

OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

TERRY GODDARD
ATTORNEY GENERAL

October 16, 2009

The Honorable Jan Brewer
Governor of the State of Arizona
1700 West Washington Street, Ninth Floor
Phoenix, AZ 85007

Re: Your Request for FY10 Budget Reduction Proposals

Dear Governor Brewer:

This is a response to your letter of September 22, 2009, which asked the Attorney General's Office to "develop parallel plans...to reduce operational expenditures by 15 percent." The instructions included with your letter mention the possibility that the Attorney General's Office may not "be able to reach this target by enacting across-the-board reductions," and request that we therefore "assess what functions [the Attorney General's Office] simply can no longer afford to perform."

First, I want to put the current situation into context. This Office provides a wide variety of essential services to the State of Arizona and its citizens: We prosecute many types of complex criminal acts, such as gang-related crimes, drug trafficking, human trafficking, money laundering, and other crimes associated with our international border, as well as white collar crime, financial fraud, Medicaid (AHCCCS) fraud, and abuse and financial exploitation of the elderly and vulnerable adults. My Office also represents the State in all felony appeals and all post-conviction proceedings in capital cases, which currently involve more than 120 death-row inmates in Arizona. On the civil side, among other things, my Office defends the State when it is sued for money damages, provides legal advice to more than a hundred State agencies, boards and commissions, represents the Department of Economic Security in cases involving the safety and well being of children and families, recovers compensation for consumers who have been cheated or defrauded, and enforces our civil rights laws. An exhaustive description of all the work done by my Office is beyond the scope of this letter, but in summary, the mission of my Office is to *protect* the State of Arizona and its citizens.

In the last few rounds of budget cuts, the Attorney General's Office has sustained reductions that have significantly reduced our ability to provide basic protections. To place the recent personnel reductions in historical context, enclosed are several charts:

- **Chart 1** shows that the Attorney General's Office has 129 fewer appropriated full time employees now than in FY1999 (the earliest year for which such information was readily available).

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- **Chart 2** shows that general funds currently appropriated to the Attorney General's Office for FY2010 are less than any year since FY1995, and if the appropriation were further reduced by another 15%, the amount would be less than was appropriated in any year going back to the 1980's. This chart shows real dollars, not adjusted for inflation, so the actual impact has been even greater. The chart also neglects another important fact: The number of people being served by the Attorney General's Office (i.e., the population of Arizona) nearly doubled from 1989 to 2009.
- **Chart 3** takes into account the population growth of the State, and shows that the amount appropriated to the Attorney General's Office, when divided by the number of State residents, dropped by nearly 40% between FY1989 (\$5.08) and FY2010 (\$2.94). This chart also shows that if the appropriation were further reduced by another 15%, the amount per resident would be *less than half* of the amount appropriated in FY1989. Again, this chart shows real dollars, not adjusted for inflation. Because population figures are not yet available for 2010, this calculation assumes no growth in population from 2009 to 2010.
- **Chart 4** shows the general downward trend in the general funds appropriated to the Attorney General's Office as a percentage of the State's total general fund, and also illustrates that the Attorney General's budget has always been a fraction of one percent of the total State general fund, now standing at about twenty-two one-hundredths of one percent of the total.

In short, the Attorney General's Office has many fewer people to perform critical legal work than at any point in over 10 years.

The workload of my Office has increased significantly over the recent months for at least three reasons. First, as a result of the State's current grim economic situation, we have seen a dramatic increase in financial crime, fraud, child abuse, and claims against state government. Second, the State agencies, boards and commissions that rely on my Office to review their contracts, rules and regulations, and provide legal advice about proposed actions, are often operating in uncharted territory, giving rise to novel legal issues, often requiring prompt action. Finally, budget decisions made by the Legislature and signed into law by you have spawned significant litigation against the State and its Executive Officers. My Office, as legal counsel for the State, has had to defend against this onslaught of litigation and has done so despite the absence of any arrangement with your Office or the Legislature to pay even the out-of-pocket costs of the budget-related litigation.

These waves of increased work—and corresponding increased risks to the State—came during the exact period when we were forced to lay off dozens of experienced legal professionals, leaving those who remain significantly overworked. We simply could not sustain further general fund cuts without exposing the state to substantial threats to public safety or litigation risks that would far exceed the short-term savings that might be achieved. The only alternative would be to hire private law firms to defend the State when litigation arises or when an agency requires legal advice, but outside counsel typically cost two or three times as much, and obviously there is no money available to pay those kinds of legal expenses.

The Attorney General's Office has proactively managed through recent budget cuts in the most fiscally responsible manner. We made layoffs earlier than any other state agency in

order to minimize the number of personnel cuts. We were one of the first—if not the first—agency to institute mandatory furloughs for higher-compensated employees. Despite these early actions, it appears the Legislature gave no consideration for our strong leadership when they instituted additional disproportionate cuts to our Office.

I read with interest a recent quote in the East Valley Tribune from your Director of Communications that the Governor's Office budget actually *increased* from last year because the "governor's office needed additional staffing to comply with tracking and auditing requirements for use of federal stimulus funds." That is exactly the position in which my Office now stands: We need *more* resources, *not less*, to do the increased work that is being required of us.

I recognize that we are all struggling through very difficult times, and it will require a joint effort to pull through this crisis. The general fund appropriation for the Attorney General's Office for FY2010 is currently \$19,462,225. Fifteen percent of that amount is \$2,919,334. Since the Attorney General's Office cannot absorb any further layoffs without creating unacceptable risks to State government and the safety of our citizens, I propose, instead, that if further cuts to the Office are sought, they be accomplished by a transfer to the State's general fund from some of the limited purpose funds administered by this office. Recent highly successful litigation has provided a positive balance that, at least in the short run, slightly exceeds the amount of "working capital" that must remain in these funds to pay salaries, expert witness fees, and other expenses of litigation. I would strongly caution, however, that any further transfers from these funds would risk devastating consequences to the State. For example, the Consumer Fraud Revolving Fund is currently serving as the sole funding source to defend the high-stakes, multi-state litigation with tobacco companies where the State risks being required to pay back more than \$100 million of tobacco settlement money already received-and spent-by Arizona in past years. It also pays for other litigation that is critical to protect Arizona consumers from fraudulent and ongoing deceptive practices at a time when such practices are on the rise. Obviously, the State must be effectively and aggressively represented in such cases. After taking all those factors and risks into account, however, I believe I can find a sum that will be very close or equal to the 15% goal you have set for State agencies. Such a solution is far superior to laying off additional employees as would be required if our general fund budget were further cut.

I know my staff met with your budget staff recently to discuss the budget crisis. I request the opportunity to meet with you personally to better explain the above proposal and the devastating impact on public safety of any additional personnel cuts.

Sincerely,

A handwritten signature in black ink, appearing to read "Terry Goddard", written over a horizontal line.

Terry Goddard
Arizona Attorney General

Attorney General's Office: Filled Appropriated FTEs

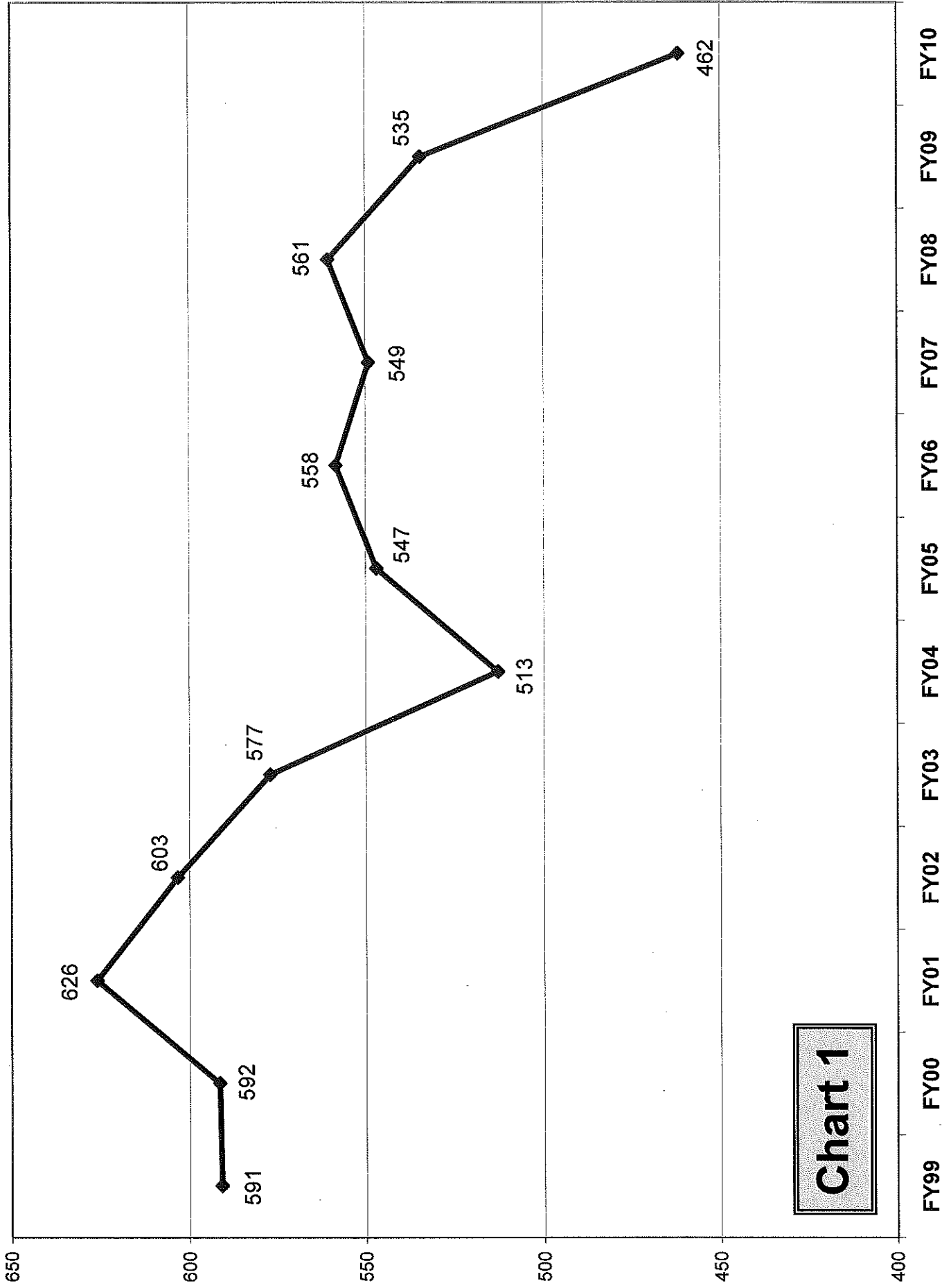


Chart 1

Attorney General's Office: General Fund Appropriations

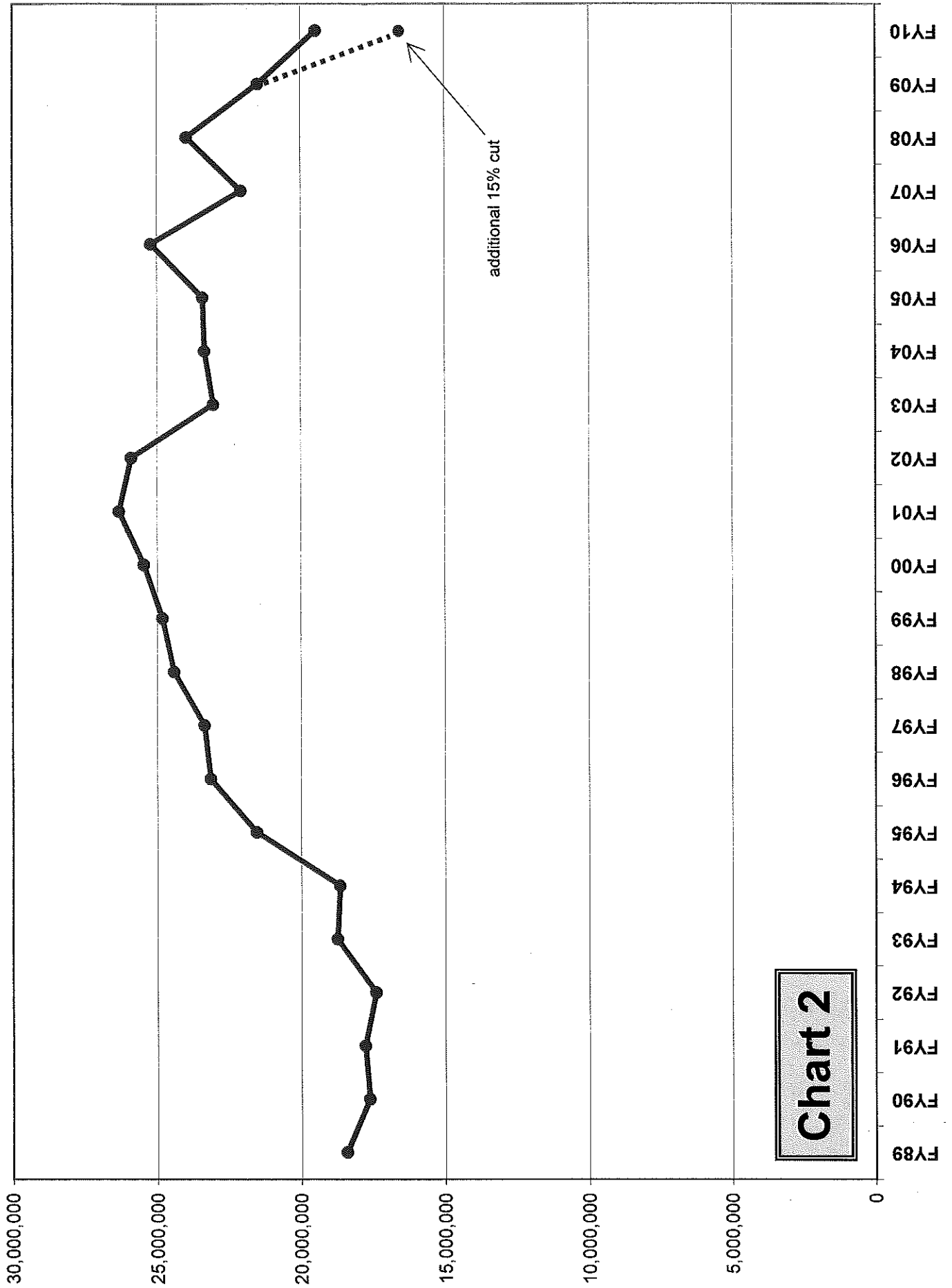


Chart 2

Attorney General's Office: General Fund Dollars per Arizona Resident

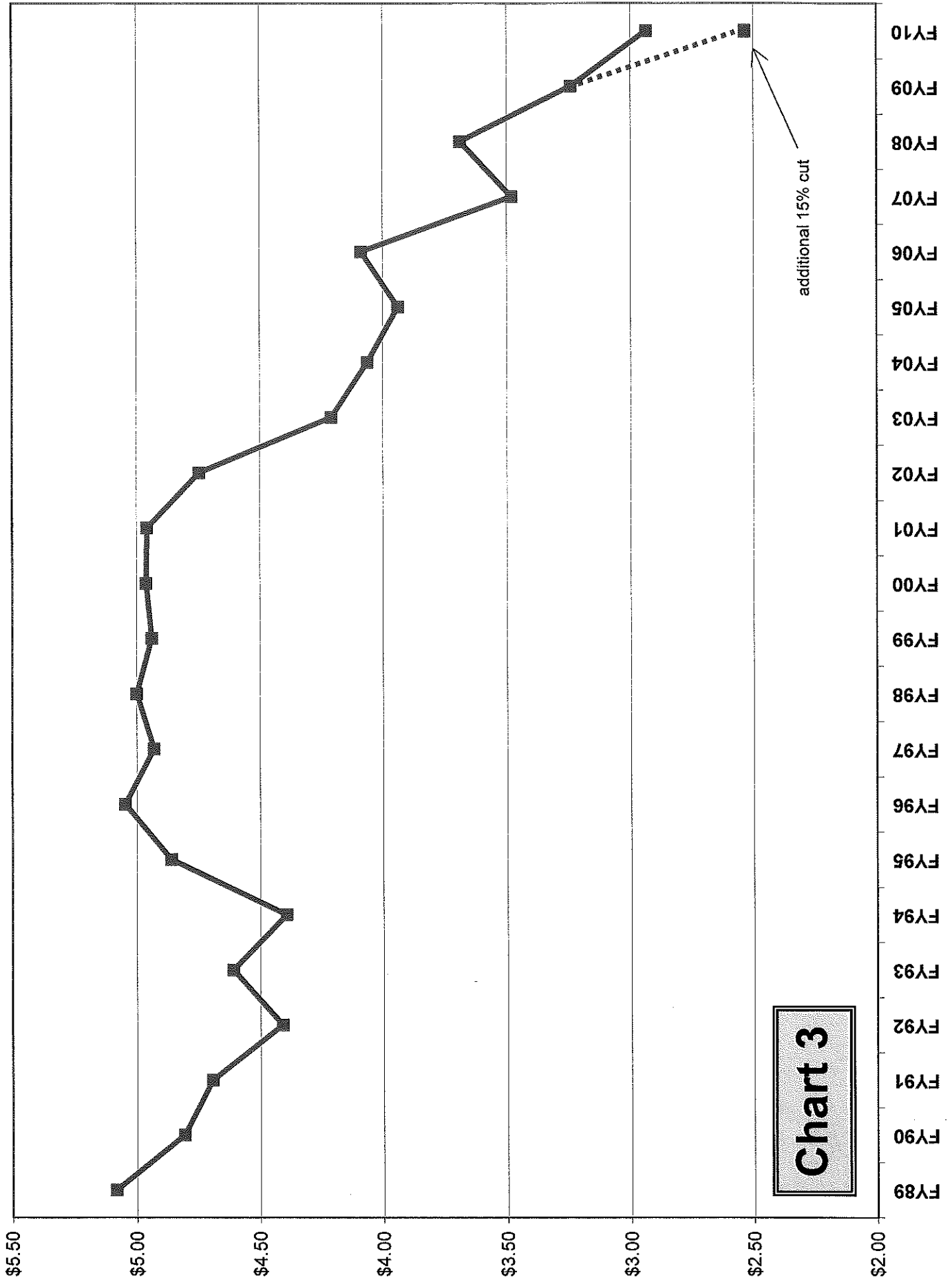


Chart 3

additional 15% cut

Attorney General's Office: Percentage of Total State General Fund

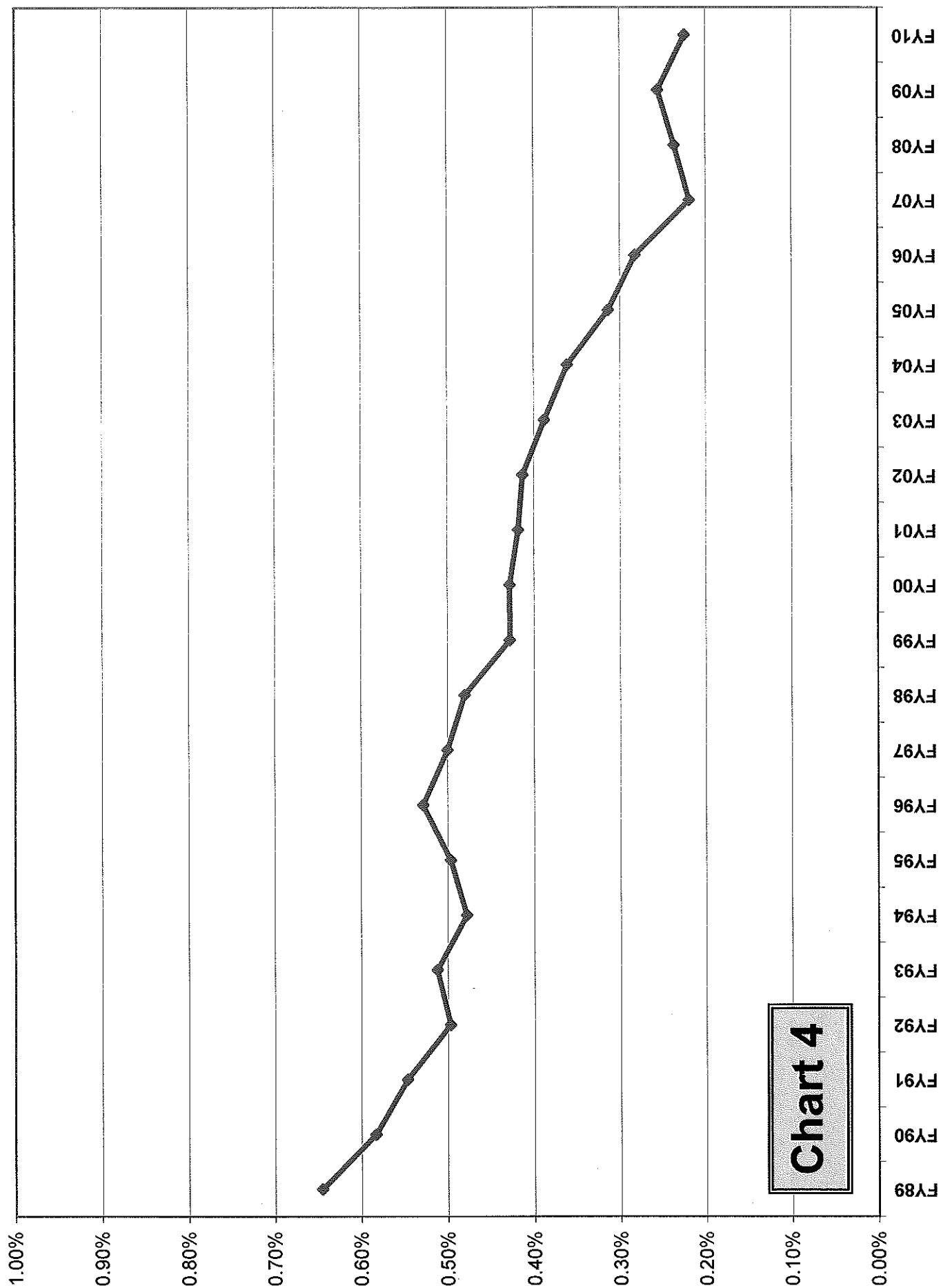


Chart 4