

Executive Summary

On November 23, 1998, 46 states settled their lawsuits against the nation's major tobacco companies to recover tobacco-related health care costs, joining four states – Mississippi, Texas, Florida and Minnesota – that had reached earlier, individual settlements. These settlements require the tobacco companies to make annual payments to the states in perpetuity, with total payments estimated at \$246 billion over the first 25 years. The multi-state settlement, known as the Master Settlement Agreement (MSA), also imposed limited restrictions on the marketing of tobacco products.

The tobacco settlements presented the states with a historic opportunity and unprecedented sums of money to attack the enormous public health problem posed by tobacco use in the United States. While the multi-state settlement did not dictate how states should spend the money, many state attorneys general and governors pledged that they would use the tobacco companies' own money to protect kids from tobacco and help those already addicted to quit.

Our public health organizations have issued regular reports tracking whether the states are living up to their promise to use their tobacco settlement money to address the tobacco problem.

Ten years after the November 1998 state tobacco settlement, we find that most states have failed to keep their promise to use a significant portion of the settlement funds to reduce tobacco's terrible toll on America's children, families and communities.

Key findings of this report include:

- In the last 10 years, the states have spent just 3.2 percent of their total tobacco-generated revenue on tobacco prevention and cessation programs. From Fiscal Year 2000 to the current Fiscal Year 2009, the states have received \$203.5 billion in tobacco revenue – \$79.2 billion from the tobacco settlement and \$124.3 billion from tobacco taxes. During this time, the states have allocated \$6.5 billion to tobacco prevention and cessation programs (states have utilized both tobacco settlement and tobacco tax revenues to fund tobacco prevention programs, and this report includes both sources of funding).
- In the current budget year, Fiscal Year 2009, no state is funding tobacco prevention programs at levels recommended by the U.S. Centers for Disease Control and Prevention (CDC).¹ Only nine states are funding tobacco prevention at even half the CDC's recommended amount. In order of ranking, these states are: Alaska, Delaware, Wyoming, Hawai'i, Montana, Maine, Vermont, South Dakota and Colorado.
- Currently, 41 states and the District of Columbia are funding tobacco prevention programs at less than half the CDC-recommended amount. These include 27 states that are providing less than a quarter of the recommended funding. (As a result of a ballot initiative approved by voters on Nov. 4, 2008, North Dakota will begin funding its tobacco prevention program at the CDC-recommended amount in fiscal year 2010.)
- Total funding for state tobacco prevention programs this year is \$718.1 million, including \$670.9 million in state funds and \$47.2 million in federal grants. This amounts to just 19.4 percent of the \$3.7 billion the CDC recommends for the states combined.
- The states this year will collect \$24.6 billion in revenue from the tobacco settlement and tobacco taxes, but will spend less than 3 percent of it on tobacco prevention programs. It would take just 15 percent of their tobacco money to fund tobacco prevention programs in every state at CDC-recommended levels.

¹ In October 2007, the CDC updated its recommended funding for state tobacco prevention programs, taking into account new science, population increases, inflation and other changes since it last issued its recommendations in 1999. In most cases, the new recommendations are higher than previous ones. This report is the first to assess the states based on these new recommendations.

- Despite the settlement's restrictions on tobacco marketing, annual tobacco marketing expenditures increased by 94 percent from \$6.9 billion in 1998 to \$13.4 billion in 2005, the most recent year for which the Federal Trade Commission has reported such data. The tobacco companies spend nearly \$19 to market tobacco products for every \$1 the states spend to prevent kids from smoking and help smokers quit.
- Several states that once were national leaders in funding tobacco prevention and cessation programs have yet to restore full funding for their programs after substantial budget cuts. These include California, Indiana, Massachusetts, Minnesota and Mississippi. In the latest disappointment, funding for Ohio's successful tobacco prevention program was cut by 85 percent this year as a result of a plan by Governor Ted Strickland and the Legislature to raid the state's tobacco prevention endowment to pay for other programs. A lawsuit to stop this diversion of funds is pending.
- This report warns that the nation faces two significant and immediate challenges in the fight against tobacco use: Complacency and looming state budget shortfalls.
- First, while the nation has made significant progress in reducing smoking among both youth and adults over the last 10 years, smoking declines have slowed and further progress is at risk without aggressive efforts at all levels of government. The states should fully fund tobacco prevention programs at CDC-recommended levels, while continuing to increase tobacco taxes and implement smoke-free workplace laws. Congress should enact legislation granting the U.S. Food and Drug Administration regulatory authority over tobacco products, significantly increase federal tobacco taxes and fund a national public education and smoking cessation campaign.
- Second, the states are expected to face significant budget shortfalls in the coming year as a result of the weak economy. The last time the states faced budget shortfalls, they cut funding for tobacco prevention programs by 28 percent between 2002 and 2005. The cutbacks are a major reason why smoking declines subsequently stalled, and states should not make the same mistake again.

As this report details, elected leaders lack credible excuses for failing to do more to protect our children from tobacco and help smokers quit. First, the problem has not been solved – tobacco use remains the nation's leading cause of preventable death, killing more than 400,000 people and costing nearly \$100 billion in health care bills each year. Second, despite looming budget shortfalls, the states are collecting huge sums in revenue from the tobacco settlement and tobacco taxes; it would take just a small portion of their tobacco money to fund tobacco prevention programs at CDC-recommended levels, leaving most of it for other purposes. Third, there is more evidence than ever that tobacco prevention and cessation programs work, especially when part of a comprehensive effort to reduce tobacco use that also includes higher tobacco taxes and smoke-free workplace laws. These measures reduce smoking and other tobacco use, save lives and save money by reducing tobacco-caused health care costs.

As some have put it, we have developed the equivalent of a vaccine for lung cancer and other terrible diseases caused by tobacco use, and we have the money to pay for it. What's needed is the political will to apply this vaccine in every state and inoculate every child in this country.

Progress Is At Risk Unless Congress and the States Step Up Fight

The nation has made significant progress in reducing smoking among both youth and adults over the last 10 years, but that progress has slowed in recent years and further progress is at risk without aggressive efforts at all levels of government.

Between 1997 and 2007, the national high school smoking rate declined by 45 percent, from 36.4 percent to 20 percent. During the same time, the national adult smoking rate declined by nearly 20 percent, from 24.7 percent to 19.8 percent. However, there has not been a statistically significant decline in the high school smoking rate since 2003, while the adult smoking rate has declined only 5.3 percent since 2004, according to the CDC.

The CDC has identified clear factors behind these trends: When cigarette prices and funding for tobacco prevention programs increased immediately after the tobacco settlement, smoking rates declined dramatically. When the tobacco companies subsequently discounted cigarette prices and tobacco prevention programs were cut, smoking declines stalled.

On the positive side of the ledger, the following factors have contributed significantly to declines in smoking since the tobacco settlement:

- Tobacco prices increased sharply after the tobacco settlement as a result of the settlement itself and state cigarette tax increases. The settlement led the major cigarette companies to increase prices by more than \$1.10 per pack between 1998 and 2000 (part of these increases were used to pay the states, but about half of the price increases simply bolstered profits). In addition, 44 states and the District of Columbia have raised cigarette tax rates 90 times since the settlement. The average state cigarette tax has increased from 39 cents per pack in 1998 to \$1.19 today.
- Funding for tobacco prevention and cessation programs increased significantly in the immediate aftermath of the tobacco settlement. While still short of CDC-recommended levels in most states, total state funding for these programs reached a high of \$749.7 million in fiscal year 2002. In addition, the settlement provided about \$300 million a year over five years to create a national foundation, the American Legacy Foundation, to conduct national public education campaigns to reduce tobacco use. A substantial body of research has demonstrated the effectiveness of both state tobacco prevention and cessation programs and the American Legacy Foundation's truth[®] national youth smoking prevention campaign.
- A growing number of states and communities have enacted strong smoke-free workplace laws. In 1998, only one state, California, had a smoke-free law that applied to restaurants and bars. Today, 24 states, the District of Columbia and hundreds of communities have such laws, providing protections from harmful secondhand smoke – and incentives to quit smoking – to more than half the U.S. population.

On the negative side, the recent stall in progress coincides with cuts in tobacco prevention programs, huge increases in tobacco marketing and aggressive efforts by tobacco companies to discount cigarette prices:

- Between 2002 and 2005, states cut funding for tobacco prevention and cessation programs by 28 percent (approximately \$200 million). Nationally, the American Legacy Foundation had to reduce its successful truth[®] campaign because most of its tobacco settlement funding ended after 2003. While state funding for tobacco prevention has increased somewhat since 2005, these programs are again at risk as states face new budget shortfalls.
- While states cut funding for tobacco prevention, tobacco companies dramatically increased marketing expenditures. From 1998 to 2005, tobacco marketing nearly doubled from \$6.9 billion to \$13.4 billion, according to the most recent data from the Federal Trade Commission.
- In recent years, the tobacco companies have increasingly concentrated their marketing expenditures on price discounts, undermining efforts to reduce tobacco use through price increases. Price discounts and promotions accounted for more than 80 percent of the \$13.4 billion in tobacco marketing expenditures in 2005. There is a clear correlation between cigarette prices and smoking trends. From 1997 to 2003, when smoking rates declined significantly, the average real (inflation adjusted) retail price of a pack of cigarettes increased by 75 percent as a result of the tobacco settlement and tobacco tax increases. Since 2003, the real price of cigarettes has actually declined slightly despite state cigarette tax increases, and smoking declines have stalled.

The lack of great progress in recent years is a clear warning to elected officials to resist complacency and redouble efforts to reduce tobacco use. Recent landmark reports by the Institute of Medicine (IOM) and

the President's Cancer Panel agreed on the steps that Congress and the states must take to win the fight against tobacco use:

- Congress should enact legislation granting the FDA authority over tobacco products. As the IOM recommended in its May 24, 2007, report, "Congress should confer upon the FDA broad regulatory authority over the manufacture, distribution, marketing and use of tobacco products."² On July 30, 2008, the U.S House of Representatives voted 326 to 102 to approve such legislation, and it currently has 60 sponsors in the Senate. Among other things, this legislation would crack down on tobacco marketing and sales to kids; require larger, more effective health warnings on tobacco products; require tobacco companies to disclose the contents of tobacco products; grant the FDA authority to regulate the contents of tobacco products; and stop tobacco companies from making misleading or unproven health claims.
- Congress should also significantly increase the federal cigarette tax and utilize some of the revenue to fund a national public education and smoking cessation campaign.
- The states should fund tobacco prevention programs at CDC-recommended levels, further increase tobacco taxes and enact comprehensive smoke-free workplace laws.

It is time for Congress and the states combat the tobacco epidemic with a level of commitment and resources that matches the scope of the problem.

States Have the Resources and the Evidence to Fund Tobacco Prevention Programs

Looming budget shortfalls should not be an excuse for states to cut tobacco prevention programs. The evidence is clear that these programs not only reduce smoking and save lives, but save money as well by reducing tobacco-related health care costs.

The states' funding of tobacco prevention and cessation is woefully inadequate given the magnitude of the problem.

When the public health problems posed by tobacco are compared to other health problems, it is clear that the amount the states are spending on tobacco prevention pales in comparison to the enormity of the problem. Tobacco use is the No. 1 cause of preventable death in the United States, claiming more lives every year – more than 400,000 – than AIDS, alcohol, car accidents, murders, suicides, illegal drugs and fires combined. Cigarette smoking costs the nation \$193 billion a year in economic losses, including \$96 billion in health care costs and \$97 billion in productivity losses, according to the CDC. Every day, more than 1,000 kids become new regular smokers and another 1,200 Americans die because of tobacco use.

Every state has plenty of tobacco-generated revenue to fund a tobacco prevention program at CDC-recommended levels.

The states this year will collect \$24.6 billion from the tobacco settlement and tobacco taxes. Just 15 percent of this total can fund tobacco prevention and cessation programs in every state at levels recommended by the CDC. However, the states are spending less than 3 percent of their tobacco revenue on tobacco prevention and cessation.

Beginning this year, the states are receiving even more tobacco settlement revenue to fund tobacco prevention programs. This is because of a little known provision of the 1998 multi-state tobacco settlement that calls for the 46 states, the District of Columbia and the U.S. territories that are parties to the settlement to receive "bonus payments" totalling almost \$1 billion dollars per year beginning in April 2008. The bonus payments will continue for at least 10 years.

² Institute of Medicine. 2007. *Ending the Tobacco Problem: A Blueprint for the Nation*. Washington, DC: The National Academies Press.

By allocating these new windfall funds to tobacco prevention and cessation, the states can finally keep the promise of the tobacco settlement to aggressively confront the tobacco problem. Rarely do elected officials get a second chance to keep a promise.

The evidence is conclusive that state tobacco prevention and cessation programs work to reduce smoking, save lives and save money by reducing tobacco-caused health care costs.

Every scientific authority that has studied the issue, including the IOM, the President's Cancer Panel, the National Cancer Institute, the CDC and the U.S. Surgeon General, has concluded that when properly funded, implemented and sustained, these programs reduce smoking among both kids and adults.

In its May 2007 report, the IOM concluded:

The committee finds compelling evidence that comprehensive state tobacco control programs can achieve substantial reductions in tobacco use. To effectively reduce tobacco use, states must maintain over time a comprehensive integrated tobacco control strategy. However, large budget cutbacks in many states' tobacco control programs have seriously jeopardized further success. In the committee's view, states should adopt a funding strategy designed to provide stable support for the level of tobacco control funding recommended by the Centers for Disease Control and Prevention.

The CDC reached similar conclusions in October 2007 when it released updated recommendations to the states for funding and implementing comprehensive tobacco control programs, in a document entitled *Best Practices for Comprehensive Tobacco Control Programs – 2007*. Summarizing state experiences and new scientific evidence since it last issued this report in 1999, the CDC concluded:

We know how to end the epidemic. Evidence-based, statewide tobacco control programs that are comprehensive, sustained, and accountable have been shown to reduce smoking rates, tobacco-related deaths, and diseases caused by smoking.... Implementing a comprehensive tobacco control program structure at the CDC-recommended levels of investment would have a substantial impact. For example, if each state sustained its recommended level of funding for five years, an estimated five million fewer people in this country would smoke. As a result, hundreds of thousands of premature deaths would be prevented. Longer-term investments would have even greater effects.

The strongest evidence that tobacco prevention programs work comes from the states themselves. Maine, which has ranked first in funding tobacco prevention programs from 2002 to 2007, has reduced smoking by 71 percent among middle school students and by 64 percent among high school students since 1997. Washington state, with another well-funded prevention program, has cut smoking by 60 percent among sixth graders, 58 percent among eighth graders, 40 percent among 10th graders and 43 percent among 12th graders.

These smoking declines translate into lives and health care dollars saved. The Maine Department of Health estimates that the state's smoking declines have prevented more than 26,000 youth from becoming smokers, saving more than 14,000 of them from premature, smoking-caused deaths, and have saved more than \$416 million in future health care costs (savings estimates are based on research showing that smokers, on average, have \$16,000 more in long-term health care costs than non-smokers). The Washington State Department of Health estimates that the state's smoking declines translate into 65,000 fewer youth smokers, 230,000 fewer adult smokers and \$2.1 billion in long-term health care cost savings.

Studies show that California, which has the nation's longest-running tobacco prevention and cessation program, has saved tens of thousands of lives by reducing smoking-caused birth complications, heart disease, strokes and lung cancer. Between 1988 and 2001, lung and bronchus cancer rates in California

declined three times faster than the rest of the United States. A peer-reviewed study published in August 2008 in the medical journal *PLoS Medicine* found that California's tobacco control program saved \$86 billion in health care costs in its first 15 years, compared to \$1.8 billion the state spent on the program, for a return on investment of nearly 50:1.

Our nation has made significant progress in reducing tobacco use with a comprehensive approach that includes well-funded tobacco prevention and cessation programs, tobacco tax increases and smoke-free workplace laws. Continued progress will not occur, however, unless states step up efforts to implement these proven measures, including using more of their billions of dollars in tobacco revenue to fund tobacco prevention and cessation programs at CDC-recommended levels. It is also imperative that Congress provide much-needed leadership by enacting the legislation granting the FDA authority over tobacco products, significantly increasing the federal cigarette tax and funding a national public education and smoking cessation campaign.

If national and state leaders step up the fight against tobacco use, the 1998 state tobacco settlement could yet mark a historic turning point in the battle to reduce tobacco's terrible toll. If they do not, it will be a tragic missed opportunity for the nation's health.