

**Schedule 13**  
**Change Request for FY 2011-12 Budget Request Cycle**

Decision Item FY 2011-12 <input checked="" type="checkbox"/>	Base Reduction Item FY 2011-12 <input type="checkbox"/>	Supplemental FY 2010-11 <input type="checkbox"/>	Budget Amendment FY 2011-12 <input type="checkbox"/>
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Request Title: Medical Marijuana  
 Department: Public Health and Environment  
 Priority Number: DI-1

Dept. Approval by: *[Signature]*  
 OSPB Approval: *[Signature]*  
 Date: 10/21/10  
 Date: 10-20-10

	Fund	1	2	3	4	5	6	7	8	9	10
		Prior-Year Actual FY 2009-10	Appropriation FY 2010-11	Supplemental Request FY 2010-11	Total Revised Request FY 2010-11	Base Request FY 2011-12	Decision/ Base Reduction FY 2011-12	November 1 Request FY 2011-12	Budget Amendment FY 2011-12	Total Revised Request FY 2011-12	Change from Base (Column 5) FY 2012-13
<b>Total of All Line Items</b>	<b>Total</b>	5,050,014	5,937,747	0	5,937,747	5,937,564	1,121,439	7,059,003	0	7,059,003	1,116,736
	FTE	53.1	68.9	0.0	68.9	68.4	1.0	69.4	0.0	69.4	1.0
	GF	0	0	0	0	0	0	0	0	0	0
	CF	2,519,814	3,443,722	0	3,443,722	3,409,832	1,093,939	4,503,771	0	4,503,771	1,089,236
	CFE/RF	1,240,914	1,266,257	0	1,266,257	1,266,257	27,500	1,293,757	0	1,293,757	27,500
	FF	1,289,286	1,227,768	0	1,227,768	1,261,475	0	1,261,475	0	1,261,475	0
	MCF	3,550	3,550	0	3,550	3,550	0	3,550	0	3,550	0
	MGF	1,608	1,775	0	1,775	1,775	0	1,775	0	1,775	0
	NGF	1,608	1,775	0	1,775	1,775	0	1,775	0	1,775	0
<b>(1) Administration and Support, (A)</b>	<b>Total</b>	1,237,364	1,262,707	0	1,262,707	1,262,707	27,500	1,290,207	0	1,290,207	27,500
Administration,	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Operating Expenses	GF	0	0	0	0	0	0	0	0	0	0
	CF	0	0	0	0	0	0	0	0	0	0
	CFE/RF	1,237,364	1,262,707	0	1,262,707	1,262,707	27,500	1,290,207	0	1,290,207	27,500
	FF	0	0	0	0	0	0	0	0	0	0
<b>(2) Center for Health and Environmental Information, (A) Health Statistics and Vital Records, Personal Services</b>	<b>Total</b>	3,496,205	4,190,474	0	4,190,474	4,235,617	1,066,948	5,302,565	0	5,302,565	1,066,948
	FTE	53.1	68.9	0.0	68.9	68.4	1.0	69.4	0.0	69.4	1.0
	GF	0	0	0	0	0	0	0	0	0	0
	CF	2,366,048	3,143,972	0	3,143,972	3,155,408	1,066,948	4,222,356	0	4,222,356	1,066,948
	CFE/RF	3,550	3,550	0	3,550	3,550	0	3,550	0	3,550	0
	FF	1,126,607	1,042,952	0	1,042,952	1,076,659	0	1,076,659	0	1,076,659	0
	MCF	3,550	3,550	0	3,550	3,550	0	3,550	0	3,550	0
	MGF	1,608	1,775	0	1,775	1,775	0	1,775	0	1,775	0
	NGF	1,608	1,775	0	1,775	1,775	0	1,775	0	1,775	0
<b>(2) Center for Health and Environmental Information, (A) Health Statistics and Vital Records, Operating Expenses</b>	<b>Total</b>	316,445	484,566	0	484,566	439,240	26,991	466,231	0	466,231	22,288
	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	GF	0	0	0	0	0	0	0	0	0	0
	CF	153,766	299,750	0	299,750	254,424	26,991	281,415	0	281,415	22,288
	CFE/RF	0	0	0	0	0	0	0	0	0	0
	FF	162,679	184,816	0	184,816	184,816	0	184,816	0	184,816	0

**Schedule 13**  
**Change Request for FY 2011-12 Budget Request Cycle**

Decision Item FY 2011-12  Base Reduction Item FY 2011-12  Supplemental FY 2010-11  Budget Amendment FY 2011-12

Request Title: Medical Marijuana  
 Department: Public Health and Environment Dept. Approval by: Date:  
 Priority Number: DI-1 OSPB Approval: Date:

		1	2	3	4	5	6	7	8	9	10
	Fund	Prior-Year Actual FY 2009-10	Appropriation FY 2010-11	Supplemental Request FY 2010-11	Total Revised Request FY 2010-11	Base Request FY 2011-12	Decision/Base Reduction FY 2011-12	November 1 Request FY 2011-12	Budget Amendment FY 2011-12	Total Revised Request FY 2011-12	Change from Base (Column 5) FY 2012-13

Non-Line Item Request: None  
 Letternote Revised Text for FY 2010-11: None  
 Letternote Text Requested for FY 2011-12:  
 Administration and Support Division - a Of these amounts, \$45,184,248 ~~\$15,208,718~~ shall be from indirect cost recoveries, \$25,000 shall be from tobacco-settlement moneys received from tobacco-settlement-supported programs in this and other departments pursuant to Section 25-1-108.5 (5) C.R.S., \$15,475 shall be from Medicaid funds appropriated to the Department of Health Care Policy and Financing, and \$125,084 shall be from various sources of reappropriated funds.  
 Center for Health and Environmental Information - a Of these amounts, \$1,662,113 shall be from the Vital Statistics Records Cash Fund created in Section 25-2-121 (2) (b) (I), C.R.S., ~~\$4,299,353~~ \$2,393,292 shall be from the Medical Marijuana Program Cash Fund created in Section 25-1.5-106 (2), C.R.S., \$118,673 shall be from the Tobacco Education Programs Fund created in Section 24-22-117 (2) (c) (I), C.R.S., \$118,673 shall be from the Prevention, Early Detection, and Treatment Fund created in Section 24-22-117 (2) (d) (I), C.R.S., and \$103,151 shall be from various sources of cash funds. The Tobacco Education Programs Fund and the Prevention, Early Detection and Treatment Fund consist of revenues from additional state cigarette and tobacco taxes imposed pursuant to Section 21 of Article X of the State Constitution; appropriations from this fund do not constitute fiscal year spending for the purposes of Section 20 of Article X of the State Constitution.

Cash or Federal Fund Name and COFRS Fund Number: Fund 14V Medical Marijuana Program Fund  
 Reappropriated Funds Source, by Department and Line Item Name: Fund 100, Indirect Cost Recoveries are collected based on a cost allocation basis.  
 Approval by OIT? Yes:  No:  N/A:   
 Schedule 13s from Affected Departments: Not Applicable

**OSPB Common Policy for FTE Requests**

FTE and Operating Costs		GRAND TOTAL			
Fiscal Year(s) of Request		FY 11-12	FY 12-13	FY 11-12	FY 12-13
<b>PERSONAL SERVICES</b>	<b>Title:</b>	<b>Health Professional VII</b>			
Number of PERSONS / class title		1	1	1.0	1.0
Number of months working in FY 11-12 & 12-13		12	12		
Number months paid in FY 11-12 & 12-13		12	12		
Calculated FTE per classification		1.0	1.0	1.0	1.0
Annual base salary		\$77,100	\$77,100		
Salary		\$77,100	\$77,100	\$77,100	\$77,100
PERA - NA	10.15%	\$7,826	\$7,826	\$7,826	\$7,826
Medicare - NA	1.45%	\$1,118	\$1,118	\$1,118	\$1,118
<b>Subtotal Personal Services at Division Level</b>		<b>\$86,044</b>	<b>\$86,044</b>	<b>\$86,044</b>	<b>\$86,044</b>
<b>OPERATING EXPENSES</b>					
Supplies @ \$500/\$500 <sup>2</sup>	\$500	\$500	\$500	\$500	\$500
Computer @ \$900/\$0	\$900	\$900	\$0	\$900	\$0
Office Suite Software @ \$330/\$0	\$330	\$330	\$0	\$330	\$0
Office Equipment @ \$3,473/\$0 (includes cubicle and chair) - NA	\$3,473	\$3,473	\$0	\$3,473	\$0
Telephone Base @ \$450/\$450 <sup>2</sup>	\$450	\$450	\$450	\$450	\$450
Postage <sup>3,4</sup>		\$0	\$0	\$0	\$0
Mileage <sup>3,4</sup>		\$1,620	\$1,620	\$1,620	\$1,620
Per Diem <sup>3,4</sup>		\$828	\$828	\$828	\$828
Hotel <sup>3,4</sup>		\$840	\$840	\$840	\$840
<b>Subtotal Operating Expenses</b>		<b>\$8,941</b>	<b>\$4,238</b>	<b>\$8,941</b>	<b>\$4,238</b>
<b>GRAND TOTAL ALL COSTS</b>		<b>\$94,985</b>	<b>\$90,282</b>	<b>\$94,985</b>	<b>\$90,282</b>

1 - Initial year full salary is 11 months to account for Pay Date Shift if General Fund employee.

2 - The \$450 for Telephone Base and \$500 for Supplies will carry over each year as an acceptable expense. Items are prorated for partial

3 - Other non-routine expenses such as Fleet, Leased space, or a laptop must be separately defended and calculated. Please provide documentation to justify these requested costs. Agencies must work with DPA or the Governor's Office of IT when requesting Fleet, MNT,

4 - Computer contract hours should be estimated at \$100 /hour for a Project Manager. Other costs could include \$86/hour for an IT Business Analyst, \$74/hour for a Programmer and \$65 for a Network Administrator. Legal fees should be \$73.50 (blended attorney and paralegal

Mileage Reimbursement
2-wheel drive (90% of IRS rate (set at \$0.55 in 2010))
4-wheel drive (95% of IRS rate (set at \$0.55 in 2010))
nautical mileage

FTE Calcs - Mandatory if FTE

**CHANGE REQUEST for FY 2011-12 BUDGET REQUEST CYCLE**

Department:	Public Health and Environment
Priority Number:	DI-1
Change Request Title:	Medical Marijuana

**SELECT ONE (click on box):**

- Decision Item FY 2011-12
- Base Reduction Item FY 2011-12
- Supplemental Request FY 2010-11
- Budget Request Amendment FY 2011-12

**SELECT ONE (click on box):**

Supplemental or Budget Request Amendment Criterion:

- Not a Supplemental or Budget Request Amendment
- An emergency
- A technical error which has a substantial effect on the operation of the program
- New data resulting in substantial changes in funding needs
- Unforeseen contingency such as a significant workload change

Short Summary of Request:

The Department of Public Health and Environment requests the following for the Medical Marijuana Registry program. The cash funds will be from the Medical Marijuana Fund, and the reappropriated Funds will be from the Department's indirect cost recoveries. This request is necessary to address continuing levels of incoming applications.

- FY 2011-12, and out years: 18.9 people hired via a temporary agency, and one permanent FTE as a program director. The requested cash funds total \$1,093,939 and the reappropriated funds equal \$27,500, for a total funds request of \$1,121,439. In addition, the Department anticipates continuing to contract with the Department of Personnel, Division of Central Services for data entry work at the Integrated Document Solutions (IDS) Center in Pueblo. The Department of Personnel has sufficient spending authority to accommodate this request and they do not need any budgetary changes. The anticipated cost for the IDS contract will be \$265,824 and is included in the overall request above. Out years operating costs annualize to a reduced amount.

Please note that as the Department gains more actual information and data as to application volume and time necessary for processing applications, these calculations may be refined, and a subsequent budget request submitted to reflect any necessary adjustments. In addition, if it is determined that the IDS group can handle more of the workload associated with the program, adjustments will be made to the allocation of funds.

The current mail volume includes 162,500 applications that will be accepted annually, 50,000 applications that will be rejected and 37,500 records changes requested by patient (i.e. address, caregiver) for a total of 250,000 pieces of mail each year.

General Description of Request:

In 2000, Colorado voters approved Constitutional Amendment 20, which established the Medical Marijuana Registry. Section 14 of article XVIII of the state constitution creates limited exceptions to Colorado's criminal laws for patients, primary care givers, and physicians. The article permits the medical use of marijuana through physician recommendation to alleviate debilitating medical conditions. The constitution also requires a state health agency, designated initially by the governor and now through state statute as the Department of Public Health and Environment, to establish and maintain a confidential registry of patients authorized to engage in the medical use of marijuana, to process the applications, issue registry identification cards, and promulgate rules consistent with constitutional and statutory guidelines.

Amendment 20 requires the Department to reject an application or to issue a registry card within 35 days of receiving the application.

Annual application volume for the registry has been continuing to increase over the past few years as shown below. This increase in volume necessitates the additional staff and resources included in this request.

Calendar Year	Number of Applications
2004	512
2005	730
2006	1,040
2007	1,955
2008	4,720
2009	41,107
2010*	150,000
2011*	150,000
2012*	150,000

\*These are projected numbers and are based on year to date actual volumes in 2010.

The Department has sought and received three increases to program resources during FY 2009-10 and FY 2010-11 to date. A summary of these changes is included in the following table.

Title of Budget Action	Budget Action	Funding		FTE
		Cash	Reappropriated	
FY 2010-11 Cycle S-2, BA-1 Medical Marijuana Registry	One-time Supplemental for FY 2009-10	\$189,700	\$0	10 temporary for the last three months of the year.
	On-going Budget amendment for FY 2010-11	\$1,195,658	\$220,477	10 temporary, 12 permanent FTE
FY 2011-12 Cycle 1331 Supplemental – Medical Marijuana	One-time 1331 supplemental for FY 2010-11	\$1,844,443	\$164,934	56.6 temporary FTE

STATE OF COLORADO FY 2011-12 BUDGET REQUEST CYCLE: Public Health and Environment

Medical Marijuana FTE history								
	On-going FTE				One time FTE			
	Permanent	Temporary FTE	Contract FTE	Total	Permanent	Temporary FTE	Contract FTE	Total
<b>FY 2009-10</b>								
FY 2001-02 BA 4A – Medical Marijuana	1.0	0.0	0.0	1.0	0.0	0.0	0.0	0.0
S-2, BA-1 Medical Marijuana Registry	0.0	0.0	0.0	0.0	0.0	2.5	0.0	2.5
<b>FY 2009-10 subtotal</b>	<b>1.0</b>	<b>0.0</b>	<b>0.0</b>	<b>1.0</b>	<b>0.0</b>	<b>2.5</b>	<b>0.0</b>	<b>2.5</b>
Temporary FTE for FY 2009-10 were for 10 temporaries for three months - or 2.5 FTE								
<b>FY 2010-11</b>								
FY 2001-02 BA 4A – Medical Marijuana	1.0	0.0	0.0	1.0	0.0	0.0	0.0	0.0
SB 10-109 Medical Marijuana Dr. Patient Relationship (Does not address backlog/applications)	2.1	0.0	0.0	2.1	0.0	0.0	0.0	0.0
HB 10-1284 Medical Marijuana Regulations (Does not address backlog/applications)	1.2	0.0	0.0	1.2	0.0	0.0	0.0	0.0
S-2, BA-1 Medical Marijuana Registry	12.0	10.0	0.0	22.0	0.0	0.0	0.0	0.0
FY 2010-11 1331 supplemental (June 2010)	0.0	0.0	0.0	0.0	0.0	56.6	0.0	56.6
<b>2010-11 subtotal</b>	<b>16.3</b>	<b>10.0</b>	<b>0.0</b>	<b>26.3</b>	<b>0.0</b>	<b>56.6</b>	<b>0.0</b>	<b>56.6</b>
<b>2011-12 and future years</b>								
FY 2001-02 BA 4A – Medical Marijuana	1.0	0.0	0.0	1.0	0.0	0.0	0.0	0.0
SB 10-109 Medical Marijuana Dr. Patient Relationship	2.1	0.0	0.0	2.1	0.0	0.0	0.0	0.0
Annualization of SB 10-109 Medical Marijuana Dr. Patient Relationship	(0.5)	0.0	0.0	(0.5)	0.0	0.0	0.0	0.0
HB 10-1284 Medical Marijuana Regulations	1.2	0.0	0.0	1.2	0.0	0.0	0.0	0.0
S-2, BA-1 Medical Marijuana Registry	12.0	10.0	0.0	22.0	0.0	0.0	0.0	0.0
DI #1 (Current request)	1.0	18.9	7.1	27.0	0.0	0.0	0.0	0.0
<b>2011-12 and future year total</b>	<b>16.8</b>	<b>28.9</b>	<b>7.1</b>	<b>52.8</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Since the significant increase in the volume of applications the Department has been seeking additional resources as well as opportunities to expedite the processing of applications. The Department is entering into an agreement with the Department of Treasury, and one of their contracted vendors, to open the mail that comes in, cash the fee checks, and enter a minimal amount of information into the database. Additionally, the Department is working with the IDS group at the Department of Personnel and Administration to handle some of the data entry work. Relying on these partners will

allow the Department to cash checks much faster and allow the Department staff to focus on the more difficult and time consuming process of evaluating the applications and issuing ID cards.

The workflow for the Medical Marijuana Registry (MMR) Program is as follows:

- 1) All mail goes to a central “lockbox” where it is picked up by a contractor for the Department of the Treasury. This contractor opens the mail, and processes the payment included in the paperwork. The contractor then enters minimal information in the database so that the Department can track the payments to the individual applicant.
- 2) All opened mail is returned to the Department. Department staff evaluate the mail and classify it into three categories
  - a) Accepted applications (applications that meet criteria)
  - b) Rejected applications (applications that fail to meet criteria)
  - c) Changes to existing data (i.e. address changes, care-giver changes, etc).

Evaluation of the application includes reviewing the application to make sure all information is complete and verifying that the documentation provided (i.e. identification, notary information) is accurate and authentic. The evaluation also includes verifying that the physician is in good standing with the Colorado Medical Board. These verification steps are crucial to ensuring that only patients with debilitating medical conditions are included in the registry and allowed access to medical marijuana.

Program guidelines require that a patient applying for a marijuana registry identification card have a legitimate medical need and provide appropriate written documentation from a licensed physician in the State of Colorado. Without appropriate documentation of need the application is denied and the individual is not legally able to possess marijuana. Patients must apply for the card each year and provide all documentation with each annual application. Without the identification card, individuals may be arrested since Colorado law prohibits the possession of marijuana without an official Medical Marijuana Registry card.



- 3) All applications are sent to the IDS group in Pueblo for data entry into the system.
- 4) The MMR program is notified when applicant data is entered so that program staff can perform quality assurance checks, and then print and mail registration cards to approved applicants.

Despite budget actions and efforts to streamline processing, the uncertainty surrounding the number of future applicants to the registry and evolving legislative action at both the local and state level make it extremely difficult to predict the program's needs. However, the Department is committed to responding to the changing situation and is requesting temporary employees rather than permanent positions so that it will be able to scale back staffing if incoming application volume decreases. Thus, if actual applications decrease, staffing will be decreased. This will be accomplished first by releasing the temporary staff authorized by this request, and then temporary and permanent staff authorized via FY 2010-11 S-2, BA-1 Medical Marijuana Registry, if the workload will not support them.

In the FY 2010-11 S-2, BA-1 Medical Marijuana Registry request, the Department assumed an annual application rate of 75,000 applications. However, the Department now anticipates 150,000 annual applications based on an estimate of the number of applications currently being received each day.

The registry is requesting to maintain staffing levels similar to what was identified and approved in the FY 2010-11 1331 Emergency Supplemental in order to keep up with current applications and not fall behind again. The 1331 emergency supplemental was for increased funding and resources to address the backlog and for on-going maintenance. The supplemental assumed that the backlog would be eliminated by the end of FY 2010-11. Thus only the portion of the emergency supplemental related to on-going processing is being requested in this FY 2011-12 decision item.

This requested continuation of the on-going processing component of the approved emergency increase is necessary to allow the department to stay current with the daily volume of mail related to the Medical Marijuana Registry. Without sufficient resources the program will be unable to meet the response time mandated by the constitution; update the database; provide the program staff access to the necessary information to respond to requests from law enforcement and subpoenas regarding registrant information; and ensure that other agencies have access to complete and updated information as quickly as possible.

In addition to the obvious constitutional and customer service reasons for staying current with application processing, additional statutory requirements have been added that rely on current and accurate medical marijuana registry information. During the 2010 legislative session, the General Assembly passed SB 10-109 Medical Marijuana Doctor-Patient Relations and House Bill 10-1284 Medical Marijuana Regulations. Senate Bill 10-109 requires that the Department of Regulatory Agencies, Board of Medical Examiners investigate complaints of doctors who do not have a bona-fide doctor-patient relationship with a medical marijuana applicant. In order to facilitate this investigation, the registry database needs to be updated to include additional physician information to ascertain whether a bona-fide doctor-patient relationship exists.

Additionally, House Bill 10-1284 requires that the Department of Revenue license and regulate medical marijuana centers, and imposes additional requirements on the Department's administration of the program concerning patients and care-givers, including but not limited to ensuring that a maximum of five patients are served by a single care-giver. In order to properly administer the medical marijuana program, the Department of Revenue will need limited access to the Department's computer system to confirm a patient's choice of a medical marijuana center. Again, if the Department does not stay current with processing and entering applicant information, the information that the Department of Revenue is relying upon will not be available thus hampering their ability to implement the statute.

The new legislation discussed above authorized additional resources specific to the new workload and requirements of the legislation. This request does not seek additional resources to implement that legislation. Rather this request is for the resources necessary to stay current with application volume, which is a necessary precursor to implementation of the new legislation.

The Department also requests approval to hire a program director to oversee the program. This position will supervise all program staff and be responsible for all aspects of program administration. The position will work on process improvement and implement changes to improve efficiency and service. The position will also be the key point for public communication; it will be responsible for educating doctors (and the public) about the appropriate use of the Medical Marijuana Registry program and will promote the appropriate use of medical marijuana consistent with the direction and intent of the Constitution. The position will also work with other state and local agencies on issues that interface with the program. State and local agencies include the Departments of Revenue and Public Safety and local law enforcement. The position will be responsible for developing the process to evaluate petitions for new conditions to be added for which medical marijuana may be recommended. The process will include the following: searching for relevant medical literature; convening, when appropriate, an ad-hoc expert advisory committee to evaluate the evidence and provide the department with a recommendation; providing public notice of the status of the petition; responding to the petitioner; and preparing rulemaking hearing materials, when appropriate, to bring a condition to the state Board of Health for consideration. The position will also be responsible for all aspects of the application process including forms development and management of data systems. The position will develop and implement methods for identifying potential inappropriate use of medical marijuana and associated adverse events and for identifying patterns of care that could represent violation of the medical practice act or other state laws. When issues are identified, the director will provide information to the Chief Medical Officer for potential referral of a physician to the Colorado Medical Board for investigation.

The current fee for a Medical Marijuana Registry card is \$90 per year. That fee is adequate to generate sufficient revenue to cover the requested increases without raising the fee.

In addition to this request for additional resources, the Department is dedicated to continuing to evaluate the application process; implementing enhancements to the computer system; and making any other modifications that are necessary to effectively manage the program. The Department is entering into discussions with the other departments (Revenue and Regulatory Agencies) to determine where the agencies can streamline processes and avoid duplication of effort. In addition, the Department is working with the IDS group at the Department of Personnel and Administration to handle some of the less technical data entry work for the program.

Consequences If Not Funded:

Without adequate resources the Department will be unable to comply with the constitutional 35-day review and notification requirements for processing a medical marijuana application. Failure to keep current with applications also negatively impacts medical marijuana applicants, law enforcement and other state agencies with mandates to oversee medical marijuana activities. If the Department does not have additional resources it will be unable to keep up with the ongoing workload, and the backlog will redevelop. Additionally, failure to comply with constitutional provisions provides grounds for litigation which can be costly and resource intensive.

As noted earlier, complete information is necessary in order for several agencies to implement new legislation. The Department of Revenue, the Department of Regulatory Agencies, and law enforcement officials rely on the Department to have complete, accurate and up-to-date information in the database. If law enforcement does not have appropriate documentation or a way to verify if an individual is legally entitled to possess marijuana, false arrests and the subsequent burden on the judicial system may occur.

Calculations for Request:

<b>Summary of Request FY 2011-12</b>	<b>Total Funds</b>	<b>Cash Funds</b>	<b>Reappropriated Funds</b>	<b>FTE</b>
<b>Total Request</b>	<b>\$1,121,439</b>	<b>\$1,093,939</b>	<b>\$27,500</b>	<b>1.0</b>
Personal Services – 18.9 people hired via a temporary agency and 1.0 Permanent FTE	\$801,124	\$801,124	\$0	1.0
Personal Services, contract with IDS	\$265,824	\$265,824	\$0	0.0
Operating	\$26,991	\$26,991	\$0	0.0
Postage	\$27,500	\$0	\$27,500	0.0

<b>Summary of Request FY 2012-13</b>	<b>Total Funds</b>	<b>Cash Funds</b>	<b>Reappropriated Funds</b>	<b>FTE</b>
<b>Total Request</b>	<b>\$1,116,736</b>	<b>\$1,089,236</b>	<b>\$27,500</b>	<b>1.0</b>
Personal Services – 18.9 people hired via a temporary agency and 1.0 Permanent FTE	\$801,124	\$801,124	\$0	1.0
Personal Services, contract with IDS	\$265,824	\$265,824	\$0	0.0
Operating	\$22,288	\$22,288	\$0	0.0
Postage	\$27,500	\$0	\$27,500	0.0

Cash Funds Projections:

Fund 14V – Medical Marijuana

<b>Cash Fund Name</b>	<b>Cash Fund Number</b>	<b>FY 2009-10 Expenditures</b>	<b>FY 2009-10 End of Year Cash Balance</b>	<b>FY 2010-11 End of Year Cash Balance Estimate</b>	<b>FY 2011-12 End of Year Cash Balance Estimate</b>
Medical Marijuana Program Fund	14V	\$1,048,783	\$9,760,838	\$1,021,275	\$2,277,318

**Detailed Information Regarding Anticipated Fund Balance:**

<b>FY 2009-10 End of Year Cash Balance Estimate (Actual data available after August 9)</b>	<b>\$9,760,838</b>
FY 2010-11 Long Bill appropriation, 1331 supplemental (plus POTS and Indirect)	(\$3,604,444)
SB 10-109 (FY 2010-11 Appropriation)	(\$815,224)
HB 10-1284 (FY 2010-11 Appropriation)	(\$59,747)
Loan to Department of Revenue for HB 10-1284 – This amount should be repaid during FY 2010-11 (however, to conservatively estimate fund balance the payback is not included in these calculations). HB 10-1284 authorized the Department of Revenue to borrow up to \$1,000,000 from the Medical Marijuana Program Fund in order to implement their program before funding comes in from licenses.	(\$1,000,000)
Transfer to General Fund on June 30, 2011 (HB 10-1388 Cash Fund Transfers Augment General Fund)	(\$3,000,000)
FY 2010-11 Transfer to the General Fund	(\$9,000,000)
Deferred revenue from FY 2010-11 adjustment	(\$4,760,148)
Revenue from July 1, 2010 – June 30, 2011 (estimate a total of 150,000 applications at \$90 each)	\$13,500,000
<b>FY 2010-11 End of Year Cash Balance Estimate</b>	<b>\$1,021,275</b>
FY 2011-12 Long Bill request estimate (base budget and adjustments for common policies)	(\$1,150,018)
FY 2011-12 FY 2011-12 DI #1 – Medical Marijuana	(\$1,093,939)
FY 2011-12 Anticipated Revenues (estimate a total of 150,000 applications at \$90 each)	\$13,500,000
FY 2011-12 Transfer to the General Fund – November 1 request	(\$10,000,000)
<b>FY 2011-12 End of Year Cash Balance Estimate</b>	<b>\$2,277,318</b>

\*Once the Program has stabilized, the Department will evaluate the fee as necessary to cover the cost of the program.

Assumptions for Calculations:

FTE and Operating Costs		GRAND TOTAL			
Fiscal Year(s) of Request		FY 11-12	FY 12-13	FY 11-12	FY 12-13
<b>PERSONAL SERVICES</b>	<b>Title:</b>	<b>Health Professional VII</b>			
Number of PERSONS / class title		1.0	1.0	1.0	1.0
Number of months <u>working in</u> FY 11-12 & 12-13		12	12		
Number months <u>paid in</u> FY 11-12 & 12-13		12	12		
Calculated FTE per classification		<b>1.0</b>	<b>1.0</b>	1.0	1.0
Annual base salary		\$77,100	\$77,100		
Salary		\$77,100	\$77,100	\$77,100	\$77,100
PERA - NA	<b>10.15%</b>	\$7,826	\$7,826	\$7,826	\$7,826
Medicare - NA	<b>1.45%</b>	\$1,118	\$1,118	\$1,118	\$1,118
<b>Subtotal Personal Services at Division Level</b>		<b>\$86,044</b>	<b>\$86,044</b>	<b>\$86,044</b>	<b>\$86,044</b>
<b>OPERATING EXPENSES</b>					
Supplies @ \$500/\$500 <sup>2</sup>	<b>\$500</b>	\$500	\$500	\$500	\$500
Computer @ \$900/\$0	<b>\$900</b>	\$900	\$0	\$900	\$0
Office Suite Software @ \$330/\$0	<b>\$330</b>	\$330	\$0	\$330	\$0
Office Equipment @ \$3,473/\$0 (includes cubicle and chair) - NA	<b>\$3,473</b>	\$3,473	\$0	\$3,473	\$0
Telephone Base @ \$450/\$450 <sup>2</sup>	<b>\$450</b>	\$450	\$450	\$450	\$450
Postage <sup>3,4</sup>		\$0	\$0	\$0	\$0
Mileage <sup>3,4</sup>		\$1,620	\$1,620	\$1,620	\$1,620
Per Diem <sup>3,4</sup>		\$828	\$828	\$828	\$828
Hotel <sup>3,4</sup>		\$840	\$840	\$840	\$840
<b>Subtotal Operating Expenses</b>		<b>\$8,941</b>	<b>\$4,238</b>	<b>\$8,941</b>	<b>\$4,238</b>
<b>GRAND TOTAL ALL COSTS</b>		<b>\$94,985</b>	<b>\$90,282</b>	<b>\$94,985</b>	<b>\$90,282</b>

Temporary employee costs:

Temporary agency – 17.9 staff members at \$3,100 per month for 12 months.  $\$3,100 \times 17.9 \times 12 = \$665,880$

Temporary Agency – Supervisor - 1.0 staff member at \$4,100 per month for 12 months.  $\$4,100 \times 12 = \$49,200$ .

Employees hired via IDS – 7.1 staff members at \$3,120 per month for 12 months.  $\$3,120 \times 7.1 \times 12 = \$265,824$ .

<b>Personnel Costs</b>		<b>Number</b>	<b>Months</b>	<b>FY 2011-12</b>	<b>FY 2012-13</b>
Position Classification	Monthly Salary			Annual Salary	Annual Salary
Temporary agency hires	\$3,100	18	11.9	\$665,880	\$665,880
Temporary supervisors	\$4,100	1	12	\$49,200	\$49,200
<b>Temporary agency costs (not shown in chart above)</b>				<b>\$715,080</b>	<b>\$715,080</b>
IDS Contract	\$3,120	8	10.7	\$265,824	\$265,824
<b>Total Cost IDS Contract (not shown in chart above)</b>				<b>\$265,824</b>	<b>\$265,824</b>
<b>Program Director Personnel Costs (detailed on Page 12 of request)</b>				<b>\$86,044</b>	<b>\$86,044</b>
<b>Total Personnel Costs</b>				<b>\$1,066,948</b>	<b>\$1,066,948</b>



Operating Costs			FY 2011-12	FY 2012-13
	Cost	Applicable person count	Total	Total
Program Director (details on page 12 of request)				
<b>Total – Operating Costs – Program Director</b>			<b>\$8,941</b>	<b>\$4,238</b>
<b>Operating Costs – Not employee Specific</b>				
Postage		0	\$27,500	\$27,500
<b>Total - Operating Costs – Not employee Specific</b>			<b>\$27,500</b>	<b>\$27,500</b>
<b>Operating Costs – Temporaries not on FTE template</b>				
Basic Operating	\$500	19	\$9,500	\$9,500
Telephone	\$450	19	\$8,550	\$8,550
<b>Operating Costs – Temporaries</b>			<b>\$18,050</b>	<b>\$18,050</b>
<b>Total Operating Costs</b>			<b>\$54,491</b>	<b>\$49,788</b>

Computers were purchased for the staff authorized for the Emergency Supplemental; therefore additional computers are not being requested.

	FY 2011-12	FY 2012-13
<b>Total Costs</b>	<b>\$1,121,439</b>	<b>\$1,116,736</b>
Cash Funds	\$1,093,939	\$1,089,236
Reappropriated Funds	\$27,500	\$27,500

**Summary: 2011-12 request**

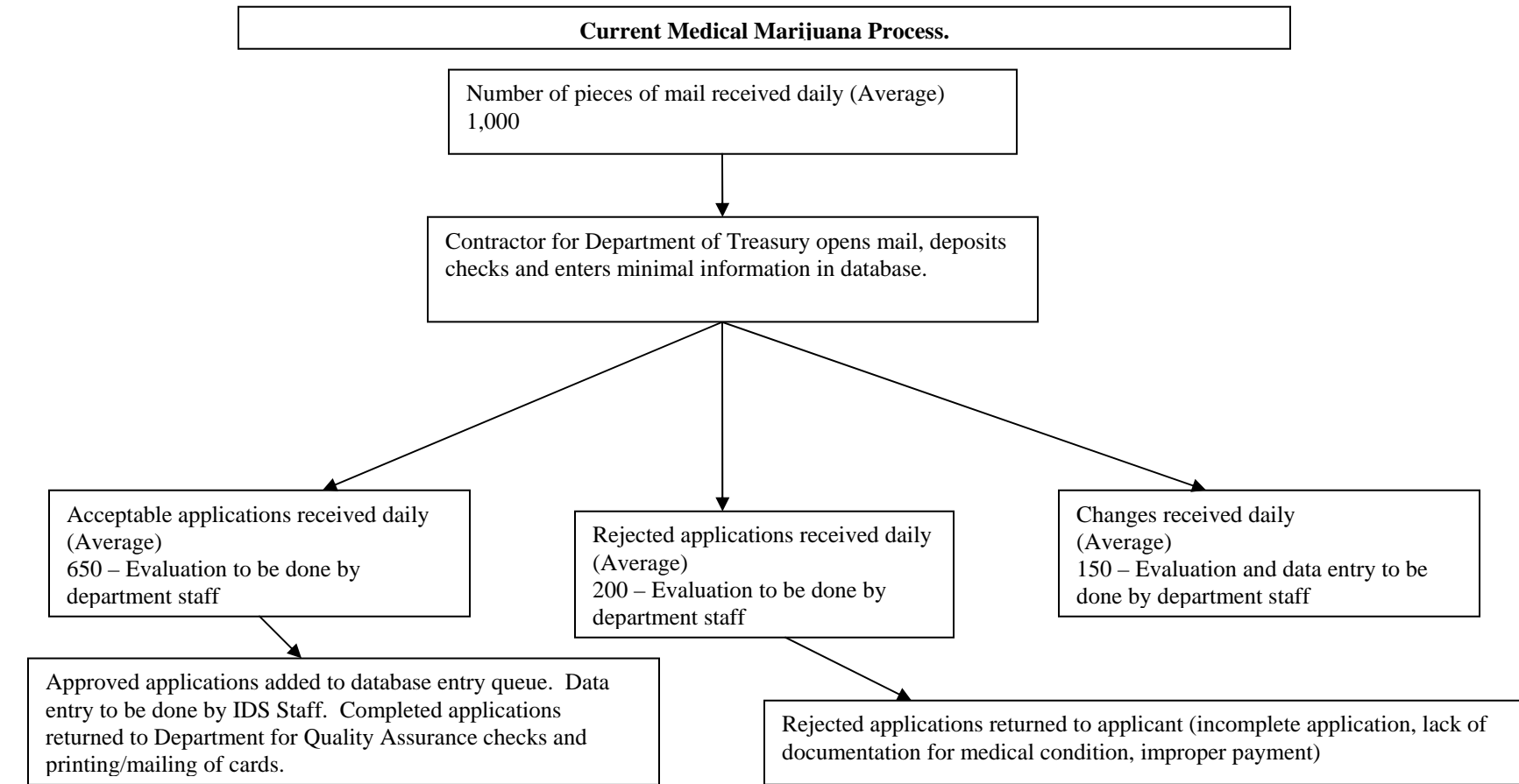
Cost	Cash Fund	Reappropriated Fund	Total
Personnel Costs	\$1,066,948	\$0	\$1,066,948
Operating	\$26,991	\$0	\$26,991
Postage	\$0	\$27,500	\$27,500
<b>Total</b>	<b>\$1,093,939</b>	<b>\$27,500</b>	<b>\$1,121,439</b>

**Summary: 2012-13 request**

<b>Cost</b>	<b>Cash Fund</b>	<b>Reappropriated Fund</b>	<b>Total</b>
Personnel Costs	\$1,066,948	\$0	\$1,066,948
Operating	\$22,288	\$0	\$22,288
Postage	\$0	\$27,500	\$27,500
<b>Total</b>	<b>\$1,089,236</b>	<b>\$27,500</b>	<b>\$1,116,736</b>

**Workload assumptions**

The Department's work process associated with medical marijuana is detailed in the following flowchart.



***Mail volume and requested spending authority***

- The program anticipates receiving an average of 1,000 pieces of mail per working day (250,000 pieces annually / approximately 250 working days per year = 1,000 pieces per day).
- Of these 1,000 pieces of mail per day, the program estimates that approximately 65% (650) will be approved applications; 20% will be rejected applications (200) and the other 15% (150) will be other changes (i.e. address or care-giver changes).
- 650 applications x 250 work days = 162,500 applications per year. However, it is still unclear how the statutory changes enacted via SB 10-109 and HB 10-1284 will affect application numbers, so the Department is using a more conservative estimate of 150,000 annual applications.
- Each of these 250,000 pieces of mail, excluding “change request” will require a return letter/document, such as a rejected application and explanation, or the issuance of an identification card. The exception to this will be the change requests (150 per day x 250 days per year = 37,500 changes) that do not require a return mail response.
- An additional \$66,000 was requested and received via the FY 2010-11 S-2, BA-1 Medical Marijuana Registry. This covered postage for the then-estimated 150,000 pieces of mail annually.
- An additional 62,500 pieces of mail are anticipated over the FY 2010-11 estimate (250,000 – 150,000 - 37,500= 62,500).
- Therefore the additional postage need is \$27,500 (62,500 pieces X \$0.44).
- This portion of the requested spending authority will be Reappropriated funds in the Administration and Support Operating Line (Indirect Cost recoveries).

***Application Volume assumptions***

The Department anticipates 150,000 applications in FY 2011-12. The chart on Page 3 of this request shows the application history and how the Department has estimated that 150,000 applications will be received annually.

<b>Medical Marijuana Registry</b>								
<b>History for Approved Applications</b>								
	Calendar Year							% Change
	2004	2005	2006	2007	2008	2009	2010	CY 2009-CY 2010
Jan	29	51	45	131	245	495	11,508	2,225%
Feb	32	67	60	123	246	587	12,320	1,999%
Mar	37	72	84	143	286	807	10,872	1,247%
Apr	39	64	98	135	328	1,192	8,537	616%
May	34	85	108	169	360	1,264	6,881	444%
Jun	60	64	103	146	431	1,943	7,864	305%
Jul	52	48	81	143	432	2,492	5,806	133%
Aug	54	47	97	179	489	3,674	5,080	38%
Sep	38	52	94	197	495	3,523		
Oct	49	76	114	221	527	4,751		
Nov	58	66	91	176	424	9,794		
Dec	30	38	65	192	457	10,585		
<b>Totals</b>	<b>512</b>	<b>730</b>	<b>1,040</b>	<b>1,955</b>	<b>4,720</b>	<b>41,107</b>	<b>68,868*</b>	
% Increase/year		43%	42%	88%	141%	770.9%		
* Estimate								
	<b>FY 2004-05</b>	<b>FY 2005-06</b>	<b>FY 2006-07</b>	<b>FY 2007-08</b>	<b>FY 2008-09</b>	<b>FY 2009-10</b>	<b>FY 2010-11</b>	
Total per Fiscal Year	684	825	1,389	3,004	9,112	92,801	150,000*	

	Total volume of Mail (Annual)	Applications	Rejections	Changes
Original assumption (as projected in FY 2010-11 Cycle S-2, BA-1 Medical Marijuana Registry)	150,000	75,000	50,000	25,000
Revised assumption (Current Data)	250,000	162,500*	50,000	37,500
*Note: Based on 1,000 pieces of mail per day, applications may come in at 162,500; however all calculations are based on a more conservative estimate of 150,000.				

The chart above identifies the difference between the department's original assumptions as projected in the FY 2010-11 cycle S-2, BA-1 and the current projections based on data received since that time.

The chart below outlines the duties, volume and time involved in performing the various tasks associated with the Medical Marijuana Registry. Please note that the FY 2010-11 S-2, BA-1 Medical Marijuana Registry identified 24 minutes to process each application. The time for each step has been adjusted, and the overall time has been adjusted to reflect the transfer of the step of “process, record and deposit fees collected” as that step is being conducted via a contract through the Department of Treasury. The time associated with the work that Treasury is handling takes the average processing time from 24 minutes to 22.1 minutes. The contract through the Treasurer’s Office is paid via the Treasurer. This contract will continue indefinitely, at no cost to the Department of Public Health and Environment.

<b>Application-specific duties – To be performed by staff at the CDPHE</b>	<b>Average time per item in minutes</b>
Evaluate applications for completeness including adequate patient identification, appropriate document from a doctor licensed in Colorado; verify doctor is currently licensed in good standing via DORA; and signed check or money order.	12.5
Print official registration cards and mail to applicants.	2.0
<b>Total work performed at the CDPHE</b>	<b>14.5</b>

<b>Application-specific duties – To be performed by staff at the IDS</b>	<b>Average time per item in minutes</b>
Enter approved applicants into the registry database including information on their medical conditions, doctors, care-givers and contact information and check for duplicate applicants. Scan/file documentation for retention	<b>7.6 minutes</b>

- Excluding the check processing time, each application takes 22.1 minutes (0.37 hours). (22.1 minutes/60 minutes per hour = 0.37 hours)
- The work will be divided between employees at the Department of Public Health and Environment and at the Department of Personnel/Integrated Document Solutions as noted in the tables above.

***Work performed at the Department: (Summarized in chart below)***

- Each employee can process 33.1 applications in a day (8 hours \* 60 minutes per hour = 480 minutes/14.5 minutes per application = 33.1 applications per day).

- Based on the staffing levels prior to the 1331 Supplemental for FY 2010-11, which is the Department's base personal services level, the Department's staff can evaluate 350 applications per day (assuming 12.5 minutes per application). The Department receives 850 applications that must be evaluated (to either accept or reject). This 850 number comprises both the 650 applications that will be accepted and the 200 applications that will be rejected. This is an additional 500 pieces per day that need to be processed.
- Based on the staffing levels prior to the 1331 Supplemental for FY 2010-11, which is the Department's base personal services level, the Department's staff can issue cards for 200 applications per day (assuming 2 minutes per card). The Department approves a total of 650 applications per day. This is an additional 450 cards that will need to be issued above what the existing staff can process. Please note that the cards will not be issued until after the IDS group enters the information in the database and notifies the Department that the information is available.
- The Department estimates that one person can enter changes for 50 patients per day (assuming 9.6 minutes per application). The Department receives 150 changes that must be entered in the system per day. This work was not being done prior to the additional staffing in the 1331 supplemental. The Department assumes that the IDS group will not do this activity at this time.
- Because of the number of temporaries being hired (18.9) the Department anticipates needing to hire 1.0 (also temporary) higher level staff in order to supervise. The supervisor will be responsible for training of staff and ensuring the accuracy and completeness of their work. The supervisor will not be able to process any applications as his/her time will be spent supervising and assisting staff members. The Department anticipates needing one supervisor for the staff handling the ongoing workload. It is anticipated that the temporary agency will charge \$4,100 per month per supervisor.

***Work performed at the Integrated Document Solutions center in Pueblo: (Summarized in chart below)***

- Currently, the Department's staff can enter and issue cards for 200 applications per day (assuming 7.6 minutes per application). The Department receives 650 accepted

applications that must be entered in the system. This is an additional 450 applications each day. This data entry work will be done by the IDS group from DPA.

- Based on the information received from Department of Personnel and Administration, the IDS group can process the data entry of the applications for \$3,120 per month per employee. The IDS group does not need overhead for supervisors, operating, etc., as these costs are built into their overall cost structure.

Component of ongoing work	Total volume of work per day (pieces)	Ongoing workload managed by base staffing	Difference No. of pieces (per day) addressed via this request	Minutes to process (per piece)	Total minutes (Pieces x minutes to process)	Hours per day (minutes/60)	Number of people needed (Hours/8)
Evaluation of Applications expected to be accepted or rejected	850	350	500	12.5	6,250	104	13.0
Issue cards	650	200	450	2.0	900	15	1.9
Changes	150	0	150	9.6	1,440	24	3.0
1.0 Supervisory Staff – Department staff	0	0	0	0	0	0	1.0
<b>Subtotal CDPHE staff</b>	<b>1,650</b>	<b>550</b>	<b>1,100</b>	<b>NA</b>	<b>8,590</b>	<b>143</b>	<b>18.9</b>
Data entry of accepted applications by IDS Group (second step of process)	650	200	450	7.6	3,420	57	7.1
<b>Total*</b>	<b>2,300*</b>	<b>750*</b>	<b>1,550*</b>	<b>NA</b>	<b>12,010*</b>	<b>200*</b>	<b>26.0*</b>

\*This total includes the 7.1 staff at IDS. Since these 7.1 staff are being paid via an agreement with IDS, this request is only for the 18.9 FTE at the Department of Public Health and Environment.



Staffing needs	Location	Cost per employee per month	Extended cost per month	Annual cost
17.9 people to evaluate applications and mail cards	Department	\$3,100	\$55,490	\$665,880
1.0 Supervisor staff (1.0 FTE)	Department	\$4,100	4,100	49,200
7.1 people to data enter application information	IDS	\$3,120	22,152	265,824
<b>Total</b>			<b>\$81,742</b>	<b>\$980,904</b>

- The Department will only incur normal operating costs for the 18.9 people that will be on site. Computers and software have been purchased with the funds from the 1331 supplemental and will be used by the people noted in this request, therefore this request does not include computers.
- Program director costs:
  - Health Professional VII – Minimum Salary \$6,425 per month.
  - Annual salary = \$6,425 x 12 = \$77,100
  - PERA = 10.15% x \$77,100 = \$7,826
  - Medicare = 1.45% x \$77,100 = \$1,118
  - Total Program Director Cost = \$86,044
- The Department assumes that the requested program director will be making one trip per month to outlying areas of the state to perform job duties. Assuming one overnight stay per month, and a round trip of 300 miles, the travel related costs will be as follows:
  - 300 miles X \$0.45 = \$135 x 12 = \$1,620
  - Per Diem rate = \$46 per day x 0.75 (first and last day of travel) x 2 days = \$69 x 12 = \$828
  - Hotel Costs = \$70 per night X 12 = \$840
  - Subtotal travel costs = \$3,288
  - Basic Operating \$500
  - Computer \$900
  - Software \$330

Office Equipment \$3,473

Telephone \$450

Total Operating Cost = \$8,941

**Total Personal Services and Operating = \$94,985**

Impact on Other Government Agencies:

There will be no fiscal impact on other governmental entities. However, staying current with processing Medical Marijuana paperwork will assist the law enforcement community, Department of Revenue, and the Department of Regulatory Agencies to effectively complete their duties.

Cost Benefit Analysis:

It is difficult to quantify the costs and benefits associated with failure to adequately staff the Medical Marijuana Registry. However, there are clearly costs associated with not doing so. There are undoubtedly significant costs to law enforcement and the judicial system associated with processing false arrests which result from the Department's delay in issuing cards. There are also likely to be significant litigation costs if the Department continues to be unable to process applications within the mandated timeframes.

Costs also include not being able to implement legislation, and the inefficiency which results from the Department's efforts to comply with court orders for information.

Given the requirement that the Department operate the registry, the fact that it is paid for by those using the registry, and the negative consequences of the Department's inability to process applications according to established timelines, there is clearly a significant positive benefit-to-cost ratio associated with this request.

Implementation Schedule:

<b>Task</b>	<b>Month/Year</b>
Request approved	March 2011
Temporaries hired to continue current workload	July 2011
Memorandum of Agreement with IDS completed and work continues	July 2011

Statutory and Federal Authority:

C.R.S. 25-1.5-106. (2010) Medical marijuana program - powers and duties of Department.

**25-1.5-106. Medical marijuana program - powers and duties of state health agency - medical review board - repeal. (1) Definitions.**

*(2) The state health agency shall, pursuant to section 14 of article XVIII of the state constitution, promulgate rules of administration concerning the implementation of the medical marijuana that specifically govern the following:*

*(a) The establishment and maintenance of a confidential registry of patients who have applied for and are entitled to receive a registry identification card;*

*(b) The development by the Department of an application form and making such form available to residents of this state seeking to be listed on the confidential registry of patients who are entitled to receive a registry identification card. The confidential registry of patients may be used to determine whether a physician should be referred to the Colorado board of medical examiners for a suspected violation of section 14 of article xviii of the state constitution, paragraph (a), (b), or (c) of subsection (3) of this section, or the rules promulgated by the state health agency pursuant to this subsection (2);*

*(c) The verification by the department state health agency of medical information concerning patients who have applied for a confidential registry identification card or for renewal of a registry identification card;*

*(d) (e) The CONDITIONS FOR issuance and renewal, and the form, of confidential the registry identification cards issued to patients, including but not limited to standards for ensuring that the state health agency issues a registry identification card to a patient only if he or she has a bona fide physician-patient relationship with a physician in good standing and licensed to practice medicine in the state of Colorado;*

*(d) a primary care-giver shall provide to a law enforcement agency, upon inquiry, the registry identification card number of each of his or her patients. the state health agency shall maintain a registry of this information and make it available twenty-four hours per day and seven days a week to law enforcement for verification purposes. Upon inquiry by a law enforcement officer as to an individual's status as a patient or primary care-giver, the state health agency shall check the registry. If the individual is not registered as a*

*patient or primary care-giver, the state health agency may provide that response to law enforcement. If the person is a registered patient or primary care-giver, the state health agency may not release information unless consistent with section 14 of article xviii of the state constitution. The state health agency may promulgate rules to provide for the efficient administration of this paragraph (d).*

*(e) (f) Communications with law enforcement officials about confidential registry identification cards that have been suspended where when a patient is no longer diagnosed as having a debilitating medical condition; and*

*(4) Enforcement. (a) if the state health agency has reasonable cause to believe that a physician has violated section 14 of article XVIII of the state constitution, paragraph (a), (b), or (c) of subsection (3) of this section, or the rules promulgated by the state health agency pursuant to subsection (2) of this section, the state health agency may refer the matter to the state board Of medical examiners created in section 12-36-103, C.R.S., for an investigation and determination.*

*(b) If the state health agency has reasonable cause to believe that a physician has violated paragraph (d) of subsection (3) of this section, the state health agency shall conduct a hearing pursuant to section 24-4-104, C.R.S., to determine whether a violation has occurred.*

*(c) upon a finding of unprofessional conduct pursuant to Section 12-36-117 (1) (mm), C.R.S., by the state board of medical examiners or a finding of a violation of paragraph (d) of Subsection (3) of this section by the state health agency, the state health agency shall restrict a physician's authority to recommend the use of medical marijuana, which restrictions may Include the revocation or suspension of a physician's privilege to recommend medical marijuana. The restriction shall be in addition to any sanction imposed by the state board of medical examiners.*

**Colorado Constitution - Section 14. Medical use of marijuana for persons suffering from debilitating medical conditions. (in part)**

*(1) As used in this section, these terms are defined as follows:*

(g) "Registry identification card" means that document, issued by the state health agency, which identifies a patient authorized to engage in the medical use of marijuana and such patient's primary care-giver, if any has been designated.

(3) The state health agency shall create and maintain a confidential registry of patients who have applied for and are entitled to receive a registry identification card according to the criteria set forth in this subsection, effective June 1, 1999.

(a) No person shall be permitted to gain access to any information about patients in the state health agency's confidential registry, or any information otherwise maintained by the state health agency about physicians and primary care-givers, except for authorized employees of the state health agency in the course of their official duties and authorized employees of state or local law enforcement agencies which have stopped or arrested a person who claims to be engaged in the medical use of marijuana and in possession of a registry identification card or its functional equivalent, pursuant to paragraph (e) of this subsection (3). Authorized employees of state or local law enforcement agencies shall be granted access to the information contained within the state health agency's confidential registry only for the purpose of verifying that an individual who has presented a registry identification card to a state or local law enforcement official is lawfully in possession of such card.

(b) In order to be placed on the state's confidential registry for the medical use of marijuana, a patient must reside in Colorado and submit the completed application form adopted by the state health agency, including the following information, to the state health agency:

(I) The original or a copy of written documentation stating that the patient has been diagnosed with a debilitating medical condition and the physician's conclusion that the patient might benefit from the medical use of marijuana;

(II) The name, address, date of birth, and social security number of the patient;

(III) The name, address, and telephone number of the patient's physician; and

(IV) The name and address of the patient's primary care-giver, if one is designated at the time of application.

(c) Within thirty days of receiving the information referred to in subparagraphs (3) (b) (I)-(IV), the state health agency shall verify medical information contained in the patient's written documentation. The agency shall notify the applicant that his or her

*application for a registry identification card has been denied if the agency's review of such documentation discloses that: the information required pursuant to paragraph (3) (b) of this section has not been provided or has been falsified; the documentation fails to state that the patient has a debilitating medical condition specified in this section or by state health agency rule; or the physician does not have a license to practice medicine issued by the state of Colorado. Otherwise, not more than five days after verifying such information, the state health agency shall issue one serially numbered registry identification card to the patient...*

*(d) Except for patients applying pursuant to subsection (6) of this section, where the state health agency, within thirty-five days of receipt of an application, fails to issue a registry identification card or fails to issue verbal or written notice of denial of such application, the patient's application for such card will be deemed to have been approved. Receipt shall be deemed to have occurred upon delivery to the state health agency, or deposit in the United States mails. Notwithstanding the foregoing, no application shall be deemed received prior to June 1, 1999. A patient who is questioned by any state or local law enforcement official about his or her medical use of marijuana shall provide a copy of the application submitted to the state health agency, including the written documentation and proof of the date of mailing or other transmission of the written documentation for delivery to the state health agency, which shall be accorded the same legal effect as a registry identification card, until such time as the patient receives notice that the application has been denied.*

*(e) A patient whose application has been denied by the state health agency may not reapply during the six months following the date of the denial and may not use an application for a registry identification card as provided in paragraph (3) (d) of this section. The denial of a registry identification card shall be considered a final agency action. Only the patient whose application has been denied shall have standing to contest the agency action.*

*(f) When there has been a change in the name, address, physician, or primary care-giver of a patient who has qualified for a registry identification card, that patient must notify the state health agency of any such change within ten days. A patient who has not designated a primary care-giver at the time of application to the state health agency may do so in writing at any time during the effective period of the registry identification card,*

*and the primary care-giver may act in this capacity after such designation. To maintain an effective registry identification card, a patient must annually resubmit, at least thirty days prior to the expiration date stated on the registry identification card, updated written documentation to the state health agency, as well as the name and address of the patient's primary care-giver, if any is designated at such time.*

*(i) The state health agency may determine and levy reasonable fees to pay for any direct or indirect administrative costs associated with its role in this program.*

Performance Measures:

**7. Vital Records Customer Satisfaction**

*Objective 3: Provide friendly, accurate and timely customer service.*

Performance Measure	Outcome	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
		Actual	Actual	Approp.	Request
Percent of Vital Record customers reporting a positive experience on an active customer survey	Benchmark			85%	85%
	Actual	Survey not completed	Data not available		

The Medical Marijuana program is included in the Vital Records section of the Department. Medical Marijuana customers will be included in the survey as it is conducted. The Vital Records Section has not made a systematic measurement of customer satisfaction. However, anecdotal comments from customers indicate that they have a positive experience. The section will establish benchmarks after they conduct a baseline survey this year.

The Department will develop a specific performance measure for Medical Marijuana in future strategic plans.

**Schedule 13**  
**Change Request for FY 2011-12 Budget Request Cycle**

Decision Item FY 2011-12  Base Reduction Item FY 2011-12  Supplemental FY 2010-11  Budget Amendment FY 2011-12

Request Title: Newborn Screening Laboratory and Genetics Counseling  
 Department: Public Health and Environment Dept. Approval by: *[Signature]* Date: 10/7/10  
 Priority Number: DI-2 OSPB Approval: *[Signature]* Date: 10.13.10

	Fund	1	2	3	4	5	6	7	8	9	10
		Prior-Year Actual FY 2009-10	Appropriation FY 2010-11	Supplemental Request FY 2010-11	Total Revised Request FY 2010-11	Base Request FY 2011-12	Decision/Base Reduction FY 2011-12	November 1 Request FY 2011-12	Budget Amendment FY 2011-12	Total Revised Request FY 2011-12	Change from Base (Column 5) FY 2012-13
<b>Total of All Line Items</b>	<b>Total</b>	9,183,283	9,084,177	0	9,084,177	9,160,769	396,637	9,557,406	0	9,557,406	394,280
	FTE	51.7	60.9	0.0	60.9	60.9	1.0	61.9	0.0	61.9	1.0
	GF	1,161,399	1,068,112	0	1,068,112	1,081,684	0	1,081,684	0	1,081,684	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	6,039,410	6,475,588	0	6,475,588	6,516,256	396,637	6,912,893	0	6,912,893	394,280
	CFE/RF	189,353	235,423	0	235,423	235,912	0	235,912	0	235,912	0
	FF	1,793,121	1,305,054	0	1,305,054	1,326,917	0	1,326,917	0	1,326,917	0
<b>(3) Laboratory Services, (B) Chemistry and Microbiology, Personal Services</b>	<b>Total</b>	4,139,935	4,203,563	0	4,203,563	4,280,155	54,278	4,334,433	0	4,334,433	54,278
	FTE	51.7	60.9	0.0	60.9	60.9	1.0	61.9	0.0	61.9	1.0
	GF	845,121	751,834	0	751,834	765,406	0	765,406	0	765,406	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	2,027,420	2,341,613	0	2,341,613	2,382,281	54,278	2,436,559	0	2,436,559	54,278
	CFE/RF	49,234	95,304	0	95,304	95,793	0	95,793	0	95,793	0
	FF	1,218,160	1,014,812	0	1,014,812	1,036,675	0	1,036,675	0	1,036,675	0
<b>(3) Laboratory Services, (B) Chemistry and Microbiology, Operating Expenses</b>	<b>Total</b>	3,570,996	3,378,797	0	3,378,797	3,378,797	269,119	3,647,916	0	3,647,916	266,762
	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	GF	316,278	316,278	0	316,278	316,278	0	316,278	0	316,278	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	2,539,638	2,632,158	0	2,632,158	2,632,158	269,119	2,901,277	0	2,901,277	266,762
	CFE/RF	140,119	140,119	0	140,119	140,119	0	140,119	0	140,119	0
	FF	574,961	290,242	0	290,242	290,242	0	290,242	0	290,242	0



**Schedule 13**  
**Change Request for FY 2011-12 Budget Request Cycle**

Decision Item FY 2011-12  Base Reduction Item FY 2011-12  Supplemental FY 2010-11  Budget Amendment FY 2011-12

Request Title: Newborn Screening Laboratory and Genetics Counseling

Department: Public Health and Environment Dept. Approval by: Date:

Priority Number: DI-2 OSPB Approval: Date:

	Fund	1	2	3	4	5	6	7	8	9	10
		Prior-Year Actual FY 2009-10	Appropriation FY 2010-11	Supplemental Request FY 2010-11	Total Revised Request FY 2010-11	Base Request FY 2011-12	Decision/Base Reduction FY 2011-12	November 1 Request FY 2011-12	Budget Amendment FY 2011-12	Total Revised Request FY 2011-12	Change from Base (Column 5) FY 2012-13
(9) Prevention Services Division, (E) Family and Community Health, (3) Children with Special Needs, (b) Genetics Counseling, Operating Expenses	Total	1,472,352	1,501,817	0	1,501,817	1,501,817	73,240	1,575,057	0	1,575,057	73,240
	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	GF	0	0	0	0	0	0	0	0	0	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	1,472,352	1,501,817	0	1,501,817	1,501,817	73,240	1,575,057	0	1,575,057	73,240
	CFE/RF	0	0	0	0	0	0	0	0	0	0
	FF	0	0	0	0	0	0	0	0	0	0

Non-Line Item Request: None

Letternote Revised Text for FY 2010-11: None

Letternote Text Requested for FY 2011-12: (3) Laboratory Services, - a Of these amounts, ~~\$1,813,000~~ **\$2,136,397** shall be from the Newborn Screening and Genetic Counseling Cash Funds created in Section 25-4-1006 (1), C.R.S., \$39,549 shall be from the Law Enforcement Assistance Fund created in Section 43-4-401, C.R.S., and \$3,121,222 shall be from various cash funds.

Cash or Federal Fund Name and COFRS Fund Number: 121 Newborn Screening and Genetics Counseling Cash Fund

Reappropriated Funds Source, by Department and Line Item Name:

Approval by OIT? Yes:  No:  N/A:

Schedule 13s from Affected Departments: Not Applicable

## OSPB Common Policy for FTE Requests

FTE and Operating Costs				GRAND TOTAL			
Fiscal Year(s) of Request		FY 10-11	FY 11-12	FY 12-13	FY 10-11	FY 11-12	FY 12-13
<b>PERSONAL SERVICES</b>							
	<b>Title:</b>	<b>Laboratory Technology III</b>					
Number of PERSONS / class title		0	1	1			
Number of months working in FY 10-11, 11-12, and 12-13		0	12	12			
Number months paid in FY 10-11, 11-12, and 12,13		0	12	12			
Calculated FTE per classification		0.0	1.0	1.0	0.0	1.0	1.0
Annual base salary			\$48,636	\$48,636			
Salary		\$0	\$48,636	\$48,636	\$0	\$48,636	\$48,636
PERA	10.15%	\$0	\$4,937	\$4,937	\$0	\$4,937	\$4,937
Medicare	1.45%	\$0	\$705	\$705	\$0	\$705	\$705
<b>Subtotal Personal Services at Division Level</b>		<b>\$0</b>	<b>\$54,278</b>	<b>\$54,278</b>	<b>\$0</b>	<b>\$54,278</b>	<b>\$54,278</b>
<b>OPERATING EXPENSES</b>							
Supplies @ \$500/\$500 <sup>2</sup>	<b>\$500</b>	\$0	\$500	\$500	\$0	\$500	\$500
Computer @ \$900/\$0	<b>\$900</b>	\$0	\$900	\$0	\$0	\$900	\$0
Office Suite Software @ \$330/\$0	<b>\$330</b>	\$0	\$330	\$0	\$0	\$330	\$0
Office Equipment @ \$3,473/\$0 (includes cubicle and chair)	<b>\$3,473</b>	\$0	\$3,473	\$0	\$0	\$3,473	\$0
Telephone Base @ \$450/\$450 <sup>2</sup>	<b>\$450</b>	\$0	\$450	\$450	\$0	\$450	\$450
<b>Subtotal Operating Expenses</b>		<b>\$0</b>	<b>\$5,653</b>	<b>\$950</b>	<b>\$0</b>	<b>\$5,653</b>	<b>\$950</b>
<b>GRAND TOTAL ALL COSTS</b>		<b>\$0</b>	<b>\$59,931</b>	<b>\$55,228</b>	<b>\$0</b>	<b>\$59,931</b>	<b>\$55,228</b>

1 - Initial year full salary is 11 months to account for Pay Date Shift if General Fund employee.

2 - The \$450 for Telephone Base and \$500 for Supplies will carry over each year as an acceptable expense. Items are prorated for partial FTE.

3 - Other non-routine expenses such as Fleet, Leased space, or a laptop must be separately defended and calculated. Please provide documentation to justify these requested costs. Agencies must work with DPA or the Governor's Office of IT when requesting Fleet, MNT, GGCC, or other centralized items administered by this

4 - Computer contract hours should be estimated at \$100 /hour for a Project Manager. Other costs could include \$86/hour for an IT Business Analyst, \$74/hour for a Programmer and \$65 for a Network Administrator. Legal fees should be \$73.50 (blended attorney and paralegal services estimate charged by Dept. of Law). Exceptions

Mileage Reimbursement	
2-wheel drive (90% of IRS rate (set at \$0.55 in 2010))	\$0.45
4-wheel drive (95% of IRS rate (set at \$0.55 in 2010))	\$0.48
nautical mileage	\$0.50

FTE Calcs - Mandatory if FTE

**CHANGE REQUEST for FY 2011-12 BUDGET REQUEST CYCLE**

Department:	Public Health and Environment
Priority Number:	DI # 2
Change Request Title:	Newborn Screening Laboratory and Genetics Counseling

**SELECT ONE (click on box):**

- Decision Item FY 2011-12
- Base Reduction Item FY 2011-12
- Supplemental Request FY 2010-11
- Budget Request Amendment FY 2011-12

**SELECT ONE (click on box):**

Supplemental or Budget Request Amendment Criterion:

- Not a Supplemental or Budget Request Amendment
- An emergency
- A technical error which has a substantial effect on the operation of the program
- New data resulting in substantial changes in funding needs
- Unforeseen contingency such as a significant workload change

Short Summary of Request:

The Department of Public Health and Environment (CDPHE) is requesting a cash fund spending authority increase of \$396,637 and 1.0 FTE in FY 2011-12 and will annualize to \$394,280 and 1.0 FTE in FY 2012-13 for the Newborn Screening Program. \$376,637 of the funding and the 1.0 FTE will be used to add Severe Combined Immunodeficiency Disorder (SCID) to the panel of blood tests performed on all newborns in the state of Colorado. The request also includes \$20,000 to add follow-up confirmatory testing for Alpha Thalassemia to the newborn screening program.

The Department will increase the newborn screening fee by \$6.78 to fund the additional testing and follow-up costs.

General Description of Request:

The Department is responsible for the implementation of the Newborn Screening and Genetic Counseling and Education Act pursuant to section 25-4-1001-1006 C.R.S., (2010). The Act requires that all newborns be screened for certain conditions and that medical follow-up services, including genetic counseling and education, be provided. Under this statute, all newborn babies have their blood drawn; the sample is then sent to

the state lab and screened for a variety of medical conditions which are established in statute and by Board of Health rule. Results of the screening are sent to the infant's primary care physician and, in most cases, abnormal results are sent to the appropriate specialty clinic for confirmatory and diagnostic follow-up. If infants have an abnormal result, or test positive for one of the conditions, the family is eligible for genetic counseling and other services intended to improve health outcomes for the infant. Fees paid by hospitals (and ultimately by insurance companies) when babies are born fund the Newborn Screening Program. The fee (currently \$85) funds both the Laboratory Services screening component and the Genetics Counseling and Education follow-up component of the Newborn Screening Program.

During the FY 2009-10 budget cycle, the Department submitted a request: FY 2009-10 DI#4: "Newborn Screening and Genetics Counseling". The request was approved in the amount of \$545,238 cash funds. The request addressed inflationary increase costs for laboratory supplies, medical inflation and expanded the courier network for collecting newborn screening blood samples from hospitals around the state.

The current request for \$396,637 in additional spending authority includes two components which will better protect the health of the state's children. Neither of these issues were included in FY 2009-10 DI#4: "Newborn Screening and Genetics Counseling."

#### **Severe Combined Immunodeficiency Disorder**

The first component of this request is to add Severe Combined Immunodeficiency Disorder (SCID) to the list of conditions for which Colorado newborns are screened. SCID is a life-threatening condition that, if undiagnosed and untreated within the first months of life, results in severe illness that usually leads to death. However, if diagnosed and treated early, children can return to normal health and typical life expectancy. The sooner the condition is diagnosed and treatment begins, the greater the potential for a more positive outcome and overall less costly treatment. If the condition goes undetected for several months, the cost of treatment can exceed \$2.2 million during the child's

abbreviated lifetime. Given the criticality of early diagnosis and treatment for this disorder, this request seeks the spending authority necessary to add SCID to the list of tests for which newborns are screened under the state program.

Section 25-4-1002. (1)(a) C.R.S., (2010) states that “State policy regarding newborn screening and genetic counseling and education should be made with full public knowledge, in light of expert opinion, and should be constantly reviewed to consider changing medical knowledge and ensure full public protection.”

Both the federal Health Resources and Services Administration Advisory Committee on Heritable Disorders in Newborns and Children and the Colorado Newborn Screening Advisory Committee have recommended adding SCID to Colorado’s newborn blood screening panel. The Colorado Board of Health is expected to consider and support this recommendation in the next few months.

The Colorado Newborn Screening statute specifies the criteria for the inclusion of disorders for newborn screening. Severe Combined Immunodeficiency Disorder meets all the criteria as described below.

Criteria for inclusion in the Colorado newborn screening panel:

1. “Condition for which the test is designed presents a significant danger to the health of the infant or his family.”

Babies with Severe Combined Immunodeficiency suffer genetic defects that impair normal T-cell development necessary for immune response. SCID babies typically appear normal at birth, but acquire multiple life-threatening infections such as pneumonia, meningitis, and septicemia within a few months. SCID is sometimes referred to as “bubble boy disease” and is fatal if not diagnosed and treated.

2. “Condition is amenable to treatment.”

Early diagnosis and treatment with a bone-marrow transplant markedly improves long-term outcomes for infants with this disorder.

3. "Incidence of the condition is sufficiently high to warrant screening."

A conservative estimate of the prevalence of SCID is 1/66,000 births. Estimates range from 1/40,000 to 1/100,000. Since Colorado has approximately 70,000 births each year, it can be anticipated that the test might identify one confirmed positive infant each year. SCID screening could result in a large benefit to detected individuals, making screening relatively cost-effective in spite of the low incidence of the disease.<sup>1</sup>

4. "The test to detect the condition meets commonly accepted standards of reliability."

The State Laboratory is proposing to use an industry accepted test, real-time quantitative polymerase chain reaction assay (RT-qPCR), for the SCID screening panel. RT-qPCR is widely accepted as a standard methodology in laboratories for measuring infectious agents. This test is currently being used in the CDPHE lab to perform cystic fibrosis DNA analysis.

Given the wide acceptance of the tests and the State Laboratory's experience with it, the Department is confident that RT-qPCR is the appropriate standard for the SCID panel.

5. "Cost-benefit consequences of screening are acceptable."

Cost per test, genetic counseling and follow-up services is estimated to be \$6.49 per newborn. Additionally, the cost of screening, genetic counseling and follow-up services (\$376,637) is significantly less than the cost of treating an undetected case (\$2.2 million).

This request is for \$376,637 and 1.0 FTE. \$323,397 and 1.0 FTE of the request will be used by the State lab to purchase equipment, supplies, reagents, and to fund staffing necessary to complete the SCID panels. The remaining \$53,240 in the request will fund

the confirmatory testing that will identify false positives, confirm the SCID diagnosis, and ensure appropriate follow-up services.

Based on Wisconsin's experience, the Department is estimating that testing will result in eleven abnormal results annually. Of those eleven abnormal results, the Department anticipates that there will be one confirmed case of SCID and the other 10 abnormal results will be false positives.

Confirmatory test costs and diagnostic consultation for SCID are estimated to be \$53,240 for the estimated 11 abnormal results. Since the state lab is a "screening" lab it does not have the resources or expertise to do diagnosis or follow-up services. Consistent with the approach to handling other abnormal results identified by initial screening at the State lab, the newborn genetics program will contract with a provider that specializes in SCID. The provider will manage diagnosis and follow-up services for abnormal results, and will charge CDPHE for testing and services performed on a reimbursement basis per the terms of a contract which will be established if the request is authorized.

See assumptions for calculations below for more detailed information.

Given the relatively small costs for screening and follow-up services, and the serious consequences of failure to diagnose SCID early, the Department, in consultation with professionals in the field, believes that adding SCID to the newborn screening panel is necessary to "ensure full public protection" as mandated by statute.

### ***Alpha Thalassemia***

The second aspect of this request is a \$20,000 increase for cash funds to add confirmatory testing for alpha thalassemia to the state's newborn screening follow-up/confirmatory testing protocol. Alpha thalassemia is a genetic condition which can lead to anemia or other problematic conditions and can be passed on to the next generation in a more severe form. Alpha thalassemia can cause abnormally small blood cells which can lead to severe

anemia and death. It is a heritable genetic condition that can, when both parents are carriers, lead to death for the infant.

Alpha thalassemia is currently one of the “abnormal hemoglobin” conditions that all Colorado newborns are tested for as part of the mandated newborn screening protocol. Barts Hemoglobin is a marker for alpha thalassemia that can be detected in newborn screening blood work. However, the abnormal Barts results are not currently subject to follow-up/confirmatory testing. The lack of confirmatory testing means that false positives (abnormal results that are not truly abnormal) are not identified. As a result, primary care physicians and parents have unconfirmed information about the possible presence of alpha thalassemia. As a result of this lack of confirmatory testing, approximately 300 families per year receive notification that their infants might have the genetic anomaly. Since confirmatory testing is not done, it is not possible to predict how many of these abnormal results are false positives. However, a conservative estimate is that up to half of the abnormal results would be identified as false positives if follow-up/confirmatory testing were conducted.

As a result of the lack of follow-up/confirmatory testing to confirm or deny the presence of alpha thalassemia, parents experience unnecessary anxiety and likely incur medical costs to evaluate their newborns. Additionally, the Barts marker disappears from an infant’s blood after approximately one week. This means that if the initial blood work is not subjected to confirmatory testing, identifying the condition will require more extensive and costly testing. Failure to eliminate false positives, subsequent screening, misdiagnoses and inappropriate treatment not only jeopardizes the health of the infant, but also puts unnecessary workload on the health care system. Adding the Barts confirmatory test to the standard newborn screening protocol would eliminate unnecessary anxiety and medical costs with a minimal (\$0.29) increase to the newborn screening fee.

Per Colorado statute, the state lab screens all newborns at birth for a variety of conditions including “abnormal hemoglobins”. Abnormal hemoglobins can indicate the presence of alpha thalassemia as well as other conditions such as sickle cell anemia. Since the State



Laboratory, by statute, is a “screening” lab, rather than a “diagnostic” lab, the follow-up/confirmatory testing is conducted at specialized facilities for individual conditions. However, follow-up/confirmatory testing for the Barts marker, and therefore for the condition of alpha thalassemia, is not currently funded through the newborn screening program.

Consistent with statutory requirements and its “screening” role, the practice of the State Laboratory has been to notify primary care physicians, and parents, of the possibility of alpha thalassemia in their newborns. Each year approximately 300 abnormal results for alpha thalassemia occur. The ensuing anxiety and medical costs that result from inconclusive information about a possible medical condition could be eliminated through funding confirmatory testing for alpha thalassemia as part of the newborn screening follow-up protocol.

This request is for spending authority in the amount of \$20,000 to add Barts Hemoglobin to the panel of confirmatory tests performed by the University of Colorado Hospital (UCH) lab. Adding this test will mean that parents will no longer receive notification of alpha thalassemia unless and until it has been positively confirmed through the follow-up/confirmatory test.

The State Laboratory does not have the necessary equipment or expertise to perform the follow-up Barts test. Adding this confirmatory role to the lab’s duties would require the purchase of new equipment as well as necessitating additional staff expertise. Additionally, this change would entail a shift from the lab’s mandated role of “screening” to a “diagnostic role”. The UCH lab already performs similar confirmatory tests through a contract with the Department. The UCH Lab has the necessary equipment and expertise and is a more appropriate provider of diagnostic services. Therefore, this request is for contract funds to add the Barts test to the confirmatory tests already performed by the UCH lab. Adding this confirmatory testing would mean that alpha thalassemia receives the same follow-up/confirmatory testing as other conditions in the newborn screening protocol.

Consequences if Not Funded:

**Add Severe Combined Immunodeficiency to the newborn screening Panel**

Without early detection and intervention, it is estimated that one child per year will have SCID, will not be diagnosed in a timely fashion, and could die. With early detection and appropriate treatment such as a bone marrow transplant, these infants can survive and thrive. Infants who are not detected early and given the appropriate treatment can die after millions of dollars of costly and ultimately ineffective treatment. Failure to add SCID to the standard newborn screening protocol will not only result in preventable deaths of children, but will cause Colorado's newborn screening program to fall behind the national standard of care recommended by the federal Health Resources and Services Administration Advisory Committee on Heritable Disorders in Newborns and Children. Although only Wisconsin is currently screening newborns for SCID, this national standard will soon be adopted across the country. With its statutory mandate, the Colorado Board of Health is expected to add the SCID test to the newborn screening protocol in the next few months in order to preserve the well-being of its citizens.

**Confirmatory testing for Alpha Thalassemia**

Without the requested \$20,000 spending authority to fund confirmatory testing for alpha thalassemia, parents who have children with an abnormal result on the initial newborn blood screen will continue to have incomplete information. The lack of confirmatory testing often leads to anxiety and medical costs, both of which could be easily and inexpensively prevented by adding confirmatory testing for alpha thalassemia to the newborn screening panel. Testing and treatment based on incomplete information is risky as well as an unnecessary financial burden on families and an ineffective use of medical resources.

In some cases, misidentification of alpha thalassemia can mask iron deficiency. If alpha thalassemia is falsely identified and the child is not treated for iron deficiency, severe anemia can develop resulting in progressive anemia, delayed growth and failure to thrive.

Calculations for Request:

<b>Summary of Request FY 2011-12</b>	<b>Total Funds</b>	<b>Cash Funds</b>	<b>FTE</b>
Total Request	\$396,637	\$396,637	1.0
<b>Laboratory Services Division</b>			
<i>Personal Services</i>	\$54,278	\$54,278	1.0
Chemistry and Microbiology			
<i>Operating Expenses</i>	\$269,119	\$269,119	0.0
Chemistry and Microbiology			
<b>Prevention Services Division</b>			
<i>Operating Expenses- SCID</i>	\$53,240	\$53,240	0.0
Children With Special Needs, Genetics Counseling			
<i>Operating Expenses- Alpha Thalassemia</i>	\$20,000	\$20,000	0.0
Children With Special Needs, Genetics Counseling			

<b>Summary of Request FY 2012-13</b>	<b>Total Funds</b>	<b>Cash Funds</b>	<b>FTE</b>
Total Request	\$394,280	\$394,280	1.0
<b>Laboratory Services Division</b>			
<i>Personal Service Expense</i>	\$54,278	\$54,278	1.0
Chemistry and Microbiology			
<i>Operating Expense</i>	\$266,762	\$266,762	0.0
Chemistry and Microbiology			
<b>Prevention Services Division</b>			
<i>Operating Expenses-SCID</i>	\$53,240	\$53,240	0.0
Children With Special Needs, Genetics Counseling			
<i>Operating Expenses—Alpha Thalassemia</i>	\$20,000	\$20,000	0.0
Children With Special Needs, Genetics Counseling			

Cash Funds Projections:

Cash Fund Name	Cash Fund Number	FY 2009-10 Expenditures	FY 2009-10 End of Year Cash Balance	FY 2010-11 End of Year Cash Balance Estimate	FY 2011-12 End of Year Cash Balance Estimate	FY 2012-13 End of Year Cash Balance Estimate
Newborn Genetics	121	\$5,069,208	\$1,025,562	\$1,380,523	\$1,588,601	\$1,630,491

Assumptions for Calculations:

Colorado processes approximately 70,000 newborn blood screens each year, based on the number of infants born.

Add Severe Combined Immunodeficiency to the newborn screening Panel:

State Laboratory Costs

The Wisconsin State Health Department is the only laboratory currently processing SCID newborn screening panels. Wisconsin screens approximately 66,000 infants annually. The assumptions for Colorado Laboratory screening costs are based on the Wisconsin test methodologies and workload data.

1. **Personal Services \$54,278 and 1.0 FTE:** The Newborn Screening Unit will hire a Laboratory Technology III (1.0 FTE) to process the estimated 70,000 SCID panels. Processing these panels involves preparing each specimen for testing, conducting the test, evaluating the results and logging the information. The requested 1.0 FTE is based on the anticipated workload and its comparability to workloads for similar activities of the newborn screening program.

2. **Additional duties such as supervision and accessioning<sup>1</sup>** can be absorbed by current staff. Adding the SCID test will not significantly impact the accessioning workload since the same number of blood spot cards will be received, entered into the database and distributed to technicians. The data entry impact to populate one additional field in the system and distribute the blood samples for the new test is minimal and can be absorbed by the existing accessioning staff.
  
3. **Lab Equipment and reagent rental agreement \$185,266:** The requested \$185,266 will fund a reagent rental agreement that will include two (2) ABI 7900 HT PCR platforms, equipment service agreements, reagents, and other materials necessary to perform SCID screening on the estimated 70,000 blood samples per year. Board of Health rule, supported by medical best practices, mandates that newborn screening tests are processed within one day. The division has determined that a reagent agreement, including two ABI platforms, is the most efficient and effective approach for the majority of the SCID screening costs.
  - All existing equipment in the Lab is being used for other testing protocols; therefore there is not capacity for existing equipment to be used to perform the additional SCID screens.
  - Given the one-day turnaround time mandate, it is critical that the equipment is maintained, repaired and upgraded regularly, all services which are included in the terms of this type of agreement.
  - In addition to redundancy, having two platforms allows for greater efficiency. The technician can prepare one platform during the several hours that the other is performing the analysis.
  - The agreement also includes on-going consumable products such as reagents for DNA extraction, well plates, primers and probes, and master mix to prepare the specimens for testing. If these items are purchased separately, they would cost approximately \$97,000 in the first year escalating to \$109,000 by year five.

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<sup>1</sup>Accessioning is the process of initially receiving the samples, entering the appropriate data into the system, and ensuring that the samples are sent to the appropriate technician for processing.

- The agreement provides an opportunity to combine service, equipment and supplies to maximize efficiency and ensure that the lab will always have the equipment and supplies it needs to perform tests.

**4. General Lab Supplies \$78,200 for FY 2011-12 and \$80,546 for FY 2012-13:** The Newborn Screening Unit will need to purchase disposable gloves, sticks, kimwipes, and other consumable products necessary to process the specimens.

#### Genetic Counseling Costs

1. Follow-up services including confirmatory/diagnostic testing and consultation will need to be provided to the 11 infants with abnormal results.
2. Costs for the initial confirmatory/diagnostic tests are estimated to be \$4,000.  $\$4,000 \times 11$  infants = \$44,000 for initial confirmatory/diagnostic testing. These costs are based on information provided by labs that perform the relevant tests.
3. Costs for consultation with a physician are estimated to be  $\$840 \times 11$  infants = \$9,240.

Treatment and additional testing is assumed to be covered by insurance. Therefore, the total requested spending authority for the follow-up diagnostic testing under the genetics counseling portion of the program will be \$53,240 ( $\$44,000 + \$9,240$ ).

Please note that the Long Bill line for Genetics counseling is titled "(9) Prevention Services Division, (E) Family and Community Health, (3) Children with Special Needs, (b) Genetics Counseling, Operating Expenses". This is where the department has made the payments for Genetics counseling. The expenses are coded to object code 2710 - Purchased Medical Services and not as a personal services contract.

STATE OF COLORADO FY 2011-12 BUDGET REQUEST CYCLE: Department of Public Health and Environment

Laboratory Services Division	FY2011-12 Estimate	FTE	FY2012-13 Estimate	FTE
<b>Personal Services</b>				
Laboratory Technology III	\$48,636	1.0	\$48,636	1.0
PERA @ 10.15%	\$4,937	0.0	\$4,937	0.0
Medicare @ 1.45%	\$705	0.0	\$705	0.0
<b>Total Personal Services</b>	<b>\$54,278</b>	<b>1.0</b>	<b>\$54,278</b>	<b>1.0</b>
<b>Operating - FTE Specific Costs</b>				
Basic Operating	\$500	1.0	\$500	1.0
Telephone	\$450	1.0	\$450	1.0
Computer	\$900	1.0	\$0	0.0
Computer Software	\$330	1.0	\$0	0.0
Office Furniture and equipment	\$3,473	1.0	\$0	0.0
<b>Total Operating – FTE Specific Costs</b>	<b>\$5,653</b>	<b>1.0</b>	<b>\$950</b>	<b>1.0</b>
Laboratory Operating Costs				
Equipment and reagents	\$185,266	0	\$185,266	
Supplies ( <i>Includes gloves, pipetters, columns, lab coats, chemicals, petri dishes, office supplies, controls calibrations, etc.</i> )	\$78,200	0.0	\$80,546	0.0
<b>Total Laboratory Operating Costs</b>	<b>\$263,466</b>		<b>\$265,812</b>	
<b>Total Lab Costs</b>	<b>\$323,397</b>	<b>1.0</b>	<b>\$321,040</b>	<b>1.0</b>
Genetics Counseling Program costs	\$53,240	0	\$53,240	0
<b>Total requested spending authority (Lab and Genetics)</b>	<b>\$376,637</b>	<b>1.0</b>	<b>\$374,280</b>	<b>1.0</b>
Indirect Costs based on 21.4%	\$80,600	0.0	\$80,096	0.0
<b>TOTAL COSTS including indirects</b>	<b>\$457,237</b>	<b>1.0</b>	<b>\$454,376</b>	<b>1.0</b>

### **Confirmatory testing for Alpha Thalassemia**

Confirmatory test costs for alpha thalassemia are estimated to be \$66.66 per test. This estimate is based on the rates currently charged by the University of Colorado Hospital Lab for similar tests. Per the terms of the contract, UCH charges CDPHE for each test performed on a reimbursement basis. UCH has indicated that it has the ability to add the alpha thalassemia confirmatory test and that the cost would be comparable to the other confirmatory tests it performs.

The requested \$20,000 in spending authority is calculated as follows:

An estimated 300 abnormal screens per year will require follow-up confirmatory testing at \$66.66/each = \$19,998 rounded to \$20,000

To fund the requested \$20,000 for alpha thalassemia confirmatory testing the newborn screening fee would need to be increased by twenty-nine cents (\$0.29).

70,000 infants born and tested per year divided into the requested \$20,000 results in an increase of 28.5 cents rounded to 29 cents per infant

#### ***Fees:***

- The Department currently assesses an \$85 fee for each newborn screen.
- Fees are paid by the hospital to the State Lab when babies are born.
- The Newborn Screening Fee is set by the Department and no legislative changes are required to increase the fee.
- The fee covers both the initial screening at the State Laboratory and follow-up services through the Genetics Counseling and Education Program.
- In order to raise sufficient revenue to fund the spending authority increases requested in this Decision Item, the fee would have to be increased by \$6.78.
- Total requested spending authority for FY 2011-12 = \$396,637.
- 70,000 infants born x \$6.78 fee increase = \$474,600 in additional revenue.



Note the \$474,600 in estimated revenue is higher than the requested spending authority of \$396,637 due to indirect costs in the amount of \$80,600. These indirect costs will be charged to the newborn screening program, but have not been included since spending authority is not being requested for those indirect costs.

Impact on Other Government Agencies:

None. This request would appear to have an impact to Health Care Policy and Financing (HCPF) based on the fee increase and the fact that Medicaid pays for the birth of approximately 33% of children born in Colorado every year. However, HCPF has a set payment amount that they make to the hospitals for Medicaid deliveries. This payment covers all hospital facility charges at a set amount. The hospitals then pay the newborn screening fee out of this fixed payment. Therefore, the fee increase will not impact Medicaid directly, however the hospitals will have to pay the higher fee from the payment and thus they will retain less to cover their costs.

Cost Benefit Analysis:

**Add Severe Combined Immunodeficiency to the newborn screening panel**

SCID babies typically appear normal at birth, but without appropriate treatment acquire multiple life-threatening infections, such as pneumonia, intractable diarrhea, and septicemia within a few months. The prognosis for babies with SCID that are diagnosed late is severe illness, and usually death by six months. The earlier the condition is diagnosed the more effective the treatment. Infants diagnosed within the first month have a significantly higher likelihood of successful treatment and subsequent normal health. Adding SCID to the newborn screening protocol is the best way to ensure the early diagnosis that is essential to successful treatment.

The rate of incidence for SCID is one case per 66,000 births. Colorado has approximately 70,000 babies born each year. If one baby out of every 66,000 has the condition, then adding SCID to the state's newborn screening testing protocol will likely identify at least one SCID-positive baby per year.

The cost to treat infants who are not diagnosed in the first month of life is estimated to be \$2,200,000 and the outcome is often severe illness or death. By contrast, the cost to treat an early-diagnosed case is estimated to be approximately \$250,000 for a bone marrow transplant. In these cases of early diagnosis and treatment, there is a strong possibility for a full recovery and good health.

It is estimated that it will cost \$376,637 in FY 2011-12 and \$374,280 in FY 2012-13 and future years to add the SCID screening protocol. This translates to \$6.49 per infant tested. Given the poor outcomes and high costs to treat late diagnosed cases versus the small cost per infant for testing, and the positive outcomes and significantly lower treatment cost associated with early diagnosis, screening for SCID demonstrates a clear positive cost benefit ratio. Screening results in a large benefit to affected individuals, making screening relatively cost-effective in spite of the low incidence of the disease.<sup>ii</sup>

#### **Confirmatory testing for Alpha Thalassemia**

It is impossible to quantify the impact that anxiety for an unconfirmed medical condition has on parents of a newborn. It is also difficult to quantify the costs that could be avoided if the approximately 150 false positive results each year for alpha thalassemia were eliminated. However, given the minimal cost of \$20,000 for confirmatory testing, it seems clear that the benefits of adding follow-up/confirmatory testing outweigh this minimal cost.

Implementation Schedule:

Task	Month/Year
SCID Internal Research/Planning Period	July 2010 – December 2010
SCID Rules Written	Fall 2010
SCID Rules Adopted by Board of Health	Fall 2010
Draft Contract with UCH to incorporate Alpha thalassemia confirmatory testing	January-April 2011
Request Newborn Screening fee increase from CDPHE Executive Director	March 2011
Amended Contract Signed with UCH	May 2011
Begin confirmatory testing for Alpha Thalassemia	July 1, 2011
SCID Equipment ordered and received	July 1, 2011
SCID FTE hired	July 1, 2011
New FTE develops and validates SCID test processes and procedures	July-December 2011
Develop and sign contracts for SCID follow-up/diagnostic testing and consultation services	December 1, 2011
Begin testing infants for SCID	January 1, 2012

**Statutory and Federal Authority:**

Newborn Screening and Genetic Counseling and Education Act, sections 25-4-1001 through 1006 C.R.S., (2010).

*25-4-1004(1)(b), C.R.S. (2010) On or after April 1, 1989, all infants born in the state of Colorado shall be tested for the following conditions: Phenylketonuria, hypothyroidism, abnormal hemoglobins, galactosemia, cystic fibrosis, biotinidase deficiency, and such other conditions as the board of health may determine meet the criteria set forth in paragraph (c) of this subsection (1). Appropriate specimens for such testing shall be forwarded by the hospital in which the child is born to the laboratory operated or designated by the department of public health and environment for such purposes. The physician, nurse, midwife, or other health professional attending a birth outside a hospital shall be responsible for the collection and forwarding of such specimens. The results of the testing shall be forwarded directly to the physician or other primary health care provider for the provision of such information to the parent or parents of the child.*

*The results of any testing or follow-up testing pursuant to section 25-4-1004.5 may be sent to the immunization tracking system authorized by section 25-4-2403 and accessed by the physician or other primary health care provider. The state board of health may discontinue testing for any condition listed in this paragraph (b) if, upon consideration of criteria set forth in paragraph (c) of this subsection (1), the board finds that the public health is better served by not testing infants for that condition. 25-4-1003 (1) (a) C.R.S. (2008) The executive director of the department of public health and environment shall have the authority to: (a) Establish and administer state programs for newborn screening and genetic counseling and education.*

*25-4-1004 (2), C.R.S. (2010) The executive director of the department of public health and environment shall assess a fee which is sufficient to cover the costs of such testing and to accomplish the other purposes of this part 10. Hospitals shall assess a reasonable fee to be charged the parent or parents of the infant to cover the costs of handling the specimens, the reimbursement of laboratory costs, and the costs of providing other services necessary to implement the purposes of this part 10*

*25-1-1004.5 (1) (a) C.R.S. (2010) The general assembly finds that (a) Newborn screening authorized by section 25-4-1004 is provided for every newborn in the state; (b) Newborn testing is designed to identify metabolic disorders that cause mental retardation and other health problems unless they are diagnosed and treated early in life; (c) In order to ensure that children with metabolic disorders are able to lead as normal a life as possible and to minimize long-term health care costs for such children, it is necessary to provide centralized follow-up testing and treatment services;*

Performance Measures:

<b>Laboratory Services Division</b>					
Performance Measure	Outcome	FY 08-09 Actual	FY 09-10 Actual	FY 10-11 Approp.	FY 11-12 Request
Number of SCID Screens Processed	Benchmark	N/A	N/A	N/A	70,000
	Actual				
Number of Abnormal SCID Screens	Benchmark	N/A	N/A	N/A	11
	Actual				
Number of SCID Positives	Benchmark	N/A	N/A	N/A	1
	Actual				

<sup>i</sup> McGee, SA, et al. Potential Costs and Benefits of Newborn Screening for Severe Combined Immunodeficiency. The Journal of Pediatrics November 2005;606-7.

<sup>ii</sup> McGee, SA, et al. Potential Costs and Benefits of Newborn Screening for Severe Combined Immunodeficiency. The Journal of Pediatrics November 2005;606-7.

**Schedule 13**  
**Change Request for FY 2011-12 Budget Request Cycle**

Decision Item FY 2011-12  Base Reduction Item FY 2011-12  Supplemental FY 2010-11  Budget Amendment FY 2011-12

Request Title: Prenatal Plus Administration Transfer  
 Department: Public Health and Environment With Health Care Policy and Financing  
 Priority Number: DI # 3 (See HCPF DI # 8)

Dept. Approval by: *[Signature]* Date: 10/14/10  
 OSPB Approval: *[Signature]* Date: 10-25-10

	Fund	1	2	3	4	5	6	7	8	9	10
		Prior-Year Actual FY 2009-10	Appropriation FY 2010-11	Supplemental Request FY 2010-11	Total Revised Request FY 2010-11	Base Request FY 2011-12	Decision/ Base Reduction FY 2011-12	November 1 Request FY 2011-12	Budget Amendment FY 2011-12	Total Revised Request FY 2011-12	Change from Base (Column 5) FY 2012-13
<b>Total of All Line Items</b>	<b>Total</b>	18,815,757	22,949,448	0	22,949,448	24,417,902	(110,933)	24,306,969	0	24,306,969	(113,006)
	FTE	85.8	84.6	0.0	84.6	84.1	(0.9)	83.2	0.0	83.2	(0.9)
	GF	2,368,699	2,374,305	0	2,374,305	2,558,333	0	2,558,333	0	2,558,333	0
	CF	5,269,958	7,319,724	0	7,319,724	7,802,855	0	7,802,855	0	7,802,855	0
	CFE/RF	3,028,554	1,312,039	0	1,312,039	1,616,619	(110,933)	1,505,686	0	1,505,686	(113,006)
	FF	8,148,546	11,943,380	0	11,943,380	12,440,095	0	12,440,095	0	12,440,095	0
	MCF	250,214	476,822	0	476,822	556,101	(110,933)	445,168	0	445,168	(113,006)
	MGF	100,556	129,983	0	129,983	211,399	(54,716)	156,683	0	156,683	(48,754)
	NGF	2,469,255	2,504,288	0	2,504,288	2,769,732	(54,716)	2,715,016	0	2,715,016	(48,754)
<b>(1) Administration and Support; (A)</b>	<b>Total</b>	2,337,971	6,531,678	0	6,531,678	7,088,063	(8,919)	7,079,144	0	7,079,144	(8,919)
Administration, Health, Life and Dental	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	GF	460,272	511,770	0	511,770	588,613	0	588,613	0	588,613	0
	CF	1,318,190	2,250,677	0	2,250,677	2,463,310	0	2,463,310	0	2,463,310	0
	CFE/RF	559,509	640,921	0	640,921	810,775	(8,919)	801,856	0	801,856	(8,919)
	FF	0	3,128,310	0	3,128,310	3,225,365	0	3,225,365	0	3,225,365	0
	MCF	0	234,705	0	234,705	284,356	(8,919)	275,437	0	275,437	(8,919)
	MGF	0	50,123	0	50,123	100,884	(4,460)	96,424	0	96,424	(4,460)
	NGF	460,272	561,893	0	561,893	689,497	(4,460)	685,037	0	685,037	(4,460)
<b>(1) Administration and Support; (A)</b>	<b>Total</b>	67,762	116,631	0	116,631	139,328	(188)	139,140	0	139,140	(188)
Administration, Short-term Disability	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	GF	9,160	8,830	0	8,830	11,523	0	11,523	0	11,523	0
	CF	41,788	40,744	0	40,744	48,307	0	48,307	0	48,307	0
	CFE/RF	16,814	12,801	0	12,801	16,333	(188)	16,145	0	16,145	(188)
	FF	0	54,256	0	54,256	63,165	0	63,165	0	63,165	0
	MCF	5,886	4,942	0	4,942	5,651	(188)	5,463	0	5,463	(188)
	MGF	3,738	1,483	0	1,483	1,992	(94)	1,898	0	1,898	(94)
	NGF	12,898	10,313	0	10,313	13,515	(94)	13,421	0	13,421	(94)

**Schedule 13**  
**Change Request for FY 2011-12 Budget Request Cycle**

Decision Item FY 2011-12	Base Reduction Item FY 2011-12	Supplemental FY 2010-11	Budget Amendment FY 2011-12
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Request Title: Prenatal Plus Administration Transfer  
 Department: Public Health and Environment With Health Care Policy and Financing  
 Priority Number: DI # 3 (See HCPF DI # 8)

Dept. Approval by: \_\_\_\_\_ Date: \_\_\_\_\_  
 OSPB Approval: \_\_\_\_\_ Date: \_\_\_\_\_

	Fund	1	2	3	4	5	6	7	8	9	10
		Prior-Year Actual FY 2009-10	Appropriation FY 2010-11	Supplemental Request FY 2010-11	Total Revised Request FY 2010-11	Base Request FY 2011-12	Decision/ Base Reduction FY 2011-12	November 1 Request FY 2011-12	Budget Amendment FY 2011-12	Total Revised Request FY 2011-12	Change from Base (Column 5) FY 2012-13
(1) Administration and Support; (A) Administration, S.B. 04-257 Amortization Equalization Disbursement	Total	872,322	1,824,646	0	1,824,646	2,204,048	(2,908)	2,201,140	0	2,201,140	(2,908)
	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	GF	116,162	134,762	0	134,762	182,281	0	182,281	0	182,281	0
	CF	539,200	651,555	0	651,555	764,176	0	764,176	0	764,176	0
	CFE/RF	216,960	198,220	0	198,220	258,368	(2,908)	255,460	0	255,460	(2,908)
	FF	0	840,109	0	840,109	999,223	0	999,223	0	999,223	0
	MCF	88,196	76,513	0	76,513	89,391	(2,908)	86,483	0	86,483	(2,908)
	MGF	30,199	14,954	0	14,954	31,514	(1,454)	30,060	0	30,060	(1,454)
	NGF	146,361	149,716	0	149,716	213,795	(1,454)	212,341	0	212,341	(1,454)
(1) Administration and Support; (A) Administration, S.B. 06-253 Supplemental Amortization Equalization Disbursement	Total	543,934	1,329,452	0	1,329,452	1,771,110	(2,120)	1,768,990	0	1,768,990	(2,120)
	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	GF	71,335	97,245	0	97,245	146,476	0	146,476	0	146,476	0
	CF	337,000	475,092	0	475,092	614,070	0	614,070	0	614,070	0
	CFE/RF	135,599	144,535	0	144,535	207,617	(2,120)	205,497	0	205,497	(2,120)
	FF	0	612,580	0	612,580	802,947	0	802,947	0	802,947	0
	MCF	47,467	55,791	0	55,791	71,832	(2,120)	69,712	0	69,712	(2,120)
	MGF	16,250	11,737	0	11,737	25,323	(1,060)	24,263	0	24,263	(1,060)
	NGF	87,585	108,982	0	108,982	171,799	(1,060)	170,739	0	170,739	(1,060)
(2) Center for Health and Environmental Information, (A) Health Statistics and Vital Records, Personal Services	Total	3,496,205	4,190,474	0	4,190,474	4,235,617	2,450	4,238,067	0	4,238,067	2,450
	FTE	53.1	68.9	0.0	68.9	68.4	0.0	68.4	0.0	68.4	0.0
	GF	0	0	0	0	0	0	0	0	0	0
	CF	2,366,048	3,143,972	0	3,143,972	3,155,408	0	3,155,408	0	3,155,408	0
	CFE/RF	3,550	3,550	0	3,550	3,550	2,450	6,000	0	6,000	2,450
	FF	1,126,607	1,042,952	0	1,042,952	1,076,659	0	1,076,659	0	1,076,659	0
	MCF	3,550	3,550	0	3,550	3,550	2,450	6,000	0	6,000	2,450
	MGF	1,608	1,775	0	1,775	1,775	1,225	3,000	0	3,000	1,225
	NGF	1,608	1,775	0	1,775	1,775	1,225	3,000	0	3,000	1,225
(2) Center for Health and Environmental Information, (B) Information Technology Services, Personal Services	Total	2,454,482	279,515	0	279,515	282,230	(14,607)	267,623	0	267,623	(15,145)
	FTE	20.1	1.8	0.0	1.8	1.8	0.0	1.8	0.0	1.8	0.0
	GF	0	0	0	0	0	0	0	0	0	0
	CF	160,855	72,028	0	72,028	71,928	0	71,928	0	71,928	0
	CFE/RF	2,006,152	202,338	0	202,338	210,302	(14,607)	195,695	0	195,695	(15,145)
	FF	287,475	5,149	0	5,149	0	0	0	0	0	0
	MCF	15,145	15,145	0	15,145	15,145	(14,607)	538	0	538	(15,145)
	MGF	6,860	7,573	0	7,573	7,573	(7,303)	270	0	270	(573)
	NGF	6,860	7,573	0	7,573	7,573	(7,303)	270	0	270	(573)

**Schedule 13  
Change Request for FY 2011-12 Budget Request Cycle**

<b>Decision Item FY 2011-12</b> <input checked="" type="checkbox"/>	<b>Base Reduction Item FY 2011-12</b> <input type="checkbox"/>	<b>Supplemental FY 2010-11</b> <input type="checkbox"/>	<b>Budget Amendment FY 2011-12</b> <input type="checkbox"/>
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**Request Title:** Prenatal Plus Administration Transfer

**Department:** Public Health and Environment With Health Care Policy and Financing      **Dept. Approval by:** \_\_\_\_\_      **Date:** \_\_\_\_\_

**Priority Number:** DI # 3 (See HCPF DI # 8)      **OSPB Approval:** \_\_\_\_\_      **Date:** \_\_\_\_\_

	Fund	1	2	3	4	5	6	7	8	9	10
		Prior-Year Actual FY 2009-10	Appropriation FY 2010-11	Supplemental Request FY 2010-11	Total Revised Request FY 2010-11	Base Request FY 2011-12	Decision/Base Reduction FY 2011-12	November 1 Request FY 2011-12	Budget Amendment FY 2011-12	Total Revised Request FY 2011-12	Change from Base (Column 5) FY 2012-13
(9) Prevention Services Division; (A) Prevention Programs; (1) Programs and Administration, Indirect Cost Assessment	<b>Total</b>	2,980,109	2,912,251	0	2,912,251	2,912,251	(1,502)	2,910,749	0	2,910,749	(1,502)
	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	GF	0	0	0	0	0	0	0	0	0	0
	CF	506,877	685,656	0	685,656	685,656	0	685,656	0	685,656	0
	CFE/RF	186	25,000	0	25,000	25,000	(1,502)	23,498	0	23,498	(1,502)
	FF	2,473,046	2,201,595	0	2,201,595	2,201,595	0	2,201,595	0	2,201,595	0
	MCF	186	1,502	0	1,502	1,502	(1,502)	0	0	0	(1,502)
	MGF	0	0	0	0	0	0	0	0	0	0
NGF	0	0	0	0	0	0	0	0	0	0	
(9) Prevention Services Division, (B) Women's Health - Family Planning, Personal Services	<b>Total</b>	1,251,739	1,185,085	0	1,185,085	1,205,539	(57,634)	1,147,905	0	1,147,905	(59,169)
	FTE	12.6	13.9	0.0	13.9	13.9	(0.9)	13.0	0.0	13.0	(0.9)
	GF	482,767	392,695	0	392,695	400,437	0	400,437	0	400,437	0
	CF	0	0	0	0	0	0	0	0	0	0
	CFE/RF	73,304	59,169	0	59,169	59,169	(57,634)	1,535	0	1,535	(59,169)
	FF	695,668	733,221	0	733,221	745,933	0	745,933	0	745,933	0
	MCF	73,304	59,169	0	59,169	59,169	(57,634)	1,535	0	1,535	(59,169)
	MGF	33,661	29,585	0	29,585	29,585	(28,817)	768	0	768	(29,585)
NGF	516,428	422,280	0	422,280	430,022	(28,817)	401,205	0	401,205	(29,585)	
(9) Prevention Services Division; (B) Women's Health - Family Planning, Purchase of Services	<b>Total</b>	4,811,233	4,579,716	0	4,579,716	4,579,716	(25,505)	4,554,211	0	4,554,211	(25,505)
	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	GF	1,229,003	1,229,003	0	1,229,003	1,229,003	0	1,229,003	0	1,229,003	0
	CF	0	0	0	0	0	0	0	0	0	0
	CFE/RF	16,480	25,505	0	25,505	25,505	(25,505)	0	0	0	(25,505)
	FF	3,565,750	3,325,208	0	3,325,208	3,325,208	0	3,325,208	0	3,325,208	0
	MCF	16,480	25,505	0	25,505	25,505	(25,505)	0	0	0	(25,505)
	MGF	8,240	12,753	0	12,753	12,753	(12,753)	0	0	0	(12,753)
NGF	1,237,243	1,241,756	0	1,241,756	1,241,756	(12,753)	1,229,003	0	1,229,003	(12,753)	

Please note that this Schedule 13 reduces the amount of the transfer to account for the PERA and 2% Personal Services reduction requests.

**Non-Line Item Request:** None

**Letternote Revised Text for FY 2010-11:** None

**Letternote Text Requested for FY 2011-12:** None

**Cash or Federal Fund Name and COFRS Fund Number:** None

**Reappropriated Funds Source, by Department and Line Item Name:** Health Care Policy and Financing, (1) Executive Director's Office, ((B) Transfer to Other Departments, Transfer to Department of Public Health and Environment for Enhance Prenatal Care and Technical Assistance

**Approval by OIT?** Yes:  No:  N/A:

**Schedule 13s from Affected Departments:** Health Care Policy and Financing



**Schedule 13**  
**Change Request for FY 2011-12 Budget Request Cycle**

Decision Item FY 2011-12  Base Reduction Item FY 2011-12  Supplemental FY 2010-11  Budget Amendment FY 2011-12

Request Title: Legal Services  
 Department: Public Health and Environment  
 Priority Number: DI- 4  
 Dept. Approval by: *[Signature]*  
 OSPB Approval: *[Signature]*  
 Date: October 8, 2010  
 Date: 10-8-10

	Fund	1	2	3	4	5	6	7	8	9	10
		Prior-Year Actual FY 2009-10	Appropriation FY 2010-11	Supplemental Request FY 2010-11	Total Revised Request FY 2010-11	Base Request FY 2011-12	Decision/Base Reduction FY 2011-12	November 1 Request FY 2011-12	Budget Amendment FY 2011-12	Total Revised Request FY 2011-12	Change from Base (Column 5) FY 2012-13
<b>Total of All Line Items</b>	<b>Total</b>	1,900,772	2,076,300	0	2,076,300	2,009,739	132,066	2,141,805	0	2,141,805	132,066
	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	GF	0	0	0	0	0	0	0	0	0	0
	CF	0	115,633	0	115,633	0	0	0	0	0	0
	CFE/RF	1,900,772	1,960,667	0	1,960,667	2,009,739	132,066	2,141,805	0	2,141,805	132,066
	FF	0	0	0	0	0	0	0	0	0	0
<b>(1) Administration and Support, (A)</b>	<b>Total</b>	1,900,772	2,076,300	0	2,076,300	2,009,739	132,066	2,141,805	0	2,141,805	132,066
	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	GF	0	0	0	0	0	0	0	0	0	0
	CF	0	115,633	0	115,633	0	0	0	0	0	0
	CFE/RF	1,900,772	1,960,667	0	1,960,667	2,009,739	132,066	2,141,805	0	2,141,805	132,066
	FF	0	0	0	0	0	0	0	0	0	0

Non-Line Item Request: None  
 Letternote Revised Text for FY 2010-11: None  
 Letternote Text Requested for FY 2011-12: Administration and Support Division - a Of these amounts, \$15,184,248-\$15,313,284 shall be from indirect cost recoveries, \$25,000 shall be from tobacco-settlement moneys received from tobacco-settlement-supported programs in this and other departments pursuant to Section 25-1-108.5 (5) C.R.S., \$15,475 shall be from Medicaid funds appropriated to the Department of Health Care Policy and Financing, and \$125,084 shall be from various sources of reappropriated funds.  
 Cash or Federal Fund Name and COFRS Fund Number: None  
 Reappropriated Funds Source, by Department and Line Item Name: Fund 100, Indirect Cost Recoveries are collected based on a cost allocation basis.  
 Approval by OIT? Yes:  No:  N/A:   
 Schedule 13s from Affected Departments: Department of Law

**Schedule 13**  
**Change Request for FY 2011-12 Budget Request Cycle**

Decision Item FY 2011-12 <b>x</b>	Base Reduction Item FY 2011-12	Supplemental FY 2010-11	Budget Amendment FY 2011-12
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Request Title: Legal Services CDPHE  
 Department: Law  
 Priority Number:

Dept. Approval by: *[Signature]*  
 OSPB Approval: *[Signature]*      Date: 09/7/2010  
 Date: 10-8-10

	Fund	1	2	3	4	5	6	7	8	9	10
		Prior-Year Actual FY 2009-10	Appropriation FY 2010-11	1331 Supplemental Request FY 2010-11	Total Revised Request FY 2010-11	Base Request FY 2011-12	Decision/ Base Reduction FY 2011-12	November 1 Request FY 2011-12	Budget Amendment FY 2011-12	Total Revised Request FY 2011-12	Change from Base (Column 5) FY 2012-13
<b>Total of All Line Items</b>	<b>Total</b>	21,867,790	21,131,786	0	21,131,786	21,008,947	132,066	21,141,013	0	21,141,013	132,066
	FTE	211.0	230.6	0.0	230.6	226.6	1.0	227.6	0.0	227.6	1.0
	GF	0	0	0	0	0	0	0	0	0	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	1,673,668	1,582,388	0	1,582,388	1,659,140	0	1,659,140	0	1,659,140	0
	CFE/RF	20,194,122	19,549,398	0	19,549,398	19,349,807	132,066	19,481,873	0	19,481,873	132,066
FF	0	0	0	0	0	0	0	0	0	0	
<b>(LSSA) Personal Services</b>	<b>Total</b>	19,757,992	19,586,780	0	19,586,780	19,517,710	118,859	19,636,569	0	19,636,569	118,859
	FTE	211.0	230.6	0.0	230.6	226.6	1.0	227.6	0.0	227.6	1.0
	GF	0	0	0	0	0	0	0	0	0	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	1,673,668	1,582,388	0	1,582,388	1,659,140	0	1,659,140	0	1,659,140	0
	CFE/RF	18,084,324	18,004,392	0	18,004,392	17,858,570	118,859	17,977,429	0	17,977,429	118,859
FF	0	0	0	0	0	0	0	0	0	0	
<b>(LSSA) Operating and Litigation</b>	<b>Total</b>	2,109,797	1,545,006	0	1,545,006	1,491,237	13,207	1,504,444	0	1,504,444	13,207
	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	GF	0	0	0	0	0	0	0	0	0	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	0	0	0	0	0	0	0	0	0	0
	CFE/RF	2,109,797	1,545,006	0	1,545,006	1,491,237	13,207	1,504,444	0	1,504,444	13,207
FF	0	0	0	0	0	0	0	0	0	0	

**Non-Line Item Request:**  
 Letternote Revised Text:  
 Cash or Federal Fund Name and COFRS Fund Number: 100 Service Charges  
 Reappropriated Funds Source, by Department and Line Item Name:  
 Approval by    Yes:    No:    N/A: x  
 OIT?  
 Schedule 13s from Affected Departments: CDPHE

**CHANGE REQUEST for FY 2011-12 BUDGET REQUEST CYCLE**

Department:	Public Health and Environment
Priority Number:	DI - 4
Change Request Title:	Legal Services

**SELECT ONE (click on box):**

- Decision Item FY 2011-12
- Base Reduction Item FY 2011-12
- Supplemental Request FY 2010-11
- Budget Request Amendment FY 2011-12

**SELECT ONE (click on box):**

Supplemental or Budget Request Amendment Criterion:

- Not a Supplemental or Budget Request Amendment
- An emergency
- A technical error which has a substantial effect on the operation of the program
- New data resulting in substantial changes in funding needs
- Unforeseen contingency such as a significant workload change

Short Summary of Request:

The Department of Public Health and Environment (CDPHE) requests \$132,066 in reappropriated funds spending authority, from indirect cost recoveries, to purchase legal services for the Air Pollution Control Division (APCD) and the Water Quality Control Division (WQCD) from the Department of Law. These funds will pay for the services of 1.0 FTE in the Department of Law (DOL) at the attorney level.

General Description of Request:

As authorized by 24-31-101 C.R.S. (2010), the DOL provides legal services to state agencies. CDPHE has a FY 2010-11 legal services budget of \$2,544,895 (\$2,076,300 Administration and Support, \$458,397 Hazardous Materials and Waste Management Division Administration, \$10,198 Hazardous Materials and Waste Management Division Rocky Flats Agreement). The legal services budget for the APCD and WQCD are included in the Administration and Support appropriation. Two of CDPHE's environmental divisions, Air Pollution Control and the Water Quality Control Division have been experiencing an increase in the need for both transactional and litigation services.

The Environmental Quality Unit in the DOL provides the legal services needed by these divisions. This unit consists of seven attorneys and one paralegal, and serves as counsel to CDPHE's APCD (including the Air Quality Control Commission - AQCC), the WQCD (including the Water Quality Control Commission - WQCC), the Radiation Unit of the Hazardous Materials and Waste Management Division, and the Consumer Protection Division.

Both the WQCD and the APCD, but primarily the APCD, have experienced an unforeseen spike in legal services billings since April of 2010, after the budget was set for FY 2010-11. The increase in billings is expected to level off, however it is not expected to fall back to previous levels. The reasons for the increase are outlined below:

**1). Federal legislation, rules and/or mandates requiring additional work in the APCD and WQCD.** The federal government is increasing the regulations and rules surrounding greenhouse gases, air toxics and new source standards, new ambient air quality standards (e.g., ozone and nitrogen dioxide – NO<sub>2</sub>), nutrient criteria in water, and whole effluent toxicity.

- a). Air Pollution Control Division. The Environmental Protection Agency (EPA) promulgated new national ambient air quality standards, (e.g., nitrogen dioxide (75fed.reg.6474) on April 12, 2010, sulphur dioxide standards in August 2010, and is poised to finalize a stringent new national standard for ozone on August 31, 2010 (75fed.reg.2938). Each of these standards has or will have significant impacts on the Department's State Implementation Plan (SIP) preparation, and on permitting programs, both of which necessitate legal services support on complex and involved issues related to these national standards. The revised national standard for ozone will necessitate a significant programmatic effort to prepare a SIP, including legal support in all aspects of that effort, from at least 2010 to 2013.

The EPA is also reviewing the standards for other pollutants, for example carbon monoxide (2011 proposal) and fine particulates (December 2010

proposal), which when revised by the EPA may have similar impacts on the program support needs. The EPA has separately continued to promulgate regulations imposing requirements on specific air emissions sources, which requires rulemaking before the AQCC and increases the complexity in air permits and associated inspection/enforcement, all of which result in needed legal support. The EPA also issued new regulations on August 9, 2010 affecting cement plants, steam boilers, and "area sources" (small sources of hazardous air pollutants). All of these the EPA activities will continue; thus, the need for additional legal services will also continue.

Rule and Citation	Description of rule	Implementation dates
Revised Ozone National Ambient Air Quality Standards (NAAQS), 75 Fed.Reg.2938 (1/19/10)	-- Designations (urban and rural), modeling, State Implementation Plan development and all appurtenant actions.	Implementation deadline: 2010 ~ 2013 (and ongoing).
Revised NO2 NAAQS, 75 Fed. Reg. 6473 (2/9/10)	-- Comment to the EPA, designations, permitting issues, monitoring, modeling issues related to attainment status.	Implementation deadline: 2010/2011 (and ongoing).
Revised Sulfur Dioxide NAAQS, 75 Fed. Reg. 35519 (6/22/10)	-- Comment to the EPA, designations, permitting issues, modeling for attainment status.	Implementation deadline: 2010/2011 (and ongoing).
Regional Haze determinations by the EPA, and requirements of Colorado (2010)	-- Response, SIP development, support, defense of state actions.	Implementation deadline: 2010~ 2012.
EPA Section 110(a) Interstate Transport SIPs for each NAAQS as revised (various, ongoing)	-- Requirements, policy interpretations, plan development/approval by Colorado AQCC, support and advocacy before the EPA as it considers state-submitted 110(a) SIPs.	Implementation deadline: present and ongoing.
EPA revised regulations on specific sources (ongoing)	-- e.g., electric generating units (expected), cement plants (final), industrial boilers (proposed), 'area sources' (various ongoing)-- response, implementation support and ongoing guidance.	Implementation deadline: present and ongoing.

STATE OF COLORADO FY 2011-12 BUDGET REQUEST CYCLE: Public Health and Environment

Rule and Citation	Description of rule	Implementation dates
EPA regulations on greenhouse gases, the "NSR Tailoring Rule", 75 Fed. Reg. 31514 (6/3/2010)	Legal interpretations, regulation development and analysis, regulation proposal, ongoing implementation support.	Implementation deadline: 2010~2013 (and ongoing).
PM2.5 air permitting implementation.	-- Withdrawal of PM10 as a surrogate policy	Implementation deadline: 2010~ 2011 (and ongoing)
Oil & Gas Source definition Order to Colorado (10/09)	-- After CDPHE response (07/10), implementation support and ongoing guidance regarding oil & gas sector sources and permitting thereof, and response to formal stakeholder comments.	Implementation deadline: present and ongoing.
EPA Petition response and support	-- reply briefs to the EPA in response to various and continual ongoing petitions to the EPA, various topics (Title V permit comments, minor source permitting, aggregation of oil & gas sources, PSD permit comments, notices of intent to sue the EPA with respect to Colorado administrative actions (e.g., EPA issuance of Kerr-McGee Title V permit in lieu of Colorado-issued permit).	Implementation deadline: present and ongoing.
HB10-1365 (2010/2011)	-- Development of plan support, implementation support, advocacy/defense of promulgation and final determinations.	Implementation deadline: 2010~2011.
<b>Estimated number of Legal Services Hours Needed</b>	1,418.1 hours - The legal services associated with these activities is very volatile. Some rules may be relatively straightforward and not require significant legal services time. Other rules or citations will require significantly more time, particularly if they are controversial, expensive to implement or create extensive stakeholder input, contention or opposition.	
<b>Estimated Cost (At Blended rate of \$73.37 per hour)</b>	\$104,048 (1,418.1 X \$73.37) Please note that the calculation above is not exact due to rounding. If calculated to 1418.127 hours, the dollar amount is \$104,048.	

**Please note** that all of those regulatory/administrative law matters involve rulemaking proceedings, advocacy and defense before and after those proceedings, and then ongoing counseling and legal support during implementation phases. They are not necessarily a one-time effort; they add to the overall breadth/depth of the required Clean Air Act program, and thus necessitate additional legal support on an ongoing basis.

- b). Water Quality Control Division. The EPA's strategic plan and associated agreements between the states and the EPA requires states to adopt nutrient criteria for streams and reservoirs, as well as adopt and implement procedures for whole effluent toxicity testing. Additionally, the EPA is proposing substantive changes to the following federal requirements, all of which will

require review and comment by the WQCD with assistance from the Department Of Law:

1. Stormwater rules, which are anticipated to be finalized in 2012.
2. The EPA lost a court case in the 9<sup>th</sup> US Circuit, which limits the ability to permit new discharges to streams that are not meeting water quality standards. The EPA will be submitting a proposal on how to address this court decision in the spring of 2011.
3. The EPA will propose modifications to antidegradation implementation methods in the spring of 2011, which will have significant implications for the regulated community.
4. Federal drinking water rules include the Long Term 2 (LT2) Enhanced Surface Water Treatment Rule designed to reduce illness linked with the contaminant *Cryptosporidium* and other disease-causing microorganisms in drinking water; the Stage 2 Disinfectants and Disinfection Byproducts Rule designed to reduce exposure to potential carcinogens; the Groundwater Rule designed to protect consumers from drinking water that may be subject to fecal contamination; and, the short-term revisions to the Lead and Copper Rule designed to help reduce exposure to lead in drinking water. The WQCD is working to implement these new federal requirements, and needs the assistance of the Department of Law in ensuring that state implementation is consistent with all federal requirements. These rules have been passed by the federal government in the last year or so, or are anticipated to be passed in the next two to three years. The state will require significant legal services time to develop these rules.

STATE OF COLORADO FY 2011-12 BUDGET REQUEST CYCLE: Public Health and Environment

Rule and Citation	Description of rule/Need	Implementation dates
None	<p>Legal support for: Enforcement Actions/Appeals, 401 Certification Appeals, Permit conditions Appeals</p> <p><b>Note:</b> Appeals and enforcement actions are a significant portion of the Division's legal budget. The appeals/actions are unpredictable and often controlled/dictated by the judges assigned to the cases.</p> <p>Legal support for enforcement of up to: 150 public drinking water systems with unresolved significant deficiencies and about 100 public drinking water systems with disinfection violations</p> <p>Legal support for developing policies and guidance for the implementation of new drinking water rules listed below</p> <p>Legal support for developing new regulations beyond the new drinking water rules listed below</p> <p>Legal support for the Onsite Wastewater workgroup working on the ISDS statute.</p> <p>Various CORA requests</p>	<p>Ongoing</p> <p>Implementation deadlines began in 2010 and ongoing through at least 2013.</p> <p>Implementation deadlines begin in late 2010 and ongoing through at least 2014.</p> <p>Implementations deadlines for revised total coliform rule work will begin in 2012 and extend through 2016.</p> <p>Ongoing</p>
Radionuclide Rule 40 CFR 141.66	- Reduce cancers and kidney toxicity impacts.	Implementation deadline: 2010 to 2013 (and ongoing).
Long Term 2 (LT2) Enhanced Surface Water Treatment Rules 40 CFR 141.70 to 76 and 40 CFR 141.500 to 571	- Reduce illness linked with the contaminant Cryptosporidium and other disease-causing microorganisms in drinking water.	Implementation deadlines began in 2007 and ongoing through 2016.
Stage 2 Disinfectants and Disinfection Byproducts Rules (DBP) 40 CFR 141.130 to 135 and 40 CFR 141.620 to 629 byproducts.	- Stage 2 DBP rule builds upon earlier rules that addressed disinfection byproducts to improve your drinking water quality and provide additional public health protection from disinfection	Implementation deadlines began in 2007 and ongoing through 2016.
Groundwater Rule (GWR) 40 CFR 141.400 to 405	- The Ground Water Rule protects consumers served by public water systems using groundwater that may be subject to fecal contamination.	Implementation deadlines began in 2009 and ongoing through at least 2016.



STATE OF COLORADO FY 2011-12 BUDGET REQUEST CYCLE: Public Health and Environment

Rule and Citation	Description of rule/Need	Implementation dates
Short-term Revisions to the Lead and Copper Rule (LCR) (40 CFR 141.135)	- The revision enhance the implementation of the LCR in the areas of monitoring, treatment, customer awareness, lead service line replacement and public education.	Implementation deadlines began in 2009 and ongoing through 2013.
2010 Appropriation Law (P.L. 111-88)	Additional requirements affecting the implementation of Clean Water and Drinking Water State Revolving Fund	Implementation deadline: 2010 - 2013 (and ongoing).
State Regulation #22 Site Location and Design Approval Regulations for Domestic (5 CCR 1002-22) Wastewater Treatment Works		Implementation deadline: Amended 9/20/2009 (and ongoing)
Legal Support for Water Quality Standards Development	– Clean Water Act § 303(c)(1) (revision of applicable water quality standards and, as appropriate, modifying and adoption standards); and Colorado Water Quality Control Act § 25-8-202 (WQCC promulgation of water quality standards).	WQCC rulemaking hearings on an annual basis.
Legal Support for Water Quality Impairment Determination (303(d) List) - 40 CFR, Part 130.7 (Identify water quality limited segments); and 5 CCR 1002-93,	Regulation #93 Colorado’s Section 303(D) List of Impaired Waters and Monitoring and Evaluation List (process for identifying water quality limited segments).	Impairment listing methodology developed in odd number years. Impairment determination submitted to WQCC for approval in even number years. Annual Attorney General’s Office support necessary.
Legal Support for Water Quality Impact Certification (401) – 40 CFR, Part 121.2 (State certification that an activity conducted in a manner which will not violate applicable water quality standards); and 5 CCR 1002-82, Regulation # 82 401	Certification Regulation (define what conditions required by the Division in connection with certification of federal licenses and permits under Section 401 of the Federal Clean Water Act and consistent with the Colorado Water Quality Control Act).	401 certifications submitted on schedule determined by project applicants. Future schedule unknown. Current certification appeal (SDS) to WQCC will continue through December 2010, and possibly beyond. Annual Attorney General’s Office support necessary.
Legal Support for Total Maximum Daily Load (TMDL) Development – 40 CFR, Part 130.7	- Total maximum daily load process for identifying water quality limited segments still requiring waste load allocations and load allocations for EPA approval.	TMDL development and submittal to the EPA to continue based on EPA/CDPHE Performance Partnership Agreement pace commitments. FY 2010-11 commitments are approximately 40 TMDLs. Annual Attorney General’s Office support necessary.

<b>Estimated number of Legal Services Hours Needed</b>	398.5 hours - The legal services associated with these activities is very volatile. Some rules may be relatively straightforward and not require significant legal services time. Other rules or citations will require significantly more time, particularly if they are controversial, expensive to implement or create extensive stakeholder input, contention or opposition.
<b>Estimated Cost (At Blended rate of \$73.37 per hour)</b>	\$29,237 (398.5 X \$73.37) Please note that the calculation above is not exact due to rounding. If calculated to 398.49 hours, the dollar amount is \$29,237.

2). **Significant and increasing caseload of appeals of permits and enforcement actions, and petitions to the EPA challenging state determinations.** The APCD is facing an increasing stream of petitions to the EPA from certain active conservation stakeholders challenging various air division permitting and enforcement determinations (e.g., petition re: Kerr-McGee Title V permit on oil and gas 'aggregation' issues (CDPHE response to the EPA administrator, July 2010), petition re: Xcel Energy Hayden facility Title V permit relating to Carbon Dioxide emissions (CDPHE response to the EPA march 2010), or notice of citizen suit against Lamar Power & Light facility operations (lodged July 2010)), necessitating legal support for defending or responding to these petitions and administrative challenges.

Additionally, the WQCD has recently experienced a high level of appeals of enforcement actions and discharge permits. In addition, there have been recent appeals of the Division's certification of a large water supply project, and the departments anticipate legal challenges to permits to implement a soon-to-be adopted policy on whole effluent toxicity as required by the EPA.

As an example that shows the complexity related to appeals regarding a decision made by the division; if the appeal can be heard by the commission, the commission will need to hire conflict counsel – or an attorney to represent the commission. This attorney is also part of the DOL, but is typically from a different section of the department to eliminate issues of conflict of interest. Therefore, the Department will have the normal legal services hours related to the attorney time for the division, and then will also incur the additional costs of this second attorney for the commission.

3). **House Bill 10-1365.** While neither department anticipated legal services hours as a result of this bill, reality has shown that the opponents of the legislation are filing various legal actions challenging agency decisions. CDPHE has had to respond to numerous filings before the Public Utilities Commission (PUC); staff anticipated some filings, but assumed this work could be absorbed within existing resources. For example, CDPHE is currently attempting to explain its role as ascribed by House Bill 1365 to the parties in the PUC docket in an effort to ensure that its consultative role includes a comprehensive and coordinated assessment of a broad range of environmental concerns, which is a different role for CDPHE and the PUC. This paradigm shift mandated by House Bill 1365 has led to much debate regarding the appropriate roles of the PUC, the Department, and the utilities; thus, unanticipated legal services have been greatly needed to consistently articulate and explain CDPHE's duties with regard to the legislation in various administrative and court settings. Additionally, CDPHE, along with several other state agencies, received a very expansive Colorado Open Records Act (CORA) request that required extensive legal resources to evaluate and respond, and ultimately led to defense of CDPHE's responses in district court. Finally, an unexpected request for emergency rulemaking with the AQCC regarding CDPHE's consultative role with respect to House Bill 1365, required that an immediate response be made and defended by the DOL before the AQCC. This decision by the AQCC has now been appealed to district court which will require legal representation for the Department. The departments now anticipate that future legal challenges to various steps in the implementation of House Bill 1365 are likely. This activity may drive costs in FY 2011-12 for defending the Department against appeals that are filed after the rulemaking is complete which may extend beyond FY 2010-11.

4). **Regional Haze.** The EPA requirements and timelines to complete a SIP for regional haze for both "Best Available Retrofit Technology" (BART) and "Reasonable Progress" sources, was mandated by the EPA in the spring of 2010. This activity is significant before the AQCC both preparing the proposals, and managing the proposals through the AQCC process from August 2010 through January 2011. In addition, it is expected that the regional haze regulatory proceedings will result in some form of post-proceeding legal defense and support, given the significance of the rulemaking exercise.

5). The WQCD withdrew disinfection waivers from 25 public drinking water systems and needs legal support toward enforcement orders, and or court cases involving enforcement or appeals to compel these systems to adequately treat their drinking water. Additionally, the Division is aware of approximately 70 additional drinking water systems with disinfect treatment problems that will often involve taking legal action to address.

Consequences If Not Funded:

Failure to obtain additional legal services funding will require CDPHE to prioritize and then reduce the number of legal services cases that are undertaken, not only for the environmental divisions, but likely for the health divisions as well. Since the legal services budget is flexible, the Department has to decide which cases and activities to pursue, to a certain degree. Some cases and activities have specific deadlines and legislative or federal law requirements that have to be met; thus, other cases and activities would need to be slowed in order to accommodate those needs. CDPHE requires sufficient legal support for its programs when dealing with issues such as the new federal regulations being contemplated in areas of greenhouse gasses, climate change, nutrient criteria in water, and whole effluent toxicity, when first created through rules, are reviewed by the DOL for compliance with all legal requirements. Failure to obtain this crucial review likely will result in more challenges to CDPHE’s rulemaking efforts, culminating in a lengthier process for implementing new requirements and less protection for public health and the environment. If the Department has to respond to challenges, it is likely to cost more in the long term for legal services support than if the support were received up front and the challenges were avoided.

Calculations for Request:

Summary of Request FY 2011-12	Total Funds	Reappropriated Funds
<b>Total Request</b>	<b>\$132,066</b>	<b>\$132,066</b>

STATE OF COLORADO FY 2011-12 BUDGET REQUEST CYCLE: Public Health and Environment

Summary of Request FY 2011-12	Total Funds	Reappropriated Funds
(1) Administration and Support, (A) Administration, Legal Services for 26,723 hours	\$132,066	\$132,066

Summary of Request FY 2012-13	Total Funds	Reappropriated Funds
<b>Total Request</b>	<b>\$132,066</b>	<b>\$132,066</b>
(1) Administration and Support, (A) Administration, Legal Services for 26,723 hours	\$132,066	\$132,066

Cash Funds Projections:

Not Applicable. Funding will be from the CDPHE indirect cost recoveries. There is no General Fund component to indirect cost recoveries.

Assumptions for Calculations:

Legal Services history for the Air Pollution Control Division (including Air Quality Control Commission) and the Water Quality Control Division (including the Water Quality Control Commission). The Department is anticipating that the increased legal services will impact FY 2010-11 and will continue into FY 2011-12 and future years.

**Dollars Spent**

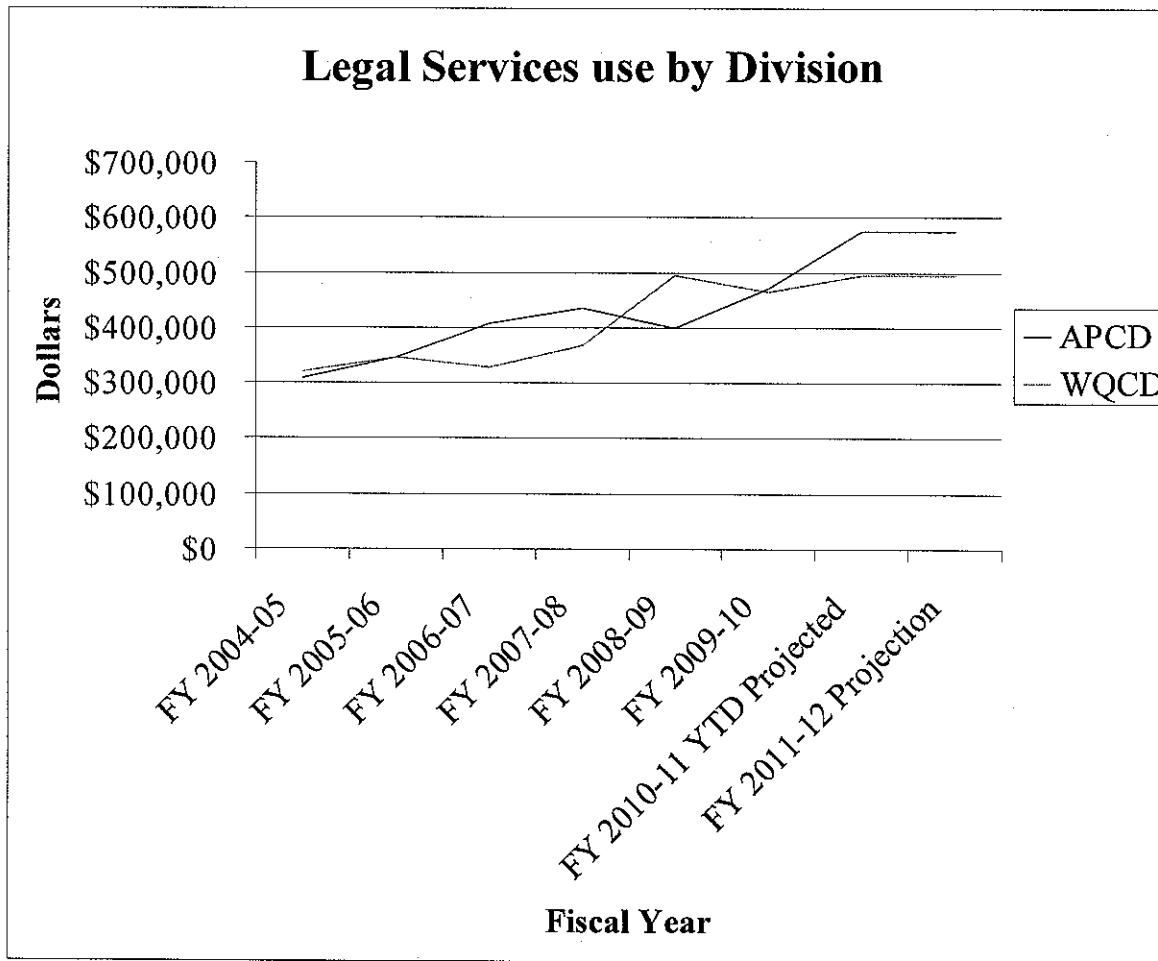
Description	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11 YTD Projected	Change from FY 2009-10 actual to FY 2010-11 projected	FY 2011-12 Projection
APCD	\$307,718	\$346,118	\$408,342	\$435,309	\$399,591	\$471,131	\$575,179	\$104,048	\$575,179
WQCD	\$319,822	\$345,630	\$327,496	\$368,680	\$494,459	\$466,005	\$495,242	\$29,237	\$495,242
<b>Total</b>	<b>\$627,540</b>	<b>\$691,748</b>	<b>\$735,838</b>	<b>\$803,989</b>	<b>\$894,050</b>	<b>\$937,136</b>	<b>\$1,070,421</b>	<b>\$133,285</b>	<b>\$1,070,421</b>

**Estimated Hours based on the blended rate**

STATE OF COLORADO FY 2011-12 BUDGET REQUEST CYCLE: Public Health and Environment

Description	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11 YTD Projected	Change from FY 2009-10 actual to FY 2010-11 projected	FY 2011-12 Projection
Blended Rate	\$61.57	\$64.45	\$67.77	\$72.03	\$75.10	\$75.38	\$73.37	\$73.37	\$73.37
APCD	4,998	5,370	6,025	6,043	5,321	6,250	7,839	1,418.1	7,839
WQCD	5,194	5,363	4,833	5,118	6,584	6,182	6,750	398.5	6,750
<b>Total</b>	10,192	10,733	10,858	11,161	11,905	12,432	14,589	1,816.6*	14,589
*This number is derived from the increased hour estimates for both the Air Pollution Control Division (\$1418.1 as noted on Page 4) as well as the Water Quality Control Division (398.5 hours noted on Page 8).									

This table, and the following chart, illustrates the legal services needs of the divisions. While the needs fluctuate from year to year, the overall trend is increasing. The FY 2010-11 figures are estimates based on prior year, and FY 2010-11 year-to-date usage.



FY 2011-12: 1,800 legal service hours x \$73.37 (Blended Rate) = \$132,066

The Department of Law (DOL) calculates each FTE's effective billing hours at 1,800 per year. This allows for sufficient billing so that law can pay each employee for "non-billable hours" such as meetings, leave, etc. The Department's calculated need is for

1,816 hours, however the 16 hour variance can be absorbed within the existing appropriation.

Impact on Other Government Agencies:

The Department of Law will need the corresponding spending and FTE authority for its respective appropriation as well.

FY 2011-12 Department of Law appropriation change requested: \$132,066 RF and 1.0 FTE

Cost Benefit Analysis:

It is not possible to predict the types of litigation or transactional services provided by the legal support over time, nor the monetary values of those services. However, it must be noted that in order to increase legal representation for the Department, the DOL must be willing to provide those services and have the resources necessary to perform the work. The Department cannot seek legal representation elsewhere. Also, to forgo legal representation could delay enforcement actions, and other long-term projects that would benefit the environmental health of Colorado, or result in court sanctions for failure to comply with legal requirements for enforcing a case or responding to pleadings.

Implementation Schedule:

Task	Month/Year
Decision Item Approved	March 2011
Billing commences	July 2011

Statutory and Federal Authority:

***24-31-101 C.R.S. (2010). Powers and duties of attorney general.***

*(1) (a) The attorney general of the state shall be the legal counsel and advisor of each department, division, board, bureau, and agency of the state government other than the legislative branch. He shall attend in person at the seat of government during the session of the general assembly and term of the supreme court and shall appear for the state and prosecute and defend all actions and proceedings, civil and criminal, in which the state is a party or is interested when required to do so by the governor, and he shall prosecute*



*and defend for the state all causes in the appellate courts in which the state is a party or interested.*

Performance Measures:

The Department does not have any specific performance measures to support this request. However, the use of legal services and the need for increased legal representation in the Department impacts the day-to-day work of three of our environmental divisions, and thus, the legal support will benefit the performance of all divisions.

STATE OF COLORADO FY 2011-12 BUDGET REQUEST CYCLE: DEPARTMENT OF HEALTH CARE POLICY AND FINANCING

Schedule 13 Change Request for FY 2011-12 Budget Request Cycle												
Decision Item FY 2011-12		Base Reduction Item FY 2011-12 <input checked="" type="checkbox"/>			Supplemental FY 2010-11			Budget Amendment FY 2011-12				
Request Title:		DPHE - Amendment 35 Funding Reduction			Dept. Approval by:			John Bartholomew <i>JTB</i>				
Department:		Health Care Policy and Financing			OSP/B Approval:			<i>duz</i>				
Priority Number:		NP-8			Date:			November 1, 2010 <i>10/13</i>				
		Date:			<i>10-13-10</i>							
	Fund	1	2	3	4	5	6	7	8	9	10	
		Prior-Year Actual FY 2009-10	Appropriation FY 2010-11	Supplemental Request FY 2010-11	Total Revised Request FY 2010-11	Base Request FY 2011-12	Decision/ Base Reduction FY 2011-12	November 1 Request FY 2011-12	Budget Amendment FY 2011-12	Total Revised Request FY 2011-12	Change from Base (Column 5) FY 2012-13	
Total of All Line Items		Total	2,877,822,564	3,106,858,127	0	3,106,858,127	3,101,279,542	0	3,101,279,542	0	3,101,279,542	0
		FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
		GF	762,936,068	700,606,422	0	700,606,422	1,079,820,226	(21,000,000)	1,058,820,226	0	1,058,820,226	0
		GFE	0	161,444,485	0	161,444,485	161,444,485	0	161,444,485	0	161,444,485	0
		CF	343,695,933	339,633,220	0	339,633,220	307,745,803	18,313,649	326,059,452	0	326,059,452	0
		CFE/RF	3,917,255	7,595,243	0	7,595,243	3,334,253	2,686,351	6,020,604	0	6,020,604	0
		FF	1,767,273,308	1,897,578,757	0	1,897,578,757	1,548,934,775	0	1,548,934,775	0	1,548,934,775	0
(2) Medical Services Premiums*		Total	2,877,822,564	3,106,858,127	0	3,106,858,127	3,101,279,542	0	3,101,279,542	0	3,101,279,542	0
		FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
		GF	762,936,068	700,606,422	0	700,606,422	1,079,820,226	(21,000,000)	1,058,820,226	0	1,058,820,226	0
		GFE	0	161,444,485	0	161,444,485	161,444,485	0	161,444,485	0	161,444,485	0
		CF	343,695,933	339,633,220	0	339,633,220	307,745,803	18,313,649	326,059,452	0	326,059,452	0
		CFE/RF	3,917,255	7,595,243	0	7,595,243	3,334,253	2,686,351	6,020,604	0	6,020,604	0
		FF	1,767,273,308	1,897,578,757	0	1,897,578,757	1,548,934,775	0	1,548,934,775	0	1,548,934,775	0
Non-Line Item Request:		None.										
Letternote Revised Text:		* Of this amount, \$139,893,383(H) shall be from the Hospital Provider Fee Cash Fund created in Section 25.5-4-402.3 (4), C.R.S., \$69,942,964(H) shall be from the Health Care Expansion Fund created in Section 24-22-117 (2) (a) (i), C.R.S., \$24,012,014(H) shall be from the Medicaid Nursing Facility Cash Fund created in Section 25.5-6-203 (2) (a), C.R.S., \$13,348,299 represents public funds certified as expenditures incurred by public hospitals and agencies that are eligible for federal financial participation under the Medicaid program, \$2,543,207 shall be from the Breast and Cervical Cancer Prevention and Treatment Fund created in Section 25.5-5-308 (B) (a) (i), C.R.S., \$645,147(H) shall be from the Colorado Autism Treatment Fund created in Section 25.5-6-805 (1), C.R.S., \$237,500 shall be from the Coordinated Care for People with Disabilities Fund created in Section 25.5-6-111 (4), C.R.S.; \$47,348 the Home Health Telemedicine Cash Fund; \$2,686,351 shall be from the Health Disparities Cash Fund administered by the Department of Public Health and Environment; \$14,189,594 shall be from the Tobacco Education Cash Fund administered by the Department of Public Health and Environment; and \$4,124,055 shall be from the Prevention, Early Detection and Treatment Fund administered by the Department of Public Health and Environment.										
Cash or Federal Fund Name and COFRS Fund Number:		CF: Health Disparities Cash Fund (19F), Tobacco Education Cash Fund (18M), Prevention, Early Detection and Treatment Fund (18N) FF: Title XIX										
Reappropriated Funds Source, by Department and Line Item Name:												
Approval by OIT? Yes: No: N/A: <input checked="" type="checkbox"/>												
Schedule 13s from Affected Departments:		Department of Public Health and Environment										

**Schedule 13**  
**Change Request for FY 2011-12 Budget Request Cycle**

Decision Item FY 2011-12		Base Reduction Item FY 2011-12 <input checked="" type="checkbox"/>			Supplemental FY 2010-11 <input type="checkbox"/>			Budget Amendment FY 2011-12 <input type="checkbox"/>			
Request Title: Amendment 35 Funding Reduction											
Department: Department of Public Health and Environment					Dept. Approval by: <i>[Signature]</i>			Date: October 12, 2010			
Priority Number: BR - NP - 3					OSPB Approval: <i>[Signature]</i>			Date: 10-13-10			
	Fund	1 Prior-Year Actual FY 2009-10	2 Appropriation FY 2010-11	3 Supplemental Request FY 2010-11	4 Total Revised Request FY 2010-11	5 Base Request FY 2011-12	6 Decision/ Base Reduction FY 2011-12	7 November 1 Request FY 2011-12	8 Budget Amendment FY 2011-12	9 Total Revised Request FY 2011-12	10 Change from Base (Column 5) FY 2012-13
Total of All Line Items	Total	28,496,809	14,678,323	0	14,678,323	39,434,767	(21,000,000)	18,434,767	0	18,434,767	0
	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	GF	0	0	0	0	0	0	0	0	0	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	24,420,413	13,965,610	0	13,965,610	35,843,111	(18,313,649)	17,529,462	0	17,529,462	0
	CFE/RF	4,076,396	712,713	0	712,713	3,591,656	(2,686,351)	905,305	0	905,305	0
	FF	0	0	0	0	0	0	0	0	0	0
(1) Administration and Support; (B) Special Health Programs, (1) Health Disparities Program, Health Disparities Grants	Total	4,076,396	712,713	0	712,713	3,591,656	(2,686,351)	905,305	0	905,305	0
	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	GF	0	0	0	0	0	0	0	0	0	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	0	0	0	0	0	0	0	0	0	0
	CFE/RF	4,076,396	712,713	0	712,713	3,591,656	(2,686,351)	905,305	0	905,305	0
	FF	0	0	0	0	0	0	0	0	0	0
(9) Prevention Services Division, (1) Programs and Administration, Cancer, Cardiovascular Disease, and Pulmonary Disease Grants	Total	13,086,051	6,957,799	0	6,957,799	12,858,159	(4,124,055)	8,734,104	0	8,734,104	0
	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	GF	0	0	0	0	0	0	0	0	0	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	13,086,051	6,957,799	0	6,957,799	12,858,159	(4,124,055)	8,734,104	0	8,734,104	0
	CFE/RF	0	0	0	0	0	0	0	0	0	0
	FF	0	0	0	0	0	0	0	0	0	0
(9) Prevention Services Division, (5) Tobacco Education, Prevention, and Cessation, Tobacco Education, Prevention, and Cessation Grants	Total	11,334,362	7,007,811	0	7,007,811	22,984,952	(14,189,594)	8,795,358	0	8,795,358	0
	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	GF	0	0	0	0	0	0	0	0	0	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	11,334,362	7,007,811	0	7,007,811	22,984,952	(14,189,594)	8,795,358	0	8,795,358	0
	CFE/RF	0	0	0	0	0	0	0	0	0	0
	FF	0	0	0	0	0	0	0	0	0	0

**Schedule 13  
Change Request for FY 2011-12 Budget Request Cycle**

Decision Item FY 2011-12  Base Reduction Item FY 2011-12  Supplemental FY 2010-11  Budget Amendment FY 2011-12

Request Title: Amendment 35 Funding Reduction  
 Department: Department of Public Health and Environment Dept. Approval by: \_\_\_\_\_ Date: \_\_\_\_\_  
 Priority Number: BR - NP - 3 OSPB Approval: \_\_\_\_\_ Date: \_\_\_\_\_

		1	2	3	4	5	6	7	8	9	10
	Fund	Prior-Year Actual FY 2009-10	Appropriation FY 2010-11	Supplemental Request FY 2010-11	Total Revised Request FY 2010-11	Base Request FY 2011-12	Decision/ Base Reduction FY 2011-12	November 1 Request FY 2011-12	Budget Amendment FY 2011-12	Total Revised Request FY 2011-12	Change from Base (Column 5) FY 2012-13

Non-Line Item Request: None  
 Letternote Revised Text for FY 2010-11: None  
 Letternote Text Requested for FY 2011-12: None  
 Cash or Federal Fund Name and COFRS Fund Number: Prevention Detection Treatment Fund, Fund 18N , Tobacco Education Programs Fund, Fund 18M  
 Reappropriated Funds Source, by Department and Line Item Name: Health Disparities Grant Program Fund, Fund 19F, (9) Prevention Services Division; (A) Prevention Programs; (1) Programs and Administration, Transfer to the Health Disparities Grant Program Fund  
 Approval by OIT? Yes:  No:  N/A:   
 Schedule 13s from Affected Departments: Health Care Policy and Financing

**CHANGE REQUEST for FY 2011-12 BUDGET REQUEST CYCLE**

Department:	Public Health and Environment
Priority Number:	BR NP # 3
Change Request Title:	Amendment 35 Funding Reduction

**SELECT ONE (click on box):**

- Decision Item FY 2011-12
- Base Reduction Item FY 2011-12
- Supplemental Request FY 2010-11
- Budget Request Amendment FY 2011-12

**SELECT ONE (click on box):**

Supplemental or Budget Request Amendment Criterion:

- Not a Supplemental or Budget Request Amendment
- An emergency
- A technical error which has a substantial effect on the operation of the program
- New data resulting in substantial changes in funding needs
- Unforeseen contingency such as a significant workload change

Short Summary of Request:

The Colorado Department of Public Health and Environment (CDPHE) requests the transfer of \$21,000,000 cash and reappropriated funds in the Department's three Amendment 35 (Tobacco Tax) funds for FY 2011-12 to the Department of Health Care Policy and Financing, as a method to balance the Colorado State General Fund budget. This funding will be used by the Department of Health Care Policy and Financing for health care related activities that would otherwise require General Fund. The transfer is effective via a reduction of \$21 million cash and reappropriated funds in the Department of Public Health and Environment and an increase to Health Care Policy and Financing's cash and reappropriated funds and a commensurate decrease in General Fund. This specific transfer request does not carry forward to future fiscal years past Fiscal Year 2011-12.

General Description of Request:

This request will reduce funding to three Public Health and Environment health related grant programs (Table 1) and transfer the funds to the Department of Health Care Policy and Financing in order to support General Funded state health programs. The three programs that will be reduced are the Prevention, Early Detection and Treatment

Program; the Tobacco Education program; and the Health Disparities Grant program. Reducing funding to these programs will eliminate a significant amount of the grant expenditures from these funds in FY 2011-12. The Department plans to retain sufficient funding to issue grants from all three programs, in order to maintain a level of program services in the community. The charts below summarize the anticipated grant levels and describe a typical grant in each program. Note, however, that the granting decisions are made by review committees and the Board of Health, and specific grant amounts will vary. The intent of the Department is to maintain sufficient infrastructure in the community with core grantees so that when grants are returned to full amounts in FY 2012-13 there will not need to be significant start up costs and time invested in rebuilding infrastructure.

Name of Fund	Table 1 - Purpose of Fund
Prevention, Early Detection and Treatment Fund (18N)	This fund is used to provide grants to local entities/agencies for prevention related activities including funds for breast and cervical cancer screenings. Grants typically run in three year cycles. 16% of Amendment 35 tobacco tax revenues go to this fund on an annual basis.
Tobacco Education Program Fund (18M)	This fund is used to reduce the initiation of tobacco use by children, promote cessation among all ages and reduce exposure to second hand smoke. The funds are to be used for evidence based grant programs only. 16% of the annual Amendment 35 tobacco tax revenue is currently deposited into this fund.
Health Disparities Grant Program Fund (19F)	This fund is used to provide grants to local communities to improve the health status of minority and ethnic populations impacted by health disparities. For example, certain ethnic groups are more prone to diabetes or high blood pressure than other populations. These funds are used to target those disparities and reduce the health impacts to the citizens. The funds are to be used for evidence based grant programs only. 15 % of the 16% of the annual Amendment 35 tobacco tax revenue that is deposited to the Prevention, Early Detection and Treatment Fund is deposited into this fund (2.4% of the total Amendment 35 revenue is deposited into the Health Disparities Grant Program Fund).

STATE OF COLORADO FY 2011-12 BUDGET REQUEST CYCLE: Public Health and Environment

<b>Fund</b>	<b>Prevention, Early Detection and Treatment Fund (18N)</b>	<b>Tobacco Education Program Fund (18M)</b>	<b>Health Disparities Grant Program Fund (19F)</b>
FY 2009-10 Number of grantees	34 (58 started the year and 24 grants were ended due to budget cuts)	55 (64 started the year and 9 grants were ended due to budget cuts)	36
FY 2009-10 Number of people served – all grants	28,430	516,400	57,004
FY 2009-10 average grant award	\$242,422 Two grants over \$1.8 million, all others under \$400,000	\$186,000 Two grants over \$1.5 million, all others under \$500,000	\$132,000
FY 2010-11 Actual grant amounts	\$6,957,799	\$7,007,811	\$712,713
FY 2010-11 Estimated number of grants	11	60 to start the year, approximately 25 grantees are expected to complete new grant cycle.	11
FY 2010-11 Estimated number of people served based on total grant dollars <sup>1</sup>	16,162	370,199	5,762
FY 2010-11 average grant award	\$632,527 Two grants over \$1.1 million, all others under \$300,000	\$113,797 One grant over \$2.2 million, all others under \$500,000	\$64,792
<b>FY 2011-12 Estimated Grant amounts</b>	\$8,734,104	\$8,795,358	\$905,305
FY 2011-12 Estimated number of grants	15	35	11
FY 2011-12 Estimated number of people served based on total grant dollars <sup>1</sup>	20,288	463,645	7,319
Types of grants that are provided	Prevention, Early detection and Treatment grants are primarily direct services for screening, diagnosis, and treatment of cancer, cardiovascular, and chronic pulmonary diseases.	Tobacco Education programs are primarily population based education services focusing on the prevention of tobacco use. The grant categories are to: 1) help people who use tobacco to quit; 2) prevent youth from starting to use tobacco; 3) assist in the reduction of and protection from secondhand smoke; and 4) reduce tobacco use among groups who are disproportionately affected and/or at high risk.	Health disparities programs are targeted to racial and ethnic minority populations that have disproportionate risk and rates of cancer, cardiovascular and pulmonary disease (i.e. diabetes, obesity, high blood pressure) when compared to other groups. Grant projects include (for example) culturally appropriate risk reduction programs such as exercise/nutrition classes and education/awareness programs designed to reduce the risk of chronic disease.

<sup>1</sup> The estimated number of people served for FY 2010-11 is based on this calculation: FY 2009-10 Number of grantees X FY 2009-10 average grant award = Approximate FY 2009-10 grant awards. Approximate FY 2009-10 grant awards / FY 2009-10 Number of people served – all grants = Cost per person served. FY 2010-11 proposed grant amounts/cost per person served = FY 2010-11 Estimated number of people served based on total grant dollars.

Consequences if Not Funded: Not Applicable

Calculations for Request:

Summary of Proposal FY 2011-12	Total Funds	Cash Fund	Reappropriated Fund
Total Proposal	(\$21,000,000)	(\$18,313,649)	(\$2,686,351)
Transfer of fund balance from the Health Disparities Cash Fund	(\$2,686,351)	\$0	(\$2,686,351)
Transfer of FY 2011-12 projected A 35 revenue from the Tobacco Education Cash Fund	(\$14,189,594)	(\$14,189,594)	\$0
Transfer of FY 2011-12 projected A 35 revenue from the Prevention, Early Detection and Treatment Fund	(\$4,124,055)	(\$4,124,055)	\$0

Cash Funds Projections:

Cash Fund Name	Cash Fund Number	FY 2009-10 Expenditures	FY 2009-10 End of Year Cash Balance	FY 2010-11 End of Year Cash Balance Estimate	FY 2011-12 End of Year Cash Balance Estimate	FY 2012-13 End of Year Cash Balance Estimate
Health Disparities Cash Fund	19F	\$5,722,020	\$3,665,430	\$535,427	\$0	\$0
Tobacco Education Cash Fund	18M	\$27,207,592	\$2,625,483	\$1,167,266	\$190,375	\$0
Prevention, Early Detection and Treatment Fund	18N	\$44,270,759	\$4,291,879	\$1,608,205	\$299,267	\$0

Assumptions for Calculations:

- 1). FY 2010-11 End of Year Cash Balance Estimates shown in the table above are actual available cash balances. The Schedule 9 shows liabilities (accounts payable) as part of the cash balance. These numbers differ from the fund balance by the amount of accounts payable that each program is anticipating at the end of FY 2010-11.
- 2). The chart below summarizes the information on the Schedule 9's and the adjustments made for obligations to each fund.



STATE OF COLORADO FY 2011-12 BUDGET REQUEST CYCLE: Public Health and Environment

Fund	FY 2010-11 beginning Balance on Schedule 9	FY 2009-10 accounts payable (that will reduce available cash for FY 2010-11)	FY 2010-11 available cash balance	FY 2010-11 Revenue forecast	Obligations for FY 2010-11 to include transfers	FY 2010-11 End of year cash balance Estimate	FY 2011-12 revenue forecast	Obligations for FY 2011-12 (see assumptions below)	FY 2011-12 funds available for transfer	Funds being Transferred	FY 2011-12 Estimated Fund Balance
	Column A	Column B	Column C	Column D	Column E	Column F	Column G	Column H	Column I		
Calculation			Column A-B			Column C + D - E			Column F + G - H		
19F	\$3,665,430	\$993,584	\$2,671,846	\$3,576,000	\$5,712,419	\$535,427	\$3,576,000	\$1,425,076	\$2,686,351	\$2,686,351	\$0
18M	\$2,625,483	\$1,859,217	\$766,266	\$24,200,000	\$23,799,000	\$1,167,266	\$23,400,000	\$10,187,297	\$14,379,969	\$14,189,594	\$190,375
18N	\$4,291,879	\$2,521,319	\$1,770,560	\$24,200,000	\$24,362,355	\$1,608,205	\$23,400,000	\$20,584,883	\$4,423,322	\$4,124,055	\$299,267
<b>Total</b>	<b>\$10,582,792</b>	<b>\$5,374,120</b>	<b>\$5,208,672</b>	<b>\$51,976,000</b>	<b>\$53,873,774</b>	<b>\$3,310,898</b>	<b>\$50,376,000</b>	<b>\$32,197,256</b>	<b>\$21,489,642</b>	<b>\$21,000,000</b>	<b>\$489,642</b>

3). All programs will retain the funding and spending authority for personal services and operating expenses, as well as associated indirect expenses. These amounts are included in the obligations shown above.

4). The Prevention, Early Detection and Treatment Fund (18N) assumes the following obligations that must be funded for FY 2011-12

- a). Transfer to HCPF for Disease Management, \$2,000,000
- b). Transfer to the Health Disparities Fund \$3,576,000
- c). Transfer to Health Care Policy and Financing for Breast and Cervical Cancer Treatment \$1,215,340
- d). Breast and Cervical Cancer Screening \$3,661,660
- e). Personal Services, Operating, and Indirect \$1,397,779
- f). Grants to continue a baseline program and maintain community infrastructure \$8,734,104.

**Total \$20,584,883**

5). The Tobacco Education Fund (18M) assumes the following obligations for FY 2011-12

- a). Personal Services, Operating and Indirect \$1,391,939
- b). Grants to continue a baseline program and maintain community infrastructure \$8,795,358. These grants include potential funding of the Quitline. Specific

funding for the Quitline will be determined by the review committee and recommended to the Board of Health for approval.

**Total \$10,187,297**

6). The Health Disparities Fund assumes the following obligations for FY 2011-12

a). Personal Services, Operating and Indirect \$519,771.

b). Grants to continue a baseline program and maintain community infrastructure \$905,305.

**Total \$1,425,076.**

7). The Department assumes that each fund will be able to issue grants to the full amounts available in FY 2012-13.

8). All revenue forecasts are per the June 2010 Legislative Council Revenue Forecast.

Impact on Other Government Agencies: Department of Health Care Policy and Financing

<b>Summary of Proposal FY 2011-12 – HCPF Impacts</b>	<b>Total Funds</b>	<b>General Fund</b>	<b>Cash Fund</b>	<b>Reappropriated Funds</b>
Total	\$0	(\$21,000,000)	\$18,313,649	\$2,686,351
(2) Medical Services Premiums	\$0	(\$21,000,000)	\$18,313,649	\$2,686,351

Cost Benefit Analysis: Not Applicable

Implementation Schedule:

<b>Task</b>	<b>Month/Year</b>
Program Reduction	July 2011

Statutory and Federal Authority:

*Statutes will need to be changed/amended by a bill to divert the revenues from the funds in FY 2011-12.*

*24-22-117. Tobacco tax cash fund - accounts - creation - legislative declaration - repeal.*

*(1) (a) There is hereby created in the state treasury the tobacco tax cash fund, which fund is referred to in this section as the "cash fund". The cash fund shall consist of moneys collected from the cigarette and tobacco taxes imposed pursuant to section 21 of article X of the state constitution. All interest and income derived from the deposit and investment of moneys in the cash fund shall be credited to the cash fund; except that all interest and income derived from the deposit and investment of moneys in the cash fund during the 2008-09, 2009-10, 2010-11, and 2011-12 fiscal years shall be credited to the general fund. Any unexpended and unencumbered moneys remaining in the cash fund at the end of a fiscal year shall remain in the cash fund and shall not be credited or transferred to the general fund or any other fund, except as otherwise provided in this section.*

*(c) For each fiscal year from the 2004-05 fiscal year through the 2007-08 fiscal year and for the 2012-13 fiscal year and each fiscal year thereafter, the general assembly shall annually appropriate three percent of the moneys estimated to be deposited in that fiscal year into the cash fund, plus three percent of the interest and income earned on the deposit and investment of moneys in the cash fund, and, for the 2008-09, 2009-10, 2010-11, and 2011-12 fiscal years, the general assembly shall annually appropriate three percent of the moneys estimated to be deposited in that fiscal year into the cash fund, for health-related purposes to provide revenue for the state's general fund and old age pension fund and for municipal and county governments to compensate proportionately for tax revenue reductions attributable to lower cigarette and tobacco sales resulting from the implementation of the tax imposed pursuant to section 21 of article X of the state constitution, as follows:*

*(I) (A) Twenty percent of the moneys specified in this paragraph (c) to the state's general fund for health-related purposes.*

*(B) Beginning in fiscal year 2006-07 and for each fiscal year thereafter, of the moneys specified in sub-subparagraph (A) of this subparagraph (I), fifty percent shall be appropriated for the purposes of providing immunizations performed by county or*

*district public health agencies in areas that were served by county public health nursing services prior to July 1, 2008, and fifty percent shall be appropriated to the pediatric specialty hospital fund, created in paragraph (e) of subsection (2) of this section, for the purposes of augmenting hospital reimbursement rates for regional pediatric trauma centers as defined in section 25-3.5-703 (4) (f), C.R.S., under the "Colorado Medical Assistance Act", articles 4, 5, and 6 of title 25.5, C.R.S.*

*(II) Fifty percent of the moneys specified in this paragraph (c) to the supplemental old age pension health and medical care fund to provide services under the supplemental health and medical care program, section 25.5-2-101 (3), C.R.S., for persons who qualify to receive old age pensions; and*

*(III) Thirty percent of the moneys specified in this paragraph (c) to the department of revenue to be apportioned to municipal and county governments in amounts consistent with the provisions of section 39-22-623, C.R.S.*

*(c) (I) The tobacco education programs fund to be administered by the department of public health and environment. The state treasurer and the controller shall transfer an amount equal to sixteen percent of the moneys deposited into the cash fund, plus sixteen percent of the interest and income earned on the deposit and investment of those moneys, to the tobacco education programs fund; except that, for the 2008-09, 2009-10, 2010-11, and 2011-12 fiscal years, the state treasurer and the controller shall transfer to the tobacco education programs fund only an amount equal to sixteen percent of the moneys deposited into the cash fund. All interest and income derived from the deposit and investment of moneys in the tobacco education programs fund shall be credited to the tobacco education programs fund; except that all interest and income derived from the deposit and investment of moneys in the tobacco education programs fund during the 2008-09, 2009-10, 2010-11, and 2011-12 fiscal years shall be credited to the general fund. Any unexpended and unencumbered moneys remaining in the tobacco education programs fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or any other fund.*

*(III) For fiscal year 2005-06 and each fiscal year thereafter, moneys in the tobacco education programs fund shall be annually appropriated by the general assembly as follows:*

*(A) To the prevention services division of the department of public health and environment for the tobacco education, prevention, and cessation programs specified in part 8 of article 3.5 of title 25, C.R.S.; and*

*(B) Up to three hundred fifty thousand dollars to the division of liquor enforcement in the department of revenue for the purpose of enforcing laws relating to the sale of tobacco to minors.*

*(IV) (A) Notwithstanding the provisions of subparagraph (III) of this paragraph (c), and pursuant to the declaration of a state fiscal emergency as described in paragraph (b) of subsection (6) of this section, for the 2009-10 fiscal year, in addition to the purposes described in sub-subparagraphs (A) and (B) of subparagraph (III) of this paragraph (c), the moneys in the tobacco education programs fund may be appropriated for any health-related purpose and to serve populations enrolled in the children's basic health plan and the Colorado medical assistance program at the programs' respective levels of enrollment as of January 1, 2005.*

*(d) (I) The prevention, early detection and treatment fund to be administered by the department of public health and environment. The state treasurer and the controller shall transfer an amount equal to sixteen percent of the moneys deposited into the cash fund, plus sixteen percent of the interest and income earned on the deposit and investment of those moneys, to the prevention, early detection, and treatment fund; except that, for the 2008-09, 2009-10, 2010-11, and 2011-12 fiscal years, the state treasurer and the controller shall transfer to the prevention, early detection, and treatment fund only an amount equal to sixteen percent of the moneys deposited into the cash fund. All interest and income derived from the deposit and investment of moneys in the prevention, early detection, and treatment fund shall be credited to the prevention, early detection, and treatment fund; except that all interest and income derived from the deposit and investment of moneys in the prevention, early detection, and treatment fund during the*

*2008-09, 2009-10, 2010-11, and 2011-12 fiscal years shall be credited to the general fund. Any unexpended and unencumbered moneys remaining in the prevention, early detection, and treatment fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or any other fund. The moneys in the prevention, early detection, and treatment fund shall be annually appropriated by the general assembly to the department of public health and environment for allocation by the department consistent with the provisions of this paragraph (d).*

*(III) For fiscal year 2005-06, and each fiscal year thereafter, fifteen percent of the moneys transferred to the prevention, early detection, and treatment fund shall be transferred to the health disparities grant program fund created in paragraph (f) of this subsection (2) for the health disparities grant program in part 22 of article 4 of title 25, C.R.S.*

*(IV.5) For fiscal year 2008-09, and each fiscal year thereafter until and including fiscal year 2012-13, after the allocation and transfer required by subparagraphs (II) and (III) of this paragraph (d), of the moneys in the prevention, early detection, and treatment fund, two million dollars shall be transferred to the department of health care policy and financing for Medicaid disease management and treatment programs, authorized by section 25.5-5-316, C.R.S., that address cancer, heart disease, and lung disease or the risk factors associated with such diseases.*

*(V) (A) For fiscal year 2008-09 and each fiscal year thereafter, after the allocation of the moneys pursuant to subparagraphs (II), (III), and (IV.5) of this paragraph (d), moneys in the prevention, early detection, and treatment fund shall be annually appropriated by the general assembly to the prevention services division of the department of public health and environment for the cancer, cardiovascular disease, and chronic pulmonary disease prevention, early detection, and treatment program established in part 3 of article 20.5 of title 25, C.R.S.*

*(f) The health disparities grant program fund to be administered by the department of public health and environment. Moneys shall be transferred to the health disparities grant program fund as described in subparagraph (III) of paragraph (d) of this*

*subsection (2). All interest and income derived from the deposit and investment of moneys in the health disparities grant program fund shall be credited to the health disparities grant program fund; except that all interest and income derived from the deposit and investment of moneys in the health disparities grant program fund during the 2008-09, 2009-10, 2010-11, and 2011-12 fiscal years shall be credited to the general fund. Any unexpended or unencumbered moneys remaining in the health disparities grant program fund at the end of the fiscal year shall remain in the fund and shall not be credited to the general fund or any other fund. The moneys in the health disparities grant program fund shall be annually appropriated by the general assembly to the department of public health and environment for allocation by the department of public health and environment consistent with the provisions of paragraph (d) of this subsection (2).*

Performance Measures:

Not Applicable