

# **LSC Redbook**

**Analysis of the Executive Budget Proposal**

## **Court of Claims**

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## **ATTACHMENTS:**

- Catalog of Budget Line Items
- Budget Spreadsheet By Line Item

# Court of Claims

- Court's budget request maintains current service levels
- Crime victim appeals declining

## OVERVIEW

### Mission

The Court of Claims, established in 1975, is the only statutory court with statewide jurisdiction. Prior to its creation, there was no forum for civil actions filed against the state of Ohio. The Court of Claims' duties include:

1. Adjudicating civil actions filed against the state;
2. Hearing appeals from decisions made by the Attorney General on claims allowed under the Victims of Crime Law; and
3. Acting as the state's fiduciary agent for processing claims of wrongful imprisonment.

### Appropriation Overview

**Appropriations.** Pursuant to R.C. 107.03, no alterations can be made to the budget requests for the legislative and judicial branches of the state filed with the Director of Budget and Management. Therefore, the executive recommendations set forth in the proposed budget reflect the appropriations as requested by the Court of Claims.

For FY 2014, the Court of Claims has requested total funding of \$2,916,608, which represents a decrease of 17.0% from the FY 2013 estimated expenditure of \$3,514,808. For FY 2015, the Court has requested total funding of \$2,917,005, an increase of \$397 from the FY 2014 requested amount. Table 1 below compares the Court's FY 2013-FY 2015 appropriations by fund group.

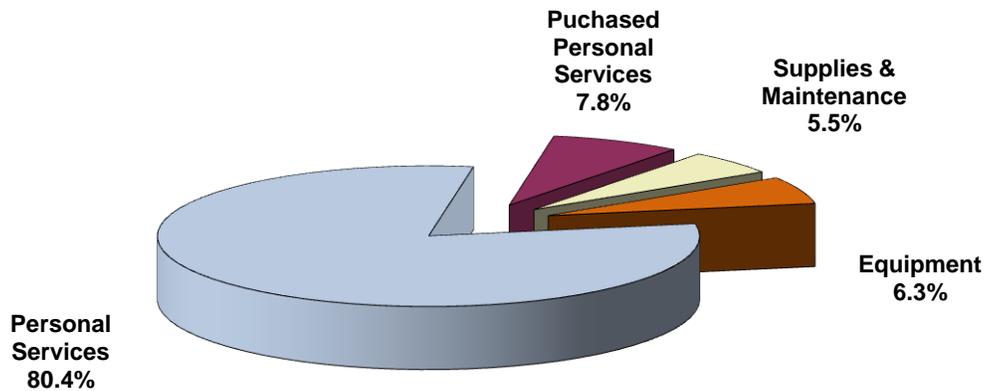
According to staff of the Court, existing service levels will be able to be maintained with this level of funding. This is due in part to the decrease in appeals made by applicants to the victims of crime program and the potential restructuring of certain staff positions in the upcoming biennium.

Table 1. Executive Budget Recommendations, by Fund Group, FY 2014-FY 2015					
Fund Group	FY 2013*	FY 2014	% change, FY 2013-FY 2014	FY 2015	% change, FY 2014-FY 2015
General Revenue	\$2,501,052	\$2,501,052	0.0%	\$2,501,052	0.0%
State Special Revenue	\$1,013,756	\$415,556	-59.0%	\$415,953	0.1%
<b>Total</b>	<b>\$3,514,808</b>	<b>\$2,916,608</b>	<b>-17.0%</b>	<b>\$2,917,005</b>	<b>0.0%</b>

\*FY 2013 figures represent estimated expenditures.

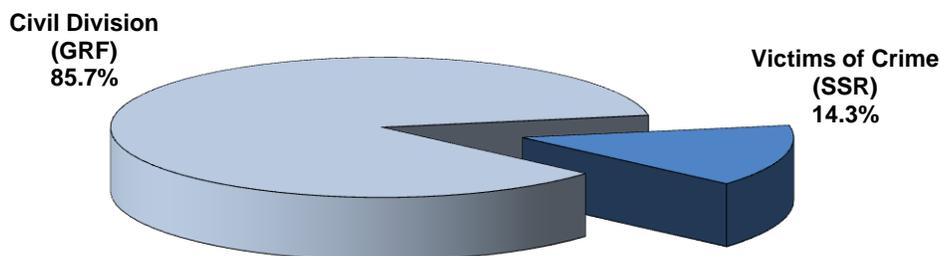
**Expense Category.** Chart 1 below summarizes the Court's proposed biennial budget by object of expense. Approximately 80% of its total biennial appropriation is expected to be allocated for personal services, which represents the payroll-related expenses (salary and fringe benefits) associated with the equivalent of around 20 full-time staff positions.

**Chart 1: Biennial Executive Budget Recommendations by Expense Category, FY 2014-FY 2015**



**Fund groups.** As summarized in Chart 2 below, the Court is funded through two primary sources: (1) GRF and (2) State Special Revenue funds, specifically cash transferred from the Victims of Crime/Reparations Fund (Fund 4020), which is administered by the Office of the Attorney General. Each source of funding is dedicated to supporting the primary functions of the Court, including administering the civil docket and overseeing the appeals of victims of crime applications, respectively.

**Chart 2: Biennial Executive Budget Recommendations by Fund Group and Division, FY 2014-FY 2015**



**Staffing and Compensation**

Tables 2 and 3 below display staffing levels in terms of full-time equivalent (FTEs) staff positions maintained by the Court from FY 2007 projected through FY 2015. Table 2 reflects the number of FTEs for the Court's two major divisions: Civil and Victims of Crime. Table 3 represents FTEs by type of appointment. It should be noted that a number of employees are part-time. For this reason, the numbers may not illustrate a physical portrayal (i.e., head count) of the Court's staffing.

As shown in Table 2, staffing levels have been steadily decreasing since FY 2011. These decreases have been most noticeable in the Victims of Crime Section. As civil case filings and victims of crime appeals have decreased (discussed in more detail below), so has the need for staff. Staff reductions have been made through attrition and early retirement initiatives. Two information technology (IT) positions were also eliminated and those job duties were absorbed by an independent vendor. The Supreme Court has offered to share their IT resources as necessary.

Table 2. Court of Claims Staffing Levels by Division, FYs 2007-2015*									
Division	2007	2008	2009	2010	2011	2012	2013*	2014*	2015*
Civil	23.6	22.9	23.9	23.1	23.5	21.2	17.3	19.0	19.0
Crime Victims	12.0	11.7	11.6	10.7	11.8	10.6	6.2	2.3	2.3
<b>Total</b>	<b>35.6</b>	<b>34.6</b>	<b>35.5</b>	<b>33.8</b>	<b>35.3</b>	<b>31.8</b>	<b>23.5</b>	<b>21.3</b>	<b>21.3</b>

\*The staffing levels displayed in the above table represent full-time equivalents (FTEs). FYs 2013 through 2015 are projections.

**Judges.** The Court resides in Franklin County and consists of judges who sit by temporary assignment of the Chief Justice of the Supreme Court. The Chief Justice may appoint incumbent justices or judges of the Supreme Court, courts of appeals, or courts of common pleas, or retired justices or judges eligible for active duty pursuant to Division (C) of Section 6 of Article IV of the Ohio Constitution. The appointments to the

Court are temporary, lasting roughly three months. Many of the judges, however, are reappointed for multiple terms.

**Commissioners.** In addition to its judges, the Court also has six commissioners who are appointed by the Supreme Court of Ohio for six-year terms. Combined, the work of these six commissioners is equal to approximately three full-time employees. These commissioners are responsible for hearing and determining crime victims' appeals. Commissioners are not required to have previous judicial experience, but are required to be lawyers with three years of work experience. The Court is considering the elimination of these commissioners and transferring their workload to an existing magistrate. In order to do this however, a legislative change would be needed (not included in the executive budget proposal). Anticipating the enactment of such a change in separate legislation though, the Court did not request funding for these commissioner positions.

<b>Appointment Types</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013*</b>	<b>2014*</b>	<b>2015*</b>
Permanent Staff	29.5	29.0	28.9	29.3	28.5	27.5	27.5	18.0	18.0
Temporary Staff	1.0	0.9	1.6	0.7	1.8	0.0	0.0	1.9	1.9
Commissioners	3.7	3.4	3.6	2.7	3.6	2.9	3.1	0.0	0.0
Judges	1.5	1.3	1.5	1.1	1.4	1.4	1.4	1.4	1.4
<b>Total</b>	<b>35.7</b>	<b>34.6</b>	<b>35.5</b>	<b>33.8</b>	<b>35.3</b>	<b>31.8</b>	<b>32.0</b>	<b>21.3</b>	<b>21.3</b>

\*The staffing levels displayed in the above table represent full-time equivalents (FTEs). FYs 2013 through 2015 are projections.

The compensation levels of several Court of Claims' employees are set either by the Revised Code or the Supreme Court of Ohio.<sup>1</sup> For the remainder, compensation levels are set upon delegated authority granted to the clerk by the Supreme Court. Judges and referees are paid on a per diem basis. Cumulative per diem costs can vary from year to year depending on the number of cases filed with the Court of Claims and how many of those cases are heard by a single judge/referee or if a panel of three judges/referees are appointed to a case because of its complexity. Table 4 below illustrates the employees whose salaries are set either by the Revised Code or the Supreme Court.

<sup>1</sup> R.C. 2743.08 requires that the Supreme Court fix the compensation to be paid the clerk and deputy clerks, court reporters, secretaries, and clerical personnel employed by the Court of Claims.

While the Clerk has discretionary power with respect to determining most salary costs, all budgetary matters including the Court's payroll line item are discussed quarterly with the Administrative Director of the Supreme Court.

<b>Employee Title</b>	<b>R.C. Statutory Authority</b>	<b>Compensation Type</b>	<b>Current Salary/Per Diem Rate</b>	<b>Funding Source</b>
Judges	2743.04	Per diem, based on the current salary of a judge of a court of appeals, plus travel expenses if the judge resides outside of Franklin County*	\$528 per day	GRF
Magistrates (Referees)**	2743.03(C)(3)	Per diem, plus expenses (if a panel of three magistrates is appointed, the salary and expenses of the remaining two is taxed as costs of the case)	\$528 per day	GRF***
Commissioners	2743.54(B)	Hourly rate, plus expenses if the commissioner resides outside of Franklin County (set by the Supreme Court)	\$40 per hour	Court of Claims Victims of Crime Fund (Fund 5K20)

\*This per diem arrangement applies to retired judges. If, however, an incumbent judge is appointed, the per diem is equal to that allowed a retired judge less a per diem amount computed on his/her annual compensation.

\*\*Magistrates (referees) specialize in disputes arising between the state and a contractor concerning the terms of a public improvement contract.

\*\*\*Potentially supplemented by parties to a case if certain conditions are met.

## Operations

As previously mentioned, the Court serves three primary functions: (1) to adjudicate civil actions filed against the state, (2) to hear appeals from decisions made by the Attorney General on claims allowed under the Victims of Crime Law, and (3) to act as the state's fiduciary agent for processing claims of wrongful imprisonment.

### Civil Division

The Court's Civil Division is responsible for hearing all civil claims filed against the state of Ohio and its agencies. Claims can be adjudicated administratively, or by referees and judges, as described in more detail below.

**Administrative determinations.** In civil actions against the state for \$10,000 or less, the Clerk may administratively determine a claim and render judgment.<sup>2</sup> A majority of the civil actions are handled administratively.

**Judicial determinations.** Any case involving claims greater than \$10,000 must be decided by a judge. In most cases, a single judge will hear a case, but the Chief Justice of the Supreme Court of Ohio may assign a panel of three judges to a civil action that

<sup>2</sup> Effective September 10, 2012, Am. Sub. H.B. 487 of the 129th General Assembly increased the threshold below which a civil action against the state must be determined administratively from \$2,500 to \$10,000.

presents novel or complex issues of law and fact. While a motion may be filed requesting that a panel of three judges hear a particular case, few cases are eligible for a hearing before a panel of three judges.

**Referees.** Whenever the Chief Justice believes an equitable resolution of a case will be expedited, the Chief Justice may appoint referees (also known as magistrates) in accordance with Civil Procedure Rule 53 to hear the case. For disputes arising between the state and a contractor concerning the terms of a public improvement contract let by the state, the Supreme Court is required to appoint a referee, or a panel of three referees.<sup>3</sup>

The Court's decisions in these civil matters may be appealed. Cases that were originally determined by the Clerk of the Court (involving \$10,000 or less) may be appealed to a judge of the Court. The decision of the judge is final. Cases that were originally heard by a judge of the Court (over \$10,000) may be appealed to the Tenth District Court of Appeals in Franklin County, and further appealed to the Supreme Court of Ohio.

Details on the filing and disposition of civil cases from calendar years 2006-2012 for both administratively processed claims and judicially processed claims are summarized in Table 5 below.

<b>Table 5. Civil Case Filings, Calendar Years 2006-2012</b>							
<b>Type of Action</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012*</b>
<b>Administratively processed claims (less than \$2,500 prior to 9/10/12; less than \$10,000 after 9/10/12)</b>							
Cases Filed	359	514	687	506	768	808	459
Cases Terminated	374	472	675	547	704	904	374
Cases Pending	118	160	172	145	222	117	198
<b>Judicially processed claims (over \$2,500 prior to 9/10/12; \$10,000 after 9/10/12)</b>							
Cases Filed	375	381	407	396	463	451	425
Cases Terminated	380	356	419	457	438	532	448
Stay/Interlocutory Appeals	164	171	182	180	188	117	133
Cases Pending	535	560	548	492	526	453	400
Trials/Hearings Held	117	248	151	120	123	102	88
Conferences Held	1,483	1,515	1,632	1,469	1,446	1,645	886

\*Effective September 10, 2012, Am. Sub. H.B. 487 of the 129th General Assembly increased the threshold below which a civil action the state must be determined administratively from \$2,500 to \$10,000.

<sup>3</sup> The referees need not be attorneys, but must be persons knowledgeable about construction contract law, a member of the Construction Industry Panel of the American Arbitration Association, or an individual or individuals deemed qualified by the Chief Justice to serve.

## Victims of Crime Appeals

In 1976, the Victims of Crime Compensation Program was enacted and its administration was assigned to the Court. Under the program, individuals suffering personal injury as the result of criminal conduct were eligible to apply for compensation. This compensation included, but was not limited to, psychiatric care/counseling, medical expenses, work loss compensation, and unemployment benefits loss. Dependents could also receive awards for economic loss, replacement services loss, and certain funeral expenses in the case of a homicide. The maximum award was \$50,000 per victim, per criminal incident.

From 1976 until July 1, 2000, the Court's Victims of Crime Division handled all claims for compensation from the Victims of Crime Fund. The Office of the Attorney General then investigated the claim and filed a finding of fact and recommendation with the Court.

At the start of FY 2001, the Victims of Crime Compensation Program underwent a transformation with the passage of Am. Sub. S.B. 153 of the 123rd General Assembly. Pursuant to that legislation, the responsibility for administering the Victims of Crime Compensation Program was transferred from the Court of Claims to the Office of the Attorney General. The transfer significantly changed the role that the Court plays in these cases. Whereas before, the Court rendered the initial decisions on compensation cases and was responsible for disbursing reparation awards, this responsibility was transferred to the Office of the Attorney General. The Court still handles the appeals process.

Under current law, if a crime victim applicant does not agree with the final decision made by the Office of the Attorney General, that individual, within 30 days, may file an appeal to have the claim heard before a three-commissioner panel of the Court of Claims of Ohio. A further appeal may be taken to a judge of the Court.

Details on the filing and disposition of victims of crime appeals from calendar years 2004-2010 are summarized in Table 6 below. Case filings, trials, and administrative orders have been trending downward in the past year. This trend is expected to continue.

Type of Action	2006	2007	2008	2009	2010	2011	2012
Cases Filed	154	98	138	99	96	100	59
Cases Terminated	103	125	99	103	89	99	103
Cases Pending	102	75	82	62	58	68	24
Trials/Hearings Held	145	210	136	110	98	75	61
Administrative Orders	166	159	108	126	127	171	84

## Wrongful Imprisonment Claims

The Court of Claims acts as the state's fiduciary agent for processing claims of wrongful imprisonment. Money to pay any such claims is transferred to the Court on an as-needed basis by the state's Controlling Board.

Pursuant to R.C. 2743.48(E)(2), upon presentation of requisite proof to the Court, a wrongfully imprisoned individual is entitled to receive a sum of money that equals the total of each of the following amounts:

- The amount of any fine or court costs imposed and paid, and the reasonable attorney's fees and other expenses incurred by the wrongfully imprisoned individual in connection with all associated criminal proceedings and appeals, and, if applicable, in connection with obtaining the individual's discharge from confinement in the state correctional institution;
- For each full year that the individual was imprisoned in the state correctional institution for the offense of which the individual was found guilty, \$40,330 or the adjusted amount determined by the Auditor of State (currently \$50,344.75). For partial years, the share is prorated;
- Any loss of wages, salary, or other earned income that directly resulted from the individual's arrest, prosecution, conviction, and wrongful imprisonment; and
- The amount of certain cost debts the Department of Rehabilitation and Correction recovered from the wrongfully imprisoned individual.

Table 7 below shows the total amount of money that the Court has disbursed to make wrongful imprisonment settlements from FYs 2000-2013, year to date.

<b>Table 7. Wrongful Imprisonment Settlement Disbursements, FYs 2000-2013</b>	
<b>Fiscal Year</b>	<b>Total Disbursed</b>
2000	\$75,501
2001	\$841,237
2002	\$0
2003	\$0
2004	\$2,036,990
2005	\$0
2006	\$2,357,877
2007	\$4,260,000
2008	\$0
2009	\$772,316
2010	\$1,088,396
2011	\$3,664,717
2012	\$549,628
2013*	\$379,128

\*As of 2/15/2013.

## ANALYSIS OF EXECUTIVE PROPOSAL

This section provides a more detailed discussion of the appropriations that finance the Court's handling of civil cases, victims of crime appeals, and wrongful imprisonment settlements. The recommended FY 2014 and FY 2015 appropriations for the Court's two primary funding mechanisms are shown in Table 8 below.

Table 8. Budget Recommendations by Fund Group, FY 2014-FY 2015				
Fund		ALI and Name	FY 2014	FY 2015
<b>General Revenue Fund (GRF)</b>				
GRF	015321	Operating Expenses	\$2,501,052	\$2,501,052
<b>State Special Revenue Fund (SSR) Group</b>				
5K20	015603	CLA Victims of Crime	\$415,556	\$415,953
<b>Total Funding: Court of Claims</b>			<b>\$2,916,608</b>	<b>\$2,917,005</b>

### Operating Expenses (GRF line item 015321)

The expenses of operating the Court, primarily the Court's Civil Division, are paid with money appropriated to this GRF line item. The Court's recommended FY 2014 and FY 2015 GRF appropriation of \$2,501,052 represents a zero-growth funding level from the FY 2013 estimated level of spending.

### Victims of Crime Appeals (SSR line item 015603)

This SSR line item pays for: (1) the compensation of judges of the Court of Claims necessary to hear and determine appeals from the Office of the Attorney General, and (2) the compensation of any personnel of the Court of Claims needed to administer R.C. 2743.51 to 2743.72. Its appropriation is supported by cash transferred by the Office of Budget and Management from the Victims of Crime/Reparations Fund (Fund 4020), which is used by the Office of the Attorney General.

The line item's recommended appropriations – \$415,556 in FY 2014 and \$415,953 in FY 2015 – represent decreases of close to \$600,000, or 59%, from FY 2013 estimated expenditures of \$1,013,756. According to Court staff, these decreases represent a more accurate picture of its funding needs, and is due, in part, to a decline in the number of crime victim appeals.

### Wrongful Imprisonment Claims (GRF line item 015402)

The Court of Claims acts as the state's fiduciary agent for processing claims of wrongful imprisonment. When a wrongful imprisonment judgment has been rendered in a court of common pleas, the Controlling Board, upon certification by the Court of Claims, transfers the sum necessary to pay that judgment to the Court's GRF line item 015402, Wrongful Imprisonment Compensation. Since the Controlling Board provides

the money for such judgments on an as-needed basis, the Court's line item does not receive a direct appropriation through the main operating appropriations act enacted by each General Assembly. However, once the expenditure is made, the amounts are tracked as spending by the Court.

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## Court of Claims

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### General Revenue Fund

#### GRF 015321 Operating Expenses

FY 2010 Actual	FY 2011 Actual	FY 2012 Actual	FY 2013 Estimate	FY 2014 Introduced	FY 2015 Introduced
\$2,670,384	\$2,923,375	\$2,420,052	\$2,501,052	<b>\$2,501,052</b>	<b>\$2,501,052</b>
	9.5%	-17.2%	3.3%	<b>0.0%</b>	<b>0.0%</b>

**Source:** General Revenue Fund

**Legal Basis:** Section 253.10 of Am. Sub. H.B. 153 of 129th G.A. (originally established by Am. Sub. H.B. 694 of the 114th G.A., the main operating appropriations act covering FY 1982 and FY 1983)

**Purpose:** This line item funds the payroll, purchased personal services, supplies and maintenance, and equipment costs of the Court of Claims' Civil Division.

#### GRF 015402 Wrongful Imprisonment Compensation

FY 2010 Actual	FY 2011 Actual	FY 2012 Actual	FY 2013 Estimate	FY 2014 Introduced	FY 2015 Introduced
\$1,088,396	\$3,664,717	\$549,628	\$0	<b>\$0</b>	<b>\$0</b>
	236.7%	-85.0%	-100%	<b>N/A</b>	<b>N/A</b>

**Source:** General Revenue Fund

**Legal Basis:** As needed line item; ORC 2743.48

**Purpose:** This line item is used to pay a sum of money to those who have been judged wrongfully imprisoned, in addition to reasonable attorney fees and other expenses. When a wrongful imprisonment judgment is journalized, the Controlling Board, upon certification by the Court of Claims, transfers the sum necessary to the line item. Since the Controlling Board provides money for the awards on an as-needed basis, the line item does not receive a direct appropriation through the main operating appropriations act passed by each General Assembly. The necessary funds are transferred from the Controlling Board's Emergency Purposes appropriation.

## Court of Claims

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### State Special Revenue Fund Group

#### 5K20 015603 CLA Victims of Crime

FY 2010 Actual	FY 2011 Actual	FY 2012 Actual	FY 2013 Estimate	FY 2014 Introduced	FY 2015 Introduced
\$1,226,348	\$1,345,351	\$1,053,868	\$1,013,756	<b>\$415,556</b>	<b>\$415,953</b>
	9.7%	-21.7%	-3.8%	<b>-59.0%</b>	<b>0.1%</b>

**Source:** State Special Revenue Fund Group: Cash transferred by the Director of Budget and Management from the Office of the Attorney General's Victims of Crime Fund (Fund 4020), also known as the Reparations Fund

**Legal Basis:** ORC 2743.531; Section 253.10 of Am. Sub. H.B. 153 of 129th G.A. (originally established by Am. Sub. S.B. 153 of the 123rd G.A.)

**Purpose:** This fund and related line item are statutorily restricted for the purpose of paying for the Court of Claims' appellate role in the Victims of Crime Compensation Program. Specifically, the line item pays for: (1) the compensation of commissioners and judges of the Court of Claims necessary to hear appeals from decisions made by the Attorney General on claims allowed under the Victims of Crime Act, and (2) any other administrative expenses of hearing and determining such appeals.

# FY 2014 - FY 2015 Introduced Appropriation Amounts

# All Fund Groups

Line Item Detail by Agency			FY 2012	Estimate FY 2013	Introduced FY 2014	FY 2013 to FY 2014 % Change	Introduced FY 2015	FY 2014 to FY 2015 % Change
<b>Report For Main Operating Appropriations Bill</b>			<b>Version: As Introduced</b>					
<b>CLA Court of Claims</b>								
GRF	015321	Operating Expenses	\$ 2,420,052	\$ 2,501,052	\$ 2,501,052	0.00%	\$ 2,501,052	0.00%
GRF	015402	Wrongful Imprisonment Compensation	\$ 549,628	\$0	\$0	N/A	\$0	N/A
<b>General Revenue Fund Total</b>			<b>\$ 2,969,680</b>	<b>\$ 2,501,052</b>	<b>\$ 2,501,052</b>	<b>0.00%</b>	<b>\$ 2,501,052</b>	<b>0.00%</b>
5K20	015603	CLA Victims of Crime	\$ 1,053,868	\$ 1,013,756	\$ 415,556	-59.01%	\$ 415,953	0.10%
<b>State Special Revenue Fund Group Total</b>			<b>\$ 1,053,868</b>	<b>\$ 1,013,756</b>	<b>\$ 415,556</b>	<b>-59.01%</b>	<b>\$ 415,953</b>	<b>0.10%</b>
<b>Court of Claims Total</b>			<b>\$ 4,023,548</b>	<b>\$ 3,514,808</b>	<b>\$ 2,916,608</b>	<b>-17.02%</b>	<b>\$ 2,917,005</b>	<b>0.01%</b>