

**COLORADO GENERAL ASSEMBLY
JOINT BUDGET COMMITTEE**



**INTERIM SUPPLEMENTAL REQUEST
FOR FY 2008-09:
OFFICE OF THE GOVERNOR**

Broadband Inventory Funding

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

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	FY 2007-08	FY 2008-09	Fiscal Year 2008-09 Interim Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
Office of the Governor					
Governor Bill Ritter, Jr.					
Interim Supplemental #1 - Broadband Inventory Funding					
<i>(5) Office of Information Technology, (A) Administration</i>					
S.B. 08-215 OIT Broadband Telecom Map	<u>0</u>	<u>21,000</u>	<u>459,082</u>	<u>0</u>	<u>21,000</u>
General Fund	0	0	0	0	0
Cash Funds	0	21,000	459,082	0	21,000
Reappropriated Funds	0	0	0	0	0
Federal Funds	0	0	0	0	0
Totals					
OFFICE OF THE GOVERNOR					
TOTALS for ALL Departmental line items	N.A.	136,646,456	459,082	0	136,646,456
FTE	<u>N.A.</u>	<u>376.7</u>	<u>0.0</u>	<u>0.0</u>	<u>376.7</u>
General Fund	N.A.	16,004,195	0	0	16,004,195
Cash Funds	N.A.	38,296,185	459,082	0	38,296,185
Reappropriated Funds	N.A.	49,364,090	0	0	49,364,090
Federal Funds	N.A.	32,981,986	0	0	32,981,986

Key:

"N.A." = Not Applicable

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	Request	Recommendation
Total	<u>\$459,082</u>	<u>\$0</u>
General Fund	0	0
Cash Funds	459,082	0
Reappropriated Funds	0	0
Federal Funds	0	0

Does JBC staff believe the request satisfies the interim supplemental criteria of Section 24-75-111, C.R.S.? [The Controller may authorize an overexpenditure of the existing appropriation if it: (1) Is approved in whole or in part by the JBC; (2) Is necessary due to unforeseen circumstances arising while the General Assembly is not in session; (3) Is approved by the Office of State Planning and Budgeting (except for State, Law, Treasury, Judicial, and Legislative Departments); (4) Is approved by the Capital Development Committee, if a capital request; (5) Is consistent with all statutory provisions applicable to the program, function or purpose for which the overexpenditure is made; and (6) Does not exceed the unencumbered balance of the fund from which the overexpenditure is to be made.]	YES
In addition, 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
Staff believes that this request is based on <i>new data</i> that results in substantial changes in funding needs.	

Department Request:

The Office of the Governor has submitted a supplemental request for FY 2008-09 pursuant to the provisions of H.B. 98-1331; this request has been approved by the Office of State Planning and Budgeting (OSPB). **The Department requests an increase of \$459,082 cash funds for the newly created "S.B. 08-215 OIT Broadband Telecom Map" line item.** Of said appropriation, \$359,082 shall be from the Broadband Inventory Fund, and \$100,000 shall be from grants received from the Local Government Mineral Impact Fund. The appropriation is needed for timely completion of the comprehensive inventory of the availability of broadband services in Colorado by April 1, 2009.

Staff Recommendation:

Staff recommends the Committee deny the request.

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Staff Analysis:

Senate Bill 08-215 directs the Chief Information Officer (CIO) within the Governor's Office of Information Technology (OIT) to create an inventory of broadband service areas within Colorado. The bill further directs that OIT complete the inventory by April 1, 2009, submit a report to the legislature, and publish certain data on a publicly available website. In developing the inventory, OIT must consult the Governor's Innovation Council and other public and private entities. It must also hold at least 4 public meetings, consider comments submitted from the public, and employ private contractors for the purpose of collecting inventory information. The bill further directs the CIO to make an estimate of the amount needed implement the inventory by September 1, 2008.

The CIO estimates the inventory will cost \$480,082 and proposes funding sources. The Legislative Council Staff Final Fiscal Note dated August 11, 2008, for S.B. 08-215 estimated that the FY 2008-09 expenses for conducting the inventory would be \$21,000, and that this amount would be from gifts, grants, and donations. S.B. 08-215 appropriates that amount from the Broadband Inventory Fund, which was created to receive those gifts, grants, and donations. Senate Bill 08-215 also allows the CIO to draw up to \$100,000 from the Public Utilities Commission's high cost support mechanism created in Section 40-15-208 (3), C.R.S. **The current estimate of the cost greatly exceeds the estimates contained in the fiscal note.** Estimates for the component activities of the overall project as submitted with the supplemental request are shown in the following table.

Cost Component	Amount
Broadband Summit and Other Outreach Meetings	\$6,827
Data Collection Effort	300,000
Data Analysis	8,920
Develop GIS-based Hard Copy Maps	7,820
Develop GIS-based Web Service	50,000
Data Verification	29,415
Report for the General Assembly	7,440
Develop Public Interactive Web-based Map	69,660
Total	\$480,082

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OIT proposes a variety of funding sources to meet that estimate. These sources are summarized in the following table.

Source of Revenue	Estimated Amount
Grants from private sector vendors	\$140,000
DOLA - Grant from the Local Government Mineral Impact Fund	100,000
PUC - High Cost Support Mechanism	100,000
PUC - Performance Assurance Payments	100,000
Other sources not yet identified	40,000
Total	\$480,000

Staff believes that there are various problems with some of the funding sources. The bill specifically allows OIT to accept "private gifts, grants, and donations," and to draw on the PUC high cost mechanism as a last resort. No allowance is made for other funding sources. This language appears to create problems for some of the funding sources proposed by OIT.

- After consulting with Legislative Legal Services, staff believes that this language would preclude acceptance of a grant from the Department of Local Affairs. At best, the language in the bill is ambiguous on whether such a grant could be accepted. Similarly, staff believes that moneys from the PUC performance assurance payments would not be allowed under the terms of S.B. 08-215. The same problem may apply to the \$40,000 from unidentified sources.
- Senate Bill 08-215 allows OIT to draw on the high cost support mechanism if moneys in the Broadband Inventory Fund do not meet or exceed the estimated costs for the project by September 1, 2008. *Staff is concerned by the fact that the estimate is so much larger than the estimates provided by OIT for preparing the fiscal note.*

If questionable funding sources are discounted, the proposed funding is inadequate for critical activities. If funding is restricted to sources identified specifically in S.B. 08-215, the estimated revenues are \$240,000. This is less than the \$300,000 estimated cost for data collection. If the data on broadband service availability and other variables cannot be collected, the other activities proposed either (a) cannot be performed or (b) would be essentially valueless efforts.

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Large increases in cost estimates raise concerns regarding the need for additional supplemental funding. As previously mentioned, the estimates for FY 2008-09 expenses for the Broadband Inventory project provided by OIT for the Legislative Council Staff Fiscal Note were \$21,000. The language in S.B. 08-215 regarding use of moneys from the high cost support mechanism suggest that the General Assembly may have considered the possibility of higher costs, but not exceeding \$100,000 in total. The current estimate shown above is \$480,082. This is a factor of more than 20 times the Fiscal Note amount, and more than four times the largest amount mentioned in the statutory language. In addition, OIT states in the supplemental request that the \$300,000 data collection cost estimate is based on the costs incurred by other states collecting a subset of the data needed for the Colorado project. Staff is concerned that because of the way data collection costs were estimated, the actual costs may be higher.

Staff recommends that the Committee deny the request from the Office of the Governor. Staff believes that the use of some of the proposed funding sources is at least problematic, and quite possibly improper. The funds which are clearly allowed by S.B. 08-215 are not adequate to fund the data collection on which the project products depend. Finally, staff is concerned that the estimate for data collection may turn out to be low, and that additional supplemental funds would be required.