



Tennessee Tobacco Master Settlement Agreement

Policy Update

Pending Bills before the 101st Tennessee General Assembly addressing Tobacco Master Settlement Agreement Funds

March 10, 2000

What is the Master Settlement Agreement?

The Master Settlement Agreement (MSA) between representatives of 46 states and major tobacco manufacturing companies was reached on November 23, 1998 in settlement of state lawsuits against cigarette manufacturers. The MSA requires cigarette manufacturers to make payments to states projected to total \$206 billion over the next 25 years. Tobacco companies also agreed to significant curbs on their advertising and marketing campaigns and to fund an anti-smoking campaign, among other restrictions.

How much money will Tennessee receive?

Over the next 25 years, companies are projected to pay states about \$206 billion according to the MSA. Tennessee's share of the MSA amounts to about \$4.8 billion over the 25 year period. A chart of Tennessee's expected MSA receipts is provided in the box to the right. According to the settlement, exact payments in each year are to be adjusted upward for inflation and downward if domestic cigarette sales decline (essentially on a one-to-one basis). Preliminary reports indicate that domestic cigarette sales were down six to seven percent in 1999. Projections are for a continued decline in cigarette sales of about two to three percent annually over the next few years before leveling off. The first two payments (1998 and 2000, which most states will receive by April 2000, but Tennessee won't receive until it reaches state specific finality) will not be affected by the reduction in cigarette demand. Reductions in future settlement payments are not yet known. A three percent inflation factor is included in the payment amounts for years 2000 through 2003.

Estimated Tennessee MSA Payments

1998	\$58,581,467
2000	156,504,051
2001	168,999,234
2002	202,918,753
2003	204,839,159
2004 thru 7	170,960,248
2008 thru 17	174,353,092
2018 thru 25	195,369,193
TOTAL	\$4,782,168,127

When will Tennessee receive MSA money?

The MSA stipulates that a state cannot receive MSA funds until it reaches *state specific finality*. State specific finality occurs when a state court approves the settlement and the consent decree and the appeals process has been exhausted. A threshold of states were required to reach state specific finality before any money would be transferred to any state. Most states have already attained state specific finality standing and have received initial MSA payments. Tennessee is one of only a few states that still has lawsuits challenging the state's tobacco settlement and thus it has not reached state specific finality. The state Supreme Court has consolidated the challenging lawsuits and is scheduled to hear arguments on the cases on March 22, 2000. If Tennessee fails to obtain state specific finality by December 31, 2001, its participation in the settlement is terminated.

What will happen to Tennessee's share of the MSA money?

When Tennessee's funds become available, the MSA places no restrictions or guidelines on how the state may use the funds. According to Tennessee law, the money will go to the general assembly for allocation. This issue of *Policy Update* provides a brief summary of the bills pending before the Tennessee General Assembly relating to use of MSA funds.

SECTION A: Legislative bills that

- *Place all settlement funds into a trust,*
- *Disallow expenditure of trust principal, and*
- *Do not direct appropriations.*

1. Tennessee Tobacco Trust Fund Act**HB446 Kisber 02/08/1999 • SB393 Cooper 02/08/1999**

All of the state's MSA funds are to be placed into the Tennessee Tobacco Trust Fund, to be administered by the state treasurer. No expenditures shall be made from the fund's principal. Interest or income from the fund will be appropriated annually by the general assembly in the general appropriations act.

2. Tennessee Millennium Trust Act**HB480 McDonald 02/09/1999 • SB503 Rochelle 02/09/1999**

This act deposits all of the state's MSA funds into the Tennessee Millennium Trust, whereby only the resulting income is eligible for expenditure. The general assembly will determine specific appropriations of the trust's interest or income in each general appropriations act.

3. Tennessee Millennium Health Trust Fund Act**HB1803 DeBerry L 02/24/1999 • SB1391 Rochelle 02/11/1999**

All of the state's MSA funds are to be placed into the Tennessee Millennium Health Trust Fund, to be administered by the state treasurer. A state funding board serves as trustees of the fund and makes annual recommendations to the general assembly for spending interest and income from the fund's principal. This bill does not specify uses of fund monies and gives the general assembly authority to spend funds.

SECTION B: Legislative bills that

- *Place all or some settlement funds into a trust,*
- *Disallow expenditure of trust principal, and*
- *Specify use of funds.*

4. Tennessee Tobacco Indemnification and Community Revitalization Trust Fund**HB1486 Givens/Bone 02/22/1999 • SB1709 Haun 02/22/1999**

This legislation allocates 50% of all MSA monies to the Tennessee Tobacco Indemnification and Community Revitalization Trust Fund. The trust fund is to be administered by the state treasurer, with the commissioner of agriculture and a state funding board to serve as trustees of the fund. Allocations to the fund form the principal, with appropriations to be made from income derived from the principal. The commissioner of agriculture and the funding board will make annual expenditure recommendations to the general assembly, which will make the actual appropriations. Funds may be allocated to (1) indemnify tobacco farmers for the decline or elimination of tobacco quota; (2) community incubation programs for tobacco-dependent communities; and (3) studies on the economic consequences of quota elimination and the potential for alternative cash crops and other matters that affect tobacco growers.

5. Tennessee Tobacco Settlement Trust Fund Act**HB1783 Miller L 02/22/1999 • SB1743 Dixon 02/22/1999**

All of the state's MSA funds are to be placed into the Tennessee Tobacco Settlement Trust Fund. Only allocations of interest or income from the fund are allowed, and not until interest income reaches at least \$54 million. Annual expenditures allowed are as follows: \$10 million for a home- and community-based long-term case program for the elderly; \$3 million for a school nurse program; \$5 million for children's cancer research; \$5 million for childhood vaccination programs for Hepatitis A and B; \$5 million to enhance or expand the state employees' health program; \$1 million to enhance nutrition programs for the elderly; \$3 million for area health education center programs; \$5 million to enhance alcohol and drug treatment programs; \$10 million for mental health programs; \$5 million to expand the number of dislocated workers eligible for TennCare; \$1 million for cancer screening; and \$1 million (for five years) to assist tobacco farmers and tobacco-related businesses.

6. New Millennium Health Care Act**HB1893 Sargent 02/23/1999 • SB1760 Blackburn 02/22/1999**

This legislation deposits 25% of all of Tennessee's MSA funds into the New Millennium Health Care Trust Fund. No allocations are allowed from the fund or its income until after 2010. After 2010, allocations of interest income will be used to fund long-

term care and other health programs according to the general assembly, as appropriated in the general appropriations act. The allocations are intended to be supplementary to other state expenditures on those programs.

7. Tennessee Health Care Trust Act

HB2099 Armstrong 01/18/2000 • SB2327 Ford J 01/19/2000

This legislation creates a Tennessee Health Care Trust for all MSA funds. It allows expenditure only of trust fund interest exclusively for providing disease prevention, treatment, and education services for the medically underserved or those adversely affected by tobacco usage.

8. Tennessee Tobacco Settlement Trust Fund Act

HB2358 Givens 01/20/2000 • SB2720 Haun 01/20/2000

This act establishes trust fund for all of Tennessee's MSA funds. It allows expenditure only of trust fund interest exclusively for the purpose of funding health care and preventive health programs.

9. Long-term Care Trust Fund

HB2405 Buttry et.al. 01/20/2000 • SB2654 Crowe 01/20/2000

This bill creates a long-term care trust fund in the state. It allocates 25% of MSA funds this year and 20% in subsequent years to the fund. For 2002-2007, \$15 million per year is allocated for long-term care services, including home-based and community-based services. The funds are allocated through a grant program administered by the department of health. Local organizations may apply to the Tennessee department of health for funding. An advisory commission of 12 members will be established to administer the grant program.

10. Tennessee Millennium Trust

HB2446 Head et.al. 01/20/2000 • SB2734 Rochelle 01/20/2000

This legislation creates the Tennessee Millennium Trust for all MSA funds. Only interest expenditures are allowable. 50% of funds is designated for grants to health care providers to offset losses incurred in provided health care services on behalf of persons enrolled in TennCare. The Tennessee department of health to administer and establish guidelines for the funds. The other 50% of funds is set aside for grants for agriculture, including community incubator programs, research on quota reductions or alternative crops, and indemnifying quota owners for reductions. The department of agriculture is to administer the grants and establish guidelines for these funds.

11. Smoke Free Tennessee Act

HB2966 Jackson 01/18/2000 • SB2156 Cohen 02/02/2000

The Smoke Free Tennessee Act creates the Tennessee Tobacco Trust, with all of state's MSA funds. It allows expenditure only of trust fund interest exclusively for the purpose of providing health care for smoking-related illnesses and providing services for smoking and tobacco use prevention.

12. Tennessee Tobacco Settlement Trust Fund

HB3177 Jones S 02/02/2000 • SB3173 McNally 02/02/2000

All annual MSA funds will be placed in the Tennessee Tobacco Settlement Trust Fund. The principal of the fund is reserved with all expenditures taken from the interest earned by the fund. 75% of expenditures is designated for public education and information programs and enforcement targeting minors; voluntary cessation programs; school health programs; and tobacco research. 25% of expenditures is set aside for promoting economic growth and development in tobacco-dependent communities; community incubation programs; and studies on alternative crops. The legislation establishes a 17-member Tobacco Use Reduction and Health Care Board (governor, 3 house members, 3 senate members, commissioners of education and health, 3 physicians, school nurse, hospital representative, and 3 advocacy group appointees). It also establishes a 17-member Tobacco Community Revitalization Board, (3 house members, 3 senate members, commissioner of agriculture and commissioner of economics and community development, 3 Farm Bureau appointments, 1 UT appointment, 2 burley growers, 2 flue-cured growers, and 1 quota holder). Administrative support for the boards will be provided by departments of health and agriculture. The boards may allocate monies to state or local government entities or private nonprofit entities. The legislation requires a review of programs in 2005.

SECTION C: Legislative bills that

- *Allocate some portion of settlement funds for direct expenditures*

13. Cancer Research Funding

HB801 Goins 02/11/1999 • SB1500 McNally 02/11/1999

At least \$1 million of the state's MSA funds each year is to be allocated for grants to Tennessee hospitals for research into the causes of, the treatment of, the diagnosis of, and potential cures for cancer. At least one grant per year must be to a hospital in each of the state's three grand divisions. Rules and regulations for the grants will be established by the commissioner of health.

14. Scholarships for Tobacco Farmers and Dependents

HB803 Goins 02/11/1999 • SB1499 McNally 02/11/1999

At least \$1 million of the state's MSA funds each year is to be allocated to a scholarship fund for active tobacco growers and their immediate family members. Rules and regulations for the program will be established by the commissioner of agriculture.

15. Home and Community Based Services

HB2280 Odom 01/20/2000 • SB2496 Harper 02/02/2000

This bill allocates \$16 million annually from the MSA. \$11 million is designated for home- and community-based services under TennCare. \$5 million is allocated for home- and community-based services for elderly and disabled.

16. Youth Smoking Prevention Fund Act of 2000

HB2878 Davidson 02/01/2000 • SB2968 Haun 01/30/2000

This act establishes a youth smoking prevention fund in the Tennessee department of agriculture (without specification of funding level). The monies in the fund are subject to annual appropriations by the general assembly and available for awarding grants to qualified youth smoking prevention programs and related costs. It establishes a youth smoking prevention advisory commission within the Tennessee department of agriculture, which must adopt a state plan and make recommendations for awarding grants. The bill establishes commission membership. The state plan for youth smoking prevention must be completed before March 31, 2001. Eligible programs include media campaigns, school-based education, community-based youth programs, and enforcement and administration, with at least 50% of all grants to school & community programs. Grants may go to departments, agencies, or other instruments of state or local governments. This act requires an annual statewide school-based survey of cigarette use. Administrative expense is limited to 5%.

17. Millennium Trust Fund Act of 2000

HB3219 McDaniel et. al. 02/02/2000 • SB3213 Atchley et. al. 02/02/2000

This act establishes the Millennium Trust Fund and an associated authority. The 5-member authority is to be composed of the governor, secretary of state, comptroller, treasurer, and commissioner of finance and administration. The trust fund will consist of two accounts. 10% of the annual MSA funds will go into an expendable account. 90% of the annual MSA funds will go into a non-expendable account, where interest is annually transferred to the expendable account. The expendable account funds are to be allocated by the general assembly for (1) scholarships for teachers and tobacco farmers (or dependents), (2) loan program for K-12 facilities, and (3) programs designed to reduce youth smoking.

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