

MEMORANDUM



JOINT BUDGET COMMITTEE

To JBC Members
From JBC Staff
Date March 19, 2025
Subject Figure Setting Comeback Packet 5

Included in this packet is staff comeback memos for the following items:

Department of Education, page 2, (Andrea Uhl): School Finance FY 2024-25 Correction and Informational Savings Operations (new items)

Department of Higher Education, page 5, (Louellen Lowe): Staff Comeback for Auraria Higher Education Center

Health Care Policy and Financing, page 8, (Emily Pope): 988 General Fund Reduction

Department of Human Services, page 10, (Emily Pope): DHS R12 Child Abuse and Neglect Appeals Staff

Judicial Department, page 13, (Scott Thompson): Technical Correction to base appropriations in Respondent Parents' Council

Department of Public Health and Environment, page 14, (Kelly Shen): CDPHE Tobacco Revenue Adjustments

Department of Natural Resources, page 20, (Mitch Burmeister): Statewide BA-05 Severance Tax Revenue Balancing



Joint Budget Committee Staff

Memorandum

To: Joint Budget Committee Members
From: Andrea Uhl, JBC Staff (303-866-4956)
Date: Tuesday, March 18, 2025
Subject: **School Finance Comebacks – FY 2024-25 correction and informational savings options (new items)**

→ Correction to FY 2024-25 Adjusted Appropriation (New Item)

Shortly before figure setting for the Department of Education – School Finance and Categorical Programs, the Department notified JBC staff of an error discovered in the FY 2024-25 appropriation used for the supplemental adjustment. The error was related to a manual data pull issue for the FY 2024-25 CSI student counts. Data was pulled using unvalidated October counts prior to the mid-year submission in order to assist JBC and LCS staff with projections related to CSI mill levy equalization costs. That unvalidated data was accidentally used for the FY 2024-25 mid-year adjustment calculation that was enacted by S.B. 25-113 (Mid-year Adjustments to School Funding). **As a result, the enacted supplemental FY 2024-25 state share appropriation is \$5,798,150 short of what districts are owed. Staff recommends increasing the FY 2024-25 appropriation for the State Share of Districts' Total Program Funding from the State Education Fund by this amount through a Long Bill add-on.** This change results in a decrease of approximately \$500,000 in state share for FY 2025-26 compared to numbers presented during figure setting due to the interaction of the student count correction and LCS enrollment forecasts. Updated figures for FY 2025-26 will be presented in a separate memo.

Final Recommendation for FY 2024-25 Appropriation				
Item	FY 2024-25 Mid-year Change	FY 2024-25 Adjusted by SB 25-113	Correction for CSI student count	Corrected FY 2024-25 Appropriation
Funded Pupil Count	3,074	853,384	550	853,934
Total Program Funding	<u>\$38,467,082</u>	<u>\$9,773,152,749</u>	<u>\$5,798,150</u>	<u>\$9,778,950,899</u>
Local Share	-\$25,609,529	\$4,186,738,872	\$0	\$4,186,738,872
State Share	\$64,076,611	\$5,586,413,876	\$5,798,150	\$5,592,212,027

i: Balancing Option: Change Calculation for Certain Part-Time Students (New Item)

Staff is aware of a balancing idea that is projected to save approximately \$26.0 million in total program/state share costs annually by funding certain part-time students at 0.25 PPR instead of 0.5 PPR. **Staff has only a shallow understanding of this topic and is presenting this to the JBC**

as an informational item. Staff believes this potential change would be more appropriately considered by the Education Committees and/or within the School Finance Act and could be considered in conjunction with the cost of sustainably implementing the new school finance formula.

Part-time students are only required to be enrolled in 25 percent of the hours that are required for full-time students. Specifically, the funding requirements for part-time students is to be enrolled in at least 90 hours in the fall semester. The requirements for full-time students is to be enrolled in at least 360 hours in the fall semester. Part-time students are funded at 50 percent per pupil revenue (PPR) and full-time students are funded at 100 percent PPR.

Of 19,716 part-time students in FY 2024-25, 15,961 were reported as home school students that are enrolled part-time in a public school. The Department has anecdotally observed that most part-time home school enrichment programs are designed to have just over the 90-hour requirement. Further, it should be noted that districts do not typically provide the same services and incur the same level of expenditures for home school students. For example, home school students are not required to take assessments and students often do not have access to school meals and generally are not provided transportation. Further, many programs are not provided in school buildings, with some meeting outside or in public spaces. Finally, the students may not be taught by licensed teachers.

According to Legislative Council Staff estimates, funding part-time home school students at 0.25 PPR instead of 0.5 PPR beginning in FY 2025-26 would reduce total program/state share costs by \$26.0 million annually. This change would impact 62 districts, with a disproportionate impact on districts that have a large number of part-time home school students.

There are an estimated 3,755 part-time students who are not home schooled. These students are generally attending part-time based upon unique academic or physical needs/limitations. Of that number, 1,135 have an individualized education program (IEP). In some cases, a 12th grade student (including 5th year students) may only need a couple of classes to graduate and therefore are enrolled part-time. Additionally, a portion of these part-time students (684) are enrolled in half-day Kindergarten programs. These students may be in a part-time/half-day Kindergarten program at the parents' request or because the district only operates a part-time/half-day program.

i: Balancing Option: Part-time Student Averaging Changes (New Item)

OSPB sent a memo dated March 4, 2025 to the JBC regarding the anticipated loss of funding at Vilas and Plainview school districts, as well as three CSI schools. During an audit, the Department of Education identified issues associated with the educational services provided under a contract which operated like a multidistrict homeschool online program at two

districts—Vilas and Plainview—and three CSI schools. Students who should have been enrolled under the Multi-District Online Learning (MDOL) school were instead enrolled as brick-and-mortar students. Had these students been correctly enrolled as MDOL students, they would have been excluded from the student averaging calculations. Because they were incorrectly classified as brick-and-mortar students, they were improperly included in the averaging process and the expiration of the program’s contract results in a substantial reduction in total program funding related to student averaging changes.

Under the averaging calculations for total program funding, multidistrict online students are excluded from the FTE student count. Only home school students who engage with the district in person or in a single district online school are student FTE, funded at 0.5 FTE per student.

OSPB recommended the following policy actions in response to this situation:

- For FY 24-25 and moving forward, allow CDE to correct previous student counts included in the averaging based on misclassifications or errors. Specifically, the student FTE counts from the districts and schools identified will be corrected in prior years by classifying them as multidistrict online students instead of in-person, part-time FTE.
- For FY 25-26 and ongoing, eliminate part-time homeschool students and part-time private school students from averaging altogether similar to multidistrict students and extended high school students. This would ensure that these students are not erroneously misclassified going forward.

Based on LCS estimates, action on the first bullet would result in \$10.4 million of total program cost savings in FY 2024-25; however, this would require clawing back funds from those districts/schools in the current fiscal year. The second bullet would generate an estimated \$10.1 million in savings beginning in FY 2025-26. **Staff is presenting this to the JBC as an informational item. Staff considers this a policy decision that would be more appropriately considered by the Education Committees and/or included in the School Finance Act.**



Joint Budget Committee Staff

Memorandum

To: Members of the Joint Budget Committee
From: Louellen Lowe, JBC Staff (303-866-2981)
Date: Tuesday, March 18, 2025
Subject: [Staff Comeback for Auraria Higher Education Center](#)

Original Request and Recommendation

In an effort to eliminate a double-count of revenue for the purposes of the TABOR calculation, the Office of State Budget and Planning requested that the JBC sponsor legislation enacting statutory language which directs the Office of the State Controller to not treat the Reappropriated Funds from the tenant Institutions of Higher Education to AHEC as new revenue to the state. This request is based on logic that connects the fee-for-service and College Opportunity Funds appropriations to service delivered by AHEC. The legislation would stipulate this treatment provided that the total amount of the Reappropriated Funds does not exceed the total College Opportunity Fund appropriation of stipend and fee-for-service in any annual appropriations act to the tenant IHEs. If actionable, up to \$31.4 million in additional available General Fund revenue would be made available in FY 2025-26 to support other State priorities.

Staff did not recommend this approach to solving the TABOR double-count, recommended a placeholder funding amount within the current funding structure, and recommended further exploration of other options.

Updated Auraria Higher Education Center Funding Recommendation

Staff recommends a one-year, stop-gap measure which would provide a direct General Fund appropriation to the Auraria Higher Education Center in FY 2025-26 only. This General Fund appropriation would be offset by a reduction to tenant institutions' fee-for-service contracts proportionate to the calculated reallocation split provided to the JBC staff by AHEC on 3/3/2025. Staff recommends the change be made in legislation to follow the Long Bill which would, at a minimum, do the following:

- 1) Make appropriation changes necessary to effect this change;
- 2) Stipulate that this direct funding measure will be for FY 2025-26 only;
- 3) Provide an appropriation to contract a third party to evaluate the long-term disposition of the Auraria Higher Education Center and its governance; and
- 4) Add additional guardrails as necessary to protect the negotiating process related to the future management structure for AHEC.

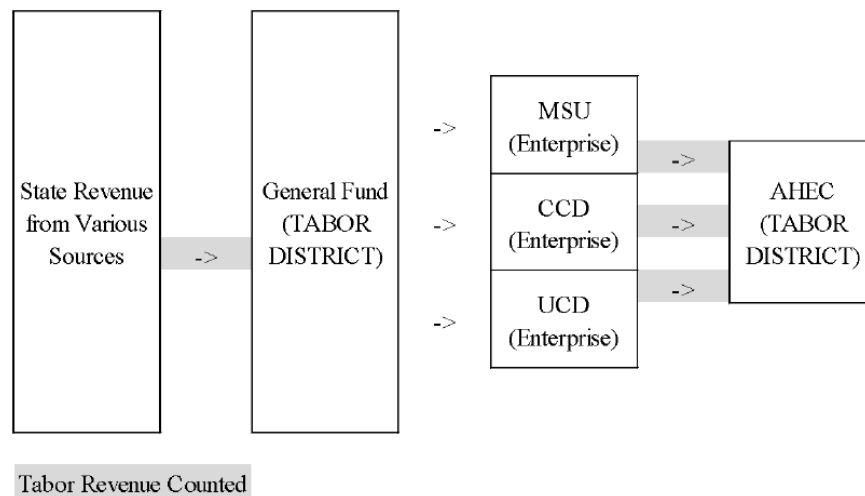
If approved, this legislation is anticipated to result in \$29.3 million in additional revenue available for use in FY 2025-26 based on a lower recommendation than what was requested by AHEC.

Background

The Auraria Higher Education Center (AHEC) collects funds from the institutions with programs on the Auraria campus for the operation and maintenance of the campus. The source of reappropriated funds is payment by the three institutions that share the campus: University of Colorado at Denver, Metropolitan State University of Denver, and the Community College of Denver. Institutions' base payments for support of AHEC are appropriated; however, individual institutions may contract with AHEC for specific additional services, and related AHEC expenditures do not require additional appropriation. AHEC has two off-budget auxiliary enterprises, including one for student facilities and one for parking.

The mechanism of payment and TABOR calculation is as follows: 1) the State pays the institutions (enterprises) for services through fee-for-service contracts from General Fund which revenues have already been counted towards TABOR limits; 2) the three institutions (enterprises) then pay AHEC for services which is counted as revenue to the State's TABOR district. The below image was provided by the Department of Higher Education in response to a Request for Information in FY 2023-24 that helps visually represent the issue:

Figure 1



Previous Attempt to Resolve the Issue

In FY 2023-24, the JBC approved a Request for Information recommended by staff to have the department investigate potential options to remedy this “double-count” of revenue. Specifically, the Department was directed to convene representatives of AHEC and higher education institutions operating on the campus, in consultation with the Attorney General, to

explore changes to the structure and funding for AHEC that would reduce or eliminate the impact to the State's TABOR district.

In response to the RFI, the Department provided the following information:

- The Department consulted with the Office of the State Controller, the Office of the Attorney General, the Office of State Planning and Budgeting, and the Chief Financial Officers and Controllers from the Auraria higher Education Center, Metropolitan State University of Denver, University of Colorado System, and Colorado Community College System.
- The Department was not able to identify a viable alternative to the current funding mechanism for the AHEC.
- When state fee-for-service payments enter the institutional enterprises' general funds, the revenue commingles with several other revenue sources and loses its specificity. Therefore, the payments to AHEC cannot be directly tied to fee-for-service revenue.
- Directly funding AHEC with General Fund and reducing fee-for-service contracts with MSU, CCCS, and CU System in an equal amount risks pushing MSU and potentially CCCS out of enterprise status due to a provision which would count in-kind contributions to enterprises as "grants" for purposes of calculating the 10 percent limitation on state support for TABOR enterprises.

Funding for AHEC

Facilities provided by AHEC include support for executive office responsibilities including leadership and campus planning; business services including accounting and finance, purchasing, distribution services, human resources, IT and telecom; facilities management including administration, custodial services, grounds, environmental health and safety, project management, operations and maintenance; campus safety including police and emergency preparedness; and academic support services including classroom services and the performing arts center.

The FY 2024-25 appropriation for AHEC is \$28,408,385 reappropriated funds. The executive request for FY 2025-26 would otherwise be \$31,435,042 reappropriated funds. Staff recommended placeholder funding that is less than the requested amount.



Joint Budget Committee Staff

Memorandum

To: Joint Budget Committee
From: Emily Pope, JBC Staff (303-866-4961)
Date: Wednesday, March 19, 2025
Subject: HCPF 988 General Fund reduction

988 Crisis Hotline

988 is a national suicide and mental health crisis hotline. The hotline is supported in Colorado by the 988 Enterprise, which receives revenue from surcharges on phone lines. HCPF Behavioral Health also includes \$300,000 General Fund for RAEs to cover the cost of Medicaid clients for the hotline.

Medicaid funding has not been utilized since the 988 hotline was established. This is because the hotline does not require or collect insurance information from callers to prioritize connecting callers with necessary crisis services. The hotline collected revenue that exceeded expenditures by \$8.0 million in FY 2023-24. Staff finds that revenue from the 988 Enterprise is therefore more than sufficient to cover costs, and recommends an ongoing reduction of \$300,000 General Fund in HCPF Behavioral Health.

Additional options

The Office of State Planning and Budgeting included several budget balancing proposals with the February forecast. Two options impact behavioral health and are provided in the table below. These options remain available to the Committee for General Fund balancing as necessary.

HCPF Behavioral Health additional General Fund Balancing Options			
Option	General Fund	Bill? Y/N	Ongoing?
Reinstate PAR for outpatient psychotherapy (HB 22-156)	-12,200,000	Y	Y
Limit peer services	-4,200,000	N	Y
Total	-\$18,413,812		

The only other options included in the staff briefing were to delay implementation of the IMD waiver, or reduce or repeal H.B. 24-1038 (High Acuity Youth). Eliminating or delaying the waiver is anticipated to reduce General Fund appropriations by \$1.7 million. The High Acuity bill is essential to addressing the Department's System of Care Settlement Agreement, and includes \$5.8 million General Fund in HCPF for FY 2025-26.

IMD is a federal designation for facilities with 16 or more beds that are primarily engaged in providing treatment for individuals with mental health or substance use diagnoses, referred to as "Institutes of Mental Disease." Previously, the Department covered IMD stays up to 15 days.

Last year, the Committee approved a budget request to provide funding associated with a waiver to increase the allowed average length of stay of 30 days, with a maximum allowable stay of 60 days.



Joint Budget Committee Staff

Memorandum

To: Joint Budget Committee Members
From: Emily Pope, JBC Staff (303-866-4961)
Date: Wednesday, March 19, 2025
Subject: DHS R12 Child abuse and neglect appeals staff

Request

The Department requests an ongoing increase of \$143,863 total funds, including \$89,993 General Fund to support existing child abuse and neglect appeals staff. The necessary staff and associated funding was unintentionally removed when the Department of Early Childhood was created.

Staff were previously supported by the Records and Reports Cash Fund. Staff and the Department agree that appeals are not a statutorily allowable use of the fund, and the fund does not have sufficient current revenue to support staff even if statute were changed.

Current Action

The Committee approved staff recommendation to utilize the Child Welfare Cash Fund rather than the General Fund. The Child Welfare Cash Fund was created when the Department of Early Childhood was created, and is currently continuously appropriated. The Committee approved additional staff recommendations to annually appropriate the cash fund, and ask for annual reporting on the cash fund balance.

The cash fund consists of fines and civil penalties on people who intentionally make a false statement or report to the department for child abuse investigations. The fund must be used to fund activities related to the improvement of the quality of child care in the state.¹ The staff recommendation was based on the current uncommitted reserve provided by the Department in the table below.

Child Welfare Cash Fund Detail				
Item	FY 2022-23	FY 2023-24	FY 2024-25	FY 2025-26
Revenue	\$187,169	\$393,271	\$290,220	\$290,220
Expenditures	177,988	128,018	290,220	290,220
Year-end balance	9,181	274,434	272,434	272,434
Uncommitted reserve	9,181	272,434	272,434	272,434

¹ Section 26-6-921 (4)(b), C.R.S.

The Department indicated that funds have been used as follows.

- FY 2022-23: Salary and FTE
- FY 2023-24: Salary and FTE, Qualified Medication Administration Personnel (QMAP) training
- FY 2024-25: Investigative Monitoring Specialist, Performance Management and Outcome Specialist, Temporary FTE and Salary and FTE.
- FY 2025-26: Salary and FTE.

Department Response

The Department indicates that the Child Welfare Cash Fund is fully obligated for provider contracts in FY 2025-26 and cannot support the request. The Departments of Human Services and Early Childhood have been coordinating to identify possible alternatives.

During figure setting, the Committee asked whether the request could be supported by the Child Abuse Prevention Trust Fund. The Departments of Human Services and Early Childhood indicate that the Trust Fund must be used for prevention, and appeals staff would not be an allowable use.

However, there is a Family First sub-account that receives federal reimbursements for prevention services. Money in the fund is expected to be distributed through grants for prevention services that support the state's prevention strategy pursuant to the Federal Family First Services Act. Revenue in the fund has just become sufficient to support 2 or 3 grants in FY 2025-26.

It is staff's understanding that the Department of Early Childhood indicated the sub-account could be used on a one-time basis if investigations is an allowable use of the federal reimbursement. Because the R12 request is also supported by the same source of federal funds, staff presumes that investigations is an allowable use.

JBC Staff agree that utilizing the fund may reduce the Department of Early Childhood's ability to award grants in FY 2025-26. However, the impact is not expected to be significant because the grant program is not yet established and may not be in effect for the entire fiscal year.

The Committee could choose the following options:

- 1 Maintain current action to use the Child Welfare Cash Fund on an ongoing basis.
- 2 Utilize the Family First sub-account for one year, and utilize the Child Welfare Cash Fund or General Fund on an ongoing basis.
- 3 Appropriate \$89,993 General Fund on an ongoing basis to support existing staff.

The Child and Adult Mistreatment Dispute Review Section currently consists of 4.0 FTE, but the appropriation consists of \$270,520 General Fund associated with 2.0 FTE. The request partially offsets costs with federal funds from Title IV-E of the Social Security Act, and requests General Fund for the remaining \$89,993.

The Department anticipates that staffing will have to be reduced if funding is not approved. The unit has 120 days to negotiate settlements before sending an appeal to hearing. Decreased staff is expected to increase the number of cases going to hearing, which in turn increases legal fees billed by the Department of Law. The Department estimates that legal fees will increase \$1.3 million annually if additional funding is not approved.



Joint Budget Committee Staff

Memorandum

To: Members of the Joint Budget Committee
From: Scott Philip Thompson, JBC Staff (303-866-4957)
Date: 3/17/2025
Department: Judicial – Respondent Parents’ Council
Subject: Technical Correction to base appropriations in Respondent Parents’ Council

This memo includes the following items:

- Recommendation to reflect correct base for the Respondent Parents’ Council

New Information

After figure setting the Respondent Parents’ Council staff noted for JBC Staff that a number of the line items were reflecting changes approved for FY 2024-25 in the base appropriation, which caused a double count in the amount of General Fund saved and Title IV-E reappropriated fund refinanced. Because this was a technical error and because the error was identified early, JBC Staff corrected the base prior to the JBC Staff Director calculated the General Fund obligations already approved and summarized in the General Fund overview. Thus, accepting the Staff recommendation on this technical correction will not change the current General Fund allocated to the Respondent Parents Council.

Recommendation

JBC Staff recommends the Committee approve staff recommendation to correct the base appropriations for the Respondent Parents Council. This results in a total change of an increase of \$193,533 General Fund and a reduction of \$193,533 reappropriated funds, which were double counted at the time of figure setting. Again, taking the Staff recommendation will not impact the General Fund balancing figure because this technical correction is already accounted for in the General Fund Overview.



Joint Budget Committee Staff

Memorandum

To: Joint Budget Committee Members
 From: Kelly Shen, JBC Staff (303-866-5434)
 Date: Wednesday, March 19, 2025
 Subject: [CDPHE tobacco revenue adjustments](#)

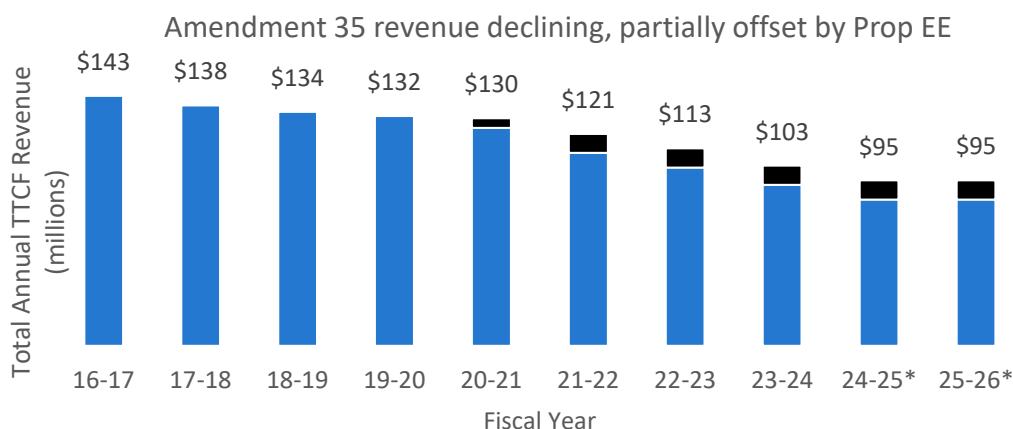
This memo contains: (1) tobacco revenue trends, (2) requested adjustments in the Department of Public Health and Environment (CDPHE), and (3) options for funding other priorities and General Fund relief.

Trends in Tobacco Revenue – three sources

- Tobacco Master Settlement Agreement revenue** is projected to continue declining. Within CDPHE, five programs receive 12.0 percent of total revenue: (1) State Drug Assistance Program, (2) AIDS and HIV Prevention Program, (3) Immunizations, (4) Dental Loan Repayment, and (5) Colorado Health Service Corps.

Historic Tobacco MSA Payments to Colorado						
Fiscal Year	2015	2016	2017	2018	2019	2020
Payment	\$88,079,225	\$92,200,153	\$91,116,849	\$177,342,325	\$81,149,778	\$82,359,389
Fiscal Year	2021	2022	2023	2024	2025 (projected)	2026 (projected)
Payment	\$86,574,696	\$88,844,796	\$93,072,854	\$82,965,119	\$78,595,680	\$76,962,546

- Amendment 35 tobacco tax revenue** has declined consistently, partially offset by revenue from Proposition EE. In CDPHE, this funds: (1) tobacco education programs, (2) breast and cervical cancer program, (3) health disparities program, (4) cancer, cardiovascular disease, and chronic pulmonary disease program, and (5) center for health and environmental data.



- Proposition EE tobacco and nicotine tax revenue** has increased consistently, particularly in FY 24-25 with tax rate increases in July 2024. In CDPHE, this funds the same programs as Amendment 35. These revenue forecasts have been revised up from the December 2024 forecast by approximately \$5 to 10 million due largely to increased nicotine tax revenue.

Beginning in FY 2027-28, the distribution to the Tobacco Education Programs Fund will increase to \$30.0 million annually.

Distribution of Proposition EE dollars (March 2025 LCS Forecast)					
Program/Fund	FY 22-23 Actual	FY 23-24 Actual	FY 24-25 Forecast	FY 25-26 Forecast	FY 26-27 Forecast
General Fund	\$4,050,000	\$4,050,000	\$4,050,000	\$4,050,000	\$4,050,000
Tobacco Education Programs Fund	-	-	20,000,000	20,000,000	20,000,000
Tobacco Tax Cash Fund	10,950,000	10,950,000	10,950,000	10,950,000	10,950,000
Preschool Programs Cash Fund	-	192,822,817	205,283,083	211,533,471	213,469,738
Rural Schools Fund	35,000,000	-	-	-	-
Housing Development Grant Fund	11,167,000	-	-	-	-
Eviction Legal Defense Fund	500,000	-	-	-	-
State Education Fund	139,337,065	-	-	-	-
Total	\$201,004,065	\$207,822,817	\$240,283,083	\$246,533,471	\$248,469,738

CDPHE adjustments to align with revenue forecasts

Staff recommends the following adjustments to align with tobacco revenue forecasts.

The large increases for “Ryan White Act Operating Expenses” and “Tobacco Education, Prevention, and Cessation Grants” are primarily due to large fund balances. This increase to the Department’s appropriation will allow the Department to fully utilize the existing fund balance.

Tobacco Related Adjustments			
Division/Line Item	Requested Appropriation	Recommended Appropriation	Recommended Adjustment
Administration and Support			
Health Disparities Grants	\$8,600,799	\$6,335,459	-\$2,265,340
Disease Control and Public Health Response			
Immunization Operating Expenses	3,606,844	3,002,323	-604,521
Appropriation from the Tobacco Tax Cash Fund to GF	291,034	292,087	1,053
Office of HIV, Viral Hepatitis, and STIs			
HIV and AIDS Operating Expenses	5,352,714	3,736,341	-1,616,373
Ryan White Act Operating Expenses	5,627,244	10,043,710	4,416,466
Prevention Services			
Transfer to the Health Disparities Grant Program Fund	2,328,272	2,336,696	8,424
Breast and Cervical Cancer Screening	3,123,406	3,115,595	-7,811
Cancer, Cardiovascular Disease, and Chronic Pulmonary Disease Grants	14,800,743	15,103,633	302,890

Tobacco Related Adjustments			
Division/Line Item	Requested Appropriation	Recommended Appropriation	Recommended Adjustment
Tobacco Education, Prevention, and Cessation Grants	36,636,220	40,151,247	3,515,027
Oral Health Programs	877,520	838,247	-39,273
Primary Care Office	3,865,242	3,088,832	-776,410
TOTAL	\$85,110,038	\$88,044,170	\$2,934,132

State Drug Assistance Program

“Ryan White Act Operating Expenses” supports the State Drug Assistance Program that serves Colorado residents living with HIV and with income less than or equal to 500.0 percent of the Federal Poverty Level (\$78,250 for a single-person household in 2025). The program provides medications and assistance with insurance premium payments. In FY 2023-24, the program served 4,035 people by:

- Providing medical deductible, coinsurance, and copay assistance (2,958 individuals);
- Enrolling over 2,432 individuals in PrEP biological intervention program;
- Assisting with health insurance premiums for an average of 68 individuals per month; and
- Supporting PrEP providers who will see uninsured individuals in 79 clinics across the state.

The program receives significant federal funds in return for the comparatively small state contribution from tobacco revenue and the General Fund. The Department indicates that the program’s fund splits are: 5.0 percent General Fund, 13.0 percent tobacco revenue, 40.0 percent from pharmaceutical rebates, and 42.0 percent federal funds from the Ryan White Act Part B. While the Department has built up a fund balance over the past few years, the Department indicates that it has a spend down plan for the funds in FY 2024-25 and ongoing.

Drug Assistance Program Fund (27N0)				
	FY 22-23	FY 23-24	FY 24-25	FY 25-26
Revenue	\$4,442,240	\$4,679,410	\$4,650,000	\$4,600,000
Expenditures	3,397,015	2,162,984	3,342,435	3,542,435
Net Cash Flow	1,045,225	2,516,426	1,307,565	1,057,565
Ending Fund Balance	2,432,369	4,948,796	6,256,361	7,313,926

Since January 2024, the Department indicates that program has experienced an increase of over 700 clients due to the unwinding of Medicaid. Additionally, the program’s SDAP contracts increased by \$5 million this year. Staff is inclined to allow for the expenditure of these funds and the fund balance this year, due to the ability of these funds to match federal funding. Furthermore, while the ending fund balance is projected to continue increasing, the net cash flow is steadily declining.

Tobacco Education, Prevention, and Cessation Program

Pursuant to Section 25-3.5-804, the program provides funding to “reduce initiation of tobacco use by children and youth, promote cessation of tobacco use among youth and adults, and

reduce exposure to secondhand smoke”. Section 25-3.5-810 broadens this to include nicotine products.

Historically, this program received funding solely from the Tobacco Tax Cash Fund, which receives revenue from Amendment 35 and now \$11.0 million annually from Proposition EE. Over the past five years, the distribution from the Tobacco Tax Cash Fund for Tobacco Education Programs has declined by approximately \$5 million.

Tobacco Tax Cash Fund Distributions to Tobacco Education Programs (\$ millions)						
	20-21	21-22	22-23	23-24	24-25*	25-26*
Total Tobacco Tax Cash Fund Revenue	\$130.3	\$121.4	\$113.0	\$103.2	\$94.7	\$94.7
16.0 percent for Tobacco Ed Programs	20.9	19.4	18.1	16.5	15.1	15.2

Starting in FY 2024-25, the program also started to receive a separate, additional \$20.0 million from Proposition EE. The Department has distributed the majority of this funding for:

- 1 Maintaining a stable funding level for the current portfolio (supported by declining Amendment 35 tobacco tax);
- 2 A 10.0 percent fund increase for current grantees; and
- 3 Allowing current grantees to apply for additional funds beyond the 10.0 percent. These are supporting increased translation, community engagement service, among other activities.

In FY 24-25, the Department was appropriated \$37.9 million to distribute as grants. This is a significant increase from FY 23-24, largely due to increased revenue from Prop EE. This increase is driving staff’s recommendation to increase the program’s FY 25-26 appropriation accordingly.

Tobacco Education Programs Fund				
	FY 22-23	FY 23-24	FY 24-25	FY 25-26
Revenue	\$18,756,781	\$17,289,895	\$36,830,000	\$35,830,000
Expenditures	19,788,984	20,469,677	33,341,800	34,485,183
Net Cash Flow	-1,032,203	-3,179,782	3,488,200	1,344,817
Ending Fund Balance	7,029,634	3,849,851	7,338,051	8,682,869

Current grantees include 59 agencies (local public health agencies, schools, community-based organizations, and others) across 58 of Colorado’s 64 counties. These include, but are not limited to:

- A KidZ Clinic -Delta Middle School
- A KidZ Clinic -Hotchkiss K-8
- Adams County Health Department
- Alamosa County Public Health Department
- American Lung Association
- Arapahoe County Public Health
- Archuleta Health Department
- Boulder County Public Health
- Broomfield Health and Human Services
- Center for Black Health & Equity
- Chaffee County Public Health
- Colorado Black Health Collaborative (CBHC)
- Conejos County Nursing Service
- Costilla County Nursing Service

- Cresson Elementary School Based Health Center
- Denver Department Public Health & Environment
- Denver Health and Hospital Authority
- Dolores County Public Health
- Douglas County Health Department
- Eagle County Public Health Nursing Service
- El Paso County Public Health LHA
- Four Corners Youth Clinics Cortez
- Four Corners Youth Clinics Dolores
- Fremont County Department of Public Health & Environment
- Gilpin County
- Grand County Public Health Nursing Service
- Gunnison County Public Health
- Inline Media
- Jefferson County Public Health
- Kit Carson County Dept. of Public Health and Environment
- Lake County Public Health Agency
- La Plata County Public Health Department
- Larimer County Health Department
- Lincoln County Public Health
- Mesa County Public Health
- Mile High Behavioral Healthcare
- Mountain Family Health Centers-
Glenwood Springs School Based Health Center
- Mountain Family Health Centers - Roaring Fork High School Based Health Center
- National Jewish Health
- Northeast Colorado Health Department
- Northside School Based Health Center - Montrose
- Otero County Public Health
- Park County
- Pitkin County Public Health
- Pueblo Department of Public Health and Environment
- Regents of the University of Colorado
- Rio Grande County Public Health
- Rocky Mountain Center for Health Promotion and Education, dba, RMC Health
- Routt County Public Health
- Saguache County Public Health Nursing Service
- San Juan County LHA
- Sheridan Health Services- SOAR Academy
- Southeastern Colorado Area Health Education Center
- Southwest SBHC - Montezuma-Cortez High School
- Summit County Public Health
- Warrior Wellness Center -Central High School, Mesa County
- Weld County Department of Public Health and Environment

Options for funding other priorities and General Fund relief

During the CDPHE figure setting presentation on February 18, 2025, the JBC expressed interest in utilizing tobacco revenue to offset General Fund or support different programs.

1. **Adjusting Tobacco Master Settlement Agreement fund distribution could provide GF relief.** Staff does not recommend an ongoing adjustment to the distribution right now as there are not programs that have been *significantly* underspending year over year and individual analysts have recommended budget balancing measures in their respective departments. For example, the Tony Grampas Youth Services (refinance \$1.0 million GF with cash funds) and Supplemental State Contribution programs (\$5.0 million transfer to GF) have already been the part of budget balancing measures. If the Committee is interested in adjusting the distribution – it could be done with a statutory change.

Tobacco Master Settlement Funded Programs			
Program	% of MSA Distribution	FY 25-26 Forecast	Rough estimate of General Fund supporting the program
Nurse Home Visitor Program	28.7%	\$23.8M	\$628,226
Children's Basic Health Plan Trust (CHP+)	18.0%	\$14.9M	\$59,361,809
UC Health Sciences Center	17.5%	\$14.5M	More than \$100 million
Fitzsimons Lease Payments	8.0%	\$6.6M	Approx. 50-50 split GF and tobacco revenue
Tony Gramscas Youth Services Program	7.5%	\$6.2M	\$2,231,622
Tobacco Litigation Settlement	2.5%	\$2.1M	Very little if any.
Supplemental State Contribution	2.3%	\$1.9M	Very little if any.
State Veterans Trust Fund	1.0%	\$831,000	Very little if any.
CDPHE Programs			
State Drug Assistance Program	5.0%	\$4.2M	\$1,476,199
AIDS and HIV Prevention (CHAPP)	3.5%	\$2.9M	Very little if any.
Immunizations	2.5%	\$2.1M	Very little if any.
Dental Loan Repayment Program	1.0%	\$831,000	Very little if any.
Colorado Health Service Corps	1.0%	\$831,000	\$400,000

2. **Adjusting the Proposition EE distribution** could allow additional funds to be allocated towards priorities outside of CDPHE. The JBC expressed interest in this idea during the figure setting presentation for the Department.

The language in the ballot measure for Proposition EE (November 2020) states that the tax revenue should be initially used:

"...primarily for public school funding to help offset revenue that has been lost as a result of the economic impacts related to COVID-19 and then for programs that reduce the use of tobacco and nicotine products, enhance the voluntary Colorado preschool program and make it widely available for free, and maintain the funding for programs that currently receive revenue from tobacco taxes..."

Outside of this language, it appears that the remainder of the distribution is outlined in statute (Section 24-22-118, C.R.S.).



Joint Budget Committee Staff

Memorandum

To: Members of the Joint Budget Committee
From: Mitch Burmeister, JBC Staff (303-866-3147)
Date: Wednesday, March 19, 2025
Subject: **Statewide BA-05 Severance Tax Revenue Balancing**

This memorandum will cover only the aspect of the request related to the Department of Natural Resources.

Revenue Forecast

The OSPB March 2025 revenue forecast revises severance tax revenue for FY 2024-25 down to \$9.4 million from \$188.6 million in the December 2024 forecast. Similarly, the LCS March 2025 forecast revises severance tax revenue down to \$28.7 million from \$178.2 million. As a result of these cash fund revenue decreases, OSPB estimates that \$146.5 million General Fund has been made available relative to their January 2 budget amendment submission. That number is inclusive of the changes that *would have been made had the Committee approved DNR's R-10 request*. Since the Committee denied that request, staff believes a more accurate number for the General Fund that is now available as a result of lower Severance Tax revenue expectations is \$186.3 million. Staff has provided a table with how that number is arrived at as follows.

BA-05 Severance Tax Revenue Balancing - OSPB Forecast (millions)			
FY 2024-25			FY 2025-26
Forecast		Forecast	
Revenue		Revenue	
December 2024 Forecast	\$188.6	December 2024 Forecast	\$207.8
March 2025 Forecast	\$9.4	March 2025 Forecast	\$179.6
	-\$179.2		-\$28.2
Total Revenue Reduction from December Forecast to March Forecast			-\$207.4
Interest		Interest	
December 2024 Forecast	\$28.0	December 2024 Forecast	\$19.6
March 2025 Forecast	\$22.4	March 2025 Forecast	\$20.1
	-\$5.6		\$0.5
Total Interest Reduction from December Forecast to March Forecast			-\$5.1
Total Reduction from December Forecast to March Forecast			-\$212.5
Decarbonization Cash Fund Off-the-Top			
December 2024 GF Transfer	\$26.2		
March 2025 GF Transfer	\$0.0		
	-\$26.2		
Revenue and Interest Reduction Less Decarbonization Off-the-Top			-\$186.3

Request

The request would do several things related to the Severance Tax Operational Fund (Op Fund) and Perpetual Base Fund in DNR. Staff has outlined these actions in the list that follows.

- 1 **Reinstate the request to transfer \$11,046,165 from the PBF to the General Fund.** This was part of the original DNR R-10 Severance Tax Restructure request item that the Committee denied in staff's figure setting presentation.
- 2 **Transfer \$37.5 million General Fund to the Water Conservation Board (CWCB)** to go along with the severance tax statutory distribution of \$2.3 million. This would fund the CWCB at the level estimated in the OSPB December 2024 forecast at \$39.8 million.
- 3 **Transfer \$15.6 million General Fund to the Op Fund** to maintain the Op Fund's reserve at 100.0 percent of appropriations. This transfer would essentially pay back the planned transfer of \$18.3 million included in H.B. 24-1413 (Severance Tax Transfers). This legislation was supposed to capture the spillover from the Op Fund into the PBF, but because there will be no spillover in FY 2024-25, that transfer would come from the Op Fund reserves.
- 4 **Transfer \$2.5 million total to the Energy Office and the Department of Revenue** to augment the statutory Severance Tax revenue distribution of \$0.3 million. These funds are used by CEO and DOR to administer the Decarbonization Tax Credit Administration Cash Fund.
- 5 **Make statutory changes** that would:
 - a Require that no cash is accrued in the Decarbonization Tax Credit Administration Cash Fund if the oil and gas severance tax net revenue is negative; and
 - b Require that the total cash accrued in the Decarbonization Tax Credit Administration Cash Fund in a fiscal year does not exceed the net revenue from oil and gas severance tax.

Recommendation

Generally, staff is supportive of this request, with minor recommended adjustments. The following two tables outline the actions in the request and in staff recommendation. Both end up at the same fiscal impact, staff recommendation simply has fewer moving pieces.

OSPB BA-05 Request Actions			
FY 2024-25 Impacts (millions)			
Action	General Fund Impact	Cash Fund Impact	Cash Fund
Operational Fund Spillover Transfer	\$11.0	-\$11.0	Perpetual Base Fund
Statutory Severance Tax Distribution (March Forecast)	\$0.0	\$0.3	
General Fund Transfer to CEO and DOR	-\$2.5	\$2.5	
	\$8.5	-\$8.2	

FY 2025-26 Impacts (millions)			
Action	General Fund Impact	Cash Fund Impact	Cash Fund
Statutory Severance Tax Distribution (March Forecast)	\$0.0	\$2.3	Perpetual Base Fund
General Fund Transfer to PBF	-\$37.5	\$37.5	Perpetual Base Fund
General Fund Transfer to Operational Fund	-\$15.6	\$15.6	Operational Fund

OSPBA-05 Request Actions			
FY 2024-25 Impacts (millions)			
Cash Fund Interest Transfer*	\$17.1	-\$17.1	CWCB Construction Fund and Water Plan Implementation Fund
	-\$36.0	\$38.3	
Two-year Impact	-\$27.5	\$30.1	

*Pending Committee decision on OSPB Comeback #6

The request from OSPB includes several transfers back and forth between the General Fund and the Perpetual Base Fund, as well as one transfer into the Operational Fund. Additionally, the \$17.1 million transfer from the PBF to the General Fund is pending the Committee decision on OSPB Comeback #6 (Transfer of Certain Interest Income Revenue Subject to TABOR). These numbers will of course adjust according to what the Committee decides.

The following table is staff's recommendation, which achieves the same fiscal impact, but with fewer transfers in and out of the PBF and General Fund. Staff simply netted out those transfers into a single transfer from the General Fund to the Perpetual Base Fund of \$9.4 million in FY 2025-26.

OSPBA-05 Staff Recommendation			
FY 2024-25 Impacts (millions)			
Action	General Fund Impact	Cash Fund Impact	Cash Fund
Statutory Severance Tax Distribution (March Forecast)	\$0.0	\$0.3	
General Fund Transfer to CEO and DOR	-\$2.5	\$2.5	CEO and DOR Cash Funds
	-\$2.5	\$2.8	
FY 2025-26 Impacts (millions)			
Action	General Fund Impact	Cash Fund Impact	Cash Fund
Statutory Severance Tax Distribution (March Forecast)	\$0.0	\$2.3	Perpetual Base Fund
General Fund Transfer to PBF*	-\$9.4	\$9.4	Perpetual Base Fund
General Fund Transfer to Operational Fund	-\$15.6	\$15.6	Operational Fund
	-\$25.0	\$27.3	
Two-year Impact	-\$27.5	\$30.1	

*Includes the pending decision on OSPB Comeback #6