

Tobacco Settlement

BACKGROUND

In the mid-1990s, to secure compensation for health care expenditures for ailments arising from tobacco use, 46 states and two jurisdictions filed lawsuits in their state courts against the tobacco industry. In June 1997 a group of state attorneys general presented an agreement reached between the states and the tobacco industry that purported to settle all current and pending class action lawsuits brought against the industry by states and other government entities.

To make the settlement binding on all 50 states, Congressional action would be necessary. A number of bills—including the bipartisan effort sponsored by senators McCain, Gorton, Breaux, and Hollings—were introduced for this purpose. Among its other provisions, the McCain bill would have (1) required the tobacco industry to pay considerably more than the amount agreed to by the states and the industry; (2) raised cigarette taxes by \$1.10 a pack over five years; (3) preserved the Food and Drug Administration’s ability to regulate the tobacco industry in ways that the agreement did not; and (4) drastically restricted cigarette marketing, advertising, and promotion.

Following the bill’s introduction, several major players in the tobacco industry withdrew support of the Congressional process for developing comprehensive tobacco legislation, citing Congress’s deviation from the terms of the June 20 agreement, and launched a successful advertising campaign to kill the bill.

Meanwhile, four states reached individual settlements with the tobacco industry, yielding total payments of at least \$35 billion over the next 25 years. In 1998 an agreement—known as the master settlement agreement—between the remaining states, including Michigan, and the industry resulted in a deal to settle pending state cases and defuse potential claims in the remaining states. The industry committed to paying these states \$206 billion over the next 25 years for recovery of their tobacco-related health care costs. In addition, \$5 billion would be paid to 14 states to compensate them for potential harm to their tobacco industry. The new deal did not require Congressional approval because it did not include provisions pertaining to federal jurisdiction over the nicotine contained in tobacco products. It also did not grant the industry’s major wish: a limit on future lawsuits.

The agreement did not specify how the states would spend the money they received in the tobacco settlement, but it generally was seen as a unique opportunity for the states to reduce the financial and health burden that tobacco use imposes on American families and government.

Michigan’s Settlement Monies

Michigan’s initial payment from the tobacco industry was \$104.5 million, to be followed by \$279–365 million annually for 24 years. The federal Centers for Disease Control and Prevention (CDC) issued guidelines recommending how much money should be spent annually in each state to implement an effective, comprehensive tobacco-use prevention program; for Michigan, the amount is \$53–149 million. Michigan, however, allocates none of its settlement money directly to tobacco-use prevention and cessation; it is one of only three states to take this approach.

Michigan policymakers enacted legislation allocating 75 percent of the tobacco-settlement funds to support the Michigan Merit Award program, a fund providing college scholarships to high school students who do well on the Michigan Educational Assessment Program test. The remaining 25 percent goes into the Tobacco Settlement Trust Fund, which supports a variety of programs, including a prescription-drug program for seniors and various health programs and research efforts.

Tobacco Use in Michigan

In Michigan in 2000, according to the state Behavioral Risk Factor Survey, 24 percent of the population—about 2.4 million adults—were smokers; this is down from 27.5 percent in 1998. The national average is 23.2 percent.

Teen smoking in Michigan also has dropped: Preliminary figures from the state Youth Tobacco Survey show that 27.6 percent of 9–12th graders smoked in 2001, down 10 percent from 1997. This puts Michigan youth just below the national average, which is 28 percent.

According to the Tobacco-Free Michigan Action Coalition, tobacco use indirectly costs Michigan taxpayers \$2.5 billion annually for health care, lost work productivity, and work absenteeism. The coalition also says that Medicaid payments related to smoking totaled \$350 million in Michigan in 2000.

DISCUSSION

The state's decision to spend the majority of Michigan's tobacco settlement on education rather than health programs engendered forceful debate that continues. Many interested parties believe that much of the settlement properly should be spent on tobacco-use prevention and cessation programs and/or to cover health care costs, stating that (1) this was the intent with which the lawsuits were brought against the industry, and (2) polls indicate that there is (a) strong support for spending the money on tobacco-use prevention and health care matters and (b) little support for spending it on the Michigan Merit Award program.

Among Michigan's current programs to prevent and reduce tobacco use are a health-education, promotion, and research program; a smoking-prevention program aimed at youth; and a school-based HIV/AIDS, risk-behavior, and health-education program. The recent drop in teen smoking is attributed by Michigan Department of Community Health officials to an assertive and expanded K–12 component on tobacco-use prevention. In the 2001–02 school year, more than 100 Michigan middle and high

schools implemented a teen smoking-cessation program developed by the American Lung Association.

In 2001 the House Fiscal Agency reported that since the settlement payments began in 1999, the state is spending about \$8 million annually, less than 2 percent of the amount of the settlement revenue, on general anti-smoking projects. Proponents of maintaining the current spending level contend that funding for anti-tobacco programming is closer to \$75 million if one takes into account the portion of the \$5 billion in Medicaid spending that includes anti-tobacco programs and the relevant portion of the \$170 million spent for programs to prevent smoking, teen pregnancy, and AIDS. As evidence of the effectiveness of these programs, they point to the drop in smoking among both adults and teens, and data from Michigan's Health Risk Behaviors 2000 give some credence to this position: The percentage of smokers tends to decrease as education and income level increase.

Proponents of upholding current policy with regard to the tobacco settlement believe that because there already is in place strong and sufficiently funded tobacco-use prevention programming, the state will be doing more to help its youth be healthy and successful by spending the money on the scholarship program. Those in favor of using the settlement mainly for health care believe that doing so would free some of the money currently spent for health care and allow it to be spent on other state programs.

Supporters of spending the majority of the money on anti-tobacco programs believe that health care costs resulting from smoking will not drop without significant efforts to reduce tobacco use. Although smoking in Michigan appears to be declining, those who would have the settlement money spent in line with the CDC recommendations point out that the percentage of smokers in Michigan still exceeds the national average.

Of the six states where tobacco-prevention spending is within the CDC guidelines, only one—Indiana—still has a smoking rate higher than Michigan's. In Massachusetts and California, two states that have had programs in place for quite some time, smoking rates (19.9 percent and 17.2 percent, respectively) are significantly lower than in Michigan.

The Citizens for a Healthy Michigan coalition has launched a petition drive to put a question on the November 2002 ballot asking voters if they wish to amend the state constitution to redirect the settlement funds now being used in the Michigan Merit Award program to

TOBACCO SETTLEMENT

- a Tobacco Illness Care Fund (46 percent of total settlement funds),
- a Tobacco Settlement Research and Education Fund (31 percent),
- a prescription-drug assistance program for senior citizens (13 percent), and
- the state General Fund (10 percent).

Opponents of the ballot question say that its passage would kill the Michigan Merit Award program, and although initial polling revealed little support for spending the settlement funds on the program, it has gained popularity as more than 91,000 scholarships have been awarded since its implementation.

Supporters of the ballot question point to the success with which other states have used tobacco settlement funds to reduce smoking rates. Florida has seen a considerable drop in smoking among middle-school and high school students (reductions of 47 percent and 30 percent, respectively). They say that lawmakers will find another way to fund the scholarship program if it is a priority.

See also K–12 Quality and Testing; Substance Abuse; Taxes on Consumers; Youth at Risk.

FOR ADDITIONAL INFORMATION

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