

FY2010 SUPPLEMENTAL
BUDGET PROPOSAL

OFFICE OF THE
ATTORNEY GENERAL





Rob McKenna
ATTORNEY GENERAL OF WASHINGTON
1125 Washington Street SE • PO Box 40100 • Olympia WA 98504-0100

October 16, 2009

Victor Moore, Director
Office of Financial Management
PO Box 43113
Olympia, WA 98504-3113

Dear Mr. Moore:

Enclosed is the Attorney General Office's (AGO) 2010 Supplemental Budget Request. In acknowledgement of the current economic climate, we have reviewed all of our operations for efficiencies, as requested by your office. This request includes critical agency litigation needs and administrative adjustments. Working within fiscal constraints, we will continue to provide the best possible legal services for our clients and the citizens of the state of Washington.

The litigation-related requests shown below are for cases impacting the state. They include:

- Multi-State Tobacco Litigation
- Moore, et al. v. HCA Litigation
- McCleary v. Washington Litigation
- U.S. Department of Labor Litigation
- Referendum 71 Litigation

We have taken steps to limit the proposed increases to the AGO budget by eliminating requests which were not absolutely essential. The remaining critical agency needs include:

- Inter-Agency Agreement Conversion
- General Fund State Reductions (per your instructions of September 23, 2009)

If you have any questions about this budget request, please contact my Chief of Staff, Randy Peple, at (360) 586-5579. Thank you for your assistance and continued cooperation.

Sincerely,

ROB MCKENNA
Attorney General

RMM/jlg
Enclosure

cc: Randy Peple, Chief of Staff, Attorney General's Office
Michelle Underwood, Chief, Financial Services Division, Attorney General's Office



OFFICE OF THE ATTORNEY GENERAL
Fiscal Year 2010 Supplemental Budget
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FY2010 SUPPLEMENTAL
BUDGET PROPOSAL

SECTION A

OVERVIEW



AGO MISSION, VISION AND VALUES

AGO MISSION

AS AN INDEPENDENT CONSTITUTIONAL OFFICE, AND LEGAL COUNSEL TO STATE GOVERNMENT, WE SERVE THE CITIZENS OF WASHINGTON WITH THE HIGHEST STANDARDS OF EXCELLENCE, ETHICS AND EFFECTIVENESS.

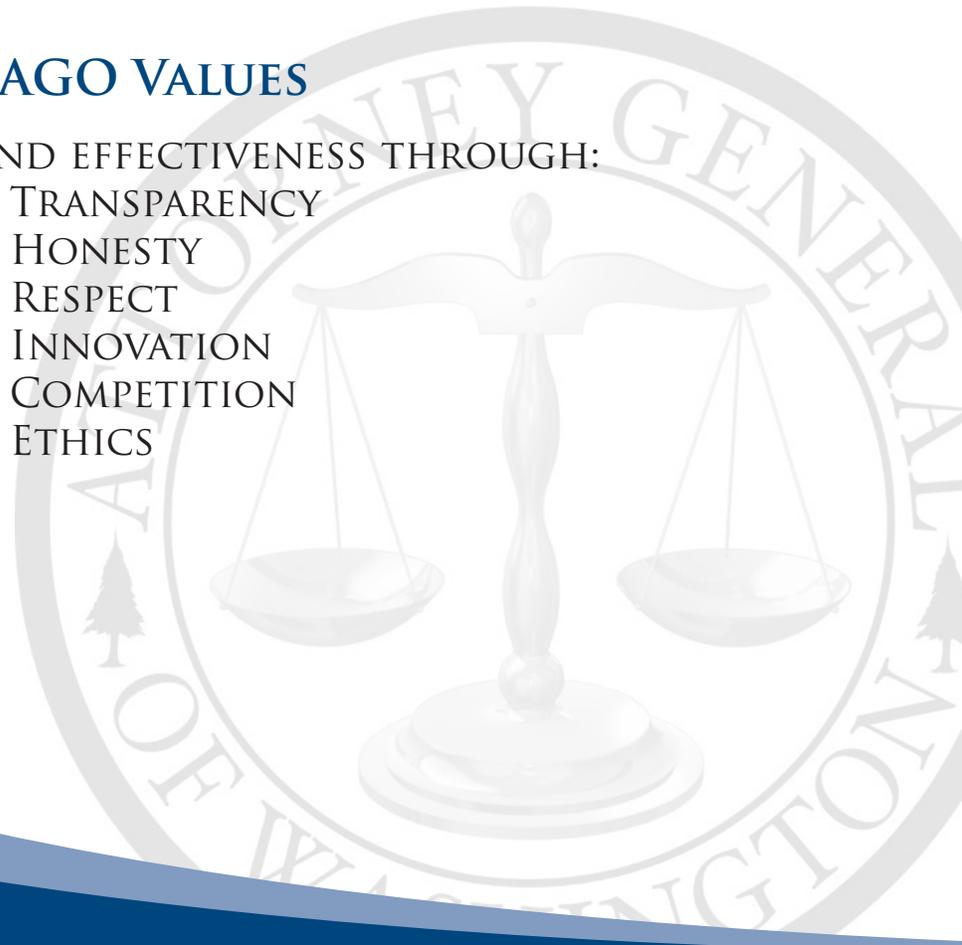
AGO VISION

FOR THE OFFICE OF THE ATTORNEY GENERAL TO BE RECOGNIZED AS THE BEST PUBLIC LAW OFFICE IN THE UNITED STATES.

AGO VALUES

EXCELLENCE AND EFFECTIVENESS THROUGH:

- › TRANSPARENCY
- › HONESTY
- › RESPECT
- › INNOVATION
- › COMPETITION
- › ETHICS



OFFICE OF THE ATTORNEY GENERAL

Rob McKenna
Attorney General

Karen Sushak
Executive Scheduler

Judy Gaul
Executive Assistant

Shelley Rohr
Executive Assistant
HLB Manager

Randy Pepple
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Tammy Teeter
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Admin Lead

Delores Amber
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Rose Sampson
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Brian Moran
Chief Deputy

Kim Warren
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Chris Johnson
Policy Director

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Michelle Underwood
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Governmental Affairs Director

Melanie deLeon
Executive Ethics Board Director

Shirley Battan
Deputy

Rob Costello
Deputy

Christina Beusch
Deputy

Tina Kondo
Deputy

Nancy Hovis
Deputy

Tim Ford
Open Government Ombudsman

Cami Feek
Facilities

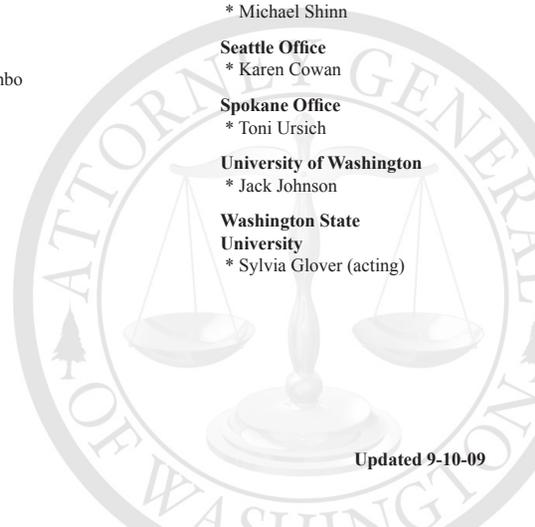
Pam Skinner
Human Resources

Andy Hill
Information Services

Elaine Ganga
Executive Assistant

Ross Bunnell
Executive Assistant

- Agriculture & Health**
* Joyce Roper
- Labor & Industries**
* Evelyn Lopez
- Labor & Personnel**
* Paige Dietrich
- Licensing & Admin Law**
* Diane McDaniel
- Research Center**
* Jane Halligan
- SHS-Seattle**
* Mary Li
- Tacoma Office**
* Gretchen Leanderson
- Recruitment**
- Attorney Training**
- Attorney Transfers**
- Diversity Advisory Committee**
- Poiley Manual**
- Ecology**
* Mary Sue Wilson
- Fish Wildlife & Parks**
* Joe Shorin
- Natural Resources**
* Paddy O'Brien
- Tobacco Litigator**
* Rusty Fallis
- Torts**
* Howard Fischer
- Transportation & Public Construction**
* Bryce Brown
- Tribal Issues Coordinator**
- Corrections**
* Tim Lang
- Government Compliance & Enforcement**
* Linda Dalton
- Government Operations**
* Mary Ellen Combo
- Revenue**
* Cam Comfort
- SHS-Olympia**
* Rochelle Tillet
- Utilities & Transportation**
* Sally Brown
- Public Records**
* LaDona Jensen
- Consumer Protection**
* Doug Walsh
- Public Counsel Unit**
* Simon fitch
- Antitrust**
- Criminal Justice**
* Lana Weinmann
- Education**
* Dave Stolier
- Regional Services**
* Michael Shinn
- Seattle Office**
* Karen Cowan
- Spokane Office**
* Toni Ursich
- University of Washington**
* Jack Johnson
- Washington State University**
* Sylvia Glover (acting)



FY2010 SUPPLEMENTAL
BUDGET PROPOSAL

SECTION B

RECOMMENDATION
SUMMARY



Recommendation Summary

Agency: 100 Office of Attorney General

3:30:39PM

10/8/2009

Dollars in Thousands

	Annual Average FTEs	General Fund State	Other Funds	Total Funds
2009-11 Current Biennium Total				
Total Carry Forward Level				
Percent Change from Current Biennium				
Carry Forward plus Workload Changes				
Percent Change from Current Biennium				
M2 AK Multi-State Tobacco Litigation	2.3	792		792
M2 AL Moore v HCA Litigation	1.2		1,651	1,651
M2 AM McCleary v Washington Litigation	1.1		779	779
M2 AN Inter Agency Agreement Conversion	7.9		2,078	2,078
M2 AP US Dept of Labor Litigation				
M2 AQ Referendum 71 Litigation	0.5		171	171
Total Maintenance Level	12.9	792	4,679	5,471
Percent Change from Current Biennium				
PL AR General Fund State Reduction	(1.7)	(174)		(174)
Subtotal - Performance Level Changes	(1.7)	(174)		(174)
2009-11 Total Proposed Budget	11.3	618	4,679	5,297
Percent Change from Current Biennium				

Recommendation Summary

Agency: 100

3:30:39PM

10/8/2009

Dollars in Thousands

Annual Average FTEs	General Fund State	Other Funds	Total Funds
------------------------	-----------------------	-------------	-------------

M2 AK Multi-State Tobacco Litigation

The Office of the Attorney General (AGO) requests \$792,000 and 2.3 FTEs in the 2009-11 biennium to fund legal services for a national arbitration under the Tobacco Master Settlement Agreement (MSA). An unfavorable result in the arbitration potentially could result in a reduction of up to \$130 million in the amount of MSA money that will be available to the legislature in future biennia.

M2 AL Moore v HCA Litigation

The Office of the Attorney General (AGO) requests \$1,651,000 and 2.3 FTEs in FY2010 to fund continuing legal services related to Moore, et al. v. Health Care Authority, a class action seeking damages related to health care benefits for part-time employees in many state agencies and institutions.

M2 AM McCleary v Washington Litigation

The Office of the Attorney General (AGO) requests \$779,000 and 2.1 FTEs in Fiscal Year (FY) 2010 to fund continuing legal services related to McCleary v. Washington, an action challenging the method and level of funding provided by the State for basic education.

M2 AN Inter Agency Agreement Conversion

The Office of the Attorney General (AGO) requests \$2,077,632 and 7.9 FTEs in the 2009-11 biennium to provide legal services that were formerly managed through the use of Inter Agency Agreements (IAAs).

M2 AP US Dept of Labor Litigation

The Office of the Attorney General (AGO) requests client allocations to fund legal services in response to United States Department of Labor (US DOL) enforcement actions. The potential exposure to the State of Washington can be up to \$60,000,000 dollars - the Department of Social and Health Services (DSHS) estimated exposure is over \$40 million dollars and the Department of Corrections (DOC) estimated exposure is \$15 million dollars. There is also the potential for prejudgment interest.

M2 AQ Referendum 71 Litigation

The Office of the Attorney General (AGO) requests \$171,000, 0.5 FTE from August 1, 2009 through June 30, 2011 and litigation costs to fund defense of litigation related to Referendum 71 (R-71). This litigation includes a pending expedited appeal in the Ninth Circuit in Doe v. Reed. The case will likely involve application for review by the United States Supreme Court regardless of its outcome in the Ninth Circuit, as well as subsequent litigation of claims that remain in the federal district court.

PL AR General Fund State Reduction

The Office of the Attorney General (AGO) proposes a reduction of (\$90,000) and (1.7) FTE in Fiscal Year (FY) 2010, and a reduction of (\$84,000) and (1.6) FTE in FY2011 as directed in the Office of Financial Management (OFM) FY2010 Supplemental Budget Instructions.

FY2010 SUPPLEMENTAL
BUDGET PROPOSAL

SECTION C

DECISION
PACKAGES



State of Washington
Decision Package

FINAL

Agency: 100 Office of Attorney General
Decision Package Code/Title: AK Multi-State Tobacco Litigation
Budget Period: 2009-11
Budget Level: M2 - Inflation and Other Rate Changes

Recommendation Summary Text:

The Office of the Attorney General (AGO) requests \$792,000 and 2.3 FTEs in the 2009-11 biennium to fund legal services for a national arbitration under the Tobacco Master Settlement Agreement (MSA). An unfavorable result in the arbitration potentially could result in a reduction of up to \$130 million in the amount of MSA money that will be available to the legislature in future biennia.

Fiscal Detail

Operating Expenditures	<u>FY 2010</u>	<u>FY 2011</u>	<u>Total</u>
001-1 General Fund - Basic Account-State	446,000	346,000	792,000
Total Cost	446,000	346,000	792,000
Staffing	<u>FY 2010</u>	<u>FY 2011</u>	<u>Annual Average</u>
FTEs	2.3	2.3	2.3

Package Description:

This request is for \$792,000 and 0.8 Assistant Attorney General (AAG), 1.0 Paralegal, and 0.5 Legal Assistant in both FY2010 and FY2011.

For the past several years, the states ("Settling States") which includes Washington, and tobacco companies ("Participating Manufacturers" or "PMs") that are parties to the MSA, have been in dispute as to whether the PMs are entitled to a downward adjustment in the annual payment that they make to the Settling States under the MSA. If certain conditions are met, the PMs' annual payment obligation will be reduced as a result of the Non-Participating Manufacturer ("NPM") Adjustment under the MSA. However, the NPM Adjustment will not reduce the payment of any Settling State which enacted and diligently enforced statutes imposing payment obligations on NPMs that are similar in amount to those that the MSA imposes on PMs.

The issue of whether the Settling States diligently enforced their NPM statutes for the 2003 MSA sales year is the subject of a national arbitration that will commence in 2010. Virtually all of the 52 Settling States and nearly 50 PMs will be parties to this arbitration. The total amount in dispute is approximately \$1.2 billion. The MSA contains a complicated formula to determine how much each Settling State's individual share of the annual MSA payment will be reduced in the event of a NPM Adjustment.

If Washington loses its case in the arbitration, its share of future MSA payments may be reduced by an amount of up to \$130 million. Previous NPM Adjustment disputes between the Settling States and PMs were settled without the need for arbitration. In addition to the vast amount of money at stake, the precedential effect of this arbitration is likely to be very significant.

This request covers costs in the 2009-11 biennium for legal expenses relating to preparation and conduct of the arbitration. These

expenses will include attorney and paralegal time, and expert witness costs.

In addition, this request covers the anticipated assessments to Washington under a cost share agreement with other arbitrating states for common expenses relating to the conduct of the arbitration in FY2010, in the amount of \$60,000..

Also, Washington is responsible for a share of anticipated expenses for retaining shared outside counsel in FY2010, in the amount of \$25,000.

The AGO subject matter expert for this request is Sarian Scott, 360-586-2104.

Narrative Justification and Impact Statement

What specific performance outcomes does the agency expect?

The results of this request will enable the AGO to prepare adequately for the arbitration. The objective is to prepare and present the strongest case possible and thereby maximize the opportunity for a favorable result in the arbitration. Washington currently receives approximately \$180 million annually under the MSA.

Approximately 71% of this money, or roughly \$130 million each FY, is used by the legislature to fund various programs in state government. In the past these programs have included the Basic Health Plan and tobacco prevention and control, among others. An unfavorable result in the arbitration potentially could result in a reduction of up to \$130 million in the amount of MSA money that will be available to the legislature in future biennia.

This arbitration has enormous financial implications for all MSA Settling States. Moreover, because it will be the first NPM Adjustment arbitration held under the MSA, it is very likely to establish important precedent for future NPM Adjustment disputes. Thus, the ability to put on a strong case has both immediate and long-term financial implications for the state.

Performance Measure Detail

Activity: A010 Legal Services to State Agencies

Incremental Changes

No measures submitted for package

Is this decision package essential to implement a strategy identified in the agency's strategic plan?

This budget request implements goal #1.0 of the AGO Strategic Plan: "Provide efficient and effective representation to our client agencies."

The AGO provides a broad range of legal services to over 230 state agencies to enable them to achieve their missions.

This request is critical to the legislature's ability to provide state programs that are funded with MSA revenues.

Does this decision package provide essential support to one of the Governor's priorities?

Yes, this request supports the Governor's efforts with respect to Washington's Budget and Healthy Families. This request is intended to maximize the opportunity for a favorable result in the arbitration. A favorable result would prevent reductions in Washington's annual MSA revenues, thus helping to avoid additional stress to Washington's budget.

A favorable result would also provide more opportunities for the funding of health-related programs such as the Basic Health Plan and tobacco prevention and control, as well as other health-related programs which could be funded with MSA revenues.

Does this decision package make key contributions to statewide results? Would it rate as a high priority in the Priorities of Government process?

Yes, this request relates to the following Priority of Government: "Improve the health of Washingtonians." One of the economic rationales for the MSA is to require tobacco companies to internalize at least a portion of the external cost of the nation's tobacco addiction. To the extent that PMs are able to avoid making full annual MSA payments, they correspondingly avoid internalizing some of the costs of their products. Moreover, to the extent that the legislature may use MSA revenues to fund public health programs, this request similarly relates to improving the health of Washingtonians by seeking to maximize the amount of MSA revenue that Washington will receive.

What are the other important connections or impacts related to this proposal?

None.

What alternatives were explored by the agency, and why was this alternative chosen?

There is no alternative to aggressively supporting legal services relating to MSA arbitration. Revenues generated will exceed the expenses by a monumental proportion.

What are the consequences of not funding this package?

Not funding this request would seriously compromise the state's ability to present a well-organized, persuasive case in the arbitration. The result would be a materially higher risk of an adverse decision, with potential dollar consequences in the millions, as noted above.

What is the relationship, if any, to the state's capital budget?

None.

What changes would be required to existing statutes, rules, or contracts, in order to implement the change?

None.

Expenditure and revenue calculations and assumptions

None.

Which costs and functions are one-time? Which are ongoing? What are the budget impacts in future biennia?

Costs are expected to be one-time until the case is finally resolved through court action or settlement.

<u>Object Detail</u>	<u>FY 2010</u>	<u>FY 2011</u>	<u>Total</u>
A Salaries And Wages	179,390	179,390	358,780
B Employee Benefits	50,229	50,229	100,458
C Personal Service Contracts	133,000	33,000	166,000
E Goods And Services	52,131	67,381	119,512
G Travel	7,250	7,000	14,250
J Capital Outlays	24,000	9,000	33,000
Total Objects	446,000	346,000	792,000

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Agency: 100 Office of Attorney General
Decision Package Code/Title: AL Moore v HCA Litigation
Budget Period: 2009-11
Budget Level: M2 - Inflation and Other Rate Changes

Recommendation Summary Text:

The Office of the Attorney General (AGO) requests \$1,651,000 and 2.3 FTEs in FY2010 to fund continuing legal services related to Moore, et al. v. Health Care Authority, a class action seeking damages related to health care benefits for part-time employees in many state agencies and institutions.

Fiscal Detail

Operating Expenditures		<u>FY 2010</u>	<u>FY 2011</u>	<u>Total</u>	
405-1	Legal Services Revolving Account-State	1,651,000	0	1,651,000	
Total Cost		1,651,000		1,651,000	
Staffing		<u>FY 2010</u>	<u>FY 2011</u>	<u>Annual Average</u>	
	FTEs	2.3	.0	1.2	
Revenue					
<u>Fund</u>	<u>Source</u>	<u>FY 2010</u>	<u>FY 2011</u>	<u>Total</u>	
405	Legal Serv Rev Acct	0420	Charges for Services	1,651,000	1,651,000
Total Revenue		1,651,000		1,651,000	

Package Description:

This request includes \$1,651,000 and 1.0 Assistant Attorney General (AAG), 0.8 Paralegal (PL), and 0.5 Legal Assistant (LA) for associated support costs, contract costs for a Special Assistant Attorney General experienced in class actions, ongoing contract costs for electronic data document imaging, data analysis, and economic loss experts.

Moore v. Health Care Authority was filed in July 2006 as a class action seeking damages for unpaid health care benefits for a large number of part-time employees in more than 30 state agencies and institutions. The trial court certified the action as a class action for liability purposes.

The state has collected large payroll data sets and voluminous collections of other documents and data from diverse payroll systems to determine potential liability. It has also produced large data sets to plaintiffs. Data analysis continues as part of the state's assessment of alleged damages. Through the 2007-09 biennium, legal services, document preparation, and other direct costs have totaled \$1,761,972.

Liability has not yet been determined for the subclass of non-permanent employees. A motion for partial summary judgment has been filed and argument is set for this fall. Plaintiffs also intend to file a motion to determine whether the appropriate statute of limitations is three years or six years. Plaintiffs are also asking for student payroll records and updated payroll records for other employees. With regard to student records, the universities will resist this discovery but the collection and analysis of the records, regardless how the

court rules, will be expensive. Once the last liability issues are decided, the plaintiffs will then need to move to certify a damage class, which the state will vigorously oppose. Although trial is presently set for February 8, 2010, that date will likely need to be adjusted outward, regardless whether a damage class is certified.

While the Health Care Authority (HCA) is the primary named defendant, the claims are based upon the personnel and payroll practices of more than 30 state agencies and institutions. The HCA is the named defendant because of its role as the administrator for the provision of health care benefits to all state employees, even though defense costs benefit many agencies. The HCA's budget for all legal services is inadequate to support the costs of this lawsuit.

The AGO subject matter expert for this request is Sarian Scott, 360-586-2104.

Narrative Justification and Impact Statement

What specific performance outcomes does the agency expect?

The desired result is to achieve a cost effective resolution of this case, which entails multi-million dollar exposure. It appears that the case will need to be tried and, given certain rulings, appellate review is also likely. The outcome of the action will affect how decisions will be made concerning health care benefits for future part-time employees and will have significant, ongoing fiscal impacts.

Performance Measure Detail

Activity: A010 Legal Services to State Agencies

Incremental Changes

No measures submitted for package

Is this decision package essential to implement a strategy identified in the agency's strategic plan?

This budget request implements goal #1 of the AGO Strategic Plan-"Provide efficient and effective representation to our client agencies."

The AGO provides a broad range of legal services to over 230 state agencies to enable them to achieve their missions.

Does this decision package provide essential support to one of the Governor's priorities?

Yes, the Governor's priority of holding state agencies accountable for delivering results - showing Washingtonians how their tax dollars are being spent and asking them if state government is successfully addressing their concerns.

Does this decision package make key contributions to statewide results? Would it rate as a high priority in the Priorities of Government process?

Yes, a state priority of government is to strengthen government's ability to achieve results efficiently and effectively.

The outcome of this case could have a major effect on the policy and financial prerogatives of the Governor and Legislature.

What are the other important connections or impacts related to this proposal?

None.

What alternatives were explored by the agency, and why was this alternative chosen?

Early resolution of the case was attempted but was unsuccessful. The case must be defended vigorously because of the trial court's adverse rulings to date, and the large potential damages that might be awarded. There are no viable alternatives to defending the case.

What are the consequences of not funding this package?

If not funded, the state faces a multi-million dollar adverse judgment and major limitations upon the Governor's and Legislature's policy prerogatives regarding health care benefits for part-time employees.

What is the relationship, if any, to the state's capital budget?

None.

What changes would be required to existing statutes, rules, or contracts, in order to implement the change?

If certain rulings of the trial court are not vacated or reversed on appeal, a statutory amendment to expand the Health Care Authority's rule-making authority may be necessary.

In addition, the Legislature and the agencies will be faced with policy and fiscal choices regarding the continued future eligibility of part-time employees for health care benefits.

Expenditure and revenue calculations and assumptions

The trial is presently set for February 8, 2010, but that date is likely to be adjusted outward.

Which costs and functions are one-time? Which are ongoing? What are the budget impacts in future biennia?

Costs are expected to be one-time until the case is finally resolved through court action or settlement.

It is possible that the case may be concluded by the end of FY2010, but complications or appeals could delay the final resolution.

<u>Object Detail</u>	<u>FY 2010</u>	<u>FY 2011</u>	<u>Total</u>
A Salaries And Wages	198,219		198,219
B Employee Benefits	55,501		55,501
C Personal Service Contracts	1,300,000		1,300,000
E Goods And Services	63,930		63,930
G Travel	9,350		9,350
J Capital Outlays	24,000		24,000
Total Objects	1,651,000		1,651,000

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State of Washington
Decision Package

FINAL

Agency: 100 Office of Attorney General
Decision Package Code/Title: AM McCleary v Washington Litigation
Budget Period: 2009-11
Budget Level: M2 - Inflation and Other Rate Changes

Recommendation Summary Text:

The Office of the Attorney General (AGO) requests \$779,000 and 2.1 FTEs in Fiscal Year (FY) 2010 to fund continuing legal services related to McCleary v. Washington, an action challenging the method and level of funding provided by the State for basic education.

Fiscal Detail

Operating Expenditures		<u>FY 2010</u>	<u>FY 2011</u>	<u>Total</u>
405-1 Legal Services Revolving Account-State		779,000	0	779,000
Total Cost		779,000		779,000
Staffing		<u>FY 2010</u>	<u>FY 2011</u>	<u>Annual Average</u>
FTEs		2.1	.0	1.1
Revenue				
<u>Fund</u>	<u>Source</u>	<u>FY 2010</u>	<u>FY 2011</u>	<u>Total</u>
405 Legal Serv Rev Acct	0420 Charges for Services	779,000		779,000
Total Revenue		779,000		779,000

Package Description:

This request is for \$779,000 staffing and litigation costs in FY2010. Our request includes 2.1 Assistant Attorneys General (AAG) and 3.0 Paralegals (PL) for the period of July 1, 2009 through October 31, 2009, reducing down to 0.3 AAG and 0.3 PL from November 1, 2009 through June 30, 2010. This request is for legal services which include contract costs for a Special Assistant Attorney General (SAAG) and experts hired to assist in the defense of the case.

McCleary v. Washington was filed in January 2007 as a challenge to the method and level of funding provided by the State for basic education, as well as education transportation and school construction funding. After several continuances, the trial in this matter began on August 31, 2009 and is expected to last through October 15, 2009. In this case, high cost expert testimony is essential. The state's defense includes the use of several national experts, which have been used in the defense of school funding challenges in other states. These experts are being handled by a SAAG. The expert's preparation includes not only understanding the Washington system of school funding, but also the attack posed by the plaintiff's national experts.

After completion of the bench trial, we further anticipate significant post-trial briefing and argument over the findings of fact and conclusions of law to be drawn from the evidence. It is anticipated that an adverse ruling on either side may result in an appellate review.

The 2007-09 biennial cost of McCleary legal services, document preparation, and other direct costs totalled \$612,614.

The Office of Superintendent of Public Instruction's (OSPI) budget for all legal services is inadequate to support the costs of this litigation and appeal.

The AGO subject matter expert for this request is Sarian Scott, 360-586-2104.

Narrative Justification and Impact Statement

What specific performance outcomes does the agency expect?

This request is for funding that is critical to the continued defense of this major education case. The outcome of the case will have major fiscal implications for the state and could create standards that would significantly limit the state's freedom to act in the area of basic education for years.

Performance Measure Detail

Activity: A010 Legal Services to State Agencies

Incremental Changes

No measures submitted for package

Is this decision package essential to implement a strategy identified in the agency's strategic plan?

This budget request implements goal #1 of the AGO Strategic Plan-"Provide efficient and effective representation to our client agencies."

The AGO provides a broad range of legal services to over 230 state agencies to enable them to achieve their missions.

Does this decision package provide essential support to one of the Governor's priorities?

Yes, the Governor's priority of holding state agencies accountable for delivering results - showing Washingtonians how their tax dollars are being spent and asking them if state government is successfully addressing their concerns.

Does this decision package make key contributions to statewide results? Would it rate as a high priority in the Priorities of Government process?

Yes, a state priority of government is to strengthen government's ability to achieve results efficiently and effectively.

What are the other important connections or impacts related to this proposal?

None.

What alternatives were explored by the agency, and why was this alternative chosen?

Because of the potential impact of adverse rulings in this case, there is no reasonable alternative than to vigorously defend the state.

There are no statutory, regulatory or other changes or negotiation possibilities that would reduce the need or costs of this legal defense, and there are no alternative sources of funding.

What are the consequences of not funding this package?

If not funded, the state faces a multi-million dollar adverse judgment and major limitations upon the Governor's and Legislature's policy

prerogatives regarding the method and level of funding for basic education.

What is the relationship, if any, to the state's capital budget?

None.

What changes would be required to existing statutes, rules, or contracts, in order to implement the change?

An adverse ruling could require changes. In addition, the Legislature and the agency will be faced with policy and fiscal choices regarding the method and level of funding for basic education.

Expenditure and revenue calculations and assumptions

This request is for 5.1 FTE from July 2009 through October 2009. FTEs number reduces to 0.6 from November 2009 through June 2010. Calculating Annual FTE was determined by multiplying 5.1 FTE by 4 months, multiplying 0.6 FTE by 8 months, and dividing the sum of those two calculations by 12 months: $(5.1 * 4 = 20.4) + (0.6 * 8 = 4.8) = 25.2$.

$$25.2 / 12 \text{ months} = 2.1$$

Which costs and functions are one-time? Which are ongoing? What are the budget impacts in future biennia?

Costs are expected to be one-time until the case is finally resolved through court action or settlement.

It is possible that the case may be concluded by the end of FY2010, but complications or appeals could delay the final resolution.

<u>Object Detail</u>	<u>FY 2010</u>	<u>FY 2011</u>	<u>Total</u>
A Salaries And Wages	169,463		169,463
B Employee Benefits	47,450		47,450
C Personal Service Contracts	450,000		450,000
E Goods And Services	88,553		88,553
G Travel	6,733		6,733
J Capital Outlays	16,801		16,801
Total Objects	779,000		779,000

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State of Washington
Decision Package

FINAL

Agency: 100 Office of Attorney General
Decision Package Code/Title: AN Inter Agency Agreement Conversion
Budget Period: 2009-11
Budget Level: M2 - Inflation and Other Rate Changes

Recommendation Summary Text:

The Office of the Attorney General (AGO) requests \$2,077,632 and 7.9 FTEs in the 2009-11 biennium to provide legal services that were formerly managed through the use of Inter Agency Agreements (IAAs).

Fiscal Detail

Operating Expenditures		<u>FY 2010</u>	<u>FY 2011</u>	<u>Total</u>
405-1	Legal Services Revolving Account-State	1,036,496	1,041,136	2,077,632
Total Cost		1,036,496	1,041,136	2,077,632
Staffing		<u>FY 2010</u>	<u>FY 2011</u>	<u>Annual Average</u>
	FTEs	7.9	7.9	7.9
Revenue				
<u>Fund</u>	<u>Source</u>	<u>FY 2010</u>	<u>FY 2011</u>	<u>Total</u>
405	Legal Serv Rev Acct	1,036,496	1,041,136	2,077,632
	0420 Charges for Services			
Total Revenue		1,036,496	1,041,136	2,077,632

Package Description:

This request is for \$2,077,632 and 3.1 Assistant Attorney General (AAG), 1.0 Investigator (INV), 2.0 Paralegal (PL), 0.8 Legal Assistant (LA), and 1.0 Office Assistant (OA) to provide additional legal services over and above the Office of Financial Management (OFM) distributed central service client allocations.

Historically, the AGO has provided legal services for unanticipated legal services required by client agencies through the use of IAAs. This funding option is employed when the need for legal services unexpectedly changes from what was planned in the currently-enacted budget for a wide variety of reasons. However, OFM staff prefers that this approach be changed and that all legal services be provided pursuant to appropriations.

The result is to require the following supplemental appropriation requests, displayed by client agency. Please note that each IAA listed below has been submitted for OFM review prior to October 2009.

AGENCY: DEPARTMENT OF REVENUE
EXPLANATION: Contractor Bond Issues
FY2010 TOTAL: 93,680
FY2011 TOTAL: 98,320
2009-11 TOTAL: 192,000

FTE: 0.0

AGENCY: DEPARTMENT OF LICENSING

EXPLANATION: Licensing and Regulatory Activities

FY2010 TOTAL: 231,144

FY2011 TOTAL: 231,144

2009-11 TOTAL: 462,288

FTE: 2.0

AGENCY: DEPARTMENT OF HEALTH

EXPLANATION: Advice, Litigation & Prosecution 4SHB 1103

FY2010 TOTAL: 552,084

FY2011 TOTAL: 552,084

2009-11 TOTAL: 1,036,496

FTE: 4.8

AGENCY: WESTERN WASHINGTON UNIVERSITY

EXPLANATION: Additional Services

FY2010 TOTAL: 159,588

FY2011 TOTAL: 159,588

2009-11 TOTAL: 319,176

FTE: 1.1

IAA TOTAL AMOUNT:

FY2010 TOTAL: 1,036,496

FY2011 TOTAL: 1,041,136

2009-11 TOTAL: 2,077,632

FTE: 7.9

In addition, this change in policy will require the consideration of an increased number of supplemental requests in the future that cover every situation where the need for legal services changes from what is included in the budget.

The AGO did receive some billing authority for the Contractor Bond Issue IAA (09.11.0024), but not for the complete \$250,000 (\$125,000 in each Fiscal Year (FY)) requirement. The AGO received billing authority for \$31,320 in FY2010, and for \$26,680 in FY2011. These amounts are not included in this request.

The AGO subject matter expert for this request is Sarian Scott, 360-586-2104.

Narrative Justification and Impact Statement

What specific performance outcomes does the agency expect?

The intent of this decision package is to sustain legal services for client agencies that have identified a need. The result of this request not being approved will be that the AGO will not have billing authority for staff and expenses associated with legitimate legal services. Efficiency will decline for the legal services we can provide since new work will be added on top of the current workload.

Performance Measure Detail

Activity: A010 Legal Services to State Agencies

Incremental Changes

No measures submitted for package

Is this decision package essential to implement a strategy identified in the agency's strategic plan?

This budget request implements goal #1 of the AGO Strategic Plan-"Provide efficient and effective representation to our client agencies."

The AGO provides a broad range of legal services to over 230 state agencies to enable them to achieve their missions.

Does this decision package provide essential support to one of the Governor's priorities?

Yes, the Governor's priority of holding state agencies accountable for delivering results - showing Washingtonians how their tax dollars are being spent and asking them if state government is successfully addressing their concerns.

Does this decision package make key contributions to statewide results? Would it rate as a high priority in the Priorities of Government process?

Yes, a state priority of government is to strengthen government's ability to achieve results efficiently and effectively.

What are the other important connections or impacts related to this proposal?

None.

What alternatives were explored by the agency, and why was this alternative chosen?

The alternative to this change in policy is to continue previous longstanding practice.

What are the consequences of not funding this package?

Without this funding, and if IAAs are not approved, the client agencies will not be able to receive necessary legal services from the AGO.

What is the relationship, if any, to the state's capital budget?

None.

What changes would be required to existing statutes, rules, or contracts, in order to implement the change?

None.

Expenditure and revenue calculations and assumptions

It is assumed that the AGO and client agency central service allocation for AGO legal services will be adjusted to match.

See attachment "ML-AN Inter Agency Agreement Conversion Attachment.pdf".

Which costs and functions are one-time? Which are ongoing? What are the budget impacts in future biennia?

Amounts are assumed to be ongoing.

The result of this change in policy will be an increase in the number of supplemental requests for each legislative session.

<u>Object Detail</u>	<u>FY 2010</u>	<u>FY 2011</u>	<u>Total</u>
A Salaries And Wages	530,412	530,412	1,060,824

B	Employee Benefits	148,515	148,515	297,030
C	Personal Service Contracts	93,680	98,320	192,000
E	Goods And Services	191,889	191,889	383,778
G	Travel	20,000	20,000	40,000
J	Capital Outlays	52,000	52,000	104,000
Total Objects		1,036,496	1,041,136	2,077,632

Inter Agency Agreement Conversion

IAA Number	Budget Unit	Client	AGO Division	Title & Description	Begin Date	End Date	FY10 Total Including Directs	FY11 Total Including Directs	Total Directs	FTEs FY10	FTEs FY11	Staff FY10	Staff FY11	Status/Comments	Date	
09.11.0004	825	DOR	BCU	Contractor Bond Issues	07/01/09	06/30/11	93,680	98,320	192,000	0.00	0.00	None	None	Not Signed By OFM	07/28/09	
09.11.0006	852	DOL	CRJ	Licensing & Regulatory Activities	07/01/09	06/30/11	231,144	231,144	0	2.00	2.00	0.5 AAG, 1.0 INV, 0.5 LS	0.5 AAG, 1.0 INV, 0.5 LS	Not Signed By OFM	07/28/09	
09.11.0005	855	DOH	AHD	Advice, Litigation & Prosecution 4SHB 1103	07/01/09	06/30/11	316,740	316,740	0	3.00	3.00	1.0 AAG, 1.0 PL, 1.0 LS	1.0 AAG, 1.0 PL, 1.0 LS	To OFM	08/31/09	
		DOH	GCE	Advice, Litigation & Prosecution 4SHB 1103	07/01/09	06/30/11	235,344	235,344	0	1.80	1.80	0.8 AAG, 1.0 PL	0.8 AAG, 1.0 PL			
09.11.0008	845	WWU	RSD	Additional Services	07/01/09	06/30/11	159,588	159,588	0	1.10	1.10	0.8 AAG, 0.3 LS	0.8 AAG, 0.3 LS	To OFM	08/20/09	
IAA TOTAL AMOUNTS:							1,036,496	1,041,136	192,000	7.90	7.90					
TOTAL:							2,077,632									

*09.11.0004, Contractor Bond Issues, IAA is for \$250,000 (\$125,000/FY).
 The AGO received billing authority of \$31,320 (FY1) and \$26,680 (FY2), \$58,000/Bien.

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Agency: 100 Office of Attorney General
Decision Package Code/Title: AP US Dept of Labor Litigation
Budget Period: 2009-11
Budget Level: M2 - Inflation and Other Rate Changes

Recommendation Summary Text:

The Office of the Attorney General (AGO) requests client allocations to fund legal services in response to United States Department of Labor (US DOL) enforcement actions. The potential exposure to the State of Washington can be up to \$60,000,000 dollars - the Department of Social and Health Services (DSHS) estimated exposure is over \$40 million dollars and the Department of Corrections (DOC) estimated exposure is \$15 million dollars. There is also the potential for prejudgment interest.

Fiscal Detail

Operating Expenditures

Total

Total Cost

Package Description:

The US DOL conducted audits at both DSHS and DOC to gauge their compliance with the Fair Labor Standards Act. The audit found non-compliance with the recordkeeping and overtime provisions of the law. The US DOL has filed an enforcement action against each agency in federal court. The potential DOC liability is for overtime allegedly owed to over 800 employees, and the potential DSHS liability is for overtime allegedly owed to approximately 2,000 employees.

DOC request will be for \$600,000 in Fiscal Year (FY) 2010 (new funding).
DSHS request will be to move \$634,000 from FY2011 to FY2010 (existing funding).

DEPARTMENT OF CORRECTIONS:

The DOC request is for \$600,000 in FY2010 for legal services through trial. The State of Washington filed a motion to compel the US DOL to provide requested information. When the US DOL failed to comply with the Court's order compelling disclosure, the State sought sanctions against the US DOL. The Court initially granted sanctions but then reversed the monetary sanctions and reiterated the order to disclose. The US DOL has yet to comply with the Court's directives and further legal action will have to be taken in order to prepare an adequate defense. When the US DOL eventually discloses its trial witnesses, there will be additional depositions needed. Both parties moved for summary judgment on various legal issues. The Court denied both motions for summary judgment. As a result, the issues in the case have not been narrowed for trial.

The DOC trial is scheduled to begin on December 7, 2009 and is scheduled for 20 court days.

DEPARTMENT OF SOCIAL & HEALTH SERVICES:

The DSHS request is to move \$634,000 from FY2011 to FY2010. Discovery has begun and the current allocation will not cover the expected expenditures in FY2010.

The DSHS trial is currently scheduled for May 2010.

The AGO has appointed a Special Assistant Attorney General (SAAG) with expertise in the defense of US DOL enforcement actions. Resources to assist in representing both the DOC and DSHS are also required. The AGO needs to represent the agencies in these cases and this will involve a substantial amount of discovery as well as requiring significant legal resources.

The AGO subject matter expert for this request is Sarian Scott, 360-586-2104.

Narrative Justification and Impact Statement

What specific performance outcomes does the agency expect?

The result of this request is to enable the SAAG to continue to be involved in the enforcement actions against DOC and DSHS by the US DOL, and ensure there is adequate funding in the correct FY of the biennium for the legal work. This is necessary to provide consistent and quality representation to DOC and DSHS, and to help achieve timely and appropriate outcomes for the agencies in these cases.

Performance Measure Detail

Activity: A010 Legal Services to State Agencies

Incremental Changes

No measures submitted for package

Is this decision package essential to implement a strategy identified in the agency's strategic plan?

This budget request implements goal #1 of the AGO Strategic Plan-"Provide efficient and effective representation to our client agencies."

The AGO provides a broad range of legal services to over 230 state agencies to enable them to achieve their missions.

Does this decision package provide essential support to one of the Governor's priorities?

Yes, the Governor's priority of holding state agencies accountable for delivering results - showing Washingtonians how their tax dollars are being spent and asking them if state government is successfully addressing their concerns.

Does this decision package make key contributions to statewide results? Would it rate as a high priority in the Priorities of Government process?

Yes, a state priority of government is to strengthen government's ability to achieve results efficiently and effectively.

What are the other important connections or impacts related to this proposal?

This request is related to a legal matter and is supported by both DOC and DSHS.

What alternatives were explored by the agency, and why was this alternative chosen?

There is no option or alternative to funding this request. The AGO does not currently have the resources to meet the expected needs of the litigation, and the clients will benefit from the expertise offered by the SAAG.

What are the consequences of not funding this package?

The AGO will not be able to provide the adequate representation to the client agencies in cases that have potential liability of approximately \$60 million dollars.

What is the relationship, if any, to the state's capital budget?

None.

What changes would be required to existing statutes, rules, or contracts, in order to implement the change?

None.

Expenditure and revenue calculations and assumptions

None.

Which costs and functions are one-time? Which are ongoing? What are the budget impacts in future biennia?

Costs are expected to be one-time until the case is finally resolved through court action or settlement.

It is possible that the case can be concluded by the end of FY2010, but complications or appeals could delay the final resolution.

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Agency: 100 Office of Attorney General
Decision Package Code/Title: AQ Referendum 71 Litigation
Budget Period: 2009-11
Budget Level: M2 - Inflation and Other Rate Changes

Recommendation Summary Text:

The Office of the Attorney General (AGO) requests \$171,000, 0.5 FTE from August 1, 2009 through June 30, 2011 and litigation costs to fund defense of litigation related to Referendum 71 (R-71). This litigation includes a pending expedited appeal in the Ninth Circuit in Doe v. Reed. The case will likely involve application for review by the United States Supreme Court regardless of its outcome in the Ninth Circuit, as well as subsequent litigation of claims that remain in the federal district court.

Fiscal Detail

Operating Expenditures		<u>FY 2010</u>	<u>FY 2011</u>	<u>Total</u>
405-1	Legal Services Revolving Account-State	82,000	89,000	171,000
Total Cost		82,000	89,000	171,000
Staffing		<u>FY 2010</u>	<u>FY 2011</u>	<u>Annual Average</u>
	FTEs	.5	.5	.5
Revenue				
<u>Fund</u>	<u>Source</u>	<u>FY 2010</u>	<u>FY 2011</u>	<u>Total</u>
405	Legal Serv Rev Acct	82,000	89,000	171,000
	0420 Charges for Services			
Total Revenue		82,000	89,000	171,000

Package Description:

This request is for \$171,000 and 0.5 Assistant Attorney General (AAG) for litigation costs from August 2009 through June 2011. This request is to fund legal services related to R-71 litigation defense.

The filing of R-71 in June of 2009 led to unexpected litigation, in the form of three new lawsuits. The number of signatures submitted was close to the minimum number required by the constitution, requiring the Secretary of State (SEC) to hire additional staff to do a complete count of all the petition signatures. Questions about the counting and verification process significantly increased our client advice workload. When the count was completed and the Secretary certified the measure for the ballot, two appeals were filed in Superior Court seeking to overturn the Secretary's action. Both have been dismissed, but an appeal has been filed in the State Supreme Court.

Meanwhile, supporters of the petition drive filed a case in federal court seeking to protect the names and addresses of petition signers from public disclosure. The suit asserts that the state's public records act is unconstitutional to the extent it permits disclosure of petition signers' names and addresses generally, and with respect to R-71 and similar petitions more specifically. This matter is now on expedited appeal to the Ninth Circuit from a preliminary injunction entered by the district court precluding disclosure of signed referendum petitions. The Ninth Circuit proceedings are likely to take at least three months but could take much longer. Application for review by the United States Supreme Court seems likely regardless of the outcome of the Ninth Circuit proceedings. In addition,

there are remaining claims in the trial court on the same matter.

The AGO subject matter expert for this request is Sarian Scott, 360-586-2104.

Narrative Justification and Impact Statement

What specific performance outcomes does the agency expect?

The additional funding is needed to provide adequate legal support for the unexpected litigation. Both the AGO and the SEC will have unusual expenses related to the litigation as long as it continues.

The constitutionality of the public records act is an important issue for the SEC, for accountability to the public, and for all state agencies.

Performance Measure Detail

Activity: A010 Legal Services to State Agencies

Incremental Changes

No measures submitted for package

Is this decision package essential to implement a strategy identified in the agency's strategic plan?

This budget request implements goal #1 of the AGO Strategic Plan-"Provide efficient and effective representation to our client agencies."

The AGO provides a broad range of legal services to over 230 state agencies to enable them to achieve their missions.

Does this decision package provide essential support to one of the Governor's priorities?

Yes, the Governor's priority of holding state agencies accountable for delivering results - showing Washingtonians how their tax dollars are being spent and asking them if state government is successfully addressing their concerns.

Does this decision package make key contributions to statewide results? Would it rate as a high priority in the Priorities of Government process?

Yes, a state priority of government is to strengthen government's ability to achieve results efficiently and effectively.

What are the other important connections or impacts related to this proposal?

This is a legal matter that calls into question the validity of Washington's public records act in the context of referendum elections, and potentially more broadly. Defending this duly enacted state law against challenge is not optional.

The advocates of public disclosure, including Washington citizens and representatives of the press, strongly support the Act and open and accountable election administration. Some citizens who do not want to see petition signers' names made public (primarily opponents of the legislation which is the subject of R-71) may oppose defending the act.

This is not related to a task force, Government Management Accountability and Performance, or audit recommendation.

What alternatives were explored by the agency, and why was this alternative chosen?

As noted above, defending the validity of duly enacted state law is not optional. Moreover, a decision to accept the trial court ruling

and stop making petition signatures available for public information would undoubtedly lead to more litigation, as citizens would either seek to re-litigate the issue, or expand the principle to other types of records. It would also result in uncertainty about the law in an important area. The decision of the trial court essentially forecloses application of the public records act, this important area, and necessitates appellate review.

What are the consequences of not funding this package?

Depending on the amount of time we have to devote to the litigation, one result could be to leave the SEC without sufficient appropriated funds to operate the SEC office.

Acceptance of the opposition's position and trial court's order making petition information private would be contrary to the provisions of the state's public records act.

What is the relationship, if any, to the state's capital budget?

None.

What changes would be required to existing statutes, rules, or contracts, in order to implement the change?

Acceptance of the opposition's opinion and trial court's order making petition information private would be contrary to the provisions of state's public records act.

Expenditure and revenue calculations and assumptions

None.

Which costs and functions are one-time? Which are ongoing? What are the budget impacts in future biennia?

Costs are expected to be one-time until the case is finally resolved through court action.

Because of the likelihood of application for review by the United States Supreme Court, and remaining issues in the trial court, it is not likely that this case will be resolved in FY2010.

<u>Object Detail</u>	<u>FY 2010</u>	<u>FY 2011</u>	<u>Total</u>
A Salaries And Wages	40,604	40,604	81,208
B Employee Benefits	11,369	11,369	22,738
E Goods And Services	22,800	25,300	48,100
G Travel	4,227	11,227	15,454
J Capital Outlays	3,000	500	3,500
Total Objects	82,000	89,000	171,000

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Agency: 100 Office of Attorney General
Decision Package Code/Title: AR General Fund State Reduction
Budget Period: 2009-11
Budget Level: PL - Performance Level

Recommendation Summary Text:

The Office of the Attorney General (AGO) proposes a reduction of (\$90,000) and (1.7) FTE in Fiscal Year (FY) 2010, and a reduction of (\$84,000) and (1.6) FTE in FY2011 as directed in the Office of Financial Management (OFM) FY2010 Supplemental Budget Instructions.

Fiscal Detail

Operating Expenditures	<u>FY 2010</u>	<u>FY 2011</u>	<u>Total</u>
001-1 General Fund - Basic Account-State	(90,000)	(84,000)	(174,000)
Total Cost	(90,000)	(84,000)	(174,000)
 Staffing	 <u>FY 2010</u>	 <u>FY 2011</u>	 <u>Annual Average</u>
FTEs	-1.7	-1.6	-1.7

Package Description:

The AGO proposes a reduction of (\$90,000) and (1.7) FTE in FY2010, and (\$84,000) and (1.6) FTE in FY2011 as directed in the OFM FY2010 Supplemental Budget Instructions.

The AGO subject matter expert for this request is Sarian Scott, 360-586-2104.

Narrative Justification and Impact Statement

What specific performance outcomes does the agency expect?

The AGO will face increased challenges in sustaining the General Fund activities of Criminal Litigation, the Homicide Investigation & Tracking System unit, Consumer Protection, and the Medicaid Fraud Control Unit.

Performance Measure Detail

Activity: A005 Enforcement of Consumer Protection Laws

Incremental Changes

No measures submitted for package

Is this decision package essential to implement a strategy identified in the agency's strategic plan?

NA - Governor directed reduction.

Does this decision package provide essential support to one of the Governor's priorities?

NA - Governor directed reduction.

Does this decision package make key contributions to statewide results? Would it rate as a high priority in the Priorities of Government process?

NA - Governor directed reduction.

What are the other important connections or impacts related to this proposal?

None.

What alternatives were explored by the agency, and why was this alternative chosen?

None.

What are the consequences of not funding this package?

Reduced ability to provide services to the consumers of the state of Washington.

What is the relationship, if any, to the state's capital budget?

None.

What changes would be required to existing statutes, rules, or contracts, in order to implement the change?

None.

Expenditure and revenue calculations and assumptions

See attachment 'PL-AR General Fund State Reduction Attachment.pdf'.

Which costs and functions are one-time? Which are ongoing? What are the budget impacts in future biennia?

Reductions are assumed to be ongoing.

<u>Object Detail</u>	<u>FY 2010</u>	<u>FY 2011</u>	<u>Total</u>
A Salaries And Wages	(56,896)	(53,549)	(110,445)
B Employee Benefits	(15,931)	(14,994)	(30,925)
E Goods And Services	(9,043)	(7,457)	(16,500)

G	Travel	(3,400)	(3,200)	(6,600)
J	Capital Outlays	(4,730)	(4,800)	(9,530)
Total Objects		(90,000)	(84,000)	(174,000)



STATE OF WASHINGTON
OFFICE OF FINANCIAL MANAGEMENT

Insurance Building, PO Box 43113 • Olympia, Washington 98504-3113 • (360) 902-0555

July 1, 2009

TO: Agency Directors
Statewide Elected Officials
Presidents, Higher Education Institutions

FROM: Victor A. Moore
Director

A handwritten signature in black ink, appearing to read "V.A. Moore".

SUBJECT: IMPLEMENTATION INSTRUCTIONS FOR GFS BUDGET SAVINGS

The June General Fund State (GFS) revenue forecast has resulted in a lower estimate of revenues for the 2009-11 Biennium. While there are some positive economic signs, the state's revenue situation warrants fiscal restraint beyond that assumed in the current budget.

On June 18, the Governor directed the following administrative actions by cabinet agencies:

- Full Time Equivalent (FTE) reductions equivalent to a 2 percent reduction in 2009-11 budgeted GFS FTEs.
- Continuation of specific GFS savings in out-of-state travel and training, personal services contracts, and equipment purchases.
- Spending restricted to only critically necessary activities.

She also has encouraged non-Cabinet agencies to impose similar measures.

The Governor's reductions are intended to create savings that mitigate the effect of the June revenue drop. OFM will continue to watch revenue collections and caseload/enrollment projections as we approach the September and November forecast updates for GFS revenues. Ongoing expenditure and revenue pressures will very likely require further action, including revisions in a 2010 supplemental budget. The reductions in this memo represent the first steps toward supplemental budget changes for expenditures funded by the GFS.

Hiring Cap for GFS FTEs

The hiring cap for GFS FTEs will be calculated at 98 percent of the OFM-approved 2009-11 allotment for GFS FTEs. Since allotments are not due before July 30, agencies may assume that the approximate number for planning purposes is 98 percent of the estimated GFS portion of 2009-11 FTEs in the legislative database. OFM has included preliminary FTE cap numbers as Attachment A of this memorandum. Final FTE targets will be compiled after all allotments are approved.

As always, OFM budget analysts will be reviewing allotments to ensure technical accuracy and consistency with legislative intent.

July 1, 2009
Page 2 of 2

FTE savings may be achieved through staff reductions, furloughs, reduction of overtime, vacancies, or other measures that reduce the expenditure of FTEs, while recognizing the requirements of state and federal laws and collective bargaining agreements.

Additional Savings in Anticipation of the 2010 Supplemental Budget

Although the prohibition on salary and wage increases for exempt and Washington Management Service positions remains in effect until February 18, 2010, the other expenditure freeze provisions of Engrossed Substitute Senate Bill 5460 and House Bill 2328 formally expire on June 30, 2009. The Governor has instructed Cabinet agencies to continue to restrict GFS expenditures to only necessary functions and activities related to public safety and health, revenue generation, and statutory mandates. Agency directors are responsible for these implementation decisions.

The GFS dollar targets in Attachment B represent expected savings from the measures described in the Governor's June 18 memorandum, as well as additional reductions that agencies will need to plan for in a supplemental budget to mitigate the June revenue projection. It is recognized that these reductions might include proposals that require legislative authorization.

Submittals to OFM

To provide visibility for expected agency actions, we are asking that agencies provide a description of the actions they intend to take to comply with the FTE cap and other expenditure targets (in Attachments A and B). The narrative should clearly distinguish actions that can be achieved independently from those that require legislative revisions to the budget or to statute.

This explanation should be communicated as a memorandum to OFM, submitted at the same time as the agency's initial 2009-11 allotment.

Allotted amounts in the initial agency allotment for 2009-11 must reflect the legislative budget. OFM will be monitoring expenditures on the assumption that under-expenditures will occur as agencies implement the reductions directed by the Governor. Allotment adjustments may be required after evaluation of agency reduction options.

Thank you for your cooperation in these efforts. Please communicate questions to your assigned OFM budget analyst.

cc: Agency Budget Officers
OFM Budget Analysts

Attachment A

Preliminary 2009-11 GF-S FTE Reduction Caps

	Budgeted FTEs		FY 09 % of GFS/Related FTEs	Estimated GFS FTEs		Preliminary 98% GF-S Cap		FTE Reduction Amount	
	FY10	FY11		FY10	FY11	FY10	FY11	FY10	FY11
Governmental Operations									
Office of the Governor	55.6	55.6	100.0%	55.6	55.6	54.5	54.5	(1.1)	(1.1)
Office of Lieutenant Governor	6.9	6.9	100.0%	6.9	6.9	6.8	6.8	(0.1)	(0.1)
Public Disclosure Commission	23.5	23.5	100.0%	23.5	23.5	23.0	23.0	(0.5)	(0.5)
Office of the Secretary of State	345.4	343.6	53.9%	186.3	185.3	182.6	181.6	(3.7)	(3.7)
Governor's Office of Indian Affairs	2.5	2.5	100.0%	2.5	2.5	2.5	2.5	(0.0)	(0.0)
Asian Pacific American Affairs	2.0	2.0	100.0%	2.0	2.0	2.0	2.0	(0.0)	(0.0)
Office of State Auditor	323.0	325.0	2.4%	7.8	7.8	7.6	7.7	(0.2)	(0.2)
Commission on Salaries for Elected Officials	1.0	1.7	100.0%	1.0	1.7	1.0	1.7	(0.0)	(0.0)
Office of Attorney General	1,143.1	1,134.6	7.3%	82.9	82.3	81.3	80.7	(1.7)	(1.6)
Caseload Forecast Council	7.0	7.0	100.0%	7.0	7.0	6.9	6.9	(0.1)	(0.1)
Department of Commerce	316.1	318.0	60.2%	190.3	191.4	186.5	187.6	(3.8)	(3.8)
Economic and Revenue Forecast Council	5.2	5.2	100.0%	5.2	5.2	5.1	5.1	(0.1)	(0.1)
Office of Financial Management	324.9	335.0	57.4%	186.5	192.3	182.8	188.4	(3.7)	(3.8)
Commission on Hispanic Affairs	2.0	2.0	100.0%	2.0	2.0	2.0	2.0	(0.0)	(0.0)
African-American Affairs	2.0	2.0	100.0%	2.0	2.0	2.0	2.0	(0.0)	(0.0)
Department of Revenue	1,129.8	1,115.0	94.8%	1,071.1	1,057.1	1,067.7	1,053.7	(3.4)	(3.4)
Board of Tax Appeals	12.5	12.5	100.0%	12.5	12.5	12.3	12.3	(0.3)	(0.3)
Department of General Administration	646.4	643.5	0.4%	2.5	2.5	2.5	2.5	(0.1)	(0.1)
Department of Information Services	472.0	472.0	0.1%	0.4	0.4	0.4	0.4	(0.0)	(0.0)
Liquor Control Board	1,166.3	1,206.9	0.8%	8.9	9.2	8.7	9.0	(0.2)	(0.2)
Military Department	322.7	321.4	36.8%	118.8	118.4	116.5	116.0	(2.4)	(2.4)
Public Employment Relations Commission	44.0	43.8	66.0%	29.0	28.9	28.5	28.3	(0.6)	(0.6)
Archaeology and Historic Preservation	19.6	19.6	69.2%	13.6	13.6	13.3	13.3	(0.3)	(0.3)
Human Services Agencies									
Washington State Health Care Authority	277.0	291.8	51.8%	143.4	151.1	140.5	148.1	(2.9)	(3.0)
Human Rights Commission	41.2	42.1	65.4%	26.9	27.5	26.4	27.0	(0.5)	(0.6)
Department of Labor and Industries	2,742.2	2,745.9	4.9%	133.8	133.9	131.1	131.3	(2.7)	(2.7)
DSHS	18,555.5	18,568.5	45.9%	8,524.2	8,530.1	8,400.0	8,405.9	(124.1)	(124.3)
Home Care Quality Authority	4.0	4.0	100.0%	4.0	4.0	3.9	3.9	(0.1)	(0.1)
Department of Health	1,540.8	1,532.6	22.9%	353.2	351.3	346.2	344.3	(7.1)	(7.0)
Department of Veterans Affairs	681.7	686.9	21.1%	143.6	144.7	142.6	143.7	(1.0)	(1.0)
Department of Corrections	9,019.0	9,067.1	97.3%	8,775.8	8,822.6	8,761.8	8,808.4	(14.0)	(14.3)
Department of Services for the Blind	75.0	75.0	20.8%	15.6	15.6	15.3	15.3	(0.3)	(0.3)
Sentencing Guidelines Commission	8.9	8.9	100.0%	8.9	8.9	8.7	8.7	(0.2)	(0.2)
Employment Security Department	2,349.4	2,299.6	0.2%	3.8	3.7	3.7	3.7	(0.1)	(0.1)
Natural Resource Agencies									
Columbia River Gorge Commission	9.7	9.6	50.6%	4.9	4.9	4.8	4.8	(0.1)	(0.1)
Department of Ecology	1,564.9	1,546.3	34.4%	538.0	531.6	527.3	521.0	(10.8)	(10.6)
State Parks and Recreation Commission	815.6	812.6	72.6%	592.2	590.0	580.3	578.2	(11.8)	(11.8)
Recreation/Conservation Funding Board	58.4	58.9	10.0%	5.8	5.9	5.7	5.8	(0.1)	(0.1)
Environmental Hearings Office	9.0	9.0	100.0%	9.0	9.0	8.8	8.8	(0.2)	(0.2)
State Conservation Commission	21.2	20.8	89.5%	19.0	18.6	18.6	18.2	(0.4)	(0.4)
Department of Fish and Wildlife	1,489.7	1,496.2	47.7%	710.9	714.0	696.7	699.7	(14.2)	(14.3)
Puget Sound Partnership	34.0	32.0	91.5%	31.1	29.3	30.5	28.7	(0.6)	(0.6)
Department of Natural Resources	1,363.7	1,366.6	36.7%	500.0	501.0	490.0	491.0	(10.0)	(10.0)
Department of Agriculture	744.4	746.8	16.0%	119.2	119.6	116.8	117.2	(2.4)	(2.4)
Transportation Agencies									
Washington State Patrol	2,401.5	2,402.7	16.6%	398.3	398.5	390.3	390.5	(8.0)	(8.0)
Department of Licensing	1,339.9	1,366.6	0.7%	9.9	10.1	9.7	9.9	(0.2)	(0.2)
K-12 Education									
Superintendent of Public Instruction	241.4	239.3	60.4%	145.7	144.5	142.8	141.6	(2.9)	(2.9)

Exemptions: revenue-producing FTEs in Dept. of Revenue; institutional staff in DSHS, Veterans' Affairs, Corrections, School for the Blind, and Center for Childhood Deafness and Hearing Loss; Community Corrections

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Attachment A

Preliminary 2009-11 GF-S FTE Reduction Caps

	Budgeted FTEs		FY 09 % of GFS/Related FTEs	Estimated GFS FTEs		Preliminary 98% GF-S Cap		FTE Reduction Amount	
	FY10	FY11		FY10	FY11	FY10	FY11	FY10	FY11
Higher Education									
Higher Education Coordinating Board	100.7	100.7	67.2%	67.7	67.7	66.3	66.3	(1.4)	(1.4)
University of Washington	19,364.6	19,474.9	24.7%	4,775.0	4,802.2	4,679.5	4,706.1	(95.5)	(96.0)
Washington State University	5,948.0	6,112.5	49.6%	2,949.5	3,031.1	2,890.5	2,970.5	(59.0)	(60.6)
Eastern Washington University	1,305.2	1,325.2	83.2%	1,086.2	1,102.9	1,064.5	1,080.8	(21.7)	(22.1)
Central Washington University	1,126.2	1,163.2	80.0%	900.6	930.2	882.6	911.6	(18.0)	(18.6)
The Evergreen State College	638.1	645.9	72.8%	464.6	470.3	455.3	460.9	(9.3)	(9.4)
Spokane Intercollegiate Research and	21.7	21.7	93.5%	20.3	20.3	19.9	19.9	(0.4)	(0.4)
Western Washington University	1,641.1	1,686.4	73.6%	1,208.0	1,241.4	1,183.9	1,216.5	(24.2)	(24.8)
Community and Technical College System	15,148.4	15,227.3	57.2%	8,660.8	8,705.9	8,487.6	8,531.8	(173.2)	(174.1)
Other Education									
State School For The Blind	86.0	86.0	88.0%	75.7	75.7	74.2	74.2	-	-
Ctr for Childhood Deafness & Hearing Loss	109.2	109.2	100.0%	109.2	109.2	107.0	107.0	-	-
WorkForce Training/Education Coord Bd	20.7	20.7	71.8%	14.9	14.9	14.6	14.6	(0.3)	(0.3)
Department of Early Learning	188.1	188.1	28.8%	54.1	54.1	53.0	53.0	(1.1)	(1.1)
Washington State Arts Commission	11.0	10.9	98.1%	10.8	10.7	10.6	10.5	(0.2)	(0.2)
Washington State Historical Society	45.8	45.7	36.8%	16.9	16.8	16.5	16.5	(0.3)	(0.3)
Eastern Washington State Historical Society	34.8	34.8	66.0%	23.0	23.0	22.5	22.5	(0.5)	(0.5)

Exemptions: revenue-producing FTEs in Dept. of Revenue; institutional staff in DSHS, Veterans' Affairs, Corrections, School for the Blind, and Center for Childhood Deafness and Hearing Loss; Community Corrections

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Estimated 2009-11 Reductions (Dollars in Millions) Attachment B

	<u>GF-S Adjusted Base *</u>	<u>GF-S Reduction Estimate</u>
<u>Governmental Operations</u>		
Office of the Governor	\$ 11.756	\$ (0.188)
Office of Lieutenant Governor	\$ 1.558	\$ (0.025)
Public Disclosure Commission	\$ 4.531	\$ (0.072)
Office of the Secretary of State	\$ 39.814	\$ (0.635)
Governor's Office of Indian Affairs	\$ 0.542	\$ (0.009)
Commission on Asian Pacific American Affairs	\$ 0.460	\$ (0.007)
Office of State Auditor	\$ 1.451	\$ (0.023)
Commission on Salaries for Elected Officials	\$ 0.383	\$ (0.006)
Office of Attorney General	\$ 10.899	\$ (0.174)
Caseload Forecast Council	\$ 1.551	\$ (0.025)
Dept of Commerce	\$ 103.078	\$ (1.645)
Economic and Revenue Forecast Council	\$ 1.520	\$ (0.024)
Office of Financial Management	\$ 42.955	\$ (0.686)
Commission on Hispanic Affairs	\$ 0.513	\$ (0.008)
Commission on African-American Affairs	\$ 0.487	\$ (0.008)
Department of Revenue	\$ 217.820	\$ (3.476)
Board of Tax Appeals	\$ 2.732	\$ (0.044)
Department of General Administration	\$ 1.626	\$ (0.026)
Department of Information Services	\$ 2.208	\$ (0.035)
Military Department	\$ 20.534	\$ (0.328)
Public Employment Relations Commission	\$ 6.208	\$ (0.099)
Archaeology and Historic Preservation	\$ 2.732	\$ (0.044)
Growth Management Hearings Office	\$ 3.223	\$ (0.051)
<u>Human Services</u>		
Health Care Authority	\$ 388.433	\$ (6.199)
Human Rights Commission	\$ 5.616	\$ (0.090)
Wa St Criminal Justice Train Comm	\$ 38.322	\$ (0.612)
Department of Labor and Industries	\$ 48.489	\$ (0.774)
Indeterminate Sentence Review Board	\$ 3.830	\$ (0.061)
Department of Social and Health Services	\$ 8,954.890	\$ (142.918)
Home Care Quality Authority	\$ 2.450	\$ (0.039)
Department of Health	\$ 193.048	\$ (3.081)
Department of Veterans Affairs	\$ 20.123	\$ (0.321)
Department of Corrections	\$ 1,580.733	\$ (25.228)
Department of Services for the Blind	\$ 5.094	\$ (0.081)
Sentencing Guidelines Commission	\$ 1.954	\$ (0.031)
Employment Security Department	\$ 7.107	\$ (0.113)
<u>DSHS Programs</u>		
Children's Administration	\$ 632.489	\$ (10.094)
Juvenile Rehabilitation	\$ 197.951	\$ (3.159)
Mental Health	\$ 820.901	\$ (13.101)
Developmental Disabilities	\$ 820.242	\$ (13.091)
Long Term Care	\$ 1,284.289	\$ (20.497)
Economic Services Administration	\$ 1,145.907	\$ (18.288)

* 2009-11 GFS Appropriations. Does not include K-12 Education, Pensions, Debt Service, most of Special Appropriations, or Higher Education Instruction as per SB 5734 (first year only)

Estimated 2009-11 Reductions (Dollars in Millions) Attachment B

	GF-S Adjusted Base *	GF-S Reduction Estimate
Alcohol And Substance Abuse	\$ 166.889	\$ (2.664)
Medical Assistance Payments	\$ 3,582.184	\$ (57.171)
Vocational Rehabilitation	\$ 20.579	\$ (0.328)
Administration and Supporting Services	\$ 69.392	\$ (1.107)
Special Commitment Program	\$ 107.164	\$ (1.710)
Information System Services	\$ 106.903	\$ (1.706)
<u>Natural Resources</u>		
Columbia River Gorge Commission	\$ 0.886	\$ (0.014)
Department of Ecology	\$ 118.356	\$ (1.889)
State Parks and Recreation Commission	\$ 46.485	\$ (0.742)
Recreation/Conservation Funding Board	\$ 3.069	\$ (0.049)
Environmental Hearings Office	\$ 2.153	\$ (0.034)
State Conservation Commission	\$ 15.399	\$ (0.246)
Department of Fish and Wildlife	\$ 81.173	\$ (1.296)
Puget Sound Partnership	\$ 6.417	\$ (0.102)
Department of Natural Resources	\$ 81.132	\$ (1.295)
Department of Agriculture	\$ 24.848	\$ (0.397)
<u>Transportation</u>		
Washington State Patrol	\$ 81.834	\$ (1.306)
Department of Licensing	\$ 3.380	\$ (0.054)
<u>Higher Education</u>		
Higher Education Coordinating Board	\$ 446.857	\$ (7.132)
University of Washington	\$ 342.279	\$ (5.463)
Washington State University	\$ 262.548	\$ (4.190)
Eastern Washington University	\$ 44.651	\$ (0.713)
Central Washington University	\$ 37.034	\$ (0.591)
The Evergreen State College	\$ 30.710	\$ (0.490)
SIRTI	\$ 3.209	\$ (0.051)
Western Washington University	\$ 62.348	\$ (0.995)
Community and Technical College System	\$ 847.519	\$ (13.526)
<u>Other Education</u>		
State School For The Blind	\$ -	\$ -
Ctr for Childhood Deafness & Hearing Loss	\$ -	\$ -
Work Force Training/Educ Coordinating Bd	\$ 3.143	\$ (0.050)
Department of Early Learning	\$ 121.323	\$ (1.936)
Washington State Arts Commission	\$ 3.759	\$ (0.060)
Washington State Historical Society	\$ 5.228	\$ (0.083)
Eastern Washington State Historical Society	\$ 3.267	\$ (0.052)
<u>Other Budget Expenditures</u>		
Special Appropriations to the Governor	\$ 78.720	\$ (1.256)

* 2009-11 GFS Appropriations. Does not include K-12 Education, Pensions, Debt Service, most of Special Appropriations, or Higher Education Instruction as per SB 5734 (first year only)

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FY2010 SUPPLEMENTAL
BUDGET PROPOSAL

SECTION D

REVENUES



State of Washington

Summarized Revenue by Account and Source

Budget Period: 2009-11

10/8/2009

Dollars in thousands

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100 - Office of Attorney General

Agency Level

S4 - 2010 Supplemental Budget

Supporting Text Excluded

	Maintenance Level		Performance Level		Biennium Totals		Total
	FY2010	FY2011	FY2010	FY2011	FY2010	FY2011	
405 - Legal Serv Rev Acct							
AL - Moore v HCA Litigation	1,651						
AM - McCleary v Washington Litigation	779						
AN - Inter Agency Agreement Conversion	1,036	1,041					
AQ - Referendum 71 Litigation	82	89					
Total - 0420 - Charges for Services - S	3,548	1,130			3,548	1,130	4,678
405 - Legal Serv Rev Acct - State	3,548	1,130			3,548	1,130	4,678
Total - 405 - Legal Serv Rev Acct	3,548	1,130			3,548	1,130	4,678
100 - Office of Attorney General - State	3,548	1,130			3,548	1,130	4,678
Total - 100 - Office of Attorney General	3,548	1,130			3,548	1,130	4,678

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FY2010 SUPPLEMENTAL
BUDGET PROPOSAL

SECTION E

FEES



FEES

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