

JOINT BUDGET COMMITTEE



STAFF FIGURE SETTING FY 2019-20

TOBACCO MASTER SETTLEMENT AGREEMENT AND AMENDMENT 35 TOBACCO TAX

JBC WORKING DOCUMENT - SUBJECT TO CHANGE
STAFF RECOMMENDATION DOES NOT REPRESENT COMMITTEE DECISION

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FEBRUARY 5, 2019

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TOBACCO MASTER SETTLEMENT AGREEMENT

The Tobacco Master Settlement Agreement (MSA) provides Colorado with an annual revenue stream distributed via a statutory formula to a variety of programs. Revenue from the MSA is the result of a 1998 legal settlement between tobacco manufacturers and the states who sued to recover Medicaid and other health-related costs incurred by the states as a result of treating smoking related illnesses.

Tobacco Master Settlement Agreement payments are driven by the number of units sold, the inflation adjustment, and the amount of disputed payments withheld by Participating Manufacturers. Payments received in April are based on sales and adjustments from the prior year. For example, the payment received by Colorado in April 2017 was based on the number of units sold in 2016.

OVERVIEW OF CALCULATING MASTER SETTLEMENT AGREEMENT DISTRIBUTIONS

The Legislative Council January 2019 forecast of Tobacco Master Settlement Agreement revenue serves as the basis for the Long Bill appropriations of MSA revenues in FY 2019-20. The State receives annual MSA payment in April, which is after the Long Bill is sent to the Governor. As a result, even though actual receipts are known by mid-April, appropriations in the Long Bill are based on the January Legislative Council Staff revenue forecast. The allocation percentages are determined by statute and are shown in Appendix A. Once approved by the Committee, JBC analysts use the FY 2019-20 allocations to set appropriations for Tobacco Master Settlement Agreement-supported programs in their respective departments.

TOBACCO MASTER SETTLEMENT AGREEMENT ALLOCATIONS AND APPROPRIATIONS

The following statutes and processes direct the allocation of Tobacco Master Settlement Agreement money.

- Section 24-75-1104.5 (1.3) (a), C.R.S., specifies that the total Tobacco Master Settlement Agreement funds allocated to programs will be based on the prior year's Tobacco Master Settlement Agreement receipts.
- The distribution across programs is governed by statute, with the key provisions contained in Sections 24-75-1104.5 (1.7), C.R.S. The Treasury uses the formula to allocate this money to programs.
- The General Assembly appropriates the allocated funds in the Long Bill, providing spending authority for programs receiving the allocations.

→ TOBACCO MASTER SETTLEMENT REVENUE ALLOCATIONS

Staff recommends that the Committee approve the allocation of settlement revenue as shown in the table below. The recommendation is based on a Legislative Council Staff projection of \$85,759,505 available for allocation in FY 2019-20.

TOBACCO MASTER SETTLEMENT AGREEMENT REVENUE ALLOCATIONS			
	PERCENTAGE	FY 2018-19 APPROVED DISTRIBUTION	FY 2019-20 RECOMMEND.
Health Care Policy and Financing			
Children's Basic Health Plan Trust	18.00%	\$15,120,000	\$15,436,711
Autism Waiver	2.00%	1,680,000	1,715,190
Subtotal - Health Care Policy and Financing	20.00%	16,800,000	17,151,901
Higher Education			
University of Colorado Health Sciences Center	15.50%	13,020,000	13,292,723
Cancer Program	2.00%	1,680,000	1,715,190
Subtotal - Higher Education	17.50%	14,700,000	15,007,913
Human Services			
Nurse Home Visitor Program	26.70%	22,428,000	22,897,788
Tony Gramscas Youth Services Program	7.50%	6,300,000	6,431,963
Subtotal - Human Services	34.20%	28,728,000	29,329,751
Law			
Tobacco Settlement Defense Account	2.50%	2,100,000	2,143,988
Military and Veterans Affairs			
State Veterans Trust Fund	1.00%	840,000	857,595
Personnel			
Supplemental State Contribution Fund	2.30%	1,932,000	1,972,469
Public Health and Environment			
Drug Assistance Program (ADAP; Ryan White)	5.00%	4,200,000	4,287,975
AIDS and HIV Prevention Grants (CHAPP)	3.50%	2,940,000	3,001,583
Immunizations	2.50%	2,100,000	2,143,988
Health Services Corps Fund	1.00%	840,000	857,595
Dental Loan Repayment Program	1.00%	840,000	857,595
Subtotal - Public Health and Environment	13.00%	10,920,000	11,148,736
Capital Construction - Department of Higher Education - Fitzsimons			
Lease Purchase Payments	8.00%	6,720,000	6,860,760
Unallocated Amount	1.50%	1,260,000	1,286,393
TOTAL	100.00%	\$84,000,000	\$85,759,505

Individual staff analysts will recommend FY 2019-20 appropriation amounts for programs in their budget areas that are supported by Tobacco Master Settlement Agreement funds. Staff recommendations will take into consideration this revenue forecast and the balance of tobacco moneys expected to be available in program cash funds.

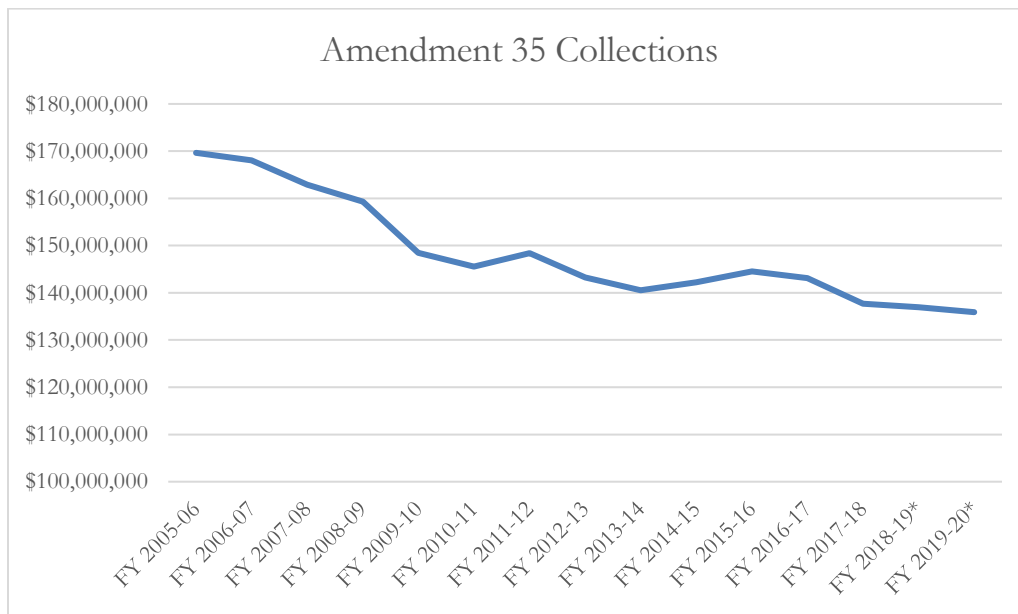
AMENDMENT 35 TOBACCO TAX REVENUE

Amendment 35 was approved by the voters in 2004 and added the following two cigarette and tobacco taxes to Section 21 of Article X of the Colorado Constitution.

- 1 An additional \$0.64 tax on each pack of cigarettes sold in Colorado (a pack equals twenty cigarettes); and
- 2 A statewide tobacco products tax equal to 20.0 percent of the manufacturer's list price, on the sale, use, consumption, handling, or distribution of tobacco products by distributors.

Amendment 35 was codified in Section 24-22-117, C.R.S., which outlines how revenue from Amendment 35 is distributed to various state agencies including: the Departments of Health Care Policy and Financing, Public Health and Environment, and Human Services. Appendix B summarizes which departments and programs receive Amendment 35 tobacco tax revenue.

Amendment 35 revenues have been declining over time (as shown in the table below) due mainly to lower consumption of cigarettes.



*Forecasted Revenue

→ DISTRIBUTION OF AMENDMENT 35 REVENUE

The December 2018 Legislative Council Staff revenue forecast projects Amendment 35 revenues will equal **\$135,901,000** in FY 2019-20. The following table summarizes staff's recommendation of the allocation of Amendment 35 dollars for FY 2019-20. The recommendation is based on the Legislative Council December 2018 forecast using allocations to individual programs following the rules outlined in Appendix B. **Staff recommends the Committee approve this distribution and requests permission to adjust the allocations if the March 2019 Legislative Council**

Amendment 35 forecast is greater than the December 2018 forecast. Each JBC staff with Amendment 35 funded programs will provide additional information on the use of Amendment 35 dollars during their figure setting presentation.

DISTRIBUTION OF AMENDMENT 35 MONEYS			
DEPT.	PROGRAM AND/OR FUND	PERCENT	FY 2019-20 RECOMMENDATION
HCPF	Health Care Expansion Fund	46.0	\$62,514,460
HCPF	Primary Care Fund	19.0	25,821,190
DPHE	Tobacco Education Programs Fund	16.0	21,744,160
DPHE	Prevention, Early Detection and Treatment Fund	16.0	21,744,160
HCPF	Old Age Pension Fund	1.5	2,038,515
REV	Local governments to compensate for lost revenue from tobacco taxes	0.9	1,223,109
DPHE	Immunizations performed by small local public health agencies.	0.3	407,703
HCPF	Children's Basic Health Plan	0.3	407,703
TOTAL DISTRIBUTIONS		100.0	\$135,901,000

Money that is credited to the Prevention Early Detection and Treatment Fund is further divided among three programs: Breast and Cervical Cancer Program, Health Disparities Program Fund, and Center for Health and Environmental Information. The following table summarizes how the total funds credited to the Prevention, Early Detection and Treatment Fund is further allocated.

BREAKDOWN OF MONEY CREDITED TO THE PREVENTION, EARLY DETECTION AND TREATMENT FUND		
	PERCENT	FY 2019-20
Total Amount Credited to the Prevention, Early Detection and Treatment Fund		\$21,744,160
Breast and Cervical Cancer Program	20.0%	4,348,832
Health Disparities Program Fund	15.0%	3,261,624
Center for Health and Environmental Information	Fixed \$	116,942
<i>Remains in the Prevention, Early Detection and Treatment Fund</i>		<i>\$14,016,762</i>

LONG BILL FOOTNOTES AND REQUESTS FOR INFORMATION

REQUEST FOR INFORMATION

Staff recommends **CONTINUING AND MODIFYING** the following request for information:

- 1 Department of Health Care Policy and Financing, Medical Services Premiums; Indigent Care Program, Children's Basic Health Plan Medical and Dental Costs; Department of Higher Education, Colorado Commission on Higher Education, Special Purpose, University of Colorado, Lease Purchase of Academic Facilities at Fitzsimons; Governing Boards, Regents of the University of Colorado; Department of Human Services, Division of Child Welfare, Tony Grampas Youth Services Program; Office of Early Childhood, Division of Community and Family Support, Nurse Home Visitor Program; Department of Military and Veterans Affairs, Division of Veterans Affairs, Colorado State Veterans Trust Fund Expenditures; Department of Personnel, Division of Human Resources, Employee Benefits Services, H.B. 07-1335 Supplemental State Contribution Fund; Department of Public Health and Environment, Disease Control and Environmental Epidemiology Division, Administration, General Disease Control, and Surveillance, Immunization Operating Expenses; Special Purpose Disease Control Programs, Sexually Transmitted Infections, HIV and AIDS Operating Expenses, and Ryan White Act Operating Expenses; Prevention Services Division, Chronic Disease Prevention Programs, Oral Health Programs; Primary Care Office -- Each Department is requested to provide the following information to the Joint Budget Committee by ~~November 1, 2018~~, **October 1, 2019** for each program funded with Tobacco Master Settlement Agreement money: the name of the program; the amount of Tobacco Master Settlement Agreement money received and expended by the program for the preceding fiscal year; a description of the program including the actual number of persons served and the services provided through the program; information evaluating the operation of the program, including the effectiveness of the program in achieving its stated goals.

COMMENT: This request for information was added in FY 2015-16 and replaced a statutory report from the Department of Public Health and Environment and the State Board of Health. The request for information was added to improve the accountability of each program that receives Tobacco Master Settlement Agreement funding. The responses to the request for information are reviewed by the JBC staff analyst during the Tobacco Master Settlement Agreement briefing.

APPENDIX A: TOBACCO MASTER SETTLEMENT AGREEMENT ALLOCATION PERCENTAGES

TOBACCO MASTER SETTLEMENT AGREEMENT MONEY ALLOCATION PERCENTAGES		
DEPARTMENT	PROGRAM	PERCENTAGE
Human Services	Nurse Home Visitor	26.70%
Health Care Policy and Financing	Children's Basic Health Plan Trust	18.00%
Higher Ed	CU Health Sciences	15.50%
Capital Construction	Fitzsimons Trust Fund	8.00%
Human Services	Tony Gramscas Youth Services	7.50%
Public Health and Environment	Drug Assistance Program	5.00%
Public Health and Environment	AIDS & HIV Prevention Grants	3.50%
Public Health and Environment	CO Immunization Fund	2.50%
Law	Tobacco Litigation Settlement Cash Fund	2.50%
Personnel	Supplemental State Contribution	2.30%
Higher Ed	Cancer Program	2.00%
Unallocated Amount - used to reduce size of the accelerated payment		2.00%
Health Care Policy and Financing	Autism Treatment	1.50%
Military and Veterans Affairs	State Veterans	1.00%
Public Health and Environment	Dental Loan Repayment	1.00%
Public Health and Environment	Health Services Corps (Loan Repayment)	1.00%

APPENDIX B: ALLOCATION OF AMENDMENT 35 TOBACCO TAX REVENUE

ALLOCATION OF AMENDMENT 35 TOBACCO TAX REVENUE		
DEPT.	PROGRAM AND/OR FUND	PERCENT
HCPF	Health Care Expansion Fund, to provide funding to the Children's Basic Health Plan and Medicaid.	46.0%
HCPF	Primary Care Fund, to provide funding to clinics and hospitals that offer health care services to the uninsured or medically indigent.	19.0%
DPHE	Tobacco Education Programs Fund, to support grants for tobacco education, prevention and cessation.	16.0%
DPHE	Prevention, Early Detection and Treatment Fund (PEDT Fund)	16.0%
DHS	Old Age Pension Fund	1.5%
DOR	Local governments, to compensate for lost revenue from tobacco taxes	0.9%
DPHE	Immunizations performed by small local public health agencies.	0.3%
HCPF	Children's Basic Health Plan	0.3%
Total Distributions		100.0%

ALLOCATION OF MONEY CREDITED TO THE PREVENTION, EARLY DETECTION AND TREATMENT FUND	
	ALLOCATION
Prevention, Early Detection and Treatment Fund (PEDT Fund)	16% of Amendment 35 Money
Breast and Cervical Cancer Screening Program (up to \$5.0 million)	20% of 16.0% allocated to the PEDT Fund
Health Disparities Program Fund	15% of 16.0% allocated to the PEDT Fund
Center for Health and Environmental Information	<u>fixed dollar amount</u>
Remains in the PEDT Fund for cancer, cardiovascular and pulmonary disease prevention, detection and treatment grants.	16.0% less amounts credited to three above purposes.



JBC Staff FY 2019-20 Figure Setting Tobacco Master Settlement Agreement and Amendment 35

**Presented by:
Christina Beisel, JBC Staff
February 5, 2019**

Included in Staff Figure Setting Document

**Tobacco Master
Settlement Agreement**
(Page 1)

**Amendment 35
Tobacco Tax Revenue**
(Page 3)

Staff Recommendation
\$85.8 million total funds

Staff Recommendation
\$135.9 million total funds

Tobacco Master Settlement Agreement (p.1)

Staff Recommendation

- Tobacco Master Settlement Revenue Allocations (p. 1)

Amendment 35 Tobacco Tax Revenue (p.3)

Staff Recommendation

- Distribution of Amendment 35 Revenue (p. 3)

Long Bill Footnotes and RFIs (p.5)

Long Bill Footnotes

None.

Requests for Information

- One Recommendation (p. 5)



JBC Staff FY 2019-20 Figure Setting Tobacco Master Settlement Agreement and Amendment 35

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