



# TOBACCO SETTLEMENT PROGRAMS

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*A Fact Sheet*  
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The 1998 verdict of the State of Colorado's legal suit against the tobacco industry included a requirement that tobacco companies make annual base payments to the State. These base payments, which will be made in perpetuity, are based on tobacco consumption and tobacco companies' revenues, among other variables. In addition to the base payments, the state receives a series of "strategic contribution fund" payments which began in April 2008 and will continue until 2017. Beginning in 2006, several tobacco manufacturers withheld a portion of the state's base payment due to an ongoing legal dispute. Recently, some of these withheld funds were released to Colorado and are known as "disputed payments". Colorado received the first "disputed payment" in February of 2009. To date, Colorado has received approximately \$957 million dollars from tobacco companies and payments to Colorado for FY 2008-09 are estimated to be approximately \$112.8 million.

<b>Master Settlement Tobacco Revenue History</b>		
<b>FY Payment is Received</b>	<b>FY Payment is Expended</b>	<b>Amount Received</b>
<b>Actual Payments</b>		
FY 1999-00		\$115.3 million
FY 2000-01	FY 2001-02	\$86.7million
FY 2001-02	FY 2002-03	\$100.3 million
FY 2002-03	FY 2003-04	\$100.6 million
FY 2003-04	FY 2004-05	\$86.1 million
FY 2004-05	FY 2005-06	\$87.4 million
FY 2005-06	FY 2006-07	\$80.2 million
FY 2006-07	FY 2007-08	\$83.9 million
FY 2007-08	FY 2008-09	\$103.6 million
FY 2008-09	FY 2009-10	\$112.8 million*
<b>Forecasted Amounts</b>		
FY 2009-10	FY 2010-11	\$102.6 million
FY 2010-11	FY 2011-12	\$103.0 million
<p><b>Source:</b> OSPB analysis of Legislative Council's January 2009 Master Settlement Agreement Revenue Forecast as well as the Joint Budget Committee FY 2009-10 Tobacco Figure Setting document. *Includes \$105.4 in base payments and \$7.4 million from the disputed payment account which was deposited into the General Fund and not allocated to programs.</p>		

Tier 1 Programs are funded from the prior year’s base payments plus the additional \$15.4 million from the current year “strategic contribution fund” payment. For Fiscal Year 2008-09, approximately \$103.6 Million is available for distribution to both Tier 1 and Tier 2 programs. The following Tier 1 Programs are funded by the Tobacco Settlement moneys in the State of Colorado:

<b>Tobacco Settlement Fund Distributions for Tier 1 Programs</b>		
<b>PROGRAM</b>	<b>PERCENTAGE of TIER 1 AMOUNT</b>	<b>FY 2008-09 ALLOCATIONS (in millions)</b>
Children’s Basic Health Plan Trust	24% up to a maximum of \$30 million	\$24.9
Primary and Preventative Care	3% up to \$5 million	\$3.1
Children with Autism	\$1 million annually	\$0.9
Dental Loan Repayment	\$200,000 annually	\$0.2
Tony Gramscas Youth Services	4% up to \$5 million	\$4.1
HIV Prevention	2% up to \$2 million	\$2.0
AIDS Drug Assistance Program	3.5% up to \$5 million	\$3.6
Nurse Home Visitor	13% in FY 2008-09. Percentage increases by 1% a year until it reaches 19% or \$19 million. (*See note below in Legislative Changes Section regarding SB 09-269)	\$13.5
Children’s Mental Health Treatment	\$300,000 annually	\$0.3
Fitzsimons Trust Fund	8% up to \$8 million	\$8.0
Veterans Trust Fund	1% up to \$1 million	\$1.0
Read to Achieve	5% up to \$8 million	\$5.2
<b>Total Tier 1 FY 2008-09 Allocation</b>		<b>\$66.8 million</b>
<b>Source:</b> OSPB analysis based on the Joint Budget Committee FY 2009-10 Appropriations Report and Legislative Council’s January 2009 Tobacco Master Settlement Agreement distribution forecast.		

Tier 1 programs do not utilize all of the Master Settlement payments received by the state. As a result, Tier 2 programs were created during the 2007 Legislative Session. For FY 2008-09, Tier 2 programs are funded with the remainder of the Tier 1 amount combined with the remaining funds from the current year “strategic contribution fund” payment. These funds are then distributed to the following programs:

<b>Tobacco Settlement Fund Distributions for Tier 2 Programs</b>		
<b>PROGRAM</b>	<b>PERCENTAGE of TIER 2 AMOUNT (percentages are of funds remaining after Tier 1 Programs are funded)</b>	<b>FY 2008-09 ALLOCATIONS (in millions)</b>
Children's Hospital (Medicaid Shortfalls)	1%	\$0.4
Indigent Health Care Provided by Rural and Public Hospitals (same as Primary and Preventative Care Program from Tier 1 yet these funds are specifically for small rural and public hospitals)	8.5%	\$3.1
Increase Eligibility Children's Basic Health Plan from 200% to 205% of the Federal Poverty Level. (same as Tier 1 program yet these funds are specifically to expand eligibility to 205 percent of the federal poverty level and provide early intervention services)	5%	\$1.8
University of Colorado Health Sciences Center	49%	\$18.0
Mental Health Services for Adult and Juvenile Offenders	12%	\$4.4
Expansion of Alcohol and Drug Abuse Programs	3%	\$1.1
Supplement State Contribution for Employee Insurance Plans	4.5%	\$1.7
Local Public Health Services	7%	\$2.6
Colorado Immunization Program	4%	\$1.5
Short Term Grants for Innovative Health Programs	6%	\$2.2
<b>Total Tier 2 FY 2008-09 Allocation</b>		<b>\$36.8 Million</b>
<b>Source:</b> OSPB analysis based on the Joint Budget Committee FY 2009-10 Appropriations Report and Legislative Council's January 2009 Tobacco MSA distribution forecast.		

- The *Nurse Home Visitor Program* is located in the Department of Public Health and Environment. The funding increases annually and ranges from nine percent of the annual tobacco settlement payment to 19 percent (up to \$19 million). The goal of the program is to provide educational, health and other resources for low-income first-time young mothers during pregnancy and the two years of their infants' lives. Some funds are sent to the Department of Health Care Policy and Financing to draw a federal match for Medicaid services.

- The *Comprehensive Primary and Preventive Care Grants Program* is located in the Department of Health Care Policy and Financing. The Program makes service grants to qualified providers for the provision of primary and preventive care to uninsured or medically indigent patients in Colorado. Services under this grant program include the following: primary health care; maternity care, including prenatal care; preventive, developmental, and diagnostic services for infants and children; adult preventive services; diagnostic laboratory and radiology services; emergency care for minor trauma; pharmaceutical services; and coordination and follow-up for hospital care.
- The *Child Health Plan Plus (CHP+)* is located in the Department of Health Care Policy and Financing. Created in 1998, CHP+ is a public/private partnership that provides health insurance for low-income children and pregnant women who are at or below 200 percent of the federal poverty rate and do not qualify for Medicaid. The federal government contributes 65 percent for every one dollar spent by the State on this program.
- The *Read to Achieve* program is located in the Department of Education. The money is used to fund grants to schools for intensive reading programs for second- and third-grade school students who read below their grade level. The State Board of Education awards grants for this program.
- The *Dental Loan Repayment Program* is located in the Department of Public Health and Environment. The program was created to encourage dental professionals to work with Medicaid-eligible and other low-income families to provide needed services. In exchange for a commitment to provide services to underserved populations, the program helps dental professionals repay the principal, interest, and related expenses of their educational loans.
- The *Colorado State Veteran's Trust Fund* is located in the Department of Military and Veterans Affairs. The Board of Veterans Affairs uses the tobacco settlement monies and earned interest for a variety of veterans programs and entities, including: state nursing homes, veterans outreach efforts, and non-profit organizations serving veterans.
- The *Tony Gramscas Youth Services Program* is located in the Department of Public Health and Environment. Tony Gramscas Youth Services is a youth crime and violence prevention program and provides grants to local communities in the areas of early childhood education, mentoring, high school dropout prevention, and general prevention programs.
- The *Ryan White AIDS Drug Assistance* program is administered by the Department of Public Health and Environment. This program receives three and a half percent of the tobacco settlement payment or up to \$5 million annually.
- During the 2004 legislative session, Senate Bill 04-177 was signed into law, creating the *Home and Community-Based Services for Children with Autism Act*. This program/fund is located within the Department of Health Care Policy and Financing. All of the monies are matched with federal Medicaid funds to support children age 0 to 6 with autism to live in the community rather than in an institution. Pursuant to SB 09-210, this program receives \$1 million per year beginning in FY 2008-09.
- The Department of Human Services administers the *Child Mental Health Treatment Act*. Originally created with House Bill 99-1116, the program provides residential treatment funding for children with mental illness who would otherwise not meet eligibility requirements for Medicaid.

- The *Tobacco Oversight Unit* is located within the Department of Public Health and Environment. It receives payments from other tobacco programs not to exceed 0.4 percent of each annual tobacco settlement payment. The unit is required to monitor the operation and effectiveness of the tobacco settlement programs including receiving each program's annual report, preparing the annual report to the Governor, committees of the General Assembly and the Attorney General, and working with the State Auditor's Office in conducting program reviews and evaluations.
- The *State Auditor's Office* receives up to 0.1 percent of the annual tobacco settlement payment to conduct program reviews and evaluations of the performance of each program funded with tobacco settlement monies. The revenues come from all tobacco-funded programs and are used to determine whether the program is effectively and efficiently meeting its stated goals. The program reviews and evaluations are performed on all tobacco settlement programs, whether operated directly by a state agency, a private entity, or a local government agency.
- In addition to the programs funded through appropriations directly out of the tobacco settlement fund, the State's share of expenditures related to the *Breast and Cervical Cancer Prevention and Treatment Program* is funded from the interest derived from the deposit of the tobacco settlement annual payment into the Tobacco Settlement Cash Fund. This funding provides 70 percent of the state's costs for the Program. The federal government contributes 65 percent for every dollar spent by the State on this Medicaid program. The program resides at the Department of Health Care Policy and Financing and provides services to low income women between the ages of forty and sixty-five with breast or cervical cancer at certain screening clinics.

### **Legislative Changes and Pertinent Legislation:**

**HB 99-1208-** This bill enacted the model statute of the multistate tobacco settlement. The bill required tobacco companies which sell cigarettes in Colorado to either become a participating company, place a specified amount in an escrow account to pay future payments or damage awards or no longer sell cigarettes in Colorado.

**SB 07-097-** The Bill utilized money that had originally been deposited into the General Fund and redistributed those funds as part of the additional "second tier" set of programs.

**HB 07-1359-** The Bill allowed for a one time hold back of \$24.4 million to be placed in an over expenditure fund for CHP+ and CBMS and also allowed Tier 1 and Tier 2 programs to spend a portion of the settlement funds in the year in which they are received. Of the strategic contribution funds received each year (approximately \$20 million of the annual \$100 million payment) \$15.4 million is spent in the current year. The State Treasurer lends programs \$15.4 million in accelerated payments during the course of the fiscal year so they can operate. The money is then paid back when the annual payment is received each April.

**SB 09-210-**For FY 2008-09, transferred approximately \$1.2 million of tobacco-settlement funds to the General Fund which would have been allocated to programs in FY 2008-09. For FY 2009-10, the bill also transferred \$2.4 million to the General Fund which would have been allocated to programs in FY 2009-10.

**SB 09-269-** Bill was a budget balancing bill which transferred moneys the state receives from the Master Settlement Agreement to the General Fund. The bill:

- Diverted \$12.4 million to the General Fund in FY 2008-09 which would have been used in FY 2009-10 by tobacco settlement programs.

- Specified that disputed tobacco settlement payments received by the state (\$7.4 million in February 2009) be transferred to the General Fund.
- Accelerated the use of tobacco funds received in FY 2009-10. The bill provides \$65K of support to the General Fund for FY 2009-10 by allowing the use in the year the funds are received and not significantly affecting the allocations to tobacco programs for that same year.
- Allows programs to receive an advance from the State Treasurer to provide working capital due to the newly appointed financing mechanism above.
- Capped the amount of tobacco settlement revenue which can be allocated to programs at approximately \$100 million for FY 2009-10 which in turn will slightly reduce the amounts allocated to each program.
- Delayed the mandated growth on the nurse home visitors program in the percent of settlement moneys received for one year (FY 2009-10).

*For more information about this program, please call 303-866-4997.*