

COLORADO GENERAL ASSEMBLY

JOINT BUDGET COMMITTEE



FY 2007-08 SUPPLEMENTAL: DEPARTMENT OF PUBLIC HEALTH & ENVIRONMENT - Environmental Divisions Only -

PRIORITIZED AND NON-PRIORITIZED REQUESTS

JBC Working Document - Subject to Change

Staff Recommendation Does Not Represent Committee Decision

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	FY 2006-07	FY 2007-08	Fiscal Year 2007-08 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT					
Executive Director: James Martin					

Supplemental #1 - Retail Food Inspections of Remote Oil & Gas Man Camps

(1) Administration and Support

Administration

Vehicle Lease	<u>228,922</u>	<u>267,351</u>	0	0	<u>267,351</u>
General Fund	0	0	970	970	970
Cash Funds	85,309	113,126	(970)	(970)	112,156
Cash Funds Exempt	33,490	135,045	0	0	135,045
Federal Funds	110,123	19,180	0	0	19,180

(8) Consumer Protection

Personal Services	1,933,014	2,063,043	10,945	10,945	2,073,988
FTE	<u>26.1</u>	<u>27.8</u>	<u>0.3</u>	<u>0.3</u>	<u>28.1</u>
General Fund	1,062,655	1,079,213	9,058	8,088	1,087,301
FTE	15.2	15.9	0.3	0.3	16.2
Cash Funds	604,860	634,657	1,887	2,857	637,514
FTE	7.5	7.5	0.0	0.0	7.5
Cash Funds Exempt	68,157	71,188	0	0	71,188
FTE	2.0	2.0	0.0	0.0	2.0
Federal Funds	197,342	277,985	0	0	277,985
FTE	1.4	2.4	0.0	0.0	2.4

	FY 2006-07	FY 2007-08	Fiscal Year 2007-08 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
Operating Expenses	<u>118,929</u>	<u>109,470</u>	<u>9,129</u>	<u>9,129</u>	<u>118,599</u>
General Fund	20,508	20,508	9,129	9,129	29,637
Cash Funds	51,510	51,510	0	0	51,510
Cash Funds Exempt	8,900	8,900	0	0	8,900
Federal Funds	38,011	28,552	0	0	28,552
Total for Supplemental #1	2,280,865	2,439,864	20,074	20,074	2,459,938
FTE	<u>26.1</u>	<u>27.8</u>	<u>0.3</u>	<u>0.3</u>	<u>28.1</u>
General Fund	1,083,163	1,099,721	19,157	18,187	1,117,908
FTE	15.2	15.9	0.3	0.3	28.1
Cash Funds	741,679	799,293	917	1,887	801,180
FTE	7.5	7.5	0.0	0.0	16.2
Cash Funds Exempt	110,547	215,133	0	0	215,133
FTE	2.0	2.0	0.0	0.0	7.5
Federal Funds	345,476	325,717	0	0	325,717
FTE	1.4	2.4	0.0	0.0	2.0
Supplemental #4 - Housed Commercial Swine Feeding Operation Inspections					
<i>(1) Air Quality Control Division, (D) Stationary Sources</i>					
<i>(4) Housed Commercial Swine Feeding Operation (HCSFO) Program</i>					
Program Costs - CF	22,097	46,302	12,014	12,014	58,316
FTE	0.1	0.5	0.0	0.0	0.5

	FY 2006-07	FY 2007-08	Fiscal Year 2007-08 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
Supplemental #5 - Legal Services for Environmental Divisions					
<i>(1) Administration and Support</i>					
<i>Administration</i>					
Legal Services	<u>1,210,382</u>	<u>1,529,551</u>	<u>40,553</u>	<u>40,553</u>	<u>1,570,104</u>
General Fund	0	8,132	0	0	8,132
Cash Funds	36,850	101,479	8,139	8,139	109,618
Cash Funds Exempt	1,118,925	1,336,638	32,414	32,414	1,369,052
Federal Funds	54,607	83,302	0	0	83,302
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Technical Supplemental #2 - Utility Increase Associated with Oil and Gas Oversight					
<i>(1) Administration and Support</i>					
<i>Administration</i>					
Utilities	<u>480,956</u>	<u>592,777</u>	<u>6,480</u>	<u>6,480</u>	<u>599,257</u>
General Fund	0	0	0	0	0
Cash Funds	9,006	13,154	6,480	6,480	19,634
Cash Funds Exempt	389,390	457,447	0	0	457,447
Federal Funds	82,560	122,176	0	0	122,176
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Technical Supplemental #3 - Water Quality Control Division Letternote Correction					
<i>(6) Water Quality Control Division (B) Watershed Assessment, Outreach, and Assistance</i>					
Program Total	<u>5,278,376</u>	<u>5,642,622</u>	<u>0</u>	<u>0</u>	<u>5,642,622</u>
General Fund	701,259	669,254	0	0	669,254
Cash Funds	283,428	415,283	0	0	415,283
Cash Funds Exempt	33,555	166,678	0	0	166,678
Federal Funds	4,260,134	4,391,407	0	0	4,391,407

	FY 2006-07	FY 2007-08	Fiscal Year 2007-08 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
Previously Approved 1331 Supplemental - Ozone State Implementation Plan Modeling Contracts					
<i>Technical Services</i>					
(2) Modeling and Analysis					
Ozone Modeling Contracts	<u>0</u>	<u>0</u>	<u>220,184</u>	<u>220,184</u>	<u>220,184</u>
Cash Funds Exempt	0	0	99,837	99,837	99,837
Federal Funds	0	0	120,347	120,347	120,347
Totals					
DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT					
- Environmental Divisions Only -	9,272,676	10,251,116	299,305	299,305	10,550,421
FTE	<u>26.2</u>	<u>28.3</u>	<u>0.3</u>	<u>0.3</u>	<u>28.6</u>
General Fund	1,784,422	1,777,107	19,157	18,187	1,795,294
FTE	15.2	15.9	0.3	0.3	28.1
Cash Funds	1,093,060	1,375,511	27,550	28,520	1,404,031
FTE	7.6	8.0	0.0	0.0	0.5
Cash Funds Exempt	1,652,417	2,175,896	132,251	132,251	2,308,147
FTE	2.0	2.0	0.0	0.0	0.0
Federal Funds	4,742,777	4,922,602	120,347	120,347	2,093,022
FTE	1.4	2.4	0.0	0.0	5,042,949.0

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Supplemental #1 - Retail Food Inspections of Remote Oil & Gas Man Camps

	Request	Recommendation
Total	\$20,074	\$20,074
FTE	<u>0.3</u>	<u>0.3</u>
General Fund	19,157	18,187
FTE	0.3	0.3
Cash Funds	917	1,887
Cash Funds Exempt	0	0
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 the appropriation / new data / an unforeseen contingency]	
This request meets supplemental criteria as it addresses an unforeseen contingency: the establishment of remote oil and gas man camps that must be inspected by the Retail Food Program.	

Department Request: For FY 2007-08, the Department is requesting \$20,074 (including \$19,157 General Fund) and 0.3 FTE for costs associated with retail food inspections at remote oil and gas man camps. The Department is seeking to increase this funding to \$25,628 in FY 2008-09.

The Department is responsible for the regulation of retail food establishments in counties in which those services are not provided by local health departments (Section 25-4-1604, C.R.S.). Several of these areas have seen recent growth in oil and gas exploration, including Garfield, Rio Blanco, and Moffat counties. Man camps associated with remote exploration sites provide the only food services available to their residents (which can range from 25 to 400 people). At these sites, the Consumer Protection Division is responsible for reviewing construction plans and conducting opening and at least semi-annual operating inspections to ensure that the facilities are constructed and operating in conformance with the requirements of the Colorado Retail Food Establishment Rules and Regulations.

Without the required inspections, the possibility of food borne illnesses at these camps may increase due to: limited menu options (the same food is served to all residents, unlike restaurants where different customers eat different items); the lack of other dining options; and the close proximity of living quarters (which could facilitate the transmission of illness between residents). As a result, an outbreak of food borne illness in a camp would likely impact a larger number of individuals than an outbreak among the general population.

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Staff Analysis: In FY 2006-07, there were only two remote oil and gas camps in the Department's inspection jurisdiction. Now there are 16 camps operational or soon to be operational in the Department's jurisdiction. The cost and time requirements to inspect these remote camp operations are greater than routine inspection work because of the remote location of many of these facilities (trips average 408 miles round-trip from Denver). On average, inspectors spend an entire day traveling for each inspection and receive lodging and per diem costs. Because the camps are located in remote areas, are not situated near each other, and have opening dates that vary, inspections cannot be combined.

The total inspection costs for the 16 camps is \$26,598 per year (see table below). The Department charges the camp operators the maximum amount per license as allowed under statute: \$154. Therefore, total cash revenues from these sources is \$2,464; of this amount, only \$1,887 is available to the Division to cover its costs due to indirect cost recoveries assessed on the revenue. Therefore, the total deficit for the cost of inspections at these camps is \$24,711.

Camp Inspection Costs & Funding Deficit

<i>Item</i>	<i>Cost</i>
0.3 FTE: Salary & Benefits	\$16,499
Lodging & Per Diem	\$6,384
Vehicle Lease & Mileage Costs	\$3,715
<i>Total Inspection Costs</i>	<i>\$26,598</i>
Fee Revenue Generated	\$1,887
<i>Total Funding Deficit</i>	<i>\$24,711</i>

The FY 2007-08 request (\$20,074) is slightly less than the funding deficit because not all camps are open, and the request is for a General Fund FTE and only 11 months of salary and benefits are needed in the first fiscal year due to the pay date shift.

If this request is not approved, the Department reports that it will be unable to conduct the necessary and appropriate inspections of the retail food facilities associated with the oil and gas camps. Without the required inspections, the possibility of food borne illness will increase.

Staff Recommendation: The need for this request is being driven by an unexpected workload increase. This Division utilizes most of its appropriation each year, so it does not have room within its existing appropriation to absorb these costs. Without the supplemental, the Department will likely not be able to fulfill its statutory obligation to inspect these facilities. *Therefore, staff recommends that the Committee approve the Department's request* for an increase of \$20,074 and 0.3 FTE. Staff's recommended funding mix (\$18,187 General Fund and \$1,887 cash funds) differs from the Department because staff wanted to completely account

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for all cash fund revenue from these sources. For FY 2008-09, this appropriation will need to be annualized to \$25,628 (\$23,741 General Fund and \$1,887 cash funds) and 0.3 FTE.

Additionally, *staff recommends that the Committee sponsor a bill to raise the fees charged by the Retail Food Program.* This program establishes rules and regulations for retail food establishments and has the authority to administer and enforce such rules. Per Section 25-4-1601, C.R.S., the purpose of the program is to: (a) ensure the safety of food prepared, sold, or served in retail food establishments; (b) maximize public health protection; (c) identify hazards and potential sources of contamination and take measures to prevent, reduce, or eliminate such hazards; and (d) improve sanitary conditions of all such establishments, reduce food-borne illness outbreaks, and control the spread of such outbreaks.

The entire cost of this program is \$846,377. Fee revenue pays for \$603,600 of these costs; the remaining \$242,777 is subsidized with General Fund. To maintain the program at its current level without General Fund support, fees would need to be raised by approximately 50 percent. Fees, set in Section 25-4-1607, C.R.S., vary based on seating capacity, square footage, and/or whether food is prepared for consumption on- or off-premises. Fees now range from \$55 to \$383 per licensee.

Supplemental #4 - Housed Commercial Swine Feeding Operation Inspections

	Request	Recommendation
Total - Cash Funds	\$12,014	\$12,014

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
This request meets supplemental criteria as it is due to an unforeseen increase in costs associated with implementing a special bill, S.B. 06-114.	

Department Request: The Department is requesting an increase of \$12,014 in cash funds spending authority from the Housed Commercial Swine Feeding Operation Fund to cover unexpected costs associated with the implementation of S.B. 06-114. This funding would be continued in FY 2008-09.

In November 1998, Colorado voters approved Amendment 14, requiring the Colorado Air Quality Control Commission to promulgate regulations for odor at housed commercial swine feeding operations (HCSFOs). At the time of passage, Amendment 14 included no funding for an odor control program. In 2006, the odor control statutes (Section 25-7-1368, C.R.S.) were revised by Senate Bill 06-114 (Kester/Gardner). This bill

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revised odor control technology requirements for HCSFOs, and created a per animal annual fee to offset the direct and indirect costs of enforcement, compliance, and regulation of air quality and odor control regulations.

Colorado regulates 92 HCSFOs located in rural locations in eastern and southeast Colorado for odor emissions. The localized and transient nature of odor is best responded to and investigated quickly. Utilizing local inspectors provides for a faster, more cost efficient response. However, a state inspector is still needed to address certain chronic complaints, provide assistance to local health departments, and provide inspections where local services are not available. As a result, S.B. 06-114 included funding for contracts with local health departments to conduct inspections, and for 0.5 state FTE.

Staff Analysis: To implement S.B. 06-114, the Department contracted with three local health departments and hired 0.5 FTE to conduct inspection and complaint response services for the state. When the fiscal note for the bill was developed, two assumptions were used that have proved to be incorrect:

- *Local Health Departments Costs:*

The fiscal note assumed local health departments could conduct inspections for \$70 each. This estimate was based on assumptions about travel time, time on-site, training and certification costs, inspection follow-up costs, and other overhead costs. Actual costs have exceeded the estimates due greater mileage costs to facilities and complainants' homes and businesses, longer on-site investigations and follow-up, and increased fuel costs. *Additional contract services = \$8,664 of the request.*

- *0.5 FTE Costs:*

The fiscal note assumed that the new part-time FTE would reside on the Eastern plains. However, the hiring of a half-time position resulted in only one interested and qualified candidate. This candidate, who was hired, resides in the Denver-metro area. Since this FTE must travel a greater distance to conduct inspections and investigations than anticipated, associated operating costs are greater than had been expected. *Additional operating expenses = \$2,350 of the request.*

Due to these unexpected costs, the odor inspection and complaint investigation program, while meeting statutory requirements, is operating at a bare minimum. The statutes do not specify the frequency of inspections or the completeness of complaint investigations. According to the Department, the intent of the legislature and stakeholders when S.B. 06-114 was passed was that the Department would conduct numerous inspections of each facility (on the order of 10 per year), and conduct complaint response activities throughout the year. Due to the funding limitations, the state was only able to inspect each of the facilities under its jurisdiction an average of 1.8 time in 2007. The Department was not clear as to whether it is responding to all complaints for which it receives sufficient information. It responded to 44 complaints in 2007, primarily

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via the telephone (23 complaints). The Department bases its complaint response on the available resources, urgency of complaints, patterns of complaints, weather, staff availability, response time, and other factors.

In addition to the funding being sought to cover the costs associated with local health departments and the 0.5 FTE, the Department is also seeking \$1,000 for additional field equipment. Because odor measurement is an emerging science that is improving over time, the Department would like the ability to purchase better field instruments and measurement devices, and better hardware and software for its inspector (such as a "field tablet", which is similar to a laptop, but has a global positioning device and a field printer to allow for more accurate assessment of conditions).

Staff Recommendation: *Staff recommends that the Committee approve the requested \$12,014 increase in cash funds spending authority* from the Housed Commercial Swine Feeding Operation Fund. Without this funding, the program will continue to function at a minimal level and not meet the expectations of lawmakers and stakeholders. This funding should be continued in FY 2008-09. The fund has a sufficient revenue stream to support this appropriation.

Supplemental #5 - Legal Services for Environmental Divisions

	Request	Recommendation
Total	<u>\$40,553</u>	<u>\$40,553</u>
Cash Funds	8,139	8,139
Cash Funds Exempt	32,414	32,414

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]	
This request meets supplemental criteria as it is due to an unexpected increase in the demand for legal services provided by the Department of Law.	

Department Request: The Department is requesting an increase of \$40,553 in cash and cash funds exempt spending authority to cover additional legal services expenses for the Air Quality Control Division (AQCD), Water Quality Control Division (WQCD), and the Hazardous Materials/Waste Management Division (HMWMD). This funding would be used to pay for legal services provided by the Department of Law, which has submitted a complimentary supplemental request. The request includes annualizing the funding to a total of \$324,135 cash and cash funds exempt in FY 2008-09.

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The issues driving the need for additional legal services are as follows:

- The AQCD has received a total of 11.8 new FTE in the past three years due primarily to a significant increase in its workload, including the number of enforcement actions taken;
- The AQCD is also working on several long-term and labor intensive projects, such as ozone attainment, regional haze, and nitrogen and mercury deposition;
- The WQCD has received a total of 22.2 new FTE in the past two years, including 10.0 FTE in FY 2007-08 to improve implementation of the federal Clean Water Act, which will result in more inspections and enforcement actions;
- Both the AQCD and the WQCD are involved in establishing and enforcing requirements for oil and gas exploration and development in Colorado, requiring legal services to assist in the review of proposed rules and the establishment of procedures;
- In the past two years, the HMWMD has increased enforcement actions against entities that fail to follow department rules, including taking collection actions against violators that have been fined but have failed to pay the penalty;
- The HMWMD is also involved in the regulation of output from oil and gas operators in Colorado, and has already taken enforcement action against a facility for exceeding its licensed capacity when accepting waste (brine waste and drilling mud) from oil and gas operators; and will likely rewrite solid waste regulations to incorporate concepts specific to oil and gas operators (requiring legal review);
- The HMWMD is contemplating several major pieces of litigation; if the decision to proceed in one or more of these cases is made, additional legal services will be required.

The Department projects a steady and increasing demand in the need for legal services, based not only on all of the issues identified above, but also due to the likely need in the near future to establish requirements for climate change issues (either due to statutory change during this legislative session or due to rules passed by the relevant boards and commissions).

Without this funding, the Department states that it will be forced to prioritize and reduce the number of enforcement actions it takes regarding entities that do not comply with department requirements - and if the regulated community is aware that CDPHE is unable to take action to enforce its regulations, the programs will be less effective. The Department also requires sufficient legal support for its new programs because newly created rules must be reviewed by the Department of Law for compliance with all legal requirements. Failure to obtain this review could result in more challenges to CDPHE's rulemaking efforts, resulting in a lengthier process for implementing new requirements and less protection for public health and the environment. Finally, without this funding, the Department of Law will be unable to file lawsuits on behalf of CDPHE.

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Staff Analysis: Staff agrees with the needs assessment provided by the Department and described above. In particular, the Air and Water Quality Control Divisions have received substantial influxes of resources in recent years and will require additional legal services to support their increased regulatory, enforcement, and program-development efforts.

Staff is concerned about how the Department proposes to fund these additional legal services. Currently, the Administration, Legal Services line item funds legal services costs across the Department. Additionally, the Hazardous Materials and Waste Management Division (HMWMD) has a separate Legal Services line item for some of its legal expenses. The cash fund portion of the request (approximately 20 percent) would be from cash funds in the Solid Waste Management Cash Fund for additional legal services provided to the HMWMD. The remaining cash funds exempt appropriation would be funded with indirect cost assessments applied to cash funds across the Department.

Staff is concerned because the intent of indirect costs assessments is to distribute a department's *general* overhead costs across all program areas in proportion to how they use those services (i.e., larger programs pay a greater share of total overhead costs because they use more of those resources). Therefore, it is inequitable for costs clearly associated with specific programs (such as those being requested) to be billed across all program areas. Upon closer examination of spending from the Administration, Legal Services line item, staff has found that this inequity already exists:

FY 2006-07 Administration, Legal Services line item, Expenditures by Division

<i>Division</i>	<i>Expenditure</i>	<i>Percent of Total Expenditure</i>
Administration and Support	185,612	11.5%
Center for Health & Environmental Information (CHEIS)	6,326	0.4%
Laboratory Services (LSD)	7,776	0.5%
Disease Control & Environmental Epidemiology (DCEED)	9,071	0.6%
Prevention Services (PSD)	8,172	0.5%
Health Facilities & Emergency Medical Services (HFEMSD)	67,440	4.2%
Consumer Protection (CPD)	2,726	0.2%
Air Quality Control (AQCD)	408,350	25.4%
Water Quality Control (WQCD)	327,497	20.3%
Hazardous Materials/Waste Management (HMWMD)	587,144	36.5%
Total	1,610,114	100.0%

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Over \$1.3 million in legal services costs generated by three Environmental Divisions (over 82 percent of the Administration, Legal Services line item) are being charged to all fund sources across the Department. The Department states that it does not want a Legal Services line item in every division as that would reduce its flexibility in addressing the legal issues that arise in different program areas each year. However, staff believes that indirect costs are inappropriately being used to subsidize Environmental Division costs.

Staff Recommendation: Staff recommends the following:

- a. ***The requested total funding increase should be provided.*** The Air and Water Quality Control Divisions have received substantial influxes of resources in recent years and will require additional legal services to support their increased regulatory, enforcement, and program-development efforts. Additionally, the HMWMD has increased the number of enforcement actions it is pursuing, also requiring additional legal services.
- b. ***The funding split and letternotes for the Administration, Legal Services line item should be changed beginning in FY 2008-09.*** The only legal services costs that should be paid for using indirect cost assessments are those generated by the Administration Division. All other legal services costs should be billed to the appropriate program.

Therefore, staff recommends that the Administration, Legal Services appropriation be changed from primarily cash funds exempt from indirect cost assessments, to primarily cash funds. The cash funds letternote should state that the funding shall come from various sources of cash funds in the Department. This change will still provide the Department the flexibility to use the legal services for whichever program needs them, but also allows for each program to be billed only for its own legal services and (through indirect cost assessments) the legal services incurred by the Administration Division.

Staff discussed this proposal with the Department and it agreed that this approach would be more equitable and is something that can be implemented beginning in FY 2008-09 (the indirect cost assessment rate for FY 2007-08 has already been negotiated with the federal government and cannot be changed at this time). The Department has some concerns about programs that are entirely supported by General Fund. The legal services for these programs are currently paid for using indirect costs; changing the legal services payment structure would therefore increase General Fund costs to these programs. Staff will work with the Department on specific funding and letternote adjustments during figure-setting for FY 2008-09.

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Technical Supplemental #2 - Utility Increase Associated with Oil and Gas Oversight

	Request	Recommendation
Total - Cash Funds	\$6,480	\$6,480

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]	
This request meets supplemental criteria because it corrects a staff error in the FY 2007-08 Long Bill appropriation.	

Department Request: The Department is requesting an increase of \$6,480 in cash funds spending authority from the Stationary Sources Cash Fund for increased utilities costs associated with a budget amendment funded in FY 2007-08. This cost increase is already included into the Department's base request for Utilities for FY 2008-09.

Staff Analysis: During the 2007 legislative session, the General Assembly approved an increase in resources for the Air Quality Control Division associated with workload growth due to changes in regulations for the oil and gas industry. Included in the funding approved was an increase of \$4,650 cash funds for utilities costs associated with the installation and on-going use of new air quality monitoring equipment. However, when the FY 2007-08 Long Bill was drafted, staff forgot to include that increase. The request of \$6,480 is slightly greater than what was approved last year due to changes in the estimated cost of the installation work.

Staff Recommendation: *Staff recommends that the Committee approve the funding change as requested.*

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Technical Supplemental #3 - Water Quality Control Division Letternote Correction

	Request	Recommendation
Total - All Sources	\$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 the appropriation / new data / an unforeseen contingency]	
This request meets supplemental criteria as it is to correct a technical error in the FY 2007-08 Long Bill appropriation.	

Department Request: The Department is requesting a change to letternote b in the Watershed Assessment, Outreach, and Assistance Subdivision of the Water Quality Control Division Long Bill appropriation.

Staff Analysis: This letternote specifies funding sources for the cash funds exempt appropriations in the program. Last year the General Assembly approved an increase in resources for this program. However, staff did not update the affected letternote.

The letternote now reads: **These amounts shall be from the Groundwater Protection Fund, created in Section 25-8-205.5 (8), C.R.S., transferred from the Department of Agriculture.**

However, the letternote should be amended as follows: **OF THESE AMOUNTS ~~These amounts~~ \$125,652 SHALL BE FROM RESERVES IN THE WATER QUALITY CONTROL FUND CREATED IN SECTION 25-8-502 (1) (C), C.R.S., AND \$41,026 shall be from the Groundwater Protection Fund, created in Section 25-8-205.5 (8), C.R.S., transferred from the Department of Agriculture.**

Without this correction, the Department does not have spending authority from the correct fund for this program.

Staff Recommendation: *Staff recommends that the Committee approve the requested change.*

**DEPARTMENT OF PUBLIC HEALTH & ENVIRONMENT
 - Environmental Divisions Only -
 FY 2007-08 SUPPLEMENTAL RECOMMENDATION
 JBC WORKING DOCUMENT - SUBJECT TO CHANGE**

Previously Approved 1331 Supplemental - Ozone State Implementation Plan Modeling Contracts

	Previously Approved	Current Staff Recommendation
Total	<u>\$220,184</u>	<u>\$220,184</u>
Cash Funds Exempt	99,837	99,837
Federal Funds	120,347	120,347

Description of Supplemental: During the summer of 2007, ozone monitors in the Front Range's Ozone Early Action Compact Area recorded sufficient readings above the federal 8-hour ozone standard that the U.S. EPA designated the Area as non-attainment for this pollutant. The Department has until next fall to work with stakeholders to develop a State Implementation Plan (SIP) amendment for this standard that will meet the EPA's approval. The SIP development process will include the following components:

- Photochemical dispersion modeling and meteorology modeling
- Analysis of emissions inventories
- Application of models to various attainment strategies to determine effectiveness
- Cost/benefit analysis of various strategies
- Stakeholder meetings
- Preparation of SIP document and technical support document

In October 2007, the Committee approved increases in cash funds exempt and federal funds spending authority to pay for the air quality modeling needed for SIP development. The SIP amendment must be adopted by the Air Quality Control Commission in December of 2008. It will be submitted for legislative approval during the 2009 session. Upon legislative approval, it will be submitted to the EPA.
