Legislative Council Staff
Nonpartisan Services for Colorado's Legislature

Memorandum

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TO: Interested Persons

FROM: Emily Dohrman, Senior Economist

SUBJECT: 2026 Tobacco MSA Forecast

Summary

Colorado receives annual payments from tobacco manufacturers as part of the Tobacco Master Settlement Agreement (MSA). The Tobacco MSA was reached in 1998 between certain tobacco manufacturers (known as "participating manufacturers") and the governments of 52 states and territories. Under the MSA, participating tobacco manufacturers are released from health-related claims associated with their products in exchange for making perpetual annual payments to states. Payments made to Colorado under this agreement are exempt from TABOR as a damage award.

This document presents a forecast for annual receipts from the Tobacco MSA through 2028. Payments are received each April, and each payment determines how much will be distributed to MSA-funded programs in the following fiscal year. In April 2025, the state received $77.0 million, which determined distributions for the current FY 2025-26. The state is expected to receive **$72.3 million in 2026**, **$68.5 million in 2027**, and **$65.2 million in 2028**.

Tobacco MSA Payments

Base Payment

Colorado's annual tobacco MSA payment primarily depends on the MSA base payment, which is determined at the national level. Each participating state then receives a fixed percentage of the national base payment; for Colorado, this is 1.37 percent. The size of the national MSA base payment largely depends on U.S. inflation and the volume of U.S. cigarette sales from participating manufacturers.

Specifically, the total payment from all manufacturers is adjusted upwards from the prior year by the rate of inflation or 3.0 percent, whichever is greater. The payment is then adjusted based on the number of cigarettes[1] sold by original participating manufacturers in the U.S. in the prior year, which tends to decline over time. Other, smaller adjustments are made to the base payment as well, including an upward adjustment if manufacturers' income exceeds a certain threshold. In 2025, Colorado's base payment was **$83.2 million**.

Non-Participating Manufacturer Adjustment

If participating manufacturers are found to have lost aggregate market share relative to non-participating manufacturers as a result of joining the MSA, then the Non-Participating Manufacturer Adjustment (NPM Adjustment) is calculated. A market share loss has been found in every year of the MSA's existence. The NPM Adjustment reduces payments made by participating manufacturers to states under the MSA only if the state is found, through arbitration, to have failed to diligently enforce its legal obligations under the MSA. Therefore, participating manufacturers must initiate arbitration against the state for each year in which the NPM adjustment was calculated in order for their payments to be reduced.

Prior to 2018, participating manufacturers paid the amount of the NPM Adjustment into the disputed payment account, where the funds were held until the arbitration was resolved. These funds became known as disputed payments. Arbitration proceedings took many years to resolve, resulting in payments to states being severely delayed, sometimes by over a decade.

To expedite resolution of payment disputes, participating manufacturers and some states negotiated the **Non-Participating Manufacturer Adjustment Settlement Agreement** (NPMASA), a supplementary legal agreement within the MSA framework. Under the NPMASA, participating states and manufacturers agreed to settle pending disputes rather than wait for lengthy arbitration proceedings. As a result, participating states received between 54 and 75 percent of payments that had been disputed between 2004 and 2017, depending on the state and the year.

Colorado signed the NPMASA in March 2018. Colorado received $113.0 million of previously withheld funds in 2018 due to the NPMASA, representing 100 percent of disputed payments from 2004 to 2017. However, the state was only authorized to retain a portion of this lump sum

[1] The volume adjustment also takes into account roll-your-own tobacco sales such that 0.0325 pounds of roll-your-own tobacco equates to one cigarette. This form of tobacco makes up a very small portion of the total.

payment, and gradually returned a portion of this payment back to manufacturers over the following years, in the form of a subtraction from the state's annual payments.

Colorado has now settled disputes from 2018 through 2027, such that 75 percent of the NPM Adjustment is retained by the states and 25 percent is credited back to the manufacturers. In 2025, Colorado's base payment was reduced by **$6.1 million**, representing 25 percent of Colorado's share of the calculated NPM Adjustment. Had Colorado not joined the NPMASA, the state would not have received any portion of the NPM Adjustment until after arbitration was resolved.

Revenue Forecast

Table 1 presents the actual Tobacco MSA payment received in April 2025 and the forecast for 2026 through 2028.

Table 1
Tobacco MSA Payment Forecast
Dollars in Millions

Payment	2025 Actual	2026 Forecast	2027 Forecast	2028 Forecast
Annual MSA Payment	$77.0	$72.3	$68.5	$65.2

Source: Department of Law, Department of the Treasury, and Legislative Council Staff forecast.

Recent Payments and Expectations

The 2025 payment totaled $77.0 million, a decline of 7.2 percent from the 2024 payment of $83.0 million. The base payment fell in 2025 due to a steep decline, over 10 percent, in the volume of cigarettes sold by original participating manufacturers in 2024. Additionally, the base payment was reduced by $6.1 million in 2025 due to the NPM Adjustment, which is a larger reduction than in 2024.

Payments are expected to continue to fall through the forecast period as cigarette sales continue to decline and the NPM adjustment increases. Sales have fallen more quickly since the Covid-19 pandemic, falling by 7 percent in 2021, 12 percent in 2022, 11 percent in 2023, and 10 percent in 2024, a trend that is expected to continue in the coming years. The decline in sales is partially attributable to market trends shifting toward other nicotine products, such as e-cigarettes. Based on federal tax data, national cigarette consumption is estimated to have declined at similar rates in 2024 and 2025. Cigarette sales by original participating manufacturers are expected to decline throughout the forecast period, by 10.0 percent in 2025 (affecting the 2026 payment), 9.5 percent in 2026 (affecting the 2027 payment), and 9.0 percent in 2027 (affecting the 2028 payment). Inflation is not expected to exceed 3 percent through the forecast period, which means that the inflation adjustment will increase by 3 percent per year.

Risks to the Forecast

To the extent that U.S. cigarette sales from participating manufacturers are higher or lower than forecast, Colorado's base payment will be impacted accordingly. The inflation adjustment increases by a minimum of 3 percent each year, so payments will not be impacted if inflation is lower than expected, but could increase by more if inflation exceeds 3 percent. Payments will also be impacted by the amount that manufacturers choose to withhold as part of a disputed payment.

Additionally, the Tobacco MSA remains an area of ongoing legal uncertainty. Any changes to the legal landscape resulting from government or manufacturer legal strategy, arbitration proceedings, or settlement agreements will have an effect on the amounts received. Receipts will also fall if participating manufacturers cease operations, file bankruptcy, or otherwise fail to pay what is due each year.

Distribution of MSA Payments

Distribution of Funds

Total allocations to MSA-funded programs each year correspond to the MSA payment that was received in April of the preceding fiscal year. A statutory formula directs the distribution of 98.5 percent of the annual MSA payment, as shown in Table 2.[2] The unallocated portion is reserved each year to reduce the amount of the annual accelerated payment, as described below.

[2] Section 24-75-1104.5 (1.7), C.R.S.

Table 2
Distribution of Tobacco MSA Payment

Department	Program	Distribution
Early Childhood	Nurse Home Visitors	28.7%
Health Care Policy and Financing	Children's Basic Health Plan Trust	18.0%
Higher Education	CU Health Sciences Center	17.5%
Capital Construction	Fitzsimons Trust Fund	8.0%
Human Services	Tony Grampsas Youth Services	7.5%
Public Health and Environment	AIDS Drug Assistance	5.0%
Public Health and Environment	HIV and AIDS Prevention	3.5%
Public Health and Environment	Immunizations	2.5%
Public Health and Environment	Health Service Corps	1.0%
Public Health and Environment	Dental Loan Repayment	1.0%
Law	Tobacco Settlement Defense Account	2.5%
Personnel and Administration	Supplement State Employee Insurance Plans	2.3%
Military and Veterans Affairs	Veterans Trust Fund	1.0%
Total Funds Distributed		**98.5%**

Of the percent distribution to the CU Health Sciences Center, 2.0 percent must be expended for tobacco-related in-state cancer research.

Table 3 shows the amount that each MSA-funded program is projected to receive through FY 2027-28 under the forecast presented in Table 1. The unallocated amount is shown at the bottom of the table.

Table 3
Tobacco MSA Distribution Forecast
Dollars in Millions

Department	Program	FY 2025-26 Actual	FY 2026-27 Forecast	FY 2027-28 Forecast	FY 2028-29 Forecast
Early Childhood	Nurse Home Visitors	$22.1	$20.8	$19.6	$18.7
Health Care Policy and Financing	Children's Basic Health Plan Trust	$13.9	$13.0	$12.3	$11.7
Higher Education	CU Health Sciences Center	$13.5	$12.7	$12.0	$11.4
Capital Construction	Fitzsimons Trust Fund	$6.2	$5.8	$5.5	$5.2
Human Services	Tony Grampsas Youth Services	$5.8	$5.4	$5.1	$4.9
Public Health and Environment	AIDS Drug Assistance	$3.9	$3.6	$3.4	$3.3
Public Health and Environment	HIV Prevention	$2.7	$2.5	$2.4	$2.3
Public Health and Environment	Immunizations	$1.9	$1.8	$1.7	$1.6
Public Health and Environment	Health Services Corps	$0.8	$0.7	$0.7	$0.7
Public Health and Environment	Dental Loan Repayment	$0.8	$0.7	$0.7	$0.7
Law	Tobacco Settlement Defense Account	$1.9	$1.8	$1.7	$1.6
Personnel and Administration	Supplement State Employee Insurance Plans	$1.8	$1.7	$1.6	$1.5
Military and Veterans Affairs	Veterans Trust Fund	$0.8	$0.7	$0.7	$0.7
Total Funds Distributed		**$75.9**	**$71.3**	**$67.4**	**$64.2**
Unallocated Funds		**$1.2**	**$1.1**	**$1.0**	**$1.0**
Total Funds		**$77.0**	**$72.3**	**$68.5**	**$65.2**

Source: Department of the Treasury and Legislative Council Staff forecast. Totals may not sum due to rounding.

Accelerated Payments

The size of the annual payment received each year determines the amount that will be distributed to programs in the following year. However, each payment funds programs in both the fiscal year in which it is received and the following fiscal year, due to a budget balancing measure in Senate Bill 09-269. This creates an annual General Fund obligation for a bridge loan, or an "accelerated payment," made to fund MSA programs between when the prior fiscal year's payment is exhausted and when the current fiscal year's payment arrives in April.

The General Assembly further increased the accelerated payment in House Bill 20-1380, which transferred $20 million from the state's 2020 MSA payment to the General Fund. To compensate, an additional $20 million from the state's 2021 MSA payment was allocated to programs in FY 2020-21, thereby increasing the accelerated payment by $20 million.

To decrease the amount advanced annually from the General Fund, any unallocated amount remaining in the Tobacco Litigation Settlement Cash Fund after programs are funded is retained in the fund and used to reduce the following year's accelerated payment. This amount is currently 1.5 percent of the annual payment received. For programs funded in FY 2025-26, $22.0 million was paid from the state's April 2025 payment, $1.2 million from the FY 2024-25 unallocated amount, and the remaining $53.8 million is expected to be paid from the April 2026 payment.