

APPROPRIATION LINE ITEM AND BOILERPLATE HISTORY

**DEPARTMENT OF ATTORNEY GENERAL
PART 1: LINE ITEM DETAIL**

**2016 PA 268
Article VIII
FY 2016-17
Initial**

Sec. 102(1) APPROPRIATION SUMMARY

1. <u>Full-time equated (FTE) unclassified positions</u> - Positions that are exempted from the classified State civil service pursuant to Article XI, Section 5 of the Michigan Constitution. These positions include elected officials, heads of principal departments, a limited number of policy-making positions in departments, and some members of boards and commissions.	6.0
2. <u>Classified FTE positions</u> - All positions in classified State civil service. One FTE position equals 2,088 hours.	527.0
3. <u>GROSS APPROPRIATION</u> - Total appropriations	\$101,485,800
4. <u>Interdepartmental grants (IDG)</u> - Funds that are also appropriated in other budgets. These funds are categorized as IDGs in the department that spends the funds and are therefore subtracted from the Gross Appropriation to avoid double counting total statewide appropriations.	28,989,700
5. <u>ADJUSTED GROSS APPROPRIATION</u> - Gross appropriations less IDGs.	72,496,100
6. <u>Federal revenue</u> - Funding allocated to the State by the Federal government.	9,476,700
7. <u>Local revenue</u> - Funds paid by local units of government that support State services and programs.	0
8. <u>Private revenue</u> - Available appropriated funds from private sources, including funding from non-governmental agencies.	0
9. <u>State restricted revenue</u> - Revenue earmarked for a specific purpose by the State Constitution, statute, or appropriation bill. Restricted revenue also includes general fund/special purpose funds, such as fee revenue used to support licensing programs.	20,178,900
10. <u>State general fund/general purpose (GF/GP)</u> - Revenue that has no constitutional or statutory restrictions on how it is used.	42,840,500
11. <u>Payments to locals</u> - State appropriations from GF/GP or State restricted revenues that will be allocated to local units of government.	0

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Sec. 102 (2) ATTORNEY GENERAL OPERATIONS

1. Attorney general \$112,500

The Attorney General is a constitutional officer who acts as the chief law enforcement officer of the State, and as the head of the Department of Attorney General. Public Act 232 of 1919 empowers the Attorney General to intervene in any action in any court of the State whenever such intervention is necessary to protect any right or interest of the State, or the people of the State. The Revised Statutes of 1846 provide that the Attorney General shall prosecute and defend all actions in which the State shall be interested. The Attorney General also advises and supervises local prosecuting attorneys in all matters pertaining to the duties of their offices. The salary of the Attorney General is set by the State Officers Compensation Commission under amendments to the State Constitution approved by the voters on August 6, 2002. The position of Attorney General counts as one of the department's 6.0 unclassified positions.

2. Unclassified positions \$754,000

Unclassified FTE positions 5.0

This line item funds 5.0 FTE unclassified positions. These positions consist of the Solicitor General, Director of Public Affairs, Chief Legal Counsel, Constituent Relations Representative, and Special Assistant to the Attorney General.

3. Attorney general operations \$86,400,000

Classified FTE positions 479.5

The Department of Attorney General has offices in Lansing, Detroit, and Grand Rapids.

The Department is organized into the bureaus of Criminal Justice and Consumer and Environmental Protection and divisions for the Solicitor General and Public Affairs:

Criminal Justice Bureau

- Alcohol and Gambling Enforcement Division
- Child Support Division
- Children and Youth Services Division
- Civil Rights Division
- Corrections Division
- Criminal Division
- Health Care Fraud Division

Consumer and Environmental Protection Bureau

- Corporate Oversight Division
- Environment, Natural Resources, and Agriculture Division
- Health, Education, and Family Services Division
- Finance Division
- Labor Division
- Licensing and Regulation Division

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- Public Employment, Elections, and Tort Division
- Public Service Division
- Revenue and Collections Division
- State Operations Division
- Transportation Division

Solicitor General

- Appellate Division
- Opinions

Public Affairs

- Office of Communications
- Office of Constituent Relations
- Office of Legislative Affairs

A majority of the Department's workload is related to representing the State in legal actions. The Attorney General had approximately 40,000 cases during FY 2014-15. In FY 2014-15, the Attorney General was awarded \$392.2 million in settlements and awards payable to State departments and agencies and the citizens of Michigan. The largest component of this amount is from the tobacco settlement (\$251.6 million). During the same fiscal year, the State paid about \$34.2 million for judgments and settlements.

4. Child support enforcement \$3,503,800

Classified FTE positions 25.0

This division was established by the Attorney General in 2003. Funding for the program consists of \$2,622,100 in Federal Title IV-D funding and \$881,700 in GF/GP revenue.

5. Prosecuting attorneys coordinating council \$2,142,600

Classified FTE positions 12.0

The Prosecuting Attorneys Coordinating Council (PACC) was created as an autonomous entity within the Department of Attorney General by the Prosecuting Attorneys Coordinating Office Act (1972 PA 203). The statute provides that the Council shall keep prosecuting attorneys and assistant prosecuting attorneys of the State informed on changes in legislation, law, and matters pertaining to their office with a goal toward a uniform system of conduct, duty and procedure being established in each county of the State. The PACC provides continuing professional education for prosecutors and their staff, assists with legal research, and information technology services. In particular, the PACC operates the case tracking system that tracks and communicates arrest and conviction information among courts, law enforcement, Department of Corrections, victims, and other agencies. It also generates warrants, subpoenas, and notices, including victims' rights notices. This software is used by 79 counties.

Revenue in the Fund is generated from a \$5.00 assessment on certain civil infractions, excluding parking tickets. Under statute and the provisions of Executive Order 2001-5, funds are awarded by the Michigan Commission on Law Enforcement Standards. Sixty percent of the Fund is distributed on a per capita basis to police departments. The balance (40%) is distributed through a competitive grant process. PACC applies for a grant of all 83 county prosecutors. In FY 2014-15, this funding is appropriated as a \$162,900 IDG from the Michigan Department of State Police, Michigan Justice Fund. The funds are used for county prosecutors and their staff to attend PACC training or other approved training.

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Beginning in FY 2015-16 the funds from the Michigan Justice Fund in the Michigan State Police are not available thus additional General Fund dollars are appropriated in order for the PACC to provide all of the necessary trainings.

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| 6. | <u>Public safety initiative</u> | \$905,800 |
| | Classified FTE positions | 1.0 |

This line item was added in FY 2012-13 to fund special attorneys general to assist in clearing a backlog of outstanding cases in financially distressed cities including Flint, Saginaw, Pontiac, and Detroit.

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| 7. | <u>Sexual assault law enforcement</u> | \$1,713,500 |
| | Classified FTE positions | 5.0 |

This line item was added in FY 2015-16 to provide funding for the testing and prosecution of backlogged sexual assault cases across out-state Michigan. A total of \$3.0 million in one-time funding was appropriated in FY 2014-15 for the testing and prosecution of backlogged sexual assault cases in Wayne County.

Unit Gross Appropriation	\$95,532,200
Interdepartmental grant revenues	28,989,700
Federal revenues	9,476,700
Total state restricted revenues	20,178,900
State general fund/general purpose	36,886,900

Sec. 102 (3) INFORMATION TECHNOLOGY

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| 1. | <u>Information technology services and projects</u> | \$1,553,600 |
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This line funds a portion of the information technology charges paid by the Department of Attorney General to the Department of Technology, Management, and Budget (DTMB). The line item was increased by \$500,000 in FY 2012-13 to reduce the amount of information technology charges absorbed by the operations line.

Executive Order 2009-55 transferred the responsibilities of the former Department of Information Technology to the newly combined DTMB. Previously, Executive Order 2001-3 centralized all technology related positions and functions and created the Department of Information Technology (DIT). Beginning in FY 2002-03, appropriation bills consolidated funding within each department for information technology services into a new appropriation unit. Seven FTE positions were initially transferred from the Department of Attorney General to DIT. In FY 2003-04 2.0 FTE additional positions were transferred to DIT from Attorney General Operations.

Unit Gross Appropriation	\$1,553,600
State general fund/general purpose.	1,553,600

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Sec. 102 (4) ONE-TIME BASIS ONLY APPROPRIATIONS

1.	<u>Prescription drug abuse enforcement</u>	\$700,000
	Classified FTE Positions	4.5
	This line item was added in FY 2016-17 to provide one-time funding and FTE positions to develop a statewide drug enforcement strategy to battle prescription drug abuse in Michigan.	
2.	<u>State defense costs</u>	\$3,000,000
	This line item was added in FY 2015-16 to provide one-time funding for legal defense costs for the Department of Health and Human Services and the Department of Environmental Quality related to the Flint water crisis.	
3.	<u>Prosecuting attorneys coordinating council juvenile life without parole cases</u>	\$700,000
	This line item was added in FY 2015-16 to provide one-time funding to the Attorney General for investigations, crime victim rights, prosecutions and appeals for retroactive juvenile life without parole cases.	
	Unit Gross Appropriation	\$4,400,000
	State general fund/general purpose.	4,400,000

**DEPARTMENT OF ATTORNEY GENERAL
PART 2: BOILERPLATE DETAIL**

2016 PA 268, Article VIII

Section Number	Description and History
301	<p><u>Contingency Fund Appropriations.</u> Provides that a limited amount of Federal, State Restricted, local, and private revenues that come in during the year, such as a new Federal grant, can be appropriated upon approval of a contingency fund transfer to a line item by the Appropriations Committees of both houses of the Legislature. Contingency fund transfers are limited to the following revenue amounts: \$1,500,000 Federal, \$1,500,000 State Restricted, \$100,000 local, and \$100,000 private.</p> <p>Background: Contingency fund language was re-inserted in FY 2007-08.</p>
302	<p><u>Attorney General Responsibilities.</u></p> <p>Section 302(1) provides that the Attorney General shall perform all legal services to principal executive departments and State agencies. Prohibits executive departments and agencies from employing or contracting with other persons for legal services.</p> <p>Background: This subsection was first included in FY 1973-74. The language has been in every subsequent annual General Government Appropriation Bill. The Executive Budget Recommendation for FY 1974-75 transferred 17 attorney positions and 13.4 support positions from other departments because the positions provided legal assistance.</p> <p>Section 302(2) requires the Attorney General to defend judges of State courts in civil actions related to the performance of the judge's duties.</p> <p>Background: This subsection was added in FY 1984-85 due to legislative concerns related to the Judiciary hiring private counsel to defend a trial court judge in Wayne County.</p> <p>Section 302(3) provides that the Attorney General shall perform all duties specified in Chapter 12 of the Revised Statutes of 1846, MCL 14.28 to 14.35, which consist of:</p> <ul style="list-style-type: none">• Prosecuting and defending all actions in the Supreme Court with a State interest. (MCL 14.28)• Intervening in any matter, civil or criminal, in which the people of the State have an interest. (MCL 14.28)• Handling all suits relating to State departments. (MCL 14.29)• Supervising and advising prosecuting attorneys and submitting reports. (MCL 14.30 & 14.31)• Giving opinions on questions of law submitted by the Legislature, Governor, Auditor General, Treasurer, or other State officials. (MCL 14.32)• Depositing lawsuit cash proceeds into a restricted fund in the State Treasury to be used as provided by law. (MCL 14.33)• Maintaining records of all proceedings in which the Attorney General participates. (MCL 14.34)• Appointing assistant attorneys general. (MCL 14.35) <p>The subsection also requires the Attorney General to carry out the duties of Public Act 232 of 1919, MCL 14.101 to 14.102, which provides for the Attorney General to intervene in any action in any court to protect the interests of the State or the people. The Attorney General can bring and prosecute any action on behalf of the State or the people in the Circuit Court of Ingham County. Finally, the subsection requires the Attorney General to perform duties otherwise provide by law.</p> <p>Background: This section has been in for many years and refers to the statutory responsibilities of the Attorney General.</p>

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303	<p><u>Biennial Reports.</u> Authorizes the sale of biennial reports in excess of the 350 copies that may be distributed on a gratis basis. Requires price to be set at not less than the actual cost and money received from the sale of reports shall be deposited in the State General Fund. The section requires that electronic copies of the report shall be available on the Attorney General's website.</p> <p>Background: Gratis copies of the biennial report are provided to the State Library, county prosecutors, State agencies, Attorney General Divisions, the Michigan Supreme Court, and the United States Supreme Court. Report revenue was \$702.00 in FY 2011-12. In FY 2003-04, the number of gratis copies was reduced from 500 to 350 and the language changed to specifically provide that the Legislature shall not receive gratis copies. The FY 2003-04 changes also required the Department to make the report available on the Internet.</p>												
304	<p><u>State Employee Worker's Disability Compensation Cases.</u> The Attorney General retains responsibility for legal representation of State of Michigan State employee worker's disability compensation cases. Specifies that the Risk Management Revolving Fund appropriation which supports this work is funded by billings for the actual cost of legal representation.</p> <p>Background: First included in FY 1995-96 due to the privatization of the State Accident Fund. The language was modified in FY 2003-04 to reflect a change in the Third Party Administrator for these cases.</p>												
305	<p><u>Third Circuit Court Food Stamp Fraud Cases.</u> Appropriates up to \$400,000, in addition to amounts appropriated in Part 1, for reimbursement for food stamp fraud cases heard by the Third Circuit Court of Wayne County, which were initiated by the Attorney General.</p> <p>Background: This section was first included in FY 1997-98 due to Court Reorganization legislation enacted in 1996. The reimbursement of Federal funds to Wayne County was previously included in the Judiciary Budget pursuant to a contract between the Family Independence Agency, the Prosecuting Attorneys Association of Michigan, and the Department of Attorney General. No reimbursement payments have been made to Wayne County since 2008 and none are anticipated because the AG is currently handling cases in-house.</p>												
306	<p><u>Tobacco Litigation.</u> Provides that any proceeds from a lawsuit or settlement agreement initiated by the State against a manufacturer of tobacco products are State funds and subject to the appropriations process.</p> <p>Background: This section was first included in FY 1997-98.</p>												
307	<p><u>Revenue from Enforcement Cases.</u> Appropriates up to \$250,000 in enforcement revenue or attorney fees recovered from antitrust, securities fraud, consumer protection, or class action enforcement to cover the costs of those cases. Permits up to \$250,000 of this revenue to carryforward.</p> <p>Background: This section was added by a supplemental, Public Act 360 of 2004, and included in subsequent State budgets. It had been vetoed previously from the annual budget for FY 2004-05 (Public Act 327 of 2004) with a carryforward amount of \$1,000,000. Recent revenue carried forward is as follows:</p> <table style="margin-left: 40px;"> <tbody> <tr> <td style="padding-right: 40px;">FY 2009-10</td> <td style="padding-right: 40px;">\$45,000</td> <td style="padding-right: 40px;">FY 2012-13</td> <td>\$0</td> </tr> <tr> <td>FY 2010-11</td> <td>\$0</td> <td>FY 2013-14</td> <td>\$250,000</td> </tr> <tr> <td>FY 2011-12</td> <td>\$0</td> <td>FY 2014-15</td> <td>\$250,000</td> </tr> </tbody> </table>	FY 2009-10	\$45,000	FY 2012-13	\$0	FY 2010-11	\$0	FY 2013-14	\$250,000	FY 2011-12	\$0	FY 2014-15	\$250,000
FY 2009-10	\$45,000	FY 2012-13	\$0										
FY 2010-11	\$0	FY 2013-14	\$250,000										
FY 2011-12	\$0	FY 2014-15	\$250,000										

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308 **Litigation Expense Reimbursement.** Appropriates up to \$1.0 million from litigation expense reimbursements awarded to the State. Provides that funds may be used to pay litigation settlements or attorney fees assessed against the Office of the Governor, the Department of Attorney General, the Governor or the Attorney General when acting in an official capacity as the named party in litigation against the State. The funds may also be expended for State costs incurred pursuant to MCL 770.16 (DNA testing). Allows up to \$1.0 million in unexpended funds to be carried forward.

Background: This section was first included in a supplemental appropriation bill for FY 2001-02 (2002 PA 530). The Department was absorbing costs related to litigation adversely resolved against the State. Therefore, this language was included to earmark a portion of the costs received by the State for litigation decided in the State's favor to cover these costs. Reimbursements pursuant to this section in recent years are as follows:

FY 2009-10	\$199,000	FY 2012-13	\$66,000
FY 2010-11	\$116,000	FY 2013-14	\$500,000
FY 2011-12	\$65,000	FY 2014-15	\$474,600

The section was modified in FY 2013-14 to remove the prohibition against using the revenue for salaries and support costs. The carry-forward amount was increased from \$500,000 to \$1.0 million beginning in FY 2016-17.

309 **Prisoner Reimbursement Funds.** Authorizes the AG to spend up to \$625,200 on activities related to the State Correctional Facilities Reimbursement Act, 1935 PA 253, MCL 800.401-800.406. Provides that if the Department of Attorney General collects in excess of \$1,131,000, the excess, limited up to \$1,000,000, may be spent on the representation of the Department of Corrections and its officers, employees and agents in defense of litigation or civil actions filed by prisoners.

Background: This section was first included in FY 2003-04. The increased authorization for restricted funding offset a General Fund reduction of \$800,000. This section was modified by two FY 2003-04 supplemental appropriation bills (2003 PA 173 and 2003 PA 237), and the FY 2004-05 appropriation bill. Carry forward authorization included by the Legislature in FY 2004-05 and FY 2005-06 was vetoed by the Governor in both years. In FY 2011-12 the Attorney General recovered \$2,891,000 from prisoner reimbursement cases. In FY 2013-14 the limit on spending was increased from \$497,900 to \$614,400. In FY 2015-16 the limit on spending was decreased from \$614,400 to \$611,900. In FY 2016-17 the limit on spending was increased from \$611,900 to \$625,200.

310 **Child Support Funding.** Requires the Department of Human Services to maintain a cooperative agreement with the Attorney General for Federal IV-D funding to support the child support enforcement activities of the Attorney General. The section provides that the Attorney General shall have access (to the extent allowable by Federal law) to any information used by the State to locate parents who fail to pay child support.

Background: First included in FY 2003-04 consistent with the creation of the Child Support Enforcement Division within the Department of Attorney General.

312 **Spending Prohibition.** Prohibits the use of funds in addition to those appropriated in Part 1 for providing legal services to State departments or agencies. Includes exceptions for costs of expert witnesses, court costs, or non-salary costs of litigation.

Background: This section was added in FY 2007-08.

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Section Number	Description and History
313	<p>Mortgage Fraud Investigations. States that from the funds appropriated in Part 1 for Attorney General Operations, the Department must allocate \$600,000 for the investigation and prosecution of mortgage fraud.</p> <p>Background: This section was added in FY 2016-17 to ensure that funding is provided for the ongoing costs associated with the continuing efforts to investigate mortgage fraud from the housing crisis of 2008.</p>
314	<p>Lawsuit Proceeds for Drinking Water Contamination. Allows the Department to use up to \$2.6 million of lawsuit settlement proceeds to pay for costs and associated expenses related to the declaration of emergency due to drinking water contamination.</p> <p>Background: This section was added in FY 2016-17 as a result of increased litigation costs for the Department of Attorney General related to the Flint water crisis.</p>
314a	<p>Juvenile Life without Parole. Senate: States that the \$700,000 appropriated in part 1 is to be used for investigations, crime victim rights, prosecutions and appeals for retroactive juvenile life without parole cases. Also requires a report to be submitted by September 30.</p> <p>Background: This section was added in FY 2016-17 due to the January 2016 U.S. Supreme Court Ruling that made an earlier ruling from 2012 retroactive. The 2012 ruling made mandatory life sentences for juveniles unconstitutional. The 2016 ruling requires that persons in Michigan sentenced to mandatory life without parole prior to the 2012 ruling must now have their cases reviewed and given the opportunity to argue for parole or be resentenced.</p>
315	<p>Legacy Costs. This language lists the authorized amount of the appropriations in Part 1 that may be used for legacy costs as well as an estimate of the amount of pension-related legacy costs. For FY 2016-17 pension-related legacy costs are estimated at \$10,096,700 and retiree health care legacy costs are estimated at \$8,264,300.</p> <p>Background: This section was added in FY 2014-15.</p>
316	<p>Sexual Assault Law Enforcement Efforts. New language requires the Department to use the funds appropriated in Part 1 for testing of backlogged sexual assault kits across the State. The priority for the use of these funds through this initiative are as follows: (1) to eliminate backlogs outside Wayne County; (2) to assist local prosecutors with investigations and prosecutions; and (3) to provide victim assistance. The language also requires the Department of Attorney General to provide a detailed work and spending plan outlining anticipated litigation action and expenditures resulting from findings of the testing of sexual assault kits. A work and spending plan along with an expenditure report is due to the Legislature and the State Budget Office by January 30.</p> <p>Background: This section was added in FY 2015-16. This section was modified in FY 2016-17 to include the required report.</p>
317	<p>Flint Expenditure Report. Requires the Department to submit a semi-annual report to the Legislature providing a detailed accounting of all funds spent related to the Flint Water Crisis. The report also shall include a listing of any investigations and resulting prosecutions and requires all materials related to all of those investigations to be preserved at an academic institution or other facility.</p> <p>Background: This section was added in FY 2016-17 as a result of the Flint water crisis to give the legislature a tool to monitor the Department of Attorney General's expenditures related to the crisis.</p>