

COLORADO GENERAL ASSEMBLY

JOINT BUDGET COMMITTEE



FY 2006-07 SUPPLEMENTAL: PROGRAMS FUNDED WITH TOBACCO SETTLEMENT PAYMENTS

JBC Working Document - Subject to Change

Staff Recommendation Does Not Represent Committee Decision

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Staff-Initiated, Non-prioritized Supplemental #1 - Adjustments to the Appropriations for Tobacco-settlement-supported Programs, Funds, Projects, and Agencies.

Program	Recommendation
Nurse Home Visitor Program - CFE	(\$700,000)
Colorado HIV and AIDS Prevention Grant Program - CFE	16,362
Tony Grampsas Youth Services Program - CFE	(293,913)
Ryan White HIV/AIDS Drug Assistance Program - CFE	(257,175)

<p>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]</p>	YES
<p>These supplementals are the result of data that was not available when the original appropriation was made.</p>	

Background

Classification of tobacco-settlement-supported programs. Tobacco-settlement programs can be classified in two different ways.

Classification by Cash Fund. First, settlement programs can be classified according to whether they do or do not have their own individual cash funds.

1. **Programs with their own 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 individual cash fund, then the program's share of the settlement payment is automatically transferred from the Tobacco Litigation Settlement Cash Fund to the program's cash fund, with the amount transferred depending upon the program's statutory funding formula. A Long Bill appropriation then provides the money to the program, thus giving the General Assembly final control over expenditures. An example is the Read-to-achieve Grant program, which receives 5 percent of settlement moneys. Moneys for this program are automatically transferred from the Tobacco Litigation Settlement Cash Fund to the Read-to-achieve Cash Fund and are then appropriated to the Read-to-achieve Grant Program in the Long Bill.

House Bill 06-1310, Simplify Tobacco Money Distribution, a JBC bill, recently changed the funding mechanism for programs with their own cash funds. Prior to H.B. 06-1310, appropriations were required to move moneys from the Tobacco Litigation Settlement Cash

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Fund into the cash funds for each program. The simplification bill substituted automatic transfers for these appropriations, eliminating more than \$52 million of double appropriations from the Long Bill in the process.

There are usually few restrictions on the appropriation from a program's own cash fund to the program itself. The most important limit is the amount of money available in the cash fund. For example, if a program's cash fund has a carry forward balance of \$100,000 at the start of the fiscal year and it receives a \$1 million transfer during the year, then the General Assembly could appropriate up to \$1.1 million to the program 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.

There are some exceptions to these general principles: two of the cash funds, the Nurse Home Visitor Cash Fund and the Comprehensive Primary and Preventive Care Fund, have a limited ability to build fund balance (though they can build fund balance to some extent) and expenditures from the State Veterans Trust Fund are restricted by statutory formulas.

2. **"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 for 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. An example is the Tony Grampsas Youth Services Program, which receives 4% of settlement payments.

Classification by funding formula. Tobacco settlement programs can also be classified according to their statutory funding formulas.

1. **Formulas delivering a percentage of the total prior fiscal year settlement payments.** The most common funding formula delivers a percentage of the *prior fiscal year* settlement payment to a program or to a program's cash fund, generally with a ceiling on the amount appropriated or transferred. For example, a formula in Section 25-4-1415, C.R.S., provides the AIDS and HIV Prevention Fund with 2% of the prior fiscal year settlement payment 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 prior fiscal year settlement payment up to a maximum of \$5 million.

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Percentage-of-prior-fiscal-year-payment formulas are a common cause of tobacco settlement supplementals. The state usually receives two or three 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 April payment is known with certainty, the appropriations in the Long Bill must be based upon a forecast of the April payment, a forecast that always proves incorrect.

Programs that receive *direct* appropriations of a percentage of prior fiscal year settlement payments will 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 Grampas Youth Services Program receives 4% of prior fiscal year settlement payments, so a \$4,000 (4% * \$100,000) supplemental appropriation increase for the Tony Grampas Youth Services Program will be required.

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.

As noted above, H.B. 06-1310 substituted automatic transfers into program cash funds for the appropriations that were formerly required. Most of the eliminated appropriations were percentage-of-prior-payment appropriations that invariably required supplemental adjustment. A substantial number of supplementals that were formerly required to true-up these appropriations were eliminated by H.B. 06-1310.

2. **Formulas delivering a percentage of the total prior *calendar* year settlement payments.** The appropriation to the State Auditor equals 0.1 percent of the total settlement payments received during the prior *calendar* year. Since total prior calendar year payments are known at figure setting, the Auditor's appropriation never needs a supplemental adjustment.
3. **Formulas delivering a fixed dollar amount.** Two programs, Dental Loan Repayment and Child Mental Health, receive a fixed dollar amount from the prior year tobacco settlement payment. In the wake of changes made by H.B. 06-1310, these appropriations never need supplemental adjustment.

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4. **Flexible Formulas.** In two cases the funding formulas are flexible. Under the provisions 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.

	Programs with cash funds	Direct appropriation programs
Programs receiving a percentage of prior fiscal year settlement payments	<p><i>Supplementals sometimes required:</i></p> <p><i>The following programs retain unexpended fund balances from year to year:</i> Children's Basic Health Plan HIV and AIDS Prevention Grants Fitzsimons Lease Purchase State Veterans Trust Fund Read-to-achieve Grants</p> <p><i>The following programs have limited ability to retain fund balances:</i> Nurse Home Visitor Comprehensive Primary and Preventive Care Grants</p>	<p><i>Supplementals always required:</i></p> <p>Tony Gramscas Youth Services Ryan White HIV/AIDS Drug Assistance</p>
Programs receiving a percentage of prior calendar year settlement payments		<p><i>Supplemental never required:</i></p> <p>State Auditor</p>
Programs receiving a fixed amount	<p><i>Supplemental never required:</i></p> <p>Dental Loan Repayment</p>	<p><i>Supplemental never required:</i></p> <p>Child Mental Health Treatment Act Program</p>
Programs with flexible funding formulas	<p><i>Supplemental optional -- depends on program needs:</i></p> <p>Children With Autism Act</p>	

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Transfers to the General Fund and the Tobacco Settlement Trust Fund. In addition to supporting settlement programs, settlement moneys also support the General Fund. Statute prescribes two transfers from the Tobacco Litigation Settlement Cash Fund to the General Fund. Neither transfer requires action by the General Assembly. The first transfer, in Section 24-22-115 (3), C.R.S., deposits 21 percent of the annual settlement payment, up to \$20 million, into the General Fund. Unlike the appropriations to tobacco-supported programs, which are paid in the following fiscal year, this transfer occurs at the end of the fiscal year in which the payments are received.

The second transfer to the General Fund occurs at the end of each fiscal year, after all other required transfers and appropriations have been made; it transfers any remaining unappropriated, unencumbered balance in the Tobacco Litigation Settlement Cash Fund to the General Fund.

Transfers to the Tobacco Settlement Trust Fund. Sections 24-22-115 (3) and 24-22-115.5 (2) (a) (II), C.R.S. also prescribe a transfer to the Tobacco Litigation Settlement Trust Fund. This transfer, which happens automatically, equals 21 percent of the settlement payment to the extent this 21 percent exceeds \$20 million. Settlement payments are too low to trigger a Trust Fund transfer in FY 2006-07.

Tobacco-settlement appropriations in the FY 2006-07 Long Bill, as amended by H.B. 06-1310, were based upon the assumption that FY 2005-06 settlement payments would total \$88,934,450. Actual FY 2004-05 payments equaled \$87,367,598, which was \$1,566,852 less than expected. The result is the series of negative supplementals outlined in the appropriation-summary table below.

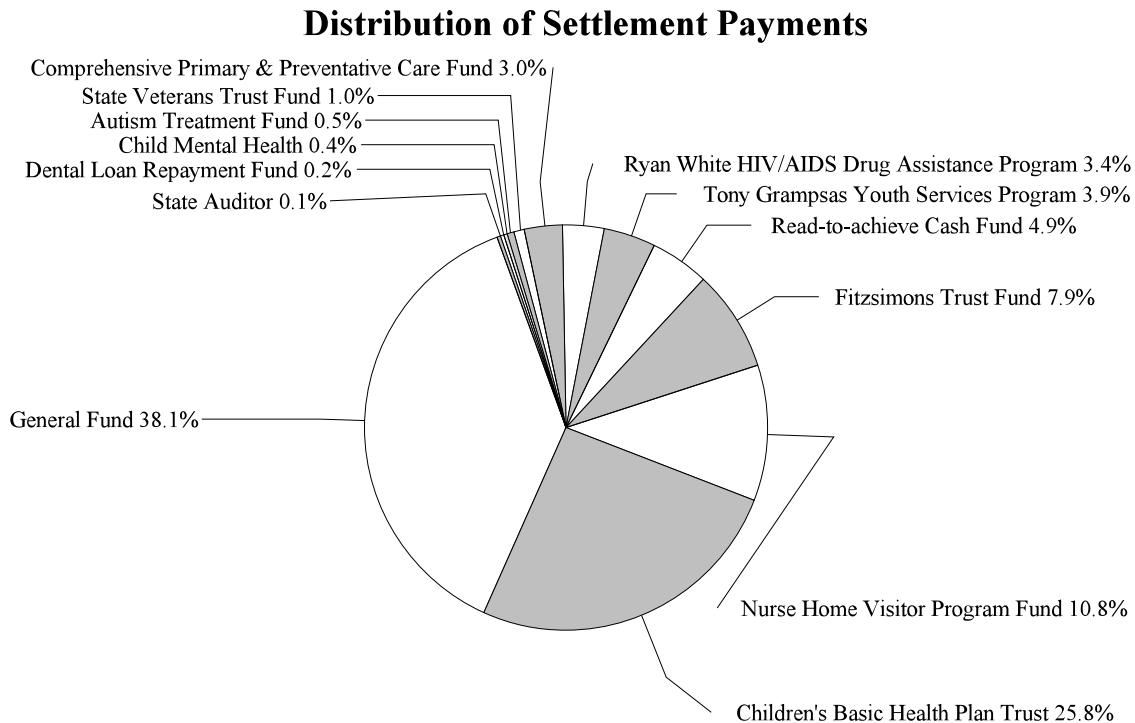
The Decline in Settlement Payments

Colorado received \$80.2 million of tobacco settlement payments in FY 2005-06, \$7.3 million less than last winter's Legislative Council Staff forecast indicated it would receive. The shortfall was due to a legal battle over the non-participating manufacturers (NPM) adjustment and the unanticipated decision of the participating manufactures to withhold disputed payments. The Legislative Council Staff forecast indicates that tobacco settlement revenues will continue to decline in FY 2006-07; Colorado will receive an estimated \$67.4 million in FY 2006-07, \$20.7 million less than would have been expected if not for the NPM adjustment. The NPM adjustment was discussed at length in the December 14, 2007 briefing for the Department of Public Health and Environment.

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Source	Amount
Forecast of FY 2005-06 settlement payments (on which appropriations in the FY 2006-07 Long Bill were based)	\$87,558,052
Actual FY 2005-06 settlement payments (on which appropriations in the FY 2006-07 Long Bill must now be based)	80,203,864
Settlement payment shortfall	(\$7,354,188)
Percentage shortfall	-8.4%

The following chart shows the revised distribution of the FY 2005-06 tobacco settlement payments among programs and funds, as noted above, most of these distributions are occurring in FY 2006-07. The amount of each appropriation or transfer in this chart is mandated by statute, with the exception of the transfer to the Autism Treatment Fund, which is set by the General Assembly. The appropriation to CDPHE for tobacco-settlement oversight duties is also omitted because it consumes a tiny portion of every other pie slice.



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Staff Recommendations:

The following table presents the funding formulas for each tobacco-settlement-supported program, along with the current appropriation to each program. These current program appropriations are labeled "Current". The table also presents the change to the program appropriation that would be required if program appropriations changed in lock step with the money provided by the funding formula. This amount is labeled "Funding change". As the presentation above indicates, program appropriations sometimes must change in lockstep with the funding changes, but often they do not. Staff recommendations are presented in the rightmost column.

Program, Fund, Project, or Agency	Funding Rules	Appropriation that appears in Long Bill or elsewhere (CFE)	Recommendation / Notes
1. State Auditor for auditing tobacco-settlement programs. Location of appropriation: Legislative Appropriation Act. Cite: Sec. 2-3-113 (7), C.R.S.	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 settlement-supported programs.	<i>From</i> Tobacco Litigation Settlement Cash Fund <i>To</i> State Auditor Current Approp: \$87,393 Funding change: 0	No adjustment.
2. CDPHE for tobacco-settlement oversight duties. Location in Long Bill: CDPHE, Administration and Support Division. Cite: Sec. 25-1-108.5 (5), C.R.S.	Statute requires each 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.	<i>From</i> Appropriations to all settlement-supported programs <i>To</i> CDPHE Administration and Support Division Current Approp: \$28,000 Funding change: 0	No adjustment.

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<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 11% of the prior fiscal year settlement payment 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 12% in FY 2007-08, 13% in FY 2008-09, 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>Current Approp: \$9,612,719 Funding change: (808,263)</p>	<p>The Nurse Home Visitor Program Fund had a \$205,966 balance at the start of FY 2006-07. Staff recommends that the appropriation be reduced by \$700,000, thus using \$108,263 of fund balance to buffer the reduction.</p> <p>Staff recommends no change to the HCPF, Other Medical Services appropriation.</p>

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<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 prior fiscal year settlement payment 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> <p>Current Approp: \$2,621,651 Funding change: (220,436)</p>	<p>Melodie Beck may recommend changes.</p>

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<p>5. Children's Basic Health Plan (CHP+) Trust.</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 prior fiscal year settlement payment 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 amount is less than \$17.5 million, the shortfall is taken first from the Tobacco Litigation Settlement Trust Fund (which currently has a 0 balance) and, if that is insufficient, from the annual transfer to the General Fund, in order to insure a \$17.5 million payment.</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>Current Approp: \$20,973,924 Funding change: (1,764,201)</p>	<p>Melodie Beck may recommend adjustments.</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 prior fiscal year settlement payment 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>Current Approp: \$1,584,448 Funding change: 16,362</p>	<p>Staff recommends a \$16,362 increase.</p> <p>This is a new program with no fund balance to buffer a reduction.</p>

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<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> <p>Current Approp: \$199,619 Funding change: 381</p>	<p>No adjustment.</p>
<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 prior fiscal year settlement payment 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>Current Approp: \$7,004,644 Funding change: (588,335)</p>	<p>There's enough fund balance to avoid an adjustment. Eric Kurtz will make recommendations.</p>

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<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 prior fiscal year settlement payment 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. The sum of these appropriations must be less than or equal to a specified percentage of the transfer plus interest earned by the Trust Fund. The specified percentage declines from 75% in FY 2006-07 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> <p>Current Approp: \$873,913 Funding change: (73,508)</p>	<p>Lauren Saine may recommend adjustments.</p>
<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 prior fiscal year settlement payment 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>Current Approp: \$4,369,567 Funding change: (367,541)</p>	<p>There is enough fund balance to avoid a supplemental. Carolyn Kampman will make a recommendation.</p>

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<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 prior fiscal year settlement payment 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>Current Approp: \$3,495,534 Funding change: (293,913)</p>	<p>Staff recommends a \$293,913 reduction.</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 prior fiscal year settlement payment 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> <p>Current Approp: \$3,058,593 Funding change: (257,175)</p>	<p>Staff recommends a \$257,175 reduction.</p>

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<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>Current Approp: \$300,000 Funding change: 0</p>	<p>No change.</p>
<p>14. First transfer to the General Fund.</p> <p>Cite: Sec. 24-22-115 (3), C.R.S.</p>	<p>The Treasurer transfers 21% of the <i>current</i> fiscal year settlement payment, up to \$20 million, from the Tobacco Litigation Settlement Cash Fund to the General Fund. Note that most other appropriations depend on the <i>prior</i> year settlement payment.</p>	<p>There is no appropriation</p>	
<p>15. Transfer to the Tobacco Litigation Settlement Trust Fund.</p> <p>Cite: Sec. 24-22-115 (3) and 24-22-115.5 (2) (a) (II), C.R.S.)</p>	<p>The Treasurer transfers 21% of the prior year settlement payment to the extent this 21% exceeds \$20 million in any year.</p>	<p>There is no appropriation. Even if there was, it would equal 0.</p>	

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Program, Fund, Project, or Agency	Funding Rules	Appropriation that appears in Long Bill or elsewhere (CFE)	Recommendation / Notes
<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> <p>Current Approp: \$395,000 Funding change: 0</p>	<p>Melodie Beck may recommend adjustments.</p>
<p>17. Second transfer to the General Fund.</p> <p>Cite: Sec. 24-22-115 (1), C.R.S.</p>	<p>The Treasury transfers all unexpended and unencumbered moneys in the Tobacco Litigation Settlement Cash Fund and all moneys not appropriated for the following fiscal year in the Tobacco Litigation Settlement Cash Fund to the General Fund.</p>	<p>There is no appropriation</p>	
<p>Total appropriations and transfers</p>			

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Breast and Cervical Cancer Prevention and Treatment: Tobacco settlement payments indirectly support Breast and Cervical Cancer Prevention and Treatment. Section 24-22-115 (1) 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). 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.

Staff-Initiated, Non-prioritized Supplemental - Amendment to the Appropriation Clause for H.B. 06-1054.

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]	
This supplemental is the result of a technical error.	

Description: Prior to the passage of 1310, *Simplify Tobacco Settlement Money Distribution*, many settlement-supported programs received two appropriations. First there was an appropriation from the settlement payment to a cash fund that supported the program. Next there was an appropriation from cash fund to the program itself. House Bill 06-1310 replaced the first round of appropriations with automatic transfers by the Treasurer, but retained the second round of appropriations.

As enacted, House Bill 06-1054, *HIV and AIDS Prevention*, which created the Colorado HIV and AIDS Prevention Grant Program, employed the double-appropriation approach. Its statutory language directed that settlement moneys first be appropriated to the AIDS and HIV Prevention Fund and then be re-appropriated to the HIV and AIDS Prevention Grant Program. It also contained an appropriation clause that appropriated \$1,584,448 to the AIDS and HIV Prevention Fund and then appropriated \$1,584,448 to the HIV and AIDS Prevention Grant Program. House Bill 06-1310 amended 1054, replacing the statutory language mandating the appropriation to the AIDS and HIV Prevention Fund with a transfer of an equal amount. However, H.B. 06-1310 failed to amend H.B. 06-1054's appropriation clause in a corresponding manner. Hence, under current law, the AIDS and HIV Prevention Fund is slated to receive twice as much as was envisioned in the original bill. The program cannot spend this money, however, because it lacks a corresponding appropriation.

Staff Recommendation: Staff recommends that the Committee include a clause in the supplemental bill for the Department of Public Health and Environment that corrects this technical error. The clause would strike the \$1,584,448 appropriation to the AIDS and HIV Prevention Fund. The AIDS

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Prevention Grant Program will still receive the amount of funding that was envisioned in the original bill.