

**COLORADO GENERAL ASSEMBLY
JOINT BUDGET COMMITTEE**



SUPPLEMENTAL REQUESTS FOR FY 2009-10

DEPARTMENT OF TRANSPORTATION

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

**Prepared By:
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January 11, 2010**

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**DEPARTMENT OF TRANSPORTATION
FY 2009-10 SUPPLEMENTAL RECOMMENDATIONS
JBC WORKING DOCUMENT - SUBJECT TO CHANGE**

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Prioritized Supplementals

**Supplemental Request, Department Priority #1
 Supplemental First Time Drunk Driving Offenders Account Appropriation**

	Request	Recommendation
Total	\$0	\$0
FTE	<u>0.0</u>	<u>0.0</u>
General Fund	0	0
Cash Funds	0	0
Reappropriated Funds	0	0
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 calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
JBC staff and the Department agree that this request is the result of <i>data that was not available when the original appropriation was made.</i>	

The request requires substantive legislation to transfer cash funds to the General Fund.

Department Request: The Department requests a budget neutral adjustment to the cash fund source supporting the Department's high visibility drunk driving enforcement events (such as the "Heat Is On" campaign) in FY 2009-10. Specifically, the Department requests a reduction of \$705,276 cash funds from the Law Enforcement Assistance Fund (LEAF, which is continuously appropriated to the Construction, Maintenance, and Operations line item), to be offset by an increase of the same amount from the First Time Drunk Driving Offenders Account (which is annually appropriated to the First Time Drunk Driving Offenders Account line item). The Department projects that the change in fund source will allow for a transfer of \$1,560,315 from the LEAF to the General Fund in FY 2009-10 to assist with budget balancing.

Staff Analysis:

Background

LEAF is funded through fines of on individuals convicted of driving under the influence. Of a \$90.00 mandatory fine, \$75.00 is deposited into the LEAF. The General Assembly makes an annual appropriation from the LEAF to the Department of Public Health and Environment (CDPHE) to support DUI-related laboratory services and implied consent specialists. Under current law, the

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Department of Transportation receives 80.0 percent of the remaining funds, and the Department of Human Services, Division of Alcohol and Drug Abuse, receives 20.0 percent.

The Department of Transportation uses LEAF funds to support grants to counties and municipalities for the enforcement of drunk driving laws. The funds primarily pay overtime for police officers and sheriffs for high visibility drunk driving enforcement episodes including "The Heat is On." The high visibility episodes allow for an enhanced law enforcement presence during periods with a historically high incidence of drunk driving (for example, the Fourth of July, office party weekends, etc.).

Section 43-4-901, C.R.S., as enacted in H.B. 08-1194, states that the Department "shall, as a priority," fund a total of twelve high visibility enforcement episodes per year. The Department currently funds high visibility enforcement episodes from three sources: 1) the LEAF, which is continuously appropriated to the Department; 2) the First Time Drunk Driving Offenders Account, which is annually appropriated through the Long Bill pursuant to H.B. 08-1194; and 3) federal funds from the National Highway Traffic Safety Administration.

Department Request

As part of the August 25, 2009 budget balancing package, the Governor proposed to transfer \$1.9 million from the LEAF to the General Fund. The November request modifies that proposal to transfer \$1.6 million to the General Fund and use First Time Drunk Driving Offenders Account funds to backfill roughly 45 percent of the transfer and allow the Department to support twelve enforcement events in FY 2009-10, as directed in statute (Section 43-4-901, C.R.S.). The table below shows the Department's projections for each of the affected cash funds under the proposal.

	LEAF	FTDDOA
Balance Carried Over from FY 2008-09	\$1,090,208	\$2,000,000
Plus Projected FY 2009-10 Revenue	955,515	1,000,000
Less Current FY 2009-10 Expenditures*	(485,408)	(1,000,000)
Less Additional FTDDOA Request (Governor's Proposal)	<u>0</u>	<u>(705,276)</u>
Potential FY 2009-10 Transfer (LEAF)/ End of Year Fund Balance (FTDDOA)	\$1,560,315	\$1,294,724

*Includes LEAF expenditures through the Labor Day enforcement event (the Governor has discontinued spending from LEAF after Labor Day through executive orders) and FTDDOA appropriation in the FY 2009-10 Long Bill.

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Based on the Department's revenue projections, the requested refinance would allow the General Assembly to transfer \$1.6 million from the LEAF to the General Fund in FY 2009-10 and still support all twelve of the high visibility enforcement events called for in statute. The Department would be unable to support twelve events in FY 2009-10 if LEAF funds are transferred to the General Fund without the requested increase from the First Time Drunk Driving Offenders Account.

Staff Recommendation: Staff recommends that the Committee approve the Department's request to refinance the Department's funding for high visibility enforcement events from LEAF to the First Time Drunk Driving Offenders Account. Staff further recommends that the Committee sponsor legislation to transfer up to \$1,560,315 from the LEAF to the General Fund in FY 2009-10. Staff and the Department agree that the First Time Drunk Driving funds are constitutionally protected and not available for transfer to the General Fund, and the First Time Drunk Driving account has a significant fund balance. Thus, using the available fund balance to allow for a transfer from LEAF to the General Fund seems appropriate.

FY 2010-11 Request

The request is related to an FY 2010-11 decision item, requested through the Department of Public Safety, to eliminate the Department's LEAF allocation for FY 2010-11 and FY 2011-12 and support high visibility enforcement episodes through Highway Users Tax Fund (HUTF) "Off-the-Top" appropriations transferred from the Colorado State Patrol. According to the Department, the supplemental request and the decision item are related but independent and both requests would be viable independently. Staff plans to address the FY 2010-11 request during figure setting but the Committee could consider addressing the FY 2009-10 supplemental and the FY 2010-11 request in the same legislation.

**Supplemental Request, Department Priority #2
 Budget Adjustment to Reflect FY 2009-10 Furloughs**

	Request	Recommendation
Total	(\$5,745)	(\$5,745)
FTE	<u>0.0</u>	<u>0.0</u>
General Fund	0	0
Cash Funds	0	0
Reappropriated Funds	(5,745)	(5,745)
Federal Funds	0	0

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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 unforeseen contingency.]	YES
JBC staff and the Department agree that this request is the result of <i>data that was not available when the original appropriation was made.</i>	

Department Request: The General Assembly included a statewide personal services reduction equivalent to 1.82 percent of each agency's appropriation in the FY 2009-10 Long Bill (S.B. 09-259). The net FY 2009-10 impact of the one-time reduction was \$26.5 million, of which \$16.1 million was General Fund. The executive branch was given the flexibility to develop and implement a plan to meet the mandated reduction. The Governor requests an adjustment to the personal services reductions within the FY 2009-10 Long Bill to reflect the actual staffing actions taken within each agency to achieve a decrease of 1.82 percent.

The Department-specific impact of the furlough supplemental is a net reduction of \$5,745 reappropriated funds. There is a budget neutral shift of \$174,503 cash funds from the appropriated Administration line item to the non-appropriated Construction, Maintenance, and Operations line item. The shift reflects the incremental savings associated with the furlough days in the Administration line item (over and above the savings required in the FY 2009-10 Long Bill) that will transfer to the continuously appropriated Construction, Maintenance, and Operations line item.

The impact of the request on CDOT is summarized in the following table.

Department of Transportation's Portion of Statewide Furlough Impact Supplemental Request*	General Fund	Cash Funds	Reapprop. Funds	Federal Funds	Total	FTE
Administration (appropriated)	0	(174,503)	(5,745)	0	(180,248)	0.0
Construction, Maintenance, and Operations (non-appropriated)	0	174,503	0	0	174,503	0.0
Total Statewide Supplemental Requests for Department of Transportation	0	0	(5,745)	0	(5,745)	0.0

Staff Recommendation: Staff recommends that the Committee approve the Department's request as a technical adjustment to reflect the Executive Branch's implementation of the reduction required by the FY 2009-10 Long Bill.

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Statewide Common Policy Supplemental Requests

The Department has submitted one non-prioritized statewide common policy supplemental request: Risk Management Reduction of Liability, Property, and Workers' Compensation Volatility. The request is not analyzed in this packet. The JBC will act on this item later when it makes decisions regarding common policies.

Risk Management Reduction of Liability, Property, and Workers' Compensation Volatility

Department of Transportation's (Appropriated) Portion of Statewide Supplemental Request	General Fund	Cash Funds	Reapprop. Funds	Federal Funds	Total	FTE
Risk Management - General Insurance (appropriated in Administration line item)	0	(246,620)	0	0	(246,620)	0.0
Construction, Maintenance, and Operations (non-appropriated)	0	246,620	0	0	246,620	0.0
Total Statewide Supplemental Requests for Department of Transportation	0	0	0	0	0	0.0

Staff Recommendation: The staff recommendation for this request is pending committee approval of common policy supplementals. Staff asks permission to make the corresponding adjustments 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.

Cash Fund Transfers

**Department Requested Transfer from Law Enforcement Assistance Fund
 Statutory Change Required**

FY 2009-10	Request	Recommendation
Transfer from State Infrastructure Bank to General Fund	\$1,560,315	\$1,560,315

This request is discussed above, with Supplemental #1 (Supplemental First Time Drunk Driving Offenders Account Appropriation).

	FY 2008-09	FY 2009-10	Fiscal Year 2009-10 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation

DEPARTMENT OF TRANSPORTATION
Executive Director - Russell George

Supplemental #1 - Supplemental First Time Drunk Driving Offenders Account Appropriation

(2) Construction, Maintenance, and

<i>Operations</i>	1,237,870,743	901,286,404	(705,276)	(705,276)	900,581,128
FTE	<u>3,142.3</u>	<u>3,142.3</u>	<u>0.0</u>	<u>0.0</u>	<u>3,142.3</u>
General Fund	0	0	0	0	0
Cash Funds	475,094,292	543,974,876	(705,276)	(705,276)	543,269,600
Reappropriated Funds	1,912,328	1,914,340	0	0	1,914,340
Federal Funds	760,864,123	355,397,188	0	0	355,397,188

(4) First Time Drunk Driving Offenders

<i>Account</i>	0	1,000,000	705,276	705,276	1,705,276
FTE	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
General Fund	0	0	0	0	0
Cash Funds	0	1,000,000	705,276	705,276	1,705,276
Reappropriated Funds	0	0	0	0	0
Federal Funds	0	0	0	0	0

Total for Supplemental #1	1,237,870,743	902,286,404	0	0	902,286,404
FTE	<u>3,142.3</u>	<u>3,142.3</u>	<u>0.0</u>	<u>0.0</u>	<u>3,142.3</u>
General Fund	0	0	0	0	0
Cash Funds	475,094,292	544,974,876	0	0	544,974,876
Reappropriated Funds	1,912,328	1,914,340	0	0	1,914,340
Federal Funds	760,864,123	355,397,188	0	0	355,397,188

	FY 2008-09	FY 2009-10	Fiscal Year 2009-10 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
Supplemental #2 - Budget Adjustment to Reflect FY 2009-10 Furloughs					
(see narrative for more detail)	<u>N.A.</u>	<u>N.A.</u>	<u>(5,745)</u>	<u>(5,745)</u>	<u>N.A.</u>
Cash Funds	N.A.	N.A.	0	0	
Reappropriated Funds	N.A.	N.A.	(5,745)	(5,745)	
Totals Excluding Pending Items					
Department of Transportation					
Totals for ALL Departmental line items	1,427,238,655	1,301,794,846	(5,745)	(5,745)	1,301,789,101
FTE	<u>3,240.3</u>	<u>3,350.5</u>	<u>0.0</u>	<u>0.0</u>	<u>3,350.5</u>
General Fund	0	0	0	0	0
Cash Funds	32,062,205	852,277,142	0	0	852,277,142
Reappropriated Funds	935,268,537	3,984,546	(5,745)	(5,745)	3,978,801
Federal Funds	459,907,913	445,533,158	0	0	445,533,158
Statewide Common Policy Supplementals					
(see narrative for more detail)	N.A.	N.A.	0	Pending	N.A.

	FY 2008-09	FY 2009-10	Fiscal Year 2009-10 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
Totals Including Pending Items					
Department of Transportation					
Totals for ALL Departmental line items	1,427,238,655	1,301,794,846	(5,745)	(5,745)	1,301,789,101
FTE	<u>3,240.3</u>	<u>3,350.5</u>	<u>0.0</u>	<u>0.0</u>	<u>3,350.5</u>
General Fund	0	0	0	0	0
Cash Funds	32,062,205	852,277,142	0	0	852,277,142
Reappropriated Funds	935,268,537	3,984,546	(5,745)	(5,745)	3,978,801
Federal Funds	459,907,913	445,533,158	0	0	445,533,158

Key:

N.A. = Not Applicable or Not Available