

# JOINT BUDGET COMMITTEE



## SUPPLEMENTAL BUDGET REQUESTS FY 2018-19

### DEPARTMENT OF LAW

JBC WORKING DOCUMENT - SUBJECT TO CHANGE  
STAFF RECOMMENDATION DOES NOT REPRESENT COMMITTEE DECISION

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# DEPARTMENT OF LAW

## DEPARTMENT OVERVIEW

The Attorney General is one of five independently elected constitutional officers of the State. As the chief executive officer of the Department of Law, the Attorney General represents and defends the legal interests of the people of the State of Colorado and serves as the legal counsel and advisor to state agencies.

## SUMMARY: FY 2018-19 APPROPRIATION AND RECOMMENDATION

| DEPARTMENT OF LAW: RECOMMENDED CHANGES FOR FY 2018-19 |                     |                     |                     |                      |                    |              |
|---|---------------------|---------------------|---------------------|----------------------|--------------------|--------------|
|   | TOTAL FUNDS         | GENERAL FUND        | CASH FUNDS          | REAPPROPRIATED FUNDS | FEDERAL FUNDS      | FTE          |
| <b>FY 2018-19 APPROPRIATION</b>                       |                     |                     |                     |                      |                    |              |
| HB 18-1322 (Long Bill)                                | \$83,067,088        | \$16,611,039        | \$17,882,160        | \$46,571,567         | \$2,002,322        | 474.4        |
| Other legislation                                     | 397,326             | 0                   | 164,920             | 232,406              | 0                  | 2.8          |
| <b>CURRENT FY 2018-19 APPROPRIATION:</b>              | <b>\$83,464,414</b> | <b>\$16,611,039</b> | <b>\$18,047,080</b> | <b>\$46,803,973</b>  | <b>\$2,002,322</b> | <b>477.2</b> |
| <b>RECOMMENDED CHANGES</b>                            |                     |                     |                     |                      |                    |              |
| Current FY 2018-19 Appropriation                      | \$83,464,414        | 16,611,039          | \$18,047,080        | \$46,803,973         | \$2,002,322        | 477.2        |
| S1 LSSA reallocation and increase                     | 720,000             | 0                   | (300,000)           | 1,020,000            | 0                  | 6.1          |
| NP Safe2Tell transfer                                 | (17,121)            | (17,121)            | 0                   | 0                    | 0                  | 0.0          |
| Annual fleet supplemental                             | (21,252)            | (3,964)             | (5,057)             | (11,853)             | (378)              | 0.0          |
| <b>RECOMMENDED FY 2018-19 APPROPRIATION:</b>          | <b>\$84,146,041</b> | <b>\$16,589,954</b> | <b>\$17,742,023</b> | <b>\$47,812,120</b>  | <b>\$2,001,944</b> | <b>483.3</b> |
| <b>RECOMMENDED INCREASE/(DECREASE)</b>                | <b>\$681,627</b>    | <b>(\$21,085)</b>   | <b>(\$305,057)</b>  | <b>\$1,008,147</b>   | <b>(\$378)</b>     | <b>6.1</b>   |
| Percentage Change                                     | 0.8%                | (0.1%)              | (1.7%)              | 2.2%                 | (0.0%)             | 1.3%         |
| <b>FY 2018-19 EXECUTIVE REQUEST</b>                   | <b>\$84,146,041</b> | <b>\$16,589,954</b> | <b>\$17,742,023</b> | <b>\$47,812,120</b>  | <b>\$2,001,944</b> | <b>477.2</b> |
| Request Above/(Below) Recommendation                  | \$0                 | \$0                 | \$0                 | \$0                  | \$0                | (6.1)        |

### REQUEST/RECOMMENDATION DESCRIPTIONS

**S1 LSSA REALLOCATION AND INCREASE:** The Department requests \$720,000 total funds, including a decrease of \$300,000 cash funds and an increase of \$1,020,000 reappropriated funds in FY 2018-19. The request includes two components: a reallocation of cash and reappropriated funds spending authority from operating expenses to personal services, and an increase of reappropriated funds. The request seeks to address both increase personal services needs to due higher than expected hours worked for client agencies, and an expedited court-ordered discovery request. The staff recommendation is to approve the request, with the addition of 6.1 FTE.

**NP SAFE2TELL TRANSFER:** The Department requests \$17,121 General Fund in FY 2018-19 to reallocate funding historically received from the Department of Law for Safe2Tell dispatching services to the Department of Public Safety. The Committee approved this request during the Department of Public Safety supplemental presentation on January 16, 2019. No further action is required.

**ANNUAL FLEET VEHICLE SUPPLEMENTAL:** The request includes a net decrease of \$21,252 total funds (including a decrease of \$3,964 General Fund) to adjust the Department's share of expenses related to leasing fleet vehicles through the Department of Personnel. This request will be addressed through a separate supplemental presentation for the Department of Personnel. The amount shown in the table reflects the Department's request.

## PRIORITIZED SUPPLEMENTAL REQUESTS

### S1 LSSA REALLOCATION AND INCREASE

|                      | REQUEST          | RECOMMENDATION   |
|----------------------|------------------|------------------|
| <b>TOTAL</b>         | <b>\$720,000</b> | <b>\$720,000</b> |
| FTE                  | 0.0              | 6.1              |
| General Fund         | 0                | 0                |
| Cash Funds           | (300,000)        | (300,000)        |
| Reappropriated Funds | 1,020,000        | 1,020,000        |
| Federal Funds        | 0                | 0                |

**Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? YES**

[An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]

**Explanation:** JBC staff and the Department agree that the request is the result of data that was not available when the original appropriation was made.

**DEPARTMENT REQUEST:** The Department requests \$720,000 total funds, including a decrease of \$300,000 cash funds and an increase of \$1,020,000 reappropriated funds in FY 2018-19. The request includes two components: a reallocation of spending authority from operating expenses to personal services, and an increase of reappropriated funds. The request seeks to address both increase personal services needs to due higher than expected hours worked for client agencies, and an expedited court-ordered discovery request.

**STAFF RECOMMENDATION:** Staff recommends an appropriation of \$720,000 total funds, including a reduction of \$300,000 cash funds and an increase of \$1,020,000 reappropriated funds, and 6.1 FTE.

| LEGAL SERVICES TO STATE AGENCIES (LSSA) RECOMMENDED CHANGES |             |               |                         |     |
|---|-------------|---------------|-------------------------|-----|
|   | TOTAL       | CASH<br>FUNDS | REAPPROPRIATED<br>FUNDS | FTE |
| Personal Services   | \$1,120,000 | \$0           | \$1,120,000             | 6.1 |
| Operation and Litigation                                    | (400,000)   | (300,000)     | (100,000)               | 0.0 |

#### STAFF ANALYSIS:

There are two components to the Department request:

- 1 A shift of funds from operating to personal services, and
- 2 An increase in reappropriated funds spending authority.

These two components seek to address two issues:

- 1 An increase in hours worked on behalf of client agencies, and
- 2 A one-time cost for contracting services, due to an expedited court-ordered discovery request.

*Increased LSSA Hours*

The Department of Law (DOL) serves as chief legal counsel and advisor to the executive branch, including departments, boards, and commissions. Since FY 2017-18, legal services allocations are based on a three-year average of actual legal services hours worked on behalf of each client agency. Client agencies are then billed for 1/12 of the allocation each month.

In FYs 2017-18 and 2018-19, the DOL is anticipating actual hours worked to be greater than the forecasted hours. The Department anticipates this is due to an adjustment in how client agencies are utilizing legal services. Prior to the change in the legal services methodology, legal services appropriations were based on an estimated number of hours and a blended rate. Agencies were then billed based on the actual number of hours worked. As agencies approached the end of their appropriation, they often restricted the number of hours used. The new methodology adjusts for fluctuations in out years, and does not restrict departments' access to legal services. As a consequence, more agencies are utilizing the DOL. The Department expects this will even out as departments adjust, and the increased hours are reflected in the three-year average.

To address the resulting budget shortfall, the Department is requesting the reallocation of \$400,000 cash and reappropriated funds from the Operating and Litigation line item to the Personal Services line item, as well as an increase in \$145,000 reappropriated funds. The Department does not expect a negative impact for the reduction of the Operating and Litigation line item, as they have unused spending authority in that line. The Department request will not result in increased billing to client agencies in FY 2018-19. Instead, the increased appropriation will come from the Legal Services to State Agencies (LSSA) Cash Fund balance. However, this increase will result in increased billing in future years, as the increased hours are reflected in the average.

While the Department did not include FTE in the budget request, staff and the Department agree that the appropriation should include 6.1 FTE to reflect the increased staffing needed to respond to the increased demand for legal services.

*Court-ordered Discovery*

The second component of the request is in response to an expedited court order associated with ongoing litigation (*Center for Legal Advocacy d/b/a Disability Law Colorado v. Reggie Bicha, in his official capacity as Executive Director of the Colorado Department of Human Services, and Jill Marshall, in her official capacity as Interim Superintendent of the Colorado Mental Health Institute at Pueblo*). Preliminary responses to the discovery request have yielded an estimated 575,000 potentially relevant documents which must be reviewed by February 1, 2019. The Department estimates it will take 11,500 hours and 58 people working a 50 hour work week to conduct the document review by the deadline. Given that the Department does not have the physical capacity, space, FTE, or IT infrastructure to take on this task by the deadline, the Department has contracted with an outside entity to perform the document review at a cost of roughly \$1 per document, or \$575,000 total funds. As with the increased LSSA hours, this will not impact the Department of Human Services budget in FY 2018-19, but will result in increased billing for legal services in future years.

## NON-PRIORITIZED SUPPLEMENTAL REQUESTS

### NP SAFE2TELL TRANSFER

|                      | REQUEST           | RECOMMENDATION    |
|----------------------|-------------------|-------------------|
| <b>TOTAL</b>         | <b>(\$17,121)</b> | <b>(\$17,121)</b> |
| FTE                  | 0.0               | 0.0               |
| General Fund         | (17,121)          | (17,121)          |
| Cash Funds           | 0                 | 0                 |
| Reappropriated Funds | 0                 | 0                 |
| Federal Funds        | 0                 | 0                 |

**DEPARTMENT REQUEST:** The Department requests \$17,121 General Fund in FY 2018-19 to reallocate funding historically received from the Department of Law for Safe2Tell dispatching services to the Department of Public Safety.

**STAFF RECOMMENDATION:** The Committee approved this request during the Department of Public Safety supplemental presentation on January 16, 2019. Staff will incorporate the Committee's into the supplemental bill for the Department of Law.

## STATEWIDE COMMON POLICY SUPPLEMENTAL REQUESTS

This request is not prioritized and is not analyzed in this packet. The JBC will act on this item later when it makes decisions regarding common policies.

| DEPARTMENT'S PORTION OF STATEWIDE<br>SUPPLEMENTAL REQUEST | TOTAL      | GENERAL<br>FUND | CASH<br>FUNDS | REAPPROP.<br>FUNDS | FEDERAL<br>FUNDS | FTE |
|---|------------|-----------------|---------------|--------------------|------------------|-----|
| Annual fleet vehicle supplemental                         | (\$21,252) | (\$3,964)       | (\$5,057)     | (\$11,853)         | (\$378)          | 0.0 |

**STAFF RECOMMENDATION:** The staff recommendation for this request is pending Committee action on common policy supplementals. Staff asks permission to include the corresponding appropriations in the Department's supplemental bill when the Committee acts on common policy supplementals.

*JBC Staff Supplemental Recommendations - FY 2018-19*  
*Staff Working Document - Does Not Represent Committee Decision*

**Appendix A: Numbers Pages**

|  | FY 2017-18<br>Actual | FY 2018-19<br>Appropriation | FY 2018-19<br>Requested Change | FY 2018-19<br>Rec'd Change | FY 2018-19 Total<br>w/Rec'd Change |
|--|----------------------|-----------------------------|--------------------------------|----------------------------|------------------------------------|
|--|----------------------|-----------------------------|--------------------------------|----------------------------|------------------------------------|

**DEPARTMENT OF LAW**  
**Phil Weiser, Attorney General**

**S1 LSSA reallocation and increase**

**(2) LEGAL SERVICES TO STATE AGENCIES**

|                          |                   |                      |                  |                  |                      |
|--------------------------|-------------------|----------------------|------------------|------------------|----------------------|
| Personal Services        | <u>26,614,607</u> | <u>27,998,821</u>    | <u>1,120,000</u> | <u>1,120,000</u> | <u>29,118,821</u>    |
| FTE                      | 251.7             | 245.9                | 0.0              | 6.1              | 252.0                |
| General Fund             | 0                 | 0                    | 0                | 0                | 0                    |
| Cash Funds               | 0                 | 0                    | 0                | 0                | 0                    |
| Reappropriated Funds     | 26,614,607        | 27,998,821           | 1,120,000        | 1,120,000        | 29,118,821           |
| Federal Funds            | 0                 | 0                    | 0                | 0                | 0                    |
| Operating and Litigation | <u>1,140,933</u>  | <u>1,868,535 0.0</u> | <u>(400,000)</u> | <u>(400,000)</u> | <u>1,468,535 0.0</u> |
| General Fund             | 0                 | 0                    | 0                | 0                | 0                    |
| Cash Funds               | 0                 | 500,000              | (300,000)        | (300,000)        | 200,000              |
| Reappropriated Funds     | 1,140,933         | 1,368,535            | (100,000)        | (100,000)        | 1,268,535            |
| Federal Funds            | 0                 | 0                    | 0                | 0                | 0                    |

|  |              |              |            |            |              |
|--|--------------|--------------|------------|------------|--------------|
| <b>Total for S1 LSSA reallocation and increase</b> | 27,755,540   | 29,867,356   | 720,000    | 720,000    | 30,587,356   |
| FTE  | <u>251.7</u> | <u>245.9</u> | <u>0.0</u> | <u>6.1</u> | <u>252.0</u> |
| General Fund                                       | 0            | 0            | 0          | 0          | 0            |
| Cash Funds   | 0            | 500,000      | (300,000)  | (300,000)  | 200,000      |
| Reappropriated Funds                               | 27,755,540   | 29,367,356   | 1,020,000  | 1,020,000  | 30,387,356   |
| Federal Funds                                      | 0            | 0            | 0          | 0          | 0            |



*JBC Staff Supplemental Recommendations - FY 2018-19*  
*Staff Working Document - Does Not Represent Committee Decision*

|   | FY 2017-18<br>Actual | FY 2018-19<br>Appropriation | FY 2018-19<br>Requested Change | FY 2018-19<br>Rec'd Change | FY 2018-19 Total<br>w/Rec'd Change |
|---|----------------------|-----------------------------|--------------------------------|----------------------------|------------------------------------|
| <b>Totals Excluding Pending Items</b>         |                      |                             |                                |                            |                                    |
| <b>LAW</b>                                    |                      |                             |                                |                            |                                    |
| <b>TOTALS for ALL Departmental line items</b> | 77,789,798           | 83,464,414                  | 720,000                        | 720,000                    | 84,184,414                         |
| <i>FTE</i>                                    | <u>457.5</u>         | <u>477.2</u>                | <u>0.0</u>                     | <u>6.1</u>                 | <u>483.3</u>                       |
| General Fund                                  | 16,183,615           | 16,611,039                  | 0                              | 0                          | 16,611,039                         |
| Cash Funds                                    | 13,030,130           | 18,047,080                  | (300,000)                      | (300,000)                  | 17,747,080                         |
| Reappropriated Funds                          | 46,350,835           | 46,803,973                  | 1,020,000                      | 1,020,000                  | 47,823,973                         |
| Federal Funds                                 | 2,225,218            | 2,002,322                   | 0                              | 0                          | 2,002,322                          |