

Budget Narrative

State of Kansas

Agency: Board of Tax Appeals

**BOARD OF TAX APPEALS
Budget Narrative
Fiscal Years 2024 and 2025**

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The mission of the Kansas Board of Tax Appeals (Board) is to resolve disputes between taxpayers and taxing authorities promptly and impartially and to help maintain public confidence in the state and local tax system.

AGENCY PHILOSOPHY

The Board is the highest administrative tribunal to hear appeals relating to ad valorem (property), income, sales, compensating use, and inheritance taxes, along with other matters involving taxation by state and local taxing authorities. The Board is committed to accomplishing its mission in a highly efficient and professional manner, using all available technology and human resources to meet the public's needs. We strive to advance our mission and philosophy through the following:

- Providing sound leadership, both inside and outside the Board, to enhance independent, efficient, and professional decision-making and to promote certainty in state tax law;
- Improving work processes and information systems to meet the changing needs of our stakeholders.

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GENERAL INFORMATION

The Board is a specialized administrative law tribunal within the executive branch of state government. It was established on July 1, 2014. The Board's enabling act is found at K.S.A. 74-2433 et seq. Among the Board's predecessors in authority were the Tax Commission, the Public Service Commission, the State Commission of Revenue and Taxation, the Board of Tax Appeals and most recently, the Court of Tax Appeals (COTA).

The Board is comprised of two divisions, the regular division and the small claims and expedited hearings division (commonly referred to as the small claims division). Three Board members preside over the regular division. The small claims division is supervised by the Chief Hearing Officer, who also serves as Board member *pro tempore* in regular division proceedings.

The members, including the Chief Hearing Officer, are appointed by the Governor subject to Senate confirmation, and serve four-year, staggered terms. One member must be an attorney licensed in Kansas with at least five years of experience as an attorney or judge, one must be a certified public accountant with at least five years of active practice experience, and one must be a certified general real property appraiser. Each member, including the Chief Hearing Officer, must have legal, tax, accounting or appraisal training and experience. No more than two of the members may be of the same political party, and no more than one member may be appointed from any one congressional district of Kansas. The Board is subject to the Kansas Supreme Court's Code of Judicial Conduct applicable to all state judges.

By statute, the Board shall appoint, subject to approval by the Governor, an executive director. Non-statutory positions at the Board include an IT systems manager, general counsel, two staff attorneys, and seven full-time administrative support staff. In all, the Board's authorized staff consists of 16 FTE positions, including the four Board members. (Organizational chart is attached as Appendix A.)

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Regular Division

The statutory jurisdiction of the Board's regular division includes the following:

- Appeals from determinations by the Secretary of Revenue or the Secretary's designee, including the Director of Taxation and the Director of Property Valuation
- Applications for no fund warrants and tax levy increases
- Tax grievances involving requests for correction of clerical errors and irregularities
- Tax protests
- Tax equalization appeals
- Tax exemption applications
- Economic development tax exemption applications
- Industrial Revenue Bond exemption applications
- Personal property penalty waiver requests
- County-wide and district-wide reappraisal appeals
- Homestead property tax refund appeals
- Appeals from school districts with declining enrollments
- Appeals from taxpayers challenging a governing body's tax rate in excess of the revenue neutral rate.

As a quasi-judicial body, the Board has no investigative or regulatory authority. The Board's regular division is bound by the Kansas Administrative Procedures Act (KAPA), as well as the Kansas Code of Civil Procedure and Kansas Rules of Evidence where KAPA or other statutory procedures do not apply. Unlike most administrative bodies, the Board is not a party in actions before it; nor is it a party in any action for judicial review of its orders. The Board is the only non-judicial branch entity in the state bound by the Kansas Supreme Court Code of Judicial Conduct, which promotes an "independent, impartial, and competent judiciary, composed of

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men and women of integrity.” See Kansas Supreme Court Rules Relating to Judicial Conduct, Preamble.

In September 2010, the Board (then COTA) enacted permanent procedural rules and regulations, along with a new filing fee schedule. The 2010 rule changes were the product of extensive collaboration with stakeholders through the Bench and Bar Committee. One year later, in September 2011, the Board (then COTA) again amended its filing fee schedule to address a budgetary shift away from state general funding to filing fee funding beginning in FY 2011.

Small Claims and Expedited Hearings Division

The purpose of the small claims and expedited hearings division is to provide a convenient, informal, and expeditious hearing process for single-family residential properties, small commercial properties, and less complex Division of Taxation cases. Small claims jurisdiction may be either optional or mandatory, and extends to the following:

Residential Appeals. All appeals involving valuation of single-family residential property must be made initially to the small claims division.

Commercial Appeals. At the election of the taxpayer, the small claims division has jurisdiction over: (1) appeals from a decision of the Division of Taxation where the amount of tax in controversy does not exceed \$15,000, and (2) appeals involving valuation of commercial property appraised at less than \$3 million, excluding property devoted to agricultural use.

Small claims hearings are not held "on the record," and no transcript of small claims proceedings is kept. Final decisions of the small claims division may be appealed to the Board's regular division. If appealed, small claims decisions are heard *de novo* by the regular division, which means the Board members do not review the small claims decision for error but instead hear and decide the case anew. The small claims process is subject to various statutory deadlines designed to ensure expedited processing and case disposition.

The Chief Hearing Officer oversees the small claims division. The Chief Hearing Officer appoints and supervises contract hearing officers who preside over hearings throughout the state. The Chief Hearing Officer also sits as member pro tempore in regular division cases when there is a vacancy on the Board or when a member is not available because of recusal, disqualification, or a scheduling conflict. The Chief Hearing Officer for the small claims division is located within the Board's offices in Topeka, where all docketing, scheduling, certification, and other administrative work

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is performed. The administrative functions of both the regular division and the small claims division of the Board are consolidated to maximize economies of scale.

OVERVIEW

Five major legislative changes have shaped the structure and function of this agency over the past three decades. The first was statewide reappraisal in 1990, which resulted in a three-fold increase in the agency's caseload. During reappraisal, staffing was increased to as many as 50 FTE positions.

The second was the creation of a small claims state-level tax appeals process in 1999. The purpose of that legislation was to provide taxpayers with a fair and impartial forum to resolve less complicated tax disputes more quickly and with less expense.

The third legislative change occurred in 2008, when the Board of Tax Appeals was abolished and replaced with the Court of Tax Appeals (COTA). A number of substantive changes were also made to the state tax appeals process, including an omission of the intermediate district court appeal alternative, which made COTA the final trier of fact and court of record for all Kansas state and local tax matters. Under the 2008 legislation, appeals from all final orders issued by COTA were reviewed directly by the Kansas Court of Appeals.

The fourth major legislative change was House Substitute for SB 231, which was signed into law May 14, 2014. That legislation substantially affected the powers, duties, and functions of the agency, including:

- The Court of Tax Appeals was abolished, and the Board of Tax Appeals reinstated.
- The Board was required to render and serve a written summary decision within 14 days of hearing for all property tax matters heard in the regular division. Parties were allowed to request a full and complete opinion within 14 days of receipt of the summary, which the Board was obligated to provide within 90 days of the request.

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- The right to appeal to the District Court for a *de novo* hearing was reinstated, such that an aggrieved party could seek redress from either the District Court or Court of Appeals.
- One Board member was required to be a certified general real property appraiser.
- Certain preliminary education requirements were established for all non-appraiser Board members appointed after June 30, 2014. For those non-appraiser Board members, salaries would be capped at the amounts paid to an administrative law judge until such time as the preliminary education requirements were met.
- Governmental entities, not-for-profits valued under \$100,000 and single-family residential filings were exempted from the filing fee requirement.
- The Board was prohibited from determining who may sign appeal forms, who may represent taxpayers, what constitutes the unauthorized practice of law, and whether contingency fee arrangements are a violation of public policy.

Most recently, Senate Substitute for House Bill No. 2239 became effective July 1, 2022. HB 2239 amends K.S.A 2021 Supp. 79-2988 to establish a process governing bodies must follow to enact tax rate in excess of the revenue neutral rate. The statute, as amended, establishes a “revenue neutral rate complaint” by which an aggrieved taxpayer can challenge a governing body’s action. No filing fee is assessed for this type of complaint. The Board is directed to receive the complaint and, upon summary decision or hearing, determine whether the governing body complied with the appropriate procedure and whether a refund or reduction of levied taxes is appropriate.

Over the years the Agency has faced numerous reorganizations and budget cuts but has been able to fulfill its mission and maintain—and in many areas improve upon—operations by adapting its strategies, business rules, and technologies. It is important to note that a key factor in these successes has been a core group of talented and devoted people working through difficult times with clarity of purpose and commitment to public service.

GOALS, OBJECTIVES AND STRATEGIES

The Board's principal goal is to hear, decide, or otherwise assist in resolving appeals and applications in a fair, timely, and judicious manner, in accordance with the record evidence and governing legal standards.

Objectives: The objectives established to reach this principal goal are as follows:

- Maintain a steady, consistent, and manageable case flow by hearing cases as soon as practical and by issuing timely written decisions.
- Be responsive to the people of Kansas by providing a fair, convenient, and transparent tax appeal and application process.
- Enhance and foster a culture of professionalism for the Board and its operations.
- Improve the quality of written decisions in both divisions
- Ensure accessibility to the Agency's services for all stakeholders.

Strategies: The strategies adopted to attain the above objectives are as follows:

- Utilize technology and case management techniques to the greatest extent possible to improve access, service, and professional quality.
- Build into our Board management system a meaningful and consistent way to measure performance.
- Maintain and refine detailed pre-hearing processes in complex residential and commercial cases to clarify legal issues, identify matters amenable to consolidation, and encourage early resolution of disputes.
- Provide continuing education for small claims hearing officers, staff attorneys, and Board members in the areas of administrative law and procedure, evidence, legal writing, appraisal theory, and taxation.
- Recruit and retain small claims hearing officers and staff with good written and oral communication skills and, in addition, experience in administrative law and practice, appraisal theory, and taxation.

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The case types listed in the first column of the following tables are as follows: Division of Taxation (DT), Economic Development Exemption (EDX), Equalization (EQ), Industrial Revenue Bond (IRB), Industrial Revenue Bond Exemption (IRBX), No Fund Warrant (NFW), Protest (PR), Property Valuation (PV), Tax Grievance (TG), Tax Exemption (TX)

Regular Division Filings. The table below shows the number of filings, broken down by type, docketed and processed by the regular division of the Board since FY 2018.

Case Type	FY18	FY19	FY20	FY21	FY22	FY23	FY24	FY25
DT	33	12	32	9	9	2	9	9
EDX	7	21	9	18	12	16	12	12
EQ	2,455	1,842	2,024	2,318	2,022	2,321	2,400	2,400
IRB	95	62	76	64	75	75	75	75
IRBX	45	41	26	33	36	48	70	70
MRP	21	6	0	0	0	0	0	0
NFW	1	0	5	1	0	0	0	0
PR	287	291	260	271	130	137	275	275
PV	1	11	8	10	11	10	10	10
TG	89	99	48	56	35	48	50	50
TX	2,241	1,993	2,058	1,851	1,977	1,908	2,000	2,000
Other	2	8	6	2	1	2	4	4
Total	5,277	4,386	4,552	4,633	4,308	4,567	4,905	4,905

Small Claims Filings. The table below shows the number of filings, broken down by type, in the small claims division since FY 2018 and projections through FY 2025.

Cases	FY18	FY19	FY 20	FY 21	FY 22	FY 23	FY 24	FY 25
DT	13	7	10	10	4	0	7	7
EQ	2,708	2,013	2,500	2,500	1,852	2,467	2,450	2,450
PR	425	521	500	500	193	283	625	625
Total	3,146	2,541	3,010	3,010	2,049	2,750	2482	2482

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Aggregate Filings. The table below shows the aggregate number of filings in both the regular and small claims divisions since FY 2018 and provides projections through FY 2025.

	FY 18	FY19	FY20	FY21	FY22	FY23	FY24	FY25
Small Claims	1,939	2,989	3,146	2,541	2,049	2,750	2,800	2,800
Regular Division	5,277	4,386	4,552	4,633	4,308	4,567	4,600	4,600
Total Filings	7,216	7,375	7,698	7,174	6,357	7,317	7,400	7,400

Regular Division Cases Closed. The table below shows the number of regular division cases, broken down by type, closed since FY 2018 and provides projections through FY 2025.

Case Type	FY 18	FY19	FY20	FY21	FY22	FY23	FY24	FY25
DT	46	15	24	6	13	22	22	22
EDX	7	16	11	16	14	15	15	15
EQ	1,649	1,209	1,210	1,407	1,076	2,700	2,700	2,700
IRB	87	57	77	58	73	72	72	72
IRBX	48	47	10	53	38	35	35	35
MRP	18	11	5	0	0	0	0	0
NFW	1	0	5	1	0	2	2	2
PR	257	367	163	248	216	280	280	280
PV	1	8	2	1	16	14	14	14
TG	152	99	63	28	58	80	80	80
TX	2,740	2,115	1,219	1,998	2,052	2,100	2,100	2,100
Other	2	8	7	8	1	6	6	6
Total	5,008	3,952	2,791	3,824	3,557	5,326	5,326	5,326

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Small Claims Cases Closed. The table below shows the number of small claims cases, broken down by type, closed since FY 2018 and provides projections through FY 2025.

Case Type	FY 18	FY19	FY20	FY21	FY22	FY23	FY24	FY25
DT	8	10	11	8	5	0	10	10
EQ	1,724	1,939	2,055	2,447	1,707	1,836	2,500	2,500
PR	443	457	365	612	230	178	500	500
Total	2,175	2,406	2,431	3,067	1,942	2,014	3,510	3,510

Aggregate Cases Closed. The table below shows the aggregate number of cases closed in both the regular and small claims divisions since FY 2018 and provides projections through FY 2025.

	FY 18	FY19	FY20	FY21	FY22	FY23	FY24	FY25
Small Claims	2,175	2,406	2431	3,067	1,942	2,014	2,800	2,800
Regular Division	5,008	3,952	2791	3,824	3,557	5,235	5,075	5,075
Total Filings	7,283	6,358	5,222	6,891	5,499	7,249	7,875	7,875

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Agency: Board of Tax Appeals**OUTCOME MEASURES**

The effectiveness of case processing by any tribunal, including the Board, can be measured by clearance rates. Clearance rates measure how a tribunal is keeping up with its caseload and are expressed as percentages calculated by dividing the number of outgoing (or closed) cases by the number of incoming (or docketed) cases. The Board should strive to maintain clearance rates of at least 100 percent. Clearance rates below 100 percent generate backlogs.

Regular Division Clearance Rates

	FY18	FY19	FY20	FY21	FY22	FY23	FY24	FY25
Incoming cases	5,277	4,386	4,552	4,633	4,308	4,567	4,800	4,800
Outgoing cases	5,008	3,952	2,791	3,824	3,557	5,235	4,900	4,900
Clearance rate	95%	90%	61%	86%	83%	114%	101%	101%

Small Claims Division Clearance Rates

	FY18	FY19	FY20	FY21	FY22	FY23	FY24	FY25
Incoming cases	1,939	2,989	3,146	2,541	2,049	2,750	3,510	3,510
Outgoing cases	2,406	2,367	2,431	3,067	1,942	2,014	3,510	3,510
Clearance rate	112%	80%	77%	121%	95%	73%	100%	100%

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OTHER OUTCOME MEASURES

Other outcome measures assess the speed of processing and disposition. The small claims division outcome measures are expressed in different terms than the regular division outcome measures because of specific abbreviated statutory deadlines imposed on the small claims processes compared to regular division processes.

Regular Division

K.S.A.74-2426(a) requires the Board to issue a summary decision within 14 days from the date a matter has been fully submitted. Any party may thereafter request a full and complete written opinion from the Board within 21 days from the date of the summary decision is certified. The full and complete opinion must be issued by the Board within 90 days of the request.

The bulk of regular division cases subject to the above statutory requirement are equalization or protest matters. The following table sets forth the number and timeliness of written decisions in equalization (EQ) and payment under-protest (PR) appeals (including both residential and commercial) that were heard by the Board.

Regular Division Statutory Deadlines - K.S.A. 74-2426(a)

	FY 18	FY 19	FY 20	FY 21	FY 22	FY 23	FY 24	FY 24
Number of Cases Heard	528	715	309	522	637	288	600	600
Number of Cases w/14 Day Summary Decisions Issued	288	661	166	490	415	238	550	550
Number of 14-Day Summary Decisions Issued Timely	288	660	166	458	377	215	550	550
Percent of 14-Day Summary Decisions Issued Timely	100%	100%	100%	93%	91%	90%	100%	100%
Number of Cases w/ Full Opinions Issued	130	85	183	253	124	59	250	250
Number of Full Opinions Issued Timely	130	83	180	252	124	55	250	250
Percent of Full Opinions Issued Timely	100%	98%	98%	100%	100%	93%	100%	100%

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The following table sets forth the average number of days it took the Board's regular division to close all case types docketed in FY 2018 through FY 2023. The cases have been separated into five types: Division of Taxation appeals; Tax Exemptions; Tax Grievances; Residential Appeals; and Commercial Appeals. The table also provides projections through FY 2024.

Number of Days to Close All Case Types in Regular Division

	FY 18	FY 19	FY 20	FY 21	FY 22	FY 23	FY 24	FY 25
Division of Taxation	87	86	80	154	464	903	500	500
Tax Exemptions	57	58	78	151	153	149	90	90
Tax Grievances	93	94	171	140	224	171	30	30
Residential	141	158	178	285	265	459	200	200
Commercial	309	364	353	384	483	621	400	400

Small Claims

The following table sets forth outcome measures for the small claims division. These measures track how long it takes the small claims division to complete the various phases of the small claims process: docketing, scheduling and disposition.

Small Claims Statutory Deadlines -- K.S.A. 74-2433(f)

	FY 18	FY 19	FY 20	FY 21	FY 22	FY 23	FY 24	FY 25
Average days between filing and hearing. (The Small Claims hearing shall be conducted within 60 days from the date of the filing.)	38	40	54	59.75	53	57	<60	<60
Average number of days between hearing and decision. (The Small Claim hearing decision must be rendered within 30 day of the hearing).	16	19	28	27	25	28	<30	<30
Number of cases where decision was certified more than 30 days after hearing	12	6	42	26	115	102	0	0

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The Board currently funds its operations through three sources: the state general fund, the Board's filing fee fund, and the Board's duplicating fee fund.

State General Fund

The Board's base for state general funds allocation in FY 2010 was \$1,376,801, which totaled 78% of the Board's total budget. Since FY 2010, the Board's base from state general fund has substantially decreased. Presently in FY 2023 the Board's approved base from state general fund is 43% of the Board's total budget. In FY 2024 the Board's allocation from state general fund accounts for 45% of the total base budget.

The Board acknowledges that competing policy considerations affect the desirability of funding the Board through filing fees. On one hand, the tax appeal process arises pursuant to constitutional rights and statutory obligations and protects the overall integrity of the state's various taxation structures. User fees might be less desirable in this case, because the Board's services are based upon obligations owed to Kansas citizens at large. On the other hand, a predominant number of users of the Board's services are distinct taxpayers with individual and particularized concerns who seek resolution of issues that may have singular benefit to those taxpayers. In that instance, user fees may be more desirable to offset government costs in providing services that benefit only those individual taxpayers. Given these countervailing considerations, the funding approach the Legislature has established over the last several years strikes a balance that is reasonable and acceptable.

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Filing Fee Fund

The Board is required by statute to charge and collect filing fees established through its rules and regulations. See K.S.A. 74-2438a. The filing fee fund was established to defray all, or a portion of, the costs incurred in processing appeals and applications. *See id.* The Board’s filing fee regulation can be found at K.A.R. § 94-5-8.

In the first year of the fund’s existence (FY 2004), filing fee collections totaled \$171,749. Since FY 2004 the Board’s Filing Fee Fund limitations have steadily increased, requiring the Board to submit, and obtain approval from Legislature, filing fee increases in FY 2011, FY 2012, and FY 2014. The Board is still using the filing fees established in FY 2014.

In FY 2023 the Board Filing Fee Fund had collected revenue of \$949,575, with a Filing Fee Fund limitation of \$1,166,398.

The Board estimates filling fee fund revenues of \$950,000 yearly for both FY 2024 and FY 2025. The approved filing fee fund limitation amount for FY 2024 is \$1,177,726 and FY 2025 is \$1,184,144.

At this rate, the Board’s filing fee fund will be depleted by the end of FY 2026. (The July 1, 2024 balance is the actual balance after payment of all encumbered FY 2023 expenses.)

*Filing Fee funding for FY 2026 will be depleted by mid-May, 2026.

	FY 2024	FY 2025	FY 2026
Balance July 1	\$575,865	\$348,139	\$113,995
Expenditures (-)	-\$1,177,726	-\$1,184,144	-\$1,196,000
Filing Fee (+)	\$950,000	\$950,000	\$950,000
Balance	\$348,139	\$133,995	*(\$132,005)

Duplicating Fee Fund

The Board’s duplicating fee fund was established during the 1989 legislative session. The duplicating fee fund was created to defray costs associated with preparation of transcripts and copy charges. A portion of the agency’s office supplies is the only expense paid from this fund. This fund will be completely depleted by the end of FY 2024.

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SUPPLEMENTAL CHANGE PACKAGE FOR FY 2024

The Board's Supplemental Change Package for FY 2024 is as follows:

The Board requests \$5,007 from State General Fund to cover the Pay Plan shortfall in FY 2024.

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CURRENT YEAR AND BUDGET YEAR INFORMATION

Expenditure Justification: Object Codes 5100-5190—Salaries and Wages

Salaries and wages constitute over 80% of the agency budget. By statute, the Board member positions, including the Chief Hearing Officer, are tied to the statutory level of compensation for state district court judges. See K.S.A. § 74-2434. The Board continues to assess job duties, and employees are cross trained to promote workforce versatility. Expenditures under this account include funding 16 FTE positions.

Actual Expenditures FY 2023: \$ 1,674,038

Current Year Estimate FY 2024: \$ 1,804,417

FY 2024 Supplemental Change Package: \$5,007 from SGF to cover funding shortfall of the FY 2024 Pay Plan approved by the Legislature.

Budget Year FY 2025: \$1,796,886—KPERs rate is reduced to 12.42% according to the budget indices and there is also a reduction in workers compensation rate.

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Expenditure Justification: Object Codes 52000-52900—Contractual Services

These object codes contain expenditure funding for office rents, copy machine lease payments, travel expenses for Board members, small claims hearing officers and attorneys, statutorily required education and training, and pay and expense reimbursement for small claims hearing officers. Also included are funds for temporary staff wages and communication expenses, as well as annual software support, maintenance, and license renewals for the Board’s case management system.

Actual Expenditures FY 2023: \$340,303

Current Year Estimate FY 2024: \$407,790 – includes new expenditure for OITS to host our the Agency’s servers and domain.

FY 2024 Supplemental Change Package: None

Budget Year FY 2025: \$421,863 -increase in building rent and postage

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Expenditure Justification: Object Codes 53000-53900—Commodities

These object codes contain expenditure funding for office and data processing supplies, legal research resources, and maintenance kits for printers.

Actual Expenditures FY 2023: \$7,764

Current Year Estimate FY 2024: \$10,930

FY 2024 Supplemental Change Package: None

Budget Year FY 2025: \$\$12,029

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Expenditure Justification: Object Codes 54000—Capital Outlay

This object code contains expenditure funding for replacement of computer hardware, parts for computer repair as well as software licenses. It also includes expenditures for office furniture.

Actual Expenditures FY 2023: \$1,854

Current Year Estimate FY 2024: \$2,700

FY 2024 Supplemental Change Package: None

Budget Year FY 2025: \$4,700