

MEMORANDUM

TO: JBC Members
FROM: Melodie Beck
SUBJECT: Conference Committee on S.B. 09-210 -- Beyond the Scope
DATE: March 2, 2009

Bill Summary

This bill, as introduced and passed by the Senate, transfers \$1.7 million of tobacco-settlement moneys to the General Fund in FY 2008-09 and \$1.5 million in FY 2009-10.

FY 2008-09 Transfers

- ✓ \$65,000 from the AIDS Drug Assistance Program in the Department of Public Health and Environment (DPHE);
- ✓ \$149,070 from the fund that supports the "per capita" payments that the State makes to local health agencies in DPHE; and
- ✓ \$1.5 million from the Comprehensive Primary and Preventative Grants program's Tier 2 distribution in the Department of Health Care Policy and Financing (HCPF). This funding is provided to public and rural hospitals and receives a federal Medicaid match.

The FY 2009-10 Transfers

- ✓ \$1.5 million from the Comprehensive Primary and Preventative Grants program Tier I distribution in HCPF. This distribution is for CICP clinics (mainly FQHCs but also other rural health clinics) for capital and expansion grants. This funding does not receive a federal match.

House Amendments

The House amended the bill to eliminate the \$1.5 million transfer to the General Fund in FY 2008-09 from the Tier II distribution to the Comprehensive Primary and Preventative Grants program. The House amendments also eliminates the \$1.5 million transfer to the General Fund in FY 2009-10 from the Tier I distribution to the Comprehensive Primary and Preventative Grants program.

Conference Committee Staff Recommendations

FY 2008-09 RECOMMENDATIONS FOR TIER II DISTRIBUTION

The following table shows the FY 2008-09 appropriation history for the Tier II distribution to the Comprehensive Primary Care Grant Program. The table also shows the impact of the American Recovery and Reinvestment Act (ARRA) to the program's available funding.

	FY 2007-08 Actual Expenditures*	FY 2008-09 Appropriation H.B. 08-1375*	FY 2008-09 Appropriation S.B. 09-187 (House Version)	FY 2008-09 Appropriation S.B. 09-210 (Senate Version)	Impact of ARRA House Position	Impact of ARRA Senate Position
CF - Tobacco Funding	\$1,455,954	\$3,286,155	\$3,130,481	\$1,630,481	\$3,130,481	\$1,630,481
Federal Funds	1,455,954	<u>0</u>	<u>3,130,481</u>	<u>1,630,481</u>	<u>4,139,141</u>	<u>2,155,832</u>
Total Funds	\$2,911,908	\$3,286,155	\$6,260,962	\$3,260,962	\$7,269,622	\$3,786,313
Transfer to GF	\$0	\$0	\$0	\$1,500,000	\$0	\$1,500,000

*In FY 2007-08, the General Assembly did not appropriate any federal funds for the program but the Department was authorized to seek federal funds for the program. The Department was able to provide federal match in FY 2007-08. When the original FY 2008-09 appropriation was established, it was unknown that the program would receive federal match. Therefore, the original FY 2008-09 appropriation did not include the federal match. However, after the Department received federal match in FY 2007-08, the Department notified the providers that their allotment would be increased by federal matching funds in FY 2008-09. Therefore, the providers were notified of the increase in funding before the JBC took action to add the funding in S.B. 09-187. The JBC corrected the funding for the program to reflect the availability of federal match in S.B. 09-187 (the bill also made a technical correction to the funding based on new revenue forecasts). The JBC then introduced S.B. 09-210 to adjust funding back to approximately the original estimated FY 2008-09 appropriation. The Senate adopted the JBC recommendation for reduced funding. The House adopted the increase in federal funding to the original appropriation.

Staff recommends a legislative change in order to maximize the amount of additional FMAP available to the State from ARRA during the entire ARRA period (i.e. the state ought to receive the benefit of the FMAP increase rather than automatically providing this funding to different provider groups). **This recommendation has a larger impact than the issues raised in S.B. 09-210.** Staff's recommendation will impact several line items in the Department's budget and will impact multiple fiscal years (FY 2008-09, FY 2009-10, and FY 2010-11). **Therefore, staff recommends that the Committee adhere to the HOUSE position for S.B. 09-210 regarding the FY 2008-09 TIER II distribution for the Comprehensive Primary Care Grant Program.** Staff will revisit this issue again during figure setting in the context of a larger bill recommendation to make sure that all ARRA FMAP increases are retained to benefit the state budget first. Staff's presentation on the new legislation that staff is proposing for this program and several other Department line items will be presented in full on March 12, 2009.

Representative Ferrandino asked staff to prepare an analysis of how much General Fund could be transferred if the program received \$5.0 million total fund appropriation. Staff has prepared four scenarios in the tables on the following page: (1) the Ferrandino option; (2) Hold Providers Harmless/ State Captures FMAP; (3) Original JBC Position / Providers receive the benefit of the additional FMAP; and (4) Original JBC Position / State Captures additional FMAP. Staff would like guidance from the Committee on which option the Committee would like to see at Staff's figure setting presentation (all options can remain on a future option list).

Scenario 1: Ferrandino Option for a \$5.0 Million Appropriation	All Fiscal Years Without ARRA	FY 2008-09 With ARRA*	FY 2009-10 With ARRA**	FY 2010-11 With ARRA***
CF - Master Tobacco Settlement	\$2,500,000	\$2,153,125	\$1,990,500	\$2,245,250
FF -- Medicaid Match	<u>2,500,000</u>	<u>2,846,875</u>	<u>3,009,500</u>	<u>2,754,750</u>
Total Funds	\$5,000,000	\$5,000,000	\$5,000,000	\$5,000,000
Transfer to General Fund	\$630,481	\$977,356	\$1,139,981	\$885,231

* Assumes 50% match 1st Quarter, 58.78% match 2nd Quarter, 58.78% match 3rd Quarter, 60.19% match 4th Quarter.

** Assumes 60.19% match for four quarters. ***Assumes 60.19% and 50.00% match for two quarters each.

Scenario 2: Hold Provider Harmless - State Captures FMAP	All Fiscal Years Without ARRA	FY 2008-09 With ARRA*	FY 2009-10 With ARRA**	FY 2010-11 With ARRA***
CF - Master Tobacco Settlement	\$3,130,481	\$2,696,127	\$2,492,489	\$2,811,485
FF -- Medicaid Match	<u>3,130,481</u>	<u>3,564,835</u>	<u>3,768,473</u>	<u>3,449,477</u>
Total Funds	\$6,260,962	\$6,260,962	\$6,260,962	\$6,260,962
Transfer to General Fund	\$0	\$434,354	\$637,992	\$318,996

Scenario 3: Adhere to Original JBC Position of \$1.5 Million Transfer -- Extend to Other Years	All Fiscal Years Without ARRA	FY 2008-09 With ARRA*	FY 2009-10 With ARRA**	FY 2010-11 With ARRA***
CF - Master Tobacco Settlement	\$1,630,481	\$1,630,481	\$1,630,481	\$1,630,481
FF -- Medicaid Match	<u>1,630,481</u>	<u>2,155,832</u>	<u>2,465,176</u>	<u>2,000,475</u>
Total Funds	\$3,260,962	\$3,786,313	\$4,095,657	\$3,630,956
Transfer to General Fund	\$1,500,000	\$1,500,000	\$1,500,000	\$1,500,000

Scenario 4: Hold Providers To Original JBC Amount -- Increase GF Transfer -- All ARRA Fiscal Years	All Fiscal Years Without ARRA	FY 2008-09 With ARRA*	FY 2009-10 With ARRA**	FY 2010-11 With ARRA***
CF - Master Tobacco Settlement	\$1,630,481	\$1,404,252	\$1,298,189	\$1,464,335
FF -- Medicaid Match	<u>1,630,481</u>	<u>1,856,710</u>	<u>1,962,773</u>	<u>1,796,627</u>
Total Funds	\$3,260,962	\$3,260,962	\$3,260,962	\$3,260,962
Transfer to General Fund	\$1,500,000	\$1,726,229	\$1,832,292	\$1,666,146

Other Items to Consider on the TIER II Distribution Issue:

- 1) By maximizing General Fund impact from the ARRA FMAP increase, staff is hoping to reduce the amount of other provider rate cuts that she has to recommend during figure setting. The Governor's current proposal is for a 4.33% cut to inpatient hospitals rates (this did not change with the passage of ARRA). This line item impacts only rural and public hospitals. If staff has to make provider rate cuts to inpatient hospitals, then staff would be impacting all hospitals that see Medicaid clients (including these same hospitals).
- 2) Under ARRA, the federal government has increased the DSH cap. Therefore, additional funding will be recommended to DHS hospitals (CICP hospitals) during staff's figure setting presentation.
- 3) If the Committee doesn't adjust the state funding, the providers will receive additional funding during the ARRA period. After the FMAP increase goes away, the providers will see a budget reduction. Staff believes that it better to keep funding as constant as possible.

FY 2009-10 RECOMMENDATIONS FOR TIER I DISTRIBUTION

The current bill transfers \$1.5 million to the General Fund from the Tier I Distribution to the Comprehensive Primary Care Grant in FY 2009-10. **Staff recommends that this transfer be increased to \$2.7 million instead of the \$1.5 million currently in the S.B. 09-210.** Staff recommends that this change be made in S.B. 09-210. This distribution does not receive federal match and therefore, will not fit under the new legislation that staff is recommending above to maximize the state benefit from the ARRA FMAP increase.

Other Items to Consider on this Issue:

- 1) The Governor did not include the impact of S.B. 09-210 in their budget balancing.
- 2) Under the Governor's FY 2009-10 request, the Governor rebases the FQHC Rates to the Minimum Allowable under Federal Law. The estimated savings from this is \$6.1 million total funds (however, only \$2.7 million is General Fund savings).
- 3) Under staff's recommendation the FQHCs would receive a \$2.7 million cut to capital grants (not provider fees for seeing patients). Staff's recommendation may allow the Committee to maintain the current FQHC provider rates (staff can not guarantee this -- all rate cuts would have to remain on an option list until the Committee has finished balancing).
- 4) Under the ARRA, there is a one-time grant program available for FQHCs. These grants will be awarded on competitive basis nationwide. There is a possibility (not guarantee) that this federal money could replace the state money during FY 2009-10. When the federal money goes away, the state money could be returned.

Staff needs to clarify that the House has permission to go beyond the scope in the Conference Committee in order to make this change. The Senate was granted permission to go beyond the scope and therefore, could vote to make this change. If this change is done now and S.B. 09-210 is signed before figure setting, staff can incorporate this change into the Long Bill appropriation.