

COLORADO GENERAL ASSEMBLY

JOINT BUDGET COMMITTEE



FY 2006-07 SUPPLEMENTAL: DEPARTMENT OF HIGHER EDUCATION PRIORITIZED REQUESTS

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

Prepared By:

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**DEPARTMENT OF HIGHER EDUCATION
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	FY 2005-06	FY 2006-07	Fiscal Year 2006-07 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
DEPARTMENT OF HIGHER EDUCATION					
Executive Director - David Skaggs					
Supplemental #1, #2 and #4 -- Issues Related to the Higher Education Enrolment, Tuition Revenue, and Fee Forecasts					
<i>(5) Governing Boards</i>					
(J) State Board for the Community Colleges and Occupational Education					
State System Community Colleges					
Cash Funds Exempt	242,081,899	240,004,864	8,992,340	Pending	N.A.
(H) Colorado School of Mines					
Cash Funds Exempt	58,254,323	64,145,318	1,281,387	Pending	N.A.
(B) Trustees of Mesa State College					
Cash Funds Exempt	35,897,158	40,740,708	325,000	Pending	N.A.
Total for Supplemental #1, #2 and #4					
Cash Funds Exempt	336,233,380	344,890,890	10,598,727	Pending	N.A.
Supplemental #3 - University of Colorado Utilities					
<i>(4) College Opportunity Fund Program</i>					
Fee-for-service Contracts - GF	262,378,433	258,636,124	1,662,483	0	258,636,124
<i>(5) Governing Boards</i>					
<i>(G) Regents of the University of</i>					

	FY 2005-06	FY 2006-07	Fiscal Year 2006-07 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
Colorado - CFE	604,237,031	649,674,913	1,662,483	0	649,674,913
Total for Supplemental #3	<u>866,615,464</u>	<u>908,311,037</u>	<u>3,324,966</u>	<u>0</u>	<u>908,311,037</u>
General Fund	262,378,433	258,636,124	1,662,483	0	258,636,124
Cash Funds Exempt	604,237,031	649,674,913	1,662,483	0	649,674,913
Supplemental #5a - Colorado Historical Society Security					
<i>(9) State Historical Society</i>					
Statewide Preservation Grant Program					
Cash Funds Exempt - SHF	18,432,859	17,270,244	(50,000)	(50,000)	17,220,244
FTE	16.5	18.0	0.0	0.0	18
Society Museum and Preservation					
Operations	5,801,705	5,969,330	50,000	50,000	6,019,330
FTE	<u>90.9</u>	<u>90.9</u>	<u>0.0</u>	<u>0.0</u>	<u>90.9</u>
Cash Funds	696,740	695,347	0	0	695,347
Cash Funds Exempt - SHF	4,464,965	4,635,263	50,000	50,000	4,685,263
Federal Funds	640,000	638,720	0	0	638,720
Total for Supplemental #5a	24,234,564	23,239,574	0	0	23,239,574
FTE	<u>90.9</u>	<u>90.9</u>	<u>0.0</u>	<u>0.0</u>	<u>90.9</u>
Cash Funds	696,740	695,347	0	0	695,347
Cash Funds Exempt - SHF	22,897,824	21,905,507	0	0	21,905,507
Federal Funds	640,000	638,720	0	0	638,720

	FY 2005-06	FY 2006-07	Fiscal Year 2006-07 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
Supplemental #5b - Colorado Historical Society Utilities					
<i>(9) State Historical Society</i>					
Statewide Preservation Grant Program					
Cash Funds Exempt - SHF	18,432,859	17,270,244	(90,000)	0	17,270,244
FTE	16.5	18.0	0.0	0.0	18
Society Museum and Preservation					
Operations	5,801,705	5,969,330	90,000	0	5,969,330
FTE	<u>90.9</u>	<u>90.9</u>	<u>0.0</u>	<u>0.0</u>	<u>90.9</u>
Cash Funds	696,740	695,347	0	0	695,347
Cash Funds Exempt - SHF	4,464,965	4,635,263	90,000	0	4,635,263
Federal Funds	640,000	638,720	0	0	638,720
Total for Supplemental #5b	24,234,564	23,239,574	0	0	23,239,574
FTE	<u>90.9</u>	<u>90.9</u>	<u>0.0</u>	<u>0.0</u>	<u>90.9</u>
Cash Funds	696,740	695,347	0	0	695,347
Cash Funds Exempt - SHF	22,897,824	21,905,507	0	0	21,905,507
Federal Funds	640,000	638,720	0	0	638,720
Supplemental #6 - Auraria Higher Education Center Auxiliary Revenue					
<i>(7) Auraria Higher Education Center</i>					
Auxiliary Enterprises - CF	2,264,486	50,000	2,390,000	2,390,000	2,440,000

	FY 2005-06	FY 2006-07	Fiscal Year 2006-07 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
Supplemental #7 - Colorado Commission on Higher Education Legal Services					
<i>(1) Department Administrative Office</i>					
Legal Services	<u>100,124</u>	<u>41,318</u>	<u>37,051</u>	<u>37,051</u>	<u>78,369</u>
General Fund	71,250	0	0	37,051	37,051
Cash Funds	21,656	33,728	0	0	33,728
Cash Funds Exempt	7,218	7,590	37,051	0	7,590
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Supplemental #8 - Fort Lewis College Mineral Impact Grant					
<i>(5) Governing Boards</i>					
(F) Trustees of Fort Lewis College					
Cash Funds Exempt	31,725,616	34,349,658	2,000	2,000	34,351,658
<hr/>					
Staff Initiated - National Guard Tuition Assistance					
<i>(3) Financial Aid</i>					
Line Item to be Specified by Department	N.A.	N.A.	0	(159,074)	(159,074)
<i>(D) Special Purpose</i>					
National Guard Tuition Assistance - GF	410,207	430,197	0	159,074	589,271
Total for Staff Initiated Supplemental - GI	410,207	430,197	0	0	430,197
<hr/>					
Totals Including Pending Items in Request					
DEPARTMENT OF HIGHER EDUCATION					
TOTALS for ALL Departmental line items	2,184,258,453	2,343,000,227	16,352,744	2,429,051	2,345,429,278

	FY 2005-06	FY 2006-07	Fiscal Year 2006-07 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
FTE	<u>18,071.8</u>	<u>18,876.2</u>	<u>0.0</u>	<u>0.0</u>	<u>18,876.2</u>
General Fund	636,591,034	689,673,756	1,662,483	37,051	689,710,807
Cash Funds	21,926,758	21,455,067	2,390,000	2,390,000	23,845,067
Cash Funds Exempt	1,505,301,346	1,611,791,082	12,300,261	2,000	1,611,793,082
Federal Funds	20,439,315	20,080,322	0	0	20,080,322

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Supplementals #1, #2, & #4 -- Issues Related to the Higher Education Enrollment, Tuition Revenue, and Fee Forecasts

	Request	Recommendation
Total	<u>\$10,598,727</u>	<u>Pending</u>
General Fund	0	0
Cash Funds	0	0
Cash Funds Exempt	10,598,727	Pending
Federal Funds	0	0

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria?	YES
[An emergency or act of God / a technical error in the appropriation / new data / an unforeseen contingency]	
All of these requests meet the criteria of <i>new data</i> about enrollments and revenues that became available after the original appropriation was made.	

Department Request: The Department submitted a number of requests to update the appropriation based on new data about enrollment, tuition and fee revenues. These requests are summarized in the table and narrative below.

Priority	Governing Board	Issue	Total	General Fund	Cash Funds Exempt
1	Community Colleges	Tuition revenue in 05-06 was higher than expected and that changes the forecast of 06-07 (and 07-08) revenues	\$8,992,340	\$0	\$8,992,340
2	Colorado School of Mines	Nonresident enrollment to date is significantly higher than expected	\$1,281,387	\$0	\$1,281,387
4	Mesa State College	A technical error in the way fees were categorized caused an understatement of academic fees	\$325,000	\$0	\$325,000
TOTAL			\$10,598,727	\$0	\$10,598,727

- Community Colleges, Tuition Revenue --** The Community Colleges believe that the forecast used for the FY 2006-07 appropriation was based on faulty assumptions about the FY 2005-06 base level of tuition revenue. Actual revenues in FY 2005-06 were approximately \$9.0 million, or 8.2 percent, higher than the assumption used by Legislative Council Staff to forecast FY 2006-07 revenues. This resulted in a forecast of FY 2006-07 tuition revenue that was too low. The Community Colleges

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increased tuition rates for FY 2006-07 at the 2.5 percent permitted by the legislature in the FY 2006-07 Long Bill. Based on the trends in tuition revenues to date, the Community Colleges believe they will exceed the appropriated spending authority by \$3,882,550 unless a supplemental is approved.

2. **Colorado School of Mines, Nonresident Tuition Revenue** -- Nonresident enrollment (particularly international students) has been much higher than expected. The institution projects that tuition revenue will exceed the appropriated spending authority by a total of \$1,281,387. The governing board increased per credit hour tuition rates by 2.5 percent, consistent with the tuition footnote in the FY 2006-07 Long Bill. The institution also increased the threshold for full-time tuition status. The FY 2006-07 tuition footnote allowed this kind of increase, although institutions were still bound by the total tuition spending authority appropriated. According to the Department, the action by Mines to increase the full-time tuition threshold would not have caused them to exceed the appropriated tuition spending authority had nonresident enrollment matched the Legislative Council Staff projection.

4. **Mesa State College, Academic Fees** -- Based on a review of fees, the institution believes that it mis-categorized some fees and understated the amount of academic fees. To prevent institutions from circumventing tuition restrictions by raising fees, the legislature appropriates spending authority for academic fees. However, auxiliary fees are not appropriated in the Long Bill. Mesa State College mistakenly categorized some fees as auxiliary fees that should have been categorized as academic fees. The requested spending authority does not represent an increase in charges to students, but rather a restatement of revenues to more accurately reflect the purpose and use of the funds.

Staff Recommendation: Staff recommends that the Committee wait to adjust tuition and fee spending authority until the new forecast from Legislative Council Staff comes out in February. This forecast will take into account the new information from the institutions that submitted supplemental requests. Adjustments may need to be made for institutions other than just those that submitted supplemental requests.

The request by Mesa State College to restate as academic fees some charges that were previously categorized as related to auxiliary activities raises an interesting question about how consistent the higher education institutions are in categorizing fees. The legislature's purpose in appropriating academic fees was to prevent higher education institutions from going around restrictions on tuition by raising fees. Staff is not sure that academic fees are sufficiently defined, or consistently categorized by institutions, to ensure that this goal is achieved. **Staff recommends that the JBC send a letter requesting that the State Auditor review how institutions are classifying fees and make recommendations for improving definitions and the consistency of reporting** to ensure that all institutions are held to the same standard with regard to what fees are being appropriated by the General Assembly.

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Supplemental # 3 - University of Colorado Utilities

	Request	Recommendation
Total	<u>\$3,324,966</u>	<u>\$0</u>
General Fund	1,662,483	0
Cash Funds	0	0
Cash Funds Exempt	1,662,483	0
Federal Funds	0	0

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria?	NO
[An emergency or act of God / a technical error in the appropriation / new data / an unforeseen contingency]	
<p>The Department requested that additional funding for utilities be treated as <i>an unforeseen contingency</i>. However, at the time the FY 2006-07 budget request was submitted the Department knew that the University of Colorado projected higher utility costs. The Commission elected not to give CU credit for these projected additional utility costs in the distribution formula that it submitted to the Joint Budget Committee, and instead requested increased tuition spending authority. Staff believes that this request represents more of a change in policy by the Department about the distribution of General Fund to the governing boards than an "unforeseen contingency."</p>	

Department Request: The Department requests \$1,662,483 General Fund to increase the fee-for-service contract with the University of Colorado. The requested increase is related to utility expenses. A corresponding increase in cash funds exempt authority is requested for the University of Colorado to spend the funds. According to the Department's write-up, the CCHE mandated cost methodology supports fully funding mandated cost increases due to increases in salaries and benefits, insurance, utilities, and financial aid.

Staff Recommendation: Staff does not recommend the requested increase. At the time the FY 2006-07 budget request was submitted the Department knew that the University of Colorado projected higher utility costs. The Commission elected not to give CU credit for these projected additional utility costs in the distribution formula that it submitted to the Joint Budget Committee, and instead requested increased tuition spending authority. Thus, the increased utility costs were anticipated.

Even if the Department had not foreseen the additional utility costs, staff would advise against the request. The General Assembly changed to a lump-sum funding format and granted the higher education institutions the ability to roll-forward funds from one year to the next back in the 1980s in order to eliminate the need for mid-year funding adjustments. If the rules have suddenly changed, staff expects that there are other higher education institutions that may want to request additional funding. For example, CCHE's mandated cost formula last year projected that in FY 2006-07 UNC would spend \$3,784,494 on utilities, but this year

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CCHE's mandated cost formula assumes an FY 2006-07 base expenditure for utilities of \$4,536,600, an unanticipated increase of \$752,106. At the other end of the spectrum, should the General Assembly reduce funding for CSU because CCHE's estimate of FY 2006-07 utility expenditures has decreased by \$288,061 since this time last year?

Staff wondered if the Department had reconsidered the equity of the mandated cost distribution formula submitted last year, and if that was the basis for this request. However, the Department indicated that it would not support a redistribution of funds from other higher education institutions to CU within the total General Fund appropriated by the General Assembly. The request is only for a new General Fund appropriation for CU.

The Department's write-up indicates that providing the requested funding will reduce the need to increase resident tuition at the University of Colorado by 1.5 percent. However, tuition rates for FY 2006-07 have already been set.

One last factor to consider with this request is that while the Department's mandated cost model called for full funding from the General Fund, the General Assembly provided General Fund for 84 percent of "mandated costs" in FY 2006-07, and expected tuition increases to cover the remainder.

Supplemental # 5a - Colorado Historical Society Security

	Request	Recommendation
Total	<u>\$0</u>	<u>\$0</u>
Preservation Grants Cash Funds Exempt (State Historical Fund)	(50,000)	(50,000)
Society Operations Cash Funds Exempt (State Historical Fund)	50,000	50,000

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God / a technical error in the appropriation / new data / an unforeseen contingency]	YES
<i>New data</i> is available since the original appropriation about the cost of providing security services for the Society.	

Department Request: The Department requests transferring \$50,000 cash funds exempt from the preservation grants to the Society's operations for security costs. The Society and the Judicial Department

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used to share security costs, and the Society paid the Judicial Department \$131,080 annually for this service. In FY 2005-06, the JBC approved a request from the Judicial Department to pursue a contract with the State Patrol for security services separate from the Historical Society, based on the different needs of the Judicial Department and the Historical Society. The Historical Society was expected to use the \$131,080 it previously paid the Judicial Department to create its own contract for security services. It took a while for the Historical Society to exhaust all options, but after the budget for FY 2006-07 was set, the Society determined that contracting for 24 hour security 7 days a week would require more than the \$131,080 it previously paid the Judicial Department. This is because when the Judicial Department and Historical Society shared security services there were some economies during the evening hours and with administration of the contract. Also, the allocation of costs to the Judicial Department and the Historical Society did not accurately reflect the true costs.

Staff Recommendation: Staff recommends approval of the request. The new arrangement is less cost efficient than when the Judicial Department and Historical Society shared security, but the new arrangement results in security services tailored to the unique needs of each agency, which is why the General Assembly approved the separation in FY 2005-06.

Supplemental # 5b - Historical Society Utilities

	Request	Recommendation
Total	<u>\$0</u>	<u>\$0</u>
Preservation Grants Cash Funds Exempt (State Historical Fund)	(90,000)	0
Society Operations Cash Funds Exempt (State Historical Fund)	90,000	0

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria?	NO
[An emergency or act of God / a technical error in the appropriation / new data / an unforeseen contingency]	
The Department requested funding as <i>an unforeseen contingency</i> , but the request is related to increased utility expenditures since FY 2003-04.	

Department Request: The Department requests transferring \$90,000 cash funds exempt from the preservation grants to the Society's operations for utility costs. This will reduce the number of grants from the State Historical Fund. The Society's projection of utility expenses for FY 2007-08 is approximately

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\$90,000 higher than what it paid for utilities in FY 2003-04.

Staff Recommendation: Staff does not recommend the requested increase. The Department has experienced increased costs for utilities over time, but the Department has known about these increases for some time and did not submit a request through the normal budget process. The Department should request funds for increased utility expenditures through the normal budget process and reserve the supplemental process for items of a more unexpected or emergency nature.

The Department indicates that one of the ways that it has handled the increase in utility costs is to reduce expenditures on maintenance. Last year the General Assembly increased the base appropriation for the Society by \$50,000 related to maintenance work. This request for utilities appears to overlap with the maintenance request last year.

Approval of this request would reduce the funds available for statewide preservation grants at a time when there is high demand for these funds. In addition to requests from the public, a portion of the statewide preservation grants are being used for life/safety improvements at the Capitol. Also, the Society has requested funding to relocate the museum currently in the Judicial complex to a new site. Staff believes that the General Assembly may want to consider using statewide preservation grants to address portions of the relocation costs.

Supplemental # 6 - Auraria Higher Education Center Auxiliary Revenue

	Request	Recommendation
Total	<u>\$2,390,000</u>	<u>\$2,390,000</u>
Cash Funds	2,390,000	2,390,000

<p>Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? YES [An emergency or act of God / a technical error in the appropriation / new data / an unforeseen contingency]</p> <p>The JBC anticipated that AHEC would be able to designate internal service charges, or perhaps all of AHEC, as an enterprise in FY 2006-07. It now appears that the enterprise designation may not occur until FY 2007-08. This is <i>an unforeseen contingency</i>. If AHEC is not designated as an enterprise, it will need the requested cash funds spending authority for the reasons described in the narrative below.</p>
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Department Request: Internal service charges between AHEC and the resident institutions of the campus for things like lock smithing, postage, fleet management, special event security, room rentals, minor remodeling, and telephone moves have historically not appeared in the Long Bill. Now that the resident institutions of the campus are designated as enterprises, but AHEC is not, the internal service charges are

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crossing the TABOR boundry. The State Controller will not allow AHEC to record the expenditures unless cash funds spending authority is provided by the General Assembly. In order to record the expenditures, AHEC needs \$2.5 million additional cash funds spending authority in FY 2006-07.

Staff Recommendation: Staff recommends approval of the request. The General Assembly approved a similar supplemental for FY 2005-06, but the JBC decided not to recommend the additional cash funds spending authority in FY 2006-07. Instead, the JBC asked AHEC to explore designating these internal service charges as enterprise activities, or perhaps designating all of AHEC as an enterprise. AHEC is looking into creating an enterprise, but is concerned that it may not happen in FY 2006-07 due to a review by the State Auditor of AHEC's charge-back procedures. The State Auditor has identified places where some of AHEC's charges for services do not completely capture the true cost of providing that service. AHEC worries that the State Auditor would not certify enterprise status until these charge-back issues are resolved.

Supplemental # 7 - Colorado Commission on Higher Education Legal Services

	Request	Recommendation
Total	\$37,051	\$37,051
General Fund	0	37,051
Cash Funds Exempt	37,051	0

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God / a technical error in the appropriation / new data / an unforeseen contingency]	YES
The amount of legal expenses related to the lawsuit with Colorado Christian University is an <i>unforeseen contingency</i> .	

Department Request: The Department requests \$37,051 cash funds exempt spending authority for legal expenses related to a lawsuit brought by Colorado Christian University over the Department's decision to deny participation by the institution in the College Opportunity Fund Program and in financial aid programs. The Department believes that Colorado Christian University's application failed to demonstrate that the institution meets the statutory criteria for participation in the two programs.

Staff Recommendation: Staff recommends approval of the request. The Department's legal budget is primarily to pay for contract and rule review. It is not sufficient to cover significant litigation expenses. The JBC approved a similar supplemental for FY 2005-06, but did not provide additional funding in FY 2006-07, because the Department indicated that it expected legal expenditures for the case to diminish. That has not occurred. Both sides have filed for summary judgement, but the judge has not ruled on these requests. A trial date has been set for May of 2007. According to the Department, the case involves a "cutting edge" First

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Amendment religious issue and the Attorney General's Office now anticipates that regardless of outcome the case may be appealed to the U.S. Supreme Court, based on the recent experience of similar issues related to K-12 education.

The staff recommendation is to provide General Fund instead of cash funds exempt spending authority. The source of cash funds exempt for the CCHE administration is indirect cost recoveries. All of the indirect cost recoveries for FY 2006-07 have already been allocated. Any increase in CCHE administration expenses requires General Fund.

Supplemental # 8 - Fort Lewis College Mineral Impact Grant

	Request	Recommendation
Total	\$2,000	\$2,000
Cash Funds Exempt	2,000	2,000

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God / a technical error in the appropriation / new data / an unforeseen contingency]	YES
<i>New data</i> is available since the original appropriation about mineral impact grants for Fort Lewis College.	

Department Request: The Department requests \$2,000 cash funds exempt spending authority for a mineral impact grant received by Fort Lewis College from the Department of Local Affairs. For several years Fort Lewis has applied for and received funding to provide technical assistance to local governments in support of community development projects in the Southwest region of the state. Section 34-63-102 (7), C.R.S. prohibits state departments from expending grants from severance tax funds unless the expenditure is authorized by a legislative appropriation. The FY 2006-07 Long Bill included a \$46,000 appropriation to Fort Lewis from mineral and energy impact funds, but the grant awarded was for \$48,000. The Department requests spending authority for the difference.

In addition, the Department requests that the letternote designating the source of funds for the appropriation be clarified to indicate that the spending authority may roll forward into the next year, as grants from the Department of Local Affairs are awarded on a calendar year basis. This clarifying language was dropped from the Higher Education section of the Long Bill when the new format to implement the College Opportunity Fund Program was adopted.

Staff Recommendation: Staff recommends approval of the request, including the addition of the clarifying

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language to the letternote designating the source of funds.

Staff Initiated Supplemental - National Guard Tuition Assistance

	Request	Recommendation
Total	\$0	\$0
General Fund	0	0

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria?	YES
[An emergency or act of God / a technical error in the appropriation / new data / an unforeseen contingency]	

New data is available since the original appropriation about tuition assistance costs for members of the Colorado National Guard.

Issue: The Committee approved a request from the Department of Military Affairs for \$159,074 cash funds exempt for the Colorado National Guard tuition fund. Pursuant to statute, the Department of Higher Education must transfer as much funds as are needed, up to a cap of \$650,000, from its financial aid appropriations to the Department of Military Affairs, to pay for tuition assistance for members of the Colorado National Guard. The FY 2006-07 Long Bill assumed the transfer would be \$430,197, but the supplemental approved by the JBC projects the transfer will be \$589,271.

Staff Recommendation: Staff recommends that the Committee allow the Department to pick which financial aid program or programs will be reduced by the \$159,074 in order to increase the transfer to the Department of Military Affairs by this amount, and then reflect the Department's choice in the supplemental bill. If the staff recommendation is approved, staff will consult with the Department and adjust the line items accordingly in the supplemental bill.