



COLORADO

**Department of
Regulatory Agencies**

Colorado Office of Policy, Research &
Regulatory Reform

Underfunded Courthouse Facility Cash Fund Commission



October 13, 2023



COLORADO

Department of
Regulatory Agencies

Executive Director's Office

October 13, 2023

Members of the Colorado General Assembly
c/o the Office of Legislative Legal Services
State Capitol Building
Denver, Colorado 80203

Dear Members of the General Assembly:

The Colorado General Assembly established the sunset review process in 1976 as a way to analyze and evaluate regulatory programs and determine the least restrictive regulation consistent with the public interest. Pursuant to section 24-34-104(5)(a), Colorado Revised Statutes (C.R.S.), the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) at the Department of Regulatory Agencies (DORA) undertakes a robust review process culminating in the release of multiple reports each year on October 15.

A national leader in regulatory reform, COPRRR takes the vision of their office, DORA and more broadly of our state government seriously. Specifically, COPRRR contributes to the strong economic landscape in Colorado by ensuring that we have thoughtful, efficient, and inclusive regulations that reduce barriers to entry into various professions and that open doors of opportunity for all Coloradans.

As part of this year's review, COPRRR has completed an evaluation of the Underfunded Courthouse Facility Cash Fund Commission (Commission). I am pleased to submit this written report, which will be the basis for COPRRR's oral testimony before the 2024 legislative committee of reference.

The report discusses the question of whether there is a need for the regulation provided under Part 3 of Article 1 of Title 13, C.R.S. The report also discusses the effectiveness of the Commission in carrying out the intent of the statutes and makes recommendations for statutory changes for the review and discussion of the General Assembly.

To learn more about the sunset review process, among COPRRR's other functions, visit coprrr.colorado.gov.

Sincerely,

Patty Salazar
Executive Director





Sunset Report: Underfunded Courthouse Facility Cash Fund Commission

Background

What is the Underfunded Courthouse Facility Cash Fund Commission?

The Underfunded Courthouse Facility Cash Fund Commission (Commission) within the Colorado Judicial Branch, extends grant funds to counties in need of supplemental financial assistance for state courthouse facility projects.

How is the Commission administered?

The Commission is tasked with evaluating grant applications and making recommendations to the State Court Administrator.

The Commission is made up of seven members including two county commissioners, two members of the Judicial Branch, one member from the Court Security Cash Fund Commission, one member from the Department of Local Affairs, and one representative from History Colorado.

How is grant funding utilized?

Funds can be used to pay for master planning services, to match funds for construction and remodeling projects, or to address emergency needs due to the imminent closure of a courthouse. Funds cannot be used as the sole source of funding for new construction unless the need is associated with the imminent closure of a courthouse. In addition, funds cannot be used to pay for furniture, fixtures, or equipment as these are already under the responsibility of the state.

What does it cost?

In fiscal year 21-22, the General Assembly allotted \$500,000 to the cash fund. Grant requests totaled \$975,358, and \$515,358 was awarded to four counties. The total amount actually spent by counties that year was \$455,500.

In the previous fiscal year, 0.25 FTE was allocated to the Commission for a Grant Specialist to manage the fiscal, contractual and operational duties related to the program.

Key Recommendations

- Continue the Commission for 11 years, until 2035.

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Background

Sunset Criteria

Enacted in 1976, Colorado's sunset law was the first of its kind in the United States. A sunset provision repeals all or part of a law after a specific date, unless the legislature affirmatively acts to extend it. During the sunset review process, the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) within the Department of Regulatory Agencies (DORA) conducts a thorough evaluation of such programs based upon specific statutory criteria¹ and solicits diverse input from a broad spectrum of stakeholders including consumers, government agencies, public advocacy groups, and professional associations.

Sunset reviews are guided by statutory criteria and sunset reports are organized so that a reader may consider these criteria while reading. While not all criteria are applicable to all sunset reviews, the various sections of a sunset report generally call attention to the relevant criteria. For example,

- In order to address the first criterion and determine whether the program under review is necessary to protect the public, it is necessary to understand the details of the profession or industry at issue. The Profile section of a sunset report typically describes the profession or industry at issue and addresses the current environment, which may include economic data, to aid in this analysis.
- To address the second sunset criterion--whether conditions that led to the initial creation of the program have changed--the History of Regulation section of a sunset report explores any relevant changes that have occurred over time in the regulatory environment. The remainder of the Legal Framework section addresses the fifth sunset criterion by summarizing the organic statute and rules of the program, as well as relevant federal, state and local laws to aid in the exploration of whether the program's operations are impeded or enhanced by existing statutes or rules.
- The Program Description section of a sunset report addresses several of the sunset criteria, including those inquiring whether the agency operates in the public interest and whether its operations are impeded or enhanced by existing statutes, rules, procedures and practices; whether the agency or the agency's board performs efficiently and effectively and whether the board, if applicable, represents the public interest.
- The Analysis and Recommendations section of a sunset report, while generally applying multiple criteria, is specifically designed in response to the fourteenth criterion, which asks whether administrative or statutory changes are necessary to improve agency operations to enhance the public interest.

¹ Criteria may be found at § 24-34-104, C.R.S.

These are but a few examples of how the various sections of a sunset report provide the information and, where appropriate, analysis required by the sunset criteria. Just as not all criteria are applicable to every sunset review, not all criteria are specifically highlighted as they are applied throughout a sunset review. While not necessarily exhaustive, the table below indicates where these criteria are applied in this sunset report.

**Table 1
Application of Sunset Criteria**

Sunset Criteria	Where Applied
(I) Whether regulation or program administration by the agency is necessary to protect the public health, safety, and welfare.	<ul style="list-style-type: none"> • Profile of Eligible Counties • Legal Framework • Recommendation 1
(II) Whether the conditions that led to the initial creation of the program have changed and whether other conditions have arisen that would warrant more, less, or the same degree of governmental oversight.	<ul style="list-style-type: none"> • Legal Framework
(III) If the program is necessary, whether the existing statutes and regulations establish the least restrictive form of governmental oversight consistent with the public interest, considering other available regulatory mechanisms.	<ul style="list-style-type: none"> • Legal Framework
(IV) If the program is necessary, whether agency rules enhance the public interest and are within the scope of legislative intent.	<ul style="list-style-type: none"> • Legal Framework • Program Description and Administration
(V) Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures, and practices and any other circumstances, including budgetary, resource, and personnel matters.	<ul style="list-style-type: none"> • Legal Framework • Program Description and Administration
(VI) Whether an analysis of agency operations indicates that the agency or the agency’s board or commission performs its statutory duties efficiently and effectively.	<ul style="list-style-type: none"> • Program Description and Administration • Recommendation 1
(VII) Whether the composition of the agency’s board or commission adequately represents the public interest and whether the agency encourages public participation in its decisions rather than participation only by the people it regulates.	<ul style="list-style-type: none"> • Program Description and Administration • Recommendation 1
(VIII) Whether regulatory oversight can be achieved through a director model.	<ul style="list-style-type: none"> • Recommendation 1
(IX) The economic impact of the program and, if national economic information is not available, whether the agency stimulates or restricts competition.	<ul style="list-style-type: none"> • Profile of Eligible Counties • Program Description and Administration

Sunset Criteria	Where Applied
(X) If reviewing a regulatory program, whether complaint, investigation, and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession or regulated entity.	<ul style="list-style-type: none"> • Not Applicable
(XI) If reviewing a regulatory program, whether the scope of practice of the regulated occupation contributes to the optimum use of personnel.	<ul style="list-style-type: none"> • Not Applicable
(XII) Whether entry requirements encourage equity, diversity, and inclusivity.	<ul style="list-style-type: none"> • Not Applicable
(XIII) If reviewing a regulatory program, whether the agency, through its licensing, certification, or registration process, imposes any sanctions or disqualifications on applicants based on past criminal history and, if so, whether the sanctions or disqualifications serve public safety or commercial or consumer protection interests. To assist in considering this factor, the analysis prepared pursuant to subsection (5)(a) of this section must include data on the number of licenses, certifications, or registrations that the agency denied based on the applicant's criminal history, the number of conditional licenses, certifications, or registrations issued based upon the applicant's criminal history, and the number of licenses, certifications, or registrations revoked or suspended based on an individual's criminal conduct. For each set of data, the analysis must include the criminal offenses that led to the sanction or disqualification.	<ul style="list-style-type: none"> • Not Applicable
(XIV) Whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest.	<ul style="list-style-type: none"> • Recommendation 1

Sunset Process

Regulatory programs scheduled for sunset review receive a comprehensive analysis. The review includes a thorough dialogue with agency officials, representatives of the regulated profession and other stakeholders. Anyone can submit input on any upcoming sunrise or sunset review on COPRRR's website at coprrr.colorado.gov.

The functions of the Underfunded Courthouse Facility Cash Fund Commission (Commission) and the State Court Administrator, as enumerated in Part 3 of Article 1 of Title 13, Colorado Revised Statutes (C.R.S.), shall terminate on September 1, 2024, unless continued by the General Assembly. During the year prior to this date, it is the duty of COPRRR to conduct an analysis and evaluation of the Commission and the State Court Administrator pursuant to section 24-34-104, C.R.S.

The purpose of this review is to determine whether the currently prescribed regulation should be continued and to evaluate the performance of the Commission and the State

Court Administrator. During this review, the Commission must demonstrate that the program serves the public interest. COPRRR's findings and recommendations are submitted via this report to the Office of Legislative Legal Services.

Methodology

As part of this review, COPRRR staff interviewed State Court Administrator staff, Commission members, grant awardees, and state partners; analyzed enrollment data, performance measures, developed made by the Commission, and other pertinent information; and reviewed Colorado statutes.

The major contacts made during this review include, but are not limited to:

- Colorado Counties, Inc.
- Colorado Office of the State Court Administrator
- Commission Members
- History Colorado
- Colorado Department of Local Affairs

Profile of Eligible Counties

In a sunset review, the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) is guided by the sunset criteria located in section 24-34-104(6)(b), Colorado Revised Statutes (C.R.S.). The first criterion asks whether regulation or program administration by the agency is necessary to protect the public health, safety, and welfare.

To recognize the need for the Underfunded Courthouse Facility Cash Fund Commission (Commission), it is first necessary to understand the Underfunded Courthouse Facilities Cash Fund (Fund) including where it is applied, who it serves, and any necessary qualifications for eligibility.

House Bill 14-1096 established both the Commission and Fund, enshrined in Part 3 of Article 1 in Title 13, C.R.S. (Act). The State Court Administrator administers the Fund. It relies on the Commission to evaluate applications and make recommendations to the State Court Administrator.

In general, Colorado counties are responsible for the construction, maintenance, and renovation of state courthouse facilities.² Counties with severely limited financial resources often have trouble financing their share of the costs.³ As such, the Fund was created to support those counties and ensure that their courthouses can properly function.

Counties must meet at least two of the following four criteria to be eligible to apply for and receive grants:⁴

- Counties in which the total population is below the state median (15,153 in 2020);
- Counties in which the per capita income is below the state median;
- Counties in which the property tax revenues are below the state median (about \$7.3 million in 2020); or
- Counties in which the county population living below the federal poverty line is above the state median.⁵

Since fiscal year 18-19, a total of 19 counties had taken advantage of the of the grant. Each year, the State Court Administrator releases a list of eligible counties. Eligible counties are located throughout the state. Most counties on the Eastern Plains qualified in fiscal year 22-23. Notably, 21 of the 26 border counties qualified.

² § 13-1-301(1)(e), C.R.S.

³ § 13-1-301(1), C.R.S.

⁴ § 13-1-305(4), C.R.S.

⁵ The Commission uses the most recent data published by the Department of Local Affairs (DOLA) to determine a baseline state median. For the second and fourth criteria, DOLA uses two different measures to determine a median amount.

The population range of qualifying counties ranges from as low as 705 (San Juan County) to as high as 169,000 (Pueblo County). The larger the population, the greater the caseload and need for staffing, judges, and office space. However, counties with smaller populations seek funds given that they often have fewer sources of income. Ultimately, the need for the Fund varies by county.

In the prior fiscal year, 41 of the state's 64 counties were eligible for the Fund. Counties that meet all of the criteria are given a separate, "high priority" designation under the Act. The Commission will consider high priority applications before all other applicants. Of the 41 eligible counties, 20 were designated as "high priority" in fiscal year 22-23.

Legal Framework

History of Regulation

In a sunset review, the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) is guided by the sunset criteria located in section 24-34-104(6)(b), Colorado Revised Statutes (C.R.S.). The first sunset and second sunset criteria question:

Whether regulation or program administration by the agency is necessary to protect the public health, safety, and welfare; and

Whether the conditions that led to the initial creation of the program have changed and whether other conditions have arisen that would warrant more, less or the same degree of governmental oversight.

One way that COPRRR addresses this is by examining why the program was established and how it has evolved over time.

The General Assembly created the Underfunded Courthouse Facility Cash Fund (Fund) and Commission (Commission) in 2014 as a result of House Bill 14-1096 (HB 1096). The bill assigned authority to the State Court Administrator and instructed the creation of the Commission no later than July 1, 2014. The Commission is scheduled to repeal in 2024 following this sunset review.

HB 1096 was put forth because the General Assembly recognized numerous instances in which courthouse repair, renovation, improvement, or expansion needs were important in counties with limited funding. The responsibility for providing adequate courtrooms and other court facilities lies with county governments. However, the level of funding and services that each county can provide depends on the diverse nature of each county in terms of geography, demographics, and economics. Many counties lack the financial resources to adequately maintain these facilities. In some cases, the required maintenance of a courthouse has been delayed or hindered by the financial limitations of the county in which it is located. Hence, HB 1096 was created to provide funds to these eligible counties.

This is the first sunset review of the Commission.

Legal Summary

The third, fourth, fifth and seventh sunset criteria question:

Whether the existing statutes and regulations establish the least restrictive form of governmental oversight consistent with the public interest, considering other available regulatory mechanisms;

Whether agency rules enhance the public interest and are within the scope of legislative intent;

Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures, and practices and any other circumstances, including budgetary, resource, and personnel matters; and

Whether the composition of the agency's board or commission adequately represents the public interest and whether the agency encourages public participation in its decisions rather than participation only by the people it regulates.

A summary of the current statutes and rules is necessary to understand whether the law is set at the appropriate level and whether the current laws are impeding or enhancing the agency's ability to operate in the public interest.

The Commission is established in Part 3 of Article 1 in Title 13, C.R.S. (Act). The purpose of the Commission and the Fund is to provide supplemental funding to courthouse facility projects in the counties that have the most limited financial resources.⁶

The Commission has seven members:⁷

- Two representatives of an association that represents county commissioners, appointed by the association;
- One member from the Department of Local Affairs, appointed by that department;
- Two members from the Judicial branch, appointed by the Chief Justice;
- One member from the Court Security Cash Fund Commission, appointed by the Chief Justice; and
- A representative of History Colorado, appointed by the President of the State Historical Society.

Each Commission member serves a three-year term.⁸ There must be at least one representative from a county in which the population is above the median population, and one representative from a county in which the population is below the median population of the state.⁹

⁶ § 13-1-301(2)(b), C.R.S.

⁷ § 13-1-303(2)(a), C.R.S.

⁸ § 13-1-303(3), C.R.S.

⁹ § 13-1-303(2)(b), C.R.S.

Four votes are required for any final Commission recommendation.¹⁰ Recommendations are subject to final approval by the State Court Administrator and are not subject to any appeal.¹¹

A county must apply for a grant in accordance with the application, timelines, and guidelines adopted by the Commission.¹² However, for the Commission to consider an application, it must first be approved by the chief judge of the judicial district in which it is located, along with the board of county commissioners.¹³

Funds can be used to:¹⁴

- Commissioning master planning services;
- Match funds or leverage grant funding opportunities for construction or remodeling projects; or
- Address emergency needs due to the imminent closure of a court facility.

Master planning services involve entering into contracts for professional design services or engineering consulting.¹⁵ These services help determine construction or remodeling options, feasibility, and cost estimates for a proposed project.¹⁶ Planning projects do not include the creation or drafting of construction documents.¹⁷

Matching funds are often matched by the county or used to leverage alternative sources of funds for construction or remodeling projects.¹⁸

Emergency needs arise when a facility is designated for imminent closure by the State Court Administrator due to health, life, or safety issues that impact court employees or other court users.¹⁹ Requests for emergency funds receive priority review by the Commission.²⁰

Funds cannot be used as the sole source of funding for new construction unless part of an emergency grant, or unless the need is otherwise associated with the imminent closure of a courthouse.²¹ In addition, grant funds cannot be used to pay for furniture, fixtures, or equipment²² as these costs are covered by the State Court Administrator.

¹⁰ § 13-1-303(5), C.R.S.

¹¹ § 13-1-303(5), C.R.S.

¹² § 13-1-305(1), C.R.S.

¹³ § 13-1-305(1), C.R.S.

¹⁴ § 13-1-305(2)(a), C.R.S.

¹⁵ § 1-1.F, Underfunded Courthouse Facility Commission Fiscal Year 2023 Grant Rules.

¹⁶ § 1-1.F, Underfunded Courthouse Facility Commission Fiscal Year 2023 Grant Rules.

¹⁷ § 1-1.F, Underfunded Courthouse Facility Commission Fiscal Year 2023 Grant Rules.

¹⁸ § 2-2.A.2, Underfunded Courthouse Facility Commission Fiscal Year 2023 Grant Rules.

¹⁹ § 1-1.E, Underfunded Courthouse Facility Commission Fiscal Year 2023 Grant Rules.

²⁰ § 3-2.F, Underfunded Courthouse Facility Commission Fiscal Year 2023 Grant Rules.

²¹ 13-1-304(2), C.R.S.

²² 13-1-304(2), C.R.S.

The Act explicitly states that grants from the fund cannot be used to supplant any funding for a county that has the means to already support its court facility.²³ Furthermore, grants may only be awarded to a county when:²⁴

- It has demonstrated good faith in attempting to resolve the issues before seeking a grant from the Fund;
- The county has agreed to disclose pertinent financial statements to the Commission or the State Court Administrator for review; and
- The State Court Administrator is satisfied that the county does not have significant uncommitted reserves.

Additionally, funds may not be used for any advocacy related services, which are defined as “actions to urge electors to vote in favor of or against a current or future ballot issue or referred measure.”²⁵ Funds may also not be used to reimburse expenses associated with the project that were incurred prior to the award.²⁶

Applications are reviewed yearly. They must be selected in a manner that best ensures that the courthouse will be safe, functional, and meet operational standards.²⁷

Grant funds are limited to improvements impacting court operations. However, grant funds may be used on broader building-wide projects that benefit the courts. In these instances, the Commission attempts to identify a proportionate methodology based on the circumstances of the project.

The Commission develops conditions and a compliance review process for each grantee to ensure they are using the awards as specified.²⁸ A staff member of the State Court Administrator will make on-site visits and communicate with grantees as needed to conduct the compliance review process. Depending on the timeframe established in the conditions, grant recipients also must submit a narrative report to the State Court Administrator detailing how funds have been used.²⁹

Counties must ensure that open, competitive procurement procedures will be followed for all purchases for goods and services made for the project for which grant funds are awarded.³⁰ The county must provide documentation of the competitive procurement procedure to the State Court Administrator upon request.³¹ If the county does not have procurement policies and procedures, it must comply with the Judicial Department’s Procurement Rules.³²

²³ § 13-1-305(2)(c), C.R.S.

²⁴ § 13-1-305(2)(b), C.R.S.

²⁵ § 2-2.J, Underfunded Courthouse Facility Commission Fiscal Year 2023 Grant Rules.

²⁶ § 2-2.E, Underfunded Courthouse Facility Commission Fiscal Year 2023 Grant Rules.

²⁷ § 3-1.A, Underfunded Courthouse Facility Commission Fiscal Year 2023 Grant Rules.

²⁸ § 13-1-305(2)(f), C.R.S.

²⁹ § 4-3.B, Underfunded Courthouse Facility Commission Fiscal Year 2023 Grant Rules.

³⁰ § 2-2.F, Underfunded Courthouse Facility Commission Fiscal Year 2023 Grant Rules.

³¹ § 2-2.F.1, Underfunded Courthouse Facility Commission Fiscal Year 2023 Grant Rules.

³² § 2-2.F.3, Underfunded Courthouse Facility Commission Fiscal Year 2023 Grant Rules.

Program Description and Administration

In a sunset review, the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) is guided by sunset criteria located in section 24-34-104(6)(b), Colorado Revised Statutes (C.R.S.). The fifth, sixth and seventh sunset criteria question:

Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures, and practices and any other circumstances, including budgetary, resource, and personnel matters;

Whether an analysis of agency operations indicates that the agency or the agency's board or commission performs its statutory duties efficiently and effectively; and

Whether the composition of the agency's board or commission adequately represents the public interest and whether the agency encourages public participation in its decisions rather than participation only by the people it regulates.

In part, COPRRR utilizes this section of the report to evaluate the agency according to these criteria.

The Underfunded Courthouse Facilities Cash Fund (Fund) is housed in the Colorado Judicial Department, under the State Court Administrator. It provides funds to counties that lack funding for courthouse facility projects. Grants are awarded by the State Court Administrator based on recommendations of the Underfunded Courthouse Facility Cash Fund Commission (Commission).

The Commission evaluates the applications and makes recommendations to the State Court Administrator for awarding grants.³³ The Commission's recommendations are subject to final approval by the State Court Administrator and are not subject to any form of appeal.³⁴ It is composed of seven members:³⁵

- Two representatives of an association that represents county commissioners, appointed by the association;
- One member from the Department of Local Affairs, appointed by that department;
- Two members from the Judicial branch, appointed by the Chief Justice;
- One member from the Court Security Cash Fund Commission, appointed by the Chief Justice; and
- A representative of History Colorado, appointed by the President of the State Historical Society.

³³ § 13-1-303(1), C.R.S.

³⁴ § 13-1-303(5), C.R.S.

³⁵ § 13-1-303(2)(a), C.R.S.

The Commission meets at least once every fiscal year to award the grants. It may meet additionally if needed to address specific circumstances or requests from counties.

The State Court Administrator charges the Fund for payroll costs regarding administration of the Fund. In the previous fiscal year, 0.25 FTE was allocated to the Fund for a Grant Specialist to manage the fiscal, contractual, and operational duties related to the program. They also monitor deliverables of the grant and provide technical assistance to county staff when needed.

In addition, several other staff in the Office provide assistance and support to the overall administration of the program. These include accounting, budget, legal, security, architectural as well as higher-level program coordination and support.

Table 2 illustrates, for the fiscal years indicated, the total funding and funding sources for the program.

Table 2
Underfunded Courthouse Facilities Fund: Sources

Funds	17-18	18-19	19-20	20-21	21-22
General Fund	\$2,000,000	\$3,000,000	\$3,000,000	\$500,000	\$500,000
Gifts, Grants, and Donations	0	0	0	0	0
Total	\$2,000,000	\$3,000,000	\$3,000,000	\$500,000	\$500,000

The Fund is primarily funded via an appropriation of the General Assembly from the state’s General Fund. No gifts, grants, or donations were made to the Fund. The total General Fund appropriation has remained steady until COVID-19, hence the decreased funding in fiscal years 20-21 and 21-22.

Underfunded Courthouse Facilities Grants

The Commission’s primary function is to award grants. Grant funds are only to be used for improvements or enhancements to the judicial-related facilities in the building. In addition, the Commission’s Rules clarify that funds shall not be used:³⁶

- For the purchase of furniture, fixtures, or equipment;
- As the sole source of funding for new construction; or
- As the sole source of remodeling (unless the need for funding is associated with the imminent closure of a court facility).

The Commission reviews applications to ensure they meet the intent of the Commission to provide supplemental funding for courthouse facility projects in counties with the

³⁶ § 2-2.B, Underfunded Courthouse Facility Commission Fiscal Year 2023 Grant Rules.

most limited financial resources.³⁷ The Commission may also consider if the county can successfully complete the project for which funds are requested, whether the county has demonstrated good faith in attempting to resolve the issues before seeking a grant, whether the county has agreed to disclose pertinent financial information for review, and whether the State Court Administrator is satisfied that the county does not have significant uncommitted reserves.³⁸

Table 3, below, depicts the total number of applications received and approved each year.

Table 3
Underfunded Courthouse Facilities Fund: Requests, Awards, and Expenditures

Fiscal Year	Number of Applications	Number of Applications Awarded
17-18	7	6
18-19	10	10
19-20	11	11
20-21	10	7
21-22	5	4

The State Court Administrator and the Commission can deny or terminate funding for:³⁹

- Failure to comply with rules or conditions;
- Failure to submit reports as required or requested;
- Submitting a request for payment for goods or services not included in the scope of the original application and the purpose;
- Filing a false certification or request for payment in the application or other report or document; and
- Other good cause shown.

Once a county has been awarded a grant, the county must complete the project as described in the grant award.⁴⁰ The county is responsible for all costs incurred in excess of the grant award.⁴¹ The county must immediately notify the State Court Administrator if the county becomes aware that the grant funds will exceed the total project costs.⁴² If grant funds exceed actual expenses, the county must revert the excess amount to the Fund.⁴³

³⁷ § 3-1.B, Underfunded Courthouse Facility Commission Fiscal Year 2023 Grant Rules.

³⁸ § 3-2.C, Underfunded Courthouse Facility Commission Fiscal Year 2023 Grant Rules.

³⁹ § 4-4.A, Underfunded Courthouse Facility Commission Fiscal Year 2023 Grant Rules.

⁴⁰ § 4-2.C, Underfunded Courthouse Facility Commission Fiscal Year 2023 Grant Rules.

⁴¹ § 4-2.B, Underfunded Courthouse Facility Commission Fiscal Year 2023 Grant Rules.

⁴² § 4-2.D, Underfunded Courthouse Facility Commission Fiscal Year 2023 Grant Rules.

⁴³ § 4-2.E, Underfunded Courthouse Facility Commission Fiscal Year 2023 Grant Rules.

Table 4, below, depicts the total amount requested by all applicants, along with how much funds were awarded and spent.

**Table 4
Amounts Requested, Awarded, and Spent**

Fiscal Year	Total Requested Funds	Total Funds Given	Actual Funds Spent by Counties	Reverting Funds
17-18	\$2,980,519	\$2,285,196	\$2,283,984	\$1,212
18-19	\$4,159,482	\$3,300,000	\$3,211,475	\$88,525
19-20	\$4,104,109	\$3,053,956	\$2,931,309	\$70,073
20-21	\$2,616,433	\$645,000	\$623,394	\$0
21-22	\$975,358	\$515,358	\$455,500	\$10,393

The amount of funds requested and awarded each year fluctuates depending on the circumstances of each county and their types of projects. The total funding requested ranged from amounts as low as \$975,000 to as high as \$4.2 million. The actual awarded amount ranged from \$515,000 to \$3.3 million.

Grant awardees can request an extension to continue past their original award year. As such, expenditures are reflected above for the fiscal year in which they were awarded, and not necessarily the fiscal year in which they were spent.

Table 5 below provides a more detailed breakdown of grant awards by fiscal year.

**Table 5
Underfunded Courthouse Facilities Fund: Grant Usage**

Fiscal Year	# Matching Grants	# Planning Grants	Total # of Grants	# Facilities improved or expanded	# New Facilities Built
17-18	5	1	6	4	1
18-19	6	4	10	2	3
19-20	7	4	11	6	1
20-21	4	3	7	4	0
21-22	3	1	4	3	0
Totals	25	13	38	19	5

Between fiscal year 17-18 and 21-22, a total of 38 grants have been awarded. Notably, 24 courthouse facilities were either improved, expanded, or built.

Table 6 provides a breakdown of grants and amounts awarded to each county between fiscal year 17-18 and 21-22.

Table 6
Underfunded Courthouse Facilities Fund: Grant Usage by County

County	Number of Matching Grants	Number of Planning Grants	\$ Matching Grants	\$ Planning Grants	\$ Total
Alamosa County	1	Not Applicable	\$71,984	Not Applicable	\$71,984
Archuleta County	2	1	\$1,973,677	\$200,000	\$2,173,677
Baca County	2	Not Applicable	\$188,100	Not Applicable	\$188,100
Conejos County	Not Applicable	1	Not Applicable	\$60,000	\$60,000
Custer County	Not Applicable	3	Not Applicable	\$72,574	\$72,574
Delta County	1	1	\$263,827	\$37,500	\$301,327
Fremont County	1	Not Applicable	\$200,000	Not Applicable	\$200,000
Huerfano County	2	1	\$1,760,518	\$25,000	\$1,785,518
Jackson County	Not Applicable	1	Not Applicable	\$30,000	\$30,000
Kiowa County	2	1	\$72,000	\$16,414	\$88,414
Kit Carson County	1	Not Applicable	\$200,000	Not Applicable	\$200,000
Lake County	2	1	\$60,000	\$144,191	\$204,191
Las Animas County	2	Not Applicable	\$626,324	Not Applicable	\$626,324
Mineral County	1	Not Applicable	\$845,925	Not Applicable	\$845,925
Moffat County	Not Applicable	2	Not Applicable	\$190,475	\$190,475
Otero County	2	1	\$357,278	\$60,700	\$417,978
Ouray County	2	Not Applicable	\$1,441,957	Not Applicable	\$1,441,957
Prowers County	2	Not Applicable	\$62,500	Not Applicable	\$62,500
San Juan County	2	Not Applicable	\$349,867	Not Applicable	\$349,867
Totals	25	13	\$8,473,958	\$836,855	\$9,310,813

As the table above indicates, planning grants ranged from \$16,414 to \$200,000. Matching grants fluctuated even more, given that they are mostly used for actual work rather than planning services. The amounts ranged from as low as \$60,000 to as high as about \$2 million. No emergency grants for imminent closure have ever been requested or awarded in the history of the Fund.

Analysis and Recommendations

The final sunset criterion questions whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest. The recommendations that follow are offered in consideration of this criterion, in general, and any criteria specifically referenced in those recommendations.

Recommendation 1 – Continue the Underfunded Courthouse Facility Cash Fund Commission for 11 years, until 2035.

The responsibility for providing adequate courtrooms lies with the individual county governments. However, courthouses across Colorado are often impacted by factors such as expanding caseloads, the allocation of new judges to the district, or the aging of existing courtroom facilities. These circumstances cause operational and safety impacts to the performance of judicial activities. In some areas, the necessary maintenance and improvements to the courthouse have been delayed or are hindered by the financial limitations of the county.

As such, the Colorado General Assembly created the Underfunded Courthouse Facility Cash Fund Commission (Commission) and the Underfunded Courthouse Facility Cash Fund (Fund) in 2014. Together, they provide supplemental funding for courthouse facility projects in the counties with the most limited financial resources.

Eligible counties may apply to the State Court Administrator, who relies on recommendations of the Commission in determining whether to approve or deny applications. Although the State Court Administrator acts independently, the Commission demonstrated during the sunset review that there is robust debate and thoughtful discourse related to its duties.

The first sunset criterion asks whether regulation or program administration by the agency is necessary to protect the public health, safety, and welfare.

Often, many eligible counties are experiencing increases in population and require expansion of their facilities. Current facilities may be too small to accommodate the increased caseload. In one instance, a courthouse only had one courtroom and no facilities for judicial staff. Additionally, there was only a small hallway outside the courthouse. Attorneys, parties, jury members, and staff had no choice but to stand and congregate in the hallway. This potentially poses security issues and privacy issues as opposing parties are within earshot of each other. As such, these counties often request grant funds to add additional courtrooms, meeting rooms, and office space for clerks or other judicial staff.

In one notable case, significant plumbing damage was discovered under a court facility. Its iron piping was degrading substantially and causing lead contamination in the building's water. After many attempts, the county decided to demolish the building. It

purchased an abandoned retail shopping center and used the funds to convert a portion of its space into a courthouse.

Unexpected events such as natural disasters, accidents, or the discovery of previously unknown threats can also occur to courthouse facilities. Often, these can pose critical threats to the health and safety of the public or to the structural integrity of the building. Depending on the county's revenues or budget, it is often hard to pay for these types of repairs. As such, the Fund can be used for construction projects or to help the county move into a new structure. While not directly used for the purchase of these facilities, the funds can be used to supplement subsequent installation work in the building.

The Fund can also be used to supplement funding for projects that renovate and "future-proof" such buildings. One notable example comes from Hinsdale County. The county's courthouse was built in 1877. It has historical significance for being the same courthouse that held the trial of Alferd Packer, the infamous Colorado cannibal. In 2017, a historical restoration project used grant funds to make extensive renovations. The project added new insulation, paint, windows, and ultimately helped turn the building into a functional facility while retaining its historic appearance.

Additionally, county stakeholders indicated that they would seek the grant funds from the Commission in future instances if necessary. A significant majority of county stakeholders further identified the need for additional resources into the Fund to account for increases in contracting costs due to inflation.

As these projects demonstrate, the Commission is necessary to maintain the safety and usability of the state's courthouses and are thus necessary to protect the public safety and welfare. The Commission reviews applications to ensure they meet the intent of the Commission to provide supplemental funding for courthouse facility projects. This recommendation proposes that the Commission should be continued based on the apparent success it has achieved according to previous awardees.

The eighth sunset criterion asks whether regulatory oversight can be achieved through a director model.

During the course of the sunset review, Colorado Office of Policy, Research and Regulatory Reform staff met with more than fifteen awardee counties, each of which expressed support for continuation of the Commission and the Fund. The Commission was considered vital to the Fund, as it contained representatives from all over the state, including from eligible counties and from the state court system. Thus, the Commission's subject-matter expertise was helpful to stakeholders that applied for the Fund.

For all these reasons, the General Assembly should continue the Commission and the Fund for 11 years, until 2035. An 11-year continuation period is justified given the fact that the state's courthouses will continue to need maintenance, repairs, and upgrades for the foreseeable future.