

**COLORADO GENERAL ASSEMBLY
JOINT BUDGET COMMITTEE**



SUPPLEMENTAL REQUESTS FOR FY 2014-15

DEPARTMENT OF LAW

**JBC Working Document - Subject to Change
Staff Recommendation Does Not Represent Committee Decision**

**Prepared By:
Craig Harper, JBC Staff
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For Further Information Contact:

Joint Budget Committee Staff
200 E. 14th Avenue, 3rd Floor
Denver, Colorado 80203
Telephone: (303) 866-2061
TDD: (303) 866-3472

TABLE OF CONTENTS

	Narrative Page	Numbers Page
Department Overview	1	N.A.
Summary: FY 2014-15 Appropriation and Recommendation	1	N.A.
Prioritized Supplementals in Department-assigned Order		
S1 – Safe2Tell Legal Services	3	8
Non-prioritized Supplementals		
Department of Corrections Legal Services	5	N.A.
Department of Revenue DMV Legal Services	6	N.A.
Department of Revenue Marijuana Enforcement Legal Services	6	N.A.
Independent Ethics Commission Legal Services	7	N.A.
Statewide Common Policy Supplemental Requests	7	N.A.
Totals for All Supplementals	N.A.	9
Appendices		
Numbers Pages	N.A.	8

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. The Department's FY 2014-15 appropriation represents 0.3 percent of statewide operating appropriations and 0.2 percent of statewide General Fund appropriations.

Summary: FY 2014-15 Appropriation and Recommendation

Department of Law: Recommended Changes for FY 2014-15						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2014-15 Appropriation						
HB 14-1336 (Long Bill)	\$69,567,702	\$12,917,348	\$12,369,385	\$42,532,558	\$1,748,411	454.9
Other Legislation	<u>4,398,629</u>	<u>616,952</u>	<u>3,283,194</u>	<u>498,483</u>	<u>0</u>	<u>9.5</u>
Current FY 2014-15 Appropriation	\$73,966,331	\$13,534,300	\$15,652,579	\$43,031,041	\$1,748,411	464.4
Recommended Changes						
Current FY 2014-15 Appropriation	\$73,966,331	13,534,300	\$15,652,579	\$43,031,041	\$1,748,411	464.4
S1 Safe2Tell legal services	64,356	32,178	0	32,178	0	0.2
NP1 Department of Corrections legal services	441,090	0	0	441,090	0	2.5
NP2 Department of Revenue DMV legal services	178,218	0	0	178,218	0	1.0
NP3 Department of Revenue marijuana enforcement legal services	178,218	0	0	178,218	0	1.0
NP4 Independent Ethics Commission legal services	70,000	0	0	70,000	0	0.4
Statewide common policy supplemental requests	<u>1,588</u>	<u>5,885</u>	<u>2,335</u>	<u>(5,493)</u>	<u>(1,139)</u>	<u>0.0</u>
Recommended FY 2014-15 Appropriation	\$74,899,801	\$13,572,363	\$15,654,914	\$43,925,252	\$1,747,272	469.5
Recommended Increase/(Decrease)	\$933,470	\$38,063	\$2,335	\$894,211	(\$1,139)	5.1
Percentage Change	1.3%	0.3%	0.0%	2.1%	(0.1%)	1.1%
FY 2014-15 Executive Request	\$74,899,801	\$13,572,363	\$15,654,914	\$43,925,252	\$1,747,272	469.5
Request Above/(Below) Recommendation	\$0	\$0	\$0	\$0	\$0	(0.0)

Request/Recommendation Descriptions

S1 Safe2Tell legal services: The request includes an increase of \$64,356 total funds (including \$32,178 General Fund) and 0.2 FTE to support increased legal expenses for the Safe2Tell Program (now a part of the Department of Law as a result of S.B. 14-002) in FY 2014-15.

NP1 Department of Corrections legal services: The request includes an increase of \$441,090 reappropriated funds (originally General Fund in the Department of Corrections) and 2.5 FTE to support increased legal expenses for the Department of Corrections in FY 2014-15. The recommendation is pending Committee action on the Department of Corrections supplemental request.

NP2 Department of Revenue DMV legal services: The request includes an increase of \$178,218 reappropriated funds (originally General Fund in the Department of Revenue) and 1.0 FTE to support increased legal services costs for the Division of Motor Vehicles in FY 2014-15. The recommendation is pending Committee action on the Department of Revenue supplemental request.

NP3 Department of Revenue marijuana enforcement legal services: The request includes an increase of \$178,218 reappropriated funds (originally cash funds from the Marijuana Cash Fund in the Department of Revenue) and 1.0 FTE to support increased legal services costs for the Marijuana Enforcement Division in FY 2014-15. The recommendation is pending Committee action on the Department of Revenue supplemental request.

NP4 Independent Ethics Commission legal services: The request includes an increase of \$70,000 reappropriated funds (originally General Fund in the Judicial Branch) and 0.2 FTE to support additional legal services costs for the Independent Ethics Commission in FY 2014-15. The recommendation is pending Committee action on the Judicial Branch supplemental request.

Statewide common policy supplemental requests: The request includes a net increase of \$1,588 total funds (including an increase of \$5,885 General Fund) associated with statewide common policy supplemental requests. The request includes the following adjustments associated with requests submitted by the Department of Personnel: (1) an increase of \$2,335 cash funds for administrative law judge services; (2) an increase of \$5,885 General Fund as part of the statewide vehicle lease payment adjustment; and (3) a decrease of \$6,632 total funds as part of the COFRS modernization “true up.”

Prioritized Supplemental Requests

SUPPLEMENTAL REQUEST, DEPARTMENT PRIORITY #1 SAFE2TELL LEGAL SERVICES

	Request	Recommendation
Total	<u>\$64,356</u>	<u>\$64,356</u>
FTE	0.2	0.2
General Fund	32,178	32,178
Reappropriated Funds	32,178	32,178

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [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.]	YES
JBC staff and the Department agree that this request is the result of data that was not available when the original appropriation was made.	

Department Request: The Department requests an increase of \$64,356 total funds (including \$32,178 General Fund and \$32,178 reappropriated funds) and 0.2 FTE to support an estimated 325 hours of legal services provided to the Safe2Tell Program in FY 2014-15. The request includes the following: (1) \$32,178 General Fund in the Safe2Tell Program line item to purchase legal services; and (2) \$32,178 reappropriated funds for the Legal Services to State Agencies (LSSA) division to provide the legal services.

Staff Recommendation: Staff recommends that the Committee approve the request for additional funding. However, in order to be consistent with the treatment of other departments, staff recommends that the Committee create a new “Legal Services” line item within the Administration Division rather than reflecting the additional General Fund in the Safe2Tell program line item. Thus, staff recommends reflecting \$32,178 General Fund in the newly created legal services line item and \$32,178 reappropriated funds and 0.2 FTE in the Legal Services to State Agencies Division. The following table details the Department’s request and the staff recommendation by line item.

S1 Safe2Tell Legal Services Supplemental				
	FY 2014-15 Supplemental		Department	
	Request		Staff	
	Funding	FTE	Funding	FTE
Administration Division				
Legal Services (new line item recommended) - GF	\$0	0.0	\$32,178	0.0
Legal Services to State Agencies (LSSA)				
Personal Services - RF	\$28,960	0.2	\$28,960	0.2
Operating and Litigation - RF	<u>3,218</u>		<u>3,218</u>	

S1 Safe2Tell Legal Services Supplemental				
	FY 2014-15 Supplemental			
	Department Request		Staff Recommendation	
	Funding	FTE	Funding	FTE
Subtotal, LSSA - RF	\$32,178	0.2	\$32,178	0.2
Criminal Justice and Appellate				
Safe2Tell - GF	\$32,178	0.0	\$0	0.0
Total, S1 - Safe2Tell Legal Services	<u>\$64,356</u>	<u>0.2</u>	<u>\$64,356</u>	<u>0.2</u>
General Fund	32,178	0.0	32,178	0.0
Reappropriated Funds	32,178	0.2	32,178	0.2

Staff Analysis:

Background

The Safe2Tell program, created in statute, allows for the anonymous reporting of dangerous and criminal activities in schools. Prior to FY 2014-15, the program operated as a nonprofit organization (Safe2Tell, Inc.). For FY 2010-11 through FY 2013-14, the State paid for the salary and benefits of the program’s executive director through a Long Bill line item in the Department of Law but the program continued to operate as an independent nonprofit.

Senate Bill 14-002, enacted during the 2014 Session, repealed the existing Safe2Tell program and recreated Safe2Tell as a state program within the Department of Law. The bill appropriates a total of \$281,952 (including \$266,952 General Fund) and 3.0 FTE to the Department of Law in FY 2014-15 to support the program. The bill took effect August 6, 2014, and the program is now operating within the Department.

FY 2014-15 Supplemental Request

The appropriation in S.B. 14-002 did not anticipate legal services costs for Safe2Tell in FY 2014-15 or subsequent years. However, Safe2Tell staff and the Department have determined that legal services will be necessary to ensure a smooth transition into the state government and effectively operate the program going forward. The Department estimates that 325 hours of legal services are necessary in FY 2014-15 and approximately 250 hours per year in subsequent years. The anticipated hours in FY 2014-15 include:

- 200 hours for start-up activities related to S.B. 14-002 and the change to a state program, including: (1) review and update of program directives, materials, MOUs, etc., to be consistent with S.B. 14-002 requirements; (2) review and update of the Safe2Tell website; (3) review of the program’s methods and procedures and duties to ensure compliance with the law; and (4) training for program staff related to state employment (e.g., ethics and conflicts of interest, risk management, the personnel system, and the procurement process).
- 5 hours per week (125 hours for 25 weeks in FY 2014-15 and 250 hours per year in subsequent years) to providing ongoing counsel to the program. Expected activities include: (1) work related to court motions and court orders related to the program; and (2) general

counsel and advice regarding issues associated with the day-to-day operations of the program.

Staff agrees that the additional legal services appear to be necessary and that those costs were simply not anticipated in the original appropriation for FY 2014-15. Thus, without the additional appropriation, the Department would have to either: (1) not provide the legal services to Safe2Tell; or (2) require the Department’s attorneys to provide the services without billing for the time (over and above the attorneys’ required billing). Staff agrees that the legal services are necessary and does not recommend effectively requiring the attorneys to provide pro bono services to the program. Thus, staff recommends providing the requested funding.

Line Item Structure

The request seeks an additional General Fund appropriation to the Safe2Tell program line item to purchase the legal services. In order to be consistent with legal services appropriations in other departments, staff recommends that the Committee add a legal services line item to the Administration section of the Long Bill to support the General Fund appropriation in FY 2014-15. In subsequent years, staff recommends including the legal services appropriations for both Safe2Tell and the Police Officers Standards and Training (POST) Board in the new legal services line item.

Staff’s recommended structure would be consistent with the treatment of legal services appropriations to other state agencies and make the legal services costs for Safe2Tell and POST more transparent in the Long Bill. Staff has discussed this recommendation with the Department and the Department supports the recommended structure.

Non-prioritized Supplemental Requests

**NON-PRIORITIZED SUPPLEMENTAL REQUEST #1
DEPARTMENT OF CORRECTIONS LEGAL SERVICES**

	Request	Recommendation
Total	<u>\$441,090</u>	Pending JBC Action on Department of Corrections Request
FTE	2.5	
Reappropriated Funds	441,090	

Summary: The Department of Corrections has submitted a supplemental request (Department of Corrections priority #3) to increase its appropriation for the purchase of legal services from the Department of Law by a total of \$441,090 General Fund. The Department of Law would need corresponding spending authority to receive the additional funds from the Department of Corrections. The staff recommendation for this request is pending Committee action on the Department of Corrections supplemental request. Staff asks for permission to include the

spending authority and FTE corresponding with the Committee's action in the Department of Law's supplemental bill.

NON-PRIORITIZED SUPPLEMENTAL REQUEST #2
DEPARTMENT OF REVENUE DIVISION OF MOTOR VEHICLES
LEGAL SERVICES

	Request	Recommendation
Total	<u>\$178,218</u>	Pending JBC Action on Department of Revenue Request
FTE	1.0	
Reappropriated Funds	178,218	

Summary: The Department of Revenue has submitted a supplemental request (Department of Revenue priority #4) to increase its appropriation for the purchase of legal services from the Department of Law for the Division of Motor Vehicles by \$178,218 General Fund. The Department of Law would need corresponding spending authority to receive the additional funds from the Department of Revenue. The staff recommendation for this request is pending Committee action on the Department of Revenue supplemental request. Staff asks for permission to include the spending authority and FTE that correspond with the Committee's action in the Department of Law's supplemental bill.

NON-PRIORITIZED SUPPLEMENTAL REQUEST #3
DEPARTMENT OF REVENUE MARIJUANA ENFORCEMENT DIVISION
LEGAL SERVICES

	Request	Recommendation
Total	<u>\$178,218</u>	Pending JBC Action on Department of Revenue Request
FTE	1.0	
Reappropriated Funds	178,218	

Summary: The Department of Revenue has submitted a supplemental request (Department of Revenue priority #2) to increase its appropriation for the purchase of legal services from the Department of Law for the Marijuana Enforcement Division by \$178,218 cash funds from the Marijuana Cash Fund. The Department of Law would need corresponding spending authority to receive the additional funds from the Department of Revenue. The staff recommendation for this request is pending Committee action on the Department of Revenue supplemental request. Staff

asks for permission to include the spending authority and FTE that correspond with the Committee’s action in the Department of Law's supplemental bill.

**NON-PRIORITIZED SUPPLEMENTAL REQUEST #4
 INDEPENDENT ETHICS COMMISSION LEGAL SERVICES**

	Request	Recommendation
Total	<u>\$70,000</u>	Pending JBC Action on Judicial Branch Request
FTE	0.4	
Reappropriated Funds	70,000	

Summary: The Judicial Branch has submitted a supplemental request (Independent Ethics Commission (IEC) priority #1) to increase its appropriation for the purchase of legal services from the Department of Law by \$70,000 General Fund in FY 2014-15. The Department of Law would need corresponding spending authority to receive the additional funds from the IEC. The staff recommendation for this request is pending Committee action on the Judicial Branch supplemental request. Staff asks for permission to include the spending authority and FTE that correspond with the Committee’s action in the Department of Law's supplemental bill.

Statewide Common Policy Supplemental Requests

These requests are not prioritized and are not analyzed in this packet. The JBC will act on these items later when it makes decisions regarding common policies.

Department's Portion of Statewide Supplemental Request	Total	General Fund	Cash Funds	Reapprop. Funds	Federal Funds	FTE
Administrative law judge services	\$2,335	\$0	\$2,335	\$0	\$0	0.0
Statewide vehicle lease payment true-up	5,885	5,885	0	0	0	0.0
COFRS modernization true-up	(6,632)	0	0	(5,493)	(1,139)	0.0
Department's Total Statewide Supplemental Requests	\$1,588	\$5,885	\$2,335	(\$5,493)	(\$1,139)	0.0

Staff Recommendation: The staff recommendation for these requests is pending Committee approval of common policy supplementals. Staff asks permission to include the corresponding appropriations in the Department's supplemental bill if the Committee approves these common policy supplementals. If staff believes there is reason to deviate from the common policy, staff will appear before the Committee later to present the relevant analysis.

*JBC Staff Supplemental Recommendations - FY 2014-15
Staff Working Document - Does Not Represent Committee Decision*

Appendix A: Number Pages

	FY 2013-14 Actual	FY 2014-15 Appropriation	FY 2014-15 Requested Change	FY 2014-15 Rec'd Change	FY 2014-15 Total W/ Rec'd Change
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**DEPARTMENT OF LAW
John Suthers, Attorney General**

S1 Safe2Tell Legal Services

(1) ADMINISTRATION

Legal Services for 325 Hours	<u>0</u>	<u>0</u>	<u>0</u>	<u>32,178</u>	<u>32,178</u>
General Fund	0	0	0	32,178	32,178

(2) LEGAL SERVICES TO STATE AGENCIES

Personal Services	<u>19,442,071</u>	<u>26,122,010</u>	<u>28,960</u>	<u>28,960</u>	<u>26,150,970</u>
FTE	228.5	253.6	0.2	0.2	253.8
Cash Funds	0	876,816	0	0	876,816
Reappropriated Funds	19,442,071	25,245,194	28,960	28,960	25,274,154
Operating and Litigation	<u>1,089,188</u>	<u>1,840,928</u>	<u>3,218</u>	<u>3,218</u>	<u>1,844,146</u>
Cash Funds	0	3,096	0	0	3,096
Reappropriated Funds	1,089,188	1,837,832	3,218	3,218	1,841,050

(3) CRIMINAL JUSTICE AND APPELLATE

Safe2Tell	<u>94,261</u>	<u>389,423</u>	<u>32,178</u>	<u>0</u>	<u>389,423</u>
FTE	1.0	3.5	0.0	0.0	3.5
General Fund	94,261	374,423	32,178	0	374,423
Cash Funds	0	15,000	0	0	15,000

JBC Staff Supplemental Recommendations - FY 2014-15
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	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2013-14 Requested Change	FY 2013-14 Rec'd Change	FY 2013-14 Total W/ Rec'd Change
Total for S1 Safe2Tell Legal Services	20,625,520	28,352,361	64,356	64,356	28,416,717
<i>FTE</i>	<u>229.5</u>	<u>257.1</u>	<u>0.2</u>	<u>0.2</u>	<u>257.3</u>
General Fund	94,261	374,423	32,178	32,178	406,601
Cash Funds	0	894,912	0	0	894,912
Reappropriated Funds	20,531,259	27,083,026	32,178	32,178	27,115,204
Totals Excluding Pending Items					
LAW					
TOTALS for ALL Departmental line items	63,598,565	73,966,331	64,356	64,356	74,030,687
<i>FTE</i>	<u>384.1</u>	<u>464.4</u>	<u>0.2</u>	<u>0.2</u>	<u>464.6</u>
General Fund	13,488,221	13,534,300	32,178	32,178	13,566,478
Cash Funds	11,820,480	15,652,579	0	0	15,652,579
Reappropriated Funds	37,594,063	43,031,041	32,178	32,178	43,063,219
Federal Funds	695,768	1,748,411	0	0	1,748,411