

JOINT BUDGET COMMITTEE



STAFF BUDGET BRIEFING FY 2024-25

DEPARTMENT OF LAW

JBC WORKING DOCUMENT - SUBJECT TO CHANGE
STAFF RECOMMENDATION DOES NOT REPRESENT COMMITTEE DECISION

PREPARED BY:
SCOTT PHILIP THOMPSON, JBC STAFF
NOVEMBER 28, 2023

JOINT BUDGET COMMITTEE STAFF
200 E. 14TH AVENUE, 3RD FLOOR • DENVER • COLORADO • 80203
TELEPHONE: (303) 866-2061 • TDD: (303) 866-3472
<https://leg.colorado.gov/agencies/joint-budget-committee>

CONTENTS

Department Overview	1
Department Budget: Recent Appropriations	2
Department Budget: Graphic Overview	3
Cash Funds detail.....	5
General Factors Driving the Budget.....	7
Legal Services to State Agencies.....	7
Criminal Justice and Appellate.....	8
Summary: FY 2023-24 Appropriation & FY 2024-25 Request.....	10
Issue: Summary of Department Request	13
Recommendation.....	13
Discussion.....	13
Issue: Major Litigation Pending Against the State.....	16
Summary.....	16
Recommendation.....	16
Discussion.....	17
Appendix A Numbers Pages.....	A-1
Appendix B Footnotes and Information Requests	B-1
Appendix C Department Annual Performance Report	C-1
Appendix D Responses to Requests for Information submitted by the Department.....	D-1

ADDITIONAL RESOURCES

Brief summaries of all bills that passed during the 2022 and 2023 legislative sessions that had a fiscal impact on this department are available in Appendix A of the annual Appropriations Report:

<https://leg.colorado.gov/publications/appropriations-report-fiscal-year-2023-24>

The online version of the briefing document, which includes the Numbers Pages, may be found by searching the budget documents on the General Assembly's website by visiting leg.colorado.gov/content/budget/budget-documents. Once on the budget documents page, select the name of this department's *Department/Topic*, "Briefing" under *Type*, and ensure that *Start date* and *End date* encompass the date a document was presented to the JBC.

DEPARTMENT OF LAW

DEPARTMENT OVERVIEW

The Attorney General is one of five independently elected constitutional officers of the State, whose powers and duties are prescribed by the General Assembly¹. 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, with the exception of the legislative branch², serves as the legal counsel and advisor to all state agencies. The statutory responsibilities of the Department are summarized below.

LEGAL COUNSEL AND ADVICE TO THE STATE

- Provides state agencies and elected officials with legal services such as legal representation, legal advice and opinions, contract review, and rule writing assistance.

CIVIL ENFORCEMENT

- Protects Colorado consumers against fraud and enforces state and federal consumer protection, antitrust, charitable solicitation, consumer lending, and fair debt collection laws.
- Represent the State's interests in interstate and federal water cases.
- Leads enforcement actions at sites contaminated with hazardous materials under the federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).
- Pursues civil recoveries and damages from Medicaid providers for fraud and over billing.
- Enforces provisions of the tobacco master settlement agreements and protect the State's interests under the settlement payment calculation provision.

CRIMINAL ENFORCEMENT

- Investigates and prosecutes certain complex and multi-jurisdictional cases, environmental crimes, election fraud, and foreign fugitives.
- Provides investigative and prosecutorial support to district attorneys in complex homicides, cold cases, human trafficking cases, and large-scale drug conspiracies.
- Investigates and prosecute securities, insurance, and workers' compensation fraud.
- Represents the State in criminal appeal cases in state and federal courts.
- Investigates and prosecutes Medicaid provider fraud and patient abuse.
- Oversees the Peace Officers Standards and Training (P.O.S.T.) Board, which manages the training and certification of peace officers.
- Assures that the constitutional and statutory rights of victims are preserved in criminal cases being prosecuted or defended by the Department, and investigates complaints concerning alleged violations of the Victim's Rights Act.

¹ See Article IV, Section 1 of the Colorado Constitution and Article 31 of Title 24, C.R.S.

² Under certain circumstances the Legislative Branch does purchase legal services from the Department of Law, including requests for a legal opinion from the Attorney General or for legal representation when the interests of the Executive Branch and the Legislative Branch are consistent.

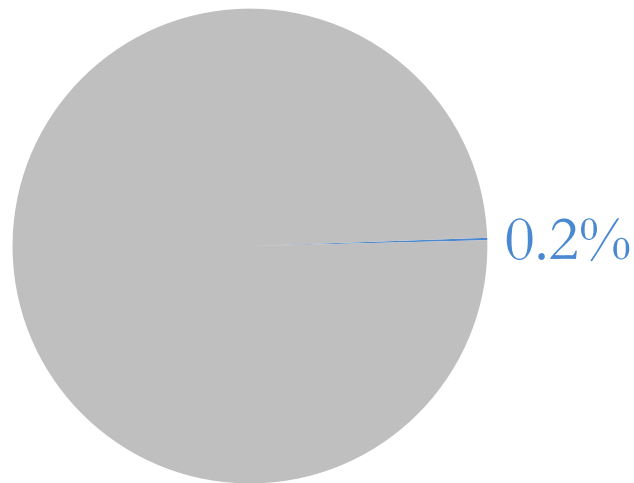
DEPARTMENT BUDGET: RECENT APPROPRIATIONS

FUNDING SOURCE	FY 2021-22	FY 2022-23	FY 2023-24	FY 2024-25 ¹
General Fund	\$16,306,035	\$20,622,725	\$24,270,302	\$27,660,074
Cash Funds	19,976,690	20,511,859	23,695,614	25,095,933
Reappropriated Funds	64,857,133	70,201,573	81,229,600	88,255,474
Federal Funds	2,486,388	3,228,197	3,794,172	3,841,138
TOTAL FUNDS	\$103,626,246	\$114,564,354	\$132,989,688	\$144,852,619
Full Time Equiv. Staff	560.2	593.2	630.3	652.6

¹ Requested appropriation.

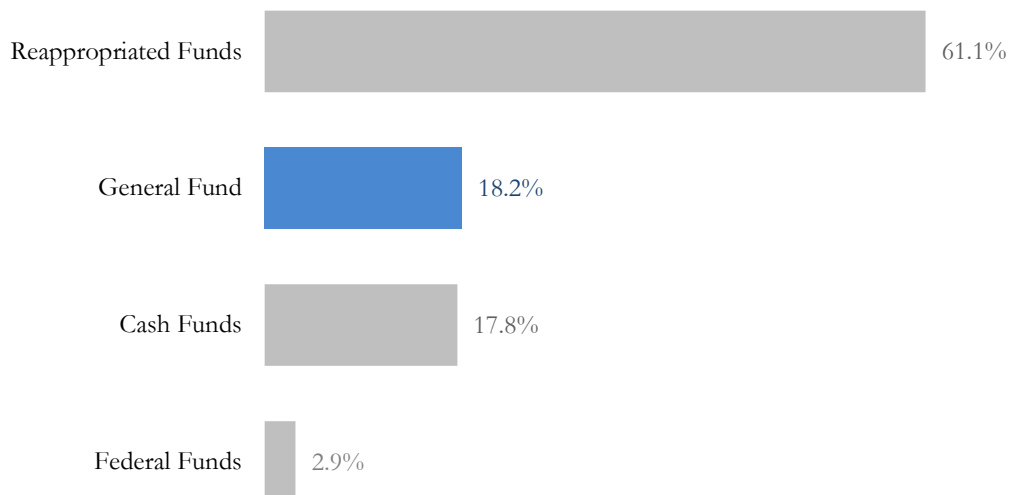
DEPARTMENT BUDGET: GRAPHIC OVERVIEW

Department's Share of Statewide General Fund



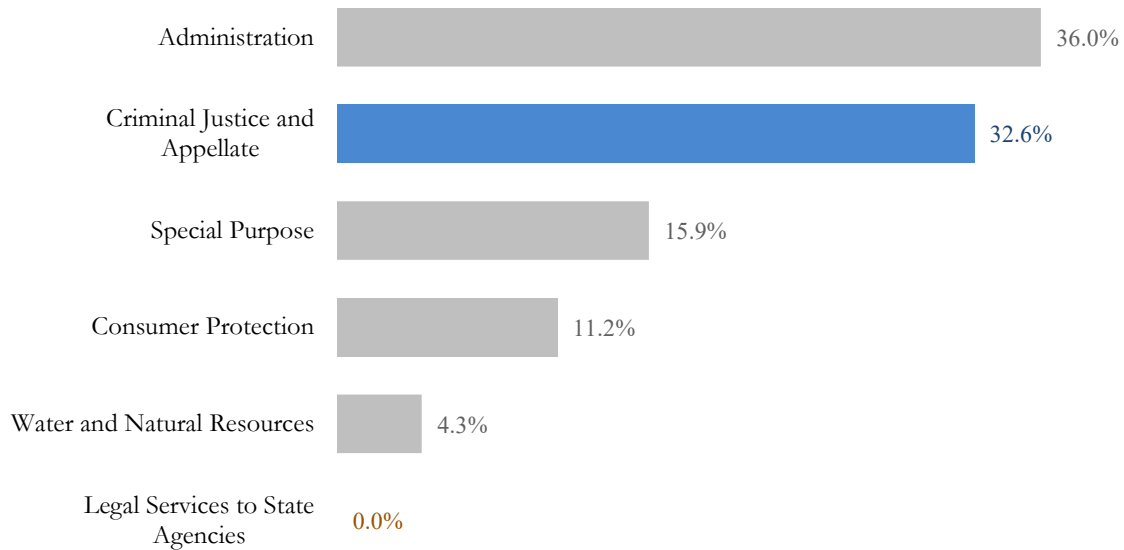
Based on the FY 2023-24 appropriation.

Department Funding Sources



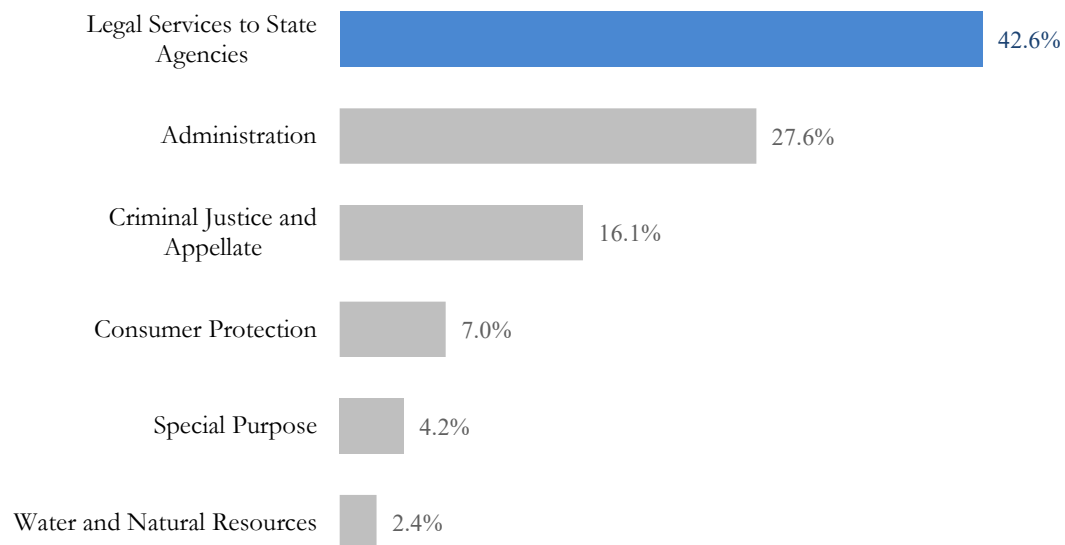
Based on the FY 2023-24 appropriation.

Distribution of General Fund by Division



Based on the FY 2023-24 appropriation.

Distribution of Total Funds by Division



Based on the FY 2023-24 Appropriation

CASH FUNDS DETAIL

- Because the majority of Cash Funds that are appropriated to the Department of Law are from the Legal Services Cash Fund, which includes both reappropriated funds and cash funds that originate as payments for legal services provided to state agencies, this summary includes all cash and reappropriated funds utilized by the Department of Law.

DEPARTMENT OF LAW CASH FUNDS APPROPRIATION DETAIL			
FUND NAME OR GROUP	FY 2023-24 APPROPRIATION	PRIMARY SOURCES OF FUND REVENUE	PRIMARY USES IN THIS DEPARTMENT
Legal Services Cash Fund	\$72,856,748 ¹	Revenue from providing legal services to state agencies	Legal Services to State Agencies
Consumer Protection Custodial Funds	14,047,634 ²	Consumer protection litigation court awards	Consumer Protection & Anti-Trust section
P.O.S.T. Board Cash Fund	6,079,936	All or a portion of fees charged for P.O.S.T. Board Exam, VIN inspections, publication, and motor vehicle registrations.	P.O.S.T. Board
Insurance Fraud Cash Fund	2,675,821	Fee for licensing insurance providers.	Special Prosecution Unit
Uniform Consumer Credit Code Cash Fund	2,252,997	Fees levied for regulating and licensing of lenders and creditors issuing consumer credit and engaging in debt management and credit repair.	Consumer Protection & Antitrust section, Uniform Commercial Credit Code
Attorney Fees & Costs	1,925,700	Attorney fees and costs awarded by a court, is subject to appropriation.	Litigation Management, Consultant Expenses, and Legal Services to State Agencies
Marijuana Tax Cash Fund	1,619,766	Sales tax on marijuana and special sales tax on retail marijuana	P.O.S.T. Board and Consumer Protection & Antitrust Section
Collection Agency Cash Fund	1,047,455	Fees for regulating and licensing collection agencies.	Collection Agency Board in the Administration section
Mortgage Fraud Custodial Fund	677,417 ²	Established as the result of a court award, which funded the principal.	Court agreement stipulated it be directed toward mortgage or housing efforts, provided through contracts with oversight support.
Student Loan Ombudsperson and Loan Servicer Licensing Fund	584,074 ³	Fees for Student Loan Servicer Licensing and Student Loan Servicer Investigations.	Continuously appropriated, Consumer Protection & Antitrust section, Uniform Consumer Credit Code
Tobacco Litigation Settlement Fund	384,085	Tobacco litigation settlements	Consumer Protection & Antitrust section
False Claims Recovery Fund	300,000	Proceeds retained by state under False Claims actions	Special Prosecutions Unit for False Claims actions
Special Prosecution Custodial Funds	50,200 ²	Court awards from forfeitures under Colorado Organized Crime Act and interest.	Special Prosecutions Unit

DEPARTMENT OF LAW CASH FUNDS APPROPRIATION DETAIL				
FUND NAME OR GROUP	FY 2023-24 APPROPRIATION		PRIMARY SOURCES OF FUND REVENUE	PRIMARY USES IN THIS DEPARTMENT
Consumer Credit Unit Cash Fund	0	⁴	Fees charged for licensing and regulating lenders and creditors issuing consumer credit and engaging in debt management and credit repair.	Continuously appropriated, Consumer Protection & Antitrust section, Uniform Commercial Credit Code
Various Sources of Cash and Reappropriated Funds	423,381		Includes all sources identified above.	Appropriations noted with various sources of cash or reappropriated funds provide flexibility to centrally appropriated line items to be funded by a mix of funds to properly allocate costs among programs
Total	\$104,501,833			

¹ The figure associated with Legal Services Cash Fund includes both “Cash Funds” and “Reappropriated Funds”.

² Custodial funds are not subject to appropriation and often have specific uses designated through settlement agreements or court awards. Those without conditions are expended as directed by the Attorney General.

³ Fund is continuously appropriated pursuant Section 5-20-104 (3)(c), C.R.S.

⁴ Fund is continuously appropriated pursuant Section 5-2-302 (11)(a), C.R.S. Section 5-2-302 (11)(d), C.R.S., sets the alternate reserve limit to 33.3 percent. Cash Fund was created by SB 23-248 and thus has \$0 appropriation in FY23-24. The FY24-25 request estimates \$3.6 million in expenditures from the fund.

GENERAL FACTORS DRIVING THE BUDGET

The Attorney General is the State's chief legal representative as well as the legal counsel to the State Government's Executive Branch – including the governor, 20 principal departments, and other state agencies, boards, and commissions – and Judicial Branch.

The Department is largely a cash-funded agency that receives funding from state agencies and various programs for the provision of legal services, the investigation and prosecution of fraud, and the protection of citizens of this State through consumer protection efforts. To deploy these services statewide, the Department employs approximately 630.0 FTE.

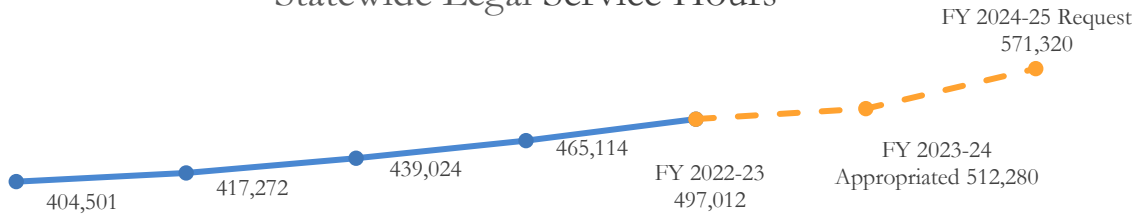
LEGAL SERVICES TO STATE AGENCIES

Prior to 1973, most state agencies were represented by "assistant solicitors" who were housed within and paid by the agencies they represented. The system became problematic as there were serious differences in legal policy between agencies, resulting in an inconsistent legal policy for the State in the courts. In 1973, the General Assembly passed legislation that moved all the assistant solicitors into the Department of Law, and prohibited any state agency from employing a person to perform legal services. As a trade-off, the Department of Law became subject to the "Oregon Plan," whereby the General Assembly appropriates money for legal services to the various state agencies, who in turn purchase services from the Department of Law at hourly rates (one rate for attorneys and one rate for legal assistants).

Since 1973, the Department billed client agencies each month for the hours of legal services actually provided to the client during the previous month, which led to budgetary uncertainty when agencies chose to avoid requesting services when fund balances, appropriations were lacking, or other external pressures existed. Starting in FY 2017-18 the General Assembly restructured the legal services common policy to estimate the number of legal services hours allocated to each agency based on the three-year average of their actual legal service hours consumed. Legal Services appropriations by agency are calculated by taking the three average and multiplying it by the blended legal service rate. To collect the reappropriated fund appropriations from each of the user agencies, the Department of Law now bills each one-twelfth of its total appropriation monthly. Having more budgetary certainty allows the Department to hire the right number of staff to provide the required services, while minimizing the number of times a higher cost contract attorney or outside counsel are required to meet the state's demand. While the current common policy may not encourage agencies to limit the number of legal service hours utilized, it likely results in lower attorneys' costs statewide.

The FY 2023-24 budget for legal services provides a total of \$56.6 million across all state agencies to pay for the time billed by the Attorney General's Office and assumes the Department will provide 512,280 total legal service hours to clients. This amount represents 42.6 percent of the Department's total appropriation. As illustrated below, the number of legal service hours appropriated in FY 2023-24 and requested in FY 2024-25 appear to be leveling off after rising steeply for several years. Annual growth between FY 2018-19 and FY 2019-20 was 3.2 percent, which compares to the 6.9 percent change between FY 2021-22 and FY 2022-23.

Statewide Legal Service Hours



NINE AGENCIES ACCOUNT FOR 82.2 PERCENT OF LEGAL SERVICE HOURS CONSUMED IN FY 2023-24.



Fluctuations in legal services expenditures are due to: (1) changes in the Department's hourly rates; and (2) changes in the number of hours of legal services provided to state agencies by attorneys and legal assistants. The hourly rates fluctuate based on the costs of employee salaries and benefits as well as operating expenses. The Joint Budget Committee determines the blended legal service rate annually at the end of figure setting based on recommendations made by JBC Staff.

CRIMINAL JUSTICE AND APPELLATE

The largest allocation of General Fund in the Department is for the Criminal Justice and Appellate section, which accounts for 32.5 percent of General Fund appropriations to the Department for FY 2023-24. A bit more than half of the General Fund in this section is devoted to the Appellate Unit, which represents the State in criminal appeals, and more than one-third is devoted to the Special Prosecutions Unit, which investigates and prosecutes a variety of crimes that tend to be more complex or occur across multiple jurisdictions. The workload of the Appellate Unit continues to exceed its resources, but is working to reduce the number of cases remaining on its backlog. The following table provides expenditure and workload data for the Appellate Unit.

APPELLATE UNIT DATA: FY 2018-19 TO FY 2022-23					
	FY 18-19 ACTUAL	FY 19-20 ACTUAL	FY 20-21 ACTUAL	FY 21-22 ACTUAL	FY 22-23 ACTUAL
Expenditures	\$4,693,708	\$5,363,451	\$5,141,091	\$5,325,192	\$5,865,513
FTE	36.6	40.5	38.0	37.3	40.6
Opening briefs filed against the state	1009	970	958	734	628
Answer briefs filed by the state	1026	1019	877	803	794
Case backlog	463	423	493	417	258

Two primary factors contributed to the decrease in the backlog. First, the new attorneys the Section hired in the last fiscal year are now fully trained and operating at peak efficiency. At the same time, the Section's managerial staff has been more targeted and intentional in case assignments. Second, there was a decrease of approximately 14 percent in the number of opening briefs filed by criminal defendants. The Section has no control over the quality or quantity of opening briefs filed.

The backlog remained largely stagnant for the last seven years, with an overall average of 450 cases at any given time. However, a combination of new efficiency strategies and a decrease in the number of incoming briefs has enabled the section to significantly reduce the backlog.

SUMMARY: FY 2023-24 APPROPRIATION & FY 2024-25 REQUEST

DEPARTMENT OF LAW						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2023-24 APPROPRIATION:						
SB 23-214 (Long Bill)	130,052,173	24,252,594	23,658,114	78,347,293	3,794,172	616.1
Other Legislation	2,937,515	17,708	37,500	2,882,307	0	14.2
TOTAL	\$132,989,688	\$24,270,302	\$23,695,614	\$81,229,600	\$3,794,172	630.3
FY 2024-25 REQUESTED APPROPRIATION:						
FY 2023-24 Appropriation	\$132,989,688	24,270,302	\$23,695,614	\$81,229,600	\$3,794,172	630.3
Statewide R1 Pros. Fed. Gun crimes	599,368	599,368	0	0	0	3.7
R1 Special prosecution rural support	593,966	593,966	0	0	0	2.3
R2 Increase agency admin support	662,356	0	0	662,356	0	3.6
R3 Fed Interstate Water Unit	295,795	295,795	0	0	0	1.8
R4 Long bill reorganization	0	0	0	0	0	0.0
Centrally appropriated line items	8,516,091	2,107,773	1,654,959	4,740,794	12,565	0.0
Indirect cost adjustment	1,011,889	0	273,377	703,092	35,420	0.0
Prior year legislation	666,629	65,086	(30,799)	632,342	0	1.9
Nonprioritized request	294,083	86,406	38,733	168,944	0	0.0
Prior year budget action	(1,420,072)	(363,630)	(1,417,371)	362,210	(1,281)	1.6
Technical adjustments	642,826	5,008	881,420	(243,864)	262	7.4
TOTAL	\$144,852,619	\$27,660,074	\$25,095,933	\$88,255,474	\$3,841,138	652.6
INCREASE/(DECREASE)	\$11,862,931	\$3,389,772	\$1,400,319	\$7,025,874	\$46,966	22.3
Percentage Change	8.9%	14.0%	5.9%	8.6%	1.2%	3.5%

[NONE OF THE DEPARTMENT REQUESTS REQUIRE LEGISLATION]

STATEWIDE R1 EXPAND PROSECUTION OF FEDERAL GUN CRIMES: The request includes an increase of \$599,368 General Fund and 3.7 FTE to allow the Attorney General to enter an agreement with the U.S. Attorney's Office Colorado District to increase the number of attorneys prosecuting gun crimes in federal court. This request originates from the Governor's Office and is submitted with the support of the Attorney General. No agreement is currently in place, however, the City and County of Denver and City of Aurora currently have similar one with the U.S. Attorney's Office. While these positions would be authorized to work with the U.S. Attorney's Office, the Attorney General directs the attorney's work and intends to limit their scope to federal gun crimes that are going unprosecuted due to lack of resources.

R1 SPECIAL PROSECUTION RURAL SUPPORT: The request includes \$593,966 General Fund and 2.5 FTE in FY 2024-25, increasing to \$624,566 General Fund and 2.5 FTE in FY 2025-26, to establish a specialized team for prosecution support in rural cases across the state. Funding is intended to allow the AG to respond efficiently to executive orders, district attorney resignations, and provide resources and expertise to address cases pending in rural jurisdictions.

R2 INCREASE AGENCY ADMIN SUPPORT: The request includes \$622,356 reappropriated funds and 3.6 FTE in FY 2024-25, increasing to \$693,444 reappropriated funds and 4.0 FTE in FY 2025-26 to increase administrative support at the agency. This request continues the Department of Law's efforts to slowly "right-size" its support staff, building on budget actions taken by the Joint Budget

Committee during the prior two budget cycles, to address the Department's recent growth, driven primarily by legislation, and costs of administering new regulatory and legislative requirements.

R3 FED INTERSTATE WATER UNIT: The request includes \$295,795 General Fund and 1.8 FTE in FY 2024-25, increasing to \$306,480 General Fund and 2.0 FTE in FY 2025-26, to increase the Department's capacity to respond to federal and interstate water conflicts that arise related to the waters of Colorado. The complexity, sensitivity, and magnitude of state water issues has increased the policy and litigation workloads for the Interstate Water Unit, as well as the intensity of communications, and requires a uniform and coordinated response from across state government.

R4 LONG BILL REORGANIZATION: The request includes a total funds neutral reorganization of the Department's Long Bill including renaming the Consumer Protection and Antitrust line item "Consumer Protection, Antitrust, and Civil Rights" and moving programs such as Patterns and Practices investigations in and Medicaid Fraud Control Unit into the Consumer Protection and Antitrust Long Bill section. The reorganization reflects current operations of the Attorney General's Office.

CENTRALLY APPROPRIATED LINE ITEMS: The request includes adjustments to centrally appropriated line item, as detailed in the following table.

CENTRALLY APPROPRIATED LINE ITEMS						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
Salary survey	\$5,512,997	\$1,305,210	\$712,964	\$3,411,255	\$83,568	0.0
PERA Direct Distribution	1,211,122	323,511	185,646	701,965	0	0.0
AED	507,261	125,978	186,125	197,137	(1,979)	0.0
SAED	507,261	125,978	186,125	197,137	(1,979)	0.0
Health, life, and dental	405,825	156,800	339,774	(26,939)	(63,810)	0.0
Paid Family and Medical Leave Insurance	338,797	83,244	50,424	197,549	7,580	0.0
Leased space	72,587	31	10,173	67,519	(5,136)	0.0
Workers' compensation	67,127	16,548	8,871	39,854	1,854	0.0
Short-term disability	15,623	3,921	5,396	6,359	(53)	0.0
Vehicle lease payments	11,926	6,201	500	4,925	300	0.0
DPS Digital trunk radio	4,989	7,783	(5,151)	2,357	0	0.0
Risk management & property adjustment	(95,656)	(26,969)	(12,532)	(52,157)	(3,998)	0.0
CORE adjustment	(22,042)	(5,943)	(2,897)	(12,390)	(812)	0.0
Legal services	(15,310)	(6,159)	(9,151)	0	0	0.0
Payments to OIT	(5,849)	(8,361)	(741)	6,223	(2,970)	0.0
ALJ services	(567)	0	(567)	0	0	0.0
TOTAL	\$8,516,091	\$2,107,773	\$1,654,959	\$4,740,794	\$12,565	0.0

INDIRECT COST ADJUSTMENT: The request includes adjustments to indirect costs across the department.

PRIOR YEAR LEGISLATION: The request includes adjustments related to prior year legislation.

PRIOR YEAR LEGISLATION						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
HB23-1174 Underinsured Homeowners	\$598,697	\$0	\$0	\$598,697	\$0	1.7
HB23-172 Protect Worker Opp & Rights	269,956	(11,258)	0	281,214	0	1.3
HB23-1252 Thermal Energy	190,333	0	0	190,333	0	1.0
HB23-1257 Mobile Park Water Quality	152,266	0	0	152,266	0	0.8

PRIOR YEAR LEGISLATION						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
SB23-251 AG Revoke MV license repeals	111,027	0	0	111,027	0	0.5
SB23-166 Wildfire Code Board	95,166	0	0	95,166	0	0.5
HB20-1026 23rd Judicial District	63,971	63,971	0	0	0	0.0
SB23-105 Equal Pay Equal Work	52,870	0	0	52,870	0	0.3
SB18-200 PERA unfunded liability	51,186	12,373	6,701	32,112	0	0.0
SB23-167 Midwives Reg. by Nurse Board	42,296	0	0	42,296	0	0.3
SB22-179 MV Emissions Tampering	19,714	0	0	19,714	0	0.1
HB23-1008 Food Accessibility	0	0	0	0	0	0.2
SB23-291 Utility Regulation	(285,498)	0	0	(285,498)	0	(1.6)
SB23-228 Admin Svcs for Ind Agencies	(100,453)	0	0	(100,453)	0	(0.5)
SB23-229 Beh Health Court Liaison	(100,453)	0	0	(100,453)	0	(0.5)
SB23-290 Natural Med Regulation	(90,576)	0	0	(90,576)	0	(0.4)
SB23-271 Intox. Hemp and Marijuana	(57,100)	0	0	(57,100)	0	(0.3)
HB23-1205 Office of Jud. Ombudsmen	(56,042)	0	0	(56,042)	0	(0.3)
SB23-001 P3 for Housing	(47,583)	0	0	(47,583)	0	(0.3)
HB23-1161 Appliance Enviro Standards	(43,882)	0	0	(43,882)	0	(0.2)
HB23-1042 Admissibility Stds	(37,500)	0	(37,500)	0	0	0.0
SB23-285 Energy and Carbon Mgmt	(33,838)	0	0	(33,838)	0	(0.1)
SB23-087 Teacher Apprenticeship	(26,435)	0	0	(26,435)	0	(0.1)
SB23-189 Reproductive Health Access	(23,263)	0	0	(23,263)	0	(0.1)
SB23-016 Greenhouse Gas Reductions	(21,148)	0	0	(21,148)	0	(0.1)
SB23-003 Adult High School Program	(21,148)	0	0	(21,148)	0	(0.1)
SB23-275 Wild Horse Project	(21,148)	0	0	(21,148)	0	(0.1)
SB23-221 Healthy School Meals All	(14,786)	0	0	(14,786)	0	(0.1)
TOTAL	\$666,629	\$65,086	(\$30,799)	\$632,342	\$0	1.9

NONPRIORITIZED REQUEST: The request includes one decision items originating in the Department of Personnel, the Central Services Omnibus Request. For more information, see the [briefing for the Department of Personnel](#), accessible once published and expected November 27, 2023.

PRIOR YEAR BUDGET ACTION: The request includes adjustments related to prior year budget actions.

PRIOR YEAR BUDGET ACTION						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY23-24 Prosecute Retail Crime	\$57,613	\$57,613	\$0	\$0	\$0	0.8
Info. Funds adjustment for grant award	49,137	18,234	0	30,903	0	0.4
FY23-24 Refinance Safe2Tell with GF	16,194	16,194	0	0	0	0.2
FY23-24 Patterns and Practices FTE	12,916	12,916	0	0	0	0.2
FY23-24 IT Asset Maintenance	0	(7,126)	231	9,743	(2,848)	0.0
FY23-24 Special Litigation Support	(1,475,700)	0	(1,475,700)	0	0	0.0
Prior year salary survey	(46,882)	(461,461)	58,098	354,914	1,567	0.0
FY22-23 Admin Support	(20,010)	0	0	(20,010)	0	0.0
FY23-24 Admin Support of Agency	(13,340)	0	0	(13,340)	0	0.0
TOTAL	(\$1,420,072)	(\$363,630)	(\$1,417,371)	\$362,210	(\$1,281)	1.6

TECHNICAL CHANGES: The request includes several technical adjustments that result in a net increase of \$642,826, including \$5,008 General Fund. Adjustments include allocation of Attorney General Custodial Funds based on anticipated needs, costs for attorney registration fees based on attorney FTE, and an adjustment that corrects differences in how JBC staff and agency staff recorded appropriations in the Legal Services to State Agencies division.

ISSUE: SUMMARY OF DEPARTMENT REQUEST

The following presents a summary of three the Department's budget request for FY 2024-25 including Statewide R1 Expand Prosecution of Federal Gun Crimes, R1 Special Prosecution Rural Support, and R3 Federal Interstate Water Unit.

RECOMMENDATION

JBC recommends the Committee generate questions about the Department's budget requests, which can be added to the agenda to guide discussion during the Department's budget hearing.

DISCUSSION

STATEWIDE R1 EXPAND PROSECUTION OF FEDERAL GUN CRIMES

Special Assistant United States Attorneys (SAUSAs) are positions detailed to the United States Attorney's Office (USAO) to prosecute specific cases of interest to the sponsoring entity. The Attorney General's Office, in partnership with the Office of the Governor, is requesting funding to support four SAUSAs who will focus on gun-related crimes. For FY 2024-25 the request is for \$599,368 General Fund and 3.7 FTE, which annualizes to \$622,660 General Fund and 4.0 FTE in FY 2025-26 and ongoing.

The Attorney General's Office does not currently have an Intergovernmental Agreement with the USAO for SAUSAs, but there is precedent for such an agreement in Colorado. Denver supports four SAUSAs and Aurora supports one. However, those arrangements are limited to those specific jurisdictions, whereas Colorado's need is statewide.

An especially difficult public safety challenge involves gun trafficking across state lines. According to ATF reports, more than 600,000 crime guns that were traced from 2010 to 2020 originated from out of the state they were recovered in, meaning that they were likely trafficked. In Colorado, the ATF traced the origin of 5,197 firearms in Colorado in 2020, and of those 29.4% - 1,528 guns – came from out of state. This is the 18th largest percentage among states.

Prosecution under federal law keeps the most severe offenders from inflicting further harm on Colorado's communities and makes it easier to address cross-jurisdictional crimes. Unfortunately, the USAO does not have resources commensurate with the magnitude of federal gun crimes in the state. In particular, the USAO lacks capacity to investigate individuals denied guns due to felonies under state law. This additional capacity will further enable the USAO to support the related proposal to strengthen CBI's investigation of known convicted felons attempting to illegally purchase firearms and to investigate other illegal firearm violations as discovered such as ghost guns.

To expand capacity to prosecute federal gun crimes in Colorado, the Attorney General's Office, in coordination with the Office of the Governor, requests funding for four SAUSAs to be detailed to the USAO. As the sponsoring entity, the Attorney General's Office would determine the caseload and would direct the SAUSAs to focus on gun-related crimes.

The proposed federal-state partnership to enhance gun violence enforcement efforts does not impact

other programs or departments within the Attorney General's Office. These employees will work directly under the supervision of the U.S. Attorney's Office to prosecute violent crimes involving a firearm under the U.S. Code, specifically felons illegally in possession of a firearm, but may include other violent offenses involving firearms, including armed bank robbery, armed car-jacking, or other violent gun crimes.

R1 SPECIAL PROSECUTION RURAL SUPPORT

The Department of Law requests \$593,966 General Fund and 2.5 FTE starting in FY 2024-25 to establish a specialized team for prosecution support in rural cases across the state. This request positions the Special Prosecutions Unit to better respond efficiently to executive orders appointing the Attorney General to serve under certain circumstances (i.e. district attorney resignations), provide additional resources and expertise dedicated to rural prosecution assistance, and address the number of open cases handled by the unit on an ongoing basis. It annualizes to \$624,566 General Fund and 2.5 FTE in FY 2025-26 and ongoing.

The Attorney General engages in criminal enforcement and prosecution through the Criminal Justice Section. For the FY 2024-25 base budget request, the Criminal Justice Section is comprised of approximately 22.8 FTE in the financial fraud unit (Securities Fraud and Insurance Fraud) and 20.8 FTE in the special prosecutions unit. In recent years, four primary streams of work have developed within the Special Prosecutions Unit, including: (1) organized retail crime, (2) rural support on criminal matters, (3) assignments mandated by the Governor, and 4) all other special cases directed by the Attorney General. The Department has experienced increased workload associated with organized retail crime and rural criminal law support, and during FY 2023-24 figure setting, the Department received funding to support an organized retail crime team within Special Prosecutions. This added 5.0 FTE and \$690,309 General Fund included in the base budget for FY 2024-25. This funded two criminal investigators, two assistant AG positions, and one legal assistant.

The Special Prosecution Unit is designed as a statewide prosecution resource for law enforcement and district attorneys, because of the need to investigate and prosecute crimes that occur beyond county or judicial district boundaries. The Special Prosecution Unit utilizes expertise to address wiretap investigations, state tax fraud, human trafficking, environmental crimes, complex auto theft rings, and violent crimes. It derives its authority to investigate and prosecute from three sources: (a) statutory authority of the Attorney General; (b) appointment by a local District Attorney to act as a Special Deputy District Attorney; and (c) order of the Governor. In the instance of an executive order by the Governor, the Department is required to accept a case for further investigation/prosecution.

Executive Orders issued by the Governor have demanded the resources of the Special Prosecutions Unit at the expense of other activities it carries out, most notably including prosecution related to the death of Elijah McClain and serving as District Attorney for the 12th and 22nd judicial districts until replacements could be appointed.

Special Prosecutions is limited in its ability to provide for rural criminal justice assistance, special appointments, and address the number of case investigations without additional staff resources.

Investigations and prosecutions are very resource and time intensive. When temporarily fulfilling district attorney roles, first, the staff must travel and acquire temporary housing in the district. Additionally, Department staff must ensure continuity of case management, personnel and resource

management, and other related investigation and prosecution efforts, as well as providing general leadership and organizational oversight to the district attorney's office.

To provide additional support in rural assistance and to continue to be able to respond to special appointments, the Department requests the establishment of a rural criminal justice assistance team comprised of 2.5 FTE, including one Assistant Attorney General, one criminal investigator, and 0.5 FTE Legal Assistant. Each position is being requested at the average pay for the job classification in the DOL. This is to accommodate for the Equal Pay for Equal Work Act requirements.

R3 FEDERAL INTERSTATE WATER UNIT

The Department requests \$295,795 General Fund and 1.8 FTE in FY 2024-25 to augment its Federal and Interstate Water Unit. The funding annualizes to \$306,480 General Fund and 2.0 FTE in FY 2025-26 and ongoing for one Policy Analyst position and one Assistant Attorney General position.

The Federal and Interstate Water 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 (ESA), and the Wild and Scenic Rivers Act. Additionally, this unit supports the Department staff dedicated to the various state river basins and associated compacts that are funded through the Federal and Interstate Water Unit and the Defense of the Colorado River Basin Compact.

Staff participates in litigation, when necessary, but also by actively serving as negotiation counsel to arrive at creative solutions for managing the water problems consistent with existing laws under increasingly variable conditions. 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 ESA compliance. Because no major rivers flow into Colorado, Colorado must satisfy all its water demands from sources within the State. This unit's attorneys and staff are experts in Colorado's river matters and dedicated to protecting the state's interests.

The complexity, sensitivity, and magnitude of state water issues has increased the policy and litigation workloads, as well as the intensity of communications and requires a uniform and coordinated response from across state government.

The Analyst position will provide dedicated policy analysis, monitoring of governmental regulations and law changes, and provide for greater coordination on state water issues within the Department and in collaboration with tribal, state, and federal partners. The Analyst will also monitor and advise on neighboring states' activities on water policy, specifically activities that have the direct or indirect impact on Colorado water interests. The Analyst will also communicate with other state agencies in the water space to ensure legal policies and regulatory developments are shared and contribute to the State's defense of Colorado's water rights and supply.

With additional legal needs expected in the coming years to support and defend Colorado's water resources and interstate obligations, the AAG II position will bolster the representation and litigation support of the DOL across the various river basins. Additionally, this position will support and supplement current efforts to negotiate Colorado's water and compact positions, and provide communications and analysis of legal, technical and policy implications to the state's significant water interests.

ISSUE: MAJOR LITIGATION PENDING AGAINST THE STATE

The Department of Law submits an annual report to the State Controller discussing pending litigation against the State that could have a significant financial impact. The most recent report was submitted September 14, 2023.

SUMMARY

The following ongoing legal cases involving the State could have a significant (e.g. exceeding at least \$5.0 million individually or \$10.0 million collectively) financial impact:

PENDING LITIGATION WITH POTENTIAL FOR SIGNIFICANT FINANCIAL IMPACT			
DEPARTMENT	CAPTION	SUMMARY/TOPIC	POTENTIAL FINANCIAL IMPACT
Corrections	Raven, et al. v. CDOC, et al.	Class Action Lawsuit on behalf of all Transgender Women	\$5.1 million
Corrections	Tanner v. Campbell	Inmate Litigation Regarding Medical treatment	Covered by Risk Management
Health Care Policy and Financing	CHIPRA Bonus Recovery	Colorado Department of Health Care Policy and Financing v. Centers for Medicare and Medicaid Services (CMS)	\$38.4 million
Higher Education	Renee Alderman v. The Board of Governors of the CSU System	Class Action Lawsuit on behalf of all Students Enrolled at Colorado State University	\$5-15 million
Higher Education	Levin, et al. v. University of Colorado	Class Action Lawsuit on behalf of all Students Enrolled at University of Colorado/Boulder	\$5 million
Natural Resources	Texas v. New Mexico and Colorado	Rio Grande River Compact Litigation	Unable to Quantify/\$0
Public Health and Environment	Heartland Biogas, LLC v. Colorado Dept. of Public Health and Environment, et al.	Heartland Biogas Facility State Court Litigation	N/A
Revenue	Emick v. State of Colorado, et al.	Emick Conservation Easement Tax Credits	N/A
Transportation	CDOT v. Flatiron Constructors, Inc. (American Arbitration Association)	CDOT Construction Dispute Case	\$7.5-13 million
Transportation	Flatiron / AECOM v. CDOT	Construction Delays Dispute	\$64 million

More detail on bolded items is provided in the discussion.

RECOMMENDATION

Staff recommends that the Committee ask the Department to discuss the status of the various cases listed in the report, as well as any other cases the Attorney General believes warrant the Committee's attention, at the Department's upcoming hearing on. JBC Staff also recommends the Committee invite the representative of the Attorney General's Office to participate in the hearing for the Department of Corrections, where the Committee may choose to enter Executive Session to discuss more detail

related to case caption *Kandace Raven, et al. v. CDOC, et al.* to discuss the consent decree and its impact on the Department of Corrections budget request.

JBC Staff also recommends that if the Committee members have any questions related to other confidential matters that they be raised during this briefing issue or brought directly to JBC Staff to ensure the topic is included in the Department's Executive Session portion of its hearing.

DISCUSSION

The Department of Law submits an annual report to the State Controller concerning pending or threatened litigation, claims, and assessments with amounts in controversy exceeding \$5 million, brought against the State and to which the Department has devoted substantial attention on behalf of the State. The Department's annual report describes the nature and status of each case, the claims asserted by the plaintiff and the objectives and/or damages sought, how management is responding to the litigation, the Attorney General's evaluation of the likelihood of an unfavorable outcome, and an estimate as to the amount or range of potential loss. This annual report does not, however, include information about two types of cases or claims:

- Those involving pre-litigation claims that are settled by the states' Risk Management Office; and
- Those against state-entities not represented by the Attorney General.

Thus, the report excludes information involving the University of Colorado Board of Regents or the General Assembly (except in cases under the Risk Management Fund), because those entities are not represented by the Attorney General unless directed.

Likewise, the impact of potential litigation against the state that are yet to be filed with a court are also excluded. Although notices of claims in the nature of tort must be filed with the Attorney General pursuant to the Colorado Governmental Immunity Act (CGIA)³, the Department of Personnel's State Risk Management Office and the State Claims Board have the responsibility to investigate, adjust, and settle such claims before they become lawsuits⁴. All tort and federal claims alleging damages against state agencies and employees, if settled, are paid out of the Risk Management Fund to the limits of the CGIA.

The Department submitted the 2023 annual report to the State Controller on September 14, 2023. Based on the report, as well as additional information from the Department of Law, JBC staff provides a brief summary of some unresolved cases in which the potential financial impact, either through damages, attorneys' fees and costs, or the cost of state compliance with court orders, exceeds \$5 million. Cases are also included if multiple parties have amounts in controversy less than \$5 million but that exceed \$10 million when aggregated. In cases where the Plaintiff has alleged more than \$5 million in damages, but the law limits the plaintiff's potential recovery to an amount less than \$5 million (such as the limits on damages provided by the CGIA), the litigation is not included in this report.

³ See Section 24-10-109, C.R.S.

⁴ See Section 24-30-1501, *et seq.*, C.R.S.

CORRECTIONS

Class action lawsuit on behalf of all transgender women who are or will be incarcerated with the Colorado Department of Corrections (CDOC).

Case: Plaintiffs are six transgender women who bring a class action on behalf of at least 331 women against the Department and allege violations of the Colorado Anti-Discrimination Act for discrimination in a place of public accommodation based on sexual orientation and disability.

Status: Information in this briefing issue is limited by the timing of the annual report on which it is based. Parties have been involved in extensive discovery as well as the taking of depositions, but by August 2023, parties were engaged in mediation which resulted in a settlement in principle. Since submission of the Controller's Report, JBC staff has learned of budget requests in the CDOC FY 2024-25 budget submission that stem from this potential settlement agreement. The request is for \$9.0 million General Fund and 28.3 FTE in FY 2024-25, with \$7.9 million and 31.0 FTE ongoing for transgender living units and healthcare. Due to the status of the litigation, draft settlement documents and consent decrees have not been shared with JBC Staff.

Financial Impact: If the settlement is approved, the Department anticipates settling damages to the class for \$2.15 million with up to \$2.9 million in additional costs and attorneys' fees. The financial impact of the settlement does not include the cost to the Department of Corrections to implement other aspects of the settlement agreement, which remain unknown to staff. Therefore, JBC Staff recommends the Committee invite a representative from the Attorney General's Office to participate in the Department of Corrections hearing on December 14, 2023, where confidential information can be discussed in Executive Session as it relates to CDOC's budget requests.

HEALTH CARE POLICY AND FINANCING

CHIPRA Bonus Recovery

Case: On April 30, 2019, the Center for Medicare and Medicaid Services (CMS) issued a demand that Colorado return \$38.4 million in performance bonus payments paid under the Children's Health Insurance Program Reauthorization Act of 2009. The Department disagrees with the CMS finding that the Department improperly included individuals in the enrollment counts provided to CMS for FYs 2009-10 through 2012-13.

Status: The Department filed an appeal at the federal Departmental Appeals Board (DAB) on May 30, 2019 and provided a brief and written argument in September 2019. Briefing completed in February 2020. On April 21, 2021, the DAB issued a decision agreeing with the states that CMS's interpretation and ambiguous guidance conflicted with federal statute. The DAB remanded the matter for the states to provide enrollment documentation so that the bonus payments can be properly calculated. Unfortunately, the relevant data is quite old and difficult to obtain for the relevant time period of 2009 through 2013. Additionally, once the baseline rate is properly calculated, the Department may still owe the federal government a significant amount of money. The Department is hopeful that CMS will be willing to negotiate a reasonable settlement.

Financial Impact: CMS seeks to recover \$38.4 million.

HIGHER EDUCATION

Class action lawsuit on behalf of all students enrolled at Colorado State University (CSU) and CSU Pueblo who paid tuition and mandatory student fees for the Spring 2020 semester.

Case: Plaintiffs are students who brings a class action against CSU on behalf of a class of similarly situated students who paid tuition and fees to a CSU entity during the spring 2020 semester. The dispute involves CSU's transition to remote delivery of educational services for the latter portion of the spring 2020 semester in response to the COVID-19 pandemic. Plaintiffs claim that CSU's actions, including canceling campus events and closing or limiting access to certain buildings, breached its contract with plaintiffs, or in the alternative, unjustly enriched CSU.

Status: Two complaints asserting the same causes of action were filed in two different districts – Larimer District Court and Denver District Court. CSU moved to consolidate the cases, and the cases were consolidated in the Denver District Court. Plaintiffs then filed an amended, consolidated complaint, which CSU moved to dismiss. The district court dismissed the breach of contract claims but allowed the unjust enrichment claims to proceed. CSU filed a motion for judgment on the pleadings seeking dismissal of the remaining claims, which was granted by the Court. Plaintiffs appealed that dismissal. The Court of Appeals affirmed dismissal of the contract claim but reversed dismissal of the unjust enrichment claim. CSU has filed a petition for certiorari to the Colorado Supreme Court.

Financial Impact: Assuming the court were to award a full refund of fees paid for the portion of the semester during which educational services were delivered remotely to all enrolled students, the university's liability could potentially exceed \$5 million by several orders of magnitude. Because the claim arises out of a contractual relationship, the university's insurance policy is unlikely to provide coverage in the event the courts agree with plaintiffs.

NATURAL RESOURCES

Rio Grande River Compact Litigation

Case: Texas filed suit with the U.S. Supreme Court against New Mexico for alleged violation of the Rio Grande Compact. Texas asserts that New Mexico's groundwater pumping denies Texas access to its full entitlement under the Rio Grande Compact. Following a motion to intervene filed by the United States, the Supreme Court accepted the suit and granted the United States' intervention. Although no claims are currently asserted against the State of Colorado, the State is named as a defendant because it is a signatory to the Compact.

Both Texas and New Mexico have indicated that they do not want to drag Colorado into the litigation any more than necessary. They have stipulated with Colorado, agreeing that Colorado does not waive its right to assert compact claims at some future point in this litigation or different proceeding, if or when they may become ripe. Colorado, therefore, has protected its interests and limited its involvement in the litigation because it does not have to assert any claims as part of this litigation or lose the right to do so going forward. The Special Master has accepted this stipulation.

Colorado remains in the case to assert interests regarding the claims asserted by Texas, the United States, or New Mexico against each other that could impact Colorado's interests in interpretation of the Rio Grande Compact specifically and compact law in general.

Status: This case was filed in January 2013 and was accepted by the U.S. Supreme Court. The Court then granted the United States’ Motion to Intervene on March 31, 2014. The case has been “at issue” since July 2018. Since then, the parties have filed and argued motions, conducted discovery for the first phase of trial in the fall of 2021.

The three compacting states have entered into a consent decree resolving all of the compact claims before the Court. However, the United States opposes the settlement. The Special Master has recommended approval of the consent decree. The United States plans to file exceptions to the Supreme Court this fall. Arguments before the Court on the consent decree may be in the spring of 2024. Due to the protracted timeline and extended timeframe associated with trial management, litigation of the case is expected to last through 2024.

Financial Impact: At this time, the State anticipates no monetary liability for Colorado. Depending on how the case develops, however, a liability for the State could arise. Although such liability is tenuous, it is not completely impossible. Nonetheless, what that future liability could be and how much it would equate to cannot be determined at this time.

PUBLIC HEALTH AND ENVIRONMENT

Heartland Biogas Facility State Court Litigation

Case: Heartland Biogas filed a state suit against the Colorado Department of Public Health and Environment (CDPHE). The claims, arising from the voluntary closure of the company’s biogas facility, allege that the State agencies are liable under a theory of promissory estoppel and that the State’s actions constituted a regulatory taking. Heartland alleges the Department promised that all zoning approvals needed to operate a solid waste facility were obtained and that the facility could distribute wastewater to third parties. Heartland alleges that the Department later took the position that Heartland did not have the proper zoning permits and prohibited the company from distributing wastewater. Heartland Biogas dismissed its federal lawsuit against the Colorado Department of Public Health and Environment (“CDPHE”) and filed a new lawsuit in Denver District Court. Heartland alleges that CDPHE is responsible for its decision to voluntarily close its biogas facility. Heartland alleges a violation of Colorado Constitution Article 2, Section 15, in the form of a regulatory taking claim.

Status. The state moved to dismiss based upon the Colorado Governmental Immunity Act and requested dismissal because Heartland failed to state a claim. The Denver District Court judge denied the motion. CDPHE filed an interlocutory appeal, arguing the district court conducted an improper governmental immunity analysis and that the case should be dismissed. CDPHE lost in a two-to-one decision in the Colorado Court of Appeals. CDPHE filed a petition for writ of certiorari in the Colorado Supreme Court, which was denied. An amended case management order was entered and trial was set for November 2022. CDPHE and co-defendant Weld County filed motions for summary judgment, which were denied. A two-week bench trial commenced on November 28, 2022. The Denver District Court judge ruled in CDPHE’s favor, concluding as a matter of law, that there was no regulatory taking. Heartland Biogas has filed a notice of appeal.

Financial Impact: The plaintiff is seeking more than \$100 million in compensatory and consequential damages. If Heartland Biogas does not appeal the last decision, the outstanding liability to the state is \$0.

TRANSPORTATION

Flatiron/AECOM Construction Delays Dispute

Case: Flatiron/AECOM (“F/A”) is a joint venture and is the Colorado Department of Transportation’s (CDOT) design-build contract on the C470 road construction project. F/A is approximately three years past due in completing the project. Currently F/A has completed approximately 90 percent of the project, but several outstanding issues remain. In May 2022, F/A finally submitted a request for equitable adjustment (REA) to the Project team in which they asserted that CDOT owes them \$64 million, alleging they are owed damages for weather conditions and a retaining wall. F/A’s REA alleged \$64 million in damages. CDOT has rejected the REA for being untimely.

Status: CDOT has also filed its own breach of contract action against F/A in Denver District Court on August 1, 2022 to recoup the damages CDOT incurred based on F/A delivering the Project three years late. It is expected that F/A will file a counterclaim against CDOT. F/A has appealed the decision that its REA was untimely to a AAA Arbitration panel, pursuant contract terms. CDOT’s Denver District Court breach of contract action against F/A has been stayed pending a decision in the AAA arbitration matter. On September 12, 2023, counsel for both parties argued before the AAA panel whether the panel has jurisdiction to consider the claims brought by F/A.

Financial Impact: The request for equitable adjustment (REA) that F/A submitted alleges they are owed \$64 million, which amount was reasserted in the AAA arbitration appeal. CDOT believes it has valid defenses to all of F/A’s allegations and also is seeking to recover its own damages through the breach of contract action.

APPENDIX A NUMBERS PAGES

Appendix A details actual expenditures for the last two fiscal years, the appropriation for the current fiscal year, and the requested appropriation for next fiscal year. This information is listed by line item and fund source.

Appendix A: Numbers Pages

	FY 2021-22 Actual	FY 2022-23 Actual	FY 2023-24 Appropriation	FY 2024-25 Request	Request vs. Appropriation
--	----------------------	----------------------	-----------------------------	-----------------------	------------------------------

DEPARTMENT OF LAW Phil Weiser, Attorney General

(1) ADMINISTRATION

Personal Services	<u>4,451,592</u>	<u>4,875,015</u>	<u>5,465,244</u>	<u>6,346,331</u>	*
FTE	42.8	51.2	56.3	59.9	
General Fund	1,113,042	1,545,779	16,651	0	
Cash Funds	0	0	0	0	
Reappropriated Funds	3,338,550	3,329,236	5,448,593	6,346,331	
Federal Funds	0	0	0	0	
Office of Community Engagement	<u>667,372</u>	<u>986,465</u>	<u>1,009,080</u>	<u>1,539,147</u>	*
FTE	6.0	8.2	8.8	14.0	
General Fund	554,665	827,392	994,080	1,058,830	
Cash Funds	112,707	159,073	15,000	480,317	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	
Patterns and Practice Investigations	<u>176,262</u>	<u>339,958</u>	<u>449,057</u>	<u>0</u>	*
FTE	1.0	1.9	2.8	0.0	
General Fund	176,262	339,958	449,057	0	
Cash Funds	0	0	0	0	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	

* Indicates this line item is impacted by an incremental change requested by the Department.

Appendix A: Numbers Pages

	FY 2021-22 Actual	FY 2022-23 Actual	FY 2023-24 Appropriation	FY 2024-25 Request	Request vs. Appropriation
Health, Life, and Dental	<u>6,008,122</u>	<u>6,529,977</u>	<u>7,869,083</u>	<u>8,274,908</u>	
General Fund	1,290,587	1,501,660	1,960,401	2,117,201	
Cash Funds	966,405	813,530	1,027,736	1,367,510	
Reappropriated Funds	3,595,030	4,040,208	4,616,121	4,589,182	
Federal Funds	156,100	174,579	264,825	201,015	
Short-term Disability	<u>79,236</u>	<u>89,614</u>	<u>97,310</u>	<u>112,933</u>	
General Fund	17,233	21,360	23,827	27,748	
Cash Funds	12,499	10,363	11,412	16,808	
Reappropriated Funds	47,300	55,825	59,491	65,850	
Federal Funds	2,204	2,066	2,580	2,527	
S.B. 04-257 Amortization Equalization Disbursement	<u>2,476,156</u>	<u>2,800,422</u>	<u>3,257,151</u>	<u>3,764,412</u>	
General Fund	538,541	667,499	798,952	924,930	
Cash Funds	390,598	323,841	374,142	560,267	
Reappropriated Funds	1,478,141	1,744,524	1,997,853	2,194,990	
Federal Funds	68,876	64,558	86,204	84,225	
S.B. 06-235 Supplemental Amortization Equalization Disbursement	<u>2,476,156</u>	<u>2,800,422</u>	<u>3,257,151</u>	<u>3,764,412</u>	
General Fund	538,541	667,499	798,952	924,930	
Cash Funds	390,598	323,841	374,142	560,267	
Reappropriated Funds	1,478,141	1,744,524	1,997,853	2,194,990	
Federal Funds	68,876	64,558	86,204	84,225	

Appendix A: Numbers Pages

	FY 2021-22 Actual	FY 2022-23 Actual	FY 2023-24 Appropriation	FY 2024-25 Request	Request vs. Appropriation
Salary Survey for Classified Employees	<u>468,752</u>	<u>473,763</u>	<u>932,933</u>	<u>974,013</u>	
General Fund	139,945	140,618	271,952	263,669	
Cash Funds	152,845	141,955	301,885	344,258	
Reappropriated Funds	142,474	157,267	290,163	323,444	
Federal Funds	33,488	33,923	68,933	42,642	
Salary Survey for Exempt Employees	<u>1,620,558</u>	<u>2,608,975</u>	<u>6,434,758</u>	<u>4,538,984</u>	
General Fund	352,456	558,626	1,341,356	1,041,541	
Cash Funds	255,634	95,414	249,210	368,706	
Reappropriated Funds	967,392	1,938,380	4,817,904	3,087,811	
Federal Funds	45,076	16,555	26,288	40,926	
PERA Direct Distribution	<u>1,214,732</u>	<u>935,196</u>	<u>198,235</u>	<u>1,409,357</u>	
General Fund	297,982	0	54,306	377,817	
Cash Funds	191,616	174,463	24,112	209,758	
Reappropriated Funds	725,134	760,733	119,817	821,782	
Federal Funds	0	0	0	0	
Workers' Compensation	<u>186,397</u>	<u>191,851</u>	<u>181,482</u>	<u>248,609</u>	
General Fund	43,923	44,744	48,232	64,780	
Cash Funds	30,222	29,272	23,873	32,744	
Reappropriated Funds	106,900	112,712	102,966	142,820	
Federal Funds	5,352	5,123	6,411	8,265	
Attorney Registration and Continuing Legal Education	<u>142,566</u>	<u>149,911</u>	<u>176,036</u>	<u>201,977</u>	*
General Fund	23,174	26,505	33,987	38,995	
Cash Funds	7,317	5,765	4,465	5,123	
Reappropriated Funds	111,587	117,153	135,803	155,816	
Federal Funds	488	488	1,781	2,043	

* Indicates this line item is impacted by an incremental change requested by the Department.

Appendix A: Numbers Pages

	FY 2021-22 Actual	FY 2022-23 Actual	FY 2023-24 Appropriation	FY 2024-25 Request	Request vs. Appropriation
Operating Expenses	<u>202,917</u>	<u>210,717</u>	<u>245,867</u>	<u>244,597</u>	*
General Fund	0	0	0	0	
Cash Funds	0	0	0	0	
Reappropriated Funds	202,917	210,717	245,867	244,597	
Federal Funds	0	0	0	0	
Legal Services	<u>26,626</u>	<u>85,019</u>	<u>212,826</u>	<u>202,909</u>	
General Fund	10,227	32,656	82,398	81,632	
Cash Funds	16,399	52,363	130,428	121,277	
Reappropriated Funds	0	0	0	0	
Administrative Law Judge Services	<u>197</u>	<u>1,042</u>	<u>1,118</u>	<u>551</u>	
Cash Funds	197	1,042	1,118	551	
Payment to Risk Management and Property Funds	<u>203,812</u>	<u>344,882</u>	<u>393,081</u>	<u>297,425</u>	
General Fund	48,028	80,436	104,470	77,501	
Cash Funds	33,044	52,619	51,704	39,172	
Reappropriated Funds	116,888	202,617	223,022	170,865	
Federal Funds	5,852	9,210	13,885	9,887	
Vehicle Lease Payments	<u>75,474</u>	<u>82,044</u>	<u>83,975</u>	<u>95,901</u>	
General Fund	33,741	34,570	33,200	39,401	
Cash Funds	15,605	15,440	15,000	15,500	
Reappropriated Funds	25,912	29,432	28,175	33,100	
Federal Funds	216	2,602	7,600	7,900	

* Indicates this line item is impacted by an incremental change requested by the Department.

Appendix A: Numbers Pages

	FY 2021-22 Actual	FY 2022-23 Actual	FY 2023-24 Appropriation	FY 2024-25 Request	Request vs. Appropriation
Information Technology Asset Maintenance	<u>1,121,022</u>	<u>1,111,254</u>	<u>1,369,433</u>	<u>1,369,433</u>	
General Fund	264,966	262,242	363,954	356,828	
Cash Funds	827,186	171,560	180,135	180,366	
Reappropriated Funds	28,870	653,462	776,971	786,714	
Federal Funds	0	23,990	48,373	45,525	
Ralph L. Carr Colorado Judicial Center Leased Space	<u>3,501,908</u>	<u>3,565,176</u>	<u>3,629,348</u>	<u>3,701,935</u>	
General Fund	825,200	831,472	964,571	964,602	
Cash Funds	567,784	543,947	477,401	487,574	
Reappropriated Funds	2,008,371	2,094,550	2,059,174	2,126,693	
Federal Funds	100,553	95,207	128,202	123,066	
Payments to OIT	<u>715,931</u>	<u>464,246</u>	<u>1,374,536</u>	<u>1,368,687</u>	
General Fund	168,703	108,241	364,996	356,635	
Cash Funds	116,083	70,864	181,008	180,267	
Reappropriated Funds	410,589	272,613	780,062	786,285	
Federal Funds	20,556	12,528	48,470	45,500	
CORE Operations	<u>44,664</u>	<u>49,216</u>	<u>38,349</u>	<u>16,307</u>	
General Fund	10,524	11,478	10,192	4,249	
Cash Funds	7,240	7,509	5,045	2,148	
Reappropriated Funds	25,617	28,915	21,758	9,368	
Federal Funds	1,283	1,314	1,354	542	
Digital Trunk Radio	<u>0</u>	<u>0</u>	<u>20,895</u>	<u>25,884</u>	*
General Fund	0	0	5,804	13,587	
Cash Funds	0	0	12,421	7,270	
Reappropriated Funds	0	0	2,670	5,027	
Federal Funds	0	0	0	0	

* Indicates this line item is impacted by an incremental change requested by the Department.

Appendix A: Numbers Pages

	FY 2021-22 Actual	FY 2022-23 Actual	FY 2023-24 Appropriation	FY 2024-25 Request	Request vs. Appropriation
DPA Administrative Services	<u>0</u>	<u>0</u>	<u>0</u>	<u>66,508</u>	*
General Fund	0	0	0	19,541	
Cash Funds	0	0	0	8,760	
Reappropriated Funds	0	0	0	38,207	
Federal Funds	0	0	0	0	
DHR State Agency Services	<u>0</u>	<u>0</u>	<u>0</u>	<u>102,590</u>	*
General Fund	0	0	0	30,142	
Cash Funds	0	0	0	13,512	
Reappropriated Funds	0	0	0	58,936	
Federal Funds	0	0	0	0	
DHR Training Services	<u>0</u>	<u>0</u>	<u>0</u>	<u>13,557</u>	*
General Fund	0	0	0	3,984	
Cash Funds	0	0	0	1,785	
Reappropriated Funds	0	0	0	7,788	
Federal Funds	0	0	0	0	
DHR Labor Relations Services	<u>0</u>	<u>0</u>	<u>0</u>	<u>58,559</u>	*
General Fund	0	0	0	17,205	
Cash Funds	0	0	0	7,713	
Reappropriated Funds	0	0	0	33,641	
Federal Funds	0	0	0	0	
Financial Operations and Reporting Services	<u>0</u>	<u>0</u>	<u>0</u>	<u>32,649</u>	*
General Fund	0	0	0	9,593	
Cash Funds	0	0	0	4,300	
Reappropriated Funds	0	0	0	18,756	
Federal Funds	0	0	0	0	

* Indicates this line item is impacted by an incremental change requested by the Department.

Appendix A: Numbers Pages

	FY 2021-22 Actual	FY 2022-23 Actual	FY 2023-24 Appropriation	FY 2024-25 Request	Request vs. Appropriation
Procurement and Contract Services	<u>0</u>	<u>0</u>	<u>0</u>	<u>20,220</u> *	
General Fund	0	0	0	5,941	
Cash Funds	0	0	0	2,663	
Reappropriated Funds	0	0	0	11,616	
Federal Funds	0	0	0	0	
Attorney General Discretionary Fund	<u>0</u>	<u>0</u>	<u>5,000</u>	<u>5,000</u>	
General Fund	0	0	5,000	5,000	
Paid Family and Medical Leave Insurance	<u>0</u>	<u>0</u>	<u>0</u>	<u>338,797</u>	
General Fund	0	0	0	83,244	
Cash Funds	0	0	0	50,424	
Reappropriated Funds	0	0	0	197,549	
Federal Funds	0	0	0	7,580	
Statewide training	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	0	0	0	0	
Cash Funds	0	0	0	0	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	
TOTAL - (1) Administration	25,860,452	28,695,165	36,701,948	39,136,592	6.6%
<i>FTE</i>	<u>49.8</u>	<u>61.3</u>	<u>67.9</u>	<u>73.9</u>	8.8%
General Fund	6,447,740	7,702,735	8,726,338	8,909,526	2.1%
Cash Funds	4,093,979	2,992,861	3,460,237	5,069,040	46.5%
Reappropriated Funds	14,809,813	17,492,868	23,724,263	24,452,158	3.1%
Federal Funds	508,920	506,701	791,110	705,868	(10.8%)

* Indicates this line item is impacted by an incremental change requested by the Department.

Appendix A: Numbers Pages

	FY 2021-22 Actual	FY 2022-23 Actual	FY 2023-24 Appropriation	FY 2024-25 Request	Request vs. Appropriation
(2) LEGAL SERVICES TO STATE AGENCIES					
Personal Services	<u>36,880,528</u>	<u>42,171,194</u>	<u>48,767,450</u>	<u>54,086,995</u>	
FTE	313.1	329.8	350.1	352.1	
General Fund	0	0	0	0	
Cash Funds	0	0	0	0	
Reappropriated Funds	36,880,528	42,171,194	48,767,450	54,086,995	
Federal Funds	0	0	0	0	
Operating and Litigation	<u>0</u>	<u>1,381,509</u>	<u>2,942,518</u>	<u>2,969,721</u>	
General Fund	0	0	0	0	
Cash Funds	0	0	200,000	200,000	
Reappropriated Funds	0	1,381,509	2,742,518	2,769,721	
Federal Funds	0	0	0	0	
Indirect Cost Assessment	<u>3,974,390</u>	<u>4,178,501</u>	<u>4,916,588</u>	<u>5,723,149</u>	
Cash Funds	1,314,518	1,522,148	1,867,378	1,990,242	
Reappropriated Funds	2,659,872	2,656,353	3,049,210	3,732,907	
TOTAL - (2) Legal Services to State Agencies	40,854,918	47,731,204	56,626,556	62,779,865	10.9%
FTE	<u>313.1</u>	<u>329.8</u>	<u>350.1</u>	<u>352.1</u>	0.6%
General Fund	0	0	0	0	0.0%
Cash Funds	1,314,518	1,522,148	2,067,378	2,190,242	5.9%
Reappropriated Funds	39,540,400	46,209,056	54,559,178	60,589,623	11.1%
Federal Funds	0	0	0	0	0.0%

Appendix A: Numbers Pages

	FY 2021-22 Actual	FY 2022-23 Actual	FY 2023-24 Appropriation	FY 2024-25 Request	Request vs. Appropriation
--	----------------------	----------------------	-----------------------------	-----------------------	------------------------------

(3) CRIMINAL JUSTICE AND APPELLATE

Special Prosecutions Unit	<u>4,087,810</u>	<u>4,647,127</u>	<u>5,488,135</u>	<u>7,106,363</u>	*
FTE	32.9	35.5	42.8	49.6	
General Fund	1,180,236	1,607,933	2,830,127	4,245,614	
Cash Funds	2,101,378	1,974,089	1,753,913	1,901,380	
Reappropriated Funds	806,196	1,065,105	904,095	959,369	
Federal Funds	0	0	0	0	
Auto Theft Prevention Grant	<u>154,979</u>	<u>166,430</u>	<u>172,300</u>	<u>203,299</u>	
FTE	1.0	1.0	1.0	1.0	
General Fund	0	0	0	0	
Cash Funds	0	0	0	0	
Reappropriated Funds	154,979	166,430	172,300	203,299	
Appellate Unit	<u>4,344,067</u>	<u>4,662,347</u>	<u>5,111,359</u>	<u>5,767,426</u>	
FTE	38.1	41.6	41.6	41.6	
General Fund	3,706,500	4,156,477	4,171,200	4,711,845	
Cash Funds	0	0	0	0	
Reappropriated Funds	637,567	505,870	940,159	1,055,581	
Federal Funds	0	0	0	0	
Medicaid Fraud Control Unit	<u>1,798,354</u>	<u>2,175,559</u>	<u>3,596,188</u>	<u>0</u>	*
FTE	16.5	17.3	28.0	0.0	
General Fund	453,785	534,561	899,047	0	
Cash Funds	0	0	0	0	
Reappropriated Funds	0	0	0	0	
Federal Funds	1,344,569	1,640,998	2,697,141	0	

* Indicates this line item is impacted by an incremental change requested by the Department.

Appendix A: Numbers Pages

	FY 2021-22 Actual	FY 2022-23 Actual	FY 2023-24 Appropriation	FY 2024-25 Request	Request vs. Appropriation
Peace Officers Standards and Training Board Support	<u>4,678,056</u>	<u>5,530,592</u>	<u>6,216,262</u>	<u>6,235,595</u>	
FTE	13.7	14.7	16.0	16.0	
General Fund	0	0	0	0	
Cash Funds	4,678,056	5,530,592	6,216,262	6,235,595	
Reappropriated Funds	0	0	0	0	
Indirect Cost Assessment	<u>648,872</u>	<u>662,343</u>	<u>843,468</u>	<u>616,039</u> *	
General Fund	0	0	0	0	
Cash Funds	388,989	398,827	442,857	510,386	
Reappropriated Funds	87,187	85,276	94,690	105,653	
Federal Funds	172,696	178,240	305,921	0	
TOTAL - (3) Criminal Justice and Appellate	15,712,138	17,844,398	21,427,712	19,928,722	(7.0%)
FTE	<u>102.2</u>	<u>110.1</u>	<u>129.4</u>	<u>108.2</u>	(16.4%)
General Fund	5,340,521	6,298,971	7,900,374	8,957,459	13.4%
Cash Funds	7,168,423	7,903,508	8,413,032	8,647,361	2.8%
Reappropriated Funds	1,685,929	1,822,681	2,111,244	2,323,902	10.1%
Federal Funds	1,517,265	1,819,238	3,003,062	0	(100.0%)

* Indicates this line item is impacted by an incremental change requested by the Department.

Appendix A: Numbers Pages

	FY 2021-22 Actual	FY 2022-23 Actual	FY 2023-24 Appropriation	FY 2024-25 Request	Request vs. Appropriation
--	----------------------	----------------------	-----------------------------	-----------------------	------------------------------

(4) WATER AND NATURAL RESOURCES

Federal and Interstate Water Unit	<u>531,255</u>	<u>783,150</u>	<u>1,049,696</u>	<u>1,478,697</u>	*
FTE	4.5	5.8	8.1	10.3	
General Fund	531,255	783,150	1,049,696	1,478,697	
Cash Funds	0	0	0	0	
Reappropriated Funds	0	0	0	0	
Defense of the Colorado River Basin Compact	<u>465,929</u>	<u>873,167</u>	<u>977,107</u>	<u>1,036,399</u>	
FTE	3.3	3.8	3.5	3.5	
General Fund	0	0	0	0	
Cash Funds	465,929	873,167	977,107	1,036,399	
Reappropriated Funds	0	0	0	0	
Defense of the Republican River Compact	<u>49,329</u>	<u>19,915</u>	<u>110,000</u>	<u>110,000</u>	
General Fund	0	0	0	0	
Cash Funds	49,329	19,915	110,000	110,000	
Reappropriated Funds	0	0	0	0	
Consultant Expenses	<u>121,860</u>	<u>90,363</u>	<u>475,000</u>	<u>475,000</u>	
Cash Funds	121,860	90,363	475,000	475,000	
Reappropriated Funds	0	0	0	0	

* Indicates this line item is impacted by an incremental change requested by the Department.

Appendix A: Numbers Pages

	FY 2021-22 Actual	FY 2022-23 Actual	FY 2023-24 Appropriation	FY 2024-25 Request	Request vs. Appropriation
Comprehensive Environmental Response, Compensation and Liability Act	<u>203,573</u>	<u>221,052</u>	<u>594,444</u>	<u>625,474</u>	
FTE	1.8	2.1	3.5	3.5	
General Fund	0	0	0	0	
Cash Funds	0	0	0	0	
Reappropriated Funds	203,573	221,052	594,444	625,474	
Federal Funds	0	0	0	0	
Indirect Cost Assessment	<u>46,947</u>	<u>45,918</u>	<u>50,987</u>	<u>56,890</u>	
Reappropriated Funds	46,947	45,918	50,987	56,890	
TOTAL - (4) Water and Natural Resources	1,418,893	2,033,565	3,257,234	3,782,460	16.1%
FTE	<u>9.6</u>	<u>11.7</u>	<u>15.1</u>	<u>17.3</u>	<u>14.6%</u>
General Fund	531,255	783,150	1,049,696	1,478,697	40.9%
Cash Funds	637,118	983,445	1,562,107	1,621,399	3.8%
Reappropriated Funds	250,520	266,970	645,431	682,364	5.7%
Federal Funds	0	0	0	0	0.0%

Appendix A: Numbers Pages

	FY 2021-22 Actual	FY 2022-23 Actual	FY 2023-24 Appropriation	FY 2024-25 Request	Request vs. Appropriation
--	----------------------	----------------------	-----------------------------	-----------------------	------------------------------

(5) CONSUMER PROTECTION

Consumer Protection, Antitrust, and Civil Rights	<u>4,010,041</u>	<u>4,891,482</u>	<u>5,728,974</u>	<u>6,590,522</u> *
FTE	0.0	0.0	41.8	44.1
General Fund	42,780	2,350,536	2,728,990	2,955,116
Cash Funds	3,828,945	2,394,198	2,832,352	3,452,360
Reappropriated Funds	138,316	146,748	167,632	183,046
Federal Funds	0	0	0	0
Consumer Credit Unit	<u>2,152,615</u>	<u>2,634,558</u>	<u>2,568,079</u>	<u>2,715,818</u>
FTE	21.7	23.1	25.0	25.0
General Fund	80,000	0	0	0
Cash Funds	2,072,615	2,634,558	2,568,079	2,715,818
Reappropriated Funds	0	0	0	0
Federal Funds	0	0	0	0
False Claims Recovery Act Reimbursements	<u>0</u>	<u>0</u>	<u>300,000</u>	<u>300,000</u>
Cash Funds	0	0	300,000	300,000
Patterns and Practices	<u>0</u>	<u>0</u>	<u>0</u>	<u>490,118</u> *
FTE	0.0	0.0	0.0	3.0
General Fund	0	0	0	490,118
Medicaid Fraud Control Unit	<u>0</u>	<u>0</u>	<u>0</u>	<u>3,725,239</u> *
FTE	0.0	0.0	0.0	28.0
General Fund	0	0	0	931,310
Federal Funds	0	0	0	2,793,929

* Indicates this line item is impacted by an incremental change requested by the Department.

Appendix A: Numbers Pages

	FY 2021-22 Actual	FY 2022-23 Actual	FY 2023-24 Appropriation	FY 2024-25 Request	Request vs. Appropriation
Indirect Cost Assessment	<u>767,246</u>	<u>625,791</u>	<u>738,581</u>	<u>1,165,435</u> *	
General Fund	0	0	0	0	
Cash Funds	747,126	606,112	716,729	799,713	
Reappropriated Funds	20,120	19,679	21,852	24,381	
Federal Funds	0	0	0	341,341	
TOTAL - (5) Consumer Protection	6,929,902	8,151,831	9,335,634	14,987,132	60.5%
<i>FTE</i>	<u>21.7</u>	<u>23.1</u>	<u>66.8</u>	<u>100.1</u>	<u>49.9%</u>
General Fund	122,780	2,350,536	2,728,990	4,376,544	60.4%
Cash Funds	6,648,686	5,634,868	6,417,160	7,267,891	13.3%
Reappropriated Funds	158,436	166,427	189,484	207,427	9.5%
Federal Funds	0	0	0	3,135,270	0.0%

* Indicates this line item is impacted by an incremental change requested by the Department.

Appendix A: Numbers Pages

	FY 2021-22 Actual	FY 2022-23 Actual	FY 2023-24 Appropriation	FY 2024-25 Request	Request vs. Appropriation
(6) SPECIAL PURPOSE					
District Attorneys' Salaries	<u>2,800,512</u>	<u>2,810,808</u>	<u>2,813,096</u>	<u>2,878,674</u>	
General Fund	2,800,512	2,810,808	2,813,096	2,878,674	
Deputy District Attorney Training	<u>500,000</u>	<u>350,000</u>	<u>350,000</u>	<u>350,000</u>	
General Fund	500,000	350,000	350,000	350,000	
District Attorney Assistance for Bond Hearings Grants	<u>0</u>	<u>600,000</u>	<u>600,000</u>	<u>600,000</u>	
General Fund	0	600,000	600,000	600,000	
Litigation Management	<u>89,917</u>	<u>110,128</u>	<u>1,675,700</u>	<u>200,000</u>	
Cash Funds	89,917	110,128	1,675,700	200,000	
Tobacco Litigation	<u>80,349</u>	<u>3,270</u>	<u>100,000</u>	<u>100,000</u>	
Cash Funds	80,349	3,270	100,000	100,000	
CORA OML Attorney	<u>0</u>	<u>80,784</u>	<u>101,808</u>	<u>109,174</u>	
FTE	0.0	0.7	1.0	1.0	
General Fund	0	80,784	101,808	109,174	
Cash Funds	0	0	0	0	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	
TOTAL - (6) Special Purpose	3,470,778	3,954,990	5,640,604	4,237,848	(24.9%)
FTE	<u>0.0</u>	<u>0.7</u>	<u>1.0</u>	<u>1.0</u>	0.0%
General Fund	3,300,512	3,841,592	3,864,904	3,937,848	1.9%
Cash Funds	170,266	113,398	1,775,700	300,000	(83.1%)
Reappropriated Funds	0	0	0	0	0.0%
Federal Funds	0	0	0	0	0.0%

Appendix A: Numbers Pages

	FY 2021-22 Actual	FY 2022-23 Actual	FY 2023-24 Appropriation	FY 2024-25 Request	Request vs. Appropriation
TOTAL - Department of Law	94,247,081	108,411,153	132,989,688	144,852,619	8.9%
<i>FTE</i>	<u>496.4</u>	<u>536.7</u>	<u>630.3</u>	<u>652.6</u>	<u>3.5%</u>
General Fund	15,742,808	20,976,984	24,270,302	27,660,074	14.0%
Cash Funds	20,032,990	19,150,228	23,695,614	25,095,933	5.9%
Reappropriated Funds	56,445,098	65,958,002	81,229,600	88,255,474	8.6%
Federal Funds	2,026,185	2,325,939	3,794,172	3,841,138	1.2%

APPENDIX B FOOTNOTES AND INFORMATION REQUESTS

UPDATE ON LONG BILL FOOTNOTES

The General Assembly includes footnotes in the annual Long Bill to: (a) set forth purposes, conditions, or limitations on an item of appropriation; (b) explain assumptions used in determining a specific amount of an appropriation; or (c) express legislative intent relating to any appropriation. Footnotes to the 2023 Long Bill (S.B. 23-214) can be found at the end of each departmental section of the bill at <https://leg.colorado.gov/bills/sb23-214>. The Long Bill footnotes relevant to this document are listed below.

- 75 Department of Law, Legal Services to State Agencies -- In making this appropriation, it is the General Assembly's intent that hourly billing rates charged by the Department for legal services to state agencies not exceed \$133.30 per hour for attorneys and not exceed \$97.72 per hour for legal assistants, which equates to a blended legal rate of \$128.02 per hour.

COMMENT: The Department is billing client agencies at the stated rates. JBC staff will have a new recommendation for the 2023 Long Bill once decisions that impact the legal services to state agencies rates are made during figure setting.

UPDATE ON LONG BILL REQUESTS FOR INFORMATION

The Joint Budget Committee annually submits requests for information to executive departments and the judicial branch via letters to the Governor, the Chief Justice, and other elected officials. Each request is associated with one or more specific Long Bill line item(s), and the requests have been prioritized by the Joint Budget Committee as required by Section 2-3-203 (3), C.R.S. Copies of these letters are included as Appendix L of the annual Appropriations Report. The requests for information relevant to this document are listed below.

REQUESTS AFFECTING MULTIPLE DEPARTMENTS

- 1 All Departments -- The Departments are requested to provide by November 1 of each fiscal year responses to the following:
 - Based on the Department's most recent available record, what is the FTE vacancy and turnover rate: (1) by department; (2) by division; (3) by program for programs with at least 20 FTE, and (4) by occupational class for classes that are located within a larger occupational group containing at least 20 FTE?
 - To what does the Department attribute this turnover/vacancy experience?
 - Do the statewide compensation policies or practices administered by the Department of Personnel help or hinder the department in addressing vacancy or turnover issues?

- How much in vacancy savings has the Department had in each of the past five fiscal years? How has the Department utilized these funds (i.e. increasing salaries within the salary range, providing bonuses or additional pay for certain positions, hiring additional staff, etc.)? Please provide a breakdown of the expenditures from vacancy savings, including the amount and purpose, for the past five fiscal years.

COMMENT: The Department submitted its response on October 4, 2022 because this request was included to only be made for the 2023 legislative session. Due to staff error, the request persisted into the letter to independent agencies in preparation for the 2024 session. This, the agency provided the same report to comply with the request, but it is not attached here because of the error.

REQUESTS AFFECTING ONLY THIS DEPARTMENT

- 2 Department of Law, Criminal Justice and Appellate, Appellate Unit -- The Department is requested to provide by November 1, 2023 a report concerning the Appellate Unit's progress in reducing its case backlog, including the following data for FY 2023-24: the number of opening briefs received; the number of answer briefs filed; and the case backlog as of June 30, 2022.

COMMENT: The Department complied with this information request, which staff summarized in the General Factors Driving the Budget section of this document.

- 3 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: This information request is still forthcoming. The Department has consistently complied with this annual request for information, which supplements the statutory annual report with additional information about the unit's criminal investigations.

- 4 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 detail of the costs categorized by personnel, operating, and travel, for each training effort.

COMMENT: The CDAC submitted its response as requested before November 1, 2023, which can be found in Appendix D2. The Department of Law serves as a facilitator connecting the appropriations with the non-state entity CDAC, and thus it operates much like a grant from the Department of Law. JBC Staff highlights that CDAC’s response includes a note that it intends to retain funding appropriated in FY 2022-23 to expend on similar trainings and training materials in FY 2023-24. Retaining and, to borrow budget terms of art, “rolling forward” CDACs funding between years, requires no further action by the General Assembly. Nonetheless, JBC Staff is pleased that CDAC included this information in the RFI and believes it to be evidence of the transparency the General Assembly requires when directly funding activities of a private entity.

APPENDIX C

DEPARTMENT ANNUAL PERFORMANCE REPORT

Pursuant to Section 2-7-203 (1)(b), C.R.S., the Department of Law is required to publish an **Annual Performance Report** for the *previous fiscal year* by November 1 of each year. This report is to include a summary of the Department's performance plan and most recent performance evaluation for the designated fiscal year. In addition, pursuant to Section 2-7-204 (3)(a)(I), C.R.S., the department is required to develop a **Performance Plan** and submit the plan for the *current fiscal year* to the Joint Budget Committee and appropriate Joint Committee of Reference by July 1 of each year.

For consideration by the Joint Budget Committee in prioritizing the Department's FY 2024-25 budget request, the FY 2022-23 Annual Performance Report and the FY 2023-24 Performance Plan can be found at the following link:

<https://coag.gov/resources/budget-and-accounting/>

APPENDIX D RESPONSES TO REQUESTS FOR INFORMATION SUBMITTED BY THE DEPARTMENT

APPENDIX D CONTENTS

Department of Law Backlog Progress of Appellate Unit.....	D2
Department of Law Colorado District Attorneys' Council Training Expenditures	D4

APPENDIX D-1: BACKLOG PROGRESS OF APPELLATE UNIT

Department of Law FY 2022-23 RFI #1

Department of Law, Criminal Appeals Section -- The Department is requested to provide by November 1, 2023, a report concerning the Criminal Appeals Section's progress in reducing its case backlog, including the following data for FY 2022-23: the number of opening briefs received; the number of answer briefs filed; and the case backlog as of June 30, 2023.

Criminal Appeals Section backlog

Backlog and Incoming/Outgoing Cases

The Criminal Appeals Section experienced a decrease of 39% in the backlog of cases, down from 417 cases at the end of FY 2022 to 258 cases at the end of FY 2023. The Section received 628 opening briefs and filed 794 answer briefs.

Contributing Factors

Two primary factors contributed to the decrease in the backlog. First, the new attorneys the Section hired in the last fiscal year are now fully trained and operating at peak efficiency. At the same time, the Section's managerial staff has been more targeted and intentional in case assignments.

Second, there was a decrease of approximately 14% in the number of opening briefs filed by criminal defendants. The Section has no control over the quality or quantity of opening briefs filed.

Historical Analysis and Future Outlook

The backlog remained largely stagnant for the last seven years, with an overall average of 450 cases at any given time. However, a combination of new efficiency strategies and a decrease in the number of incoming briefs has enabled the section to significantly reduce the backlog:

Fiscal Year	Incoming Briefs	Outgoing Briefs	Backlog Total
2015-2016	1140	986	429
2016-2017	968	931	466
2017-2018	971	943	494
2018-2019	1009	1026	463
2019-2020	970	1019	423
2020-2021	958	877	493
2021-2022	734	803	417
2022-2023	628	794	258

In FY 2022-23, a combination of additional staff plus a decrease in the number of incoming briefs from criminal defendants resulted in a 39% decrease in the backlog, from 417 to 258 cases.

When a backlog of over 400 cases is allocated among the Section's 29 attorneys, the number of cases in each attorney's queue means that the most recently arrived case cannot be briefed for many months. A backlog of 250 cases, however, allows for a much more manageable number of cases per attorney and for more expedited briefing.

Delay in the appellate process is a problem, for several reasons. First, crime victims cannot truly achieve closure until the appeal of the defendant's conviction is resolved; decreasing the time taken to file appellate briefs extends the date when victims can achieve that closure. Second, for those convictions that are reversed on appeal, it is best to have a new trial sooner rather than later, since witnesses' memories may fade over time. Third, defendants with meritorious appellate arguments have a strong interest in having their appeals resolved as quickly as possible.

While the Section has successfully employed several different strategies for reducing the backlog with its existing staff (including expedited briefing for straightforward cases and in-house trainings on efficient brief writing), there are many factors over which the Section has no control. These include the number of briefs filed by criminal defendants; the size of the appellate record; the number of issues raised in each brief; and the complexity of the issues raised. The most certain way to hold the backlog to 250 cases is to maintain current staffing levels.

It is difficult to forecast the backlog's future outlook. While the effects of the COVID-19 pandemic on the Section are diminishing, they will likely continue to impact the Section for the next year. This is so because, on average, it takes approximately 1.5-2 years between the date of a criminal defendant's conviction and the date the Criminal Appeals Section receives the opening brief. Many trials that were postponed in 2021 due to the pandemic have now been concluded and the appeals in those cases are now filtering up to the appellate level. While it is impossible to predict the future, the Criminal Appeals Section is likely to see an influx of opening briefs over the next year. It is therefore crucial that the Section maintain current staffing levels.

The Section will continue to monitor the backlog, as well as the time it takes to file appellate briefs.

APPENDIX D-2: COLORADO DISTRICT ATTORNEYS' COUNCIL TRAINING ANNUAL RFI

Colorado District Attorneys' Council Training Fund Annual Report July 1, 2022 – June 30, 2023 (FY 22-23), RFI #3 HB 14-1144 Training Funds

Expenditures	
Personnel	\$126,094.72
Supplies & Operating	\$11,731.61
Travel	\$2,668.79
Registration Fees	\$133,025.00
Scholarships	\$35,090.82
Equipment	\$4,635.95
	\$313,246.89

Expenditure Summary

Personnel: Salary and benefits

As contemplated by the legislation, this funding covers one (60%) training and resource staff attorney for prosecution related trainings and services who is a readily available resource to prosecutors in every jurisdiction on case law, legislation and case strategy and preparation. He assists on prosecution related services including legislative issues and legal analysis of court decisions and often serves as a subject matter expert on such topics for prosecutors, law enforcement and legislators when necessary. This staff attorney travels the state on a regular basis and provided various in person trainings to prosecutors and law enforcement all over the state. He has also actively mentored new prosecutors in several offices by spending time with them in the courtroom and in reviewing and preparing cases. Further, he has been instrumental in assisting prosecutors around the state in creating and facilitating working groups on specialized areas of prosecution. The impact and benefit of this position has been significant to the rural offices in Colorado.

Supplies and Operating: Costs to organize trainings and training materials

Covered expenses included contractual fees to create and maintain a training library, which provided DA office staff with on-demand training opportunities. Many of these trainings were CLE accredited for attorneys. We use Zoom webinars to increase the number of people we are able to train as webinars can be offered virtually and are later recorded and edited for on-demand viewing. Legislative Update booklets, written and edited by our staff, are provided as valuable training resource and is also covered under this portion of the budget.

Colorado District Attorneys' Council Training Fund Annual Report
July 1, 2022 – June 30, 2023 (FY 22-23), RFI #3
HB 14-1144 Training Funds

Registration Fees: Reduced registration fees for DA office members

The HB 1144 funding allowed CDAC to reduce the registration fees for six previously existing CDAC trainings charged to DA office members. Registration fees for the major case course (3 day) were reduced from \$160 to \$0, from \$260 to \$105 for the annual conference, from \$210 to \$0 for four trial techniques courses (5 day), and from \$80 to \$0 for a felony prosecution skills class (3 day).

This resulted in savings of to every one of the district attorneys' offices. Total savings for the offices to send the 848 attendees was \$133,025. The net effect of this funding resulted in the ability of each office in the state to offer more training to their prosecutors than was previously available through local budgets alone. The conference provides a single training where the prosecutors can fulfill nearly all of their required CLE credits at one time each year.

Equipment: Equipment for Trainings

This year we were able to purchase pieces of equipment that will now allow our staff to produce training videos. The equipment purchased will give us the ability to produce high quality trainings that can be live streamed to our DA offices as well as recorded for on-demand viewing. This up-front cross will save us future costs of hiring a videographer and reduce the travel expenses for individuals to travel to attend a live training.

Note on Budget:

CDAC will be rolling the remaining funds from the FY 22/23 budget into the FY 23/24 budget. We anticipate using these funds to improve upon and update our member access portion of our current website, which gives DA office staff access to recorded trainings, training materials, and sample motions. With the COVID era waning, we anticipate many more request this year for national trainings that will require registration fees and travel expenses.