Memorandum

January 2026

TO: Interested Persons

FROM: Erin Reynolds, Deputy Fiscal Notes Manager

SUBJECT: The Colorado Governmental Immunity Act and State Risk Management Funding

Summary

This memorandum provides an overview of the Colorado Governmental Immunity Act; the State Office of Risk Management's role in the risk management process; and recent trends in state spending on property, liability, and workers' compensation coverage and claims.

Colorado Governmental Immunity Act

Balancing Immunity with Accountability

The Colorado Governmental Immunity Act (CGIA)[1]—the state law that governs the liability of Colorado government entities and their employees—is designed to preserve the effective functioning of government while maintaining meaningful accountability when a government entity causes injury or harm to another party. Absent limitations on liability, governmental entities and their employees could be exposed to perpetual litigation, impairing their ability to deliver essential public services. At the same time, individuals must retain a viable means of redress when they are harmed by governmental conduct. To reconcile these competing interests, the CGIA outlines specific circumstances—referred to as "waivers"—under which the state, its political subdivisions, and their employees may be held liable. These waivers carefully define the limited conditions in which public entities assume responsibility and liability for injuries.

Waivers

Waivers to governmental immunity are primarily located in the CGIA section of state law;[2] however, a handful of waivers exist in other sections of statute. These waivers are outlined below.

[1] Section 24-10-102, C.R.S.

[2] Sections 24-10-106, 24-10-106.1, and 24-10-106.3, C.R.S.

Waivers within the CGIA

If any of the following actions outlined in the CGIA result in injury, the government entity or employee may be held liable.

a) The operation of a motor vehicle owned or leased by a public entity by a public employee while in the course of employment, except for responding emergency vehicles operating outside of normal traffic law.

b) The operation of a public hospital, correctional facility, or jail.

c) A dangerous condition of any public building.

d) A dangerous condition of a public highway, road, or street.

e) A dangerous condition of any public hospital, jail, public facility located in any park or recreational area maintained by a public entity, or public water, gas, sanitation, electrical, power, or swimming facility.

f) The operation and maintenance of any public water facility, gas facility, sanitation facility, electrical faculty, power facility, or swimming facility by such public entity.

g) The operation and maintenance of a qualified state capital asset that is the subject of a leveraged leasing agreement.

h) A school district or charter school's failure to perform an education employment required background check.

i) An action brought as a result of a law enforcement officer destroying or seizing equipment a person uses to lawfully record incidents involving law enforcement.

j) An action brought against an organization that operated or managed a youth program where sexual misconduct against minors occurred.[3]

k) An action brought against a testing entity for failure to provide testing accommodations for a person with a disability.

l) An action for injuries resulting from a prescribed fire started or maintained by the state or any of its employees.

m) An action resulting from an incident of school violence where the acts of an employee of a public school, school district, or a charter school were willful and wanton, or breached the duty of care.

[3] The Colorado Supreme Court found that the Child Sexual Abuse Accountability Act violates the constitutional provision on retrospective legislation, thus, this section is unenforceable. *Aurora Public Schools v. A.S.*, 531 P.3d 1036 (Colo. 2023).

Other Waivers in State Law

In addition to the CGIA, other provisions of state law waive governmental immunity or liability in certain legal actions, in whole or in part, resulting from specific situations or conduct, including:

- deprivation of an individual's rights by a sheriff, local law enforcement officer, or Colorado State Patrol;[4]
- retaliation by an employer against a peace officer for disclosing a danger to public health or safety, or an alleged violation of law committed by another officer;[5]
- willful and wanton acts or omissions leading to death, injury, or property damage in the course of emergency planning, service, or response activities regarding a hazardous material release, threat of release, or act of terrorism;[6]
- allegations of intentional discriminatory or unfair unemployment practice by the state. [7]

State Office of Risk Management

Largely, the state self-insures to cover its liabilities and legal costs, meaning that it sets aside its own funds to pay for claims rather than buying an insurance policy from an outside company. The State Office of Risk Management (SORM)[8]—located within the Office of the State Controller in the Department of Personnel and Administration (DPA)—manages the state's self-funded liability, property, and workers' compensation insurance programs.

Liability claims against state agencies and employees typically involve automobile accidents, unlawful use of force, or employment discrimination. Property claims involve state-owned properties, buildings, and the contents within and damage related to weather, fire, mechanical failure, vandalism, or theft. Workers' compensation claims involve on-the-job injury of state employees, with claims processed through a third-party administrator. The SORM also provides safety training and related resources for all state agencies. This includes site inspections to identify risk factors, ergonomic evaluations, and defensive driving courses, among other programs, which are available to all agencies that are covered by SORM—some larger institutions of higher education have their own risk management programs. The state also carries excess insurance as a financial safeguard against infrequent but catastrophic losses that

[4] Section 13-21-131, C.R.S.

[5] Section 24-31-906, C.R.S.

[6] Section 24-33.5-1505, C.R.S.

[7] Section 24-34-405 (8)(g), C.R.S.

[8] Section 24-30-1501, *et seq.*, C.R.S.

could threaten the solvency of the risk management funds, including policies for excess liability, workers' compensation, property, and cyber incidents.

SORM is funded through assessments charged to state agencies based on each state agency's actuarially determined risk profile and claims history. Funding from these assessments is paid via reappropriations to three funds—the Risk Management Cash Fund (liability), the Self-Insured Property Fund (property), and the State Employee Workers' Compensation Cash Fund (workers' compensation). Assessments are adjusted through the annual budget process for common policy operating expenses.

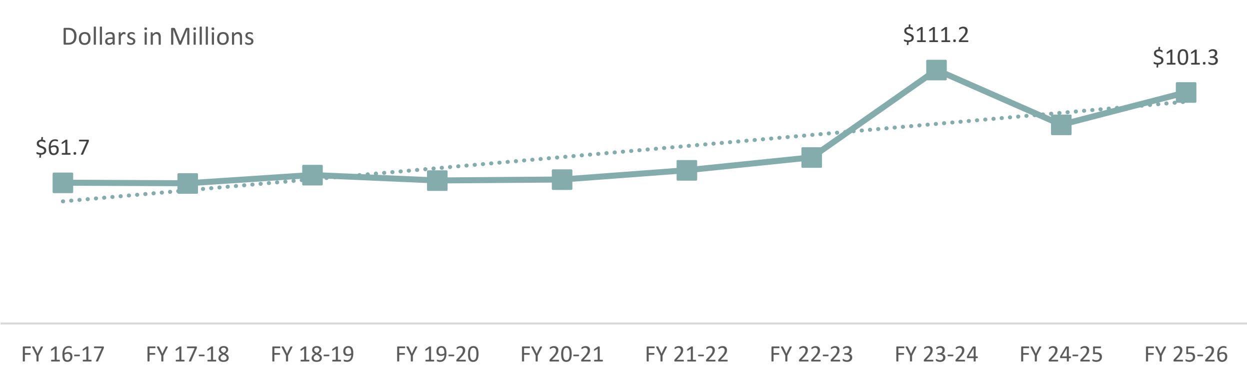
Filing a Liability Claim Against the State

Notice of legal claims against the state must be filed with the Attorney General's Office. The SORM, upon receiving claim information, sets up a claim file and, in cases involving claims of property damage or bodily injury, may assign claims to adjusters to investigate the occurrence and bring the claim to conclusion, either by settlement or denial. Legal action against the state may not be commenced until after SORM has denied the claim or 90 days have passed, whichever occurs first. SORM keeps a list of Liability Claims FAQs on their website.

Analysis of Recent State Risk Management Trends

Over the last nine years, overall risk management appropriations have grown by an annualized rate of 5.7 percent, or by an average of $4.4 million per year, as shown in Figure 1.

Figure 1
Risk Management Appropriations
FY 2016-17 to FY 2025-26



Source: Department of Personnel and Administration and Joint Budget Committee Staff.

Liability Trends

Liability increases in recent years are the result of a combination of factors, specifically legislative changes and increased cybersecurity incidents, as well as changes to the national insurance landscape.

New waivers to the CGIA, such as for unlawful use of force and failure to intervene by peace officers, have increased settlement costs—a total of just under $6 million has been paid since that waiver's 2023 enactment. There are also rising costs for cybersecurity claims, for which over $9 million has been paid in the past three years.

Property Trends

Market-driven adjustments have led to increased property insurance costs for the state.

Property insurance carriers are experiencing significant losses worldwide due to fires, floods, and coastal events, which has placed sustained pressure on the property insurance market. These losses, combined with inflationary impacts, have driven up replacement costs and resulted in higher claim payouts. In response, insurers have increased premiums, with renewals in 2024 rising by as much as 20 percent in catastrophe-prone regions. Colorado, identified as a wind- and hail-exposed area, has been particularly affected by these market conditions, and has higher deductibles for wind and hail losses. However, according to the SORM, property premium costs decreased as of the 2025 plan renewal, indicating that the insurance market is right-sizing its readjustments.

Insurers have also responded to repeated large-scale losses by tightening policy terms, most notably through higher retentions and deductibles. A key change is the shift from a flat $1 million wind and hail deductible to a structured deductible equal to 3 percent of a property's total insured value. This change reflects multiple years of severe wind and hail losses, with damages in 2022, 2023, and 2024 collectively exceeding $27 million.

State property losses have also increased in recent years, further contributing to higher premiums and elevated expectations for future losses. These losses have been driven primarily by hail storms, as well as a large fire in the Ralph Carr Judicial Center and vandalism in the Capitol complex.

Workers' Compensation Trends

Workers' compensation trends vary significantly by industry and state, with some jurisdictions experiencing favorable results and others—particularly high cost-of-living areas like Colorado— facing adverse trends. During the COVID period, the state saw a decline in non-COVID workers' compensation claims; however, claim frequency increased as employees returned to in-person work. Legislative activity has further influenced exposure.

In Colorado, rising workers' compensation expenditures are primarily driven by increased claim payouts, reflecting its self-insured status. Three key factors are contributing to higher costs:

- an 18.5 percent cumulative increase in the medical fee schedule from fiscal years 2020 through 2025;
- higher employee salaries increasing lost-wage claim costs and impairment ratings; and
- a growing inventory of open claims, which have increased by approximately 10 percent year over year, a trend partially attributed to Senate Bill 24-149, which restricts the use of full and final settlements.

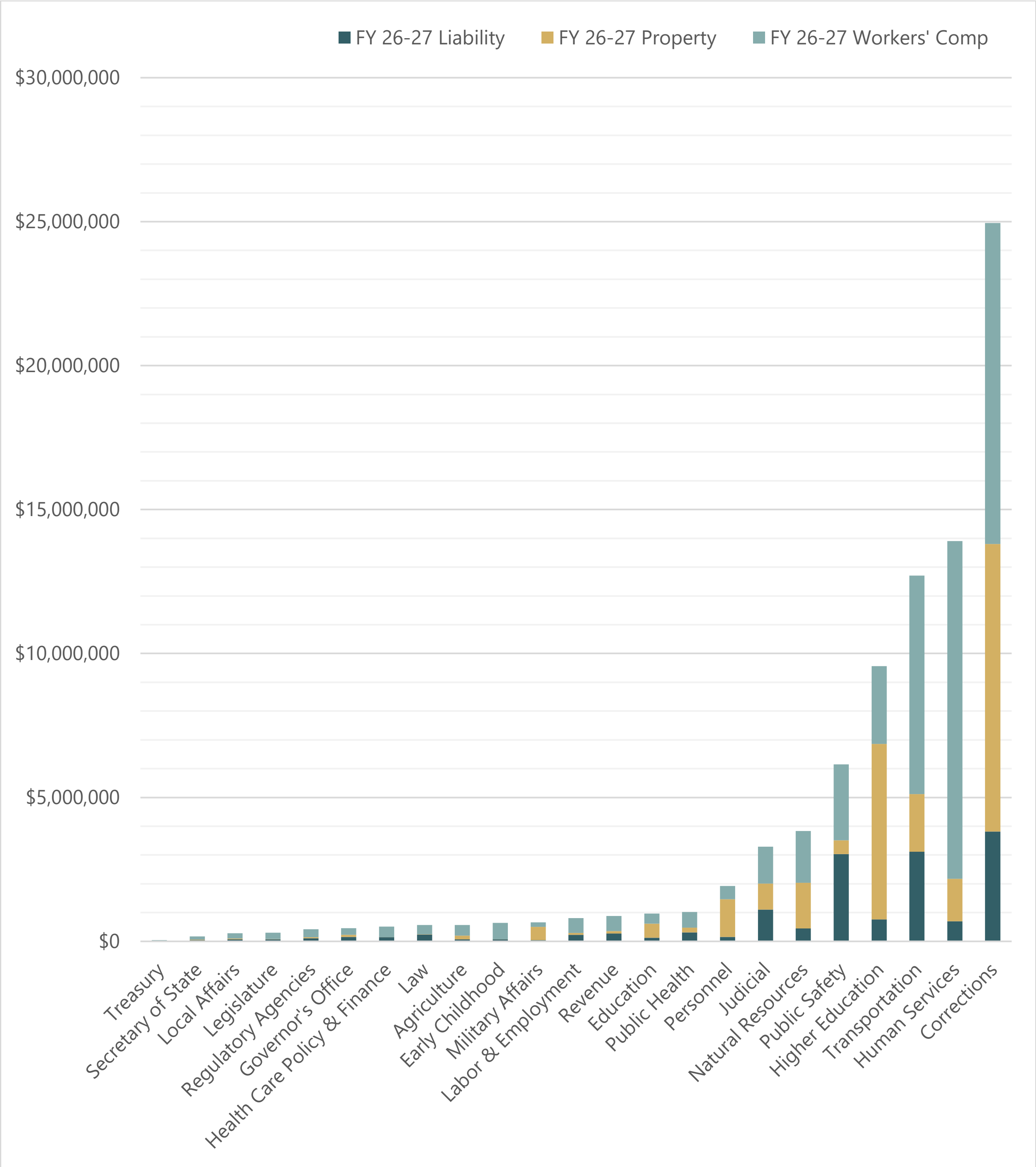
Fund-level pressures are further compounded by recent negative adjustments to the Workers' Compensation Fund balance and the interdependence of the State's workers' compensation, property, and liability risk funds. When a fund is projected to end the year insolvent, statutory authority requires interfund transfers, amplifying the financial impact across programs.

Risk Management Impacts by Department

As noted above, each state agency pays into the three primary risk management funds based on an actuarial assessment. For the upcoming FY 2026-27 budget, the Joint Budget Committee Staff has proposed the following appropriations shown in Figure 2 on the following page. While annual appropriations aim to cover anticipated spending for the year, all deductibles and claims payouts are continuously appropriated out of the risk management funds since actual expenditures depend on claim outcomes and cannot be precisely estimated.

The Department of Corrections (CDOC) has the highest overall liability assessment, at $3.8 million, with the Department of Transportation (CDOT) and the Department of Public Safety following at around $3.1 million per department. The CDOC also has the highest property assessment at $10.0 million, with Higher Education institutions (not including the largest institutions) following at $6.1 million. Finally, the Department of Human Services has the highest overall workers' compensation assessment at $11.7 million, followed by the CDOC at $11.2 million and CDOT at $7.6 million.

Figure 2
Proposed FY 2026-27 Risk Management Appropriations by Department



Source: Department of Personnel and Administration and Joint Budget Committee Staff.