

COLORADO GENERAL ASSEMBLY

JOINT BUDGET COMMITTEE



**FY 2007-08 SUPPLEMENTAL:
DEPARTMENT OF AGRICULTURE**

**PRIORITIZED AND NON-PRIORITIZED
REQUESTS**

JBC Working Document - Subject to Change

Staff Recommendation Does Not Represent Committee Decision

Prepared By:

Bernie Gallagher, JBC Staff

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For Further Information Contact:

**Joint Budget Committee
200 East 14th Avenue, 3rd Floor
Denver, Colorado 80203
Telephone: (303) 866-2061**

**DEPARTMENT OF AGRICULTURE
FY 2007-08 SUPPLEMENTAL RECOMMENDATION
JBC WORKING DOCUMENT - SUBJECT TO CHANGE**

TABLE OF CONTENTS

	Numbers Page	Narrative Page
Supplemental #1 - Reallocation of General Fund Moneys for Legal Services	1	4-6
Supplemental #2 - Increased Spending Authority for the Aquaculture Program	2	6
Statewide Common Policy Supplemental Requests	2	7
Totals for All Supplementals	3	N.A.

	FY 2006-07	FY 2007-08	Fiscal Year 2007-08 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
DEPARTMENT OF AGRICULTURE					
Commissioner - John Stulp					
Supplemental #1 - Reallocation of General Fund Moneys for Legal Services					
<i>(1) Commissioner's Office and Administrative Services</i>					
Legal Services	228,917	306,127	54,323	54,323	360,450
<i>Hours Equivalent</i>	<u>3,378</u>	<u>4,250</u>	<u>754</u>	<u>754</u>	<u>5,004</u>
General Fund	63,421	57,784	54,323	54,323	112,107
Cash Funds	159,557	233,009	0	0	233,009
Cash Funds Exempt	5,939	3,431	0	0	3,431
Federal Funds	0	11,903	0	0	11,903
<i>(2) Agricultural Services Division</i>					
Personal Services	<u>9,238,592</u>	<u>9,715,577</u>	<u>(54,323)</u>	<u>(54,323)</u>	<u>9,661,254</u>
General Fund	2,128,011	3,235,300	(54,323)	(54,323)	3,180,977
Cash Funds	6,561,810	6,008,218	0	0	6,008,218
Cash Funds Exempt	200,081	0	0	0	0
Federal Funds	348,690	472,059	0	0	472,059
Total for Supplemental #1	<u>9,467,509</u>	<u>10,021,704</u>	<u>0</u>	<u>0</u>	<u>10,021,704</u>
General Fund	2,191,432	3,293,084	0	0	3,293,084
Cash Funds	6,721,367	6,241,227	0	0	6,241,227
Cash Funds Exempt	206,020	3,431	0	0	3,431
Federal Funds	348,690	483,962	0	0	483,962

	FY 2006-07	FY 2007-08	Fiscal Year 2007-08 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
Supplemental #2 - Increased Spending Authority for the Aquaculture Program					
<i>(1) Agricultural Services Division</i>					
Operating Expenses for Aquaculture - CF	24,492	25,000	4,609	4,609	29,609
Totals Excluding Pending Items					
DEPARTMENT OF AGRICULTURE					
TOTALS for ALL Departmental line items	35,939,389	37,024,593	4,609	4,609	37,029,202
FTE	<u>254.7</u>	<u>284.0</u>	<u>0.0</u>	<u>0.0</u>	<u>284.0</u>
General Fund	5,129,122	7,415,527	0	0	7,415,527
Cash Funds	9,810,819	19,342,615	4,609	4,609	19,347,224
Cash Funds Exempt	13,572,910	6,356,296	0	0	6,356,296
Federal Funds	7,426,538	3,910,155	0	0	3,910,155
Statewide Common Policy Supplementals					
(see narrative for more detail)	<u>N.A.</u>	<u>N.A.</u>	(205,173)	<u>Pending</u>	<u>N.A.</u>
General Fund			(64,622)		
Cash Funds			(96,955)		
Cash Funds Exempt			(41,473)		
Federal Funds			(2,123)		

	FY 2006-07	FY 2007-08	Fiscal Year 2007-08 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
Totals Including Pending Items in Request					
DEPARTMENT OF AGRICULTURE					
TOTALS for ALL Departmental line items	35,939,389	37,024,593	(200,564)	4,609	37,029,202
FTE	<u>254.7</u>	<u>284.0</u>	<u>0.0</u>	<u>0.0</u>	<u>284.0</u>
General Fund	5,129,122	7,415,527	(64,622)	0	7,415,527
Cash Funds	9,810,819	19,342,615	(92,346)	4,609	19,347,224
Cash Funds Exempt	13,572,910	6,356,296	(41,473)	0	6,356,296
Federal Funds	7,426,538	3,910,155	(2,123)	0	3,910,155

Key:

"N.A." = Not Applicable

**DEPARTMENT OF AGRICULTURE
 FY 2007-08 SUPPLEMENTAL RECOMMENDATION
 JBC WORKING DOCUMENT - SUBJECT TO CHANGE**

Supplemental # 1 - Reallocation of General Fund Moneys for Legal Services

	Request	Recommendation
General Fund	0	0

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God / a technical error in the appropriation / new data / an unforeseen contingency]	YES
<p>The supplemental request to increase the General Fund appropriation for legal services meets the criteria of <i>an unforeseen contingency</i> as a result of an unanticipated increased need for legal counsel. While the Department submitted the request as a <i>technical error</i>, JBC Staff was unable to determine where a technical error was made as the need for legal services did not become apparent until September 2007 when the Department determined that the current-year General Fund appropriation for legal services was insufficient.</p>	

Department Request: The Department requests an increase of \$54,323 General Fund for legal services and a like decrease in the Agricultural Services Division Personal Services General Fund appropriation. The department has witnessed an increasing need for legal counsel due to disease control efforts which are financed with General Fund.

Staff Analysis: The Department has observed an increased need for legal counsel related to various contagious diseases that the Department is charged with controlling. The Veterinary and Animal Health Lab Section within the Animal Industry sub-division of the Agricultural Services Division, is responsible for monitoring and controlling contagious diseases in livestock and captive alternative livestock. The staff of this division concentrates on diseases that are (1) a threat to public health; (2) are not easily controlled by individual livestock owners; and (3) would significantly impact the livestock economy. Control of these diseases are through education, testing, inspection, vaccinations, treatments, and other activities. Specific diseases targeted include bovine tuberculosis, brucellosis, pseudorabies, equine infectious enemia, Johnes, scrapie, and trichomoniasis.

In January 2006, a Douglas County bull was sold by its Colorado owner to a meat packing plant in San Angelo, Texas. During a routine inspection of the carcass, lesions were discovered in the lungs of that bull. Testing concluded that the animal tested positive for bovine tuberculosis (BTB). Further inspections of 2,000 Colorado animals gave rise to two animals testing positive for BTB. These two cases were on the same premises and thus did not affect Colorado's Accredited BTB Free Status, as granted by the U.S. Department of Agriculture (USDA). However, the discovery of BTB has resulted in extensive legal work regarding the condemnation, slaughter, and indemnity payment to the owner of these animals. To date this case has not yet been resolved.

**DEPARTMENT OF AGRICULTURE
 FY 2007-08 SUPPLEMENTAL RECOMMENDATION
 JBC WORKING DOCUMENT - SUBJECT TO CHANGE**

Further, the Department is in legal discussions, court proceedings, and potential settlement negotiations resulting from a Chronic Wasting Disease (CWD) control effort from FY 2001-02. The basis of the legal action is an unconstitutional taking of legal property without just compensation. Additional legal resources are required to provide legal guidance associated with disease test results, need for future tests, and potential for implementing quarantines associated with the taking of livestock for the protection of Colorado's livestock industry, as the Department's Commissioner is charged with in Section 35-50-105, C.R.S.

The Department's supplemental request is for 754 additional hours of legal services to provide legal guidance for issues associated with BTB, CWD, and other contagious diseases. This request establishes a significant increase in legal services funded with General Fund over the last five years. For comparison and due to the fact that each year the blended hourly rate for legal services provided by the Department of Law is recalculated, Staff has prepared Table 1, showing the calculated number of hours the Department of Agriculture required in previous years as compared to the present supplemental request, as hours is a better unit of comparison than using dollars.

For FY 2007-08 the Department received an appropriation of 802 General Funded hours. When the current year appropriated hours is combined with the supplemental request of 754 hours, the combined total of 1,556 hours would be 126 percent greater than the FY 2003-04 actual expenditure of 688 General Fund hours, a significant increase.

Table 1. General Fund Legal Services Expenditures and Appropriations			
Fiscal Year	Legal Services Expenditures/ Appropriations	Blended Hourly Legal Services Rate	Number of Legal Services Hours Expended / Appropriated
2003-04 Actual	\$41,846	\$60.79	688
2004-05 Actual	43,837	61.57	712
2005-06 Actual	45,888	64.45	712
2006-07 Actual	63,421	67.77	936
2007-08 Total	<u>112,107</u>	<u>72.03</u>	<u>1,556</u>
2007-08 Appropriation	57,784	72.03	802
2007-08 Supplemental	54,323	72.03	754
5-Yr Variance ¹	70,261	<i>not relevant</i>	868
5-Yr Variance % ¹	167.9%	<i>not relevant</i>	126.1%

¹ Reflects the variance between the FY 2007-08 Total and FY 2003-04 Actual.

Staff Recommendation: Staff recommends that the committee approve the Department's request to transfer \$54,323 General Fund from the Agricultural Services Personal Services appropriation to the Department's

**DEPARTMENT OF AGRICULTURE
FY 2007-08 SUPPLEMENTAL RECOMMENDATION
JBC WORKING DOCUMENT - SUBJECT TO CHANGE**

Legal Services General Fund appropriation, due to the unforeseen need for the Department to retain additional legal services expertise related to the control of contagious diseases.

Supplemental # 2 - Increased Spending Authority for the Aquaculture Program

	Request	Recommendation
Cash Funds	\$4,609	\$4,609

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 the appropriation / new data / an unforeseen contingency]	
Staff and the Department agree that this request represents <i>an unforeseen contingency</i> as the need for increased spending authority is required for the Aquaculture Program to test for a serious fish disease that threatens Colorado's aquaculture industry.	

Department Request: The Department requests a \$4,609 increase in spending authority from the Aquaculture Cash Fund to test at-risk aquaculture facilities for Viral Hemorrhagic Septicemia (VHS), a serious pathogen of fresh and saltwater fish.

Staff Analysis: The aquaculture program permits all private facilities that broker live native or nonnative fish, as well as for those private facilities that propagate, sell, trade, or transport live fish. Currently there are 42 licensed aquaculture facilities ("fish farms") in the state. The Department manages facility licensing and inspections within its annual \$25,000 appropriation and in recent years has expended nearly all of this appropriation.

Viral Hemorrhagic Septicemia (VHS) is a serious and often fatal fish disease killing huge numbers of free-ranging fishes of many species in the Great Lakes and St. Lawrence River areas. Live fish transfer is known to spread VHS, and this practice takes place among U.S. aquaculture facilities. Further, the list of susceptible fish species, as prepared by the U.S. Department of Agriculture, includes nearly all of Colorado's important sport fishes. Thus, the Aquaculture Program is seeking the spending authority to collect fees to test at-risk aquaculture facilities. The Department anticipates that testing of the facilities will be begin in April, 2008.

Fees will be assessed to the at-risk aquaculture facilities for the associated lab work, shipping, and lab supplies, which sums to approximately \$2,050 per facility, with two remote facilities having additional costs related to travel costs and per diem.

Staff Recommendation: Staff recommends that the committee approve the \$4,609 cash funds supplemental increase to the Operating Expense for Aquaculture line in the Agricultural Services Division, as a result of the unforeseen need to test at-risk aquaculture facilities for the VHS disease.

**DEPARTMENT OF AGRICULTURE
 FY 2007-08 SUPPLEMENTAL RECOMMENDATION
 JBC WORKING DOCUMENT - SUBJECT TO CHANGE**

Statewide Common Policy Supplemental Requests

These requests are not prioritized and are not analyzed in this packet . These items will be acted on separately by the JBC when it makes a decision regarding common policies.

Department of Agriculture's Portion of Statewide Supplemental Request	Total	General Fund	Cash Funds	Cash Funds Exempt	Federal Funds	FTE
1. Vehicle Lease Payments	(\$26,972)	(\$11,170)	(\$15,243)	\$0	(\$559)	0.0
2. Workers Compensation	(126,168)	(36,636)	(60,962)	(27,453)	(1,117)	0.0
3. MNT / Telecommunications	(16,042)	(16,042)	0	0	0	0.0
4. Computer Service (GGCC)	19,060	19,060	0	0	0	0.0
5. Communication Services Payments	(207)	(133)	0	(74)	0	0.0
6. Capitol Complex Lease - Technical	2,649	2,161	488	0	0	0.0
7. Risk Management	(57,493)	(21,862)	(21,238)	(13,946)	(447)	0.0
Total Statewide Supplemental Requests for the Department of Agriculture	(205,173)	(64,622)	(96,955)	(41,473)	(2,123)	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 when the committee approves this common policy supplemental. If staff believes there is reason to deviate from the common policy, staff will appear before the committee later to present the relevant analysis.