

**COLORADO GENERAL ASSEMBLY  
JOINT BUDGET COMMITTEE**



**FY 2009-10 STAFF BUDGET BRIEFING**

**DEPARTMENT OF LAW**

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

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November 19, 2008**

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**FY 2009-10 BUDGET BRIEFING  
STAFF PRESENTATION TO THE JOINT BUDGET COMMITTEE**

**DEPARTMENT OF LAW**

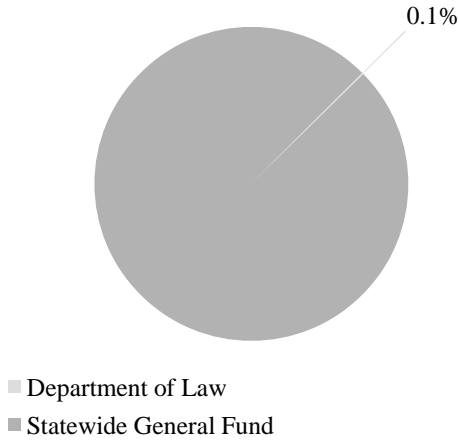
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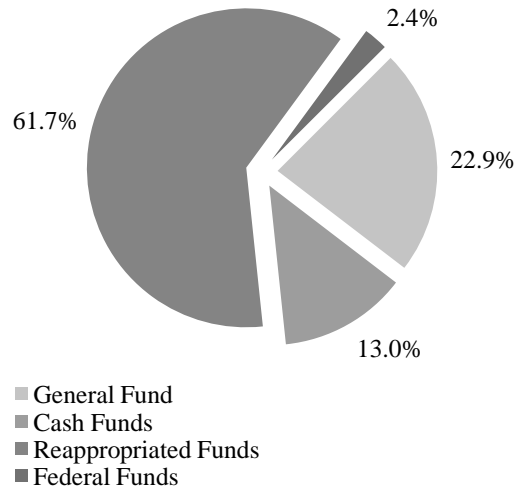
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**GRAPHIC OVERVIEW**

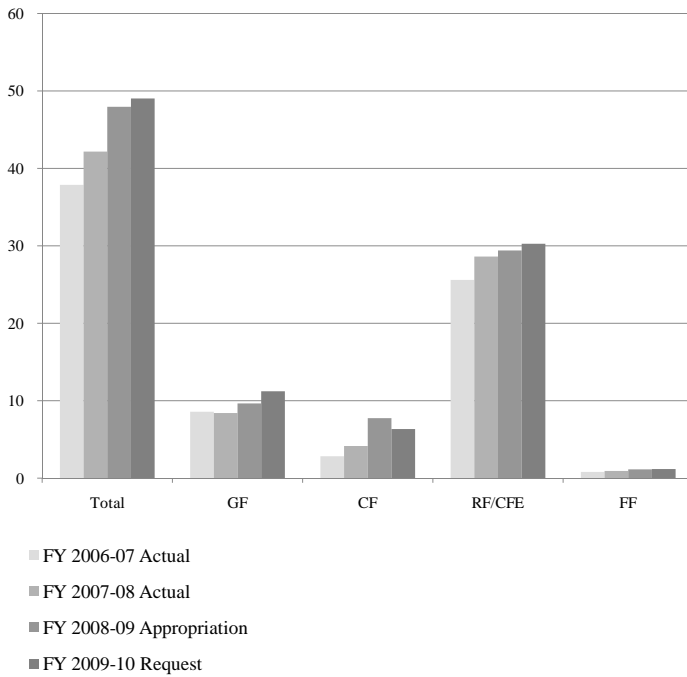
**Department's Share of Statewide General Fund**



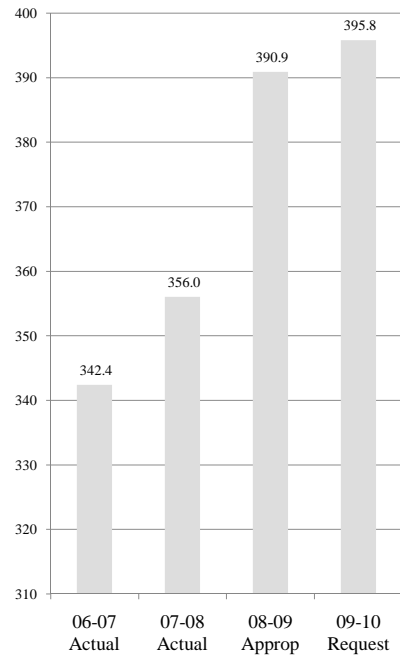
**Department Funding Sources**



**Budget History  
(Millions of Dollars)**

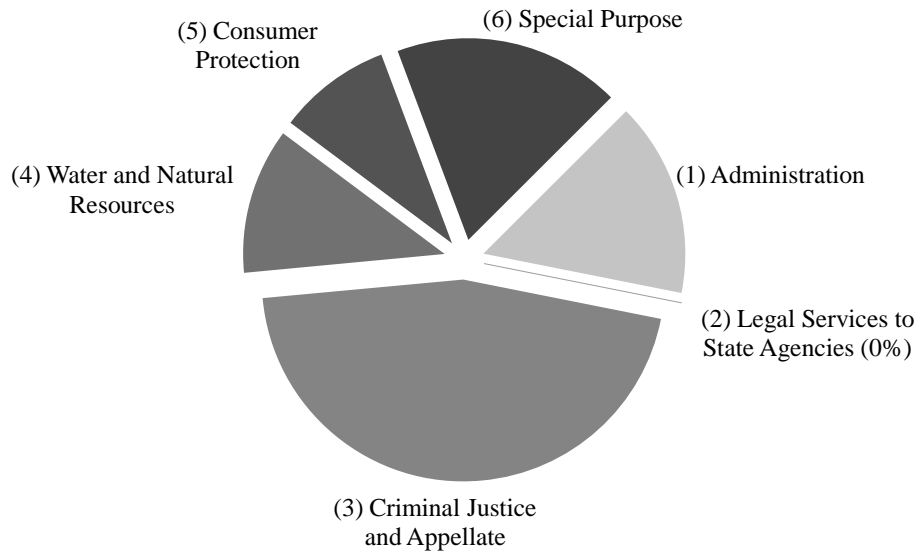


**FTE History**

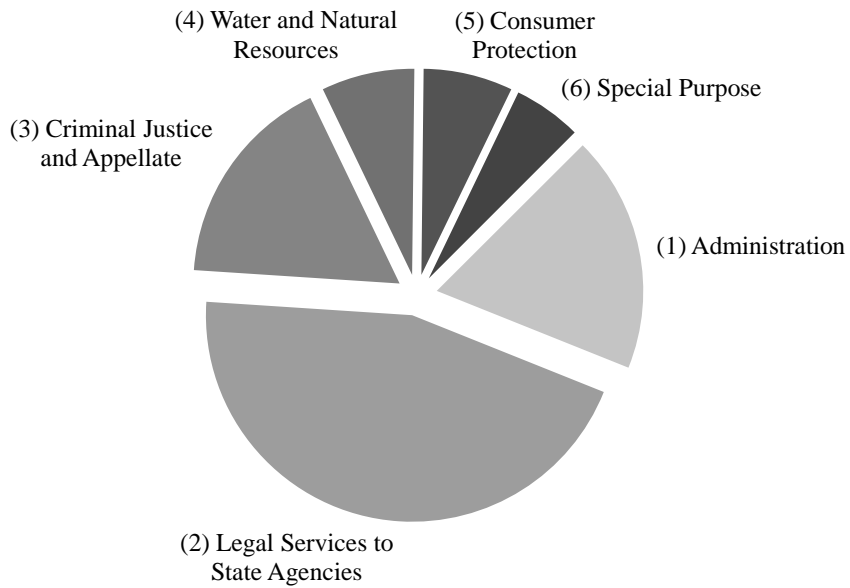


Unless otherwise noted, all charts are based on the FY 2008-09 appropriation.

### Distribution of General Fund by Division



### Distribution of Total Funds by Division



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**DEPARTMENT OVERVIEW**

**Key Responsibilities**

**Civil Litigation**

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

**Criminal Enforcement**

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

**Legal Counsel and Advice to the State**

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

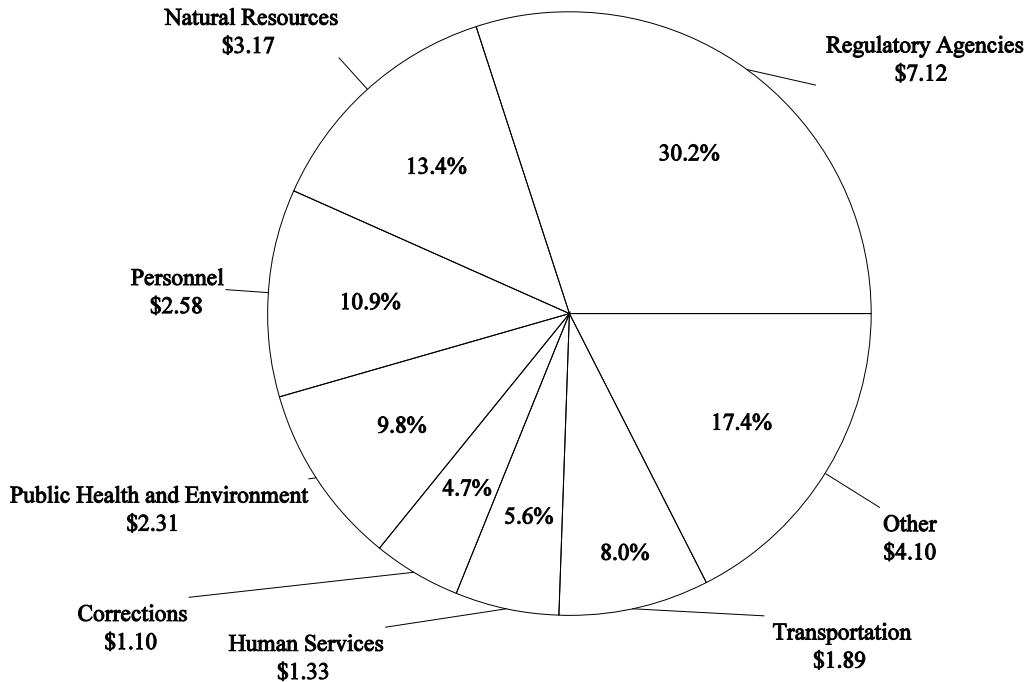
**Factors Driving the Budget**

**Legal Services Provided to State Agencies**

The Department of Law provides legal services to other state agencies under the "Oregon" plan. The General Assembly makes legal-services appropriations to state agencies and these agencies use the spending authority to purchase legal services from the Department of Law, much as they would purchase legal services from a private-sector law firm. The Department of Law collects the payments when it provides the legal services, billing attorney hours at a uniform rate and paralegal hours at another lower uniform rate. These two rates are commonly summarized by a single "blended" legal rate, a weighted average of the two that is reported in the following table. Since the Department of Law cannot spend the money it collects unless it too has an appropriation, the General Assembly must make dual appropriations for legal services, one to the state agency that buys the services and another equal appropriation to the Department of Law's Legal Services to State Agencies (LSSA) Division, which delivers the services. Total LSSA billings for recent years are shown in the following table and pie chart. As the table indicates, seven departments account for over 80 percent of the legal services that the Department supplies. (The pie chart shows data for the appropriated year with dollar amounts in millions of dollars.)

## Legal Services Expenditures by State Agencies

	FY 03-04 Actual	FY 04-05 Actual	FY 05-06 Actual	FY 2006-07 Actual	FY 2007-08 Actual	FY 2008-09 Approp.
<b>Regulatory Agencies</b>	\$4,984,120	\$5,075,682	\$5,310,731	\$5,761,082	\$6,544,571	\$7,121,534
<b>Natural Resources</b>	2,229,281	2,198,168	2,471,139	2,555,184	2,864,980	3,165,863
<b>Personnel</b>	2,152,987	2,315,498	2,548,690	2,578,495	2,951,969	2,584,869
<b>Public Health &amp; Envirmt.</b>	1,464,533	1,354,044	1,599,380	1,616,692	1,921,117	2,306,833
<b>Transportation</b>	978,367	981,602	1,098,635	1,110,286	1,208,886	1,893,237
<b>Human Services</b>	1,050,906	1,173,984	1,301,464	1,354,909	1,396,381	1,328,161
<b>Corrections</b>	959,650	1,095,811	1,012,821	948,962	846,504	1,101,915
<b>Other</b>	<u>3,767,120</u>	<u>3,821,461</u>	<u>3,950,419</u>	<u>4,328,158</u>	<u>4,644,005</u>	<u>4,095,266</u>
<b>Total</b>	\$17,586,964	\$18,016,250	\$19,293,279	\$20,253,768	\$22,378,413	\$23,597,678
<b>% Change of Total</b>		2.4%	7.1%	5.0%	10.5%	5.4%
<b>Blended Legal Rate</b>	\$60.79	\$61.57	\$64.45	\$67.77	\$72.03	\$75.10
<b>% Change of Blended Legal Rate</b>		1.3%	4.7%	5.2%	6.3%	4.3%



### **Criminal Justice and Appellate**

The largest user of General Fund in the Department is the Criminal Justice and Appellate Division, which accounts for about 45 percent of the Department's FY 2008-09 General Fund appropriation. Slightly more than half of the Criminal Justice and Appellate Division's General Fund is devoted to the Appellate Unit and about a quarter is devoted to the Special Prosecutions Unit. The former represents the State in the criminal appeals process while the latter is composed of investigators and attorneys who primarily handle multi-jurisdictional crimes, complex crimes, gang prosecutions, environmental crimes, foreign prosecutions, and workers' compensation fraud. Pursuant to H.B. 07-1054, which increased the number of Colorado judges, and the bill's Legislative Council Staff Fiscal Note, the Appellate Unit increased in size in FY 2008-09 by \$160,334 General Fund and 2.0 FTE and will further increase in size by about \$260,000 General Fund and 3.0 FTE in FY 2009-10.

### **District Attorney Salaries**

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

H.B. 07-1170, Compensation of Elected District Attorneys, increased the minimum salary for district attorneys as follows.

<b>Minimum District Attorney Salary</b>	
Prior to January 1, 2009	\$67,000
January 1, 2009	100,000
January 1, 2010	110,000
January 1, 2011	120,000
January 1, 2012	130,000

The final Legislative Council Staff Fiscal Note for H.B. 07-1170 estimated that the bill will require the following increases in General Fund appropriations.

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

For FY 2009-10, the Department is requesting a \$1,579,258 increase of its General Fund appropriation, a 16.4 percent increase over the FY 2008-09 appropriation. Of this increase, \$700,917 is due to the combined impact of H.B. 07-1054 and H.B. 07-1170 in FY 2009-10. Without these two bill's, the Department's requested General Fund increase equals 9.1 percent.

**Water and Natural Resources**

After the Criminal Justice and Appellate Division and District Attorney Salaries, the Water and Natural Resources Division is the next largest user of General Fund in the Department, accounting for about 12 percent of the Department's FY 2008-09 General Fund appropriation. Within that unit, the primary users of General Fund are the Federal and Interstate Water Unit, which represents the State in water rights litigation, and the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) Unit which uses federal CERCLA law to clean up sites that have been contaminated by hazardous substances.



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**DECISION ITEM PRIORITY LIST**

<b>Decision Item</b>	<b>GF</b>	<b>CF</b>	<b>RAF</b>	<b>FF</b>	<b>Total</b>	<b>FTE</b>
1	0	0	0	0	0	0.0
<p><b>Consolidation of the Special Prosecutions Unit</b></p> <p><b>Criminal Justice and Appellate Division.</b> The Department requests that the currently separate Long Bill appropriations to four units within the Criminal Justice and Appellate Division be consolidated into a single appropriation. There will be no change in the overall level or mix of funding. These appropriations fund the Special Prosecution Unit, the Insurance Fraud Unit, the Securities Fraud Unit, and the Capital Crimes Prosecution Unit. The Department believes that the additional flexibility resulting from consolidation, which will allow the department to move staff among programs and assign them to the cases for which they are best suited, will increase the efficiency and effectiveness of its investigations and prosecutions. The Department also requests that the current two-step funding arrangement in the Long Bill, in which funds for the Securities and Insurance Fraud units are first appropriated in the Divisions of Insurance and Securities in the Department of Regulatory Agencies and are then reappropriated to the two fraud programs, be replaced with a direct appropriation to the fraud programs. <i>Statutory authority: Sections 24-31-101, 10-1-129 and 11-51-603, C.R.S.</i></p>						
2	142,275	71,051	0	0	213,326	2.0
<p><b>FTE for the Special Prosecutions Unit</b></p> <p><b>Criminal Justice and Appellate Division.</b> The Department requests two additional FTE for the Special Prosecutions unit. The first position would be filled by a forensic accountant who would help investigate financial crimes such as securities and insurance fraud cases. The Department notes that a forensic accountant would be particularly helpful in the investigation and prosecution of complex financial crimes, providing expertise that the Department's current staff lacks. The second position would be filled by a bilingual, Spanish speaking, criminal investigator, who would work for the Department's Foreign Prosecutions Unit, which pursues Mexican nationals who commit murder and other crimes in Colorado and subsequently flee to Mexico. These individuals can be prosecuted and imprisoned for these crimes in Mexico under provisions of Article IV of the Mexican penal code. <i>Statutory authority: Sections 24-31-105, 11-51-603.5, 10-1-129, C.R.S.</i></p>						
3	382,983	(545,000)	0	0	(162,017)	0.0
<p><b>Consolidate of the Colorado River Unit with the Federal and Interstate Water Unit</b></p> <p><b>Water and Natural Resources Division.</b> The Department requests that the currently separate Long Bill appropriations for the Federal and Interstate Water Unit and for the Colorado River Unit be combined into a single appropriation. The two units do very similar work and the consolidation will increase efficiency. Over the last three years, the Colorado River Unit has been funded with cash fund grants from the Colorado Water Conservation Board's Litigation Fund, an arrangement that may be winding down. The Department requests that a lesser amount of General Fund be substituted for the current cash funding. <i>Statutory authority: Section 24-31-101, C.R.S.</i></p>						

Decision Item	GF	CF	RAF	FF	Total	FTE
4	6,882	0	86,471	0	93,353	1.0
<p><b>Assistant Solicitor General Position in the Office of the Attorney General</b></p> <p><b>Administration Division.</b> The Department requests an additional FTE attorney to assist the Solicitor General. The Solicitor General supervises all litigation that the state undertakes, reviews every brief filed by the state in appellate courts, reviews all rules and regulations enacted by state agencies, advises the Attorney General on local and national legal issues, and reviews requests from state agencies for special assistant attorney general designations. The Department states that the duties of the office have grown to such an extent that they can no longer be performed by a single individual. <i>Statutory authority: Section 24-31-203, C.R.S.</i></p>						
5	54,004	0	0	0	54,004	1.0
<p><b>Legal Assistant FTE for the Consumer Protection Unit</b></p> <p><b>Consumer Protection.</b> The Department requests an additional Legal Assistant II for the Consumer Protection Unit to assist the unit's attorneys and investigators with the substantial increase in the number of new investigations and prosecutions that the unit is undertaking. <i>Statutory authority: Sections 6-4-101 to 122, 6-2-101 to 117, 6-1-101 to 1115, 6-16-101 to 113, 42-9-101 to 113, 6-6-101 to 103, C.R.S., and 15 U.S.C. Sections 1-26.</i></p>						
Non Prioritized 1	22,172	(19,031)	(172,372)	9,067	(160,164)	0.0
<p><b>Administration Operating Expenses</b></p> <p><b>Administration Division.</b></p>						
Non Prioritized 2	2,721	1,088	3,265	0	7,074	0.0
<p><b>Vehicle Operating Increase</b></p> <p><b>Administration, Legal Services to State Agencies, Criminal Justice and Appellate, Consumer Protection.</b></p>						
Non Prioritized 3	2,132	2,075	4,052	0	8,259	0.0
<p><b>Postage Operating Increase</b></p> <p><b>Administration, Legal Services to State Agencies, Criminal Justice and Appellate, Consumer Protection</b></p>						
<b>Total</b>	<b>613,169</b>	<b>(489,817)</b>	<b>(78,584)</b>	<b>9,067</b>	<b>53,835</b>	<b>4.0</b>

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**BASE REDUCTION ITEM PRIORITY LIST**

<b>Base Reduction</b>	<b>GF</b>	<b>CF</b>	<b>RAF</b>	<b>FF</b>	<b>Total</b>	<b>FTE</b>
1	0	(1,017,924)	0	0	(1,017,924)	0.0
<p><b>Reduction to the Rocky Mountain Arsenal appropriation</b></p> <p><b>Water and Natural Resources Division.</b> The State has reached settlements with the U.S. Army and Shell Oil Company concerning the Natural Resource Damages that the two entities caused at the Rocky Mountain Arsenal. Together the settlements are valued at \$35 million. As a result the Department no longer needs funding to litigate the case and it requests that funding be reduced to \$195,000 cash funds, which will allow it to assist the State's Natural Resource Trustees in deciding how to award the settlement moneys. Under Federal law, the state must use the natural resource damage awards to acquire or improve other natural resources. <i>Statutory authority: Sections 25-16-104.7 and 24-33-108, C.R.S. 42 U.S.C. Section 9607 (f).</i></p>						
<b>Total</b>	<b>0</b>	<b>(1,017,924)</b>	<b>0</b>	<b>0</b>	<b>(1,017,924)</b>	<b>0.0</b>

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**OVERVIEW OF NUMBERS PAGES**

The following table summarizes the total change, in dollars and as a percentage, between the Department's FY 2008-09 appropriation and its FY 2009-10 request.

**Total Requested Change, FY 2008-09 to FY 2009-10 (millions of dollars)**

<b>Category</b>	<b>GF</b>	<b>CF</b>	<b>RAF</b>	<b>FF</b>	<b>Total</b>	<b>FTE</b>
FY 2008-09 Appropriation	\$9.6	\$7.8	\$29.4	\$1.2	\$48.0	390.9
FY 2009-10 Request	11.2	6.3	30.3	1.2	49.0	395.8
Increase / (Decrease)	\$1.6	(\$1.5)	\$0.9	\$0.0	\$1.0	4.9
Percentage Change	16.7%	-19.2%	3.1%	0.0%	2.1%	1.3%

The following table highlights the individual changes contained in the Department's FY 2009-10 budget request, as compared with the FY 2008-09 appropriation. For additional detail, see the numbers pages in Appendix A.

**Requested Changes, FY 2008-09 to FY 2009-10**

<b>Category</b>	<b>GF</b>	<b>CF</b>	<b>RAF</b>	<b>FF</b>	<b>Total</b>	<b>FTE</b>
Increase base salaries by Salary Survey and Performance-Based Pay	\$400,743	\$108,597	\$789,619	\$33,335	\$1,332,294	0.0
Third year impact of H.B. 07-1170, District Attorney Salaries	441,372	0	0	0	441,372	0.0
Third year impact of H.B. 07-1054, Increase Number of Judges	259,545	0	0	0	259,545	3.0
Second year impact of 2008 session bills	16,293	0	30,180	0	46,473	0.3
Non-prioritized decision items #2 and #3 and Leased Space	5,265	3,438	9,115	16	17,834	1.6
Fund mix adjustment	(131,195)	(4,682)	140,727	(4,850)	0	0.0
FY 2008-09 Prioritized Decision Items & Base Reduction Item	590,144	(1,491,873)	86,471	0	(815,258)	0.0
NP#1 Common Policy Changes	30,877	(17,546)	(136,634)	9,248	(114,055)	0.0

<b>Category</b>	<b>GF</b>	<b>CF</b>	<b>RAF</b>	<b>FF</b>	<b>Total</b>	<b>FTE</b>
Second year impact of FY 2008-09 Decision Items	(33,786)	(6,958)	(58,985)	(2,429)	(102,158)	0.0
<b>Total Change</b>	<b>\$1,579,258</b>	<b>(\$1,409,024)</b>	<b>\$860,493</b>	<b>\$35,320</b>	<b>\$1,066,047</b>	<b>4.9</b>

**FY 2009-10 Joint Budget Committee Staff Budget Briefing  
Department of Law**

**BRIEFING ISSUE**

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

Summarizes legal cases involving the state that could have a significant adverse impact on the General Fund.

**SUMMARY:**

- This issue provides background information for questions that the Committee may wish to ask the Department of Law about litigation in which the state is engaged.
- Cases were selected for inclusion if they have a potential General Fund impact in excess of \$1 million.

**RECOMMENDATION:**

- During the hearing, the Committee may wish to ask the Department about the disputes with the U.S. Department of Agriculture over excessive food stamp benefits paid by CBMS; the status of the dispute over costs in the Arkansas River case; and the status of the Republican River case. Though the State's ongoing dispute with tobacco manufacturers who participate in the Master Settlement Agreement is not listed below because it does not involve General Fund, the Committee may also wish for an update on the status of the perspective arbitration concerning diligent enforcement of its laws concerning non-participating tobacco manufacturers.

**DISCUSSION:**

**Status of Current Litigation**

This is a list of unresolved cases in which the possible impact on the General Fund exceeds \$1 million.

**Mesa County Board of County Commissioners v. State of Colorado (the Mill Levy Lawsuit).** Plaintiffs challenge the constitutionality of a provision in S.B. 07-199 (The School Finance Act) which changed the way a school district sets its property tax mill levy. The act modified a statutory provision which required a district to lower its mill levy if it would otherwise cause the district's property tax revenue to grow by more than inflation plus student enrollment growth (i.e. by more than the "TABOR" limit of Section 20 imposed by Article X of the State Constitution). Senate Bill 07-199 added language to specify that this provision only applies to districts that have not obtained

voter approval to retain and spend revenues in excess of the TABOR limit. The district court declared S.B. 07-199 unconstitutional but did not require reimbursement to school district taxpayers of \$117.838 million. The State has appealed this ruling to the Colorado Supreme Court. While this decision does not directly affect the General Fund, if the court orders school districts to pay refunds and the state decides to help school districts pay those refunds, it would have a substantial General Fund impact. Note that Colorado is being represented by outside counsel in this case.

**Arkansas River Compact (Kansas v. Colorado).** Colorado was found liable for violations of the Arkansas River Compact related to excessive groundwater pumping and, in April 2005, paid Kansas \$34.6 million in compensation. Kansas has agreed that this amount is correct. In June 2006, the Special Master who oversees the case ordered Colorado to pay \$1.4 million to Kansas as reimbursement for costs that Kansas incurred when pursuing its case. Kansas filed an exception to the Special Master's recommendation and could be awarded up to \$9 million more for costs. The Attorney General will personally argue this case before the U.S. Supreme Court within the next month.

**Republican River Compact (Kansas v. Colorado).** Kansas has threatened to file suit against Colorado and Nebraska for violating the Republican River Compact by consuming more water than allowed under the Compact. Kansas could seek millions of dollars from Colorado and Nebraska, however it appears that the bulk of Kansas' claims will be against Nebraska. The Attorney General anticipates that moneys in the Water Conservation Board Litigation Fund will be available to cover the costs of litigation, but damages or remedies, should they be awarded, would require additional appropriations.

**Cendant Corp v. Department of Revenue.** Cedant wants to file an amended corporate tax return that would result in an \$8 million refund and would reduce General Fund revenues. The case was heard by the Executive Director of the Department of Revenue, who ruled against Cedant. Cendant appealed the ruling in District Court, where it prevailed. The Department of Revenue has appealed. If the Department of Revenue loses, it will have to pay a refund of \$8 million plus \$2 to \$5 million in interest.

**Lobata, et al v. State of Colorado.** School districts in the San Luis Valley, joined by district parents and students, claim that Colorado's current school funding system fails to provide a thorough and uniform system of free public education as required by the Colorado Constitution. Plaintiffs seek attorneys' fees and costs and seek a declaration that the current school financing system violates the Colorado Constitution. Plaintiffs' goal is to require significant additional funding for K-12 education and to have the courts maintain continuing jurisdiction over the case. Attorneys fees and costs are well over \$1 million. Plaintiffs assert that the extra funding needed for capital facilities alone is \$5 to \$10 billion. All claims were dismissed by the District Court in March 2006. The Court of Appeals upheld the District Court's dismissal in January 2008. The Supreme Court will hear the case in 2009.

**Martinez et al v. Department of Human Services, et al.** Colorado's Aid To The Needy Disabled (AND) program provides cash assistance to low-income Colorado residents, age 18 and over, who

have had a total disability for at least six-months. AND benefits are reduced if a recipient receives other income, such as Supplemental Security Income (SSI) benefits. The state requires AND recipients to apply for SSI; if they qualify, AND benefits are reduced. Some AND recipients hired attorneys to help them when they had difficulty qualifying for SSI. These disabled individuals assert, in a class action lawsuit, that the state should pay a portion of their attorney fees because the state benefitted from their expenditure. They ask for \$10 million in damages. The case went to trial in October 2008 and the court ruled in favor of the state. The Plaintiffs may appeal.

**State of Colorado v. U.S. Department of Agriculture.** This was originally an administrative action in which the U.S. Department of Agriculture asserted that Colorado over issued food stamps during federal fiscal year 2004-05 as it transitioned to the Colorado Benefits Management System. The Agriculture Department proposed an \$11.1 million sanction, which was reduced to \$10.8 million when Colorado appealed the decision administratively. Colorado subsequently filed for review in federal court but no trial date has been set. Interest continues to accrue. The Department of Agriculture has also asserted that Colorado erroneously over-issued food stamp benefits during federal fiscal year 2005-06 and seeks \$3.5 million in sanctions. Colorado has appealed this proposed sanction administratively but no hearing date has been set. Note that House Bill 07-1359 diverted \$24.4 million of tobacco Master Settlement Agreement payments into a special account called the Health Care Supplemental Appropriations and Overexpenditures Account of the Tobacco Litigation Settlement Cash Fund. A portion of the remaining balance in this account could be used until April 2009 to pay the sanctions imposed by the Department of Agriculture. If the April 2009 deadline is not extended, this case could have a substantial General Fund impact.

**McLane Western v. Department of Revenue.** In the first McLane lawsuit, the plaintiff asserted that the Department of Revenue did not properly rebate taxes on sales of tobacco products during the 1990's and sought a refund. The state prevailed in Denver District Court, in the Colorado Court of Appeals and in the Colorado Supreme Court. The plaintiff has raised the same issues in a second lawsuit seeking \$5 million in tax refunds and interest. The District Court dismissed the case and the dismissal order has been appealed, by the plaintiff, to the Court of Appeals.

### **Recently Resolved Cases**

**Barber v. Ritter.** Between FY 2001-02 and FY 2003-04, the General Assembly transferred \$442 million of cash fund to the General Fund to maintain a balanced budget and reduce the need for budget cuts. The plaintiffs asserted that these transfers turned program fees into taxes and thus violated Article X, Section 20 of the Colorado Constitution (more commonly known as 'TABOR'). The State prevailed in District Court, the Court of Appeals, and the Supreme Court.

**Thompson v. Colorado.** Plaintiffs alleged that a fee that the Department of Revenue formerly charged for disabled parking permits violated the Americans with Disabilities Act. The plaintiffs sought \$1 to \$2 million in damages. The State lost in the U.S. District Court but won in 2001 on an appeal to the Tenth Circuit. The case had long been inactive, but it sprang back to life when plaintiffs



argued that the Tenth Circuit implicitly reversed its 2001 ruling when it decided a similar case in 2004. The U.S. District court recently issued a summary judgement awarding the plaintiffs \$900,000 and the case is now resolved.

**FY 2009-10 Joint Budget Committee Staff Budget Briefing  
Department of Law**

**BRIEFING ISSUE**

**ISSUE: Consolidation of the Special Prosecutions Unit**

Recounts the history of the four units that would be consolidated by Decision Item number 1, pointing out that this decision item would reverse a FY 2005-06 decision of the General Assembly. Discusses recent opposition to consolidation by the Department of Regulatory Agencies.

**SUMMARY:**

- The Department of Law's number one Decision Item requests that its Insurance Fraud Unit, Securities Fraud Unit, and Capital Crimes Prosecution Unit be consolidated with its Special Prosecution Unit and be appropriated on a single line of the Long Bill.
- The Decision Item also requests that its Insurance and Securities Fraud Units receive direct appropriations from the Division of Insurance Cash Fund and from the Division of Securities Cash Fund.
- This briefing issue reviews the history of these programs, noting that they have, in recent years, been consolidated, split, and now would be joined again. It discusses possible opposition from the Department of Regulatory Agencies and suggests questions that the Committee may wish to ask of each agency.

**RECOMMENDATION:**

Staff recommends that the Committee ask the following questions of the Department of Law at its hearing:

- Explain the benefits that the Department expects to derive from consolidation and comment on the Department's experience with consolidation during FY 2002-03, 2003-04 and 2004-05, the years when the program was consolidated.
- Why did the Department of Law exclude the Capital Crimes Prosecution Unit from its FY 2002-03 consolidation plan but include it in this plan? Would the Department want to proceed with Decision Item number 1 if the Capital Crimes Prosecution Unit was excluded from the consolidation?
- How will the Department assure that each funding agency receives an amount of investigatory and prosecutorial support commensurate with that agency's financial contribution to the combined unit?

Staff also recommends that the Committee ask the Department of Regulatory Agencies (the Department of Regulatory Agencies) to respond to the following questions at its hearing:

- What is DORA's position on the Department of Law's request to consolidate the Securities and Insurance Fraud Units with the Special Prosecutions Unit?
- What is DORA's position on the Department of Law's request for a direct appropriation to the Securities Fraud and Insurance Fraud Units from the Division of Securities Cash Fund and from the Division of Insurance Cash Fund?

### **DISCUSSION:**

The Department of Law has had a separately appropriated unit that specializes in the investigation and prosecution of workers' compensation fraud since the latter 1980's. The Department's Securities Fraud Unit dates from FY 1996-97, when the Joint Budget Committee approved a decision item that provided 2.5 FTE for securities fraud investigation and prosecution. The Department asked that the new program not be created within the Legal Services to State Agencies division, which supplies legal services to other agencies on a fee-for-service basis, to eliminate the appearance of a attorney-client relationship. The Department's Insurance Fraud Unit dates from FY 1997-98 when H.B. 97-1346 granted the Attorney General's Office the authority to investigate and prosecute insurance fraud. The bill also created a \$120 fee in Section 10-3-207 (1)(e), C.R.S., to provide funding for the unit and provided 2.5 FTE to the Department to staff the program. In FY 1998-99, this program joined the Workers' Compensation Fraud Unit and the Securities Fraud Unit in the "Special Purpose" division of the Department's Long Bill. Each unit had its own separate appropriation and the three together were staffed by 8.0 FTE. The units differed in one regard, however, the Workers' Compensation Fraud program was funded by a cash funds appropriation that allowed it to expend funds received from the Colorado Compensation Insurance Authority (Pinnacol Assurance) while the Securities and Insurance fraud programs were both funded by two-part appropriations that first appropriated cash funds from the Division of Securities Cash Fund to the Division of Securities and from the Division of Insurance Cash Fund to the Division of Insurance (both in the Department of Regulatory Agencies) and then reappropriated these funds to the Department of Law's Securities and Insurance fraud units – though the reappropriations were at that time classified as cash funds exempt. Given the independent status of Pinnacol Assurance, a two-step appropriation within Pinnacol Assurance followed by an appropriation transferring the funding to the Department of Law was not possible.

The Department's Capital Crimes Prosecution Unit dates from 1994-95, when the 4.0 FTE unit was added to the Long Bill in the Department's General Enforcement and Appellate Division. It has, since its exception, been supported by a General Fund appropriation.

In FY 2002-03, the Department of Law requested, and the Joint Budget Committee approved, a plan that consolidated the workers' compensation, securities and insurance fraud programs with other specialized enforcement programs into a new Long Bill line titled the Special Prosecutions Unit. The Capital Crimes Prosecution Unit was not included in this combined unit. This new unit was comprised of 16.8 FTE who were supported directly by payments from the Colorado Compensation Insurance Authority, indirectly by appropriations from the Division of Insurance Cash Fund and the Division of Securities Cash Fund, and by appropriations from the General Fund. The Attorney General's Office requested this change, which had no net effect on the Department's appropriation of dollars or FTE, because it provided increased flexibility with regard to both funding and staffing.

In March of 2005, the Department of Regulatory Agencies (DORA) sent a letter to the Joint Budget Committee requesting that the appropriations to the Securities Fraud Unit and the Insurance Fraud Unit for FY 2006-06 and subsequent years be presented separately in the Long Bill, as they had been prior to FY 2002-03. DORA also asserted that the Department of Law should account for the expenditures of the Insurance and Securities Fraud units in a manner similar to the accounting provided by the Department of Law's Legal Services to State Agencies program for its client agencies. The Committee responded sympathetically to DORA's request, and agreed to split the Securities Fraud and Insurance Fraud Programs from the Special Prosecutions program and present their appropriations separately in the Long Bill.

Now, three and a half years after the split, the Department of Law is requesting that the Committee revisit its 2005 decision. If the Committee approve this request, then over the 9-year period from FY 2001-02 to FY 2009-10, these Units will have been separate, consolidated, separate, and consolidated.

**FY 2009-10 Joint Budget Committee Staff Budget Briefing  
Department of Law**

**APPENDIX A: NUMBERS PAGES**

	FY 06-07 Actual	FY 07-08 Actual	FY 08-09 Appropriation	FY 09-10 Request	DI and Approp v Request
<b>DEPARTMENT OF LAW</b>					
<b>John W. Suthers, Attorney General</b>					
<b>(1) ADMINISTRATION</b>					
<i>Primary Functions are comprised of Department administration including budgeting, accounting, and information technology.</i>					
Personal Services	2,431,972	2,523,003	2,795,309	3,013,268	DI#4
FTE	<u>37.7</u>	<u>38.1</u>	<u>41.2</u>	<u>42.2</u>	
General Fund	0	0	0	0	
Cash Funds	5,000	5,000	0	0	
Cash Funds Exempt/RF	2,426,972	2,518,003	2,795,309	3,013,268	
Health, Life and Dental	<u>1,166,472</u>	<u>1,423,679</u>	<u>1,783,219</u>	<u>1,919,925</u>	NP#1
General Fund	363,616	461,603	531,993	551,445	
Cash Funds	63,732	90,556	141,137	154,101	
Cash Funds Exempt/RF	720,233	847,378	1,063,960	1,158,836	
Federal Funds	18,891	24,142	46,129	55,543	
Short-term Disability	<u>25,199</u>	<u>31,935</u>	<u>36,340</u>	<u>37,493</u>	NP#1
General Fund	7,560	9,571	10,672	10,887	
Cash Funds	1,515	1,832	2,874	2,965	
Cash Funds Exempt/RF	15,625	19,631	21,660	22,547	
Federal Funds	499	901	1,134	1,094	

	FY 06-07	FY 07-08	FY 08-09	FY 09-10	DI and
	Actual	Actual	Appropriation	Request	Approp v Request
S.B. 04-257 Amortization Equalization Disbursement	<u>172,286</u>	<u>303,805</u>	<u>444,510</u>	<u>574,114</u>	NP#1
General Fund	51,310	92,272	128,608	164,790	
Cash Funds	10,027	17,229	35,889	45,616	
Cash Funds Exempt/RF	107,570	185,792	266,062	346,872	
Federal Funds	3,379	8,512	13,951	16,836	
S.B. 06-235 Supplemental Amortization Equalization Disbursement	<u>n/a</u>	<u>62,558</u>	<u>206,226</u>	<u>357,134</u>	NP#1
General Fund	0	17,229	58,147	101,307	
Cash Funds	0	3,692	16,578	28,510	
Cash Funds Exempt/RF	0	39,813	124,962	216,795	
Federal Funds	0	1,824	6,539	10,522	
Salary Survey for Classified Employees	<u>246,897</u>	<u>278,941</u>	<u>341,175</u>	<u>251,113</u>	NP#1
General Fund	104,828	114,731	138,299	100,145	
Cash Funds	31,760	37,397	55,068	36,346	
Cash Funds Exempt/RF	95,857	108,862	128,644	91,400	
Federal Funds	14,452	17,951	19,164	23,222	
Salary Survey for Exempt Employees	<u>987,957</u>	<u>759,834</u>	<u>658,444</u>	<u>562,223</u>	NP#1
General Fund	241,127	196,085	164,387	135,838	
Cash Funds	12,940	12,305	27,694	21,695	
Cash Funds Exempt/RF	723,918	541,856	461,582	400,220	
Federal Funds	9,972	9,588	4,781	4,470	
Performance-based Pay Awards for Classified Employees	<u>0</u>	<u>122,210</u>	<u>133,803</u>	<u>0</u>	NP#1
General Fund	0	25,543	54,578	0	
Cash Funds	0	17,488	20,811	0	
Cash Funds Exempt/RF	0	71,444	49,054	0	
Federal Funds	0	7,735	9,360	0	

	FY 06-07 Actual	FY 07-08 Actual	FY 08-09 Appropriation	FY 09-10 Request	DI and Approp v Request
Performance-based Pay Awards for Exempt Employees	<u>0</u>	<u>256,353</u>	<u>282,048</u>	<u>0</u>	NP#1
General Fund	0	66,582	67,997	0	
Cash Funds	0	4,133	11,485	0	
Cash Funds Exempt/RF	0	182,369	200,188	0	
Federal Funds	0	3,269	2,378	0	
Attorney Registration and Continuing Legal Education	n/a	n/a	<u>92,626</u>	<u>92,626</u>	
General Fund			22,238	22,238	
Cash Funds			3,750	3,750	
Cash Funds Exempt/RF			66,075	66,075	
Federal Funds			563	563	
Workers' Compensation	<u>55,453</u>	<u>51,406</u>	<u>65,561</u>	<u>65,661</u>	NP#1
General Fund	17,031	16,115	19,909	19,899	
Cash Funds	3,930	3,704	5,833	5,321	
Cash Funds Exempt/RF	33,141	30,119	37,990	38,667	
Federal Funds	1,351	1,468	1,829	1,774	
Operating Expenses	<u>184,592</u>	<u>179,039</u>	<u>192,543</u>	<u>194,951</u>	DI#4, NP#2, NP#3
General Fund	176,529	0	0	1,458	
Cash Funds Exempt/RF	8,063	179,039	192,543	193,493	
Administrative Law Judges	<u>1,268</u>	<u>0</u>	<u>0</u>	<u>0</u>	
Cash Funds	1,268	0	0	0	
Cash Funds Exempt/RF	0	0	0	0	

	FY 06-07 Actual	FY 07-08 Actual	FY 08-09 Appropriation	FY 09-10 Request	DI and Approp v Request
Purchase of Services from Computer Center	<u>54,978</u>	<u>48,499</u>	<u>71,185</u>	<u>71,185</u>	
General Fund	54,978	0	0	0	
Cash Funds Exempt/RF	0	48,499	71,185	71,185	
Payment to Risk Management and Property Funds	<u>89,130</u>	<u>71,197</u>	<u>87,652</u>	<u>87,652</u>	
General Fund	89,130	0	0	0	
Cash Funds Exempt/RF	0	71,197	87,652	87,652	
Vehicle Lease Payments	<u>39,904</u>	<u>48,175</u>	<u>65,125</u>	<u>67,903</u>	NP#1
General Fund	15,637	10,724	12,446	16,981	
Cash Funds	4,724	10,737	11,362	20,444	
Cash Funds Exempt/RF	10,270	18,133	31,571	20,462	
Federal Funds	9,273	8,581	9,746	10,016	
ADP Capital Outlay	<u>29,550</u>	<u>91,325</u>	<u>15,138</u>	<u>31,583</u>	DI#2, DI#4, DI#5
General Fund	2,725	35,844	6,881	26,995	
Cash Funds	0	0	0	4,588	
Cash Funds Exempt/RF	26,825	40,350	8,257	0	
Federal Funds	0	15,131	0	0	
IT Asset Maintenance	<u>352,970</u>	<u>353,060</u>	<u>432,348</u>	<u>407,667</u>	
General Fund	0	0	22,935	15,291	
Cash Funds	32,656	32,463	53,722	47,298	
Cash Funds Exempt/RF	320,314	320,597	353,620	343,697	
Federal Funds	0	0	2,071	1,381	



	FY 06-07	FY 07-08	FY 08-09	FY 09-10	DI and
	Actual	Actual	Appropriation	Request	Approp v Request
Leased Space	<u>26,292</u>	<u>29,686</u>	<u>30,001</u>	<u>32,502</u>	
General Fund	4,372	4,961	4,945	5,357	
Cash Funds	3,583	3,657	3,295	3,570	
Cash Funds Exempt/RF	18,337	20,901	21,576	23,374	
Federal Funds	0	167	185	201	
Capitol Complex Leased Space	<u>1,009,085</u>	<u>1,165,178</u>	<u>1,159,223</u>	<u>1,226,053</u>	NP#1
General Fund	309,995	367,436	254,948	371,569	
Cash Funds	71,503	83,723	103,172	99,359	
Cash Funds Exempt/RF	603,008	680,846	768,765	722,005	
Federal Funds	24,579	33,173	32,338	33,120	
Communications Services Payments	<u>6,043</u>	<u>5,944</u>	<u>6,208</u>	<u>6,208</u>	
General Fund	2,399	2,435	2,308	2,308	
Cash Funds	431	372	575	575	
Cash Funds Exempt/RF	1,271	1,465	1,773	1,773	
Federal Funds	1,942	1,672	1,552	1,552	
Attorney General Discretionary Fund - GF	4,983	5,000	5,000	5,000	Approp v Request
<b>SUBTOTAL - Administration</b>	6,885,031	7,810,827	8,903,684	9,004,261	1.1%
FTE	<u>37.7</u>	<u>38.1</u>	<u>41.2</u>	<u>42.2</u>	<u>1.0</u>
General Fund	1,446,220	1,426,131	1,506,291	1,551,508	3.0%
Cash Funds	243,069	324,288	493,245	474,138	-3.9%
Cash Funds Exempt/RF	5,111,404	5,926,294	6,752,428	6,818,321	1.0%
Federal Funds	84,338	134,114	151,720	160,294	5.7%

	FY 06-07 Actual	FY 07-08 Actual	FY 08-09 Appropriation	FY 09-10 Request	DI and Approp v Request
<b>(2) LEGAL SERVICES TO STATE AGENCIES (LSSA)</b>					
<i>Primary Functions include the representation of state agencies in disputes and general legal advice for all areas of state government.</i>					
<i>Cash Funds Exempt/RF are earned from state agencies through the blended hourly rate for the provision of legal services.</i>					
<i>Cash Funds are earned from non-state agencies and state enterprises such as PERA and the State Lottery Commission.</i>					
Personal Services	14,368,574	15,792,816	17,575,709	18,352,625	
FTE	<u>188.7</u>	<u>195.3</u>	<u>214.5</u>	<u>214.8</u>	
General Fund	0	0	0	0	
Cash Funds	899,388	984,092	1,000,000	1,000,000	
Cash Funds Exempt/RF	13,469,186	14,808,724	16,575,709	17,352,625	
Operating and Litigation - CFE/RF	816,915	992,055	1,315,645	1,325,164	NP#2, NP#3
Indirect Cost Assessment - CFE/RF	2,109,083	2,454,469	2,676,131	2,676,131	Approp v Request
<b>SUBTOTAL - Legal Services to State Agencies</b>	17,294,572	19,239,340	21,567,485	22,353,920	3.6%
FTE	<u>188.7</u>	<u>195.3</u>	<u>214.5</u>	<u>214.8</u>	<u>0.3</u>
General Fund	0	0	0	0	n/a
Cash Funds	899,388	984,092	1,000,000	1,000,000	0.0%
Cash Funds Exempt/RF	16,395,184	18,255,248	20,567,485	21,353,920	3.8%

	FY 06-07 Actual	FY 07-08 Actual	FY 08-09 Appropriation	FY 09-10 Request	DI and Approp v Request
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**(3) CRIMINAL JUSTICE AND APPELLATE**

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

Special Prosecution Unit	1,034,474	1,133,558	1,243,416	1,484,249	DI#1, DI#2, NP#2
FTE	<u>11.2</u>	<u>12.1</u>	<u>12.8</u>	<u>14.8</u>	
General Fund	838,678	929,474	1,029,683	1,195,981	
FTE	8.7	9.6	10.3	11.7	
Cash Funds	195,796	204,084	213,733	288,268	
FTE	2.5	2.5	2.5	3.1	
Cash Funds Exempt/RF	0	0	0	0	
Insurance Fraud Unit - CFE/RF	520,376	581,387	619,975	642,879	DI#1, NP#2
FTE	5.9	7.3	7.6	7.6	
Securities Fraud Unit	436,306	456,341	484,293	503,888	DI#1, NP#2
FTE	<u>5.3</u>	<u>5.4</u>	<u>5.6</u>	<u>5.6</u>	
General Fund	113,590	116,799	123,015	128,958	
FTE	2.0	2.0	2.0	2.0	
Cash Funds Exempt/RF	322,716	339,542	361,278	374,930	
FTE	3.3	3.4	3.6	3.6	
Appellate Unit	2,025,366	2,133,564	2,437,059	2,802,333	NP#3
FTE	<u>26.2</u>	<u>26.4</u>	<u>30.0</u>	<u>33.0</u>	
General Fund	2,025,366	2,133,564	2,437,059	2,802,333	
Cash Funds Exempt/RF	0	0	0	0	

	FY 06-07	FY 07-08	FY 08-09	FY 09-10	DI and
	Actual	Actual	Appropriation	Request	Approp v Request
Medicaid Fraud Grant	1,013,655	1,117,462	1,330,808	1,368,866	
FTE	<u>11.2</u>	<u>12.4</u>	<u>14.0</u>	<u>14.0</u>	
General Fund	266,408	320,372	332,703	342,276	
Federal Funds	747,247	797,090	998,105	1,026,590	
Capital Crimes Prosecution Unit - GF	323,225	350,516	376,643	390,988	DI#1, NP#2
FTE	3.8	3.8	4.0	4.0	
Peace Officers Standards and Training Board Support	1,115,318	1,165,325	1,257,939	1,294,475	NP#3
FTE	<u>6.0</u>	<u>6.0</u>	<u>6.0</u>	<u>6.0</u>	
General Fund	0	44,638	81,207	97,500	
Cash Funds	1,115,318	1,120,687	1,176,732	1,196,975	
Cash Funds Exempt/RF	0	0	0	0	
Victims Assistance	67,519	69,146	72,149	76,086	NP#3
FTE	<u>1.0</u>	<u>0.0</u>	<u>1.0</u>	<u>1.0</u>	
General Fund	(178)	(45)	0	330	
Cash Funds Exempt/RF	67,697	69,191	72,149	75,756	
FTE	1.0	0.0	1.0	1.0	
Federal Funds	0		0	0	
Indirect Cost Assessment	<u>142,113</u>	<u>223,273</u>	<u>247,395</u>	<u>247,395</u>	
Cash Funds	75,363	85,875	106,744	106,744	
Cash Funds Exempt/RF	66,750	137,398	140,651	140,651	Approp v

	FY 06-07 Actual	FY 07-08 Actual	FY 08-09 Appropriation	FY 09-10 Request	DI and Approp v Request Request
<b>SUBTOTAL - Criminal Justice and Appellate</b>	6,678,352	7,230,572	8,069,677	8,811,159	9.2%
FTE	<u>70.6</u>	<u>73.4</u>	<u>81.0</u>	<u>86.0</u>	<u>5.0</u>
General Fund	3,567,089	3,895,318	4,380,310	4,958,366	13.2%
Cash Funds	1,386,477	1,410,646	1,497,209	1,591,987	6.3%
Cash Funds Exempt/RF	977,539	1,127,518	1,194,053	1,234,216	3.4%
Federal Funds	747,247	797,090	998,105	1,026,590	2.9%

**(4) WATER AND NATURAL RESOURCES**

*Primary Functions are comprised of investigative duties and legal services associated with water and environmental litigation.*

Federal and Interstate Water Unit - GF	406,164	436,360	505,555	925,201	DI#3
FTE	4.9	4.6	5.5	9.5	
Defense of the Colorado River Basin Compact	758,880	758,880	545,000	0	DI#3
FTE	<u>3.9</u>	<u>3.8</u>	<u>4.0</u>	<u>0.0</u>	
General Fund	0	0	0	0	
Cash Funds	0	0	545,000	0	
Cash Funds Exempt/RF	758,880	758,880	0	0	
Defense of the Republican River Compact	0	23,500	110,000	110,000	
FTE	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	
Cash Funds	0	0	110,000	110,000	
Cash Funds Exempt/RF	0	23,500	0	0	
Defense of the Arkansas River Compact	116,339	0	0	0	
FTE	<u>0.0</u>	<u>0.0</u>	0.0	0.0	
General Fund	45,006	0	0	0	
Cash Funds	0	0	0	0	
Cash Funds Exempt/RF	71,333	0	0	0	

	FY 06-07 Actual	FY 07-08 Actual	FY 08-09 Appropriation	FY 09-10 Request	DI and Approp v Request
Consultant Expenses	0	36,733	50,000	50,000	
Cash Funds	0	0	50,000	50,000	
Cash Funds Exempt/RF	0	36,733	0	0	
Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)	438,798	417,145	472,021	491,784	
FTE	<u>4.8</u>	<u>4.8</u>	<u>4.8</u>	<u>4.8</u>	
General Fund	412,798	396,014	446,143	465,906	
Cash Funds Exempt/RF	26,000	21,131	25,878	25,878	
CERCLA Contracts	<u>598,514</u>	<u>542,307</u>	<u>600,000</u>	<u>600,000</u>	
General Fund	173,514	117,307	175,000	175,000	
Cash Funds Exempt/RF	425,000	425,000	425,000	425,000	
Natural Resource Damage Claims at Rocky Mountain Arsenal	565,915	902,352	1,212,924	195,000	BR#1
FTE	<u>1.9</u>	<u>1.9</u>	<u>2.4</u>	<u>0.0</u>	
General Fund	565,915	0	0	0	
FTE	1.9	0.0	0.0	0.0	
Cash Funds	0	902,352	1,212,924	195,000	
FTE	0.0	1.9	2.4	0.0	
Indirect Cost Assessment - CFE/RF	0	0	0	0	Approp v Request
<b>SUBTOTAL - Water and Natural Resources</b>	2,884,610	3,117,277	3,495,500	2,371,985	-32.1%
FTE	<u>15.5</u>	<u>15.1</u>	<u>16.7</u>	<u>14.3</u>	<u>(2.4)</u>
General Fund	1,603,397	949,681	1,126,698	1,566,107	39.0%
Cash Funds	0	902,352	1,917,924	355,000	-81.5%
Cash Funds Exempt/RF	1,281,213	1,265,244	450,878	450,878	0.0%

	FY 06-07 Actual	FY 07-08 Actual	FY 08-09 Appropriation	FY 09-10 Request	DI and Approp v Request
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**(5) CONSUMER PROTECTION**

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

Consumer Protection and Anti-Trust	1,249,400	1,511,502	1,768,735	1,890,656	DI#5, NP#2, NP#3
FTE	<u>15.1</u>	<u>18.0</u>	<u>20.0</u>	<u>21.0</u>	
General Fund	620,160	824,385	874,473	968,938	
FTE			11.5	12.5	
Cash Funds	64,737	44,962	651,557	674,888	
FTE			1.5	1.5	
Cash Funds Exempt/RF	564,503	642,155	242,705	246,830	
FTE			7.0	7.0	
Collection Agency Board	230,759	270,396	296,905	314,425	NP#3
FTE	<u>4.5</u>	<u>5.0</u>	<u>5.2</u>	<u>5.2</u>	
Cash Funds	230,759	258,728	296,905	314,425	
Cash Funds Exempt/RF	0	11,668	0	0	
Uniform Consumer Credit Code (UCCC)	792,521	925,392	972,527	1,015,121	NP#2, NP#3
FTE	<u>10.3</u>	<u>11.1</u>	<u>12.3</u>	<u>12.3</u>	
Cash Funds	737,382	818,561	972,527	1,015,121	
Cash Funds Exempt/RF	55,139	106,831	0	0	
Indirect Cost Assessment	<u>212,631</u>	<u>263,756</u>	<u>320,232</u>	<u>320,232</u>	
Cash Funds	172,258	214,685	282,558	282,558	
Cash Funds Exempt/RF	40,373	49,071	37,674	37,674	Approp v

	FY 06-07 Actual	FY 07-08 Actual	FY 08-09 Appropriation	FY 09-10 Request	DI and Approp v Request Request
<b>SUBTOTAL - Consumer Protection</b>	2,485,311	2,971,046	3,358,399	3,540,434	5.4%
FTE	<u>29.9</u>	<u>34.1</u>	<u>37.5</u>	<u>38.5</u>	<u>1.0</u>
General Fund	620,160	824,385	874,473	968,938	10.8%
Cash Funds	1,205,136	1,336,936	2,203,547	2,286,992	3.8%
Cash Funds Exempt/RF	660,015	809,725	280,379	284,504	1.5%

**(6) SPECIAL PURPOSE**

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

District Attorneys' Salaries - GF	1,307,731	1,313,037	1,654,706	2,096,078	
Litigation Management and Technology Fund	<u>180,221</u>	<u>330,828</u>	<u>325,000</u>	<u>325,000</u>	
Cash Funds	0	0	325,000	325,000	
Cash Funds Exempt/RF	180,221	330,828	0	0	
Statewide HIPAA Legal Services - GF	20,331	18,578	22,530	22,530	
Trinidad Correction Facility Construction Litigation - CFE/RF	0	0	0	0	
HMO Lawsuit Expenses - CFE/RF	0	0	0	0	
Arkansas River Litigation Damage Award - CFE/RF	0	0	0	0	
Tobacco Litigation	<u>90,556</u>	<u>126,245</u>	<u>300,000</u>	<u>300,000</u>	
General Fund	0	0	0	0	
Cash Funds	0	0	300,000	300,000	
Cash Funds Exempt/RF	90,556	126,245	0	0	



	FY 06-07 Actual	FY 07-08 Actual	FY 08-09 Appropriation	FY 09-10 Request	DI and Approp v Request
Security for State Services Building	<u>n/a</u>	<u>n/a</u>	<u>259,032</u>	<u>196,693</u>	
General Fund			80,036	60,775	
Cash Funds			21,677	16,461	
Reappropriated Funds			150,093	113,970	
Federal Funds			7,226	5,487	
Federal Reimbursement for Illegal Immigration Costs (S.B. 06S-1014) - GF	6,359	0	0	0	
FTE	0.0	0.0	0.0	0.0	
Fraudulent Documents (S.B. 06-110)	0	0	0	0	
FTE	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	
General Fund	0.0	0.0	0	0	
FTE	0.0	0.0	0.0	0.0	
Cash Funds	0	0	0	0	
FTE	0.0	0.0	0.0	0.0	
Referendum K - GF	13,019	10,732	0	0	
FTE	0.0	0.0	0.0	0.0	Approp v

	FY 06-07 Actual	FY 07-08 Actual	FY 08-09 Appropriation	FY 09-10 Request	DI and Approp v Request Request
<b>SUBTOTAL - Special Purpose</b>	1,618,217	1,799,420	2,561,268	2,940,301	14.8%
<b>FTE</b>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
General Fund	1,347,440	1,342,347	1,757,272	2,179,383	24.0%
FTE	0.0	0.0	0.0	0.0	0.0
Cash Funds	0	0	646,677	641,461	-0.8%
FTE	0.0	0.0	0.0	0.0	0.0
Cash Funds Exempt/RF	270,777	457,073	150,093	113,970	-24.1%
FTE	0.0	0.0	0.0	0.0	0.0
Federal Funds	0	0	7,226	5,487	-24.1%
FTE	0.0	0.0	0.0	0.0	0.0
<b>DEPARTMENT OF LAW</b>					
<b>TOTAL FUNDS</b>	37,846,093	42,168,482	47,956,013	49,022,060	2.2%
FTE	<u>342.4</u>	<u>356.0</u>	<u>390.9</u>	<u>395.8</u>	<u>4.9</u>
General Fund	8,584,306	8,437,862	9,645,044	11,224,302	16.4%
Cash Funds	3,734,070	4,958,314	7,758,602	6,349,578	-18.2%
Cash Funds Exempt/RF	24,696,132	27,841,102	29,395,316	30,255,809	2.9%
Federal Funds	831,585	931,204	1,157,051	1,192,371	3.1%

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**APPENDIX B: SUMMARY OF MAJOR LEGISLATION**

**2007 Session Bills (Key Bills)**

- H.B. 07-1054 (Carroll T./Shaffer) Increase Number of Court Judges.** Over fiscal years 2007-08, 2008-09, and 2009-10, adds 43 new judges in the Court of Appeals, district courts, and county courts plus 264.2 related FTE. The related FTE are support personnel for the courts as well as FTE in the Public Defender's Office and the Department of Law. For the Department of Law, the related Legislative Council Staff Fiscal Note indicates the need for 2.0 FTE in FY 2008-09 and 3.0 FTE in FY 2009-10.
  
- H.B. 07-1170 (Sonnenberg/Morse): Compensation of Elected District Attorneys.** Establishes a schedule of minimum annual salaries for District Attorneys beginning January 1, 2009. The minimum salary is set at \$100,000 on January 1, 2009 and increases by \$10,000 on each succeeding January 1 through 2012. Requires the state to pay 80 percent of this salary.

**2008 Session Bills**

- H.B. 08-1290 (Buescher/Keller):** Supplemental appropriation to the FY 2007-08 Long Bill for the Department of Law.
  
- H.B. 08-1375 (Buescher/Keller):** General Appropriations Act for FY 2008-09.
  
- H.B. 08-1397 (Jahn and King/Kopp and Gordon): Disposition of Evidence in Criminal Cases.** Requires the preservation of potential DNA evidence in class 1 felony cases and specifies a process for disposing of DNA evidence. Requires all peace officers to receive DNA evidence training. For FY 2008-09 appropriates \$81,207 of General Fund to the Department of Law so the Department's Peace Officer Standards and Training Board can develop and certify the curriculum for the training courses.

**2008 Session Bills with Appropriations for Client Agencies  
to Purchase Legal Services from the Department of Law**

<b>Bill Number, Sponsor, Title, Description</b>	<b>FY 2008-09 Legal Services Appropriation (RF)</b>	<b>Client Agency</b>
<b>S.B. 08-153 (Boyd/Ferrandino): License Home Care Agencies.</b> Establishes licensing requirements for home health agencies that provide both skilled and personal care services.	\$2,881	CDPHE
<b>H.B. 08-1396 (Scanlan/Wiens and Gibbs): Study Leadville Mine Drainage Tunnel.</b> Allows the Hazardous Substance Response Fund to be used by the Department of Public Health and Environment to conduct a study to determine whether water from the Canterbury Tunnel is contributing to an increase in the mine pool that feeds into the Leadville Mine Drainage Tunnel. For FY 2007-08 provides \$25,000 of reappropriated funds to the Department of Law from the Department of Public Health and Environment for legal services.	0	CDPHE
<b>H.B. 08-1314 (Primavera/Spence): Local Gaming Funds Gambling Addiction.</b> Uses two percent of the Local Government Limited Gaming Impact Fund for gambling addiction counseling for Colorado residents.	2,866	DHS
<b>H.B. 08-1161 (Kefalas and Fischer/Johnson): Strengthen Mining Reclamation Standards.</b> Expands the regulatory authority of the Mined Land Reclamation Board over in situ leach mining activities.	14,406	DNR
<b>S.B. 08-29 (Groff/Balmer): Continuing Education of Architects.</b> Requires architects to complete continuing education courses and participate in a continuing competency program in order to renew their licenses.	\$9,004	DORA
<b>S.B. 08-152 (Tochtrop/Gagliardi): Regulate the Practice of Occupational Therapy.</b> Establishes registration requirements for occupational therapists.	\$10,805	DORA
<b>S.B. 08-200 (Veiga/Judd): Expand Discrimination Prohibitions.</b> Adds the prohibition of discrimination based on sexual orientation to the non-discrimination statutes for 23 areas, including housing, employment not covered by H.B. 07-25, education, public accommodations, and health care.	\$60,073	DORA
<b>S.B. 08-219 (Romer/McFadyen and Rice): Licensure of Massage Therapists.</b> Requires the licensure of massage therapists by the Division of Registrations in the Department of Regulatory Agencies.	\$18,008	DORA
<b>H.B. 08-1058 (McGihon/Gordon): Uniform Athlete Agents Act.</b> Requires agents to register with the Department of Regulatory Agencies if they intend to represent a college athlete in the pursuit of commercial or professional interests.	7,564	DORA
<b>H.B. 08-1226 (May M./Veiga): Mobility Of Practice of Non-Colorado CPAs.</b> Allows certified public accountants (CPAs) from another state or foreign country to practice in Colorado without registering with the State Board of Public Accountancy. CPAs licensed out-of-state are required to follow board rules and are subject to its disciplinary authority.	3,602	DORA
<b>H.B. 08-1227 (Madden/Tapia): Sunset Continue the Public Utilities Commission.</b> Continues the Public Utilities Commission until 2019, with several modifications.	43,218	DORA

Bill Number, Sponsor, Title, Description	FY 2008-09 Legal Services Appropriation (RF)	Client Agency
<b>H.B. 08-1383 (Roberts/Tochtrop): Inactive Nursing License Status.</b> Creates an inactive status for professional and practical nursing licenses to be administered by the Department of Regulatory Agencies, Division of Registrations.	720	DORA
<b>H.B. 08-1335 (Romanoff/Groff and Schwartz): Building Excellent Schools Today Act.</b> Consolidates several current sources of funding for public school capital construction into the Public School Capital Construction Assistance Fund. Authorizes the Department of Education to issue grants from the fund to school districts or enter lease purchase agreements. Creates the Public School Capital Construction Assistance Board and the Division of Public School Capital Construction Assistance to select projects, deal with funding matters, and provide technical assistance. In addition to the FY 2008-09 appropriation, provides a \$7,203 FY 2007-08 appropriation to the Department of Law.	32,414	Education
<b>H.B. 08-1257 (Vaad/Williams): Overweight Motor Vehicle Permits and Fees.</b> Authorizes new permits and permit fees for the operation of an overweight motor vehicle.	10,890	Transportation
<b>H.B. 08-1325 (Looper/Tapia): Seasonal Agricultural Worker Program.</b> Expedites the federal H-2A visa certification process so eligible workers can come to Colorado legally to meet the staffing needs of Colorado farmers and ranchers.	4,322	Labor
<b>Total</b>	<b>\$222,781</b>	

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**APPENDIX C: UPDATE OF FY 2008-09  
LONG BILL FOOTNOTES AND REQUESTS FOR INFORMATION**

**Long Bill Footnotes**

- 46 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 \$77.15 per hour for attorneys and not exceed \$65.56 per hour for paralegals, which equates to a blended rate of \$75.10 per hour.

Comment: The Department is utilizing these rates.

- 47 Department of Law, Special Purpose, Litigation Management and Technology Fund --** It is the intent of the General Assembly to grant the Department of Law additional flexibility by allowing the Department to use funds appropriated in this line item to address unanticipated state legal needs that arise during FY 2008-09, as well as information technology asset maintenance needs that would otherwise require General Fund appropriations during FY 2008-09. It is also the intent of the General Assembly that moneys spent from this fund shall not require the appropriation of additional FTE and will not be used for any type of salary increase, promotion, reclassification, or bonus related to any present or future FTE employed by the Department of Law. It is furthermore the intent of the General Assembly that moneys spent from this fund will not be used to offset present or future personal services deficits in any division in the Department. The Department is requested to submit a quarterly report to the Joint Budget Committee detailing the purpose for which moneys from this fund have been expended. Such a report is also requested with any supplemental requests for additional legal services funding within or outside of the Legal Services to State Agencies program.

Comment: The Department has been utilizing the Litigation and Management Technology Fund in the fashion designated in this footnote and has been submitting the required quarterly reports.

**Requests for Information**

- 1 Department of Law, Criminal Justice and Appellate, Medicaid Fraud Grant --** The Department is requested to produce a progress report on its efforts to reduce Medicaid fraud and abuse in Colorado. The report should include: (1) the most recent estimates on the total amount of Medicaid fraud and abuse in Colorado; (2) a summary of total fines, costs, and restitutions recovered, attributable to the Medicaid Fraud Control Unit's efforts; (3) a detailed

explanation of the Medicaid Fraud Control Unit's participation in global or national Medicaid fraud settlements, including total awards received due to them; and (4) evidence of the effectiveness of the Medicaid Fraud Control Unit in reducing the amount of Medicaid fraud and abuse in Colorado. The Department is requested to submit the report to the Joint Budget Committee by November 1, 2008.

Comment: The report was submitted as requested. The Medicaid Fraud Control Unit's FY 2008-09 appropriation is \$1.3 million and 14.0 FTE, 75 percent of which is Federal Funds. The Unit is responsible for monitoring the financial integrity of more than \$3 billion worth of payments made to 10,000 Medicaid providers all over the State on behalf of more than 388,000 Medicaid recipients. The report reiterates the findings of a July 1999 Medicaid fraud and abuse programs performance audit, which estimated fraud and abuse nationwide at 10 percent while placing the corresponding Colorado rate at 1.8 percent.

During FY 2007-08, the Fraud Unit resolved 42 cases and opened 52 new ones, ending the year with 67 ongoing cases. Almost half of these 67 involve pharmaceutical manufacturers or durable medical equipment and supplies. The Unit was involved in convictions and settlements that generated \$3.5 million in restitution, almost all of which was paid to the state, with the federal government receiving less than one percent. The Unit cooperates with federal agencies and with other states to investigate and prosecute multi-jurisdictional Medicaid fraud cases; almost all of this \$3.5 million of restitution came from national settlements with Purdue, Medicis, Aventis, Merck, GSK and Walgreens.

During FY 2007-08, the Unit referred 10 Colorado health care providers to the U.S. Department of Health and Human Services' Office of the Inspector General for further action. The abuses involved fraud, patient abuse, theft, and drug diversion. Of these 10, 4 were banned from Medicare and Medicaid programs for 5 years.