

COLORADO GENERAL ASSEMBLY

JOINT BUDGET COMMITTEE



FY 2008-09 FIGURE SETTING PRESENTATION: TOBACCO SETTLEMENT FUNDED PROGRAMS

JBC Working Document - Subject to Change

Staff Recommendation Does Not Represent Committee Decision

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February 14, 2008**

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**FY 2008-09 FIGURE SETTING
VARIOUS DEPARTMENTS:
PROGRAMS FUNDED WITH TOBACCO SETTLEMENT PAYMENTS**

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	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Approp	FY 2008-09 Recommendation	% change
<i>This table shows the transfer of settlement money to program cash funds (when there is a program cash fund). If there is no program cash fund, it shows the direct appropriation to the program. Unless otherwise indicated, the appropriations are cash funds exempt through FY 2007-08 and cash funds for FY 2008-09</i>					
OVERSIGHT EXPENSES					
State Auditor's Office	87,368	87,393	79,958	83,214	4.1%
Public Health and Environment Administration Division /a	28,000	28,000	28,000	28,000	0.0%
SUBTOTAL - OVERSIGHT	115,368	115,393	107,958	111,214	3.0%
EDUCATION					
<i>Assistance to Public Schools</i>					
Read to Achieve Grant Program	4,359,902	4,002,026	4,502,623	5,325,177	18.3%
HEALTH CARE POLICY AND FINANCING					
<i>Medical Service Premiums</i>					
Breast and Cervical Cancer Prevention and Treatment Fund /b	1,650,963	1,779,583			
<i>Indigent Care Program</i>					
Children's Basic Health Plan Trust	20,927,529	19,209,723	22,481,095	27,493,883	22.3%
Comprehensive Primary And Preventative Care Fund	2,615,941	2,401,215	4,178,032	6,481,261	55.1%
Pediatric Speciality Hospital			173,701	386,606	
<i>Other Medical Services</i>					
Children with Autism /c	395,143	395,000	704,597	500,000	-29.0%
SUBTOTAL - HEALTH CARE POLICY AND FINANCING	23,938,613	22,005,939	27,537,425	34,861,750	26.6%
MILITARY AND VETERANS AFFAIRS					
<i>Division of Veterans Affairs</i>					
Colorado State Veterans Trust Fund	871,980	800,405	900,525	998,589	10.9%

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Approp	FY 2008-09 Recommendation	% change
PUBLIC HEALTH AND ENVIRONMENT					
<i>Local Health Services</i>					
Local, District and Regional Health Department Distributions			1,215,906	2,706,245	122.6%
<i>Disease Control and Environmental Epidemiology Division</i>					
Immunizations			694,804	1,546,426	122.6%
AIDS and HIV Prevention Grants	0	1,600,810	1,801,049	1,997,179	10.9%
<i>Prevention Services Division</i>					
Short Term Innovative Health Program Grants			1,042,205	2,319,639	122.6%
Dental Loan Repayment Program	199,612	200,000	200,000	200,000	0.0%
Nurse Home Visitor Program	8,719,804	8,804,456	10,806,295	13,845,461	28.1%
Tobacco Education, Prevention and Cessation Program (now funded by Amendment 35 Tobacco Tax)	0	0	0	0	n/a
Tony Gramscas Youth Services Program	3,487,921	3,201,621	3,602,098	4,260,142	18.3%
<i>Disease Control and Environmental Epidemiology Division</i>					
Ryan White HIV/AIDS Program	3,051,931	2,801,418	3,151,836	3,727,624	18.3%
SUBTOTAL - PUBLIC HEALTH AND ENVIRONMENT	15,459,268	16,608,305	22,514,193	30,602,716	35.9%
HIGHER EDUCATION					
<i>Regents of the University of Colorado</i>					
University of Colorado Health Sciences Center			8,511,345	18,943,716	
HUMAN SERVICES					
<i>Mental Health and Alcohol and Drug Abuse Services</i>					
Residential Mental Health Treatment for Youth	299,418	300,000	300,000	300,000	0.0%
Treatment and Detoxification Contracts and Prevention Contracts			521,103	1,159,819	122.6%

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Approp	FY 2008-09 Recommendation	% change
Offender Mental Health Services			2,084,411	4,639,277	122.6%
SUBTOTAL - HUMAN SERVICES	299,418	300,000	2,905,514	6,099,096	109.9%
PERSONNEL AND ADMINISTRATION					
State Contribution for Employee Benefit Plans			781,654	1,739,729	122.6%
CAPITAL CONSTRUCTION					
<i>Department of Higher Education</i>					
Fitzsimons Lease Purchase Payments	6,989,408	6,416,309	7,215,933	8,000,000	10.9%
TOTAL	52,005,957	50,220,377	74,949,170	106,653,987	42.3%

a/ This appropriation is transferred from the other appropriations and is not included in the total. It is CFE through to FY 2007-08 and RF in FY 2008-09.

b/ The Breast and Cervical Cancer Fund automatically receives all the interest earned by the Tobacco Litigation Settlement.

Cash Fund; there is no appropriation. Because it does not directly receive settlement payments, it is not included in the total.

c/ The FY 2008-09 autism transfer is a placeholder. The HCPF analyst will make recommendations later.

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This document provides an overview of the distribution of tobacco Master Settlement Agreement (MSA) moneys and recommends FY 2008-09 appropriations for some of the programs, funds, projects, and agencies that are supported by these moneys. Specifically, this document recommends appropriations when statute, in combination with the latest tobacco revenue forecast, dictates the exact amount of the appropriation. Where there is flexibility regarding the appropriation, other JBC staff members will make the recommendation.

Appropriations Rely on a Forecast of Tobacco-settlement Revenue: As described in detail in the appendix, appropriations of settlement moneys to settlement-supported programs are largely governed by statute, with the key provisions contained in Section 24-75-1104.5, C.R.S. A review of these formulas indicates that about 85 percent of the appropriations for FY 2008-09 depend upon the amount of settlement money that the State receives during FY 2007-08 and the remaining 15 percent of the FY 2008-09 appropriations depend upon settlement money that the state will receive during FY 2008-09. Since most of the settlements moneys arrive on April 15th of each year, or within a few days after April 15th, this means that FY 2008-09 appropriations depend upon forecasts of yet-to-be received FY 2007-08 receipts as well as future FY 2008-09 receipts.

The following table presents the most recent Legislative Council Staff Forecast of Tobacco-settlement revenues, assuming that the tobacco manufacturers do not withhold any of their payments. Note that this forecast is not updated on a quarterly basis, so it is not the usual "December" forecast that will be updated in March.

FY	<i>Payment If No Manufacturers Withhold</i>
2003-04*	\$86.1
2004-05*	87.4
2005-06*	91.1
2006-07*	92.7
2007-08	116.1
2008-09	117.7
2009-10	119.5
2010-11	121.3

*Actual Amount

Uncertainty Due to Withholding and the Non Participating Manufacturer (NPM) Dispute: The forecasting process is imprecise and this imprecision has been exacerbated in recent years by a legal dispute between Colorado the tobacco manufacturers who participate in the Master Settlement

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Agreement concerning the non-participating manufacturers adjustment. As a consequence of this dispute, some, but not all, of the participating tobacco manufacturers have been withholding a portion of the payments they otherwise would have paid to Colorado and placing them in escrow. A difficult-to-forecast portion of the Participating Manufacturers are expected to continue withholding until this dispute is resolved by a panel of arbitrators. If the dispute is resolved in Colorado's favor, Colorado will receive the amounts that have been placed in escrow, plus interest. If the dispute is resolved in the participating manufacturer's favor, Colorado could lose all that has been placed in escrow and possibly more.

Two NPM Withholding Forecasts, Optimistic and Pesimistic: Because of the uncertainty regarding which participating manufacturers will withhold, JBC staff requested that Legislative Council Staff prepare two forecasts of tobacco settlement payments. The first forecast pessimistically assumes that all participating manufacturers who can withhold, will withhold, though this has never happened. The second, more optimistic forecast assumes that Philip Morris and half of the smaller manufacturers will not withhold, which is approximately what has happened in the past two years. The following table contrasts the forecasts. Note that these are not the most optimistic nor the most pessimistic forecasts possible. At the most pessimistic end of the spectrum, it is possible that Philip Morris will decide to "catch up" with the companies that withheld in prior years and withhold a very large amount. At the most optimistic end of the spectrum, it's possible that no participating manufacturers will withhold.

Fiscal Year	Forecast of Amount Withheld from Colorado's Settlement Payments		Difference
	Pessimistic Forecast	Optimistic Forecast (Philip Morris and half of the Subsequent Participating Manufacturers do not withhold)	
2007-08	\$9.5	\$7.1	\$2.4
2008-09	7.9	6.4	1.5
2009-10	5.6	4.6	1.0
2010-11	2.9	2.4	0.5

Dollar amounts are in millions of dollars.

Combining the optimistic withholding forecast with Legislative Council Staff's settlement payment forecast yields the following table, which also highlights the two years of settlement-payment receipts (FY 2007-08 and FY 2008-09) that determine the FY 2008-09 appropriations.

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FY	Payment if no withholding	Withholding (in forecast years, uses the "optimistic" withholding assumption)	Payment after withholding
2003-04*	\$86.1	0.0	86.1
2004-05*	87.4	0.0	87.4
2005-06*	91.1	(10.9)	80.2
2006-07*	92.7	(8.8)	83.9
2007-08	116.1	(7.1)	109.0
2008-09	117.7	(6.4)	111.3
2009-10	119.5	(4.6)	114.9
2010-11	121.3	(2.4)	118.9
Total		(40.2)	

* Denotes actual amount.

The shaded rows are the forecast years that determine FY 2008-09 appropriations.

Dollar amounts are in millions of dollars.

Note that under all forecasts, settlement payments are expected to jump substantially in FY 2007-08, reflecting the receipt, beginning in April 2008 of a series of "strategic contribution" payments that will continue until April 2017.

Staff recommends that the Committee utilize the optimistic forecast when setting appropriations for settlement-supported programs.

Staff believes that this forecast is the more accurate than the pessimistic forecast and staff further believes, based on recent experience with tobacco programs, that it will be easier for tobacco programs to deal with a large negative supplemental than to deal with a large positive supplemental, if the programs are informed at the start of FY 2008-09 that a January 2009 supplemental is highly likely and are told the approximate size of that adjustment.

Expiration of the authority to appropriate tobacco-settlement moneys to the Fitzsimmons Trust Fund: House Bill 03-1256 authorized the University of Colorado to enter into lease-purchase agreements of up to 25 years in length to finance the construction of academic buildings at the University of Colorado Health Sciences Center Fitzsimons campus. The bill required that eight percent of settlement moneys, up to \$8.0 million, be appropriated annually to the Fitzsimmons Trust Fund to pay a portion of the lease expense.

The Fitzsimmons Trust Fund was an already-existing fund that had been established in 1998 by H.B. 98-1318 to finance Fitzsimons construction projects. Thus it was a convenient and logical fund into

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which tobacco settlement moneys intended for Fitzsimons could be funneled. The original 1998 legislation contained an automatic repeal provision that terminated the fund and the related section of statute on July 1, 2008. The automatic repealer should have been extended by H.B. 03-1256, but was not due to a drafting oversight.

House Bill 08-1197 fixes this problem: The Capital Development Committee has introduced a bill, H.B. 08-1197 (McFadyen/Windels), to correct this technical error and extend the automatic repeal date to July 1, 2032. If this bill fails to become law, the Fitzsimons Trust Fund will cease to exist on July 1, 2008 and will not be able to receive the \$8 million of tobacco settlement moneys that it would otherwise have received in FY 2008-09. These settlement moneys will then flow to the Tier 2 settlement programs and, assuming that the General Assembly wants to continue funding the Fitzsimons certificates of participation (COPs), an \$8 million General Fund transfer or appropriation to the Fitzsimons Trust Fund will be required.

Staff recommends that the Committee make H.B. 08-1197 a part of the Long Bill package. Staff assumes that the Committee will continue funding the Fitzsimons Certificates of Participation. If H.B. 08-1197 is not part of the Long Bill package, this funding will require either (1) an \$8.0 million General Fund transfer to the Fitzsimons Trust Fund, which would be above the 6 percent limit, or (2) an \$8.0 million General Fund appropriation to the Fitzsimons Trust Fund, which would be within the 6 percent limit.

Status of H.B. 08-1197: House Bill 08-1197 passed the House Education Committee unamended with a unanimous vote on February 11 and, at this writing, is awaiting second reading in the House.

This Document Assumes the Committee Will Include H.B. 08-1197 in the Long Bill Package: Staff anticipates that the Committee will be unable to vote on this recommendation at this time, but the remaining recommendations in this document assume that the Committee will decide to include H.B. 08-1197 in the Long Bill package. If it is not part of the Long Bill package, staff would have to figure set to existing law and recommend a \$0 appropriation for Fitzsimons and proportionately larger appropriations for the Tier tobacco-settlement 2 programs.

Potential Ambiguity Concerning the Tobacco- and Substance-abuse-related Research Fund: House Bill 03-1256, which authorized the University of Colorado to enter into lease-purchase agreements and directed 8% of tobacco settlement moneys to the Fitzsimons Trust Fund, up to a maximum of \$8 million, created another problem. It was one of four bills (S.B. 03-190, S.B. 03-1256, S.B. 03-268, and S.B. 03-282) passed during the 2003 session that amended Section 23-20-207, C.R.S. Jointly these bills left behind a potentially ambiguous provision relating to the allocation of tobacco-settlement revenues, relevant excerpts of which read:

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23-20-207. Funding of research grants - tobacco- and substance-abuse-related research fund - creation - administrative costs.

(1) (a) (I) There is hereby created in the office of the treasurer of the university of Colorado the tobacco- and substance-abuse-related research fund.... Except as otherwise provided in section 24-75-1104 (1.7) (c) or (1.8) (b), C.R.S., beginning with the 2000-01 fiscal year and ending with the 2003-04 fiscal year, the general assembly shall appropriate to the fund eight percent of the total amount received by the state pursuant to the master settlement agreement...

(I.5) Notwithstanding the provision of subparagraph (I) of this paragraph (a), in any year in which money is owed to a lessor under a lease-purchase agreement authorized pursuant to section 3 of House Bill 03-1256, as enacted at the first regular session of the sixty-fourth general assembly:

(A) Moneys specified in subparagraph (I) of this paragraph (a) shall first be appropriated to the capital construction fund pursuant to section 23-20-136 (3.5); and

(B) If eight percent of the total amount received by the state pursuant to the master settlement agreement, other than attorneys fees and costs, exceeds the amount of eight million dollars, the excess shall be appropriated to the fund.

It should be noted that the General Assembly never voted upon the above provisions as a whole. Four different 2003 session bills altered Section 23-20-207, C.R.S. They were voted on in a piecemeal fashion, with none of the bills taking note of the other, and then joined by the Office of Legislative Legal Services to create the above.

Subparagraph (1) (a) (I), taken in isolation, says that tobacco settlement moneys are to be directed to the Research Fund beginning with the 2000-01 fiscal year and ending with the 2003-04 fiscal year.

Subparagraph (1) (a) (I.5) (B), taken in isolation, says that the Tobacco- and Substance-abuse-related Research Fund (the "Research Fund") is to receive an amount equal to 8 percent of tobacco-settlement revenues to the extent this amount exceeds \$8 million. Since FY 2008-09 is the first year in which the settlement revenues to be distributed have topped \$100 million, this is the first year in which this provision could have delivered settlement revenue to the Research Fund.

Since subparagraph (I.5) begins, "Notwithstanding the provision of subparagraph (I)...", it could arguably override the ending year 2003-04 in subparagraph (I). However, the 2003-04 ending date was added by S.B. 03-282 and it became effective after S.B. 03-190. Thus "no settlement money to

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the Research Fund after FY 2003-04" might be said to be the General Assembly's last word on this subject.

Now that Tobacco Settlement Revenues have grown over \$100 million, the interpretation of Section 23-20-207, C.R.S., has a real impact on the allocation of tobacco settlement moneys in FY 2008-09. If Section 23-20-207, C.R.S., is deemed to deliver 8 percent of tobacco-settlement revenues to the Research Fund to the extent this amount exceeds \$8 million, then this provision would deliver \$532,319 to the Research Fund in FY 2008-09 and, given current forecasts, this amount would rise by about \$30,000 in each subsequent year. Appropriations to Tier 2 programs, which include the University of Colorado, Health Sciences Center (a 49 percent beneficiary), would decline by the same amount.

The Office of Legislative Legal Services has informally stated their belief that the 2003-04 termination date for appropriations to the Research Fund, which was added by S.B. 03-282, trumps subparagraph (1) (a) (I.5) (B), so there should be no appropriation to the Research Fund. However, the University of Colorado or its supporters may argue that they deserve this money, or that they deserve some compensation for not insisting that they get this money.

Staff is not recommending a bill to deal with this problem at this time, but the Committee may wish to consult with OLLS about this issue, and based on the result of that conversation, may wish to run a bill to repeal or modify Section 23-20-207, C.R.S.

In the following analysis, Staff assumes that Section 23-20-207 (1) (a) (I.5) (B) will not deliver any tobacco settlement money to the Research Fund.

Recommended appropriations to Tier 1 tobacco-settlement programs. Most Tier 1 tobacco programs have their own cash funds and these "program cash funds" give the General Assembly a modest amount of appropriation flexibility. In a nutshell, the flow of settlement money to a tobacco program with its own cash fund works as follows: When settlement moneys arrive, they are automatically deposited in the Tobacco Litigation Settlement Cash Fund. The program's share of the settlement payment is then transferred by the Treasury from the Tobacco Litigation Settlement Cash Fund to the program cash fund, with the exact amount transferred dictated by a statutory formula. A Long Bill appropriation then provides the money in the cash fund to the supported program.

A program cash fund serves as a buffer; if there is a carryforward balance in a program cash fund, the appropriation to the program in a given year can exceed the amount transferred into the cash fund by the Treasury. The buffer means that the amount that the General Assembly appropriates to the program does not have to march in exact step with the transfer. The appendix describes the rules governing these program cash funds and comments on their ability to build fund balance.

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There are other circumstances under which the amount of settlement money delivered to a program may not fully dictate the related Long Bill appropriation, whether or not there is a program fund. For example, the Treasury annually transfers to the State Veterans Trust Fund one percent of settlement money. Statute dictates that a stated percentage of this transfer be appropriated to the Department of Military and Veterans Affairs, where it appears on the *Colorado State Veterans Trust Fund Expenditures* line of the Long Bill, in combination with an appropriation of income earned by the trust fund.

Tier 1 programs that lack their own cash funds receive appropriations directly from the Tobacco Litigation Settlement Cash Fund. Unless there is a secondary allocation, as there is with the State Veterans Trust Fund, the amount that the General Assembly appropriates to such programs is dictated by statute. This document presents recommended appropriations for these "direct appropriation" Tier 1 programs where the appropriation is fully determined by statute, while leaving figure setting for other Tier 1 programs to the program's JBC analyst.

Based on the above tobacco-settlement revenue forecast, the middle column of the table below shows the amount that will be transferred in FY 2008-09 to the cash fund of each Tier 1 program that has a cash fund while the right column of this table shows the amount that *must* be appropriated to the Tier 1 programs that lack cash funds.

Staff recommends that the Committee approve the appropriations in the right column of the following table. Appropriations for the other programs listed in this column will be recommended by each program's analyst. Those recommendations will be based in substantial part on the transfer in the middle column.

Tier 1 Programs Department	Projected FY 2008-09 transfer to program's cash fund	FY 2008-09 recommended approp to program
Department of Education		
Read-to-achieve Grant Program	5,325,177	EDU analyst will figure set this program
Department of Health Care Policy and Financing		
Comprehensive Primary and Preventive Care Grants Program	3,195,106	HCPF analyst will figure set the related programs
Children's Basic Health Plan Trust	25,560,851	
State share of funding required for Children with Autism Act	<u>500,000</u>	
Subtotal - HCPF	29,255,957	

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Tier 1 Programs Department	Projected FY 2008-09 transfer to program's cash fund	FY 2008-09 recommended approp to program
Department of Higher Education Fitzsimons Lease Purchase	8,000,000	HED analyst will figure set the related approps or transfers
Department of Military and Veterans Affairs State Veterans Trust Fund	998,589	MIL analyst has figure set the related appropriation
Department of Human Services Child Mental Health Treatment Act Program	Lacks a Cash Fund	300,000
Legislative Department State Auditor's Office	Lacks a Cash Fund	83,214
Department of Public Health and Environment Dental Loan Repayment Program	200,000	The PHE analyst will figure set these programs
AIDS and HIV Prevention Grant Program	1,997,179	
Nurse Home Visitor Program	13,845,461	
Ryan White AIDS Drug Assistance Program	Lacks a Cash Fund	
Tony Grampsas Youth Services Program	Lacks a Cash Fund	
Subtotal - CDPHE	16,042,640	7,987,766
Total of both columns	\$59,622,363	\$8,370,980

The autism transfer is not yet known and affects Tier 2 appropriations: The transfer for the State share of funding required for the Children with Autism Act is a place holder. There is no formula for this transfer in statute, only the requirement that the transfer not exceed \$1,000,000; beyond that, the transfer is driven by program need as determined by the General Assembly. The HCPF analyst will figure set this line item later. Since Tier 2 tobacco programs essentially divide the amount of tobacco money left after the Tier 1 programs absorb their share, changes to this appropriation will alter the appropriations to the Tier 2 programs.

Recommended appropriations to Tier 2 tobacco-settlement programs. All of the Tier 2 tobacco-settlement programs have their own cash funds or their own accounts within cash funds but, with two exceptions, these cash funds and accounts provide no funding flexibility because the cash funds and accounts cannot keep their income or carry unexpended fund balances to subsequent years. As a consequence, these programs are analogous to the "direct appropriation" programs in Tier 1; unless

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there is a subsidiary allocation, the exact amount of the appropriation is dictated by the tobacco statutes. The two exceptions are the Short-term Innovative Health Program Grant Fund and the Supplemental State Contribution Fund, which have more flexible cash funds.

The Supplemental State Contribution Fund is special in two regards. First, the fund can carry its fund balance forward and keep its income. Second, the fund is continuously appropriated to the program that it supports, so no Long Bill appropriation to the program is required, though an informational appropriation can be placed in the Long Bill that reflects the amount the program is expected to expend.

The Short-term Innovative Health Program Grant Fund is even more unique. Not only can it roll unexpended fund balances forward, it also is the recipient, at the end of each fiscal year, of (1) the unexpended fund balance in the cash funds of other Tier 2 programs and the interest earned by those cash funds (except the Supplemental State Contribution Fund), and (2) moneys that are unable to remain in the Cash Funds of the Tier 1 programs for one reason or another.

Department	Projected FY 2008-09 transfer to program cash funds	FY 2008-09 recommended approp to program
Department of Higher Education		
University of Colorado, Health Sciences Center (49%)	\$18,943,716	\$18,943,716
Department of Health Care Policy and Financing		
Children's Basic Health Plan Trust - expand caseload from 200% to 205% of the Federal Poverty Level (5%)	1,933,032	HCPF analyst will figure set the related programs
Comprehensive Primary and Preventive Care Grants Program (8.5%)	3,286,155	3,286,155
Medicaid shortfalls at Children's Hospital (1%)	<u>386,606</u>	386,606
Subtotal - Department of Health Care Policy and Financing	5,605,793	
Department of Human Services		
Offender Mental Health Services (12%)	4,639,277	4,639,277
Alcohol and Drug Abuse (3%)	<u>1,159,819</u>	1,159,819
Subtotal - Department of Human Services	5,799,096	

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Department	Projected FY 2008-09 transfer to program cash funds	FY 2008-09 recommended approp to program
Department of Personnel and Administration		Continuous appropriation. DPA analyst may recommend an informational appropriation for the Long Bill
Supplemental State Health and Dental Contribution (4.5%)	1,739,729	
Department of Public Health and Environment		
Colorado Immunization Program (4%)	1,546,426	
Local Public Health Services Per Capita Support (7%)	2,706,245	PHE analyst will figure set related appropriations
Short-term Innovative Health Program Grants (6%)	<u>2,319,639</u>	
Subtotal - Department of Public Health and Environment	6,572,310	
Total	\$38,660,644	

Staff requests permission to recalculate the recommended appropriations to Tier 2 programs after the HCPF analyst has set the Autism appropriation.

2007 Session Bills drawing upon the cash fund for Short-term Innovative Health Program Grants: The projected \$2,319,639 transfer to the Short-term Innovative Health Program Grants fund does not take into the account the 2007 session bills that used the Short Term Innovative Health Program Grant Fund as a source of funding: S.B. 07-4, S.B. 07-146, S.B. 07-232, H.B. 07-1057, H.B. 07-1064, H.B. 07-1335, and H.B. 07-1346. Each of these bills contained FY 2007-08 appropriations either directly or indirectly from the Short Term Innovative Health Program Grant Fund and four of the bills included statutory appropriations that extend as far as FY 2011-12. The following table shows the amounts appropriated in FY 2007-08 and the amounts statutorily required to be appropriated in subsequent years. These statutory appropriations all include provisions stating that the amount appropriated to the program in any year cannot exceed a given percentage of the amount transferred in that year to the Short-term Innovative Health Programs Grant Fund. These maximum percentages are included in the table below.) Note that the appropriations to each of these programs in FY 2008-09 are below the statutory percentage limits.

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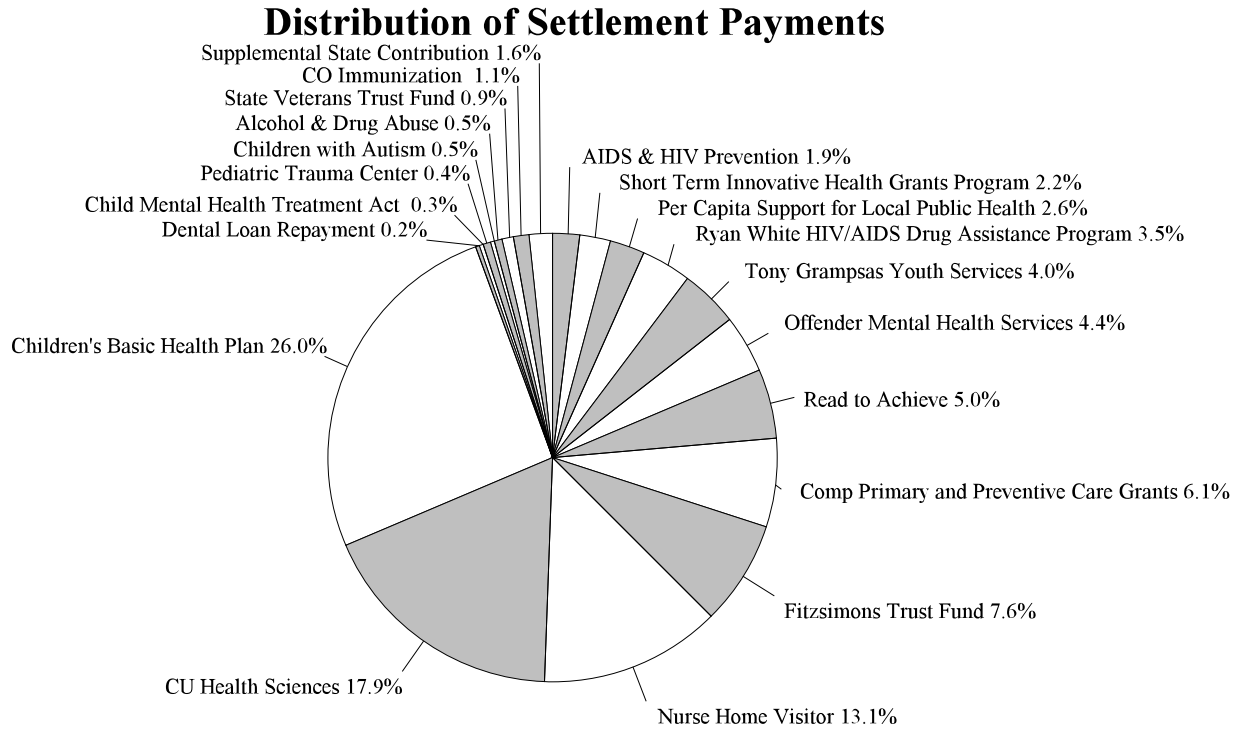
2007 Session Bills with Appropriations Either Directly or Indirectly from the Short-term Innovative Health Programs Grant Fund						
Bill #	Short Title	Amount				
		FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12
HB 07-1057	Juvenile Justice Family Advocate Program (10.5% max)	\$172,715	\$221,717	\$221,717	\$221,717	\$0
HB 07-1064	Find/Save Programs for the Cognitively Disabled	125,000	0	0	0	0
HB 07-1335	Supplemental Low-Income State Employee Benefits	160,000	0	0	0	0
HB 07-1346	Prepaid Inpatient Health Plans MCOs	37,500	0	0	0	0
SB 07-004	Early Intervention Services Coordinated Payment (2.8% max)	53,730	59,299	59,299	0	0
SB 07-146	Veterans Mental Health Services Pilot Program (30% max)	300,000	300,000	300,000	0	0
SB 07-232	Health Professional Loan Repayment Program (6% max)*	60,000	60,000	60,000	60,000	60,000
	Total	\$908,945	\$641,016	\$641,016	\$281,717	\$60,000

*SB 07-232 does not use the Innovative Health Programs Grant Fund after FY 2011-12.

As a consequence of these bills, the \$2,319,639 transfer that the Short-term Innovative Health Programs Grant Fund is forecast to receive via its 6 percent share of the tobacco moneys allocated to Tier 2 programs will be reduced to \$2,319,639 - \$641,016 = \$1,678,623.

The following pie chart shows the distribution of tobacco moneys in FY 2008-09 that is embodied in the above tables. The appropriation to CDPHE for tobacco-settlement oversight duties is omitted because it consumes a tiny portion of every other pie slice. This appropriation will be set by the Public Health and Environment Analyst.

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APPENDIX

The Allocation of Tobacco-Settlement Moneys

This appendix is designed to provide the JBC with detailed information concerning the allocation of tobacco-settlement moneys, should the Committee need an explanation that goes beyond that provided in the main section of this document. This appendix explains the process by which Colorado allocates tobacco settlement payments among tobacco-settlement-supported program. The first part of the appendix begins with a brief and somewhat simplified overview of the appropriation process, focusing on the most important allocation factors and excluding details that can obscure understanding. The second part of the appendix takes a more in-depth look at the specifics.

Part I, Overview

Basics of the Master Settlement Agreement: The Master Settlement Agreement (MSA) was signed in November 1998 by 52 settling states and territories and the (then) four major U.S. tobacco companies. In this agreement, the participating manufacturers agreed to

1. Abide by a variety of public health restrictions on the advertising and marketing of cigarettes,
2. Create and fund the American Legacy Foundation, which conducts anti-tobacco advertising, and
3. Make specified payments to the settling states *in perpetuity*.

In return, the settling states agreed to release the participating manufacturers from health-related claims by the states related to the use, manufacture IS THIS WHAT YOU WANT? and marketing of tobacco products. There is also a separate agreement with smokeless tobacco companies.

A number of smaller tobacco companies have joined the Master Settlement Agreement since it was signed in 1998, agreeing to abide by its provisions. The tobacco companies that were original parties to the agreement and those that subsequently joined are collectively known as Participating Manufacturers. Tobacco companies that have not joined the agreement are known as Non Participating Manufacturers.

The three categories of settlement payments: Colorado began receiving master-settlement-agreement payments in 1999. These receipts are exempt from TABOR since they result from a damage award. The settlement payments that Colorado has received and will receive in the future are the sum of three components:

1. A series of initial payments, which ended in 2003.

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2. A perpetual stream of "base" payments, which began in 2000 and are adjusted each year.
3. A series of "strategic contribution" payments, which will begin in April 2008 and continue until 2017. These payments are to be allocated among the MSA states based on each state's contribution to the litigation.

The base payments have proved difficult to forecast, in part due to the fact that, several participating manufacturers have withheld a portion of their base payments in recent years due to a dispute related to Non Participating Manufacturers. It is expected that the strategic contribution payments will be easier to forecast than the base payments because they are less subject to dispute.

The settlement payments for a calendar given year are due the following April 15th, but the exact amount of each year's payment is often subject to dispute. Disputed amounts are directed into disputed payments accounts and are only sent to Colorado when the disagreement is resolved. As a consequence, Colorado typically receives two to four settlement payments in the course of a fiscal year, with the vast majority of the payments arriving in mid April.

Long Bill appropriations are based on settlement-payment forecasts. Once actual payments are known, a supplemental is often needed. Because many of the appropriations in the Long Bill to settlement-supported programs depend upon the amount of settlement revenue received in the prior year, and because the April payment is not known at the time the Long Bill is written and approved, each year's Long Bill must be based upon a forecast of settlement payments, a forecast that almost always proves incorrect. Supplementals are then required the following January to correct resulting inaccuracies.

Statutory formulas control appropriations and leave little room for discretion. Appropriations for tobacco-settlement-supported programs are controlled by formulas that are scattered through statute. The core rules are contained in Sections 24-22-115 through 24-22-116, C.R.S. and in Sections 24-75-1101 through 24-75-1105, C.R.S. with Section 25-75-1104.5, C.R.S. containing the most important formulas. These formulas leave the JBC and the General Assembly with relatively little discretion regarding the amounts appropriated.

Tier 1 and Tier 2 programs. Section 24-75-1104.5, C.R.S., divides settlement-supported programs into two categories which are often referred to as "Tier 1" and "Tier 2" programs. The amount allocated to most Tier 1 programs depends upon what may be called the "Tier 1 Amount", which equals the base payment received in the prior fiscal year plus a portion of the strategic contribution payments received in the current fiscal year. For FY 2007-08, \$6,250,000 of the current year strategic contribution payment is included in the Tier 1 amount. For FY 2008-09 and subsequent years, \$15,400,000 of the current year strategic contribution payment is included in the Tier 1 amount.

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The following table lists the Tier-1 settlement programs and provides a slightly simplified summary of their statutory funding rules:

Table A1

Tier 1 Program	Funding Rule
Read-to-achieve Grant Program	5% of the Tier 1 Amount, up to a maximum of \$8 million
Comprehensive Primary and Preventive Care Grant Program	3% of the Tier 1 Amount, up to a maximum of \$5 million.
Children's Basic Health Plan	24% of the Tier 1 Amount, up to a maximum of \$30 million.
State share of funding required for Children with Autism Act	Up to \$1 million.
Fitzsimons Lease Purchase	8% of the Tier 1 Amount, up to a maximum of \$8 million
State Veterans Trust Fund	1% of the Tier 1 Amount, up to a maximum of \$1 million is allocated to the Trust Fund. A portion of this allocation is then expended by the Department of Military and Veterans Affairs.
Child Mental Health Treatment Act Program	\$300,000 annually.
Dental Loan Repayment Program	\$200,000 annually
HIV and AIDS Prevention Grant Program	2% of the Tier 1 Amount, up to a maximum of \$2 million.
Ryan White HIV/AIDS Drug Assistance Program	3.5% of the Tier 1 Amount, up to a maximum of \$5 million
Tony Gramscas Youth Services Program	4% of the Tier 1 Amount, up to a maximum of \$5 million
Nurse Home Visitor Program	12% of the Tier 1 Amount, in FY 2007-08 up to a maximum of \$19 million. The percentage rises to 13% in FY 2008-09, 14% in FY 2009-10, etc., topping out at 19% in FY 2014-15.

Note that these allocations to Tier 1 programs do not absorb 100% of the Tier 1 Amount. In FY 2007-08, for example, Tier 1 programs will absorb about 63 percent of the Tier 1 Amount. (Also note that this table ignores small appropriations to the State Auditor's Office and to the Department of Public Health and Environment's Administration division, appropriations that will be discussed below.)

The remainder of the Tier 1 Amount (i.e. that which is not absorbed by Tier 1 programs) is then combined with the portion of the current year Strategic Contribution payments that were not included in the Tier 1 Amount and this resulting "Tier 2 Amount" is distributed among Tier 2 programs in the following percentages:

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Table A2

Tier 2 Program	Percentage
University of Colorado Health Sciences Center	49.0%
Mental Health Services for Juvenile and Adult Offenders	12.0%
Indigent Health Care Provided by Rural and Public Hospitals	8.5%
Local Public Health Services	7.0%
Increase Children's Basic Health Plan Eligibility from 200% to 205% of the Federal Poverty Level	5.0%
Supplemental State Contribution for Group Benefit Plans	4.5%
Colorado Immunization Program	4.0%
Expansion of Alcohol and Drug Abuse programs	3.0%
Short-term Grants for Innovative Health Programs	6.0%
Medicaid Shortfalls at Children's Hospital	1.0%
Total	100.0%

As Table A2 indicates, the Tier 2 programs will absorb 100 percent of any remaining payments. Note that there are no ceilings or floors on these appropriations.

Part II, The Allocation and Appropriation Process in Depth

Before examining the allocation of settlement moneys in detail, it is useful to examine several characteristics of settlement programs.

Existence of a cash fund that supports the program and can possibly be used to carry unexpended moneys forward. Most, but not all, Tier 1 and Tier 2 settlement programs have their own cash funds (or their own accounts within other cash funds). When tobacco settlement moneys arrive, they are automatically deposited in the Tobacco Litigation Settlement Cash Fund – a large cash fund that initially receives all settlement payments. If a program has its own cash fund or account, then the program's share of the settlement payment is automatically transferred by the Treasury from the Tobacco Litigation Settlement Cash Fund to the program's cash fund or account, with the amount transferred depending upon the program's statutory funding formula. In all but one instance, a Long Bill appropriation then provides the money in the cash fund or account to the supported program, thus giving the General Assembly final control over expenditures.

The Read-to-achieve Grant Program provides an example. Pursuant to statute, 5 percent of the "Tier 1 Amount", which is defined above, is automatically transferred by the Treasury from the Tobacco

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Litigation Settlement Cash Fund to the Read-to-achieve Cash Fund. A Long Bill appropriation then allocates the moneys in the Read-to-achieve Cash Fund to the Read-to-achieve Grant Program. Without this appropriation, the Read-to-achieve Grant Program could not spend the moneys in its cash fund.

Among the more important characteristics of these cash funds are (1) the extent to which a given fund or account can carry an unexpended fund balance forward so it can be spent in the next fiscal year, and (2) whether the fund can keep the income that it earns. At one extreme are most of the cash funds and accounts that support Tier 2 programs; with two exceptions (the Supplemental State Contribution Fund and the Short Term Innovative Health Program Grant Fund), these cash funds and accounts cannot carry balances forward and cannot keep their income. At the end of each fiscal year, the unexpended balance in each of these cash funds and accounts, as well as the interest earned by each fund over the course of the fiscal year, is swept into the Short Term Innovative Health Program Grant Fund. At the other extreme are several of the cash funds that support Tier 1 programs, such as the Read-to-achieve Cash Fund, which keeps its income and carries its entire unexpended balance forward from one year to the next. In the middle are the Nurse Home Visitor Cash Fund and the Comprehensive Primary and Preventive Care Fund, which both have a limited ability to carry unexpended fund balance forward to the next year.

If a fund or account can carry some or all of its unexpended balance forward, the General Assembly is given a little flexibility regarding appropriations to the program. For example, if a program's cash fund has a carry forward balance of \$10,000 at the start of the fiscal year and, pursuant to statute, it receives a \$1 million transfer during the year, then the General Assembly could appropriate up to \$1,010,000 to the program for that year – the total amount available in the program's cash fund. Alternately, the General Assembly could deliberately build up a balance in a program's cash fund by appropriating less than the full amount transferred into the fund in a given year. Such a balance could provide a modest buffer against a decline in tobacco settlement payments. Such balances also provide a buffer against supplementals. As noted above, supplementals are the result of forecasting inaccuracies at the time the Long Bill is written and approved. If more tobacco revenue arrives than was anticipated in the Long Bill, then appropriations to settlement-supported programs must be adjusted upward to distribute the unexpected revenue. If less revenue arrives than was anticipated, appropriations to settlement-supported programs must be reduced. This supplemental-avoidance possibility will be explored more thoroughly below.

"Direct Appropriation" programs are settlement programs that do not have their own individual cash funds. These programs receive an appropriation directly from the Tobacco Litigation Settlement Cash Fund, the initial fund into which settlement payments are deposited, without an intermediate stop in a cash fund that supports the program. These appropriations appear in the Long Bill; their size is determined by statutory formulas, meaning there is no flexibility regarding the amount of money that the programs receive; the General Assembly must appropriate the amount dictated by statute.

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An example is the Tony Grampsas Youth Services Program, which receives 4 percent of settlement payments.

A second distinguishing characteristic of tobacco-settlement programs is the funding formula, which can fall into one of several categories:

1. **Formulas delivering a percentage of settlement payments to a program.** The most common funding formula delivers a percentage of the "Tier 1 amount" or the "Tier 2 amount" to a program or to a program's cash fund, generally with a ceiling on the amount appropriated or transferred. (Recall that the Tier 1 amount equals the prior year base settlement payment plus a portion of the current year strategic contribution payment while the Tier 2 amount equals the portion of the Tier 1 amount that is not absorbed by Tier 1 programs plus the remainder of the current year strategic contribution payment). Example: a formula in Section 25-4-1415, C.R.S., provides the AIDS and HIV Prevention Fund with 2% of the Tier 1 amount up to a maximum of \$2 million. Section 25-20.5-201, C.R.S., sets the appropriation to the Tony Grampsas Youth Services Program (which lacks its own cash fund) equal to 4% of the Tier 1 amount, up to a maximum of \$5 million. A variation is the appropriation to the State Auditor (which has, for simplicity, been ignored to this point). The State Auditor's appropriation equals 0.1 percent of the total settlement payments received during the prior *calendar* year.

Percentage-of-settlement-payment formulas are the key source of tobacco settlement supplementals. The state usually receives two to four settlement payments during a fiscal year with the bulk of the money arriving in mid April. Since it is impossible to delay the Long Bill until the final payment for the fiscal-year is known with certainty, the appropriations in the Long Bill must be based upon a forecast, a forecast that almost always proves incorrect. Note however that forecasting plays no role in determining the State Auditor's appropriation. Since total prior calendar year payments are known at figure setting, the State Auditor's appropriation never needs a supplemental adjustment. (Prior to passage of H.B. 06-1310, the State Auditor's appropriation depended on prior fiscal year settlement payments, which are not known when the Long Bill is enacted. Since the appropriation to most Tier 1 programs depends in tiny part on the appropriation to the State Auditor, this drove many small supplementals.)

Programs that receive *direct* appropriations of a percentage of the Tier 1 amount will almost always require supplementals. Suppose, for example, that the settlement-payment forecast that served as the basis for the Long Bill proves to be \$100,000 too low. The Tony Grampsas Youth Services Program receives 4% of prior fiscal year settlement payments, so a \$4,000 (4% * \$100,000) supplemental appropriation increase for the Tony Grampsas Youth Services Program will be required.

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Programs with their own cash funds can use those cash funds as a buffer and thus might not require supplemental appropriation adjustments. Suppose, for example, that the settlement-payment forecast that served as the basis for the Long Bill proves to be \$100,000 too low. Then the automatic 5 percent transfer to the Read-to-achieve Cash Fund will be \$5,000 (5% * \$100,000) higher than was anticipated. The General Assembly *could* adjust the appropriation to the Read-to-achieve Grant Program by a corresponding amount, but it doesn't have to. It could let the \$5,000 accumulate in the Read-to-achieve Cash Fund and later use the fund's balance to cushion negative supplementals when settlement payments prove to be lower than forecast at the time of the Long Bill. Such smoothing could make it easier to run the program. If settlement payments take a large unexpected plunge, it will be more difficult to use fund balance to avoid a supplemental.

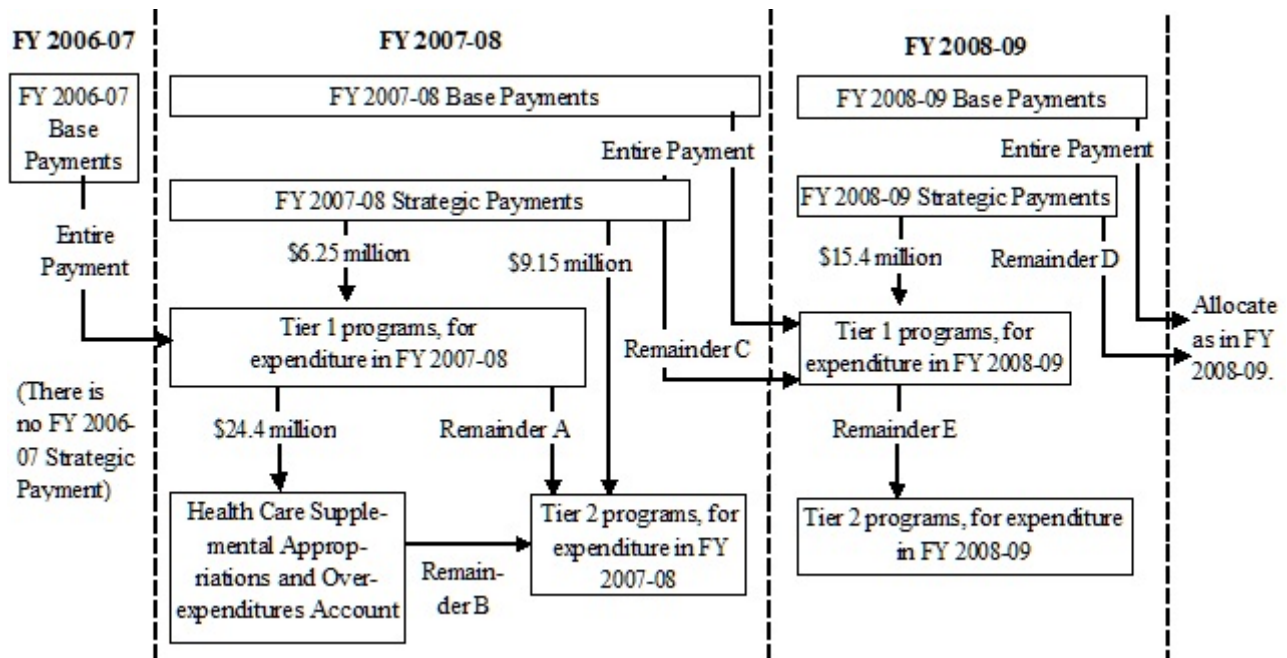
2. **Formulas delivering a fixed dollar amount to a program.** Two programs, Dental Loan Repayment and Child Mental Health, receive a fixed dollar amount from the prior year tobacco settlement payment. These appropriations never need supplemental adjustment.
3. **Flexible Formulas.** The funding formulas for two programs are flexible. Under the provisions of Sections 24-22-115 (1) and 26-4-695, C.R.S., the Children with Autism Act Program receives an annual transfer of up to \$1 million with the amount transferred fully under the control of the General Assembly. The transfer occurs at the end of the year in which the settlement payment is received, but the expenditure happens the following year. Section 25-1-108.5 (5), C.R.S. provides for an appropriation to the Department of Public Health and Environment for its oversight activities with the appropriation capped at 0.4 percent of the prior year settlement payment. The appropriation to the Department of Public Health and Environment is a transfer appropriation out of the appropriations to other settlement-supported programs.

Additional Detail on the "Tier 1 Amount" and the "Tier 2 Amount"

As explained above, appropriations to most settlement programs depend upon the "Tier 1 Amount" and the "Tier 2 Amount". The computation of these amounts is somewhat more difficult than the presentation above indicated.

House Bill 07-1359 allows a portion of the State's settlement moneys to be spent by Tier 1 and Tier 2 programs in the year in which they are received, rather than waiting until the following year to expend them. The following diagram illustrates the resulting flow of tobacco settlement dollars.

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Under the terms of H.B. 07-1359, the base payments that the State receives during FY 2006-07 are directed to Tier 1 programs for expenditure in FY 2007-08. An added \$6.25 million of FY 2007-08 Strategic Contribution payments are also directed to Tier 1 programs. Together these two flows make up the "Tier 1 Amount." The Tier 1 programs will absorb about two thirds of these payments. The first \$24.4 million of moneys not utilized by Tier 1 in FY 2007-08 flow to the Health Care Supplemental Appropriations and Overexpenditures Account and the remaining moneys (Remainder A in the diagram) flow to Tier 2 for expenditure in FY 2007-08 according to the rules of Section 24-75-1104.5 (1.5), C.R.S. The \$24.4 million directed into the Health Care Supplemental Appropriations and Overexpenditures Account can be used, prior to April 16, 2008, to pay for FY 2006-07 and FY 2007-08 overexpenditures and supplementals of the Children's Basic Health Plan and the Colorado Benefits Management System. Moneys remaining in the Health Care Supplemental Appropriations and Overexpenditures Account on April 16, 2008 (Remainder B in the diagram) will be directed to Tier 2 programs for expenditure in FY 2007-08 according to the rules of Section 24-75-1104.5 (1.5), C.R.S. The "Tier 2 Amount" thus equals the sum of Remainder A, Remainder B and the \$9.15 million that flows directly to Tier 2 programs from the State's Strategic Payments.

The story is somewhat different in FY 2008-09 when the base payments that the State receives during FY 2007-08 are directed to Tier 1 programs and an added \$15.4 million of FY 2008-09 Strategic Contribution payments are also directed to these programs, plus any remainder of the FY 2007-08 Strategic Contribution payments that was not directed to programs in the prior year. Together, these three flows make up the Tier 1 Amount. The Tier 2 Amount then equals Remainder E in the above diagram.

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Detailed Appropriation Rules for Tier 1 Programs

The rules governing Tier 1 settlement programs were enacted between the 2000 and 2007. Because these laws span a number of years, the resulting funding rules are much more diverse than the rules governing Tier 2 programs, which were created during the 2007 session. The amount allocated to most Tier 1 programs depends upon the Tier 1 Amount. The following table presents the funding rules for each Tier 1 program:

Program, Fund, Project, or Agency	Funding Rules	Appropriation that appears in Long Bill or elsewhere (CFE)
<p>1. State Auditor for auditing tobacco-settlement programs.</p> <p>Location of appropriation: Legislative Appropriation Act.</p> <p>Cite: Sec. 2-3-113 (7), C.R.S.</p>	<p>The General Assembly is required to appropriate 0.1% of the prior <i>calendar</i> year tobacco settlement payment to the State Auditor. There is no flexibility regarding the amount appropriated. The appropriation comes from a proportionate reduction in the transfers and appropriations to most Tier 1 programs.</p>	<p><i>From</i> Tobacco Litigation Settlement Cash Fund</p> <p><i>To</i> State Auditor</p>
<p>2. CDPHE for tobacco-settlement oversight duties.</p> <p>Location in Long Bill: CDPHE, Administration and Support Division.</p> <p>Cite: Sec. 25-1-108.5 (5), C.R.S.</p>	<p>Statute requires each Tier 1 tobacco settlement program to pay a proportionate share of the oversight costs incurred by CDPHE, up to a maximum of 0.4% of the prior year settlement payment. The appropriation takes the form of a T-notated transfer appropriation in the Administration and Support Division. The current appropriation equals 0.03% of the prior year settlement payment.</p>	<p><i>From</i> Appropriations to all settlement-supported programs</p> <p><i>To</i> CDPHE Administration and Support Division</p>

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Program, Fund, Project, or Agency	Funding Rules	Appropriation that appears in Long Bill or elsewhere (CFE)
<p>3. Nurse Home Visitor Program.</p> <p>Location in Long Bill: (1) CDPHE, Prevention Services Division, (2) HCPF, Other Medical Services.</p> <p>Cite: Sec. 25-31-107 (2) (b), C.R.S.</p>	<p>Step 1: The Treasurer transfers 12% of the Tier 1 amount up to a maximum of \$19 million from the Tobacco Litigation Settlement Cash Fund to the Nurse Home Visitor Program Fund, less a proportionate share of the State Auditor's tobacco-settlement appropriation. The transfer percentage rises to 13% in FY 2008-09, 14% in 2009-10, etc., topping out at 19% in FY 2014-15.</p> <p>Step 2: The General Assembly appropriates moneys in the Nurse Home Visitor Program Fund to the Nurse Home Visitor Program. The appropriation need not equal the transfer, however, if the appropriation is less than the transfer, most of the moneys not appropriated would revert to the Tobacco Litigation Settlement Cash Fund.</p> <p>About 20% of the Nurse Home Visitor Program appropriation is re-appropriated to HCPF via a T-notated transfer appropriation so HCPF can obtain a Medicaid match.</p>	<p><i>From</i> Nurse Home Visitor Program Fund</p> <p><i>To</i> Nurse Home Visitor Program</p>
<p>4. Comprehensive Primary and Preventive Care Grant Program.</p> <p>Location in Long Bill: HCPF, Indigent Care Program.</p> <p>Cite: Sec. 25.5-3-207 (3) (a), C.R.S.</p>	<p>Step 1: The Treasurer transfers 3% of the Tier 1 amount, up to a maximum of \$5 million from the Tobacco Litigation Settlement Cash Fund to the Comprehensive Primary and Preventive Care Fund, less a proportionate share of the State Auditor's tobacco-settlement appropriation.</p> <p>Step 2: The General Assembly appropriates the moneys in the Comprehensive Primary and Preventive Care Fund to the Comprehensive Primary and Preventive Care Grants Program. The appropriation need not equal the transfer. However, if the appropriation is less than the transfer, most of the moneys not appropriated would revert to the Tobacco Litigation Settlement Cash Fund.</p>	<p><i>From</i> Comprehensive Primary and Preventive Care Fund</p> <p><i>To</i> Comprehensive Primary and Preventive Care Grants</p>

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Program, Fund, Project, or Agency	Funding Rules	Appropriation that appears in Long Bill or elsewhere (CFE)
<p>5. Children's Basic Health Plan.</p> <p>Location in Long Bill: HCPF, Indigent Care Program.</p> <p>Cite: Secs. 25.5-8-105 and 24-22-115.5 (2) (a.7) (I), C.R.S.</p>	<p>Step 1: The Treasurer transfers 24% of the Tier 1 amount up to a maximum of \$30 million from the Tobacco Litigation Settlement Cash Fund to the Children's Basic Health Plan Trust, less a proportionate share of the State Auditor's tobacco-settlement appropriation. If this 24% transfer is less than \$17.5 million, the shortfall is taken from the allocation to tier 2 programs.</p> <p>Step 2: The General Assembly appropriates the moneys in the Children's Basic Health Plan Trust to the Children's Basic Health Plan. There are several appropriations and the sum of these appropriations need not equal the transfer. If an amount less than the transfer is appropriated, the excess stays in the Children's Basic Health Plan Trust.</p>	<p><i>From</i> Children's Basic Health Plan Trust</p> <p><i>To</i> Children's Basic Health Plan</p>
<p>6. Colorado HIV and AIDS Prevention Grant Program</p> <p>Location in Long Bill: CDPHE, Disease Control and Environmental Epidemiology Division.</p> <p>Cite: Sec. 25-4-1415, C.R.S.</p>	<p>Step 1: The Treasurer transfers 2% of the Tier 1 amount up to a maximum of \$2 million from the Tobacco Litigation Settlement Cash Fund to the AIDS and HIV Prevention Fund, less a proportionate share of the State Auditor's tobacco-settlement appropriation.</p> <p>Step 2: The General Assembly appropriates the moneys in the AIDS and HIV Prevention Fund to the HIV and AIDS Prevention Grant Program. The appropriation need not equal the transfer. If an amount less than the transfer is appropriated, the excess stays in the AIDS and HIV Prevention Fund.</p>	<p><i>From</i> AIDS and HIV Prevention Fund</p> <p><i>To</i> HIV and AIDS Prevention Grant Program</p>
<p>7. Dental Loan Repayment Program.</p> <p>Location in Long Bill: CDPHE, Prevention Services Division.</p> <p>Cite: Sec. 25-23-104 (2), C.R.S.</p>	<p>Step 1: The Treasurer transfers \$200,000 from the Tobacco Litigation Settlement Cash Fund to the State Dental Loan Repayment Fund.</p> <p>Step 2: The General Assembly appropriates moneys in the State Dental Loan Repayment Fund to CDPHE on the Dental Programs line of the Long Bill. The appropriation need not equal the transfer. If an amount less than the transfer is appropriated, the excess stays in the State Dental Loan Repayment Fund.</p>	<p><i>From</i> State Dental Loan Repayment Fund</p> <p><i>To</i> Dental Programs</p>

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Program, Fund, Project, or Agency	Funding Rules	Appropriation that appears in Long Bill or elsewhere (CFE)
<p>8. Fitzsimons Lease Purchase.</p> <p>Location in Long Bill: Capital Construction, Department of Higher Education.</p> <p>Cite: Sec. 23-20-136 (3.5), C.R.S.</p>	<p>Step 1: The Treasurer transfers the lesser of (1) 8% of the Tier 1 amount, up to a maximum of \$8 million or (2) the amount due under the facilities' lease-payment agreement, from the Tobacco Litigation Settlement Cash Fund to the Capital Construction Fund and the State Controller then re-transfers this sum to the Fitzsimons Trust Fund. In FY 2005-06, rule (2) applied. In FY 2006-07 and subsequently, rule (1) applies.</p> <p>Step 2: The General Assembly appropriates the amount transferred in Step 1, plus other Capital Construction Fund moneys transferred from the General Fund, to the "Lease Purchase of Academic Facilities at Fitzsimons" line in the Capital Construction portion of the Long Bill. The appropriation need not equal the transfer. If an amount less than the transfer is appropriated, the excess stays in the Fitzsimons Trust Fund.</p> <p>The Fitzsimons Lease Purchase is not a program, so it does not pay a share of the State Auditor's tobacco settlement appropriation.</p>	<p><i>From</i> Tobacco Litigation Settlement Cash Fund</p> <p><i>To</i> Capital Construction Fund</p>
<p>9. State Veterans Trust Fund.</p> <p>Location in Long Bill: Department of Military and Veterans Affairs, Division of Veterans Affairs.</p> <p>Cite: Sec. 28-5-709 (2), C.R.S.</p>	<p>Step 1: The Treasurer transfers 1% of the Tier 1 amount, up to a maximum of \$1 million from the Tobacco Litigation Settlement Cash Fund to the Colorado State Veterans Trust Fund, less a proportionate share of the State Auditor's tobacco-settlement appropriation.</p> <p>Step 2: The General Assembly appropriates the moneys in the Colorado State Veterans Trust Fund to various programs. These appropriations must not exceed interest earned by the Trust Fund plus a specified percentage of the transfer. The percentage declines from 65% in FY 2007-08 to 35% in FY 2010-11. Moneys not appropriated remain in the Trust fund.</p>	<p><i>From</i> Colorado State Veterans Trust Fund</p> <p><i>To</i> Colorado State Veterans Trust Fund Expenditures</p>

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Program, Fund, Project, or Agency	Funding Rules	Appropriation that appears in Long Bill or elsewhere (CFE)
<p>10. Read-to-achieve Grant Program.</p> <p>Location in Long Bill: Department of Education, Assistance to Public Schools.</p> <p>Cite: Sec. 22-7-506 (4) (b), C.R.S.</p>	<p>Step 1: The Treasurer transfers 5% of the Tier 1 amount, up to a maximum of \$8 million from the Tobacco Litigation Settlement Cash Fund to the Read-to-achieve Cash Fund, less a proportionate share of the State Auditor's tobacco-settlement appropriation.</p> <p>Step 2: The General Assembly appropriates moneys in the Read-to-achieve Cash Fund to the Read-to-achieve Grant Program. The appropriation need not equal the transfer. If less than the amount transferred is appropriated, the excess stays in the Read-to-achieve Cash Fund.</p>	<p><i>From</i> Read-to-achieve Cash Fund</p> <p><i>To</i> Read-to-achieve Grant Program</p>
<p>11. Tony Grampsas Youth Services Program.</p> <p>Location in Long Bill: CDPHE, Prevention Services Division.</p> <p>Cite: Sec. 25-20.5-201 (2) (c), C.R.S.</p>	<p>The General Assembly is required to appropriate 4% of the Tier 1 amount, up to a maximum of \$5 million, from the Tobacco Litigation Settlement Cash Fund to the Tony Grampsas Youth Services Program, less a proportionate share of the State Auditor's tobacco-settlement appropriation. There is no flexibility regarding the amount appropriated.</p>	<p><i>From</i> Tobacco Litigation Settlement Cash Fund</p> <p><i>To</i> Tony Grampsas Youth Services Program, Prevention Services Programs.</p>
<p>12. Ryan White HIV/AIDS Drug Assistance Program.</p> <p>Location in Long Bill: CDPHE, Prevention Services Division.</p> <p>Cite: Sec. 25-4-1411 (6) (a), C.R.S.</p>	<p>The General Assembly is required to appropriate 3.5% of the Tier 1 amount, up to a maximum of \$5 million, from the Tobacco Litigation Settlement Cash Fund to the Ryan White HIV/AIDS Drug Assistance Program, less a proportionate share of the State Auditor's tobacco-settlement appropriation. There is no flexibility regarding the amount appropriated.</p>	<p><i>From</i> Tobacco Litigation Settlement Cash Fund</p> <p><i>To</i> Ryan White HIV/AIDS Drug Assistance Program, Operating Expenses.</p>

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Program, Fund, Project, or Agency	Funding Rules	Appropriation that appears in Long Bill or elsewhere (CFE)
<p>13. Child Mental Health Treatment Act Program.</p> <p>Location in Long Bill: (1) HCPF, Department of Human Services Medicaid-funded Programs, Mental Health and Alcohol and Drug Abuse Services—Medicaid Funding (2) DHS, Mental Health and Alcohol and Drug Abuse Services, Mental Health Community Programs, Residential Treatment for Youth (H.B. 99-1116)</p> <p>Cite: Sec. 27-10.3-106 (b), C.R.S.</p>	<p>The General Assembly is required to appropriate \$300,000 from the Tobacco Litigation Settlement Cash Fund to the Child Mental Health Treatment Act Program. There is no flexibility regarding the amount appropriated.</p> <p>The portion of the \$300,000 that serves medicaid children is appropriated to HCPF, where it receives a federal Medicaid match and is then transferred to DHS by means of a T-notated transfer appropriation. The portion of the \$300,000 that serves non-medicaid children is appropriated directly to DHS.</p>	<p><i>From</i> Tobacco Litigation Settlement Cash Fund</p> <p><i>To</i> "Residential Treatment for Youth" lines in HCPF and in Human Services</p>
<p>16. State share of funding required for Children with Autism Act.</p> <p>Location in Long Bill: HCPF, Medical Services Premiums</p> <p>Cite: Secs. 24-22-115 (1) and 26-4-695, C.R.S.</p>	<p>Step 1: The Treasurer transfers from the Tobacco Litigation Settlement Cash Fund to the Colorado Autism Treatment Fund enough to pay the state's share of the annual funding required by the "Children with Autism Act", up to a maximum of \$1 million. A letternote in HCPF's portion of the Long Bill specifies the amount transferred. The transfer happens at the end of the year in which the settlement payment arrives, which is unusual.</p> <p>Step 2: The General Assembly appropriates moneys in the Colorado Autism Treatment Fund to the Children with Autism Act Program. The appropriation need not equal the transfer. If less than the amount transferred is appropriated, the excess stays in the Autism Treatment Fund.</p>	<p><i>From</i> Tobacco Litigation Settlement Cash Fund</p> <p><i>To</i> Colorado Autism Treatment Fund</p>

Detailed Appropriation Rules for Tier 2 Programs

The Tier 2 programs, which were all established during the 2007 session, are more homogeneous than the Tier 1 programs. None of the Tier 2 programs contribute to the State Auditor's tobacco-settlement appropriation. Each of these programs has its own cash fund or account and all of these funds and accounts receive automatic transfers of tobacco settlement money pursuant to a

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formula that is contained in Sec. 24-75-1104.5 (1.5) (a). In all cases except the Supplemental State Contribution Fund, which is continuously appropriated, the General Assembly must appropriate the moneys in the fund or account to the program before it can be spent. Only two of the funds, the Short-term Innovative Health Program Grant Fund and the Supplemental State Contribution Fund keep their earnings and can carry a fund balance from one year to the next. In the case of all other funds and accounts, any fund balance that is not appropriated or expended, as well as any income earned by the fund or account is transferred at year's end to the Short-term Innovative Health Program Grant Fund.

Program, Fund, Project, or Agency	Funding Rules	Appropriation that appears in Long Bill or elsewhere (CFE)
<p>1. University of Colorado Health Sciences Center.</p> <p>Location of appropriation: For FY 2007-08: S.B. 07-97. Location in the Long Bill after FY 2007-08: Higher Education.</p> <p>Cite: Sec. 24-75-1104.5 (1.5) (a) (I), C.R.S.</p>	<p>Step 1: The Treasurer transfers from the Tobacco Litigation Settlement Cash Fund to the Tobacco Litigation Settlement Moneys Health Education Fund 49% of the moneys allocated to Tier 2 programs.</p> <p>Step 2: The General Assembly appropriates moneys in the Tobacco Litigation Settlement Moneys Health Education Fund to the Health Sciences Center. Amounts not appropriated or expended, as well as interest earned, are transferred at year's end to the Short-term Innovative Health Program Grant Fund and are lost to the Health Sciences Center.</p>	<p><i>From</i> Tobacco Litigation Settlement Moneys Health Education Fund</p> <p><i>To</i> the Health Sciences Center</p>
<p>2. Mental Health Services for Juvenile and Adult Offenders.</p> <p>Location of appropriation: For FY 2007-08: S.B. 07-97. Location in the Long Bill after FY 2007-08: Department of Human Services, Mental Health and Alcohol and Drug Abuse Services, Mental Health Community Programs, Mental Health Services for the Medically Indigent.</p> <p>Cite: Sec. 24-75-1104.5 (1.5) (a) (II) and 27-1-204 (5.5), C.R.S.</p>	<p>Step 1: The Treasurer transfers from the Tobacco Litigation Settlement Cash Fund to the Offender Mental Health Services Fund 12% of the moneys allocated to Tier 2 programs.</p> <p>Step 2: The General Assembly appropriates moneys in the Offender Mental Health Services Fund to Mental Health Services for Juvenile and Adult Offenders. Amounts not appropriated or expended, as well as interest earned, are transferred at year's end to the Short-term Innovative Health Program Grant Fund and are lost to the program.</p>	<p><i>From</i> Offender Mental Health Services Fund</p> <p><i>To</i> Mental Health Services for Juvenile and Adult Offenders</p>

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Program, Fund, Project, or Agency	Funding Rules	Appropriation that appears in Long Bill or elsewhere (CFE)
<p>3. Comprehensive Primary and Preventive Care Grants to support Indigent Health Care Provided by Rural and Public Hospitals.</p> <p>Location of appropriation: For FY 2007-08: S.B. 07-97. Location in the Long Bill after FY 2007-08: Department of Health Care Policy and Financing, Indigent Care Program.</p> <p>Cite: Sec. 24-75-1104.5 (1.5) (a) (III) and 25.5-3-207 (4) (a), C.R.S.</p>	<p>Step 1: The Treasurer transfers from the Tobacco Litigation Settlement Cash Fund to the Supplemental Tobacco Litigation Settlement Moneys Account Within the Comprehensive Primary and Preventive Care Fund 8.5% of the moneys allocated to Tier 2 programs.</p> <p>Step 2: The General Assembly appropriates moneys in the Supplemental Tobacco Litigation Settlement Moneys Account to Comprehensive Primary and Preventive Care Grants. Amounts in the account that are not appropriated or expended, as well as interest earned, are transferred at year's end to the Short-term Innovative Health Program Grant Fund and are lost to the program. This "sweep" only applies to moneys in the account.</p>	<p><i>From</i> Supplemental Tobacco Litigation Settlement Moneys Account</p> <p><i>To</i> Comprehensive Primary and Preventive Care Grants</p>
<p>4. Per Capita grants to local public health services.</p> <p>Location of appropriation: For FY 2007-08: S.B. 07-97. Location in the Long Bill after FY 2007-08: Department of Public Health and Environment, Local Health Services.</p> <p>Cite: Sec. 24-75-1104.5 (1.5) (a) (IV) and 25-1-516 (2), C.R.S.</p>	<p>Step 1: The Treasurer transfers from the Tobacco Litigation Settlement Cash Fund to the Public Health Services per Capita Support Fund 7% of the moneys allocated to Tier 2 programs.</p> <p>Step 2: The General Assembly appropriates moneys in the Public Health Services per Capita Support Fund to Local, District and Regional Health Department Distributions Pursuant to Section 25-1-516, C.R.S. Amounts not appropriated or expended, as well as interest earned, are transferred at year's end to the Short-term Innovative Health Program Grant Fund and are lost to the program.</p>	<p><i>From</i> Public Health Services per Capita Support Fund</p> <p><i>To</i> Local, District and Regional Health Department Distributions Pursuant to Section 25-1-516, C.R.S.</p>

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Program, Fund, Project, or Agency	Funding Rules	Appropriation that appears in Long Bill or elsewhere (CFE)
<p>5. Increase Children's Basic Health Plan Eligibility from 200% to 205% of the Federal Poverty Level.</p> <p>Location of appropriation: For FY 2007-08: S.B. 07-97. Location in the Long Bill after FY 2007-08: Department of Health Care Policy and Financing Executive Director's Office, Indigent Care Program and Department of Human Services Medicaid-funded Programs; also the Department of Human Services, Office of Information Technology Services.</p> <p>Cite: Sec. 24-75-1104.5 (1.5) (a) (V) and 25.5-8-105 (1), C.R.S.</p>	<p>Step 1: The Treasurer transfers from the Tobacco Litigation Settlement Cash Fund to the Supplemental Tobacco Litigation Settlement Moneys Account of the Children's Basic Health Plan Trust 5% of the moneys allocated to Tier 2 programs.</p> <p>Step 2: The General Assembly appropriates moneys in this account to various lines within the budgets of HCPF and DHS. Amounts not appropriated or expended, as well as interest earned, are transferred at year's end to the Short-term Innovative Health Program Grant Fund and are lost to the program. This "sweep" only applies to money in the account, not to the rest of the Children's Basic Health Plan Trust.</p>	<p><i>From</i> Supplemental Tobacco Litigation Settlement Moneys Account of the Children's Basic Health Plan Trust</p> <p><i>To</i> various lines within HCPF and DHS</p>
<p>6. Supplemental State Contribution for Group Benefit Plans.</p> <p>Location of appropriation: For FY 2007-08: S.B. 07-97. Because the appropriation is continuous, a Long Bill appropriation is not required.</p> <p>Cite: Sec. 24-75-1104.5 (1.5) (a) (VI) and 24-50-609, C.R.S.</p>	<p>Step 1: The Treasurer transfers from the Tobacco Litigation Settlement Cash Fund to the Supplemental State Contribution Fund 4.5% of the moneys allocated to Tier 2 programs.</p> <p>Step 2: Moneys in the the Supplemental State Contribution Fund are continuously appropriated by Section 24-50-609 (5), C.R.S. to the Department of Personnel and Administration. Amounts not appropriated or expended, as well as interest earned, remains in the fund and are available to the program in subsequent years.</p>	<p>No Long Bill appropriation is required since the appropriation to the Department of Personnel and Administration is continuous but an informational appropriation can be placed in the Long Bill.</p>

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<p>7. Colorado Immunization Program</p> <p>Location of appropriation: For FY 2007-08: S.B. 07-97. Location in the Long Bill after FY 2007-08: Department of Public Health and Environment, Disease Control and Environmental Epidemiology Division, Special Purpose Disease Control Programs, Immunization</p> <p>Cite: Sec. 24-75-1104.5 (1.5) (a) (VII) and 25-4-2301, C.R.S.</p>	<p>Step 1: The Treasurer transfers from the Tobacco Litigation Settlement Cash Fund to the Supplemental Tobacco Litigation Settlement Moneys Account of the Colorado Immunization Fund 4% of the moneys allocated to Tier 2 programs.</p> <p>Step 2: The General Assembly appropriates moneys in this account to Immunization, Operating Expenses. Amounts in the account not appropriated or expended, as well as interest earned, are transferred at year's end to the Short-term Innovative Health Program Grant Fund and are lost to the program. Other moneys in the Colorado Immunization Fund remain in the fund.</p>	<p><i>From</i> Supplemental Tobacco Litigation Settlement Moneys Account of the Colorado Immunization Fund.</p> <p><i>To</i> Immunization, Operating Expenses.</p>
<p>8. Alcohol and Drug Abuse programs</p> <p>Location of appropriation: For FY 2007-08: S.B. 07-97. Location in the Long Bill after FY 2007-08: Department of Human Services, Division of Alcohol and Drug Abuse</p> <p>Cite: Sec. 24-75-1104.5 (1.5) (a) (VIII) and 25-36-101, C.R.S.</p>	<p>Step 1: The Treasurer transfers from the Tobacco Litigation Settlement Cash Fund to the Alcohol and Drug Abuse Community Prevention and Treatment Fund 3% of the moneys allocated to Tier 2 programs.</p> <p>Step 2: The General Assembly appropriates moneys in this treatment fund to purchase community prevention and treatment services. Amounts not appropriated or expended, as well as interest earned, is transferred at year's end to the Short-term Innovative Health Program Grant Fund and is lost to the program.</p>	<p><i>From</i> Alcohol and Drug Abuse Community Prevention and Treatment Fund.</p> <p><i>To</i> Community Prevention and Treatment Services.</p>

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<p>9. Medicaid Shortfalls at Children's Hospital</p> <p>Location of appropriation: For FY 2007-08: S.B. 07-97. Location in the Long Bill after FY 2007-08: Department of Health Care Policy and Financing.</p> <p>Cite: Sec. 24-75-1104.5 (1.5) (a) (X), and 25-3.5-703, C.R.S.</p>	<p>Step 1: The Treasurer transfers from the Tobacco Litigation Settlement Cash Fund to the Supplemental Tobacco Litigation Settlement Moneys Account of the Pediatric Specialty Hospital Fund 1% of the moneys allocated to Tier 2 programs.</p> <p>Step 2: The General Assembly appropriates moneys in this account to offset the medicaid shortfall experienced by the regional pediatric trauma center. Amounts in the account not appropriated or expended, as well as interest earned, are transferred at year's end to the Short-term Innovative Health Program Grant Fund and are lost to the program. This "sweep" applies only to the account.</p>	<p><i>From</i> Supplemental Tobacco Litigation Settlement Moneys Account of the Pediatric Specialty Hospital Fund.</p> <p><i>To</i> the Medicaid Shortfall Experienced by the Regional Pediatric Trauma Center.</p>
<p>10. Short-term Grants for Innovative Health Programs</p> <p>Location of appropriation: For FY 2007-08: S.B. 07-97. Location in the Long Bill after FY 2007-08: Department of Public Health and Environment, Prevention Services Division, Prevention Programs, Programs and Administration</p> <p>Cite: Sec. 24-75-1104.5 (1.5) (a) (IX), and 25-36-101, C.R.S.</p>	<p>Step 1: The Treasurer transfers from the Tobacco Litigation Settlement Cash Fund to the Short-term Innovative Health Program Grant Fund, 6% of the moneys allocated to Tier 2 programs. In addition all moneys that are not absorbed by other Tier 1 or Tier 2 programs are transferred into this fund at the end of each fiscal year, unless that Tier 1 or Tier 2 program is allowed to keep its fund balance and/or its income.</p> <p>Step 2: The General Assembly appropriates moneys in this account to Short-term Innovative Health Program Grants.</p>	<p><i>From</i> Short-term Innovative Health Program Grant Fund.</p> <p><i>To</i> Short-term Innovative Health Program Grants.</p>

Breast and Cervical Cancer Prevention and Treatment: Tobacco settlement payments indirectly support Breast and Cervical Cancer Prevention and Treatment. Section 24-22-115 (1), C.R.S., requires the interest earned by the tobacco litigation settlement cash fund to be automatically transferred to the Breast and Cervical Cancer Prevention and Treatment Fund created in Section 26-4-532 (7), C.R.S. There is no corresponding appropriation. Appropriations *from* the Breast and Cervical Cancer Prevention and Treatment Fund to support the related program are contained in the Department of Health Care Policy and Financing's budget. Since this is not a tobacco-settlement program, it is not audited by the auditor.