

TOBACCO SETTLEMENT PROCEEDS AND WHY CHILDREN AND FAMILIES INTERIM COMMITTEE IS STUDYING THEM AS A PUBLIC HEALTH ISSUE

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The State of Montana will receive an estimated \$920 million over the next 25 years as party to a settlement agreement between 7 tobacco companies and 46 states. Although there were no strings attached to the funds, Attorney General Joe Mazurek cited protecting children from the industry's marketing efforts and reimbursing the state for tobacco-related health care costs as two of the four goals for joining the litigation. The Mississippi Attorney General, Mike Moore, who spearheaded the litigation, nationally stated in an NCSL State Health Notes article¹ that "' I'm not saying that states should spend all the money on public health and tobacco cessation,' but they should at least honor their commitment to Congress to earmark at least 25 percent of the dollars for such purposes." Moore stated that Attorneys General, Governors, and legislative groups who talked to Congress about passing the law that allows states to keep all of the tobacco settlement money discussed that at least 25% would be spent on health care and tobacco-related items, although the law does not require it.

The 1999 Legislature considered numerous pieces of legislation, although certain conditions of the agreement, termed "state-specific finality", had not yet been met and payments scheduled for 1998 and 2000 were not anticipated until those conditions were met. State-specific finality was reached November 12, 1999, and the state received its first payment of \$10.49 million on December 14, 1999.

The Children, Families, Health, and Human Services Interim Committee has administrative rule review, program evaluation, and monitoring functions for the Department of Public Health and Human Services. An interim committee is charged with monitoring the Executive Branch agency, with specific attention to issues likely to require future legislative attention, and is to accumulate, compile, analyze, and furnish information relevant to existing or prospective legislation as it determines to be pertinent (5-5-215, MCA). The Committee has chosen to appoint a Subcommittee on the Tobacco Settlement because the settlement is a public health issue that is likely to require future legislative action. This memorandum discusses why the tobacco settlement is properly a public health issue.

During the 1999 Legislative Session, various bills were introduced in relation to the tobacco settlement revenue that was expected. Legislation implementing a model statute that was included in the Master Settlement Agreement was carried by Sen. Eve Franklin, considered in the Senate Public Health, Welfare, and Safety Committee and the House Appropriations Committee and enacted into law (Ch. 412 L. 1999).

¹"Allocating Tobacco Settlement Funds: States Start the Decision-Making Process" and "Moore: 'Inside' the Tobacco Settlement". NCSL State Health Notes, January 31, 2000.

House Bill No. 131, on use of the tobacco settlement proceeds, was drafted on the Governor's behalf by the Department of Public Health and Human Services. That bill provided that the primary purposes for the tobacco settlement proceeds were for health care, long-term care, and prevention programs. This bill was considered by the House Appropriations Committee but did not make it through House floor action.

The other primary piece of legislation considered for the tobacco settlement proceeds was Senate Bill No. 323 to establish a health care trust fund. It was heard by the Senate Finance and Claims Committee, the Senate Public Health, Welfare, and Safety Committee, and the House Human Services Committee. This bill also did not survive House floor action. A similar bill draft request has been received for the 2001 Legislature, and there are also efforts to place an initiative for a tobacco settlement proceeds trust fund on the ballot for the 2000 general election.

House Joint Resolution No. 2 estimated the funds available for the 2000-01 biennium to be \$66,837,586. Of the total direct appropriations from the settlement of \$18.6 million, the amount of \$17 million or 91% was appropriated for health-related programs: the State Children's Health Insurance Program (CHIP) and related Medicaid expenses, an expanded tobacco control and prevention program, and the Montana Comprehensive Health Association. Of the remainder, \$1.6 million was appropriated to the National Guard Youth Challenge Program, \$20,051,00 was made available for general government operations, and \$28,186,586 was left as general fund balance reserve. Of the total amount of the first payments received, 25.4% was spent on health care and tobacco prevention activities for the biennium.

Because the tobacco settlement legislation was categorized as either a public health or an appropriation issue, and often both, this Committee believes that it is vital to understand the status of the tobacco settlement proceeds and to understand the various proposals that will be presented to the 2001 Legislature. The Legislative Finance Committee is monitoring the revenue but has not appointed a subcommittee or made the tobacco settlement a priority in its studies this interim.

The Children, Families, Health, and Human Services Interim Committee appointed a Subcommittee on the Tobacco Settlement: Rep. Trudi Schmidt, Sen. Dale Berry, and Rep. Loren Soft. These three members have also served on the Governor's Advisory Council on Tobacco Use Prevention. With this background, the Subcommittee will begin its work .

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