

Gongwer Legislative Report – July 21, 1999**TOBACCO SETTLEMENT FUNDS SHOULD GO FOR PREVENTION PROGRAMS.
SPEAKERS AGREE**

CINCINNATI - A significant portion of the multi-state, \$209 billion tobacco settlement should be dedicated to tobacco prevention control initiatives, targeted especially aimed at kids, according to public health advocates and tobacco company officials who spoke here Tuesday at the Council of State Governments' Midwestern Legislative Conference.

And while the public health officials urged the use of funds for prevention efforts, officials from tobacco producer Philip Morris, Inc. said they remain committed, despite well-grounded skepticism, to upgrade efforts to prevent youth access to and use of tobacco products. Also, an aide to a member of Congress involved in the states retaining all of the settlement funds, said state officials should be vigilant in demanding that Congress not offset tobacco money gains made by states with a reduction in federal funding of other unrelated programs.

Peter Fisher, manager of state issues for the Campaign for Tobacco-Free Kids, said state lawmakers who will allocate the funds must be mindful that the source of the money they will get is a direct result of death and disease caused by the use of tobacco products. If the funds are allocated with that thought in mind, the settlement will be a victory for public health. If not, it will be a crucial missed opportunity, he said. "You folks have the opportunity in your hands."

Karen Darigan, director of Philip Morris' Youth Smoking Prevention Programs, said her company is "devoting significant resources" to prevention efforts outside of what is required by the Master Settlement Agreement (MSA). Ms. Darigan also urged lawmakers to devote a significant portion of their settlement funds for prevention and education efforts. She said the company is aware that many will be skeptical of its motives during the its campaign. "All we ask is that you give us a chance, give us some time."

Ms. Darigan also noted that any prevention campaign must include positive messages. "It doesn't suffice to provide young people with negative warnings," she said, adding that the effort must be a comprehensive, collaborative and measurable.

Peter Jacobson, associate professor at the University of Michigan's School of Public Health, said mixed results have been recorded in regard to the impact of school- and community-based prevention programs. He said, however, that youth access restrictions and the imposition of tobacco excise taxes have proven to be effective in limiting youth tobacco use. He acknowledged, however, that "we have not had adequate evaluation" of current state programs.

Mr. Jacobson also outlined a number of promising innovations that he said would help reduce tobacco use. Those innovations, he said, could include: youth-oriented cessation programs, computer-based programs, peer-based interventions and the imposition of penalties for possession and the development of tobacco courts.

Mr. Jacobson also said those who design the anti-use campaigns should focus on adult cessation programs, noting that parents can set a strong example for their children.

Mark Berlind, senior assistant general counsel Philip Morris, described the MSA as "a series of reasonable solutions" regarding tobacco marketing and lobbying. Most notably, he said, the

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settlement provides "enormous" payments, not for just 25 years, but for as long as the companies continue to sell tobacco products.

He said tobacco producers have been making payments to an interest-bearing escrow account essentially since the settlement was finalized. The states that were signatories to the agreement, he said, will begin to receive funds when courts in states representing 80% of the affected population approve the deal.

Mike Dawson, press secretary and senior advisor to U.S. Senator Governor George V. Voinovich (R-Ohio), said the "tobacco recoupment fight" was a "classic struggle between the rights of state governments and the federal government." In the end, he said, federal legislators were able to get the settlement funds to the states because of a number of factors, one of which was "a lot of luck."

Mr. Dawson warned, however, that there is a sense held by many in Congress that because the states won the return of all of the settlement funds, the states will be "shortchanged" on other federal appropriations. "This fight is not going to go away," he predicted.

Mr. Dawson also credited governors and state legislators for contacting members of Congress to urge them to support returning all of the funds to the states. "You can't underestimate the power" that state legislators and governors have in lobbying issues, he said. "It really does make a difference. They do pay attention to what you say"

U.S. Supreme Court decisions affecting the states: A series of recent decisions issued by the nation's highest court have seemingly returned more autonomy to the states, Nina Totenberg, National Public Radio legal affairs correspondent, said Tuesday. Those decisions, she said, are providing warning signs to Congress that it should not pass laws that overstep the boundary of the federal-state relationship.

"The states are getting a wider berth," she said, adding that state lawmakers should be cautious in determining whether they should take all the leeway that the high court has recently provided. One reason for being cautious, she said, is that a number of similar cases are on the horizon and that the nation's next president could have up to two appointments to the high court, thereby possibly altering the court's perception on such issues.

Recent decisions, particularly in three cases decided on the same day this spring, largely reverse much of a century-long pattern in which the court has sided with federal authority, Ms. Totenberg said.

Smart growth: Flat-out growth restrictions do not present a comprehensive solution to the issue of urban and suburban sprawl, the president of a Washington, D.C.-based policy center said Tuesday.

Phyllis Myers of State Resource Strategies, said state policy developed in regard to the matter must also be very sensitive to the desires of local governments and communities, that, for the most part, want a say in land use planning decisions.

Bob Wagner, assistant vice president of field programs for the American Farmland Trust, said the matter is becoming more pressing because a great deal of "prime" farmland is in the path of current development patterns. He also expressed concern that the development, now bordering private farmland, is causing problems in regard to private property rights.

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