



Joint Budget Committee

Interim Supplemental Budget Requests FY 2025-26

**Department of Public Health and Environment
State Laboratory**

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ES-01 (B) Lab Chemistry Program Emergency Supplemental Request

This issue brief covers the state laboratory’s November 1331 request. Contrary from items in the Department’s briefing, the Department is seeking the Committee’s decision on this item today.

Item	Total Funds	General Fund	Cash Funds	Reapprop. Funds	Federal Funds	FTE
Previously Approved (09/2025)	\$703,262	\$703,262	\$0	\$0	\$0	3.0
Resubmitted Request (11/2025)	2,142,814	2,142,814	0	0	0	1.0
Recommendation (11/2025)	0	0	0	0	0	0.0
Staff Recommendation Higher/-Lower than Request	-\$2,142,814	-\$2,142,814	\$0	\$0	\$0	-1.0

Does JBC staff believe the request satisfies the interim supplemental criteria of Section 24-75-111, C.R.S.? [The Controller may authorize an overexpenditure of the existing appropriation if it: (1) Is approved in whole or in part by the JBC; (2) Is necessary due to unforeseen circumstances arising while the General Assembly is not in session; (3) Is approved by the Office of State Planning and Budgeting (except for State, Law, Treasury, Judicial, and Legislative Departments); (4) Is approved by the Capital Development Committee, if a capital request; (5) Is consistent with all statutory provisions applicable to the program, function or purpose for which the overexpenditure is made; and (6) Does not exceed the unencumbered balance of the fund from which the overexpenditure is to be made.] **NO**

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? **YES**
[An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]

Explanation: The Department indicates that this request is the result of an “unforeseen contingency”, which for a 1331 request must have arisen while the General Assembly is not in session. The challenges with water quality testing in the Department have been a concern since the spring of 2024 and known for the entire 2025 session.

Request

The Department requests the remainder of its original 1331 request submitted in September. The request would help the lab work towards recertification for water quality testing by the U.S. Environmental Protection Agency (EPA). This includes \$2.1 million General Fund and 1.0 FTE for:

- Three new chemistry instruments and supplies (\$571,000),
- Three additional staff members (\$150,761),
- The remaining 50% of the cost to perform a historical data analysis (\$296,053),
- Funding and one-year roll-forward authority for a contractor to performing the following:
 - A risk management/quality assurance system for the entire lab (\$500,000),
 - A risk management system specifically for the chemistry section (\$75,000), and
 - An asset and vendor management program for the entire lab (\$550,000).

In September, the Committee approved over-expenditure authority for \$703,262 and 3.0 FTE that funded:

- Three existing water quality chemists (\$407,209 and 3.0 FTE), and
- 50% of contractor expenses to perform a historical data analysis (\$296,053).

Recommendation

Staff recommends denial of the 1331 emergency supplemental request, as it does not meet supplemental criteria. As noted above, problems with the lab were known during the 2025 legislative session.

Staff does believe that the challenges that the state laboratory faces related to water quality testing are real and urgent. However, the 1331 supplemental is constrained by the criteria outlined in Section 24-75-111, C.R.S. whereas the regular supplemental process in January does not have similar constraints. For example, the 1331 process allows the Committee to approve over-expenditure authority, but does not grant the Committee permission to approve expenditures across multiple years (which would be needed for roll-forward authority).

If the JBC wishes to take action now, they may consider the funding the following items that are directly related to the laboratory's EPA recertification:

- Three new chemistry instruments and supplies (\$571,000),
- The remaining 50% of contractor expenses to perform a historical data analysis (\$296,053), and
- A risk management system specifically for the chemistry section (\$75,000).

Staff believes that these items are specifically related to water quality testing challenges. The remainder of the items in the request pertain to the laboratory as a whole or do not demonstrate the same level of urgency that cannot be addressed through the regular supplemental process or the FY 2026-27 Long Bill.

The Department has also submitted a FY 2026-27 R1 request for \$5.0 million General Fund and 27.75 FTE to increase staffing and resources throughout the lab as a whole to address systemic challenges. Some of the items in the 1331 request (e.g., funding three new staff) may better fit with the discussion of the larger scope of laboratory long-term needs.

Analysis

Colorado's state lab is comprised of six units: environmental chemistry (includes water testing), newborn screening, microbiology, evidential breath alcohol testing, cannabis and natural medicine, and genomic surveillance.

For more background on the functions and funding of the state laboratory, please see the staff analysis for the Department's September 1331 request.¹

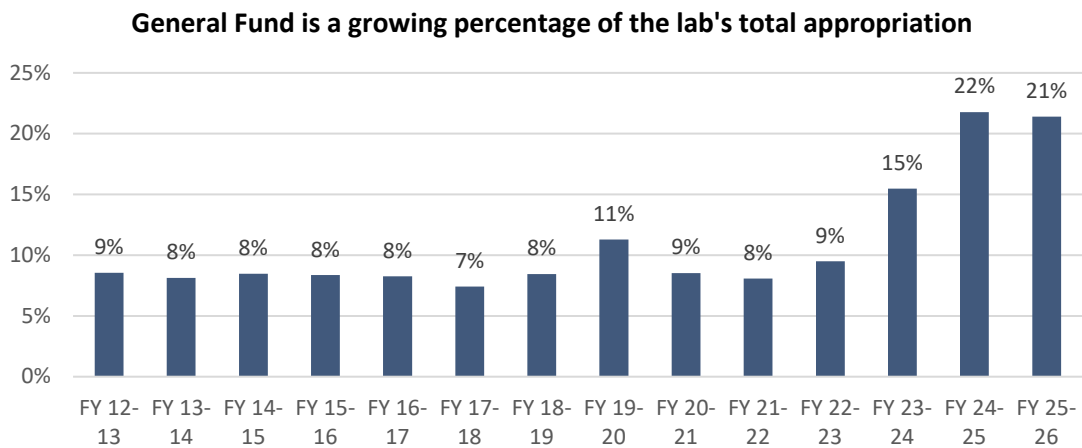
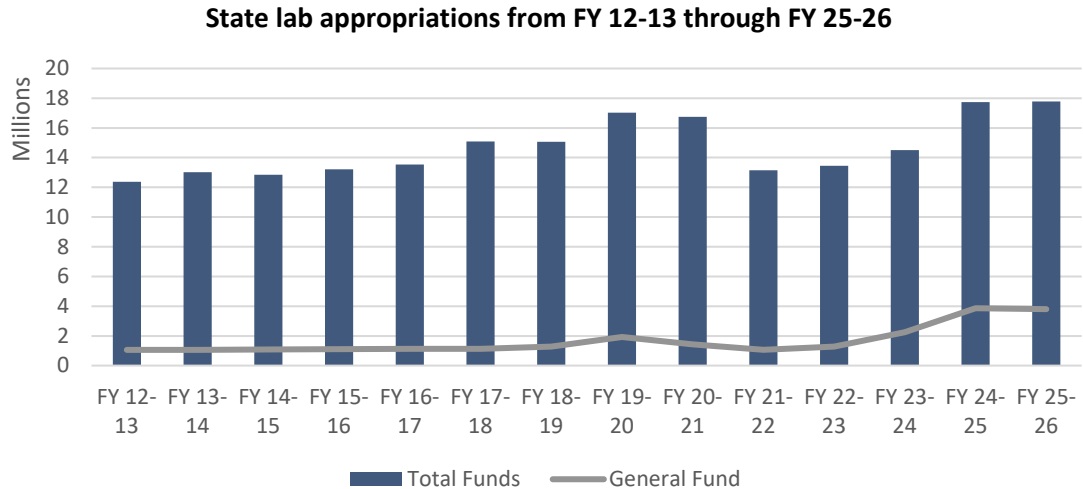
Colorado's State Laboratory

State Lab Funding

The lab has an estimated FY 2025-26 appropriation of \$17.7 million, including \$3.8 million General Fund and \$10.0 million cash funds. The lab's appropriation has grown steadily with the exception of in FY 21-22 when the

¹ <https://content.leg.colorado.gov/sites/default/files/pubhea21331-09-22-25.pdf>

lab was reorganized and administrative funding was moved to a different subdivision within the budget. Over the same time period, the percentage of the lab's total appropriation that is General Fund more than doubled.



This increasing share of General Fund is well-utilized. Over the past five years, the two largest line items within the laboratory (Chemistry and Microbiology Personal Services and Operating Expenses) have spent their entire General Fund appropriation while reverting about a quarter of their cash fund appropriations. The Department has indicated that this reversion is because not enough fee revenue is generated to support these cash fund appropriations.

**Reversion analysis - cash funds
(Chemistry and Microbiology Personal Services)**

Item	FY 20-21	FY 21-22	FY 22-23	FY 23-24	FY 24-25
Cash Funds Appropriation	2,794,548	2,794,549	2,848,641	2,900,092	2,933,788
Amount Reverted	980,376	390,950	952,079	796,845	503,278
% Reverted	35.1%	14.0%	33.4%	27.5%	17.2%

**Reversion analysis - cash funds
(Chemistry and Microbiology Operating Expenses)**

Item	FY 20-21	FY 21-22	FY 22-23	FY 23-24	FY 24-25
Cash Funds Appropriation	3,724,602	3,724,602	3,724,602	3,724,602	5,092,502
Amount Reverted	649,011	1,279,032	872,037	260,322	733,892
% Reverted	17.4%	34.3%	23.4%	7.0%	14.4%

Increased General Fund appropriations have been the result of both adjustments for operating expenses as well as bills that added new programs to the lab. None of these requests or bills were specifically related to increased lab instruments or water quality chemistry.

Major drivers of General Fund increases for the state laboratory

Fiscal Year	Item	General Fund	Other Funds	FTE
FY 18-19	R1 Public health threats: Staff to meet increased demand for infectious disease surveillance	132,464	0	2.6
FY 19-20	R3 Lab spending authority: Operating expense adjustment for increased testing cost and demand	88,270	-28,642	0.0
FY 21-22	H.B. 21-1317 Regulating marijuana concentrates	50,000	0	0.0
FY 22-23	S.B. 22-224 Protections for donor-conceived persons and families (regulatory oversight program)	192,293	0	1.6
FY 23-24	S.B. 23-290 Natural medicine regulation and legalization	838,402	0	4.1
FY 24-25	R5 State lab operating: Primarily continued funding for a statewide courier service. Also included funding for testing supplies, waste disposal, iPassport software in response to increased costs and demand	1,291,155	1,367,900	0.0
FY 24-25	Conference committee amendment: Funding for regulatory oversight program	229,335	0	0.0

State Lab Users

Since 2018, the Department indicates that 227 water systems have used the state lab for their water quality testing needs. The lab also serves well owners. The majority of these entities are smaller or in rural areas of the state. Many larger water systems have the ability to complete their own testing or contract out for laboratory services.

These systems often choose to perform testing with the state lab because of cost, efficiency, specialized testing, and additional public health benefits. The lab offers additional benefits such as a courier service (approved through a FY 24-25 budget request), specialized testing that is not offered in private labs, and rapid response capabilities that allow for testing during emergencies (e.g., Gold King Mine spill in 2015).

The Department indicates that its prices are competitive with private laboratories for individual water tests, but they are most competitive for test packages that are marketed for different types of water system needs. For example:

Sample of costs for state vs. private lab testing

Package	State Lab	Private Lab 1 (GeoWater Service)	Private Lab 2 (Culligan - Brighton)	Private Lab 3 (Tap Score - Online)
Real Estate/VA Package (Lead, Nitrate, Nitrite)	\$80	\$175	\$126	Not offered
General Package (arsenic, lead, nitrate, nitrite, uranium, copper iron)	\$107	\$200	\$189	\$119
Comprehensive (extensive, including 20 metals)	\$265	Not offered	\$406	\$579

Loss of EPA Certification for Water Chemistry Methods

In the spring of 2024, the lab noticed concerns with quality control within water quality testing in the lab's chemistry unit. The Department indicates that this was due to a "cumbersome calibration process performed with frequency on an old machine, with chemists cutting corners and trying to meet deadlines".

- April 2024: the EPA revoked certification for metals testing in drinking water and downgraded remaining lab methods to "provisional"
- December 2024: provisional certifications expired and water chemistry testing at the lab was suspended - the lab begins contracting out for testing that it would have performed
- January to June 2025: a third-party review of quality assurance and management across the entire lab

Currently, Department's senior executive team is providing supervision and oversight of the lab. They have directed staff to fill vacancies and reallocated some positions within the larger Division of Disease Control and Public Health Response that they believe will not impact the lab. The senior executive team meets with lab managers every Monday and is holding weekly one-on-one meetings.

Importance of EPA Certification

The loss of EPA certification is a concern for both data quality at the state lab and for state primacy. Under the federal Safe Drinking Water Act (SDWA), the EPA may delegate primary enforcement responsibility (primacy) to states so long as certain requirements are met. According to 40 CFR Part 142, Subpart B, one of the requirements includes that the state have a laboratory that is EPA certified and capable of performing analytical measurements of all contaminants specified in State primary drinking water regulations.

Without primacy, the EPA would take over implementation of the SDWA in Colorado – which currently includes many of the duties of the Water Quality Control Division. Primacy is also a requirement for some federal funding sources, including the Drinking Water Revolving Fund. This fund is a key source of public funding for water infrastructure improvements across the state, primarily in small to medium-sized rural communities. In 2025, the state received over \$70 million to distribute through this program.

Currently, only Wyoming and the District of Columbia do not have primacy under SDWA.

Corrective Actions Requested by the EPA

In order to obtain recertification, the EPA has requested that the Department address all items in their corrective action plan. These six items and the Department's progress towards their completion are detailed below.

1. Identification of all data impacted by quality control issues
2. Implementation of a communication plan to notify EPA of major laboratory changes within 30 days
3. Upgrading equipment and technology, including the Laboratory Information Management System (LIMS)
4. Increasing quality control staffing and resources
5. Developing a crisis response protocol
6. Addressing turnaround time pressure and a culture of urgency

The Department's 1331 resubmission includes funding for items that would directly address actions #1, 3, and 4 above. While staff believes that the request does not meet statutory 1331 criteria, staff would prioritize the following items if the Committee wishes to act now:

Corrective Action	Relevant 1331 funding
#1 - review potentially affected data	\$296,053 to fund the remaining 50.0 percent of the review
#3 - upgrade equipment and technology	\$571,000 for three new instruments and supplies
#4 - increase quality control staffing and resources	\$75,000 for a contractor to develop quality assurance and management procedures within the chemistry unit

The Department has also requested \$1.1 million for a contractor to create a risk management/quality assurance and asset management program for the entire lab. Since these items are not specifically related to the chemistry unit, staff does not believe they are as high a priority as the items in the table above.

1. Review of potentially affected data

The Department has already completed a small-scale review of potentially affected data. The review included data since 2018 from nine different chemistry methods (representing 10 to 15 percent of affected data since 2018). According to the Department's 2025 SMART Act Hearing², this review showed that data manipulation is likely within a small margin of error (-5 to 10 percent of the expected value) and unlikely to have impacted public health outcomes. Of 69 water systems that had test results potentially impacted, 24 needed retesting.

Despite these initially small-scale findings, the EPA has indicated that the scope of data quality issues at the lab has continued to expand as the investigation unfolds and therefore requests a full review of all methods performed by all analysts from 2018-2024. This review is in order to understand the full scope of impacted systems and results, and is included in the Department's 1331 request.

Funding for 50.0 percent (\$296,053) of this review was approved in September 2025, and the Department is now requesting the remaining 50.0 percent to fund the full review. The review is estimated to take nine months.

2. Communication plan

The Department indicates that this requirement has been met and confirmed by the EPA.

3. Upgrading equipment and technology

The Department indicates that one of the root causes of the data manipulation was old instruments that required frequent calibrations and sample re-analysis. Many of these instruments date back to the 1990's. Due

² January 2025 SMART Act Hearing presented to the House and Senate Health and Human Services Committees: https://leg.colorado.gov/sites/default/files/images/2025_cdphe_smart_act_presentation.pdf.

to their age, test results and control values from these instruments need to be manually transferred to the Laboratory Information Management System via a thumb drive. This allowed chemists to take short cuts and manipulate quality control results.

As part of the 1331 resubmission, the Department requests \$571,000 for:

- \$345,000 for three new instruments that would replace four older instruments.
- \$100,000 for preventative maintenance on existing equipment that is not being replaced.
- \$106,000 to update the Laboratory Information Management System to connect the new instruments.³ The Department estimates that the total time from procurement to validation is a minimum of six to eight months, which is driving the urgency of their request.
- \$20,000 for supplies to revalidate chemistry testing methods.

The EPA also requested a LIMS upgrade to allow chemistry instruments to directly connect to LIMS without thumb drives. The Department completed this upgrade in July 2025, but has indicated that the entire system is soon coming to the end of its life and will require additional funds to either upgrade or replace the system in the next few years.

4. Increased quality control staffing and resources

CDPHE also hired a third-party auditor (Overbrook Scientific) to evaluate quality management processes across the lab. The latest report wrapped up in July 2025. These analyses identified strengths including highly knowledgeable, experienced, and detail-oriented staff and the availability of historical data. However, they also highlighted the following weaknesses:

- Inadequate oversight and quality assurance processes,
- Cumbersome Standard Operating Procedures that are not always followed,
- Lack of asset management and effective control,
- Redundant and manual data transcription processes, and
- A reliance on staff knowledge as opposed to standardized procedures or documented workflows.

The results of this analysis motivated parts of the Department's 1331 request, including the contracted work for developing and implementing quality assurance across the lab (\$500,000), within the chemistry unit (\$75,000), and an asset and vendor management program (\$550,000). None of these funds were approved in September.

In regards to staffing, there are currently three remaining staff members that work on water chemistry. Overexpenditure authority to fund these staff was approved by the JBC in response to the Department's 1331 request in September. While water quality testing is suspended, these individuals have been reassigned to different projects and are preparing potentially affected water quality data for third-party review.

In the current 1331 request, the Department requests funding for three new, additional staff:

Position	FY 25-26 Request	FY 26-27 and ongoing
Chemist for sample validation	\$34,371 and 0.25 FTE	\$117,610 and 1.0 FTE
Training coordinator for chemistry unit - focused on quality assurance	\$32,186 and 0.25 FTE	\$108,262 and 1.0 FTE

³ This number is based on 22 methods at a cost of \$4,032 each to install, calibrate, and validate, and includes a 20.0 percent contingency.

Position	FY 25-26 Request	FY 26-27 and ongoing
Microbiology program manager	\$84,204 and 0.5 FTE	\$179,815 and 1.0 FTE

The Department anticipates hiring the additional chemist and beginning the recruitment process for the training coordinator in April 2026. They have indicated that this timeline has not changed from their September 1331 request. However, given the timing and amount of funding, JBC staff believes that funding for these individuals could be considered through (1) the regular supplemental process or (2) when the Committee considers the Department's R1 request that includes long-term funding for these positions.

The third position, a microbiology program manager, does not appear directly relevant to the lab water chemistry recertification process.

Using existing funds, the Department has already created and hired four new quality assurance positions, including a Deputy Director of Quality and Safety and Deputy Director of Environmental Programs. The Department has also indicated that they have \$250,000 in vacancy savings that they are willing to commit to the requested needs identified in the 1331 request.

5. Crisis response protocol

The Department indicates that is actively working on a protocol with a draft under internal review. This protocol would cover who needs to be informed when data integrity issues arise and when.

6. Unaddressed findings from External Root Cause Analysis (including turnaround time and culture of urgency)

In addition to the latest third-party review completed in July 2025, Overbrook Scientific has provided the lab with a two-year action plan to address the report's findings. This includes "critical gaps" totaling \$1.3 million and "major gaps" estimated to be \$150,000 to \$200,000. The actions taken would include process mapping, LIMS optimization, asset management, vendor management, data integrity, and quality risk management.

In addition to the above, the Department proposes to:

1. Provide more staff capacity, including management oversight
2. Streamlining processes for more efficiency
3. Promoting a culture that values quality assurance above all else

They also indicate that the new instruments proposed in action #3 above would allow results to be directly connected to the upgraded LIMS, resulting in fewer steps and less rework for analysts. This would alleviate some time pressures.

Proposed Long-Term Solution for Water Quality Testing

CDPHE is proposing to become recertified for a narrower suite of testing methods that cover the most commonly requested water quality tests – and to contract out for additional methods that are not performed as often. The Department indicates that the EPA has informed the lab that this hybrid model is acceptable.

There are two low-volume methods that are available through private laboratories as well as ten medium-volume methods that are not critical to public health and can be performed through lower-cost contracting. In total, the Department proposes reducing the lab's water chemistry testing suite to 22 methods.

This 1331 request would jump start the lab's recertification process. The Department hopes that the recertification process would take 12 to 18 months after it is initiated. Recertification would occur after all corrective actions are addressed, the Department applies for recertification, and the EPA conducts a satisfactory on-site audit.

Long-Term Challenges and Proposed Solution

Beyond the challenges with water testing, the Department has indicated that the lab faces a number of systemic challenges. They have submitted a FY 26-27 R1 request for \$5.0 million General Fund and 27.75 FTE that partially addresses these long-term issues.

Summary of R1 request

Purpose	Details	Total Funds	FTE
New Staff	A laboratory Chief Operating Officer, two associate directors, one program manager, five scientists and one support staff member	\$1,515,854	10.0
Existing Staff	Two supervisors and 15 other staff that are currently funded with expiring funds from the COVID-19 pandemic and other sources	1,948,996	17.8
Operating Expenses	Primarily \$380,000 for the annual maintenance fee for the LIMS system. Also includes outbreak response testing supplies and lab certification fees.	500,000	0.0
Instrument Replacement Fund	A new fund that would use a lease-purchase structure similar to those for the labs within the Department of Agriculture and Public Safety.	500,000	0.0
Quality Assurance Contractor (one-time)	A contractor to implement the final phase of improvements identified in the July 2025 Overbrook Scientific audit. This includes building a risk management system, non-conformance management system, and associated training materials	575,000	0.0

Systemic Issues

The Department has identified a number of systemic issues beyond the concerns within the water quality chemistry unit. Already, this has resulted in the temporary closure of other lab units due to quality concerns.

Funding challenges:

- Lack of dedicated funding for asset maintenance and replacement - the Department has historically relied on one-time funds for these purchases.
- Unsustainable appropriations including the Laboratory Cash Fund that is not generating adequate fee revenue to sustain its appropriation.
- Appropriations that have not kept up with inflation, increased operating expenses, and increased population and demand for laboratory services.

Outdated and aging technology/building/processes:

- Capital needs are negatively impacting lab staff well-being and day to day operations (e.g., HVAC).
- An aging Laboratory Information Management System (LIMS) that is anticipated to need replacement in the next few years.

- Paper-based tracking and inventory management systems that are prone to error and sample/inventory misplacement.

Growth in Expenses and Responsibilities

Since 2020, the lab indicates that it has added a number of additional duties including:

- Testing and response for novel pathogens and outbreaks including COVID-19, Mpox, highly pathogenic avian influenza, and measles
- New wastewater surveillance methodology
- New methodology for testing PFAS in drinking water
- Increased lead testing as a result of the EPA's Water Infrastructure Improvements for the Nation (WIIN) Act and H.B. 22-1358 (Clean Water in Schools and Childcare Centers)
- Testing for intoxicating hemp and natural medicines as a result of S.B. 23-271 (Intoxicating Cannabinoid Hemp and Marijuana) and S.B. 23-290 (Natural Medicine Regulation and Legalization)
- Regulatory oversight of gamete banks, gamete agencies, and fertility clinics as a result of S.B. 22-224 (Protections for Donor-conceived Persons and Families)

The Department indicates that it has also faced increased testing demand and expenses. A few examples of sample volume and operating expense increases:

- Sequencing – the program was initially focused on foodborne outbreak surveillance, but has now expanded to include COVID, measles, influenza, cystic fibrosis, and bacterial hospital outbreaks. This resulted in 32 samples sequenced a week to now over 400 samples.
- Supply costs – due to inflation and tariffs, these costs have increased. For example, nitric acid for metals testing in water has increased more than 400.0 percent (one liter was \$87 in 2022 and \$370 in 2025).
- Chemistry – service agreement costs increased by 8.6 percent in FY 2023 and 7.1 percent in FY 2024.
- Cannabis and natural medicine – service agreement costs increased by 40.8 percent in FY 2023 and 22.7 percent in FY 2024.

The lab has received General Fund adjustments over the past ten years to adjust for increased testing demand and cost. These adjustments total approximately \$1.5 million. However, the Department indicates that this funding has been inadequate.

As a result of these growing costs, laboratory management kept key management positions open as they were vacated. Beginning in May 2024, the lab director was managing ten unit leads/managers. In September 2025, the lab director was placed on administrative leave and CDPHE's Executive Director, Chief Medical Officer, and Deputy Executive Director have been leading the lab since then.

Moving forward, the request includes funding for the management positions highlighted in Figure 2 below. Figure 1 shows the current laboratory management structure. Already, the Department has used vacancy savings and temporarily shifted resources to hire three deputy directors and a quality assurance specialist.

Figure 1. The lab's current organizational structure since September 2025.

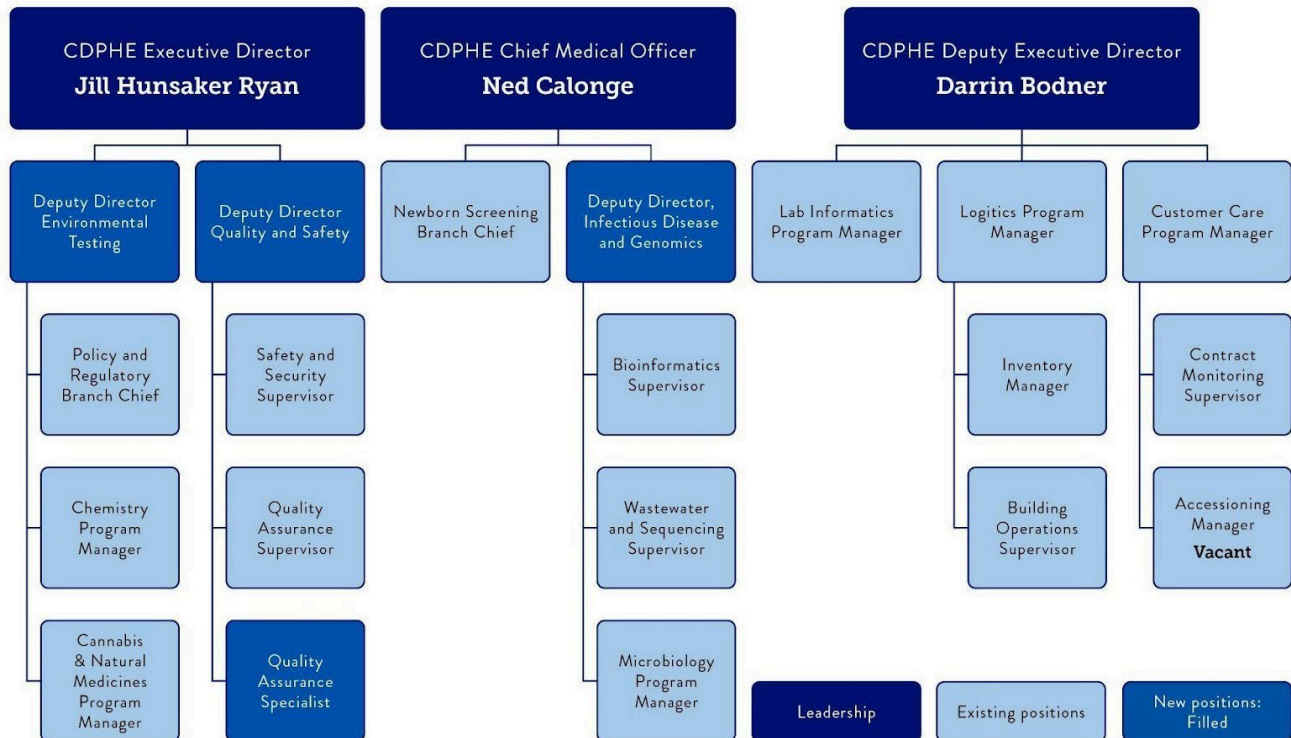


Figure 2. The lab's desired future management structure.

