

DEPARTMENT OF LAW
FY 2006-07 JOINT BUDGET COMMITTEE HEARING AGENDA

Friday, January 12, 2007
1:30 p.m. - 4:00 p.m.

1:30 - 1:40 Introductions and Opening Comments

1:40-1:50 Implementing Legislation Concerning Illegal Immigration: H.B. 06S-1023 and H.B. 06S-1009

1. Provide a list of programs in your department that are subject to the provisions of the two bills.
2. How has your department implemented the provisions of the two bills? What problems have been encountered in implementing them?
3. Provide an estimate of the costs your department will incur in FY 2006-07 to implement the bills. Are any additional costs anticipated in FY 2007-08? If so, please elaborate.
4. Provide a summary of anticipated savings in FY 2006-07 in your department as a result of not providing services to individuals who are in the country illegally. Are any additional savings anticipated in FY 2007-08? If so, please elaborate.

1:50-2:00 Overview Questions

5. What would the department's priorities be if it was limited to a six percent increase in General Fund?

2:00 – 2:45 Decision Items

Decision Item # 2: Additional Consumer Protection Attorney FTE

6. Why haven't the fiscal notes for bills that added consumer protection provisions to statute reflected a cost for those bills? What sort of cost estimates has the department provided for those fiscal notes? Has Legislative Council staff changed the fiscal impact estimates provided by the department?
7. Do the consumer protection statutes contain provisions for reimbursing the Department of Law for litigation costs? Does the Department receive such reimbursement? Could such reimbursement cover the cost of these programs?

8. What is the Attorney General's opinion of changing the consumer protection statutes so as to increase the opportunity for private enforcement and private recovery of attorneys fees in enforcement actions?

Decision Item #5, Additional IT Professional FTE

9. What type of IT security does the Department of Law employ to ensure that information is not obtained by unauthorized individuals? Are electronic court filings submitted in a secure manner? Is the Department confident that the submitted information goes to the right people?

Decision Item #6, Added Medicaid Fraud FTE

10. Did the House pass a bill last year to beef up the Medicaid fraud unit, a bill that later failed in the Senate? Did that bill create a right of private action, with the consent of the Attorney General? Should this bill be revisited? Would this approach get to the same result with less General Fund?

Decision Item #7, Additional Attorney FTE and .5 Legal Assistant FTE for Uniform Consumer Credit Code and Collection Agency Board

11. Have changes in the law to allowed these lending practices to develop?
12. Is the funding source for this decision item cash funds exempt from cash fund balances? When this fund balance is used up, will fees be raised? Will the cost of these extra FTE have to be paid by the General Fund in future years?
13. Does the Department have the authority to issue cease and desist orders while actions are pending?

Decision Item #8: Bring work on the Arkansas River Compact in House.

14. Arkansas River Litigation has recently been funded in part from the Attorney Fees and Costs Fund. Can the Department use this fund rather than the General Fund to support this decision item?

3:00 – 3:10 Numbers Pages

15. In the Attorney General's opinion, is Colorado doing the due diligence under the Tobacco Master Settlement Agreement that is requires in order for the State to receive the non participating manufactures share of the Master Settlement Agreement dollars?
16. Please discuss Colorado's prospects in the arbitration proceeding that will be held to determine whether Colorado diligently enforced its qualifying tobacco statute for non participating manufacturers.

17. Some of the decline in the market share of participating manufacturers may have been due to tobacco companies shifting their focus to foreign markets. How does this influence the non participating manufacturer adjustment and related matters?
18. Could Colorado be required to return settlement moneys already received?

3:10-3:25 Performance Measure Issues

19. How do your performance measures influence department activities and budgeting?
20. To what extent do the performance outcomes reflect appropriation levels?
21. To what extent do you believe that appropriation levels in your budget could or should be tied to specific performance measure outcomes?
22. As a department director, how do you judge your department's performance? What key measures and targets do you use?
23. How does the Department have the resources to go around the country filing friend-of-the-court briefs when it does not have the resources to pursue consumer fraud cases? What statutory authority does the Attorney General have to file friend of the court briefs?
24. What is the source of funding for the Annual Report? Is the Annual Report authorized in statute? Are there statutory guidelines for the annual report?
25. What performance measures and benchmarks have Attorneys General in other states developed for their Departments? Could these measures be used in Colorado?
26. Has the National Association of Attorneys General developed useful performance measures and benchmarks?

3:25 – 3: 30 Major Litigation Issue

27. In the Cendant Corp v. Department of Revenue case, what is the state's policy regarding amended tax returns? Under what conditions are they allowed?

3:30-3:45 Rocky Mountain Arsenal Litigation

28. Will the appropriations contained in this decision item be sufficient to bring this action to a successful conclusion if the case goes to trial? Under what circumstances would the Department, in future years, require additional appropriations to support its natural resource damage action against the U.S. Army and Shell Oil Company?

29. Please access the state's prospect of prevailing in the natural resource damage action against the Army and Shell. Given the apparent lack of case law in this area, what is basis for your assessment?
30. Has the Department picked a consultant to perform the natural resource damage assessment? How was that consultant picked? Were competing bids received from other consultants? Was there an RFP process or will there be an RFP process?
31. Can the state recover attorney's fees in this case? Other costs? Will recovered funds be TABOR exempt?
32. Could money received as a result of the case be used to clean up a super fund site?

3:45 – 3:55 SB 110 Issue

33. Does the Department plan to establish an enforcement program for S.B. 06-110?
34. Assuming an adequate funding source can be located, could the Department run an adequate enforcement program for S.B. 06-110 with an appropriation of \$68,879 and 1.0 FTE?
35. Is there any prospect that revenues from enforcement activities will support this program?

3:55 – 4:00 Proposal to Eliminate "Cash Funds Exempt" in the Long Bill

36. Background. Joint Budget Committee staff has proposed eliminating the current "Cash Funds Exempt" column in the Long Bill and replacing it with a new column entitled "Transfers" effective with the FY 2008-09 Long Bill. The Joint Budget Committee has not formally voted on this issue. For details of the proposed change, please read the Joint Budget Committee staff memo from November 15, 2006, entitled "Proposed Long Bill Format Change." To help departments understand the new format, our staff has prepared an example of the Department of Revenue FY 2006-07 Long Bill in the proposed new format. This memo, and the example from the Department of Revenue, can be downloaded from the JBC web page at the following Internet address:

http://www.state.co.us/gov_dir/leg_dir/jbc/PLBFC11-15-06.pdf

Question. Please provide the Joint Budget Committee with a summary of any potential concerns that your department may have regarding the proposed change to the Long Bill format. Please highlight potential issues such as: implementation challenges, workload issues, and other related concerns.