
Cash Funds	321,831	612,808	1,250,000	1,250,000	1,250,000
CORA OML Attorney	<u>0</u>	<u>0</u>	<u>87,635</u>	<u>90,297</u>	<u>90,297</u>
FTE	0.0	0.0	0.9	1.0	1.0
General Fund	0	0	87,635	90,297	90,297
Lobato Litigation Expenses	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	0	0	0	0	0
Reappropriated Funds	0	0	0	0	0
Lowry Range Litigation Expenses	<u>1,361,127</u>	<u>285,760</u>	<u>0</u>	<u>0</u>	<u>0</u>
Cash Funds	1,361,127	285,760	0	0	0

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	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	FY 2016-17 Recommendation
TOTAL - (6) Special Purpose	4,623,053	4,065,791	4,605,884	4,629,138	4,629,138
<i>FTE</i>	<u>0.0</u>	<u>0.0</u>	<u>0.9</u>	<u>1.0</u>	<u>1.0</u>
General Fund	2,676,960	3,047,640	3,155,884	3,179,138	3,179,138
Cash Funds	1,946,093	1,018,151	1,450,000	1,450,000	1,450,000
Reappropriated Funds	0	0	0	0	0
Federal Funds	0	0	0	0	0
TOTAL - Department of Law	63,598,564	67,795,437	77,806,737	78,159,652	77,925,295
<i>FTE</i>	<u>384.1</u>	<u>437.7</u>	<u>477.6</u>	<u>480.4</u>	<u>480.4</u>
General Fund	13,488,221	13,493,640	15,283,511	14,987,655	14,958,146
Cash Funds	11,820,480	12,633,619	15,807,162	17,132,672	16,948,319
Reappropriated Funds	37,594,063	40,000,698	44,919,639	44,255,060	44,234,565
Federal Funds	695,768	1,667,480	1,796,425	1,784,265	1,784,265