



Budget Briefs

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TOBACCO SETTLEMENT FUNDS

The biennial state budget act (1999 Wisconsin Act 9), passed by the legislature and signed by Governor Tommy Thompson on October 27, 1999, creates the Statewide Tobacco Control Program, administered by the Tobacco Control Board. The new program is funded with a portion of the money the state received from the November 1998 settlement of its lawsuit against the tobacco industry.

SETTLEMENT OF LITIGATION AGAINST TOBACCO COMPANIES

It has long been generally accepted that smoking can cause a variety of medical problems. A 1964 report by the U.S. Surgeon General linked cigarettes to lung cancer. In the following years, 1965 federal legislation and a 1966 Federal Trade Commission rule mandated health hazard warnings on cigarette packages. Despite these findings, tobacco companies were able to successfully defend themselves in lawsuits that alleged their liability for the harm done to smokers. Their invincibility broke only recently with the release of secret industry documents and testimony by former employees.

Efforts by states to recover the medical assistance (Medicaid) costs of treating tobacco-related illnesses culminated on November 23, 1998, when attorneys general and other representatives of 46 states (including Wisconsin), the District of Columbia, and four territories signed the master tobacco settlement with the five major tobacco companies (Brown and Williamson, Lorillard, Philip Morris, R. J. Reynolds, and Liggett & Myers). Four other states (Mississippi, Florida, Minnesota and Texas) had previously settled separate lawsuits.

These cases, beginning with Mississippi's filing in 1994, were based on allegations that the companies had: concealed the harmful effects of tobacco and the addictive nature of nicotine; manipulated the levels of nicotine and suppressed research relating to manufacturing safer cigarettes; and targeted advertising at children. The master settlement granted the companies' immunity from further state claims in return for payments to the states in perpetuity, largely financed by the companies' price increases on tobacco products. Initial payments under the master settlement will reach a total of about \$206 billion through 2025. The other four states will receive a separate overall total of about \$40 billion, but they were not awarded payments in perpetuity.

The tobacco industry agreed to specific marketing and lobbying restrictions including:

- no targeting of youth in advertising, marketing and promotions, including a ban on cartoon ad characters like "Joe Camel";
- restrictions on specific sponsorships of sports and other events with significant youth audiences;
- a ban on billboard advertising;
- no free samples for minors;
- restrictions on the sale of tobacco brand-name apparel and merchandise; and
- elimination of paid tobacco-product placements in movies, on television, or in video games.

An attempt by the U. S. Department of Health and Social Services to seek a share of state settlement monies based on the joint federal-state nature of Medicaid funding awaits settlement of the federal government's independent suit against the companies.

WISCONSIN'S SHARE OF SETTLEMENT

Wisconsin's lawsuit against the tobacco companies was initially filed in February 1997 by Attorney General James Doyle in Dane County Circuit Court. As a result of the settlement, which was approved by Circuit Judge Daniel Moeser in November 1998, the state expects to receive almost \$6 billion through 2025, and about \$160 million annually thereafter. The state expects to receive a total of \$334 million during the 1999-2001 biennium. Act 9 places a total of \$23.5 million in the segregated fund to be administered by the Tobacco Control Board and the rest into the state's general fund, and it requires the Department of Administration to study the possibility of selling and transferring Wisconsin's rights to the tobacco settlement funds in order to create a permanent endowment fund. The fees for the private lawyers hired by the state to pursue the case will be paid separately by the industry and do not affect the size of the state's award.

As authorized by the settlement, legislation is being considered to allow tobacco companies that did not participate in the settlement to either join in the obligations required under the agreement or deposit money in an escrow fund, based on the number of cigarettes sold each year, to pay any future claims. (1999 Senate Bill 122 and Assembly Bill 339.)

TOBACCO CONTROL PROGRAM GRANTS

Act 9 creates the Statewide Tobacco Control Program in Section 255.15, Wisconsin Statutes, and the Tobacco Control Board in Section 15.195 (1). The board is responsible for the anti-smoking grant program. It also acts as a clearinghouse on tobacco issues and serve as a public policy forum for smoking prevention and cessation. The governor will appoint an unspecified number of members to the board without senate confirmation. The board will be staffed by an executive director and attached to the Department of Health and Family Services (DHFS) for administrative purposes.

Act 9 appropriated \$22.9 million in the 1999-2001 biennium to be used for grants for the following purposes:

- The Tobacco Research and Intervention Center at the University of Wisconsin-Madison (\$1 million in each fiscal year).
- Smoking prevention and cessation activities at the Medical College of Wisconsin, including assisting individuals to quit smoking (\$500,000 every year).
- The Thomas T. Melvin Youth Tobacco Prevention and Education Program (\$1 million in FY 1999-2000 and not less than \$1 million in each FY thereafter).
- A youth smokeless tobacco cessation and prevention campaign in the DHFS Division of Health (\$92,000 in FY 1999-2000).
- Various programs aimed at law enforcement, marketing, education and treatment, as well as other projects designed to prevent and reduce tobacco use and allay its health effects among children, minorities, pregnant women and the general public.