COLORADO GENERAL ASSEMBLY
JOINT BUDGET COMMITTEE

SUPPLEMENTAL REQUESTS FOR FY 2013-14

DEPARTMENT OF LOCAL AFFAIRS

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

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Prioritized Supplemental Requests

	Request	Recommendation
Total	**$3,817,866**	**$0**
Cash Funds	$3,817,866	$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.]	**NO**
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 unforseen contingency.]	**YES**
JBC staff and the Department agree that this request meets the supplemental criteria [data that was not available when the appropriation was made], but JBC staff does not believe that this request meets the *interim* supplemental criteria of Section 24-75-111, C.R.S. Specifically, this request does not concern an overexpenditure that "is necessary due to unforeseen circumstances arising while the General Assembly is not meeting in regular or special session".	

Department Request: The Department requests a transfer or $3.8 million cash funds from the Local Government Permanent Fund(Permanent Fund) to the Mineral Leasing Fund and an associated increase of spending authority and letternote revision for the Mineral Leasing Fund. This request would allow the Department to backfill the FY 2012-13 decrease in mineral leasing revenues available for Direct Distribution to counties in FY 2013-14.

Staff Recommendation: Staff recommends that the Committee deny this request because it does not concern an overexpenditure that "is necessary due to *unforeseen circumstances* arising while the General Assembly is not meeting in regular or special session", as required by the statutory provision that authorizes the Committee to approve supplemental requests during the interim [see Section 24-75-111 (1) (a), C.R.S.].

Staff Analysis:

BACKGROUND

When an individual or company leases federal land for mineral development, the federal government collects fees pursuant to the *Mineral Lands Leasing Act of 1920*. Lease holders generally pay a bonus to use the land, pay rent for the right to extract minerals, and pay a royalty (percentage) on minerals extracted and sold. Colorado receives 49.0 percent of federal mineral leasing revenues (FML). Currently, the Direct Distribution Program receives 20.0 percent of the total FML revenues and allocates moneys to counties based on a proportion of the number residents in the county employed in mineral extraction and the amount of money credited to the Mineral Leasing Fund from the county, compared to statewide totals.

Pursuant to S.B. 08-218, half of all bonus revenues are credited to the Permanent Fund. Moneys from this fund may be used to offset funding shortfalls for the Direct Distribution Program when the revenue forecast in March indicates revenues to the Mineral Leasing Fund will be at least ten percent lower than the immediately preceding fiscal year. Moneys from the Permanent Fund have not been used for Department appropriations to date, but have been transferred to the General Fund during budget shortfall years.

Based on the March 2013 Legislative Council Forecast, revenues to the Mineral Leasing Fund were 17.2 percent lower in FY 2012-13 than FY 2011-12. If the Department receives funding for this request, they would allocate the $3.8 million from the Permanent Fund as a special disbursement to local governments to alleviate some budget cuts to local governments. The Department indicates these moneys will be most beneficial if they are received before the end of the calendar year. Additionally, JBC Staff and OLLS Staff agree that a transfer from the Permanent Fund to the Mineral Leasing Fund is not necessary, as the statute allows for appropriations directly from the Permanent Fund.

LEGISLATIVE TIMING ISSUES

Senate Bill 08-218 allows for the appropriation of moneys from the Permanent Fund *for the current fiscal year* when the revenue forecast in March indicates revenues to the Mineral Leasing Fund will be at least ten percent lower than the immediately preceding fiscal year. The revenue forecast of March 2013 indicated the cash fund balance met the threshold to appropriate moneys from the Permanent Fund, so appropriations would be authorized for FY 2012-13 *not* FY 2013-14.

Direct Distribution payments are directed by statute to be made by August 31 of each fiscal year. Should DOLA want to use the moneys from the Permanent Fund for the *current* fiscal year of a revenue shortfall, they would need to initiate a special disbursement and change statute to allow for a distribution in the *current* fiscal year, following the March forecast.

To fund this request, the JBC would need to sponsor legislation to allow for the moneys from the Permanent Fund to be appropriated in FY 2013-14 instead of FY 2012-13, as directed by statute. Additionally, the JBC should consider legislation to modify the statutory deadline of Direct Distribution payments when Permanent Fund appropriations are available, or allow for expenditures in the *following* fiscal year to eliminate the timing issue.

RECOMMENDATION:

Although staff recognizes the merits of the request and believes the Department should have access to the requested Permanent Fund appropriations, staff recommends the Committee deny this request for funding based on interim supplemental criteria.