

COLORADO GENERAL ASSEMBLY

JOINT BUDGET COMMITTEE



**FY 2006-07 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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**DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
 - ENVIRONMENTAL DIVISIONS ONLY -
 FY 2006-07 SUPPLEMENTAL RECOMMENDATION
 JBC WORKING DOCUMENT - SUBJECT TO CHANGE**

TABLE OF CONTENTS

	Numbers Page	Narrative Page
Supplemental #4 - Transfer from Dept of Law re: Rocky Mountain Arsenal Litigation	1	4
Supplemental #5 - Cessation of Basic Inspection and Maintenance Program (Colorado Springs, Fort Collins, and Greeley only)	2	6
Previously Approved 1331 Supplemental - Implementation of H.B. 06S-1023	3	8
Totals for All Supplementals	3	N.A.

	FY 2005-06	FY 2006-07	Fiscal Year 2006-07 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT					
- Environmental Divisions Only -					
Executive Director - Dennis Ellis					

Supplemental #4 - Transfer from Dept of Law re: Rocky Mountain Arsenal Litigation

(7) Hazardous Materials and Waste Management Division

The primary sources of cash funds and cash funds exempt are the Hazardous Waste Service Fund, the Hazardous Waste Commission Fund, the Hazardous Substance Response Fund, the Radiation Control Fund, the Solid Waste Management Fund, and the Waste Tire Recycling Development Cash Fund. Additional cash funds exempt comes from transfers from the Department of Transportation and the Department of Local Affairs.

(A) Administration

Indirect Cost Assessment	<u>1,812,596</u>	<u>2,171,988</u>	<u>7,500</u>	<u>7,500</u>	<u>2,179,488</u>
Cash Funds	899,486	1,061,072	0	0	1,061,072
Cash Funds Exempt	30,087	45,916	7,500	7,500	53,416
Federal Funds	883,023	1,065,000	0	0	1,065,000

(E) Contaminated Site Cleanups

Personal Services	<u>5,139,525</u>	<u>5,006,963</u>	<u>34,900</u>	<u>34,900</u>	<u>5,041,863</u>
Cash Funds	762,209	1,054,054	0	0	1,054,054
Cash Funds Exempt	0	0	34,900	34,900	34,900
Federal Funds	4,377,316	3,952,909	0	0	3,952,909

Operating Expenses	<u>252,598</u>	<u>240,141</u>	<u>1,100</u>	<u>1,100</u>	<u>241,241</u>
Cash Funds	45,991	48,082	0	0	48,082
Cash Funds Exempt	0	0	1,100	1,100	1,100
Federal Funds	206,607	192,059	0	0	192,059

Total for Supplemental #4	<u>7,204,719</u>	<u>7,419,092</u>	<u>43,500</u>	<u>43,500</u>	<u>7,462,592</u>
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	FY 2005-06	FY 2006-07	Fiscal Year 2006-07 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
Cash Funds	1,707,686	2,163,208	0	0	2,163,208
Cash Funds Exempt	30,087	45,916	43,500	43,500	89,416
Federal Funds	5,466,946	5,209,968	0	0	5,209,968

Supplemental #5 - Cessation of Basic Inspection and Maintenance Program (Colorado Springs, Fort Collins, and Greeley only)
(5) Air Quality Control Division

The sources of cash funds and cash fund exempt are the Stationary Sources Control Fund, the Automobile Inspection and Readjustment (AIR) Account of the Highway Users Tax Fund, the Lead Hazard Reduction Fund, and some fee and tuition revenue.

(A) Administration

Indirect Cost Assessment	<u>2,262,250</u>	<u>2,446,453</u>	<u>(3,424)</u>	<u>(3,424)</u>	<u>2,443,029</u>
Cash Funds	1,050,056	1,143,488	0	0	1,143,488
Cash Funds Exempt	752,571	868,144	(3,424)	(3,424)	864,720
Federal Funds	459,623	434,821	0	0	434,821

(C) Mobile Sources, (2) Inspection and Maintenance

Personal Services - CFE	694,042	725,755	(15,180)	(15,180)	710,575
FTE	9.3	9.8	(0.2)	(0.2)	9.6
Operating Expenses - CFE	36,407	36,638	(9,454)	(9,454)	27,184
Total for Supplemental #5	<u>2,992,699</u>	<u>3,208,846</u>	<u>(28,058)</u>	<u>(28,058)</u>	<u>3,180,788</u>
FTE	9.3	9.8	(0.2)	(0.2)	9.6
Cash Funds	1,050,056	1,143,488	0	0	1,143,488
Cash Funds Exempt	1,483,020	1,630,537	(28,058)	(28,058)	1,602,479
Federal Funds	459,623	434,821	0	0	434,821

Previously Approved 1331 Supplemental: Implementation of H.B. 06S-1023

	FY 2005-06	FY 2006-07	Fiscal Year 2006-07 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
<i>(8) Consumer Protection</i>					
Personal Services	<u>1,911,376</u>	<u>2,032,973</u>	<u>4,133</u>	<u>4,133</u>	<u>2,037,106</u>
General Fund	961,220	1,061,027	2,506	2,506	1,063,533
Cash Funds	587,093	624,407	1,627	1,627	626,034
Cash Funds Exempt	123,452	68,157	0	0	68,157
Federal Funds	239,611	279,382	0	0	279,382
DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT					
- Environmental Divisions Only -					
TOTALS for ALL line items	48,406,150	51,485,391	19,575	19,575	47,930,841
FTE	<u>401.9</u>	<u>440.2</u>	<u>(0.2)</u>	<u>(0.2)</u>	<u>440.0</u>
General Fund	2,800,884	3,571,619	2,506	2,506	3,574,125
Cash Funds	17,242,392	18,619,228	1,627	1,627	18,620,855
Cash Funds Exempt	5,963,640	6,545,902	15,442	15,442	6,561,344
Federal Funds	22,399,234	22,748,642	0	0	22,748,642

**DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
 - ENVIRONMENTAL DIVISIONS ONLY -
 FY 2006-07 SUPPLEMENTAL RECOMMENDATION
 JBC WORKING DOCUMENT - SUBJECT TO CHANGE**

Supplemental # 4 - Transfer from Dept of Law re: Rocky Mountain Arsenal Litigation

	Request	Recommendation
Total	<u>\$43,500</u>	<u>\$43,500</u>
General Fund	0	0
Cash Funds	0	0
Cash Funds Exempt	43,500	43,500
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]

Instead of hiring a contractor for certain litigation preparation work, the Department of Law has decided to use FY 2006-07 decision item funding to hire the Hazardous Materials and Waste Management Division. Therefore, the request is due to an unforeseen contingency.

Department Request: The Hazardous Materials and Waste Management Division (HMWMD) is seeking \$43,500 cash funds exempt spending authority to receive funds from the Department of Law in support of litigation efforts related to the Rocky Mountain Arsenal (RMA).

RMA Litigation. Under the federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCA), states can seek compensation for damages to natural resources caused by the release of hazardous substances. In 1983, Colorado filed a natural resource damage claim against the U.S. Army and Shell Oil Company at the RMA. Since 1995, the claim has been on "administrative closure" (a long-term stay) while clean-up was on-going. Clean-up is still on-going, but enough is known about the extent of the clean-up to begin estimating the extent of the injuries to natural resources.

The Attorney General's Office (AGO) has had many exchanges of information with the defendants; however, it is clear that the state and the defendants are very far apart on their respective views of the magnitude of the damages. Because of the magnitude of the claim, the AGO believes it is unlikely that either the Army or Shell will settle unless confronted with a realistic prospect that the state will prevail in litigation. For FY 2006-07, the AGO received a General Fund appropriation of \$742,000 General Fund to pursue natural resource damage claims at the RMA.

The HMWMD's Role. In addition to its own staff work, the AGO originally planned to use its consulting firm to write a Natural Resource Damage Assessment Report (a required part of the legal process) as well as other work in preparing for litigation. However, since the report requires extensive knowledge of the history

**DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
- ENVIRONMENTAL DIVISIONS ONLY -
FY 2006-07 SUPPLEMENTAL RECOMMENDATION
JBC WORKING DOCUMENT - SUBJECT TO CHANGE**

of the RMA, the extent of the contamination, and the remediation that has been done and needs to be done, it was determined that the HMWMD could better prepare the assessment because of its experience at RMA - and do so at a lower cost.

The HMWMD has overseen the investigation and remediation of the RMA's clean-up for over 25 years. This effort includes reviewing and commenting on Army/Shell issued reports, conducting site inspections, and responding to emergencies. In assisting the AGO, HMWMD staff will review archived data and write the assessment report; participate in negotiations and meetings with the AGO, Army, and Shell; conduct peer reviews of the consultant's work on ecology and wildlife damage and groundwater, surface water, and sediment issues; and perform community involvement and outreach activities for the assessment and preparation of litigation.

In addition to this supplemental request, for FY 2007-08, the CDPHE submitted a decision item for \$44,682 cash funds exempt to continue work on the RMA litigation effort. The Department notes that no additional FTE are needed in FY 2006-07 or FY 2007-08. The Division intends to reallocate and reprioritize other work among current staff until this project is completed. The other work will be slowed for a period of time until this work is completed. If the supplemental is not approved, the staff will maintain their current workload and priorities.

Staff Recommendation: Staff recommends that the Committee approve the \$43,500 cash funds exempt spending authority as requested because it is a cost-effective option for the preparation of a strong natural resources assessment of the State's claim at the RMA. Additionally, the General Fund for the Department of Law has already been appropriated through the FY 2006-07 Long Bill and this supplemental will allow the AGO to manage its appropriation accordingly.

**DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
- ENVIRONMENTAL DIVISIONS ONLY -
FY 2006-07 SUPPLEMENTAL RECOMMENDATION
JBC WORKING DOCUMENT - SUBJECT TO CHANGE**

Supplemental # 5 - Cessation of Basic Inspection and Maintenance Program (Colorado Springs, Fort Collins, and Greeley only)

	Request	Recommendation
Total	(\$26,058)	(\$26,058)
FTE	(0.2)	(0.2)
General Fund	0	0
Cash Funds	0	0
Cash Funds Exempt	(26,058)	(26,058)
Federal Funds	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
The Air Quality Control Commission voted on February 17, 2006 to end this program as of December 31, 2006. This decision was made after FY 2006-07 figure-setting for this Department; therefore, this supplemental is due to an unforeseen contingency.	

Department Request: The Department requests reductions of \$26,058 cash funds exempt spending authority from the AIR Account of the Highway Users Tax Fund, and 0.2 FTE, due to the cessation of the Basic Inspection and Maintenance (IM) program in Colorado Springs, Fort Collins, and Greeley.

In 1981, the Basic IM program was established across the Front Range to control carbon monoxide emissions from automobiles. The Basic IM test involves reading automobile tailpipe emissions while a car idles. However, in 1995, the EPA determined that the Basic IM test was insufficient in the Denver Metro area and began requiring the more stringent Enhanced IM test. The Enhanced IM test is designed to more accurately model driving conditions, and requires emissions to be measured while an automobile runs for certain time intervals and various speeds.

Prior to January 1, 2007, the Basic IM test was still being used in Colorado Springs, Fort Collins, and Greeley. However, over the years, automobiles have gotten cleaner, mainly due to the federal government imposing stricter emissions requirements on new vehicles while older, less clean vehicles were retiring from

**DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
- ENVIRONMENTAL DIVISIONS ONLY -
FY 2006-07 SUPPLEMENTAL RECOMMENDATION
JBC WORKING DOCUMENT - SUBJECT TO CHANGE**

the fleet. Additionally, air quality monitoring in these regions shows a continuing decrease in carbon monoxide concentrations, which are now well under the federal health-based standard.¹

Due to these changes, the Colorado Air Quality Control Commission (AQCC) determined that the Basic IM program was no longer necessary for air quality purposes. On February 17, 2006, the AQCC voted to end the Basic IM program as of January 1, 2007.² Inspection of motor vehicles stopped in these areas December 31, 2006. However, technical assistance, consumer outreach, and other activities will continue until approximately the end of February 2007. As a result of the cessation of this program, the Air Quality Control Division will no longer be responsible for the following duties in the effected areas:

- Providing technical assistance to owners of vehicles that fail the IM inspection;
- Qualification testing of emission inspectors;
- Providing technical assistance to gasoline vehicle repair technicians, inspection stations, and public inquiries;
- Vehicle evaluation services for non-standard foreign made vehicles, tampered vehicles, and kit cars; and
- Local technical staff assistance to local agencies

As a result of this reduction in responsibilities, the Department is seeking a corresponding reduction of funding for this program for the remainder of FY 2006-07. It has also submitted a budget amendment for FY 2007-08 to eliminate all funding associated with the program (a total reduction of \$105,612 cash funds and 0.6 FTE).

It should be noted that the Department of Revenue is responsible for determining if the IM contractor is operating in compliance with the provisions of the program. However, Revenue did not submit a negative supplemental related to the cessation of this program. JBC staff for the Department of Revenue may recommend a staff-initiated supplemental for this program.

Staff Recommendation: Staff recommends that the committee approve the requested reductions since the program is ending and the appropriation is no longer necessary.

¹ The last violations of the carbon monoxide standards occurred in 1988 in Colorado Springs, 1991 in Fort Collins, and 1987 in Greeley. The last exceedance of the 8-hour standard (not violation, which would require multiple exceedances) were in 1989, 1991, and 1988, respectively.

² The AQCC has the statutory authority to eliminate the basic IM program in these areas under section 42-4-316 (1), C.R.S., provided that the lead air quality planning agencies in these areas have demonstrated that the areas meets ambient air quality standards and transportation conformity requirements.

**DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
- ENVIRONMENTAL DIVISIONS ONLY -
FY 2006-07 SUPPLEMENTAL RECOMMENDATION
JBC WORKING DOCUMENT - SUBJECT TO CHANGE**

Previously Approved 1331 Supplemental - Implementation of H.B. 06S-1023

	Previously Approved	Current Staff Recommendation
Total	\$4,133	\$4,133
General Fund	2,506	2,506
Cash Funds	1,627	1,627

Description of Supplemental: House Bill 06S-1023 requires that, beginning August 1, 2006, all state agencies and political subdivisions verify the lawful presence in the United States of each person 18 years-of-age or older who applies for state and federal public benefits, using a definition of benefits contained in federal law. In September 2006, the Committee approved several 1331 supplementals related to the implementation of this bill, including \$4,133 for the Consumer Protection Division. These funds will be used for costs associated with revising contracts with contractors who inspect retail food establishments for the Division, and the additional time needed by the contractors to verify legal status; and costs associated with inspections the Division conducts of retail food establishments, wholesale food establishments, tanning and dairy establishments.

Staff does not recommend any changes to the Committee's prior approval of this supplemental.