

**COLORADO GENERAL ASSEMBLY
JOINT BUDGET COMMITTEE**



FY 2015-16 STAFF FIGURE SETTING

DEPARTMENT OF LAW

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

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DEPARTMENT OF LAW

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 2014-15 appropriation represents 0.3 percent of statewide operating appropriations and 0.2 percent of statewide General Fund appropriations.

DEPARTMENT REQUEST AND RECOMMENDATION SUMMARY

Executive Request

The Department's request reflects an increase of \$3,250,737 total funds (4.6 percent) compared to the adjusted FY 2014-15 appropriation, including a \$1,754,214 (12.9 percent) increase in General Fund appropriations. The requested increase in total funds is primarily related to increases in employee salaries and the state contribution for employee benefits. The requested increase in General Fund is also impacted by three of the Department's decision item requests (R1, R2, and R5) and three budget amendments (BA1, BA2, and BA4).

Staff Recommendation

The staff recommendation is \$554,737 total funds (including \$569,897 General Fund) and 3.5 FTE below the Department's request. This difference is largely a result of staff's recommendation to reject requests R1 (Violent Crimes Assistance Team FTE), BA1 (Safe2Tell Software), and BA2 (Office of Community Engagement). The staff recommendation is summarized in the table below, followed by a brief description of each incremental change.

Department of Law						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2014-15 Appropriation						
HB 14-1336 (Long Bill)	\$69,567,702	\$12,917,348	\$12,369,385	\$42,532,558	\$1,748,411	454.9
Other Legislation	4,398,629	616,952	3,283,194	498,483	0	9.5
SB 15-152 (Supplemental)	877,595	41,105	1,525	836,104	(1,139)	4.6
SB 15-167 (Modify 2014-15 Approp From Marijuana Revenue)	<u>(76,000)</u>	<u>0</u>	<u>(76,000)</u>	<u>0</u>	<u>0</u>	<u>0.0</u>
TOTAL	\$74,767,926	\$13,575,405	\$15,578,104	\$43,867,145	\$1,747,272	469.0
FY 2015-16 Recommended Appropriation						

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Department of Law						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2014-15 Appropriation	\$74,767,926	\$13,575,405	\$15,578,104	\$43,867,145	\$1,747,272	469.0
R1 Violent Crimes Assistance Team						
FTE	0	0	0	0	0	0.0
R2 CORA and Open Meetings Attorney	87,635	87,635	0	0	0	0.9
R3 Tobacco litigation legal assistant	80,389	0	80,389	0	0	1.0
R4 1/2-time contract administrator	48,956	0	0	48,956	0	0.0
R5 CP & AT operating and litigation	167,823	64,547	83,911	19,365	0	0.0
BA1 Safe2Tell software	0	0	0	0	0	0.0
BA2 Office of Community Engagement	0	0	0	0	0	0.0
BA3 Legislative liaison	101,205	0	0	101,205	0	1.0
BA4 Safe2Tell legal services	47,256	23,628	0	23,628	0	0.1
BANP1 Department of Corrections legal services supplemental	421,042	0	0	421,042	0	2.4
BANP2 Department of Revenue DMV legal services	122,863	0	0	122,863	0	0.7
BANP3 Department of Revenue marijuana enforcement legal services	170,118	0	0	170,118	0	1.0
BANP4 Department of Education legal services	115,900	0	0	115,900	0	0.7
BANP5 CORE common policy true-up	15,067	16,879	6,475	(8,786)	499	0.0
Centrally appropriated line item adjustments	2,753,860	894,685	160,412	1,643,653	55,110	0.0
Move SB 14-123 POST FTE to Administration	46,935	0	0	46,935	0	0.0
Annualize prior year legislation	36,886	9,195	141,959	(114,268)	0	0.1
Staff initiated - reflect P.O.S.T. legal services	19,942	0	0	19,942	0	0.1
FTE true-up adjustments	0	0	0	0	0	0.4
Fund source adjustments	0	229,929	(852,588)	622,659	0	0.0
Annualize FY 2014-15 supplemental	(877,595)	(41,105)	(1,525)	(836,104)	1,139	(4.6)
Annualize prior year budget actions	(414,216)	(101,076)	(394,234)	81,249	(155)	0.1
Indirect cost assessment adjustments	(236,966)	0	1,164,321	(1,387,139)	(14,148)	0.0
Change in anticipated grant funding	<u>(11,100)</u>	<u>0</u>	<u>0</u>	<u>(11,100)</u>	<u>0</u>	<u>(0.5)</u>
TOTAL	\$77,463,926	\$14,759,722	\$15,967,224	\$44,947,263	\$1,789,717	472.4
Increase/(Decrease)	\$2,696,000	\$1,184,317	\$389,120	\$1,080,118	\$42,445	3.4
Percentage Change	3.6%	8.7%	2.5%	2.5%	2.4%	0.7%
FY 2015-16 Executive Request	\$78,018,663	\$15,329,619	\$15,989,768	\$44,912,214	\$1,787,062	475.9
Request Above/(Below)						
Recommendation	\$554,737	\$569,897	\$22,544	(\$35,049)	(\$2,655)	3.5

Description of Incremental Changes

R1 Violent Crimes Assistance Team FTE: The recommendation rejects the Department's requested increase of \$266,520 General Fund and 1.8 FTE to provide additional staffing for the Violent Crime Assistance Team (VCAT). Rather than increasing funding through the Long Bill, staff recommends that the General Assembly enact legislation defining the role of the VCAT and providing additional funding and FTE as necessary based on the role defined in the legislation.

R2 CORA and OML attorney: The recommendation includes an increase of \$87,635 General Fund and 0.9 FTE for FY 2015-16 (annualizing to \$108,319 General Fund and 1.0 FTE in subsequent years) to allow the Department to add an attorney specifically focused on the Colorado Open Records Act (CORA) and Open Meetings Law (OML) in response to an increasing CORA-related workload and a need to improve consistency among state agencies.

R3 Tobacco litigation legal assistant: The recommendation includes an increase of \$80,389 cash funds from the Tobacco Settlement Defense Account and 1.0 FTE to support a legal assistant for the Tobacco Litigation Program. *This request item was addressed in a separate staff figure setting presentation concerning tobacco programs on February 4, 2015.*

R4 ½ time contract administrator: The recommendation includes an increase of \$48,956 reappropriated funds from indirect cost recoveries to hire a half-time contract administrator in response to increasing contract-related workload. The request and recommendation do not require additional FTE because the Department has sufficient unfunded FTE to accommodate the 0.5 FTE for the position.

R5 CP&AT operating and litigation: The recommendation includes \$167,823 total funds (including \$64,547 General Fund) to: (1) support the litigation expenses and annual operating expenses of the Consumer Protection and Antitrust line item; and (2) to better align fund sources with anticipated costs. The Department has previously supported these expenses with either available centrally appropriated operating funds such as Ralph L. Carr Colorado Judicial Center Leased Space appropriations (flexibility that is no longer available with the implementation of CORE) or custodial funds received by the Department, causing misalignment between fund sources and the use of funds.

BA1 Safe2Tell software: The recommendation rejects a request for \$50,000 General Fund to support the replacement of the Safe2Tell Program's anonymous tip software based on current uncertainty regarding the project. Staff recommends that the Committee ask the Department to continue to work on the project and present additional (updated) information during the figure setting comeback process.

BA2 Office of Community Engagement: The recommendation rejects a requested increase of \$221,405 General Fund and 1.8 FTE to establish an Office of Community Engagement. The request would: (1) create a new line item for the proposed office; (2) provide an increase of \$221,4015 General Fund and 1.8 FTE in FY 2015-16; and (3) consolidate the Safe2Tell Program line item (currently a separate line item in the Criminal Justice and Appellate section) into the new Office of Community Engagement line item. Given the substantive nature of the request

and the fact that it was not available for the Department's hearing with the Committee in December, staff recommends rejecting the request at this time and asking the Department to present a comeback during the figure setting comeback process.

BA3 Legislative Liaison: The recommendation includes an increase of \$101,205 reappropriated funds (from indirect cost recoveries) to allow the Department to hire a legislative liaison following a restructuring of the Attorney General's senior staff.

BA4 Safe2Tell Legal Services: The recommendation includes \$23,628 General Fund for the Safe2Tell Program to purchase legal services from the Department in FY 2015-16. The request and recommendation represent a reduction from the amount appropriated for Safe2Tell legal services in the FY 2014-15 supplemental bill (S.B. 15-152).

BANP1 Department of Corrections legal services: The recommendation shown includes \$421,042 reappropriated funds and 2.4 FTE to support additional legal services for the Department of Corrections. The recommendation is pending Committee action on the Department of Corrections request. *This request will be addressed through a separate figure setting presentation for the Department of Corrections, scheduled for March 11, 2015.*

BANP2 Department of Revenue DMV legal services: The recommendation shown includes \$122,863 reappropriated funds and 0.7 FTE to support increased legal services costs for the Division of Motor Vehicles. The recommendation is pending Committee action on the Department of Revenue request. *This request will be addressed through a separate figure setting presentation for the Department of Revenue, scheduled for March 2, 2015.*

BANP3 Department of Revenue marijuana enforcement legal services: The recommendation shown includes \$170,118 reappropriated funds and 1.0 FTE for additional legal services costs for the Marijuana Enforcement Division in FY 2015-16. This recommendation is pending Committee action on the Department of Revenue request. *This request will be addressed through a separate figure setting presentation for the Department of Revenue, scheduled for March 2, 2015.*

BANP4 Department of Education legal services: The recommendation shown includes \$115,900 and 0.7 FTE for additional legal services costs for the Department of Education in FY 2015-16. This request is pending Committee action on the Department of Education request. *This request will be addressed through a separate figure setting presentation for the Department of Education, scheduled for March 10, 2015.*

BANP5 CORE common policy true-up: The recommendation includes a net increase of \$15,067 total funds, including \$16,879 General Fund, for the Department's share of the support costs of the Colorado Operations Resource Engine (CORE) in FY 2015-16.

Centrally appropriated line item adjustments: The recommendation includes common policy adjustments to centrally appropriated line items for the following: state contributions for health, life, and dental benefits; merit pay; salary survey; short-term disability; supplemental state contributions to the Public Employees' Retirement Association (PERA) pension fund; workers'

compensation; administrative law judges; payment to risk management and property funds; Ralph L. Carr Judicial Center leased space; and Payments to OIT. *The staff recommendations for Ralph L Carr Judicial Center leased space and Payments to OIT are pending committee action on those items.*

Move SB 14-123 POST FTE to Administration: The recommendation reflects an increase of \$46,935 reappropriated funds from indirect cost recoveries to move 0.4 FTE currently appropriated to the P.O.S.T. Board into the Administration section and support that position with indirect cost recoveries rather than P.O.S.T. Board cash funds.

Annualize prior year legislation: The recommendation includes an increase of \$36,886 total funds to reflect the FY 2015-16 impact of legislation that was passed in 2014, including the following acts: S.B. 14-002; S.B. 14-005; S.B. 14-099; S.B. 14-083; S.B. 14-123; S.B. 14-125; S.B. 14-215; H.B. 14-1199; H.B. 14-1202; H.B. 14-1227; H.B. 14-1319; H.B. 14-1328; H.B. 14-1329; H.B. 14-1331; and H.B. 14-1398.

Staff initiated – reflect P.O.S.T. legal services: The recommendation includes a net increase of \$19,942 reappropriated funds to reflect anticipated legal services costs for the P.O.S.T. Board in FY 2015-16 based on an estimated need for 211 hours of legal services in FY 2015-16.

FTE true-up adjustments: The recommendation reflects an increase of 0.4 FTE to align with actual FTE usage.

Fund source adjustments: The recommendation includes net-zero adjustments to fund sources, largely associated with anticipated indirect cost recoveries.

Annualize FY 2014-15 supplemental: The recommendation reflects a reduction of \$877,595 total funds to eliminate funding provided through the FY 2014-15 supplemental, primarily for legal services provided to other agencies.

Annualize prior year budget actions: The recommendation includes adjustments related to prior year budget actions, primarily driven by the elimination of funding for Lowry Range litigation expenses, as that case has concluded and appropriations are not needed in FY 2015-16.

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

Change in anticipated grant funding: The recommendation reflects an anticipated net decrease of \$11,100 in grant funds from the Department of Public Safety, including an increase of \$3,803 for victims' assistance efforts supported by a grant from the Victims Assistance and Law Enforcement (VALE) Fund and a decrease of \$14,903 associated with efforts to investigate and prosecute multi-jurisdictional auto theft. The recommendation includes a reduction of 0.5 FTE associated with the auto theft prevention efforts to accurately reflect the Department's current staffing. Grant funds are continuously appropriated to the Department of Law and therefore do not require a decision item for increased spending authority for the VALE funds. Staff recommends reflecting the changes for informational purposes.

➔ **Initiative Affecting Multiple Line Items: BA2 – Office of Community Engagement**

- The Department requests a net increase of \$221,405 General Fund and 1.8 FTE to establish an Office of Community Engagement. The request would: (1) create a new line item for the proposed office, including \$221,405 General Fund and 1.8 new FTE (annualizing to \$219,296 and 2.0 FTE in subsequent years); and (2) move appropriations for the Safe2Tell Program (currently a separate line item in the Criminal Justice and Appellate Division) into the new line item.

- Staff recommends rejecting the request at this time and asking the Department to present a comeback regarding this request at the conclusion of the figure setting process.

Request: With BA2 (submitted on January 23, 2015, as part of a package of requests submitted by the new Attorney General), the Department requests an increase of \$221,405 General Fund and 1.8 FTE in FY 2015-16 (annualizing to \$219,296 General Fund and 2.0 FTE in subsequent years) to establish the Office of Community Engagement. In addition, the request would move appropriations for the Safe2Tell Program (a total of \$448,536, including \$433,536 General Fund, requested in FY 2015-16) into the new line item. The Department is seeking to improve public outreach and communication and the coordination of a variety of statewide initiatives.

Recommendation: Staff recommends rejecting the request at this time and asking the Department to present a comeback regarding the request at the conclusion of the figure setting process. This is a substantive request, both in terms of policy and new staff, that was not available at the time of the Department’s hearing with the Committee in December 2014, and staff believes that the request warrants a discussion between the Committee and the Department prior to approval. Regardless of whether the Committee elects to create the new line item for the Office of Community Engagement, staff recommends maintaining a separate line item for the Safe2Tell Program.

Analysis: The request would create a new Office of Community Engagement line item within the Administration section of the Long Bill and includes two components for FY 2015-16: (1) an increase of \$221,405 General Fund and 1.8 FTE for *new staff* for the proposed Office of Community Engagement; and (2) a net-zero change to move appropriations for the Safe2Tell Program into the proposed line item. Each component of the request is addressed separately below.

New Staff: The request includes an increase of \$221,405 General Fund and 1.8 FTE in FY 2015-16 (annualizing to \$219,296 General Fund and 2.0 FTE in subsequent years) for new staff, including a Director of Community Engagement (requested as a general professional VII) and a program assistant (requested as a program assistant II) to staff the new office. The following

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table outlines the components of the request for new staff (and staff’s recommendation to reject the request at this time).

Request BA2 - Office of Community Engagement (New Staff)						
	FY 2015-16		FY 2015-16		FY 2016-17 Impact	
	Dept. Request		Staff Rec.		Dept. Request	
	GF	FTE	GF	FTE	GF	FTE
Personal Services Costs						
Salary/Personal Services	\$154,286	1.8	\$0	0.0	\$168,312	2.0
PERA (10.15%)	15,660		0		17,084	
Medicare (1.45%)	2,237		0		2,441	
AED (4.4%)	6,789		0		7,406	
SAED (4.25%)	6,558		0		7,152	
STD (0.022%)	339		0		370	
Estimated HLD	<u>10,874</u>		<u>0</u>		<u>11,863</u>	
Subtotal, Personal Services	\$196,743	1.8	\$0	0.0	\$214,628	2.0
Operating Expenses						
Supplies (\$500)	\$1,000		\$0		\$1,000	
Computer (\$900)	1,800		0		0	
Office Suite Software (\$330)	660		0		0	
Office Equipment (\$8,767)	17,534		0		0	
Telephone (\$450/FTE)	900		0		900	
Cell phone (\$80 per month)	1,920		0		1,920	
Mileage on State Vehicle (4,000 miles)	<u>848</u>		<u>0</u>		<u>848</u>	
Subtotal, Operating Expenses	\$24,662		\$0		\$4,668	
Total, Request BA2	\$221,405	1.8	\$0	0.0	\$219,296	2.0

The request indicates that the Department believes that it can do more “to educate and inform citizens so they can be proactive in protecting their credit, their privacy and identity, and the safety of their families and themselves.” The request also states that, “The Department has a great deal of information that can empower Coloradoans in their local communities. Often times that knowledge does not leave the DOL, in a consistent and branded message. There is a need to better disseminate this information that is of benefit to the citizens in areas of consumer protection, law enforcement and public safety.” According to the Department, the office would focus both on improving existing efforts and expanding the Department’s statewide work into new policy areas.

- *Existing Efforts:* According to the Department, the proposed office would seeks to improve coordination and the implementation of existing statewide efforts that do not currently have dedicated staff, including school safety and information sharing efforts initiated under Attorney General Salazar and a variety of internet safety, identity theft, consumer protection, and human trafficking efforts begun under Attorney General Suthers.

- *New Efforts:* The Department states that the office will specifically focus additional efforts on domestic violence, human trafficking, and school safety.

Staff has several concerns about the request:

- First, staff remains somewhat unclear about the proposed role and mission of the office. The request indicates a need for improved communication and information dissemination regarding the Department’s efforts but also indicates that the proposed Director will be “responsible for managing all aspects of the Attorney General’s interaction with local communities whether it is via the schools, local law enforcement, or city and county governments.” It appears that the intent is to expand the Department’s proactive participation in a variety of areas (including specifically domestic violence, human trafficking, and school safety) but also to improve the communication and “branding” of information from the Department.
- Second, staff does not have an analytical basis to evaluate the need for the new office and additional involvement from the Department of Law. Staff does not question the seriousness of the issues raised by the Department but is not certain of the need for additional participation and communication from the Department of Law.
- Finally and perhaps most importantly, the timing of the request (submitted on January 23, 2015) did not allow for a discussion at the Department’s hearing with the Committee in December 2014. Staff understands the timing given the change in administration in January 2015 but believes that this request warrants a discussion between the Department and the Committee prior to approval.

Based on those concerns and the substantive nature of the request, staff recommends that the Committee deny the request at this time but ask the Department to present a comeback at the conclusion of the figure setting process.

Options for Consideration: While staff recommends rejecting the request and asking the Department to present a comeback, staff offers three options related to the proposed staff for the Committee’s consideration.

1. *Staff Recommendation – Reject the Request:* Reject the request at this time and allow the Department to present a comeback at the conclusion of the figure setting process to allow for a discussion of the request.
2. *Approve the Request as Submitted:* The Committee may wish to approve the request as submitted (with or without the consolidation of Safe2Tell discussed below). Please note that the request would fund both positions above the range minimum salaries (discussed in the next option).
3. *Approve the Request at Range Minimum Salaries:* If the Committee elects to fund the new staff and office, the Committee’s common policy is to fund new FTE at the range minimum for each position. The following table compares the Department’s request to a scenario funding the new FTE at the range minimum salary for each position.

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Request BA2 - Office of Community Engagement at Range Minimum						
	FY 2015-16 Request		FY 2015-16 Option 3		FY 2016-17 Impact	
	GF	FTE	GF	FTE	GF	FTE
Personal Services Costs						
Salary/Personal Services	\$154,286	1.8	\$117,700	1.8	\$128,400	2.0
PERA (10.15%)	15,660		11,946		13,032	
Medicare (1.45%)	2,237		1,705		1,860	
AED (4.4%)	6,789		0		5,652	
SAED (4.25%)	6,558		0		5,460	
STD (0.022%)	339		0		276	
Estimated HLD	<u>10,874</u>		<u>0</u>		<u>11,863</u>	
Subtotal, Personal Services	\$196,743	1.8	\$131,351	1.8	\$166,543	2.0
Operating Expenses						
Supplies (\$500)	\$1,000		\$1,000		\$1,000	
Computer (\$900)	1,800		1,800		0	
Office Suite Software (\$330)	660		660		0	
Office Equipment (\$8,767 req. or \$3,473 common policy)	17,534		6,946		0	
Telephone (\$450/FTE)	900		900		900	
Cell phone (\$80 per month)	1,920		1,920		1,920	
Mileage on State Vehicle (4,000 miles)	<u>848</u>		<u>848</u>		<u>848</u>	
Subtotal, Operating Expenses	\$24,662		\$14,074		\$4,668	
Total, Request BA2	\$221,405	1.8	\$145,425	1.8	\$171,211	2.0

Safe2Tell Consolidation: The request proposes to eliminate the Safe2Tell line item (currently a separate line item in the Criminal Justice and Appellate section) and consolidate the program's funds and FTE (\$398,536 total funds and 4.0 FTE recommended for FY 2015-16) into the new Office of Community Engagement line item. According to the Department, Safe2Tell will be a cornerstone of the proposed office as an outreach and education program designed to promote and facilitate public safety. The Department plans to build on the Safe2Tell Program's connections and relationships with school districts and local law enforcement throughout the State to benefit both Safe2Tell and the Department's other outreach efforts under the Office of Community Engagement.

At present, two of the Safe2Tell Program staff report directly to the Chief Deputy Attorney General. Under the proposed structure, the program would report to the Director of Community Engagement. Staff does not dispute the Safe2Tell Program's role in outreach and education, and it is certainly the Department's prerogative to manage the program. However, given the profile of the Safe2Tell Program and the program's recent transfer into the Department (pursuant to S.B. 14-002), staff recommends maintaining a separate Safe2Tell line item at least in the near term. Thus, staff at this time recommends rejecting the request to consolidate the Safe2Tell appropriation into the Office of Community Engagement.

(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;
- *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.

The following table details the types of employees that are supported by the Administration, Personal Services line item.

Staffing Summary - Administration Division, Personal Services line item				
	FY 13-14 Actual	FY 14-15 Approp.	FY 15-16 Request	FY 15-16 Recommend.
Office of the Attorney General	8.7	9.5	10.5	10.5
Human Resources	3.5	3.5	3.5	3.5
Fiscal and Accounting	6.7	7.5	8.0	8.0
Information Technology Services	14.2	17.2	17.2	17.2
Business Operations and Litigation Support	<u>5.1</u>	<u>6.0</u>	<u>6.0</u>	<u>6.0</u>
Total	38.2	43.7	45.2	45.2

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.

Request: The Department requests \$3,701,545 reappropriated funds and 45.2 FTE for FY 2015-16. The request includes the following increases above the FY 2014-15 appropriation:

- \$107,126 and 1.0 FTE associated with BA3 (Legislative Liaison, discussed below);
- \$95,953 for to annualize the FY 2014-15 salary survey and merit pay; and
- \$45,985 and 0.4 FTE to: relocate 0.5 FTE and associated funding from the Police Officers Standards and Training (POST) Board (originally appropriated in S.B. 14-123) to this line item and change the fund source from cash funds from the P.O.S.T. Board Cash Fund to indirect cost recoveries; and
- \$44,167 associated with R4 (1/2-time Contract Administrator, discussed below).

Recommendation: Staff recommends approving an appropriation of \$3,687,299 and 45.2 FTE. The recommendation includes the following increases associated with decision items and budget amendments: (1) \$95,933 and 1.0 FTE for BA3 (Legislative Liaison, discussed below); and (2) \$43,303 for R4 (1/2-time contract Administrator, discussed below). The recommendation also includes the requested increase (\$45,985 and 0.5 FTE) to relocate 0.5 FTE from the P.O.S.T. Board to this line item and change the fund source from the P.O.S.T. Board Cash Fund to indirect cost recoveries. The recommendation is \$14,246 below the request because:

- Pursuant to Committee common policy, the recommendation does not include centrally appropriated items (such as Health, Life, and Dental) for the legislative liaison position in the first year (a reduction of \$13,382 from the request for BA3).
- Pursuant to Committee common policy, the recommendation provides the range minimum salary for the contract administrator requested through R4 (a reduction of \$864 from the request).

The following table details the recommended change from the FY 2014-15 appropriation.

Administration, Personal Services					
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	FTE
FY 2014-15 Appropriation					
HB 14-1336 (Long Bill)	<u>\$3,408,314</u>	<u>\$0</u>	<u>\$0</u>	<u>\$3,408,314</u>	<u>43.7</u>
TOTAL	\$3,408,314	\$0	\$0	\$3,408,314	43.7
FY 2015-16 Recommended Appropriation					
FY 2014-15 Appropriation	\$3,408,314	\$0	\$0	\$3,408,314	43.7

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Administration, Personal Services					
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	FTE
Annualize salary survey and merit pay	95,953	0	0	95,953	0.0
BA3 Legislative Liaison	93,744	0	0	93,744	1.0
Move SB 14-123 POST FTE to Administration	45,985	0	0	45,985	0.5
R4 Contract administrator 1/2 FTE	<u>43,303</u>	<u>0</u>	<u>0</u>	<u>43,303</u>	<u>0.0</u>
TOTAL	\$3,687,299	\$0	\$0	\$3,687,299	45.2
Increase/(Decrease)	\$278,985	\$0	\$0	\$278,985	1.5
Percentage Change	8.2%	0.0%	0.0%	8.2%	3.4%
FY 2015-16 Executive Request:	\$3,701,545	\$0	\$0	\$3,701,545	45.2
Request Above/(Below) Recommendation	\$14,246	\$0	\$0	\$14,246	0.0

➔ Request BA3: Legislative Liaison

- The Department requests an increase of \$119,881 reappropriated funds (from indirect cost recoveries) and 1.0 FTE to allow the Department to hire a legislative liaison.
- Staff recommends an increase of \$107,126 reappropriated funds and 1.0 FTE. The funding increase is split

Request: With BA3 (submitted January 23, 2015), the Department requests an increase of \$119,881 reappropriated funds (from indirect cost recoveries) and 1.0 FTE to allow the Department to hire a legislative liaison. The request includes: \$107,126 and 1.0 FTE for personal services and \$12,755 for operating expenses associated with the requested position. The Attorney General has restructured some of the senior staff within the Administration Division and is requesting funds for a new position to function as the legislative liaison (duties formerly handled by the Deputy Attorney General for Legal Policy and Government Affairs position).

Recommendation: Staff recommends approving an increase of \$101,205 reappropriated funds and 1.0 FTE. The recommendation is \$18,676 below the Department’s request because: (1) pursuant to Committee common policy, staff is not recommending funding for centrally appropriated items for new FTE in the first year (a reduction of \$13,382); and (2) staff is using the Committee’s common policy amount for office equipment and furniture while the Department is requesting additional funds to provide the same furniture as in similar offices in the Carr building (a reduction of \$5,294). The following table compares the request and staff recommendation and shows the FY 2016-17 impact of the staff recommendation.

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Request BA3 - Legislative Liaison						
	FY 2015-16 Request		FY 2015-16 Staff Rec.		FY 2016-17 Impact	
	RF	FTE	RF	FTE	RF	FTE
Administration, Personal Services						
Salary/Personal Services	\$84,000	1.0	\$84,000	1.0	\$84,000	1.0
PERA (10.15%)*	8,526		8,526		8,526	
Medicare (1.45%)*	1,218		1,218		1,218	
AED (4.4%)*	3,696		0		3,696	
SAED (4.25%)*	3,570		0		3,570	
STD (0.022%)*	185		0		185	
Estimated HLD*	<u>5,931</u>		<u>0</u>		<u>5,931</u>	
Subtotal, Personal Services	\$107,126	1.0	\$93,744	1.0	\$107,126	1.0
Administration, Operating Expenses						
Supplies (\$500)	\$500		\$500		\$500	
Computer (\$900)	900		900		0	
Office Suite Software (\$305)	330		330		0	
Office Equipment (\$8,767)	8,767		3,473		0	
Telephone (\$450/FTE)	450		450		450	
Mileage use on state vehicle (4,000 miles at \$0.212/mile)	848		848		848	
Cell phone (\$80 per month)	<u>960</u>		<u>960</u>		<u>960</u>	
Subtotal, Operating Expenses	\$12,755		\$7,461		\$2,758	
Total, Request BA3	\$119,881	1.0	\$101,205	1.0	\$109,884	1.0

* JBC common policy does not fund these items for new FTE in the first year. Appropriations in subsequent years would be built into centrally appropriated line item rather than the requested line item.

Analysis: The Department is requesting funding to create a legislative liaison position following a reorganization of some of the Attorney General’s senior staff. The new Attorney General has made the following adjustments to the senior staff supported within the Administration section of the Long Bill.

- The previous structure of the Executive Management Team included two positions directly relevant to this request: (1) the Chief Deputy Attorney General (who oversaw both policy and operational matters for the Department); and (2) the Deputy Attorney General for Legal Policy and Government Affairs (who functioned as the legislative liaison among a variety of other duties).
- The new/proposed structure effectively splits the former Chief Deputy Attorney General position into: (1) a Chief Deputy who retains many of the policy and attorney management duties of the previous Chief Deputy position as well as many of the duties of the former Deputy for Legal Policy and Government Affairs, but *not* including legislative liaison responsibilities; and (2) a new Chief of Staff position responsible for operational issues such

as information technology, human resources, diversity programming, hiring, pro-bono efforts of attorneys, attorney training, and a variety of other responsibilities.

In effect, the new structure combined the Chief Deputy and Deputy for Legal Policy and Government Affairs positions and used the savings to allow for the creation of the Chief of Staff position based on a need to divide the previous responsibilities of the Chief Deputy Attorney General position. However, the Department indicates that neither position can accommodate the extensive workload required of the Department's legislative liaison. Thus, the Department is requesting funding for a liaison position that would report directly to the Chief Deputy Attorney General.

According to the Department, the Department's legislative liaison workload includes a review of every bill before the General Assembly to evaluate potential conflicts with the Constitution and/or statute, in addition to the standard responsibilities of departmental legislative liaisons. Based on the required workload, the Department is requesting funds to hire a full-time legislative liaison and argues that the position requires an attorney based on the legal expertise required. The Department also indicates that the position will practice law for the Department, as time allows, during the interim.

Staff agrees that the two revised/new positions in the Executive Management Team likely cannot accommodate the legislative liaison workload. Staff recommends approving the increase outlined above to support the requested position.



Request R4: ½ Time Contract Administrator

• The Department requests an increase of \$55,114 reappropriated funds (from indirect cost recoveries) to support a half time contract administrator within the Administration Division. The request does not require additional FTE because the Department has sufficient appropriated FTE within Administration that it has been unable to fund within existing resources.

• Staff recommends an increase of \$48,956 reappropriated funds to support the requested contract administrator.

Request: The request includes \$55,114 reappropriated funds from indirect cost recoveries in FY 2015-16 (annualizing to \$45,117 in FY 2016-17) to allow the Department to hire a half-time General Professional VI contract administrator within the Administration Section. The request does not require additional FTE because the Department has appropriated FTE within the Administration Section that it has been unable fund with existing resources. According to the Department, the increasing sophistication of contracts required to protect confidential state information and data requires additional time and expertise devoted to purchase order development, contract negotiations, and vendor monitoring and requires the new position.

Recommendation: Staff recommends approving an increase of \$48,956 reappropriated funds and 1.0 FTE. The recommendation is \$6,158 below the Department's request because: (1) staff is

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using the Committee’s common policy amount for office equipment and furniture while the Department is requesting additional funds to provide the same furniture as in similar offices in the Carr Center (a reduction of \$5,294); and (2) staff recommends providing funding for the range minimum salary for the requested position (a reduction of \$864). The following table compares the request and staff recommendation by line item and shows the FY 2016-17 impact of the staff recommendation.

Request R4 - 1/2 Time Contract Administrator			
	FY 2015-16 Request RF	FY 2015-16 Staff Rec. RF	FY 2016-17 Impact RF
Administration, Personal Services			
Salary	\$39,576	\$38,802	\$39,576
PERA (10.15%)	4,017	3,938	4,017
Medicare (1.45%)	<u>574</u>	<u>563</u>	574
Subtotal, Personal Services	\$44,167	\$43,303	\$44,167
Administration, Operating Expenses			
Office Equipment (furniture, etc.)	\$8,767	\$3,473	\$0
Computer (\$900)	900	900	0
Supplies (\$500)	500	500	500
Standard Office Suite Software (\$330)	330	330	0
Telephone (\$450/FTE)	<u>450</u>	<u>450</u>	<u>450</u>
Subtotal, Operating Expenses	\$10,947	\$5,653	\$950
Total, Request R4	\$55,114	\$48,956	\$45,117

Analysis: The request responds to an increasing contract-related workload. The Department reports that two factors are driving the increase in workload:

- The number of contracts is increasing, in part because the Department has expanded its use of information technology and software vendors for services such as network monitoring, database activities, and document review.
- The contracts are increasingly complex, particularly with respect to information technology and data security given the sensitive nature of much of the Department’s data. In particular, the Department has pointed to a need for extensive negotiations regarding data breach protections in the development of contracts related to confidential data.

Over the past year, the Department has utilized the expertise of an individual within the Legal Services to State Agencies section to manage the increase in workload. However, the Department argues that the increased workload will be ongoing and that continuing to split that employee’s responsibilities is not sustainable in the long term.

Given the sensitive nature of much of the Department’s data (including protected client information falling under a wide variety of federal and state regulations and guidelines), and the

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need to ensure that contracts adequately protect the State’s and clients’ interests, staff recommends approving an increase to support the requested position.

OFFICE OF COMMUNITY ENGAGEMENT (New line item requested)

With BA2 (Office of Community Engagement, discussed above), the Department is requesting the creation of a new line item (Office of Community Engagement) to support statewide community engagement efforts.

Request: As discussed above (in the Initiative Affecting Multiple Line Items section), the Department requests \$669,941 total funds, including \$654,941 General Fund, and 5.8 FTE for FY 2015-16. The request includes: (1) a net increase of \$221,405 General Fund and 1.8 FTE to establish the new office; and (2) moving appropriations for the Safe2Tell Program from the Criminal Justice and Appellate Division into the proposed line item.

Recommendation: As discussed above, based on the timing of the request and the lack of data available to analyze the request, staff recommends rejecting the request at this time and asking the Department to present a comeback at the conclusion of the figure setting process.

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.

Request: The Department requests \$3,558,393 total funds for FY 2015-16.

Recommendation: Staff recommends appropriating \$3,544,259 for FY 2015-16, consistent with Committee policy with respect to employer contribution rates. The following table shows the change from the FY 2014-15 appropriation to the FY 2015-16 staff recommendation based on the Committee’s common policies.

Administration, Health, Life, and Dental						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2014-15 Appropriation						
HB 14-1336 (Long Bill)	<u>\$2,878,006</u>	<u>\$791,193</u>	<u>\$344,575</u>	<u>\$1,642,380</u>	<u>\$99,858</u>	<u>0.0</u>
TOTAL	\$2,878,006	\$791,193	\$344,575	\$1,642,380	\$99,858	0.0
FY 2015-16 Recommended Appropriation						
FY 2014-15 Appropriation	\$2,878,006	\$791,193	\$344,575	\$1,642,380	\$99,858	0.0
Centrally appropriated line item adjustments	<u>666,253</u>	<u>218,460</u>	<u>38,181</u>	<u>397,801</u>	<u>11,811</u>	<u>0.0</u>
TOTAL	\$3,544,259	\$1,009,653	\$382,756	\$2,040,181	\$111,669	0.0
Increase/(Decrease)	\$666,253	\$218,460	\$38,181	\$397,801	\$11,811	0.0

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Administration, Health, Life, and Dental						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
Percentage Change	23.1%	27.6%	11.1%	24.2%	11.8%	0.0%
FY 2015-16 Executive Request:	\$3,558,393	\$1,034,704	\$382,293	\$2,034,449	\$106,947	0.0
Request Above/(Below) Recommendation	\$14,134	\$25,051	(\$463)	(\$5,732)	(\$4,722)	0.0

Short-term Disability

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

Request: The Department requests \$84,375 total funds for FY 2015-16.

Recommendation: Staff recommends approving the request, consistent with the Committee's common policy to apply a rate of 0.22 percent of employee salaries. The following table shows the change from the FY 2014-15 appropriation based on the Committee's common policies.

Administration, Short-term Disability						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2014-15 Appropriation						
HB 14-1336 (Long Bill)	<u>\$79,509</u>	<u>\$20,973</u>	<u>\$9,067</u>	<u>\$47,051</u>	<u>\$2,418</u>	<u>0.0</u>
TOTAL	\$79,509	\$20,973	\$9,067	\$47,051	\$2,418	0.0
FY 2015-16 Recommended Appropriation						
FY 2014-15 Appropriation	\$79,509	\$20,973	\$9,067	\$47,051	\$2,418	0.0
Centrally appropriated line item adjustments	<u>4,866</u>	<u>2,080</u>	<u>(456)</u>	<u>3,194</u>	<u>48</u>	<u>0.0</u>
TOTAL	\$84,375	\$23,053	\$8,611	\$50,245	\$2,466	0.0
Increase/(Decrease)	\$4,866	\$2,080	(\$456)	\$3,194	\$48	0.0
Percentage Change	6.1%	9.9%	(5.0%)	6.8%	2.0%	0.0%
FY 2015-16 Executive Request:	\$84,375	\$23,053	\$8,611	\$50,245	\$2,466	0.0
Request Above/(Below) Recommendation	\$0	\$0	\$0	\$0	\$0	0.0

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 Public Employees' Retirement Association (PERA).

Request: The Department requests \$1,687,501 total funds for FY 2015-16.

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Recommendation: Staff recommends approving the request, consistent with the Committee's common policy to apply a contribution rate of 4.4 percent of base salaries (including salary survey and merit pay increases). The following table shows the change from the FY 2014-15 appropriation based on the Committee's common policies.

Administration, S.B. 04-257 Amortization Equalization Disbursement						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2014-15 Appropriation						
HB 14-1336 (Long Bill)	<u>\$1,445,612</u>	<u>\$381,335</u>	<u>\$164,849</u>	<u>\$855,466</u>	<u>\$43,962</u>	<u>0.0</u>
TOTAL	\$1,445,612	\$381,335	\$164,849	\$855,466	\$43,962	0.0
FY 2015-16 Recommended Appropriation						
FY 2014-15 Appropriation	\$1,445,612	\$381,335	\$164,849	\$855,466	\$43,962	0.0
Centrally appropriated line item adjustments	<u>241,889</u>	<u>79,732</u>	<u>7,372</u>	<u>149,434</u>	<u>5,351</u>	<u>0.0</u>
TOTAL	\$1,687,501	\$461,067	\$172,221	\$1,004,900	\$49,313	0.0
Increase/(Decrease)	\$241,889	\$79,732	\$7,372	\$149,434	\$5,351	0.0
Percentage Change	16.7%	20.9%	4.5%	17.5%	12.2%	0.0%
FY 2015-16 Executive Request:	\$1,687,501	\$461,067	\$172,221	\$1,004,900	\$49,313	0.0
Request Above/(Below) Recommendation	\$0	\$0	\$0	\$0	\$0	0.0

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.

Request: The Department requests \$1,629,972 total funds for FY 2015-16.

Recommendation: Staff recommends approving the request, based on the Committee's common policy to apply a contribution rate of 4.25 percent to base salaries (including salary survey and merit pay increases). The following table shows the change from the FY 2014-15 appropriation based on the Committee's common policies.

Administration, S.B. 06-235 Supplemental Amortization Equalization Disbursement						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2014-15 Appropriation						
HB 14-1336 (Long Bill)	<u>\$1,355,263</u>	<u>\$357,502</u>	<u>\$154,546</u>	<u>\$802,000</u>	<u>\$41,215</u>	<u>0.0</u>

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Administration, S.B. 06-235 Supplemental Amortization Equalization Disbursement						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
TOTAL	\$1,355,263	\$357,502	\$154,546	\$802,000	\$41,215	0.0
FY 2015-16 Recommended Appropriation						
FY 2014-15 Appropriation	\$1,355,263	\$357,502	\$154,546	\$802,000	\$41,215	0.0
Centrally appropriated line item adjustments	<u>274,709</u>	<u>87,846</u>	<u>11,804</u>	<u>168,642</u>	<u>6,417</u>	<u>0.0</u>
TOTAL	\$1,629,972	\$445,348	\$166,350	\$970,642	\$47,632	0.0
Increase/(Decrease)	\$274,709	\$87,846	\$11,804	\$168,642	\$6,417	0.0
Percentage Change	20.3%	24.6%	7.6%	21.0%	15.6%	0.0%
FY 2015-16 Executive Request:	\$1,629,972	\$445,348	\$166,350	\$970,642	\$47,632	0.0
Request Above/(Below) Recommendation	\$0	\$0	\$0	\$0	\$0	0.0

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 275 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 2014 survey, the Department and the Office of the State Public Defender (OSPD) contracted to conduct a joint salary survey.

The latest survey, prepared by the Fox Lawson Group (FLG), was published in September 2014. This study utilized data reported as of July 1, 2014 for a "primary market" that includes:

- Front Range City Attorney Offices (participants included the cities of: Arvada, Aurora, Broomfield, Colorado Springs, Denver, Englewood, Greeley, Lakewood, and Westminster); and
- Front Range County Attorney Offices (participants included the counties of: Arapahoe, Boulder, Douglas, and El Paso).

This study also utilized data as of March 2014 (which was then "aged" to July 2014) for a "supplementary market" that includes:

- Judicial Districts (participants included the following districts: 1st (Jefferson and Gilpin counties); 2nd (Denver); 4th (El Paso and Teller); 8th (Larimer and Jackson); 10th (Pueblo); and 20th (Boulder)); 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.

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, the General Assembly appropriated \$358,827 for salary survey increases and \$263,836 for merit pay increases for the Department's attorneys in order to maintain parity with the market based on the 2013 FLG survey results.

This year's (2014) FLG survey found that the Department's average attorney salaries are still competitive with (though slightly below) the market but that the Department's *salary ranges* are behind the primary market. Overall, the midpoints of the Department's existing pay ranges are 10.3 percent below those of the primary market (based on the responding agencies); these gaps in pay range midpoints range from 7.4 percent below the market for Senior Assistant Attorney General positions to 14.8 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 9.6 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 2014 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.

2014 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	\$146,868	\$165,409	-12.6%	\$141,040	\$158,761	-12.6%
1st Assistant Attorney General	125,155	121,305	3.1%	124,613	134,020	-7.5%
Senior Attorney General	108,775	116,503	-7.1%	107,954	115,959	-7.4%
Assistant Attorney General	83,531	89,085	-6.6%	83,395	92,346	-10.7%

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2014 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
Attorney I	67,542	70,053	-3.7%	67,322	77,268	-14.8%
Average Salary Difference			-5.7%			-10.3%

The Department's FY 2015-16 budget request is based on the implementation of one of three options recommended in the 2014 FLG study. The request adjusts pay ranges for each classification to improve or maintain parity with the market and is the *most conservative of the three options recommended in the FLG study* because of the reduced response rate to the survey compared to prior years and concerns that individual responses may have inflated the necessary pay increases.

In order to implement this recommendation, the Department has requested Salary Survey and Merit Pay increases. The request includes a 3.3 percent adjustment to all salary ranges consistent with the overall market adjustment for this year. In addition, the Department is requesting 1.0 percent merit pay increases for attorneys, in alignment with the Governor’s request for classified positions. Although the request assumes a 1.0 percent increase to each attorney salary for merit pay, in practice the Department awards merit pay based on the performance of each attorney. Thus, some attorneys will receive a larger percentage in bonus pay and other attorneys will receive less.

The Department is requesting the following amounts for attorney salary increases in FY 2015-16:

- \$965,318 for salary survey increases based on the FLA study recommendations; and
- \$295,260 for 1.0 percent merit increases on adjusted salaries, in alignment with the Governor’s request for classified employees.

Salary Survey for Classified Employees

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

Request: The Department requests \$119,650 for FY 2015-16. The request includes a 1.0 percent across-the-board salary survey increase.

Recommendation: Staff recommends approving the request, pursuant to the Committee’s common policy. The following table shows the change from the FY 2014-15 appropriation, based on the Committee’s common policies.

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Administration, Salary Survey for Classified Employees						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2014-15 Appropriation						
HB 14-1336 (Long Bill)	<u>\$295,496</u>	<u>\$91,353</u>	<u>\$74,976</u>	<u>\$106,793</u>	<u>\$22,374</u>	<u>0.0</u>
TOTAL	\$295,496	\$91,353	\$74,976	\$106,793	\$22,374	0.0
FY 2015-16 Recommended Appropriation						
FY 2014-15 Appropriation	\$295,496	\$91,353	\$74,976	\$106,793	\$22,374	0.0
Centrally appropriated line item adjustments	119,650	40,723	30,754	38,897	9,276	0.0
Annualize prior year budget actions	<u>(295,496)</u>	<u>(91,353)</u>	<u>(74,976)</u>	<u>(106,793)</u>	<u>(22,374)</u>	<u>0.0</u>
TOTAL	\$119,650	\$40,723	\$30,754	\$38,897	\$9,276	0.0
Increase/(Decrease)	(\$175,846)	(\$50,630)	(\$44,222)	(\$67,896)	(\$13,098)	0.0
Percentage Change	(59.5%)	(55.4%)	(59.0%)	(63.6%)	(58.5%)	0.0%
FY 2015-16 Executive Request:	\$119,650	\$40,723	\$30,754	\$38,897	\$9,276	0.0
Request Above/(Below) Recommendation	\$0	\$0	\$0	\$0	\$0	0.0

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)*.

Request: The Department requests \$965,318 for FY 2015-16, to provide a 3.3 percent increase in attorney salaries in alignment with the discussion of the attorney salary survey above. As discussed above, the request seeks to maintain and improve parity with the market based on the 2014 FLG study.

Recommendation: Staff recommends approving the request. Staff’s recommendation assumes that the General Assembly wishes to maintain parity with the market as in recent years and avoid the need for a larger increase to “catch up” in the future.

Administration, Salary Survey for Exempt Employees						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2014-15 Appropriation						
HB 14-1336 (Long Bill)	<u>\$358,827</u>	<u>\$83,586</u>	<u>\$19,197</u>	<u>\$252,482</u>	<u>\$3,562</u>	<u>0.0</u>
TOTAL	\$358,827	\$83,586	\$19,197	\$252,482	\$3,562	0.0
FY 2015-16 Recommended Appropriation						

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Administration, Salary Survey for Exempt Employees						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2014-15 Appropriation	\$358,827	\$83,586	\$19,197	\$252,482	\$3,562	0.0
Centrally appropriated line item adjustments	965,318	235,874	38,990	680,763	9,691	0.0
Annualize prior year budget actions	<u>(358,827)</u>	<u>(83,586)</u>	<u>(19,197)</u>	<u>(252,482)</u>	<u>(3,562)</u>	<u>0.0</u>
TOTAL	\$965,318	\$235,874	\$38,990	\$680,763	\$9,691	0.0
Increase/(Decrease)	\$606,491	\$152,288	\$19,793	\$428,281	\$6,129	0.0
Percentage Change	169.0%	182.2%	103.1%	169.6%	172.1%	0.0%
FY 2015-16 Executive Request:	\$965,318	\$235,874	\$38,990	\$680,763	\$9,691	0.0
Request Above/(Below) Recommendation	\$0	\$0	\$0	\$0	\$0	0.0

Merit Pay for Classified Employees

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

Request: The Department requests \$114,830 for FY 2015-16.

Recommendation: Staff recommends approving the request, pursuant to the Committee’s common policy. The following table shows the change from the FY 2014-15 appropriation, based on the Committee’s common policies.

Administration, Merit Pay for Classified Employees						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2014-15 Appropriation						
HB 14-1336 (Long Bill)	<u>\$104,360</u>	<u>\$36,984</u>	<u>\$22,483</u>	<u>\$36,301</u>	<u>\$8,592</u>	<u>0.0</u>
TOTAL	\$104,360	\$36,984	\$22,483	\$36,301	\$8,592	0.0
FY 2015-16 Recommended Appropriation						
FY 2014-15 Appropriation	\$104,360	\$36,984	\$22,483	\$36,301	\$8,592	0.0
Centrally appropriated line item adjustments	114,830	37,379	29,845	39,991	7,615	0.0
Annualize prior year budget actions	<u>(104,360)</u>	<u>(36,984)</u>	<u>(22,483)</u>	<u>(36,301)</u>	<u>(8,592)</u>	<u>0.0</u>
TOTAL	\$114,830	\$37,379	\$29,845	\$39,991	\$7,615	0.0
Increase/(Decrease)	\$10,470	\$395	\$7,362	\$3,690	(\$977)	0.0
Percentage Change	10.0%	1.1%	32.7%	10.2%	(11.4%)	0.0%
FY 2015-16 Executive Request:	\$114,830	\$37,379	\$29,845	\$39,991	\$7,615	0.0

JBC Staff Figure Setting: FY 2015-16
Staff Working Document – Does Not Represent Committee Decision

Administration, Merit Pay for Classified Employees						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
Request Above/(Below)						
Recommendation	\$0	\$0	\$0	\$0	\$0	0.0

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)*.

Request: The Department requests \$295,260 for FY 2015-16, to provide a 1.0 percent increase for merit pay consistent with the Governor’s request for classified employees.

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

Administration, Merit Pay for Exempt Employees						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2014-15 Appropriation						
HB 14-1336 (Long Bill)	<u>\$263,836</u>	<u>\$62,917</u>	<u>\$11,284</u>	<u>\$186,740</u>	<u>\$2,895</u>	<u>0.0</u>
TOTAL	\$263,836	\$62,917	\$11,284	\$186,740	\$2,895	0.0
FY 2015-16 Recommended Appropriation						
FY 2014-15 Appropriation	\$263,836	\$62,917	\$11,284	\$186,740	\$2,895	0.0
Centrally appropriated line item adjustments	295,260	71,154	11,730	209,337	3,039	0.0
Annualize prior year budget actions	<u>(263,836)</u>	<u>(62,917)</u>	<u>(11,284)</u>	<u>(186,740)</u>	<u>(2,895)</u>	<u>0.0</u>
TOTAL	\$295,260	\$71,154	\$11,730	\$209,337	\$3,039	0.0
Increase/(Decrease)	\$31,424	\$8,237	\$446	\$22,597	\$144	0.0
Percentage Change	11.9%	13.1%	4.0%	12.1%	5.0%	0.0%
FY 2015-16 Executive Request:	\$295,260	\$71,154	\$11,730	\$209,337	\$3,039	0.0
Request Above/(Below)						
Recommendation	\$0	\$0	\$0	\$0	\$0	0.0

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.

Request: The Department requests \$83,003 for FY 2015-16.

JBC Staff Figure Setting: FY 2015-16
Staff Working Document – Does Not Represent Committee Decision

Recommendation: Pursuant to Committee common policy, staff recommends an appropriation of \$83,973 total funds for FY 2015-16. The following table shows the recommended change from the FY 2014-15 appropriation.

	Administration, Workers' Compensation					FTE
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	
FY 2014-15 Appropriation						
HB 14-1336 (Long Bill)	<u>\$104,477</u>	<u>\$28,278</u>	<u>\$12,196</u>	<u>\$61,053</u>	<u>\$2,950</u>	<u>0.0</u>
TOTAL	\$104,477	\$28,278	\$12,196	\$61,053	\$2,950	0.0
FY 2015-16 Recommended Appropriation						
FY 2014-15 Appropriation	\$104,477	\$28,278	\$12,196	\$61,053	\$2,950	0.0
Centrally appropriated line item adjustments	<u>(20,504)</u>	<u>(5,021)</u>	<u>(2,389)</u>	<u>(12,473)</u>	<u>(621)</u>	<u>0.0</u>
TOTAL	\$83,973	\$23,257	\$9,807	\$48,580	\$2,329	0.0
Increase/(Decrease)	(\$20,504)	(\$5,021)	(\$2,389)	(\$12,473)	(\$621)	0.0
Percentage Change	(19.6%)	(17.8%)	(19.6%)	(20.4%)	(21.1%)	0.0%
FY 2015-16 Executive Request:	\$83,003	\$22,990	\$9,696	\$48,015	\$2,302	0.0
Request Above/(Below) Recommendation	(\$970)	(\$267)	(\$111)	(\$565)	(\$27)	0.0

Attorney Registration and Continuing Legal Education

This line item provides funding for the Department to cover the annual registration fee for each attorney (\$325, increased from \$225 per attorney in FY 2014-15) 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.

Request: The Department requests \$129,913 for FY 2015-16, an increase of \$3,562 total funds relative to the FY 2014-15 appropriation to align with anticipated expenditures in FY 2015-16.

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. The following table shows the recommended change from the FY 2014-15 appropriation.

JBC Staff Figure Setting: FY 2015-16
Staff Working Document – Does Not Represent Committee Decision

Administration, Attorney Registration and Continuing Legal Education						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2014-15 Appropriation						
HB 14-1336 (Long Bill)	<u>\$126,351</u>	<u>\$30,524</u>	<u>\$4,698</u>	<u>\$90,060</u>	<u>\$1,069</u>	<u>0.0</u>
TOTAL	\$126,351	\$30,524	\$4,698	\$90,060	\$1,069	0.0
FY 2015-16 Recommended Appropriation						
FY 2014-15 Appropriation	126,351	30,524	4,698	90,060	1,069	0.0
Centrally appropriated line item adjustments	<u>3,562</u>	<u>517</u>	<u>(423)</u>	<u>3,468</u>	<u>0</u>	<u>0.0</u>
TOTAL	\$129,913	\$31,041	\$4,275	\$93,528	\$1,069	0.0
Increase/(Decrease)	\$3,562	\$517	(\$423)	\$3,468	\$0	0.0
Percentage Change	2.8%	1.7%	(9.0%)	3.9%	0.0%	0.0%
FY 2015-16 Executive Request:	\$129,913	\$31,041	\$4,275	\$93,528	\$1,069	0.0
Request Above/(Below) Recommendation	\$0	\$0	\$0	\$0	\$0	0.0

Operating Expenses

This line item provides funding for operating expenses of the Administration section.

Request: The Department requests \$217,191 reappropriated funds for FY 2015-16. The request includes the following changes from the FY 2014-15 appropriation:

- An increase of \$12,755 reappropriated funds associated with request BA3 (Legislative Liaison);
- An increase of \$10,947 reappropriated funds associated with FY 2015-16 R4 (1/2-time Contract Administrator);
- An increase of \$950 reappropriated funds associated with the request to move 0.5 FTE from the P.O.S.T. Board line item to the Administration section and change the fund source to reappropriated funds from indirect cost recoveries; and
- A reduction of \$4,703 reappropriated funds (from indirect cost recoveries) to annualize FY 2014-15 R3 (Database Administrator).

Recommendation: Staff recommends an appropriation of \$206,603 reappropriated funds. The recommendation is below the request because, as discussed above with respect to requests R4 and BA3, the recommendation provides the common policy amount for office furniture for new FTE. The recommendation includes the requested changes associated with moving 0.5 FTE from the P.O.S.T. Board to Administration and to annualize FY 2014-15 R3.

JBC Staff Figure Setting: FY 2015-16
Staff Working Document – Does Not Represent Committee Decision

Administration, Operating Expenses					
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	FTE
FY 2014-15 Appropriation					
HB 14-1336 (Long Bill)	\$197,242	\$0	\$0	\$197,242	0.0
TOTAL	\$197,242	\$0	\$0	\$197,242	0.0
FY 2015-16 Recommended Appropriation					
FY 2014-15 Appropriation	\$197,242	\$0	\$0	\$197,242	0.0
BA3 Legislative Liaison	7,461	0	0	7,461	0.0
R4 Contract administrator 1/2 FTE	5,653	0	0	5,653	0.0
Move SB 14-123 POST FTE to Administration	950	0	0	950	0.0
Annualize prior year budget actions	(4,703)	0	0	(4,703)	0.0
TOTAL	\$206,603	\$0	\$0	\$206,603	0.0
Increase/(Decrease)	\$9,361	\$0	\$0	\$9,361	0.0
Percentage Change	4.7%	0.0%	0.0%	4.7%	0.0%
FY 2015-16 Executive Request:	\$217,191	\$0	\$0	\$217,191	0.0
Request Above/(Below)					
Recommendation	\$10,588	\$0	\$0	\$10,588	0.0

Legal Services (New line item recommended)

The Committee created this line item in the Department's FY 2014-15 supplemental bill (S.B. 15-152) to support legal services costs for the Safe2Tell Program in a manner consistent with the treatment of legal services in other departments. Staff is recommending continuing this line item in the FY 2015-16 Long Bill to provide appropriations for anticipated legal services expenses for both Safe2Tell and the Police Officers Standards and Training (P.O.S.T.) Board, the two Department of Law programs expected to utilize legal services in FY 2015-16.

Request: The Department has not requested the creation of the line item but does support staff's recommendation. The Department anticipates a need for a total of 411 hours of legal services for Safe2Tell and P.O.S.T. in FY 2015-16, including 200 hours for Safe2Tell and 211 hours for P.O.S.T.

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 2015-16. The associated appropriation will be calculated after the Committee sets the common policy for the legal services rate. The following table shows the changes from the FY 2014-15 appropriation (in S.B. 15-152), using the Department's estimated blended legal services rate for FY 2015-16 of \$94.51 per hour.

*JBC Staff Figure Setting: FY 2015-16
Staff Working Document – Does Not Represent Committee Decision*

Administration, Legal Services for 411 Hours				
	Total Funds	General Fund	Cash Funds	FTE
FY 2014-15 Appropriation				
SB 15-152 (Supplemental)	<u>\$32,178</u>	<u>\$32,178</u>	<u>\$0</u>	<u>0.0</u>
TOTAL	\$32,178	\$32,178	\$0	0.0
FY 2015-16 Recommended Appropriation				
FY 2014-15 Appropriation	\$32,178	\$32,178	\$0	0.0
BA4 Safe2Tell Legal Services	23,628	23,628	0	0.0
Staff initiated - reflect P.O.S.T. legal services	19,942	0	19,942	0.0
Annualize FY 2014-15 supplemental	<u>(32,178)</u>	<u>(32,178)</u>	<u>0</u>	<u>0.0</u>
TOTAL	\$43,570	\$23,628	\$19,942	0.0
Increase/(Decrease)	\$11,392	(\$8,550)	\$19,942	0.0
Percentage Change	35.4%	(26.6%)	0.0%	0.0%
FY 2015-16 Executive Request:	\$0	\$0	\$0	0.0
Request Above/(Below) Recommendation	(\$43,570)	(\$23,628)	(\$19,942)	0.0

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.

Request: The Department requests \$6,778 cash funds for FY 2015-16, a reduction of \$22,524 from the FY 2014-15 appropriation.

Recommendation: Pursuant to Committee common policy, staff recommends an appropriation of \$6,479 cash funds. The following table shows the recommended changes from the FY 2014-15 appropriation.

Administration, Administrative Law Judge Services				
	Total Funds	General Fund	Cash Funds	FTE
FY 2014-15 Appropriation				
HB 14-1336 (Long Bill)	\$29,302	\$0	\$29,302	0.0
SB 15-152 (Supplemental)	<u>952</u>	<u>0</u>	<u>952</u>	<u>0.0</u>
TOTAL	\$30,254	\$0	\$30,254	0.0
FY 2015-16 Recommended Appropriation				

JBC Staff Figure Setting: FY 2015-16
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Administration, Administrative Law Judge Services				
	Total Funds	General Fund	Cash Funds	FTE
FY 2014-15 Appropriation	\$30,254	\$0	\$30,254	0.0
Centrally appropriated line item adjustments	(22,823)	0	(22,823)	0.0
Annualize FY 2014-15 supplemental	<u>(952)</u>	<u>0</u>	<u>(952)</u>	<u>0.0</u>
TOTAL	\$6,479	\$0	\$6,479	0.0
Increase/(Decrease)	(\$23,775)	\$0	(\$23,775)	0.0
Percentage Change	(78.6%)	0.0%	(78.6%)	0.0%
FY 2015-16 Executive Request:	\$6,778	\$0	\$6,778	0.0
Request Above/(Below) Recommendation	\$299	\$0	\$299	0.0

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.

Request: The Department requests \$116,440 total funds for FY 2015-16. The request represents a decrease of \$37,465 total funds from the FY 2014-15 appropriation. In addition, the request would support the line item with direct appropriations from a variety of fund sources rather than with indirect cost recoveries.

Recommendation: Pursuant to Committee common policy, staff recommends an appropriation of \$169,910 total funds. The following table shows the recommended changes from the FY 2014-15 appropriation.

Administration, Payment to Risk Management and Property Funds						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2014-15 Appropriation						
HB 14-1336 (Long Bill)	<u>\$153,905</u>	<u>\$0</u>	<u>\$0</u>	<u>\$153,905</u>	<u>\$0</u>	<u>0.0</u>
TOTAL	\$153,905	\$0	\$0	\$153,905	\$0	0.0
FY 2015-16 Recommended Appropriation						
FY 2014-15 Appropriation	\$153,905	\$0	\$0	\$153,905	\$0	0.0
Centrally appropriated line item adjustments	<u>16,005</u>	<u>47,059</u>	<u>19,845</u>	<u>(55,610)</u>	<u>4,711</u>	<u>0.0</u>

JBC Staff Figure Setting: FY 2015-16
Staff Working Document – Does Not Represent Committee Decision

Administration, Payment to Risk Management and Property Funds						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
TOTAL	\$169,910	\$47,059	\$19,845	\$98,295	\$4,711	0.0
Increase/(Decrease)	\$16,005	\$47,059	\$19,845	(\$55,610)	\$4,711	0.0
Percentage Change	10.4%	0.0%	0.0%	(36.1%)	0.0%	0.0%
FY 2015-16 Executive Request:	\$116,440	\$32,251	\$13,599	\$67,361	\$3,229	0.0
Request Above/(Below) Recommendation	(\$53,470)	(\$14,808)	(\$6,246)	(\$30,934)	(\$1,482)	0.0

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 30 vehicles, including 14 that are used by the Criminal Justice and Appellate Division, nine that are used by the Legal Services for State Agencies Division, six that are used by the Consumer Protection Division, and one that is used by the Attorney General.

Request: The Department requests \$71,282 for FY 2015-16, an increase of \$15,312 relative to the FY 2014-15 appropriation. The request includes the following increases: (1) \$12,694 for the non-prioritized request for vehicle lease payments; and (2) \$2,618 to reflect vehicle lease payments associated with the Safe2Tell Program in this line item.

Recommendation: Pursuant to Committee common policy, staff recommends an appropriation of \$70,416 total funds. The following table shows the recommended changes from the FY 2014-15 appropriation.

Administration, Vehicle Lease Payments						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2014-15 Appropriation						
HB 14-1336 (Long Bill)	\$55,970	\$15,012	\$17,097	\$21,382	\$2,479	0.0
SB 15-152 (Supplemental)	<u>5,885</u>	<u>5,885</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0.0</u>
TOTAL	\$61,855	\$20,897	\$17,097	\$21,382	\$2,479	0.0
FY 2015-16 Recommended Appropriation						
FY 2014-15 Appropriation	\$61,855	\$20,897	\$17,097	\$21,382	\$2,479	0.0
Centrally appropriated line item adjustments	11,828	17,039	(9,842)	4,908	(277)	0.0
Other	2,618	2,618	0	0	0	0.0
Annualize FY 2014-15 supplemental	<u>(5,885)</u>	<u>(5,885)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0.0</u>

*JBC Staff Figure Setting: FY 2015-16
Staff Working Document – Does Not Represent Committee Decision*

Administration, Vehicle Lease Payments						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
TOTAL	\$70,416	\$34,669	\$7,255	\$26,290	\$2,202	0.0
Increase/(Decrease)	\$8,561	\$13,772	(\$9,842)	\$4,908	(\$277)	0.0
Percentage Change	13.8%	65.9%	(57.6%)	23.0%	(11.2%)	0.0%
FY 2015-16 Executive Request:	\$71,282	\$34,669	\$7,255	\$23,580	\$5,778	0.0
Request Above/(Below) Recommendation	\$866	\$0	\$0	(\$2,710)	\$3,576	0.0

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.

Request: The Department requests \$645,206 total funds in FY 2015-16, a continuation of the funding level in FY 2014-15.

Recommendation: Staff recommends approving the request.

Ralph L. Carr Colorado Judicial Center Leased Space

This line item supports the Department's lease payments for space in the Carr Center. The Department now occupies 200,161 square feet in the Carr Center, and this line item was created (replacing the Capitol Complex Leased Space line item) in FY 2013-14 to reflect the relocation. The Department began making lease payments for the space in the Carr Center on July 1, 2013. This line item also supports the Department's share of State Patrol security services at the Carr Center.

Request: The Department requests \$3,034,238 total funds for this line item, reflecting the anticipated lease payment in FY 2015-16. The request represents an increase of \$52,870 above the FY 2014-15 appropriation based on revised estimates from the Judicial Branch.

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.

CORE OPERATIONS (Formerly COFRS Modernization)

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. During figure setting for FY 2015-16 common policies on February 5, 2015, the Committee changed the name of the line item to "CORE Operations" for the FY 2015-16 Long Bill.

JBC Staff Figure Setting: FY 2015-16
Staff Working Document – Does Not Represent Committee Decision

Request: The Department requests \$59,075 for this purpose for FY 2015-16, an decrease of \$8,329 below the FY 2014-15 appropriation as adjusted by the FY 2014-15 supplemental (S.B. 15-152).

Recommendation: Pursuant to Committee common policy, staff recommends approving the request. The following table shows the recommended changes from the FY 2014-15 appropriation.

Administration, CORE Operations (COFRS Modernization)						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2014-15 Appropriation						
HB 14-1336 (Long Bill)	\$47,570	\$0	\$0	\$46,431	\$1,139	0.0
SB 15-152 (Supplemental)	<u>19,834</u>	<u>0</u>	<u>0</u>	<u>20,973</u>	<u>(1,139)</u>	<u>0.0</u>
TOTAL	\$67,404	\$0	\$0	\$67,404	\$0	0.0
FY 2015-16 Recommended Appropriation						
FY 2014-15 Appropriation	\$67,404	\$0	\$0	\$67,404	\$0	0.0
BANP5 CORE common policy true-up	11,505	16,362	6,898	(12,254)	499	0.0
Annualize FY 2014-15 supplemental	<u>(19,834)</u>	<u>0</u>	<u>0</u>	<u>(20,973)</u>	<u>1,139</u>	<u>0.0</u>
TOTAL	\$59,075	\$16,362	\$6,898	\$34,177	\$1,638	0.0
Increase/(Decrease)	(\$8,329)	\$16,362	\$6,898	(\$33,227)	\$1,638	0.0
Percentage Change	(12.4%)	0.0%	0.0%	(49.3%)	0.0%	0.0%
FY 2015-16 Executive Request:	\$59,075	\$16,362	\$6,898	\$34,177	\$1,638	0.0
Request Above/(Below) Recommendation	\$0	\$0	\$0	\$0	\$0	0.0

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.

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'S FUNDING

The Department is not requesting, and staff is not recommending, funding for the following line items for FY 2015-16. However, the line items remain in the numbers pages at the end of this document because of funding provided in prior years.

Capitol Complex Leased Space

Prior to FY 2013-14, this line item supported the Department's lease payments for Capitol Complex space in the State Services Building at 1525 Sherman Street. On January 22, 2013, all Department staff moved to the Ralph L. Carr Colorado Judicial Center, and the Capitol Complex Leased Space appropriation is no longer necessary.

Purchase of Services from Computer Center

This line item provides 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 provides 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.

Communications 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.

ADP Capital Outlay

The ADP Capital Outlay line item funds one-time expenditures for personal computers, office equipment, and other items that are needed when new staff positions are authorized. The appropriations on this line are one-time expenditures. The Department received one-time funding for this line item in FY 2012-13 to purchase a case management system.

Leased Space

This appropriation previously paid for 3,286 square feet of off-site document storage space that is no longer necessary.

Security for State Services Building

Prior to FY 2013-14, this line item paid for State Patrol security at the State Services Building, the Capital Complex facility that previously housed the Department of Law. The FY 2013-14 Long Bill consolidated the Department's share of State Patrol security costs into the Ralph L. Carr Colorado Judicial Center Leased Space line item, discussed above.

(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 2014-15, the General Assembly has authorized the Department of Law to spend up to \$39.9 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.

LINE ITEM DETAIL

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 annually¹. 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.

The following table summarizes the estimated change in the demand for legal services from FY 2014-15 to FY 2015-16.

¹ 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.

JBC Staff Figure Setting: FY 2015-16
Staff Working Document – Does Not Represent Committee Decision

Estimated Change in Demand for Legal Services Hours	Legal Hours
Legal services appropriations specifically designated in the FY 2014-15 Long Bill, plus additional hours of legal services anticipated to be purchased by other agencies (primarily higher education institutions)	396,061
FY 2014-15 legal services appropriations in legislation other than Long Bill (including S.B. 15-152, the supplemental bill for the Department of Law)	<u>13,548</u>
Total legal services for FY 2014-15	409,609
Estimated number of hours for specifically designated line items the FY 2015-16 Long Bill (including out-year impacts of prior legislation and decision items), plus additional hours of legal services anticipated to be purchased by other agencies	399,217
Change from FY 2014-15 to FY 2015-16	(10,392)

Once the Committee has acted on all state agencies' requests for legal services hours for FY 2015-16, staff will present a memorandum that describes the calculation of the hourly rates applicable for FY 2015-16. 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 2015-16. 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 decrease to \$94.51 (4.5 percent). This decrease is primarily the result of a one-time increase in the legal services rate in FY 2014-15 to establish a reserve in the Legal Services Cash Fund.

Request: The Department requests \$27,297,454 and 258.2 FTE for FY 2015-16. The request is impacted by annualization of funding provided for FY 2014-15 as well as non-prioritized decision items and budget amendments in the Department of Corrections, the Department of Education, the Judicial Branch, and the Department of Revenue.

Recommendation: Staff recommends approving an appropriation of \$27,315,402 reappropriated funds. The recommendation is \$17,948 above the Department's request because staff recommends reflecting anticipated legal services costs for the P.O.S.T. Board (as discussed above with respect to the Legal Services line item) which is not included in the request. The Department does, however, support the staff recommendation to include the P.O.S.T. funds. The following table details the requested and recommended changes from the FY 2014-15 appropriation.

Legal Services to State Agencies, Personal Services					
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	FTE
FY 2014-15 Appropriation					
HB 14-1336 (Long Bill)	\$25,645,486	\$0	\$848,945	\$24,796,541	251.0
Other Legislation	476,524	0	27,871	448,653	2.6

JBC Staff Figure Setting: FY 2015-16
Staff Working Document – Does Not Represent Committee Decision

Legal Services to State Agencies, Personal Services					
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	FTE
SB 15-152 (Supplemental)	<u>729,535</u>	<u>0</u>	<u>0</u>	<u>729,535</u>	<u>4.6</u>
TOTAL	\$26,851,545	\$0	\$876,816	\$25,974,729	258.2
FY 2015-16 Recommended Appropriation					
FY 2014-15 Appropriation	\$26,851,545	\$0	\$876,816	\$25,974,729	258.2
Annualize prior year budget actions	534,680	0	0	534,680	0.0
BANP1 Department of Corrections legal services supplemental	378,938	0	0	378,938	2.4
BANP3 Department of Revenue marijuana enforcement legal services	153,106	0	0	153,106	1.0
BANP2 Department of Revenue DMV legal services	110,577	0	0	110,577	0.7
BANP4 Department of Education legal services	104,310	0	0	104,310	0.7
BA4 Safe2Tell Legal Services	21,265	0	0	21,265	0.1
Staff initiated - reflect P.O.S.T. legal services	17,948	0	0	17,948	0.1
FTE True-up for 2014 legislation	0	0	0	0	0.2
Fund source adjustments	0	0	(852,224)	852,224	0.0
Annualize FY 2014-15 supplemental	(729,535)	0	0	(729,535)	(4.6)
Annualize prior year legislation	<u>(127,432)</u>	<u>0</u>	<u>(24,592)</u>	<u>(102,840)</u>	<u>(0.5)</u>
TOTAL	\$27,315,402	\$0	\$0	\$27,315,402	258.3
Increase/(Decrease)	\$463,857	\$0	(\$876,816)	\$1,340,673	0.1
Percentage Change	1.7%	0.0%	(100.0%)	5.2%	0.0%
FY 2015-16 Executive Request:	\$27,297,454	\$0	\$0	\$27,297,454	258.2
Request Above/(Below) Recommendation	(\$17,948)	\$0	\$0	(\$17,948)	(0.1)

Please note that staff will revise this recommendation, if necessary, once the demand for legal services for FY 2015-16 is finalized, including the Committee’s decisions regarding legal services requests for other departments. **Staff thus requests authorization to adjust this amount, if necessary, based on changes in the number of hours of legal services approved by the Committee.**

In addition, 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.

JBC Staff Figure Setting: FY 2015-16
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- *Higher Education Institutions: 11,640 hours* – Based on recent usage of legal services, staff recommends assuming that the higher education institutions will utilize 11,640 hours in FY 2015-16.
- *PERA: 29 hours* – Staff recommends maintaining the assumption that PERA will need 29 hours of legal services in FY 2015-16.

Operating and Litigation

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

Request: The Department requests \$1,912,123 for FY 2015-16. The request is impacted by annualization of funding provided for FY 2014-15 as well as non-prioritized decision items and budget amendments in the Department of Corrections, the Department of Education, and the Department of Revenue.

Recommendation: Staff recommends an appropriation of \$1,914,117 reappropriated funds. The recommendation is \$1,994 above the Department’s request because of staff’s recommendation to include anticipated legal services costs for the P.O.S.T. board. The following table details staff’s overall recommendation for the line item. Please note that staff will revise this recommendation, if necessary, once the demand for legal services for FY 2015-16 is finalized, including the Committee’s decisions regarding additional legal services requested by other departments. **Staff thus requests authorization to adjust this amount, if necessary, based on changes in the number of hours of legal services approved by the Committee.**

Legal Services to State Agencies, Operating and Litigation					
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	FTE
FY 2014-15 Appropriation					
HB 14-1336 (Long Bill)	\$1,788,002	\$0	\$0	\$1,788,002	0.0
Other Legislation	52,926	0	3,096	49,830	0.0
SB 15-152 (Supplemental)	<u>81,060</u>	<u>0</u>	<u>0</u>	<u>81,060</u>	<u>0.0</u>
TOTAL	\$1,921,988	\$0	\$3,096	\$1,918,892	0.0
FY 2015-16 Recommended Appropriation					
FY 2014-15 Appropriation	\$1,921,988	\$0	\$3,096	\$1,918,892	0.0
BANP1 Department of Corrections legal services supplemental	42,104	0	0	42,104	0.0
BANP3 Department of Revenue marijuana enforcement legal services	17,012	0	0	17,012	0.0
BANP2 Department of Revenue DMV legal services	12,286	0	0	12,286	0.0

*JBC Staff Figure Setting: FY 2015-16
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Legal Services to State Agencies, Operating and Litigation					
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	FTE
BANP4 Department of Education legal services	11,590	0	0	11,590	0.0
BA4 Safe2Tell Legal Services	2,363	0	0	2,363	0.0
Staff initiated - reflect P.O.S.T. legal services	1,994	0	0	1,994	0.0
Fund source adjustments	0	0	(364)	364	0.0
Annualize FY 2014-15 supplemental	(81,060)	0	0	(81,060)	0.0
Annualize prior year legislation	<u>(14,160)</u>	<u>0</u>	<u>(2,732)</u>	<u>(11,428)</u>	<u>0.0</u>
TOTAL	\$1,914,117		\$0	\$1,914,117	0.0
Increase/(Decrease)	(\$7,871)	\$0	(\$3,096)	(\$4,775)	0.0
Percentage Change	(0.4%)	0.0%	(100.0%)	(0.2%)	0.0%
FY 2015-16 Executive Request:	\$1,912,123	\$0	\$0	\$1,912,123	0.0
Request Above/(Below) Recommendation	(\$1,994)		\$0	(\$1,994)	0.0

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.

Request: The Department requests an appropriation of \$3,024,158 for FY 2014-15.

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 2015-16. Staff will utilize the indirect cost assessment methodology that was described in detail in Appendix D of the FY 2015-16 Staff Budget Briefing, dated November 13, 2014. The following table details the requested and recommended changes from the FY 2014-15 appropriation.

Legal Services to State Agencies, Indirect Cost Assessment					
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	FTE
FY 2014-15 Appropriation					
HB 14-1336 (Long Bill)	<u>\$3,211,050</u>	<u>\$0</u>	<u>\$0</u>	<u>\$3,211,050</u>	<u>0.0</u>
TOTAL	\$3,211,050	\$0	\$0	\$3,211,050	0.0

JBC Staff Figure Setting: FY 2015-16
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Legal Services to State Agencies, Indirect Cost Assessment					
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	FTE
FY 2015-16 Recommended Appropriation					
FY 2014-15 Appropriation	\$3,211,050	\$0	\$0	\$3,211,050	0.0
Indirect cost assessment adjustments	<u>(186,892)</u>	<u>0</u>	<u>1,186,099</u>	<u>(1,372,991)</u>	<u>0.0</u>
TOTAL	\$3,024,158	\$0	\$1,186,099	\$1,838,059	0.0
Increase/(Decrease)	(\$186,892)	\$0	\$1,186,099	(\$1,372,991)	0.0
Percentage Change	(5.8%)	0.0%	0.0%	(42.8%)	0.0%
FY 2015-16 Executive Request:	\$3,024,158	\$0	\$1,186,099	\$1,838,059	0.0
Request Above/(Below) Recommendation	\$0	\$0	\$0	\$0	0.0

(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 and the Safe2Tell program.

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, a statewide vehicle registration fee to support training for peace officers, and payments from school districts and other entities requesting educational materials from the Safe2Tell program. 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.

LINE ITEM DETAIL

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. (The VCAT is discussed in detail below with request R1).

JBC Staff Figure Setting: FY 2015-16
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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*.

The following table details the types of employees that are supported by this line item.

Staffing Summary - Special Prosecutions Unit				
	FY 13-14 Actual	FY 14-15 Approp.	FY 15-16 Request	FY 15-16 Recommend.
Attorneys	13.6	15.0	16.8	15.0
Criminal Investigators	12.2	14.0	14.0	14.0
Legal Assistants	3.8	4.0	4.0	4.0
Auditor	0.9	1.0	1.0	1.0
Administrative Staff	<u>2.0</u>	<u>3.8</u>	<u>3.8</u>	<u>3.8</u>
Total	32.5	37.8	39.6	37.8

Request: The Department requests \$4,470,538 total funds and 39.6 FTE for this line item for FY 2015-16. The request includes the following changes from the FY 2014-15 appropriation:

- An increase of \$266,520 General Fund and 1.8 FTE associated with request R1 (discussed below);
- An increase of \$108,056 total funds to annualize FY 2014-15 salary survey and merit pay; and
- A decrease of \$19,994 cash funds from the Marijuana Tax Cash Fund to annualize S.B. 14-215 (Disposition of Legal Marijuana Revenue).

Recommendation: Staff recommends a continuation appropriation of \$4,204,018 total funds, including \$1,871,430 General Fund, consistent with Committee common policy. The recommendation is \$266,520 General Fund and 1.8 FTE below the Department's request because staff recommends rejecting request R1 (Violent Crimes Assistance Team FTE). As discussed below, staff recommends rejecting the decision item for the Long Bill process and addressing potential staffing issues for the Violent Crimes Assistance Team (VCAT) through legislation defining the role of the VCAT in statute. The following table details the recommended changes from the FY 2014-15 appropriation.

Criminal Justice and Appellate, Special Prosecutions Unit					
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	FTE
FY 2014-15 Appropriation					
HB 14-1336 (Long Bill)	\$3,659,196	\$1,832,354	\$1,162,763	\$664,079	35.8
Other Legislation	<u>456,760</u>	<u>0</u>	<u>456,760</u>	<u>0</u>	<u>2.0</u>

*JBC Staff Figure Setting: FY 2015-16
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Criminal Justice and Appellate, Special Prosecutions Unit					
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	FTE
TOTAL	\$4,115,956	\$1,832,354	\$1,619,523	\$664,079	37.8
FY 2015-16 Recommended Appropriation					
FY 2014-15 Appropriation	\$4,115,956	\$1,832,354	\$1,619,523	\$664,079	37.8
Annualize prior year budget actions	108,056	39,076	41,597	27,383	0.0
R1 Violent Crimes Assistance Team					
FTE	0	0	0	0	0.0
Annualize prior year legislation	<u>(19,994)</u>	<u>0</u>	<u>(19,994)</u>	<u>0</u>	<u>0.0</u>
TOTAL	\$4,204,018	\$1,871,430	\$1,641,126	\$691,462	37.8
Increase/(Decrease)	\$88,062	\$39,076	\$21,603	\$27,383	0.0
Percentage Change	2.1%	2.1%	1.3%	4.1%	0.0%
FY 2015-16 Executive Request:	\$4,470,538	\$2,137,950	\$1,641,126	\$691,462	39.6
Request Above/(Below)					
Recommendation	\$266,520	\$266,520	\$0	\$0	1.8



Request R1: Violent Crimes Assistance Team FTE

- The Department requests an increase of \$266,520 General Fund and 1.8 FTE to expand the Violent Crimes Assistance Team in response to increasing workload supporting local district attorneys.
- Staff recommends rejecting the request to expand the VCAT in the Long Bill and addressing any potential staffing needs through legislation defining the General Assembly's intended role for the VCAT.

Request: The Department requests an increase of \$266,520 General Fund and 1.8 attorney FTE in FY 2015-16 (annualizing to \$264,835 General Fund and 2.0 FTE in FY 2016-17 and beyond) to expand the Violent Crimes Assistance Team (VCAT). The request responds to an increasing workload supporting local district attorneys in the prosecution of homicides and potentially other violent crimes.

Recommendation: Staff recommends rejecting the request to expand the VCAT through the Long Bill. Instead, staff recommends that the General Assembly enact separate legislation defining the Assembly's intended role for the VCAT and addressing potential staffing needs based on the unit's intended role. The following table shows the components of the Department's request, the staff recommendation, and the anticipated FY 2016-17 impact of the Department's request.

*JBC Staff Figure Setting: FY 2015-16
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Request R1 - VCAT FTE						
	FY 2015-16		FY 2015-16		FY 2016-17 Impact	
	Dept. Request		Staff Rec.		Dept. Request	
	GF	FTE	GF	FTE	GF	FTE
Personal Services Costs						
Salary/Personal Services	\$167,178	1.8	\$0	0.0	\$182,376	2.0
PERA (10.15%)	16,969		0		18,511	
Medicare (1.45%)	2,424		0		2,644	
AED (4.4%)	7,356		0		8,025	
SAED (4.25%)	7,105		0		7,751	
STD (0.022%)	368		0		401	
Estimated HLD	<u>21,995</u>		<u>0</u>		<u>21,995</u>	
Subtotal, Personal Services	\$223,394	1.8	\$0	0.0	\$241,703	2.0
Operating Expenses						
Supplies (\$500)	\$1,000		\$0		\$1,000	
Computer (\$900)	1,800		0		0	
Office Suite Software (\$330)	660		0		0	
Office Equipment (\$8,767)	17,534		0		0	
Telephone (\$450/FTE)	900		0		900	
Cell phone (\$80 per month)	1,920		0		1,920	
Mileage on State Vehicle (12,000 miles)	2,544		0		2,544	
Hotel (4 nights/month at \$75 per night)	3,600		0		3,600	
Per Diem (4 nights/month at \$66)	3,168		0		3,168	
Litigation Expenses (\$5,000)	<u>10,000</u>		<u>0</u>		<u>10,000</u>	
Subtotal, Operating Expenses	\$43,126		\$0		\$23,132	
Total, Request R1	\$266,520	1.8	\$0	0.0	\$264,835	2.0

Analysis: The VCAT currently includes 2.0 attorney FTE and 1.0 criminal investigator FTE. The request would add two additional attorney FTE to the VCAT (1.8 FTE in FY 2015-16, annualizing 2.0 FTE in subsequent years), doubling the unit’s attorney staff. The Department argues that the staffing increase is necessary based on increasing workload for the VCAT.

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, gang activities, environmental crimes, and foreign prosecutions (in which a foreign national commits a crime in Colorado and is subsequently tried in another country).

The Special Prosecution Unit also includes the VCAT, formerly known as the Capital Crimes Unit (CCU). The General Assembly created the CCU through the addition of a line item to the FY 1994-95 Long Bill to provide statewide expertise within the Department to assist local district attorneys with the investigation and prosecution of capital crimes.

Given the origin of the unit, there is no statute defining the role of the VCAT or clarifying the General Assembly's intent. However, based on discussions with Department of Law staff and Judicial Branch staff, it appears that the General Assembly was particularly focused on assisting rural district attorneys facing limited resources and limited experience prosecuting capital crimes. The unit only assists with prosecutions upon the request of the local district attorney and with the approval of the Attorney General.

Without clear guidance in statute, the Department has expanded the role and mission of the unit since its establishment in FY 1994-95.

- During the 1990's, the CCU focused largely on consultations with local district attorneys in potential death penalty cases. In some cases the CCU attorneys were sworn in as special deputy district attorneys to assist with prosecutions and motions practice but they generally did not try cases.
- About six years ago, in response to shortages of resources and homicide prosecution experience in local district attorney offices, the CCU was renamed as the Homicide Assistance Team and began to assist local district attorneys with non-capital homicide cases as well. In addition, the Unit attorneys became much more active participants in prosecutions, including actually trying cases as the lead attorneys.
- In 2012, the Department renamed the unit as the Violent Crime Assistance Team (VCAT) and further expanded the role of the team to include significant and complicated violent crimes that did not result in a homicide. However, to date, the VCAT has not assisted in any non-homicide prosecutions.

Depending on the circumstances of a particular case and district attorney request, the assistance provided by the CCU/VCAT may include: investigative assistance; consultations with local district attorneys; motions practice, including arguing motions in court with local district attorneys; and, in some cases, being sworn in as a Special Deputy District Attorney and serving as a full member of the trial team.

The Department points to three major factors that contribute to local district attorneys' requests for VCAT assistance, especially in rural areas: (1) limited prosecution experience for elected district attorneys and deputy district attorneys, particularly in terms of homicide cases; (2) resource and budgetary limitations that may affect staffing levels and the ability to recruit and retain experienced prosecutors; and (3) apparent resource and staffing discrepancies between prosecutors and defense counsel. The Department has also indicated that term limits for elected district attorneys appear to have played a role in increasing the number of requests.

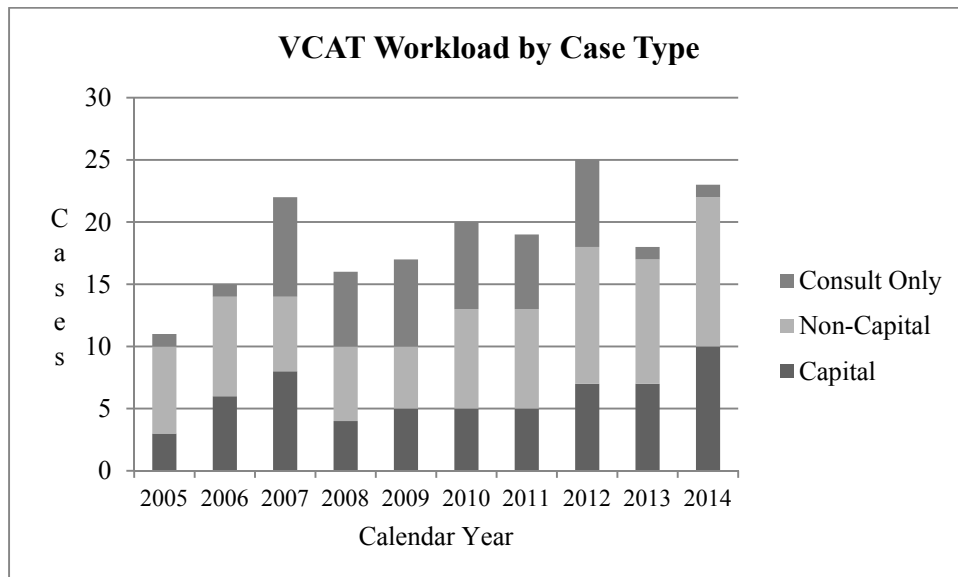
FY 2014-15 Budget Hearing

The Committee and the Department discussed local district attorneys’ potential need for additional assistance during the Department’s FY 2014-15 budget hearing (and again at the FY 2015-16 hearing). During the FY 2014-15 hearing, the Committee asked the Department to analyze expanding the VCAT (specifically the Committee asked about tripling the size of the unit from 3.0 FTE to 9.0 FTE). The Department could not rationalize tripling the size of the unit based on the current and anticipated workload but did provide data regarding a potential increase. The Committee and the General Assembly did not act on that information during the 2014 Session, and the Department has submitted an official request to expand the VCAT this year.

VCAT Workload

The VCAT’s workload has increased in recent years and the Department has had difficulty supporting all of the local district attorneys’ requests for assistance. According to the Department, the increase has been driven by: (1) an increasing number of cases and requests for assistance; (2) an increasing involvement and amount of work required for each case; and (3) increasing numbers of cases spread throughout the State.

- *Number of Cases:* From 1994 to 2005, the unit handled no more than 5 cases in any given year where one or both of the VCAT attorneys would have been sworn in as Special Deputy District Attorneys to serve as members of the prosecuting trial team. In FY 2013-14, the VCAT attorneys were involved in 25 different homicide cases, including 11 capital cases with varying degrees of VCAT involvement, 10 non-capital homicide cases where the VCAT attorneys were sworn in as Special Deputy District Attorneys, and 4 cases where the VCAT attorneys served as consultants. The VCAT cases, and particularly the capital cases, may take years to resolve, so the caseload accumulates over time. The following graph shows the number of VCAT cases per year from 2005 through 2014 (as of October 2014).



- *Workload per Case:* The Department also reports that the VCAT has seen an increase in workload per case. According to the Department, since the unit's formation the number of motions filed in capital cases has grown by four fold. As a result of the increasing number of motions, the VCAT has been called upon more frequently to provide motions support, including in 11 separate cases during FY 2013-14.
- *Geography of Cases:* The Department also reports that the VCAT cases are increasingly spread throughout the State. While the original intent of the CCU/VCAT may have been to assist small/rural district attorney offices, the Department reports that as late as 2007 the majority of cases were in the Denver metropolitan area. In FY 2013-14, the team provided some kind of assistance in 13 of 22 judicial districts. Thus far in calendar year 2014, Department attorneys have been sworn in as special deputy district attorneys in cases in seven different judicial districts, with significant involvement in cases in six additional districts.

In addition to working directly on cases, the VCAT attorneys provided 86 consultations to prosecutors in 17 judicial districts in FY 2013-14. The attorneys and investigator also provided 25 lectures to approximately 569 prosecutors and law enforcement officers.

According to the Department, in recent years the two VCAT attorneys have been unable to accommodate all of the requests for assistance from local district attorneys. In order to provide the requested assistance, the Department has added VCAT cases to the caseloads of other attorneys within the Special Prosecutions Unit.

Staff Concerns

With no statute defining the role and function of the VCAT the General Assembly's intended role for the unit remains unclear. Staff raises the following points for the Committee's consideration:

- Staff agrees that the workload of the VCAT, as it is currently operating, appears to be increasing. If the General Assembly intends for the unit to continue to operate as it does currently (attempting to support all applicable requests for assistance regardless of the location and size of the judicial district, including capital homicides, non-capital homicides, and potentially other violent crimes that do not result in a homicide), then a staffing increase is probably necessary to accommodate that workload going forward.
- However, if the General Assembly intends to prioritize certain types of cases (e.g., small rural jurisdictions, capital cases, or otherwise), then the increase may not be necessary.
- Discussions of the VCAT are often part of a larger conversation regarding the resources available to local district attorneys, including comparisons to the resources available to defense counsel. Increasing staffing for the VCAT may provide one mechanism to increase resources available to prosecutors but staff is not convinced that adding two attorneys would address potential concerns about the resources available to local prosecutors.

Staff Recommendation

In short, given the lack of statutory guidance regarding the VCAT, staff is not certain how to evaluate the unit's increasing workload and potential need for additional staffing. **Thus, staff recommends denying the request to increase staffing for the VCAT through the Long Bill and instead recommends that the General Assembly enact legislation defining the intended role of the VCAT.** Staff recommends that the General Assembly consider at least the following two questions with respect to legislation regarding the VCAT.

- *What crimes should the VCAT prosecute?* The Department has expanded the VCAT's mission to include assisting with the prosecution of non-capital homicides and (potentially) other violent crimes. The workload data justifying the expansion of the VCAT assume that the VCAT will continue to support every request for assistance, including non-capital homicide cases, in every requesting judicial district. Is that the General Assembly's intent?
- *Should the VCAT prioritize requests from rural district attorneys?* Discussions of the need for CCU/VCAT assistance have often focused on the need for assistance in rural judicial districts. The Department's justification for the FY 2015-16 request again focuses on needs in rural districts facing resource constraints. However, a significant portion of the unit's workload continues to come from larger and/or more urban districts where resource constraints would not appear to be as acute. For example, in calendar year 2013, of 15 cases in which VCAT attorneys were sworn in as special deputy district attorneys, six cases were in the 18th Judicial District (Arapahoe, Douglas, Elbert, and Lincoln Counties) and one was in the 4th Judicial District (El Paso and Teller Counties). Within that set of cases, five of the six capital cases in which the VCAT attorneys were sworn in were in the 18th Judicial District. In that year, the VCAT assisted in two additional cases where the attorneys were not sworn in, one of which was in the 18th Judicial District and the other was in the 2nd Judicial District (Denver). Is that level of assistance to larger district attorney offices necessary?

While staff recommends denying the request and enacting separate legislation, staff offers three broad options for the Committee's consideration.

1. *Status Quo:* The Committee and General Assembly may wish to deny the request and not undertake legislation to define the VCAT. Doing so would require the Department to continue to manage within existing resources and without statutory guidance for the VCAT.
2. *Staff Recommendation:* Deny the request but sponsor legislation to define the VCAT and address potential staffing needs (discussed above).
3. *Department request for 1.8 additional FTE:* If the Committee elects to fund the Department's request, then staff would recommend a total appropriation of \$219,109 General Fund and 1.8 FTE for FY 2015-16. This amount is \$47,412 below the Department's request because, pursuant to the Committee's common policy, the scenario: (1) does not include centrally appropriated items for new FTE in the first year; and (2) provides the common policy amount (\$3,473 per FTE) for office equipment rather than

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the \$8,767 per FTE requested by the Department. The following table shows the Department’s request, the components of “Option 3,” and the anticipated FY 2016-17 impact.

Request R1 - VCAT FTE - Option 3						
	FY 2015-16 Request		FY 2015-16 Option 3		FY 2016-17 Impact	
	GF	FTE	GF	FTE	GF	FTE
Criminal Justice and Appellate, Special Prosecutions Unit						
Personal Services Costs						
Salary/Personal Services	\$167,178	1.8	\$167,178	1.8	\$182,376	2.0
PERA (10.15%)	16,969		16,969		18,511	
Medicare (1.45%)	2,424		2,424		2,644	
AED (4.4%)	7,356		0		8,025	
SAED (4.25%)	7,105		0		7,751	
STD (0.022%)	368		0		401	
Estimated HLD	<u>21,995</u>		<u>0</u>		<u>21,995</u>	
Subtotal, Personal Services	\$223,394	1.8	\$186,571	1.8	\$241,703	2.0
Operating Expenses						
Supplies (\$500)	\$1,000		\$1,000		\$1,000	
Computer (\$900)	1,800		1,800		0	
Office Suite Software (\$330)	660		660		0	
Office Equipment (\$8,767 req. or \$3,473 rec.)	17,534		6,946		0	
Telephone (\$450/FTE)	900		900		900	
Cell phone (\$80 per month)	1,920		1,920		1,920	
Mileage on State Vehicle (12,000 miles)	2,544		2,544		2,544	
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>10,000</u>		<u>10,000</u>		<u>10,000</u>	
Subtotal, Operating Expenses	\$43,126		\$32,538		\$23,132	
Total, Request R1	\$266,520	1.8	\$219,109	1.8	\$264,835	2.0

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 2014-15). Therefore, the Department of Law’s budget reflects this grant as reappropriated funds.

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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.

Request: The Department requests an informational appropriation of \$286,666 reappropriated funds and 2.0 FTE for FY 2015-16, a reduction of \$14,903 and 0.5 FTE from the FY 2014-15 appropriation to reflect reduced grant funding anticipated from the Department of Public Safety.

Recommendation: Staff recommends approving the request. The following table details the recommended changes from the FY 2014-15 appropriation.

Criminal Justice and Appellate, Auto Theft Prevention Grant				
	Total Funds	General Fund	Reappropriated Funds	FTE
FY 2014-15 Appropriation				
HB 14-1336 (Long Bill)	<u>\$301,569</u>	<u>\$0</u>	<u>\$301,569</u>	<u>2.5</u>
TOTAL	\$301,569	\$0	\$301,569	2.5
FY 2015-16 Recommended Appropriation				
FY 2014-15 Appropriation	\$301,569	\$0	\$301,569	2.5
Change in anticipated grant funding	<u>(14,903)</u>	<u>0</u>	<u>(14,903)</u>	<u>(0.5)</u>
TOTAL	\$286,666	\$0	\$286,666	2.0
Increase/(Decrease)	(\$14,903)	\$0	(\$14,903)	(0.5)
Percentage Change	(4.9%)	0.0%	(4.9%)	(20.0%)
FY 2015-16 Executive Request:	\$286,666	\$0	\$286,666	2.0
Request Above/(Below)				
Recommendation	\$0	\$0	\$0	0.0

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 courts². 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 2013-14, the 33 attorneys in this unit filed 1,149 briefs, and argued 124 cases before the appellate court.

² See Sections 16-12-101 and 24-31-101 (1) (a), C.R.S.

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) Fund³, which is administered by the Department of Public Safety's Division of Criminal Justice⁴. Currently, this position is supported by \$79,862 in VALE funds and \$13,724 General Fund.

The following table details the types of employees that are supported by this line item.

Staffing Summary - Appellate Unit				
	FY 13-14 Actual	FY 14-15 Approp.	FY 15-16 Request	FY 15-16 Recommend.
Attorneys	33.0	34.0	34.0	34.0
Victims' Services Coordinator	1.0	1.0	1.0	1.0
Administrative Staff	<u>3.0</u>	<u>3.9</u>	<u>4.0</u>	<u>4.0</u>
Total	37.0	38.9	39.0	39.0

Request: The Department requests a continuation appropriation of \$3,782,761 and 39.0 FTE for FY 2015-16. The request includes the following changes from the FY 2014-15 appropriation: (1) annualization of FY2014-15 salary survey and merit pay; (2) annualization of FY 2014-15 decision item R4 (Appellate Administrative FTE); and (3) a fund source adjustment (reducing the use of indirect cost recoveries and increasing the use of General Fund).

Recommendation: Staff recommends approving the request. The following table details the recommended changes from the FY 2014-15 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 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.**

³ See Section 24-33.5-506 (1), C.R.S.

⁴ 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.

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Criminal Justice and Appellate, Appellate Unit				
	Total Funds	General Fund	Reappropriated Funds	FTE
FY 2014-15 Appropriation				
HB 14-1336 (Long Bill)	<u>\$3,697,461</u>	<u>\$3,209,853</u>	<u>\$487,608</u>	<u>38.9</u>
TOTAL	\$3,697,461	\$3,209,853	\$487,608	38.9
FY 2015-16 Recommended Appropriation				
FY 2014-15 Appropriation	\$3,697,461	\$3,209,853	\$487,608	38.9
Annualize prior year budget actions	81,497	81,497	0	0.1
Fund source adjustments	<u>0</u>	<u>229,929</u>	<u>(229,929)</u>	<u>0.0</u>
TOTAL	\$3,778,958	\$3,521,279	\$257,679	39.0
Increase/(Decrease)	\$81,497	\$311,426	(\$229,929)	0.1
Percentage Change	2.2%	9.7%	(47.2%)	0.3%
FY 2015-16 Executive Request:	\$3,782,761	\$3,521,279	\$261,482	39.0
Request Above/(Below) Recommendation	\$3,803	\$0	\$3,803	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 facilities⁵. 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 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 2013-14, the Unit's operating costs totaled \$1,986,025; the State paid 26 percent (\$520,939) of this amount.

⁵ Fraud committed by Medicaid clients is investigated by county departments of human services.

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Although the federal government pays 75 percent of the Unit’s operating costs, the State retains at least 50 percent of the recovered funds⁶. Recovered funds reduce the General Fund appropriation supporting the Medicaid program in HCPF's Medical Services Premiums Division. During FY 2013-14, the Unit returned \$9,459,008 in restitution and recoveries, including \$9,387,610 in civil damages and penalties and \$71,398 in criminal recoveries.

The following table details the types of employees that are supported by this line item.

Staffing Summary - Medicaid Fraud Control Unit				
	FY 13-14 Actual	FY 14-15 Approp.	FY 15-16 Request	FY 15-16 Recommend.
Attorneys	3.0	3.0	3.0	3.0
Criminal Investigators	9.6	10.0	10.0	10.0
Auditor	1.0	1.0	1.0	1.0
Health Professional	1.0	1.0	1.0	1.0
Legal Assistants/ Administrative Staff	<u>2.0</u>	<u>2.0</u>	<u>2.0</u>	<u>2.0</u>
Total	16.6	17.0	17.0	17.0

Request: The Department requests a continuation appropriation of \$1,697,877 and 17.0 FTE for FY 2015-16.

Recommendation: Staff recommends approving the request, which is a continuation level of funding (annualizing FY 2014-15 salary survey and merit pay) and is consistent with the Committee's common policy. The following table details the recommended changes from the FY 2014-15 appropriation.

Criminal Justice and Appellate, Medicaid Fraud Control Unit				
	Total Funds	General Fund	Federal Funds	FTE
FY 2014-15 Appropriation				
HB 14-1336 (Long Bill)	<u>\$1,648,189</u>	<u>\$412,045</u>	<u>\$1,236,144</u>	<u>17.0</u>
TOTAL	\$1,648,189	\$412,045	\$1,236,144	17.0
FY 2015-16 Recommended Appropriation				
FY 2014-15 Appropriation	\$1,648,189	\$412,045	\$1,236,144	17.0
Annualize prior year budget actions	<u>49,688</u>	<u>12,420</u>	<u>37,268</u>	<u>0.0</u>
TOTAL	\$1,697,877	\$424,465	\$1,273,412	17.0

⁶ 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.

Criminal Justice and Appellate, Medicaid Fraud Control Unit				
	Total Funds	General Fund	Federal Funds	FTE
Increase/(Decrease)	\$49,688	\$12,420	\$37,268	0.0
Percentage Change	3.0%	3.0%	3.0%	0.0%
FY 2015-16 Executive Request:	\$1,697,877	\$424,465	\$1,273,412	17.0
Request Above/(Below) Recommendation	\$0	\$0	\$0	0.0

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 20 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 specifically developed by 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 (\$4.5 million in FY 2014-15)
- 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.

Request: The Department requests a total of \$5,996,083 cash funds and 9.0 FTE for FY 2015-16. The request includes the following changes from the FY 2014-15 appropriation:

- An increase of \$189,277 to annualize revenue expectations associated with the fee increases in S.B. 14-123.
- A decrease of 0.5 FTE associated with S.B. 14-123, which the Department is proposing to: (1) transfer to the Administration Division; and (2) support with \$46,935 reappropriated funds from indirect cost recoveries rather than P.O.S.T. Board cash funds. (Please note that

the Department intends to retain the \$46,935 cash funds in the P.O.S.T. Board line item but inadvertently omitted those funds from the official request.)

Recommendation: Staff recommends an appropriation of \$5,947,070 cash funds (including \$4,779,076 from the P.O.S.T. Board Cash Fund and \$1,168,000 from the Marijuana Tax Cash Fund) and 9.0 FTE for FY 2015-16. The recommendation is \$49,013 cash funds below the request because:

- the recommendation reflects the move of 0.5 FTE to Administration but retains \$46,935 cash funds in the P.O.S.T. line item (the request inadvertently omitted those funds from the P.O.S.T. Board line item);
- the recommendation reduces the appropriation by \$76,000 cash funds from the Marijuana Tax Cash Fund, continuing the FY 2014-15 reduction made in S.B. 15-167 (Modify FY 2014-15 Appropriations from Marijuana Revenue); and
- the recommendation reduces the appropriation by \$19,948 cash funds from the P.O.S.T. Board Cash Fund and instead reflects those funds in the legal services line item within the Administration Division. Based on the P.O.S.T. Board’s recent usage of legal services, the recommendation assumes 211 hours of legal services for the P.O.S.T. Board; **staff requests permission from the Committee to adjust this component of the appropriation based on the final legal services rate for FY 2015-16.**

The following table shows the recommended changes from the FY 2014-15 appropriation.

Criminal Justice and Appellate, Peace Officers Standards and Training Board Support				
	Total Funds	General Fund	Cash Funds	FTE
FY 2014-15 Appropriation				
HB 14-1336 (Long Bill)	\$3,073,274	\$0	\$3,073,274	7.0
Other Legislation	2,780,467	0	2,780,467	2.4
SB 15-167 (Modify 2014-15 Approp from Marijuana Revenue)	<u>(76,000)</u>	<u>0</u>	<u>(76,000)</u>	<u>0.0</u>
TOTAL	\$5,777,741	\$0	\$5,777,741	9.4
FY 2015-16 Recommended Appropriation				
FY 2014-15 Appropriation	\$5,777,741	\$0	\$5,777,741	9.4
Annualize S.B. 14-123	189,277	0	189,277	0.1
Move SB 14-123 POST FTE to Administration	0	0	0	(0.5)
Staff initiated - reflect P.O.S.T. legal services (211 hours)	<u>(19,948)</u>	<u>0</u>	<u>(19,948)</u>	<u>0.0</u>
TOTAL	\$5,947,070		\$5,947,070	9.0
Increase/(Decrease)	\$169,329	\$0	\$169,329	(0.4)
Percentage Change	2.9%	0.0%	2.9%	(4.3%)

Criminal Justice and Appellate, Peace Officers Standards and Training Board Support				
	Total Funds	General Fund	Cash Funds	FTE
FY 2015-16 Executive Request:	\$5,996,083	\$0	\$5,996,083	9.0
Request Above/(Below) Recommendation	\$49,013		\$49,013	0.0

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 safety agencies and school officials. The Safe2Tell hotline is operated by the Colorado State Patrol Denver and Pueblo Communications Centers. Tips received through the hotline are relayed to the appropriate authority via fax or e-mail. 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.

Prior to FY 2014-15, Safe2Tell operated as a 501(c)(3) not-for-profit organization. Safe2Tell was exclusively supported by private grants until FY 2008-09, when the General Assembly approved a request from the Department of Public Safety for \$97,186 General Fund and 1.0 FTE to support the Program Director. In FY 2009-10, the General Assembly approved a request to program/director from the Department of Public Safety to the Department of Law. Through FY 2013-14, the program continued to operate as a non-profit, with the Director supported by the state, a volunteer board, and three additional full time employees who were not state employees.

The enactment of S.B. 14-002 repealed and reenacted the statutes regarding Safe2Tell and recreated Safe2Tell as a state program within the Department of Law, bringing all positions into the Department (a total of 3.5 FTE including the Director in FY 2014-15, annualizing to 4.0 FTE in FY 2015-16).

Request: The Department’s request includes a total of \$448,536 (including \$433,536 General Fund and \$15,000 cash funds) and 4.0 FTE for Safe2Tell operations. However, as discussed above, BA2 seeks to eliminate the Safe2Tell line item and transfer all funding and FTE into the newly requested Office of Community Engagement (within the Administration Division) for FY 2015-16. The request includes the following changes from the FY 2014-15 appropriation:

- An increase of \$50,000 General Fund associated with BA1 (Safe2Tell Software, discussed below);
- An increase of \$9,195 General Fund and 0.5 FTE to annualize S.B. 14-002;
- An increase of \$2,536 General Fund to annualize FY 2014-15 salary survey and merit pay; and
- A reduction of \$448,536 and 4.0 FTE associated with BA2 (Office of Community Engagement, discussed above) to move the Safe2Tell Program into the newly requested office within the Administration Division.

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- A reduction of \$2,618 to this line item to reflect the program’s vehicle lease payment costs in the Vehicle Lease Payments line item in the Administration section.

With BA4 (Safe2Tell Legal Services), the request also includes \$23,268 General Fund for legal services for Safe2Tell in FY 2015-16 (which is a reduction of \$8,910 General Fund to annualize the appropriation approved in the FY 2014-15 supplemental bill). However, as discussed above, the Committee included the FY 2014-15 funds in the “Legal Services” line item, and staff recommends continuing to do so in FY 2015-16.

Recommendation: Staff recommends approving an appropriation of \$398,536 total funds (including \$383,536 General Fund) and 4.0 FTE for FY 2015-16. The recommendation is \$398,536 total funds above the request *for this line item* because the request proposes to eliminate the line item and consolidate the funding and FTE into the proposed Office of Community Engagement line item and staff recommends maintaining a separate line item for Safe2Tell (discussed above). The recommendation does not include the increase of \$50,000 General Fund requested through BA1 (Safe2Tell Software, discussed below). The following table shows the recommended changes from the FY 2014-15 appropriation.

Criminal Justice and Appellate, Safe2Tell				
	Total Funds	General Fund	Cash Funds	FTE
FY 2014-15 Appropriation				
HB 14-1336 (Long Bill)	\$107,471	\$107,471	\$0	1.0
Other Legislation	<u>281,952</u>	<u>266,952</u>	<u>15,000</u>	<u>2.5</u>
TOTAL	\$389,423	\$374,423	\$15,000	3.5
FY 2015-16 Recommended Appropriation				
FY 2014-15 Appropriation	\$389,423	\$374,423	\$15,000	3.5
Annualize prior year legislation	9,195	9,195	0	0.5
Annualize salary survey and merit pay	2,536	2,536	0	0.0
BA1 Safe2Tell software	0	0	0	0.0
BA2 Office of Community Engagement	0	0	0	0.0
Move Safe2Tell vehicle lease costs to vehicle lease payments	<u>(2,618)</u>	<u>(2,618)</u>	<u>0</u>	<u>0.0</u>
TOTAL	\$398,536	\$383,536	\$15,000	4.0
Increase/(Decrease)	\$9,113	\$9,113	\$0	0.5
Percentage Change	2.3%	2.4%	0.0%	14.3%
FY 2015-16 Executive Request:	\$0	\$0	\$0	0.0
Request Above/(Below)				
Recommendation	(\$398,536)	(\$383,536)	(\$15,000)	(4.0)



Request BA1: Safe2Tell Software

- The Department requests an increase of \$50,000 General Fund in FY 2015-16 and subsequent years to replace the existing anonymous tip software used by the Safe2Tell Program.

- Based on uncertainty regarding the status of the Department's contracting process, staff recommends that the Committee: (1) reject the request at this time; (2) direct the Department to continue to work toward a solution; and (3) ask the Department to present a comeback at the conclusion of the figure setting process with more complete and updated information.

Request: The Department requests an increase of \$50,000 General Fund in FY 2015-16 (ongoing in subsequent years) to replace the anonymous tip software used by the Safe2Tell Program. Based on the current cost of the software, S.B. 14-002 assumed an ongoing cost of \$10,000 per year for the anonymous tip software. Safe2Tell's purchase order with the current vendor ends at the end of FY 2014-15, and the Department is requesting the increase to purchase a new system for FY 2015-16 and beyond.

Recommendation: Based on uncertainty regarding the status of the Department's contracting process, staff recommends that the Committee: (1) reject the request at this time; (2) direct the Department to continue to work toward a solution; and (3) ask the Department to present a comeback at the conclusion of the figure setting process with more complete and updated information.

Analysis: According to the Department, Safe2Tell developed the current software in collaboration with a vendor twelve years ago when the program was operating as an independent non-profit. The vendor supported the software for \$10,000 per year. The original vendor sold the software product to a separate vendor five years ago, and the second vendor has supported the software since that time. With Safe2Tell having moved fully into the Department of Law in August 2014 (as a result of S.B. 14-002), the Department is operating on a purchase order with the current vendor through the end of FY 2014-15 and is seeking the increase to support a new system in FY 2015-16.

Background

The Safe2Tell Program 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 (in limited cases currently), and text message tips. The software allows for a two-way dialogue with reporting parties, the collection of standardized information, and the direct transfer of necessary information to relevant local authorities. The system time-stamps report information to facilitate tracking of reports and appropriate follow-up with local jurisdictions.

As discussed above, S.B. 14-002 transferred the entire Safe2Tell Program into the Department of Law. That bill included an ongoing appropriation of \$10,000 per year for anonymous tip software based on the cost of the current system. Since the program officially became part of the Department in August 2014, the Department has worked to solidify a contract with the current vendor. However, the program is seeking upgrades to the system, including improving the mobile “app” reporting functionality, and has been unable to secure those upgrades within the current cost of the system.

The Department has issued a request for proposals (RFP) for a contract to operate the program’s anonymous tip software. The Department received two proposals, one of which is under consideration, but the current vendor did not respond to the request.

FY 2015-16 Request

The request seeks an increase of \$50,000 General Fund to support the new anonymous tip software based on the responses to the Department’s RFP (the total proposed cost is \$60,000 per year, requiring an increase of \$50,000 above the existing appropriation of \$10,000 per year).

However, the Department is still in negotiations with the potential vendor and still appears to be evaluating whether the proposal in question would meet the Department’s needs. Staff raises the following points based on the fact that the situation is still in flux:

- *Timing Issues:* The Department’s purchase order with the current vendor expires on June 30, 2015, and the Department indicates that this software is essential to the program’s operation. Given the timing of the request, and the fact that it is a FY 2015-16 budget request, staff is concerned that the new software may not be available before the end of the fiscal year. The Department has indicated that it may pursue an extension to the existing purchase order if necessary to maintain the existing system beyond June 30, 2015 to allow for the development of the new system.
- *Cost Issues:* As discussed above, the Department is still evaluating the system proposals and negotiations with potential vendors are ongoing. Thus, staff is uncertain that \$50,000 is the appropriate amount for FY 2015-16.
- *“App” Necessity:* It appears that the desire for an upgraded mobile “app” that would be rolled out statewide is one of the main justifications for the new system. Given the multiple channels of reporting available (phone, web, text), staff is not certain that the improvement of a downloadable app is necessary and warrants the additional cost.

Staff does not dispute the need for an anonymous tip software system for Safe2Tell, and staff agrees that an increase (above the \$10,000 per year assumed in S.B. 14-002) may be necessary to maintain a system in FY 2015-16. However, given the degree of remaining uncertainty regarding the timing and cost of the proposed system, staff recommends that the Committee: (1) reject this request at this time; and (2) ask the Department to present a comeback for this request at the end of the figure setting process based on updated information. The recommendation should allow the Department and Safe2Tell time to solidify the proposal for FY 2015-16.

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.

Request: The Department requests an appropriation of \$484,725 for FY 2015-16.

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 2015-16. Staff will utilize the indirect cost assessment methodology that was described in detail in Appendix D of the FY 2015-16 Staff Budget Briefing, dated November 13, 2014. The following table details the recommended changes from the FY 2014-15 appropriation.

Criminal Justice and Appellate, Indirect Cost Assessment						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2014-15 Appropriation						
HB 14-1336 (Long Bill)	\$503,848	\$0	\$257,145	\$80,929	\$165,774	0.0
TOTAL	\$503,848	\$0	\$257,145	\$80,929	\$165,774	0.0
FY 2015-16 Recommended Appropriation						
FY 2014-15 Appropriation	\$503,848	\$0	\$257,145	\$80,929	\$165,774	0.0
Indirect cost assessment adjustments	(19,123)	0	1,932	(6,907)	(14,148)	0.0
TOTAL	\$484,725	\$0	\$259,077	\$74,022	\$151,626	0.0
Increase/(Decrease)	(\$19,123)	\$0	\$1,932	(\$6,907)	(\$14,148)	0.0
Percentage Change	(3.8%)	0.0%	0.8%	(8.5%)	(8.5%)	0.0%
FY 2015-16 Executive Request:	\$484,725	\$0	\$259,077	\$74,022	\$151,626	0.0
Request Above/(Below) Recommendation	\$0	\$0	\$0	\$0	\$0	0.0

(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 Trustees⁷ 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.

LINE ITEM DETAIL

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 FTE attorneys and 1.0 FTE Legal Assistant.

Request: The Department requests a continuation appropriation of \$578,087 General Fund and 5.5 FTE for FY 2015-16 (annualizing FY 2014-15 salary survey and merit pay).

⁷ 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.

Recommendation: Staff recommends approving the request, which is consistent with the Committee's common policy. The following table details the recommended change from the FY 2014-15 appropriation.

Water and Natural Resources, Federal and Interstate Water Unit			
	Total Funds	General Fund	FTE
FY 2014-15 Appropriation			
HB 14-1336 (Long Bill)	\$576,724	\$576,724	5.5
TOTAL	\$576,724	\$576,724	5.5
FY 2015-16 Recommended Appropriation			
FY 2014-15 Appropriation	\$576,724	\$576,724	5.5
Annualize salary survey and merit pay	<u>1,363</u>	<u>1,363</u>	<u>0.0</u>
TOTAL	\$578,087	\$578,087	5.5
Increase/(Decrease)	\$1,363	\$1,363	0.0
Percentage Change	0.2%	0.2%	0.0%
FY 2015-16 Executive Request:	\$578,087	\$578,087	5.5
Request Above/(Below) Recommendation	\$0	\$0	0.0

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:

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- 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 supports 2.0 FTE attorneys and 1.0 FTE Legal Assistant.

Request: The Department requests a continuation appropriation of \$351,685 cash funds and 3.0 FTE for FY 2015-16 (annualizing FY 2014-15 salary survey and merit pay).

Recommendation: Staff recommends approving the request, which is consistent with the Committee's common policy. The fund source is the Colorado Water Conservation Board's Litigation Fund, or payments received from New Mexico, Wyoming, and Utah. The following table details the recommended change from the FY 2014-15 appropriation.

Water and Natural Resources, Defense of the Colorado River Basin Compact				
	Total Funds	General Fund	Cash Funds	FTE
FY 2014-15 Appropriation				
HB 14-1336 (Long Bill)	\$352,289	\$0	\$352,289	3.0
TOTAL	\$352,289	\$0	\$352,289	3.0
FY 2015-16 Recommended Appropriation				
FY 2014-15 Appropriation	352,289	\$0	352,289	3.0
Annualize salary survey and merit pay	(604)	0	(604)	0.0
TOTAL	\$351,685		\$351,685	3.0
Increase/(Decrease)	(\$604)	\$0	(\$604)	0.0
Percentage Change	(0.2%)	0.0%	(0.2%)	0.0%
FY 2015-16 Executive Request:	\$351,685	\$0	\$351,685	3.0
Request Above/(Below)				
Recommendation	\$0	\$0	\$0	0.0

The Colorado Water Conservation Board was established to aid in the protection and development of state waters for the benefit of Colorado's present and future citizens. The Board's budget is located in the Department of Natural Resources. The Colorado Water Conservation Board's Litigation Fund [Section 37-60-121 (2.5) (a) (III), C.R.S.] was created to support the State in water-related litigation involving the federal government or other states. The fund derives from periodic appropriations and transfers by the General Assembly to the Fund.

Moneys in the Litigation Fund are continuously appropriated to the Board and all expenditures from the Fund must be approved by the Board. The Attorney General may request moneys from the Litigation Fund to defend and protect Colorado's allocations of water in interstate streams and rivers with respect to specifically identified lawsuits.

The Department has indicated that it probably will be necessary to provide General Fund support for this line item at some point in the future.

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.

Request: The Department requests a continuation level of funding (\$110,000 cash funds) for FY 2015-16.

Recommendation: Staff recommends approving the request. This line item is supported by the Colorado Water Conservation Board's Litigation Fund.

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.

Request: The Department requests a continuation level of funding (\$400,000 cash funds) for FY 2015-16.

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.

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.

The following table details the types of employees that are supported by this line item.

Staffing Summary - CERCLA				
	FY 13-14 Actual	FY 14-15 Approp.	FY 15-16 Request	FY 15-16 Recommend.
Attorneys	2.2	2.9	2.9	2.9
Administrative Staff	<u>0.6</u>	<u>0.6</u>	<u>0.6</u>	<u>0.6</u>
Total	2.8	3.5	3.5	3.5

Request: The Department requests a continuation appropriation of \$488,170 reappropriated funds and 3.5 FTE for FY 2015-16 (annualizing the FY 2014-15 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. The following table details the recommended change from the FY 2014-15 appropriation.

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Water and Natural Resources, Comprehensive Environmental Response, Compensation and Liability Act				
	Total Funds	General Fund	Reappropriated Funds	FTE
FY 2014-15 Appropriation				
HB 14-1336 (Long Bill)	<u>\$484,300</u>	<u>\$0</u>	<u>\$484,300</u>	<u>3.5</u>
TOTAL	\$484,300	\$0	\$484,300	3.5
FY 2015-16 Recommended Appropriation				
FY 2014-15 Appropriation	\$484,300	\$0	\$484,300	3.5
Annualize salary survey and merit pay	<u>3,870</u>	<u>0</u>	<u>3,870</u>	<u>0.0</u>
TOTAL	\$488,170	\$0	\$488,170	3.5
Increase/(Decrease)	\$3,870	\$0	\$3,870	0.0
Percentage Change	0.8%	0.0%	0.8%	0.0%
FY 2015-16 Executive Request:	\$488,170	\$0	\$488,170	3.5
Request Above/(Below) Recommendation	\$0	\$0	\$0	0.0

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.

Request: The Department requests a continuation appropriation of \$100,000 reappropriated funds for FY 2015-16, with no change from the FY 2014-15 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.

Request: The Department requests a continuation level of funding (\$50,000 reappropriated funds) for FY 2015-16.

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.

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.

Request: The Department requests \$41,787 reappropriated funds for FY 2015-16.

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 2015-16. Staff will utilize the indirect cost assessment methodology that was described in detail in Appendix D of the FY 2015-16 Staff Budget Briefing, dated November 13, 2014. The following table details the recommended change from the FY 2014-15 appropriation.

Water and Natural Resources, Indirect Cost Assessment					
	Total Funds	General Fund	Reappropriated Funds	Federal Funds	FTE
FY 2014-15 Appropriation					
HB 14-1336 (Long Bill)	<u>\$45,686</u>	<u>\$0</u>	<u>\$45,686</u>	<u>\$0</u>	<u>0.0</u>
TOTAL	\$45,686	\$0	\$45,686	\$0	0.0
FY 2015-16 Recommended Appropriation					
FY 2014-15 Appropriation	\$45,686	\$0	\$45,686	\$0	0.0
Indirect cost assessment adjustments	<u>(3,899)</u>	<u>0</u>	<u>(3,899)</u>	<u>0</u>	<u>0.0</u>
TOTAL	\$41,787		\$41,787	\$0	0.0
Increase/(Decrease)	(\$3,899)	\$0	(\$3,899)	\$0	0.0
Percentage Change	(8.5%)	0.0%	(8.5%)	0.0%	0.0%
FY 2015-16 Executive Request:	\$41,787	\$0	\$41,787	\$0	0.0

Water and Natural Resources, Indirect Cost Assessment					
	Total Funds	General Fund	Reappropriated Funds	Federal Funds	FTE
Request Above/(Below) Recommendation	\$0		\$0	\$0	0.0

(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 provisions of 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.

LINE ITEM DETAIL

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 fraud⁸. 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

⁸ The Department of Regulatory Agencies is responsible for handling licensing and disciplinary issues, while this Department handles false advertising and litigation issues.

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.

The following table details the types of employees that are supported by this line item.

Staffing Summary - Consumer Protection and Antitrust				
	FY 13-14 Actual	FY 14-15 Approp.	FY 15-16 Request	FY 15-16 Recommend.
Attorneys	10.8	11.4	11.4	11.4
Legal Assistants	3.0	3.8	4.8	4.8
Compliance and Criminal Investigators	5.0	5.0	5.0	5.0
Complaint Intake Staff	3.0	4.0	4.0	4.0
Administrative Staff	<u>2.0</u>	<u>2.0</u>	<u>2.0</u>	<u>2.0</u>
Total	23.8	26.2	27.2	27.2

Request: The Department requests \$2,646,731 and 27.2 FTE for FY 2015-16. The request includes the following changes from the FY 2014-15 appropriation:

- An increase of \$167,823 total funds (including \$64,547 General Fund) associated with request R5 (Consumer Protection and Antitrust Operating and Litigation, discussed below)
- An increase of \$80,389 cash funds from the Tobacco Defense Account and 1.0 FTE associated with request R3 (Tobacco Legal Assistant, which was addressed in a separate figure setting presentation on tobacco programs on February 4, 2015);

JBC Staff Figure Setting: FY 2015-16
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- An increase of \$69,859 total funds to annualize FY 2014-15 budget actions, including salary survey, merit pay, and FY2014-15 request R2 (Consumer Protection Complaint Intake); and
- An increase of 0.2 FTE to “true-up” the FTE appropriation.

Recommendation: Staff recommends approving the request, including the increases associated request R5 (Consumer Protection and Antitrust Operating and Litigation, discussed below) and request R3 (Tobacco Legal Assistant, which was approved by the Committee during a separate figure setting presentation on tobacco programs on February 4, 2015). The following table details the recommended change from the FY 2014-15 appropriation.

Consumer Protection, Consumer Protection and Antitrust					
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	FTE
FY 2014-15 Appropriation					
HB 14-1336 (Long Bill)	<u>\$2,328,660</u>	<u>\$1,106,670</u>	<u>\$961,411</u>	<u>\$260,579</u>	<u>26.0</u>
TOTAL	\$2,328,660	\$1,106,670	\$961,411	\$260,579	26.0
FY 2015-16 Recommended Appropriation					
FY 2014-15 Appropriation	\$2,328,660	\$1,106,670	\$961,411	\$260,579	26.0
R5 CP & AT operating and litigation	167,823	64,547	83,911	19,365	0.0
R3 Tobacco litigation legal assistant	80,389	0	80,389	0	1.0
Annualize prior year budget actions	69,859	36,872	26,605	6,382	0.0
FTE adjustment (true-up)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0.2</u>
TOTAL	\$2,646,731	\$1,208,089	\$1,152,316	\$286,326	27.2
Increase/(Decrease)	\$318,071	\$101,419	\$190,905	\$25,747	1.2
Percentage Change	13.7%	9.2%	19.9%	9.9%	4.6%
FY 2015-16 Executive Request:	\$2,646,731	\$1,208,089	\$1,152,316	\$286,326	27.2
Request Above/(Below) Recommendation	\$0	\$0	\$0	\$0	0.0



Request R5: Consumer Protection and Antitrust Operating and Litigation

- The Department requests an increase of \$167,823 total funds (including \$64,547 General Fund) in FY 2015-16 and subsequent years to: (1) support the litigation expenses and annual operating expenses of the Consumer Protection and Antitrust line item; and (2) to better align fund sources with anticipated costs.

- Staff recommends approving the request.

Request: The request includes an increase of \$167,823 total funds (including \$64,547 General Fund) in FY 2015-16 and subsequent years to: (1) support the litigation expenses and annual operating expenses of the Consumer Protection and Antitrust line item; and (2) to better align fund sources with anticipated costs. The Department has previously supported these expenses with either available centrally appropriated operating funds (such as Ralph L. Carr Colorado Judicial Center Leased Space appropriations) or custodial funds received by the Department. The Department is requesting the increased appropriation to both cover the costs and better align fund sources with expenditures.

Recommendation: Staff recommends approving the request. The request aligns the appropriation with actual expenditures in recent years and better aligns fund sources with the use of funds.

Analysis: The Department is requesting an increase of \$167,823 total funds and a realignment of fund sources supporting litigation costs and operating expenses for the Consumer Protection and Antitrust line item. As discussed above, this line item supports the Consumer Fraud Unit and the Antitrust, Tobacco, and Consumer Protection Unit, including a variety of programs within each unit. These programs are primarily funded by four sources: (1) General Fund; (2) the Consumer Protection Custodial Fund (which is continuously appropriated to the Department); (3) tobacco litigation moneys; and (4) reappropriated funds from the Department of Regulatory Affairs.

In recent years, the appropriations to this line item have been insufficient to cover the programs' operating and litigation expenses. The Department has used flexibility within its budget to cover the shortfalls by:

- Transferring funds from centrally appropriated (POTS) line items in the Administration Division (including operating POTS such as Carr Building Leased Space, Workers Compensation, Information Technology Asset Maintenance, etc.). The Department would transfer operating POTS funds to this line item in excess of the expenses incurred in this line item if another line item had base budget funds available to cover the potted expenses. For example, in FY 2013-14, the Department moved an additional \$84,000 from the Carr Center Leased Space line item to cover additional operating expenses in this line item. The Department reports that it has historically had more flexibility to do so than other state agencies but that the policy decisions surrounding the implementation of CORE have eliminated that flexibility in an effort to ensure consistency between agencies.
- Using additional custodial moneys collected by the programs that are continuously appropriated to the Department. For example, in FY 2013-14, the Department spent \$60,027 additional custodial funds (over the amount assumed in the appropriation) to support operating and litigation costs for this line item. Doing so has allowed the Department to cover the additional costs but has disproportionately relied on custodial funds to support operating and litigation expenses associated with other fund sources. The Department's request realigns the fund sources supporting operating expenses based on the fund sources supporting the FTE in the line item.

The request seeks to both cover the shortfall in operating and litigation expenses and better reflect the line item's costs by activity and appropriate fund source. Staff recommends approving the request.

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 2013-14, the Department supervised 742 licensed lenders consisting of: mortgage companies (49 percent); payday lenders (34 percent); finance companies (14 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.

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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 2013-14, the Department supervised 774 licensed collection agencies and 45 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.

The following table details the types of employees that are supported by this line item.

Staffing Summary - Consumer Credit Unit				
	FY 13-14 Actual	FY 14-15 Approp.	FY 15-16 Request	FY 15-16 Recommend.
Administrator	1.0	1.0	1.0	1.0
Attorneys	3.0	3.0	3.0	3.0
Legal Assistants	1.9	2.0	2.0	2.0
Financial Credit Examiners	8.0	8.0	8.0	8.0
Compliance Investigators	2.0	2.0	2.0	2.0
Administrative Staff	<u>3.9</u>	<u>4.0</u>	<u>4.0</u>	<u>4.0</u>
Total	19.8	20.0	20.0	20.0

Request: The Department requests a continuation appropriation of \$1,674,691 cash funds and 20.0 FTE for FY 2015-16 (annualizing FY 2014-15 salary survey and merit pay).

Recommendation: Staff recommends approving the request, which is consistent with the Committee's common policy. The following table details the calculation of the recommended funding and the change from the FY 2014-15 appropriation.

Consumer Protection, Consumer Credit Unit				
	Total Funds	General Fund	Cash Funds	FTE
FY 2014-15 Appropriation				
HB 14-1336 (Long Bill)	<u>\$1,616,183</u>	<u>\$0</u>	<u>\$1,616,183</u>	<u>20.0</u>
TOTAL	\$1,616,183	\$0	\$1,616,183	20.0
FY 2015-16 Recommended Appropriation				
FY 2014-15 Appropriation	\$1,616,183	\$0	\$1,616,183	20.0
Annualize prior year budget actions	<u>58,508</u>	<u>0</u>	<u>58,508</u>	<u>0.0</u>
TOTAL	\$1,674,691	\$0	\$1,674,691	20.0

*JBC Staff Figure Setting: FY 2015-16
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Consumer Protection, Consumer Credit Unit				
	Total Funds	General Fund	Cash Funds	FTE
Increase/(Decrease)	\$58,508	\$0	\$58,508	0.0
Percentage Change	3.6%	0.0%	3.6%	0.0%
FY 2015-16 Executive Request:	\$1,674,691	\$0	\$1,674,691	20.0
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 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.

Request: The Department requests \$429,805 for FY 2015-16.

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 2015-16. Staff will utilize the indirect cost assessment methodology that was described in detail in Appendix D of the FY 2015-16 Staff Budget Briefing, dated November 13, 2014. The following table details the recommended change from the FY 2014-15 appropriation.

Consumer Protection, Indirect Cost Assessment						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2014-15 Appropriation						
HB 14-1336 (Long Bill)	<u>\$456,857</u>	<u>\$0</u>	<u>\$417,698</u>	<u>\$39,159</u>	<u>\$0</u>	<u>0.0</u>
TOTAL	\$456,857	\$0	\$417,698	\$39,159	\$0	0.0
FY 2015-16 Recommended Appropriation						
FY 2014-15 Appropriation	456,857	0	417,698	39,159	0	0.0
Indirect cost assessment adjustments	<u>(27,052)</u>	<u>0</u>	<u>(23,710)</u>	<u>(3,342)</u>	<u>0</u>	<u>0.0</u>
TOTAL	\$429,805	\$0	\$393,988	\$35,817	\$0	0.0
Increase/(Decrease)	(27,052)	0	(23,710)	(3,342)	0	0.0
Percentage Change	(5.9%)	0.0%	(5.7%)	(8.5%)	0.0%	0.0%

Consumer Protection, Indirect Cost Assessment						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2015-16 Executive Request:	\$429,805	\$0	\$393,988	\$35,817	\$0	0.0
Request Above/(Below) Recommendation	\$0	\$0	\$0	\$0	\$0	0.0

(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, and for litigation expenses associated with significant lawsuits. 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. Reappropriated funds are transferred from the Office of the Governor.

LINE ITEM DETAIL

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" (\$2,697,656 for FY 2014-15). This line item is described below.
2. The Judicial Branch's budget includes an appropriation for "District Attorney Mandated Costs" (\$2,697,153 total funds for FY 2014-15).
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 (\$1,081,102 General Fund for FY 2014-15).
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 2014-15).
5. Pursuant to H.B. 14-1144, the Department of Law's FY 2014-15 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 Department is requesting the creation of a new line item (discussed below) for FY 2015-16 to support this program.

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 2014-15).

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 materials⁹.

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 in 2016.¹⁰

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 19.9 percent of total General Fund appropriations to the Department.

Request: The Department requests \$2,718,249 General Fund for FY 2015-16. The request reflects a full 12 months of funding \$104,000 of the minimum \$130,000 salary for each district attorney, plus \$19,557 (18.8 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 \$20,593, based on the scheduled increase in AED and SAED rates.

Recommendation: Staff recommends approving the request, which is consistent with current law. The following table details the recommended change from the FY 2014-15 appropriation.

⁹ 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.

¹⁰ See Section 20-1-301, C.R.S.

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Special Purpose, District Attorneys' Salaries				
	Total Funds	General Fund	Federal Funds	FTE
FY 2014-15 Appropriation				
HB 14-1336 (Long Bill)	<u>\$2,697,656</u>	<u>\$2,697,656</u>	<u>\$0</u>	<u>0.0</u>
TOTAL	\$2,697,656	\$2,697,656	\$0	0.0
FY 2015-16 Recommended Appropriation				
FY 2014-15 Appropriation	\$2,697,656	\$2,697,656	\$0	0.0
AED and SAED adjustment for district attorneys	<u>20,593</u>	<u>20,593</u>	<u>0</u>	<u>0.0</u>
TOTAL	\$2,718,249	\$2,718,249	\$0	0.0
Increase/(Decrease)	\$20,593	\$20,593	\$0	0.0
Percentage Change	0.8%	0.8%	0.0%	0.0%
FY 2015-16 Executive Request:	\$2,718,249	\$2,718,249	\$0	0.0
Request Above/(Below)				
Recommendation	\$0	\$0	\$0	0.0

DEPUTY DISTRICT ATTORNEY TRAINING (New Line Item Requested)

The Department is requesting the creation of this line item in FY 2015-16 to continue appropriations originally provided through H.B. 14-1144 (District Attorney Training). House Bill 14-1144 appropriates \$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 request proposes to create this line item to support those costs on an ongoing basis.

Request: The Department requests a continuation appropriation of \$350,000 General Fund, equal to the FY 2014-15 appropriation.

Recommendation: Staff recommends approving the request. Staff assumes that the General Assembly intended to support the additional training on an ongoing basis. Staff also recommends creating a new request for information regarding the CDAC's use of the funds (addressed in the "Long Bill Footnotes and Requests for Information" section of this document).

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 2014-15, for example, will not be known with certainty until July 2015, 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.

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	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.

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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

Request: The Department requests a continuation appropriation of \$200,000 cash funds, with no change from the FY 2014-15 appropriation.

Recommendation: Staff recommends approving request. Staff further recommends changing the line item name to: “Litigation Management” as the line item no longer supports technology costs. 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 2015-16, 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.

Request: The Department requests a continuation appropriation of \$1,250,000 cash funds from the Tobacco Settlement Defense Account.

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 (New Line Item Requested)

With request R2 (discussed below), the Department requests the creation of a new line item 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 request would add an attorney position 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.

Request: The Department requests an appropriation of \$109,631 General Fund and 0.9 FTE in FY 2015-16 to create the new position.

Recommendation: Staff recommends approving an appropriation of \$87,635. The request and recommendation are discussed in detail below.

➔ Request R2: CORA and OML Attorney

- The Department requests an increase of \$109,631 General Fund and 0.9 FTE for FY 2015-16 to hire an attorney in response to increasing workload, both within the Department and in client agencies, associated with the Colorado Open Records Act and the Open Meetings Law.
- Staff recommends approving an increase of \$87,635 General Fund and 0.9 FTE for FY 2015-16.

*JBC Staff Figure Setting: FY 2015-16
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Request: The request includes an increase of \$109,631 General Fund and 0.9 attorney FTE in FY 2015-16 (annualizing to \$107,520 and 1.0 FTE in FY 2016-17 and beyond) to add specific centralized expertise in response to an increasing workload related to the Colorado Open Records Act (CORA) and the Open Meetings Law (OML). The request responds to increasing workload and seeks to improve the consistency of CORA responses both within the Department and in client agencies.

Recommendation: Staff recommends approving an increase of \$87,635 General Fund and 0.9 FTE for FY 2015-16 (annualizing to \$108,319 and 1.0 FTE in FY 2016-17 and beyond). The recommendation is \$21,996 below the request for FY 2015-16 because: (1) pursuant to Committee common policy, the recommendation does not include centrally appropriated items for new FTE in the first year; and (2) staff recommends the common policy amount of \$3,473 for office equipment and furniture as compared to \$8,767 requested by the Department based on the costs for similar offices in the Carr Center. The recommendation also includes a correction to the Department’s calculations for cell phone costs for the requested position.

The following table details the components of the request and staff recommendation for FY 2015-16 and the FY 2016-17 impact of staff’s recommendation.

Request R2 - CORA and OML Attorney						
	FY 2015-16 Request		FY 2015-16 Staff Rec.		FY 2016-17 Impact	
	GF	FTE	GF	FTE	GF	FTE
New Line Item Requested						
Personal Services Costs						
Salary/Personal Services	\$72,600	0.9	\$72,600	0.9	\$79,200	1.0
PERA (10.15%)	7,369		7,369		8,039	
Medicare (1.45%)	1,053		1,053		1,148	
AED (4.4%)	3,194		0		3,485	
SAED (4.25%)	3,086		0		3,366	
STD (0.022%)	160		0		174	
Estimated HLD	<u>10,997</u>		<u>0</u>		<u>10,997</u>	
Subtotal, Personal Services	\$98,459	0.9	\$81,022	0.9	\$106,409	1.0
Operating Expenses						
Supplies (\$500)	\$500		\$500		\$500	
Computer (\$900)	900		900		0	
Office Suite Software (\$395)**	395		330		0	
Office Equipment (\$8,767)	8,767		3473		0	
Telephone (\$450/FTE)	450		450		450	
Cell phone (\$80 per month)**	<u>160</u>		<u>960</u>		<u>960</u>	
Subtotal, Operating Expenses	\$11,172		\$6,613		\$1,910	
Total, Request R2	\$109,631	0.9	\$87,635	0.9	\$108,319	1.0

Request R2 - CORA and OML Attorney

FY 2015-16 Request		FY 2015-16 Staff Rec.		FY 2016-17 Impact	
GF	FTE	GF	FTE	GF	FTE

* JBC common policy does not fund these items in the first year. Appropriations in subsequent years would be built into centrally appropriated line item rather than the requested line item.

** The request includes common policy/ calculation errors for these items.

Analysis:

Background

The Colorado Open Records Act (see Sections 24-72-201 through 24-72-309, C.R.S.) provides public access to public records from all levels of government in Colorado (with the exception of the federal government). Under the law, any person (natural person, corporation, limited liability company, partnership, firm, or association) may submit requests to inspect public records (Section 24-72-202 (3), C.R.S.). Unless extenuating circumstances apply, the Act allows three business days for the production of requested records; the Act allows for an extension of up to seven business days when extenuating circumstances are present (Section 24-72-203 (2) (b), C.R.S.).

Justification

The Department provides two major points to justify the request for an additional attorney FTE: (1) increasing CORA-related workload at the Department, both in responding to CORA requests submitted to the Department of Law and in advising client agencies responding to CORA requests; and (2) a need for improved consistency statewide in responding to CORA requests. Each major driver is discussed below.

CORA Workload

The Department’s CORA related workload is increasing, and the Department has indicated that three factors are driving the increase both within the Department of Law and in client agencies: (1) increasing numbers of requests; (2) increasingly complex requests; and (3) broader requests.

- ***Increasing Number of Requests:*** The Department of Law has received an increasing number of CORA requests, growing from 73 requests in calendar year 2012 to 95 through mid-October 2014. (The Department reports anecdotally that other agencies are also receiving more requests but does not have data on the number of CORA requests submitted to client agencies.)
- ***Increasing Complexity:*** The Department is receiving and reviewing more multi-part and multi-agency CORA requests. The requests require more complicated searches, reviews, and responses.
- ***Increasing Scope of Requests:*** The Department is also seeing broader requests, requiring broader searches and increasingly extensive reviews of records. For example, the Department is receiving requests seeking “all communications with federal agencies” rather than with a specific federal agency. In another case, the Department recently received a request that could require detailed physical handling of approximately 5,500 documents (some of which are 200 pages in length) to review and redact necessary information.

According to the Department, it appears that more requests are “fishing” for information rather seeking detail on a specific issue.

Inconsistent Responses

The Department also reports a need to improve the consistency of responses to CORA requests statewide. In July 2013, a frequent CORA requester submitted a mass request to at least eleven state agencies seeking production of the following: (1) a written copy of the agency’s requirements and procedures for CORA requests, including any associated fees; (2) any organizational charts for the agency, as well as divisions and subdivisions, if available; and (3) an employee phone directory, if available. According to the Department, although each agency received the same CORA request, the agencies’ responses differed markedly. Some of the inconsistencies highlighted by the Department included:

- one agency charged a copying fee of \$1.25 per page, \$1.00 per page more than the \$0.25 per page allowed by CORA;
- hourly charges for research and retrieval of documents ranged from \$15 per hour to \$20 per hour;
- some agencies explained why requested information was unavailable, while others denied the request because it was too voluminous; and
- some agencies only partially responded to the request without explanation, some explained the partial response, and at least one provided more information than was requested.

According to the Department, in reaction to the inconsistent CORA responses, the Governor’s Chief Legal Counsel asked the Department of Law to: (1) spearhead coordination among state agencies for mass CORA requests; (2) ensure consistency within the Department of Law regarding the interpretation and analysis of CORA issues; and (3) encourage state agencies to seek counsel from the Department of Law when dealing with particularly challenging and/or high profile CORA requests, as well as CORA requests that are likely to lead to litigation.

Finally, the Department reports that a 2014 Colorado Supreme Court decision (*Benefield v. Colorado Republican Party*) makes any CORA requester or party that obtains a court order directing production of a withheld document a prevailing party for purposes of CORA. Any such party, therefore, is entitled to an award of fees and costs associated with the requester’s attempt to obtain the wrongfully withheld document(s). The Department believes that adding expertise may help protect the Department and client agencies from legal exposure and related costs.

Given the increasing workload, the need for improved consistency, the increasing use of CORA requests as a political and/or litigation tool, and potentially costly legal exposure, the Department is seeking to add an attorney specifically to provide CORA (and to a lesser extent OML) expertise. The proposed position would:

- assist the Department of Law and client agencies with handling CORA requests;
- coordinate responses to mass (multi-agency) requests;

- develop office policy, including researching and analyzing complex and novel issues arising from requests;
- monitor developments in CORA/OML law, including case law and proposed and enacted legislation; and
- serve as an educational and training resource for the Department and its client agencies, including providing continuing legal education (CLE) presentations, among other functions.

Points to Consider

As discussed at the briefing, staff recognizes the increasing workload associated with CORA requests and an apparent need to improve the consistency of state agencies' responses to such requests. Staff raises the following points for the Committee's consideration.

- To the extent that the additional expertise informs agencies' responses, the Department's request should improve the quality and consistency of CORA responses, and the State's potential legal exposure should decrease.
- The request is unlikely to significantly address the increasing CORA-related *workload* within either the Department of Law or client agencies. The request is unlikely to change the large amounts of time required to prepare major CORA responses (for example, it would not reduce the number of records required for a given request although additional expertise could reduce time spent on searches/records that are not actually required for such a request). If the goal is to significantly reduce the Department's or other agencies CORA workload, then staff does not believe that the request is likely to achieve that goal.

Staff agrees that there appears to be a need for improved consistency of implementation and that dedicated expertise should be beneficial. Staff recommends approving the request (with the adjustments described above).

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 items for FY 2015-16. However, the line items remain in the numbers pages at the end of this document because of funding provided in prior years.

Lobato Litigation Expenses

This line item provided authority for the Department of Law to receive and spend General Fund moneys from the Governor's Office to cover litigation expenses associated with the *Anthony Lobato, et al. v. The State of Colorado, et al* case. The plaintiffs in this case alleged that the current system of funding public schools is unconstitutional, and asked the court to compel the State to design and implement a new system. The trial in Denver district court concluded in September 2011. The Colorado Supreme Court heard the case in March 2013 and issued a decision in favor of the State on May 28, 2013. Because the case is concluded, funding is no longer necessary.

Lowry Range Litigation Expenses

This line item, established in FY 2012-13, provides authority for the Department of Law to receive and spend moneys from the State Land Board for its litigation needs related to the Lowry Range property. The source of funds is the State Board of Land Commissioners Investment and Development Fund. This line item covers expenses other than Department attorneys and staff, such as outside counsel, expert witnesses, and all discovery, deposition, and case preparation efforts. Because the State Land Board settled the case in 2014, no appropriation for the Department of Law is necessary for FY 2015-16.

Long Bill Footnotes and Requests for Information

LONG BILL FOOTNOTES

Staff recommends the following footnotes be continued as **modified**:

- 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 ~~\$102.79~~ \$ _____ per hour for attorneys and not exceed ~~\$78.73~~ \$ _____ per hour for legal assistants, which equates to a blended rate of ~~\$99.01~~ \$ _____ 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 2015-16 Long Bill.**

- 46 Department of Law, Special Purpose, Litigation Management and ~~Technology~~** -- 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 2014-15~~ FY 2015-16. 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. The Department is requested to include with its annual budget request information detailing the purpose of line item expenditures. Such information is also requested with any supplemental requests for additional legal services funding within or outside of the Legal Services to State Agencies program.

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 did not collect any excess LSSA revenues in FY 2013-14. As a result, there are no excess LSSA revenues available for this line item in FY 2014-15, and any FY 2014-15 expenditures will consist entirely of the various court awards that are deposited into the Attorneys Fees and Costs Account. Any excess legal services revenues that are earned in FY 2014-15 will be retained in the Legal Services Cash Fund. In order to provide the Department flexibility to spend those revenues, the FY 2015-16 Long Bill appropriation for this line item will consist of two fund sources: excess revenues credited to the Legal Services Cash Fund in FY 2014-15 and various court awards that are deposited into the Attorneys Fees and Costs Account.

REQUESTS FOR INFORMATION

Staff recommends that the following request for information be continued as **modified**:

- 1 Department of Law, Criminal Justice and Appellate, Appellate Unit --** The Department is requested to provide by November 1, ~~2014~~ 2015, a report concerning the Appellate Unit's progress in reducing its case backlog, including the following data for FY ~~2013-14~~ 2014-15: the number of opening briefs received; the number of answer briefs filed; the number of cases resolved through the expedited docket; ~~the number of cases resolved through the experimental docket;~~ and the case backlog as of June 30, ~~2014~~ 2015. 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 “experimental docket” because the Court has eliminated the experimental docket.

Staff recommends that the following request for information be **continued**:

- 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.

Staff recommends **adding** the following new request for information:

- 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 proposed request seeks detail on the CDAC's use of District Attorney Training moneys provided pursuant to H.B. 14-1144.

JBC Staff Staff Figure Setting - FY 2015-16
Staff Working Document - Does Not Represent Committee Decision

Appendix A: Number Pages

	FY 2012-13 Actual	FY 2013-14 Actual	FY 2014-15 Appropriation	FY 2015-16 Request	FY 2015-16 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 and FY 2015-16, federal funds are from the Medicaid Fraud Control Program. Prior years included federal funding from the Colorado Justice Review Project.

Personal Services	<u>3,046,908</u>	<u>3,074,899</u>	<u>3,408,314</u>	<u>3,701,545</u>	<u>3,687,299</u> *
FTE	39.4	38.2	43.7	45.2	45.2
General Fund	14,072	0	0	0	0
Cash Funds	0	0	0	0	0
Reappropriated Funds	3,032,836	3,074,899	3,408,314	3,701,545	3,687,299
Office of Community Engagement	<u>0</u>	<u>0</u>	<u>0</u>	<u>693,569</u>	<u>0</u> *
FTE	0.0	0.0	0.0	5.8	0.0
General Fund	0	0	0	678,569	0
Cash Funds	0	0	0	15,000	0
Health, Life, and Dental	<u>2,597,664</u>	<u>2,817,584</u>	<u>2,878,006</u>	<u>3,558,393</u>	<u>3,544,259</u>
General Fund	712,358	742,890	791,193	1,034,704	1,009,653
Cash Funds	307,246	281,594	344,575	382,293	382,756
Reappropriated Funds	1,497,893	1,697,754	1,642,380	2,034,449	2,040,181
Federal Funds	80,167	95,346	99,858	106,947	111,669

JBC Staff Staff Figure Setting - FY 2015-16
Staff Working Document - Does Not Represent Committee Decision

	FY 2012-13 Actual	FY 2013-14 Actual	FY 2014-15 Appropriation	FY 2015-16 Request	FY 2015-16 Recommendation
Short-term Disability	<u>60,761</u>	<u>60,761</u>	<u>79,509</u>	<u>84,375</u>	<u>84,375</u>
General Fund	14,917	14,917	20,973	23,053	23,053
Cash Funds	6,023	6,023	9,067	8,611	8,611
Reappropriated Funds	38,675	38,675	47,051	50,245	50,245
Federal Funds	1,146	1,146	2,418	2,466	2,466
 S.B. 04-257 Amortization Equalization					
Disbursement	<u>957,371</u>	<u>1,233,515</u>	<u>1,445,612</u>	<u>1,687,501</u>	<u>1,687,501</u>
General Fund	271,731	298,320	381,335	461,067	461,067
Cash Funds	93,597	120,194	164,849	172,221	172,221
Reappropriated Funds	559,668	776,652	855,466	1,004,900	1,004,900
Federal Funds	32,375	38,349	43,962	49,313	49,313
 S.B. 06-235 Supplemental Amortization					
Equalization Disbursement	<u>821,620</u>	<u>1,112,660</u>	<u>1,355,263</u>	<u>1,629,972</u>	<u>1,629,972</u>
General Fund	232,402	268,385	357,502	445,348	445,348
Cash Funds	80,435	108,507	154,546	166,350	166,350
Reappropriated Funds	480,964	701,147	802,000	970,642	970,642
Federal Funds	27,819	34,621	41,215	47,632	47,632
 Salary Survey for Classified Employees					
	<u>0</u>	<u>337,857</u>	<u>295,496</u>	<u>119,650</u>	<u>119,650</u>
General Fund	0	73,571	91,353	40,723	40,723
Cash Funds	0	70,627	74,976	30,754	30,754
Reappropriated Funds	0	167,876	106,793	38,897	38,897
Federal Funds	0	25,783	22,374	9,276	9,276

JBC Staff Staff Figure Setting - FY 2015-16
Staff Working Document - Does Not Represent Committee Decision

	FY 2012-13 Actual	FY 2013-14 Actual	FY 2014-15 Appropriation	FY 2015-16 Request	FY 2015-16 Recommendation
Salary Survey for Exempt Employees	0	<u>4,115,142</u>	<u>358,827</u>	<u>965,318</u>	<u>965,318</u>
General Fund	0	880,758	83,586	235,874	235,874
Cash Funds	0	125,575	19,197	38,990	38,990
Reappropriated Funds	0	3,057,736	252,482	680,763	680,763
Federal Funds	0	51,073	3,562	9,691	9,691
Merit Pay for Classified Employees	0	<u>153,103</u>	<u>104,360</u>	<u>114,830</u>	<u>114,830</u>
General Fund	0	47,536	36,984	37,379	37,379
Cash Funds	0	27,435	22,483	29,845	29,845
Reappropriated Funds	0	65,178	36,301	39,991	39,991
Federal Funds	0	12,954	8,592	7,615	7,615
Merit Pay for Exempt Employees	0	<u>388,765</u>	<u>263,836</u>	<u>295,260</u>	<u>295,260</u>
General Fund	0	90,935	62,917	71,154	71,154
Cash Funds	0	10,972	11,284	11,730	11,730
Reappropriated Funds	0	282,623	186,740	209,337	209,337
Federal Funds	0	4,235	2,895	3,039	3,039
Workers' Compensation	<u>73,256</u>	<u>74,775</u>	<u>104,477</u>	<u>83,003</u>	<u>83,973</u>
General Fund	19,388	20,002	28,278	22,990	23,257
Cash Funds	7,666	8,804	12,196	9,696	9,807
Reappropriated Funds	43,950	43,798	61,053	48,015	48,580
Federal Funds	2,252	2,171	2,950	2,302	2,329

JBC Staff Staff Figure Setting - FY 2015-16
Staff Working Document - Does Not Represent Committee Decision

	FY 2012-13 Actual	FY 2013-14 Actual	FY 2014-15 Appropriation	FY 2015-16 Request	FY 2015-16 Recommendation
Attorney Registration and Continuing Legal Education					
General Fund	<u>98,138</u>	<u>98,138</u>	<u>126,351</u>	<u>129,913</u>	<u>129,913</u>
Cash Funds	21,769	21,769	30,524	31,041	31,041
Reappropriated Funds	3,000	3,000	4,698	4,275	4,275
Federal Funds	72,525	72,525	90,060	93,528	93,528
Operating Expenses	844	844	1,069	1,069	1,069
General Fund	<u>193,513</u>	<u>190,629</u>	<u>197,242</u>	<u>217,191</u>	<u>206,603</u> *
Cash Funds	0	0	0	0	0
Reappropriated Funds	0	0	0	0	0
Legal Services	193,513	190,629	197,242	217,191	206,603
General Fund	0	0	32,178	0	43,570
Cash Funds	0	0	32,178	0	23,628
Federal Funds	0	0	0	0	19,942
Administrative Law Judge Services	<u>1,135</u>	<u>4,362</u>	<u>30,254</u>	<u>6,778</u>	<u>6,479</u>
Cash Funds	1,135	4,362	30,254	6,778	6,479
Payment to Risk Management and Property Funds	<u>128,156</u>	<u>128,371</u>	<u>153,905</u>	<u>116,440</u>	<u>169,910</u>
General Fund	40,207	0	0	32,251	47,059
Cash Funds	0	0	0	13,599	19,845
Reappropriated Funds	87,949	128,371	153,905	67,361	98,295
Federal Funds	0	0	0	3,229	4,711

JBC Staff Staff Figure Setting - FY 2015-16
Staff Working Document - Does Not Represent Committee Decision

	FY 2012-13 Actual	FY 2013-14 Actual	FY 2014-15 Appropriation	FY 2015-16 Request	FY 2015-16 Recommendation
Vehicle Lease Payments	<u>70,285</u>	<u>62,019</u>	<u>61,855</u>	<u>71,282</u>	<u>70,416</u>
General Fund	19,980	18,377	20,897	34,669	34,669
Cash Funds	21,501	19,889	17,097	7,255	7,255
Reappropriated Funds	26,189	21,138	21,382	23,580	26,290
Federal Funds	2,615	2,615	2,479	5,778	2,202
Information Technology Asset Maintenance	<u>445,807</u>	<u>445,807</u>	<u>645,206</u>	<u>645,206</u>	<u>645,206</u>
General Fund	21,754	21,754	174,663	174,663	174,663
Cash Funds	63,299	63,299	75,291	75,291	75,291
Reappropriated Funds	359,373	359,373	377,036	377,036	377,036
Federal Funds	1,381	1,381	18,216	18,216	18,216
Ralph L. Carr Colorado Judicial Center Leased					
Space	<u>0</u>	<u>2,926,487</u>	<u>2,981,368</u>	<u>3,034,238</u>	<u>3,034,238</u>
General Fund	0	760,611	804,128	840,388	840,388
Cash Funds	0	359,753	348,331	354,368	354,368
Reappropriated Funds	0	1,718,514	1,743,005	1,755,344	1,755,344
Federal Funds	0	87,609	85,904	84,138	84,138
Payments to OIT	<u>0</u>	<u>0</u>	<u>343,938</u>	<u>348,903</u>	<u>348,903</u>
General Fund	0	0	94,169	96,634	96,634
Cash Funds	0	0	39,958	40,749	40,749
Reappropriated Funds	0	0	199,951	201,845	201,845
Federal Funds	0	0	9,860	9,675	9,675

JBC Staff Staff Figure Setting - FY 2015-16
Staff Working Document - Does Not Represent Committee Decision

	FY 2012-13 Actual	FY 2013-14 Actual	FY 2014-15 Appropriation	FY 2015-16 Request	FY 2015-16 Recommendation
CORE Operations	<u>46,428</u>	<u>46,431</u>	<u>67,404</u>	<u>59,075</u>	<u>59,075</u>
General Fund	0	0	0	16,362	16,362
Cash Funds	0	0	0	6,898	6,898
Reappropriated Funds	46,428	46,431	67,404	34,177	34,177
Federal Funds	0	0	0	1,638	1,638
Attorney General Discretionary Fund	<u>5,000</u>	<u>5,000</u>	<u>5,000</u>	<u>5,000</u>	<u>5,000</u>
General Fund	5,000	5,000	5,000	5,000	5,000
Capitol Complex Leased Space	<u>1,270,837</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	332,883	0	0	0	0
Cash Funds	132,620	0	0	0	0
Reappropriated Funds	766,375	0	0	0	0
Federal Funds	38,959	0	0	0	0
Purchase of Services from Computer Center	<u>107,588</u>	<u>55,762</u>	<u>0</u>	<u>0</u>	<u>0</u>
Reappropriated Funds	107,588	55,762	0	0	0
Colorado State Network	<u>0</u>	<u>166,319</u>	<u>0</u>	<u>0</u>	<u>0</u>
Reappropriated Funds	0	166,319	0	0	0
Communication Services Payments	<u>10,614</u>	<u>8,988</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	3,765	3,598	0	0	0
Cash Funds	2,868	2,019	0	0	0
Reappropriated Funds	1,448	1,226	0	0	0
Federal Funds	2,533	2,145	0	0	0
Information Technology Security	<u>0</u>	<u>2,328</u>	<u>0</u>	<u>0</u>	<u>0</u>
Reappropriated Funds	0	2,328	0	0	0

JBC Staff Staff Figure Setting - FY 2015-16
Staff Working Document - Does Not Represent Committee Decision

	FY 2012-13 Actual	FY 2013-14 Actual	FY 2014-15 Appropriation	FY 2015-16 Request	FY 2015-16 Recommendation
ADP Capital Outlay	<u>154,370</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Cash Funds	154,370	0	0	0	0
Leased Space	<u>27,789</u>	<u>27,789</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	4,580	4,580	0	0	0
Cash Funds	3,052	3,052	0	0	0
Reappropriated Funds	19,985	19,985	0	0	0
Federal Funds	172	172	0	0	0
Security for State Services Building	<u>140,489</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	37,180	0	0	0	0
Cash Funds	14,704	0	0	0	0
Reappropriated Funds	84,287	0	0	0	0
Federal Funds	4,318	0	0	0	0
TOTAL - (1) Administration	10,257,729	17,537,491	14,938,401	17,567,442	16,931,750
<i>FTE</i>	<u>39.4</u>	<u>38.2</u>	<u>43.7</u>	<u>51.0</u>	<u>45.2</u>
General Fund	1,751,986	3,273,003	3,015,680	4,281,869	3,616,952
Cash Funds	891,516	1,215,105	1,328,802	1,374,703	1,386,166
Reappropriated Funds	7,419,646	12,688,939	10,248,565	11,548,846	11,563,953
Federal Funds	194,581	360,444	345,354	362,024	364,679

JBC Staff Staff Figure Setting - FY 2015-16
Staff Working Document - Does Not Represent Committee Decision

	FY 2012-13 Actual	FY 2013-14 Actual	FY 2014-15 Appropriation	FY 2015-16 Request	FY 2015-16 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>19,193,773</u>	<u>19,442,071</u>	<u>26,851,545</u>	<u>27,297,454</u>	<u>27,315,402</u> *
FTE	225.1	228.5	258.2	258.2	258.3
General Fund	0	0	0	0	0
Cash Funds	839,619	0	876,816	0	0
Reappropriated Funds	18,354,154	19,442,071	25,974,729	27,297,454	27,315,402
Operating and Litigation	<u>598,506</u>	<u>1,089,188</u>	<u>1,921,988</u>	<u>1,912,123</u>	<u>1,914,117</u> *
General Fund	0	0	0	0	0
Cash Funds	0	0	3,096	0	0
Reappropriated Funds	598,506	1,089,188	1,918,892	1,912,123	1,914,117
Indirect Cost Assessment	<u>2,950,911</u>	<u>3,264,492</u>	<u>3,211,050</u>	<u>3,024,158</u>	<u>3,024,158</u>
Cash Funds	0	1,186,099	0	1,186,099	1,186,099
Reappropriated Funds	2,950,911	2,078,393	3,211,050	1,838,059	1,838,059
TOTAL - (2) Legal Services to State Agencies	<u>22,743,190</u>	<u>23,795,751</u>	<u>31,984,583</u>	<u>32,233,735</u>	<u>32,253,677</u>
FTE	<u>225.1</u>	<u>228.5</u>	<u>258.2</u>	<u>258.2</u>	<u>258.3</u>
General Fund	0	0	0	0	0
Cash Funds	839,619	1,186,099	879,912	1,186,099	1,186,099
Reappropriated Funds	21,903,571	22,609,652	31,104,671	31,047,636	31,067,578

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	FY 2012-13 Actual	FY 2013-14 Actual	FY 2014-15 Appropriation	FY 2015-16 Request	FY 2015-16 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, 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>3,016,950</u>	<u>3,222,813</u>	<u>4,115,956</u>	<u>4,470,538</u>	<u>4,204,018</u>
FTE	30.2	0.0	37.8	39.6	37.8
General Fund	1,390,033	1,607,134	1,832,354	2,137,950	1,871,430
Cash Funds	1,072,152	1,054,122	1,619,523	1,641,126	1,641,126
Reappropriated Funds	554,765	561,524	664,079	691,462	691,462
Auto Theft Prevention Grant	<u>225,409</u>	<u>278,271</u>	<u>301,569</u>	<u>286,666</u>	<u>286,666</u>
FTE	2.3	2.3	2.5	2.0	2.0
Reappropriated Funds	225,409	278,271	301,569	286,666	286,666
Appellate Unit	<u>2,709,335</u>	<u>3,230,248</u>	<u>3,697,461</u>	<u>3,782,761</u>	<u>3,782,761</u>
FTE	31.3	37.0	38.9	39.0	39.0
General Fund	2,195,709	2,589,243	3,209,853	3,521,279	3,521,279
Reappropriated Funds	513,626	641,005	487,608	261,482	261,482
Medicaid Fraud Control Unit	<u>1,513,539</u>	<u>2,020,026</u>	<u>1,648,189</u>	<u>1,697,877</u>	<u>1,697,877</u>
FTE	16.2	16.6	17.0	17.0	17.0
General Fund	394,876	1,859,531	412,045	424,465	424,465
Federal Funds	1,118,663	160,495	1,236,144	1,273,412	1,273,412

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	FY 2012-13 Actual	FY 2013-14 Actual	FY 2014-15 Appropriation	FY 2015-16 Request	FY 2015-16 Recommendation
Peace Officers Standards and Training Board					
Support	<u>2,488,373</u>	<u>2,832,236</u>	<u>5,777,741</u>	<u>5,996,083</u>	<u>5,947,076</u>
FTE	5.5	6.0	9.4	9.0	9.0
Cash Funds	2,488,373	2,832,236	5,777,741	5,996,083	5,947,076
Safe2Tell	<u>100,416</u>	<u>94,261</u>	<u>389,423</u>	<u>0</u>	<u>398,536</u> *
FTE	1.0	1.0	3.5	0.0	4.0
General Fund	100,416	94,261	374,423	0	383,536
Cash Funds	0	0	15,000	0	15,000
Indirect Cost Assessment	<u>443,705</u>	<u>520,638</u>	<u>503,848</u>	<u>484,725</u>	<u>484,725</u>
Cash Funds	215,830	263,029	257,145	259,077	259,077
Reappropriated Funds	73,184	82,780	80,929	74,022	74,022
Federal Funds	154,691	174,829	165,774	151,626	151,626
TOTAL - (3) Criminal Justice and Appellate	10,497,727	12,198,492	16,434,187	16,718,650	16,801,659
FTE	<u>86.5</u>	<u>62.9</u>	<u>109.1</u>	<u>106.6</u>	<u>108.8</u>
General Fund	4,081,034	6,150,169	5,828,675	6,083,694	6,200,710
Cash Funds	3,776,355	4,149,387	7,669,409	7,896,286	7,862,279
Reappropriated Funds	1,366,984	1,563,580	1,534,185	1,313,632	1,313,632
Federal Funds	1,273,354	335,324	1,401,918	1,425,038	1,425,038

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	FY 2012-13 Actual	FY 2013-14 Actual	FY 2014-15 Appropriation	FY 2015-16 Request	FY 2015-16 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>540,225</u>	<u>457,066</u>	<u>576,724</u>	<u>578,087</u>	<u>578,087</u>
FTE	5.3	5.3	5.5	5.5	5.5
General Fund	540,225	457,066	576,724	578,087	578,087
Defense of the Colorado River Basin Compact	<u>245,723</u>	<u>286,873</u>	<u>352,289</u>	<u>351,685</u>	<u>351,685</u>
FTE	2.6	2.8	3.0	3.0	3.0
General Fund	0	0	0	0	0
Cash Funds	245,723	286,873	352,289	351,685	351,685
Defense of the Republican River Compact	<u>196,138</u>	<u>221,385</u>	<u>110,000</u>	<u>110,000</u>	<u>110,000</u>
Cash Funds	196,138	221,385	110,000	110,000	110,000
Consultant Expenses	<u>139,581</u>	<u>80,735</u>	<u>400,000</u>	<u>400,000</u>	<u>400,000</u>
Cash Funds	139,581	80,735	400,000	400,000	400,000
Comprehensive Environmental Response, Compensation and Liability Act	<u>350,705</u>	<u>278,835</u>	<u>484,300</u>	<u>488,170</u>	<u>488,170</u>
FTE	3.2	2.8	3.5	3.5	3.5
Reappropriated Funds	350,705	278,835	484,300	488,170	488,170

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	FY 2012-13 Actual	FY 2013-14 Actual	FY 2014-15 Appropriation	FY 2015-16 Request	FY 2015-16 Recommendation
Comprehensive Environmental Response, Compensation and Liability Act Contracts Reappropriated Funds	<u>207,991</u> 207,991	<u>127,924</u> 127,924	<u>100,000</u> 100,000	<u>100,000</u> 100,000	<u>100,000</u> 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>43,414</u>	<u>46,731</u>	<u>45,686</u>	<u>41,787</u>	<u>41,787</u>
Reappropriated Funds	43,414	46,731	45,686	41,787	41,787
Federal Funds	0	0	0	0	0
TOTAL - (4) Water and Natural Resources	1,723,777	1,499,549	2,118,999	2,119,729	2,119,729
<i>FTE</i>	<u>11.1</u>	<u>10.9</u>	<u>12.0</u>	<u>12.0</u>	<u>12.0</u>
General Fund	540,225	457,066	576,724	578,087	578,087
Cash Funds	581,442	588,993	862,289	861,685	861,685
Reappropriated Funds	602,110	453,490	679,986	679,957	679,957
Federal Funds	0	0	0	0	0

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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>2,133,117</u>	<u>1,981,645</u>	<u>2,328,660</u>	<u>2,646,731</u>	<u>2,646,731</u>
FTE	23.6	23.8	26.0	27.2	27.2
General Fund	931,023	931,023	1,106,670	1,208,089	1,208,089
Cash Funds	960,613	812,275	961,411	1,152,316	1,152,316
Reappropriated Funds	241,481	238,347	260,579	286,326	286,326
Consumer Credit Unit	<u>1,518,093</u>	<u>1,495,275</u>	<u>1,616,183</u>	<u>1,674,691</u>	<u>1,674,691</u>
FTE	19.2	19.8	20.0	20.0	20.0
Cash Funds	1,518,093	1,495,275	1,616,183	1,674,691	1,674,691
Indirect Cost Assessment	<u>471,352</u>	<u>467,308</u>	<u>456,857</u>	<u>429,805</u>	<u>429,805</u>
Cash Funds	434,140	427,253	417,698	393,988	393,988
Reappropriated Funds	37,212	40,055	39,159	35,817	35,817
Federal Funds	0	0	0	0	0
TOTAL - (5) Consumer Protection	4,122,562	3,944,228	4,401,700	4,751,227	4,751,227
FTE	42.8	43.6	46.0	47.2	47.2
General Fund	931,023	931,023	1,106,670	1,208,089	1,208,089
Cash Funds	2,912,846	2,734,803	2,995,292	3,220,995	3,220,995
Reappropriated Funds	278,693	278,402	299,738	322,143	322,143
Federal Funds	0	0	0	0	0

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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. Reappropriated funds are transferred from the Office of the Governor.

District Attorneys' Salaries	<u>2,656,368</u>	<u>2,676,960</u>	<u>2,697,656</u>	<u>2,718,249</u>	<u>2,718,249</u>
General Fund	2,656,368	2,676,960	2,697,656	2,718,249	2,718,249
Federal Funds	0	0	0	0	0
Deputy District Attorney Training	<u>0</u>	<u>0</u>	<u>350,000</u>	<u>350,000</u>	<u>350,000</u>
General Fund	0	0	350,000	350,000	350,000
Litigation Management and Technology	<u>325,000</u>	<u>263,135</u>	<u>200,000</u>	<u>200,000</u>	<u>200,000</u>
Cash Funds	325,000	263,135	200,000	200,000	200,000
Tobacco Litigation	<u>1,239,856</u>	<u>321,831</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	1,239,856	321,831	1,250,000	1,250,000	1,250,000
CORA OML Attorney	<u>0</u>	<u>0</u>	<u>0</u>	<u>109,631</u>	<u>87,635</u>
FTE	0.0	0.0	0.0	0.9	0.9
General Fund	0	0	0	109,631	87,635
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

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Lowry Range Litigation Expenses	<u>238,007</u>	<u>1,361,127</u>	<u>392,400</u>	<u>0</u>	<u>0</u>
Cash Funds	238,007	1,361,127	392,400	0	0
TOTAL - (6) Special Purpose	4,459,231	4,623,053	4,890,056	4,627,880	4,605,884
<i>FTE</i>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.9</u>	<u>0.9</u>
General Fund	2,656,368	2,676,960	3,047,656	3,177,880	3,155,884
Cash Funds	1,802,863	1,946,093	1,842,400	1,450,000	1,450,000
Reappropriated Funds	0	0	0	0	0
Federal Funds	0	0	0	0	0
TOTAL - Department of Law	53,804,216	63,598,564	74,767,926	78,018,663	77,463,926
<i>FTE</i>	<u>404.9</u>	<u>384.1</u>	<u>469.0</u>	<u>475.9</u>	<u>472.4</u>
General Fund	9,960,636	13,488,221	13,575,405	15,329,619	14,759,722
Cash Funds	10,804,641	11,820,480	15,578,104	15,989,768	15,967,224
Reappropriated Funds	31,571,004	37,594,063	43,867,145	44,912,214	44,947,263
Federal Funds	1,467,935	695,768	1,747,272	1,787,062	1,789,717