



**A SPECIAL REPORT**

**THE PUBLIC SPEAKS:  
USE INCOMING TOBACCO  
SETTLEMENT DOLLARS  
AS INTENDED**

**RESULTS OF STATEWIDE PUBLIC HEARINGS**

**JUNE 2011**

**JACK WAGNER, AUDITOR GENERAL**

**PENNSYLVANIA DEPARTMENT OF THE AUDITOR GENERAL  
BUREAU OF SPECIAL PERFORMANCE AUDITS**

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*Pennsylvania Department of the Auditor General*  
*Jack Wagner, Auditor General*

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**Results in Brief**

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**Results  
in  
Brief**

*Includes  
list of  
organizations  
and/or persons  
who testified*

Developed at the direction of Pennsylvania Auditor General Jack Wagner, this report summarizes testimony of his public hearings about the state's incoming tobacco settlement dollars.

Auditor General Wagner held the hearings because, unlike the open and bipartisan process (including public hearings) that preceded passage of the Tobacco Settlement Act, Act 77 of 2001, **Pennsylvania subsequently redirected the funds with no public input.**

The history of tobacco settlement dollars and their redirections are explained in the Auditor General's March 2011 special report, *Should tobacco settlement dollars be spent for health programs like adultBasic and tobacco cessation as intended, or should the monies go to balance the state budget?* That nine-page document is included at the back of this report as Appendix B.

Readers will see in the March 2011 report that the Auditor General made two critical recommendations:

1. The Governor and the General Assembly should use incoming tobacco settlement dollars for adultBasic [health insurance for the working uninsured] to bridge the gap until health insurance becomes widely available on January 1, 2014, under federal health care reform. If more dollars are needed, other sources of funding—both public and private—should be explored.
2. The Governor and the General Assembly should hold immediate public hearings throughout the Commonwealth to discuss the use of incoming tobacco settlement dollars long-term. The following [three] questions should be answered:
  - ✓ Whether tobacco settlement dollars should be used according to the original intentions, including funding critically important tobacco prevention and cessation programs.

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- ✓ If new/different priorities should be established.
- ✓ If and how the Health Endowment Account should be restored.

**To date, neither the Governor nor the General Assembly has acted on either of the two recommendations**, with the exception of a single policy committee hearing solely related to adultBasic health insurance. Thus, Auditor General Wagner convened five public hearings in April and May in Pittsburgh, Erie, Scranton, Harrisburg, and Philadelphia.

The hearings resulted in nearly 1,000 pages of testimony offered by organizations that represent millions of Pennsylvanians. **The people want to be heard, and they want their state government to be more open and accountable.** Most important of all, they want tobacco settlement dollars to be used as they were originally intended—to improve the health of all Pennsylvanians—and not to quietly plug holes in the state budget or to fund a business loan program as the current administration has proposed.

The Auditor General also heard the public echo his concerns that government should be honest with its people, and should stop saying that there are no more tobacco settlement monies to fund tobacco control programs or to offer basic health insurance for the working uninsured.

So when you hear a public official saying there's no more money, it's not true. And this is your money. This is the taxpayers' money. And it will continue to flow, we know, for another 15 years, possibly longer. So the real question is, how will those monies be utilized?

*Auditor General Jack Wagner  
May 3, 2011*

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It is our expectation that the Governor and General Assembly leadership will use this report, along with copies of the actual testimony, to determine the future direction of incoming settlement monies. It is important that the officials know what the public has said, according to the Auditor General, and take the testimony seriously.

We will accumulate the opinion of the public. We will analyze or consolidate that opinion and actually give the actual testimony and a summary of the testimony to the Governor and to the four caucuses of the General Assembly, the House Republicans and Democrats, and the Senate Republicans and Democrats.

*Auditor General Jack Wagner  
May 3, 2011*

The list of organizations/persons who testified at the five hearings is presented in the following pages.

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<b>AARP - American Association for Retired Persons</b> <i>Helen Brown, Erie County Coordinator</i>	<i>Erie</i>	<i>6, 26</i>
<b>AARP - American Association for Retired Persons</b> <i>Ray Landis, Advocacy Manager</i>	<i>Harrisburg</i>	<i>37</i>
<b>American Lung Association in Pennsylvania</b> <i>Anthony Delonti, Program Specialist</i>	<i>Scranton</i>	<i>32</i>
<b>American Lung Association in Pennsylvania</b> <i>Sara Steele, Event Manager</i>	<i>Pittsburgh</i>	<i>10</i>
<b>American Lung Association of the Mid-Atlantic (testifying for the American Lung Association in Pennsylvania)</b> <i>Deborah Brown, President and CEO</i>	<i>Harrisburg</i>	<i>40</i>
<b>Booker T. Washington Center</b> <i>William Jeffress, Executive Director</i>	<i>Erie</i>	<i>8, 19</i>
<b>Catholic Charities Free Health Care Center</b> <i>Annette Fetchko, CEO/President</i>	<i>Pittsburgh</i>	<i>13</i>
<b>Community Legal Services, Inc.</b> <i>Jonathan M. Stein, General Counsel</i>	<i>Philadelphia</i>	<i>50</i>
<b>Community Shelter Services</b> <i>Pat Herr, Associate Director</i>	<i>Erie</i>	<i>7, 22</i>
<b>Consumer</b> <i>Beth Rockwell [phonetic spelling]</i>	<i>Erie</i>	<i>8</i>

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<b>Consumer Health Coalition</b> <i>Beth Heeb, Executive Director</i>	<i>Pittsburgh</i>	<i>6, 13</i>
<b>Erie Community Health Network</b> <i>John Schultz, CEO</i>	<i>Erie</i>	<i>7, 20</i>
<b>Former adultBasic enrollee</b> <i>Nick Balandiat</i>	<i>Pittsburgh</i>	<i>15</i>
<b>Former adultBasic enrollee</b> <i>Cynthia Brazen</i>	<i>Pittsburgh</i>	<i>14</i>
<b>Former adultBasic enrollee</b> <i>Karen Carpinello</i>	<i>Erie</i>	<i>23</i>
<b>Former adultBasic enrollee</b> <i>Beverly Corcoran</i>	<i>Scranton</i>	<i>36</i>
<b>Former adultBasic enrollee</b> <i>[Somerset County woman - name withheld by request]</i>	<i>Pittsburgh</i>	<i>18</i>
<b>Former adultBasic enrollees</b> <i>John and Mary Kitchen</i>	<i>Pittsburgh</i>	<i>7, 17</i>
<b>Former adultBasic enrollees</b> <i>Ken and Loretta Weir</i>	<i>Pittsburgh</i>	<i>6, 17</i>
<b>Former adultBasic potential enrollee [on waiting list]</b> <i>Debbie Flickner [phonetic spelling]</i>	<i>Erie</i>	<i>24</i>
<b>Health Promotion Council Southeastern PA Tobacco Control Project</b> <i>Janet Northcott, Regional Tobacco Dependence Treatment Specialist</i>	<i>Philadelphia</i>	<i>47</i>
<b>Health Promotion Council Southeastern PA Tobacco Control Project</b> <i>Katee Yorke, Regional Prevention Specialist</i>	<i>Philadelphia</i>	<i>8</i>



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<b>Health Care for All Pennsylvanians</b> <i>Walter Tsou, MD, MPH</i>	<i>Philadelphia</i>	<i>53</i>
<b>Homeless Education Network of the Homeless Children’s Education Fund</b> <i>Charles LaVallee, Director</i>	<i>Erie</i> <i>Harrisburg</i> <i>Philadelphia</i> <i>Pittsburgh</i>	<i>24</i> <i>42</i> <i>6, 49</i> <i>6, 16</i>
<b>Hospital &amp; Healthsystem Association of Pennsylvania, [The]</b> <i>Paula Bussard, Senior Vice President, Policy &amp; Regulatory Services</i>	<i>Harrisburg</i>	<i>38</i>
<b>Lutheran Advocacy Ministry in Pennsylvania</b> <i>The Rev. Amy Reumann, Director</i>	<i>Harrisburg</i>	<i>44</i>
<b>Mercy Behavioral Health</b> <i>Stephanie Murtaugh, Component Director of Intervention and Prevention Services</i>	<i>Pittsburgh</i>	<i>7, 10</i>
<b>Northeast Regional Cancer Institute</b> <i>Bob Durkin, President</i>	<i>Scranton</i>	<i>31</i>
<b>Northwestern Pennsylvania Tobacco Control Program</b> <i>Kelly Kidd, Tobacco Program Manager</i>	<i>Erie</i>	<i>19</i>
<b>Pennsylvania Association of Community Health Centers</b> <i>Cheri Rinehart, President &amp; CEO</i>	<i>Harrisburg</i>	<i>43</i>
<b>Pennsylvania Cancer Alliance</b> <i>Paul Cribbins</i> <i>Assistant Vice President for Commonwealth Relations</i> <i>Office of Government and Community Affairs</i> <i>University of Pennsylvania</i>	<i>Philadelphia</i>	<i>58</i>

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<b>Pennsylvania Commonwealth Universal Research Enhancement (CURE) Program</b> <i>Donna Gentile O’Donnell, Ph.D., Health Research Advisory Committee</i>	<i>Philadelphia</i>	<i>55</i>
<b>Pennsylvania Council of Churches</b> <i>The Rev. Sandra L. Strauss, Director of Public Advocacy</i>	<i>Harrisburg</i>	<i>46</i>
<b>Pennsylvania Health Access Network</b> <i>Erin Gill, Western Pa. Education/Outreach Coordinator</i>	<i>Erie Pittsburgh</i>	<i>22 7, 15</i>
<b>Pennsylvania Health Access Network</b> <i>Antoinette Kraus, Project Manager</i>	<i>Philadelphia Scranton</i>	<i>7, 50 7, 34</i>
<b>Pennsylvania Health Access Network</b> <i>Sharon Ward, Director of the Pa. Budget and Policy Center, a member of the Pa. Health Access Network</i>	<i>Harrisburg</i>	<i>44</i>
<b>Pennsylvania Health Law Project</b> <i>Ann Bacharach, Special Projects Director, Phila. Ofc.</i>	<i>Philadelphia</i>	<i>51</i>
<b>Pharmacist</b> <i>Lou Aliota</i>	<i>Erie</i>	<i>26</i>
<b>Reduce Smoking and Exposure to Tobacco Center (University of Pittsburgh)</b> <i>Stephanie Land, Director</i>	<i>Pittsburgh</i>	<i>11</i>
<b>Senator John Blake’s Office</b> <i>Larry West, Regional Director</i>	<i>Scranton</i>	<i>28</i>
<b>Smokefree Pennsylvania</b> <i>William Godshall, Founder and Executive Director</i>	<i>Pittsburgh</i>	<i>11</i>

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<b>Tobacco Free Allegheny</b> <i>Cindy Thomas, Executive Director</i>	<i>Pittsburgh</i>	<i>12</i>
<b>Tobacco Free Northeast</b> <i>Alice Dalla Palu, Executive Director</i>	<i>Scranton</i>	<i>30</i>
<b>Treatment Research Institute</b> <i>Kimberly C. Kirby, Ph.D. Senior Scientist Director, Behavioral Treatments &amp; Applications Director, Parents' Translational Research Center</i>	<i>Philadelphia</i>	<i>57</i>
<b>United Methodist Advocacy in Pennsylvania</b> <i>Donna Burkhart, Board Director</i>	<i>Erie</i>	<i>23</i>
<b>United Neighborhood Services</b> <i>Lisa Durkin, Deputy Director</i>	<i>Scranton</i>	<i>35</i>
<b>United Way of Allegheny County</b> <i>Robert Nelkin, President</i>	<i>Pittsburgh</i>	<i>6, 9</i>
<b>United Way of Erie County</b> <i>Del Birch, Vice President</i>	<i>Erie</i>	<i>5, 20</i>
<b>United Way of Lackawanna and Wayne Counties</b> <i>Peg Kopko, Vice President of Community Impact</i>	<i>Scranton</i>	<i>34</i>

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**Introduction  
and Background**

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## **Introduction and Background**

### **Introduction: How this report and public hearings came about**

In March 2011, Auditor General Jack Wagner called on the Governor and General Assembly to hold immediate public hearings throughout the state to discuss the use of incoming tobacco settlement dollars. This call for public input was made as part of the Auditor General’s special report, *Should tobacco settlement dollars be spent for health programs like adultBasic and tobacco cessation as intended, or should the monies go to balance the state budget?*

That special report is included in this document as Appendix B.

Ultimately, the Auditor General held public hearings himself—the first time in his two terms that he convened such hearings. The move was unusual, but it was one that Auditor General Wagner deemed vital for a topic that has not received the public discussion necessary to ensure government accountability and transparency:

*It is seldom that the Auditor General holds public hearings, but this issue is so important that it needs public input from across Pennsylvania.*

It is seldom that the Department of Auditor General has hearings on issues, but we felt that this issue was so important that it needed public input from across Pennsylvania. So we began a process of having public hearings . . . .

*Auditor General Jack Wagner*  
*Erie hearing, April 26, 2011*

Five hearings were held as follows:

- April 25, 2011      Pittsburgh
- April 26, 2011      Erie
- May 3, 2011        Scranton
- May 11, 2011      Harrisburg
- May 26, 2011      Philadelphia

Each hearing was documented by a court reporter, and this document presents a summary of those hearings.

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*Tobacco companies  
agreed to pay  
46 states  
billions of dollars  
starting in 2000.*

*Pennsylvania was  
projected to get \$11.2  
billion for the first 25  
years, or between \$350  
and \$370 million every  
year.*

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**Background: Pennsylvania gets millions  
of dollars yearly from tobacco companies**

Again, we refer readers to Appendix B of this report for a brief and easy-to-read discussion of the issue. Here, however, we offer some of the pertinent details:

- After being sued by 46 states, including Pennsylvania where efforts were led by then-Attorney General Mike Fisher, five major tobacco companies settled by agreeing to pay the states billions of dollars to recover medical expenses for Medicaid enrollees with tobacco-related illnesses.
- Pennsylvania would receive a projected \$11.2 billion from the tobacco companies over 25 years. That 25-year term was used only to compute projections; in reality, the settlement agreement says payments are “in perpetuity.”
- Then-Governor Tom Ridge and the General Assembly agreed to use proceeds *only* to improve Pennsylvanians’ health. The Tobacco Settlement Act, Act 77 of 2001, sealed that agreement, thus creating a public covenant.
- Act 77 was—**and still is**—very specific about how the annual monies must be used:
  - ✓ 8 percent invested in the “Health Endowment Account for Long-term Hope” for future extraordinary/emergency health needs
  - ✓ 30 percent shared by adultBasic insurance and Medicaid for workers with disabilities
  - ✓ 19 percent for health research, 1 percent of which must be for cancer-specific research
  - ✓ 13 percent for home- and community-based services for the elderly
  - ✓ 12 percent for the control/prevention/cessation of tobacco use
  - ✓ 10 percent to reimburse hospitals for care to the uninsured/underinsured
  - ✓ 8 percent to the PACENET, which is the PACE (Pharmaceutical Assistance Contract for the Elderly) Needs Enhancement Tier

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- Pennsylvania broke its covenant with the public starting in 2005 by using tobacco settlement monies for purposes other than those intended.
  - The state called these other uses “redirections” and authorized them by putting language in the state’s annual budget acts. Two examples:
    - ✓ In fiscal year 2010-11, the state took \$121 million from the Health Endowment Account to make a payment to the Public School Employees’ Retirement System. This payment would ordinarily have come out of the state’s General Fund.
    - ✓ Since fiscal year 2002-03, the state took \$795.3 million of tobacco settlement monies to pay for Medicaid expenses that also would have ordinarily been paid from General Fund monies.
  - As of June 1, 2011, the Health Endowment Account for Long-Term Hope will be empty—depleted from a high of \$658 million when, instead, it should have eventually reached billions of dollars for long-term use.
  - Altogether, \$1.3 billion has been uncoupled from tobacco settlement monies for purposes other than those that were part of the state’s covenant with the public.

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**So what does all this mean, and how  
does it relate to public hearings?**

- The “redirections” have resulted in Pennsylvania’s termination of adultBasic health insurance for 41,000 Pennsylvanians—two thirds of whom were working women—and killed the chance for half a million others on the waiting list to get this coverage. The public hearings offer real-life stories about this termination and the results.
- The “redirections” also mean that programs to prevent, control, and/or stop tobacco use—programs that are especially important for youth—have been cut dramatically

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to the point where their successful effects are diminished. The public hearings make the consequences clear.

- The “redirections” were done quietly, and with no public input. The public hearings show that citizens want their voices heard and their government to be accountable.
- The “redirections” have raised questions about why some government leaders are saying now that no money is left to continue initiatives like adultBasic and tobacco control, when indeed tobacco companies are still paying Pennsylvania at least \$350 million every year. The public hearings show that citizens want the truth, and they want incoming monies used for health programs as originally intended, not to balance the budget or to go for loans to businesses.

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**Where will we go from here?**

The Department of the Auditor General has pledged to make the Governor and the General Assembly aware of what citizens have said, and to ensure that future decision-making about incoming tobacco settlement dollars are made publicly, transparently, and with real accountability. Our state decision-makers must do nothing less; so say the citizens of Pennsylvania who testified at our hearings.

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**Across the state:  
Speaking about transparency**

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**1. Across the state:  
Speaking about  
transparency**

**Pennsylvania has not been open about its  
diversions of tobacco settlement funds; the  
Governor and the General Assembly need to  
ask for public input and then listen to it.**

At all five public hearings, **Auditor General Jack Wagner** was clear about the need for the hearings and government openness. His remarks at the Pittsburgh hearing summarize the theme repeated statewide:

It's my job as the fiscal watchdog of your taxpayer monies to speak out on these issues and to let all of you know—and that's really what we're trying to do with these public hearings, to educate the public—that the money hasn't ended and it's your money.

All of you should have as much input today as you did 10, 12 years ago in terms of how it's spent.

Government has to operate in the daylight, has to be sunshined now. And the reallocation of tobacco settlement funds for the last six years has been done in secrecy and it is our goal to change that, to move this into the public arena.

*Auditor General Jack Wagner*  
*Pittsburgh hearing, April 25, 2011*

Testifiers at every hearing echoed this call for government openness and the need for public discussion, as evidenced by the summaries and excerpts that follow:

**U**nited Way of Erie County (4-26-11, Erie). The organization's Vice President said that non-profit organizations have reported cutbacks at the same time they've reported a greater need for services, and "that environment impacts [the Auditor General's] discussion in bringing to life an issue that . . . hasn't been discussed publicly in Pennsylvania, the use of tobacco settlement funds."



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**Across the state:  
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**American Association for Retired Persons** (4-26-11, Erie). Erie County Community Coordinator for AARP said, “When you pass a law you either follow it or you don’t. . . . And I think this is something that [people in government] need to be reminded of. . . . I have talked to seniors at the high-rise who have said there are people cutting their pills in half and some said they’re not picking up their prescriptions. So it affects everybody down the line, just like a domino effect. So I guess transparency is what we’re still looking for.”

**Homeless Education Network** (4-25-11, Pittsburgh). A health advocate and the director of this network said, “Until this hearing, adultBasic [health insurance] had been pretty much forgotten because the talk was all about the other budget changes.”

**Homeless Education Network** (5-26-11, Philadelphia). In testifying for the fourth time, the Director said, “I’m not sure why we are so silent about this issue in Harrisburg,” referring to the absence of public discussion by legislators. “I am mourning for 41,424 people who lost their adultBasic. I’m ashamed because we’ve been silent. It’s a disgrace.”

**United Way of Allegheny County** (4-25-11, Pittsburgh). According to the Executive Director, “The original Pennsylvania distribution was a good start. [Back then], Governor Tom Ridge had an open public process for presentation and debate of ideas about how to spend these dollars.”

**Former adultBasic enrollee** (4-25-11, Pittsburgh). “Will you [the Auditor General] take this message for us forward because the people are out here? We’re here. . . . fragmented voices and we don’t have anybody to take this message for us.”

**Consumer Health Coalition** (4-25-11, Pittsburgh). “I want to thank [the Auditor General] for your work on this matter and for keeping the issue alive,” said the Coalition’s Executive Director.

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**Across the state:**  
**Speaking about transparency**

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**Mercy Behavioral Health, part of Pittsburgh Mercy Health System** (4-25-11, Pittsburgh). “Thank you so much for giving me an opportunity to testify today,” said the Component Director of Prevention and Intervention Services. “And I’m talking here on behalf of [tobacco] prevention and cessation providers and the people we serve.”

**Pennsylvania Health Access Network** (4-25-11, Pittsburgh). Said the Western Pennsylvania Education and Outreach Coordinator, “I want to thank the Auditor General and his staff for shining the light on this critical issue . . . “I’m here today to speak up for the nearly one million patients and advocates our coalition represents . . . .”

**Pennsylvania Health Access Network** (5-3-11, Scranton; and 5-26-11, Philadelphia). “The public, and particularly the 42,000 adultBasic enrollees who lost their coverage, deserve to be heard on this critical issue. And legislators need to listen and do the right thing during the budget process,” said the Project Manager for this 50-organization coalition.

**Former adultBasic enrollee** (4-25-11, Pittsburgh). “We were never asked to contribute more [toward adultBasic premiums]. We were never asked what we thought. We were just wished luck and thrown out on the street.”

**Erie Community Health Network** (4-26-11, Erie). The CEO said, “Thank you to the Auditor General and his staff who are holding these public hearings across the state regarding tobacco settlement money....”

**St. Vincent Health System** (4-26-11, Erie). “Thank you [to the Auditor General] for your initiative in going around and traveling through the state on this very important issue,” said the Director of Government Affairs.

**Community Shelter Services** (4-26-11, Erie). “I think it’s terrific to bring citizens and concerned organizations together to talk about these types of issues,” said the Associate Director.

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Pennsylvania Department of the Auditor General  
Jack Wagner, Auditor General*

**Across the state:  
Speaking about transparency**

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**B**ooker T. Washington Center (4-26-11, Erie). The Center’s Executive Director said, “I’d just like to say thank you for having this opportunity to speak out and bring some information regarding the tobacco settlement.”

**C**itizen from Erie (4-26-11, Erie). “I just wanted to voice my disgust with finding out that our state officials have not been trustworthy,” said this consumer. “A law was written and provision was made for the tobacco settlement monies and how they were to be used and to perpetuate health care in the future. And our legislators have [allowed these diversions] to happen...I think it’s time for somebody to hold our legislators accountable, all of our officials accountable.”

**H**ealth Promotion Council (5-26-11, Philadelphia). The Council’s Regional Prevention Specialist asked this: “There’s really no guarantee that anybody will even read what’s being given to them [the public hearing transcripts and this report that summarizes the testimony], let alone move it forward to any other platform . . . is that correct or not?”

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**In Pittsburgh:**  
**Speaking about tobacco control**

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**2. In Pittsburgh:  
Speaking about  
tobacco control**

**Pennsylvania should invest settlement  
dollars to prevent tobacco use as Act 77  
mandates, not to plug state budget holes.**

**U**nited Way of Allegheny County speaks. The head of United Way of Allegheny County, President **Robert Nelkin**, testified in Pittsburgh that tobacco settlement dollars should not be used to fill short-term budget holes but should be invested in efforts to decrease the percent of smokers, especially youth and women of child-bearing age.

*Nearly 90 percent of smokers start a lifelong addiction to smoking as teens.*

*The United Way of Allegheny County wants Pennsylvania to allocate more tobacco settlement dollars for tobacco prevention.*

Mr. Nelkin said that nearly 90 percent of smokers start their lifelong addiction as teens and that, in 2009, 18.4 percent of youth were smoking cigarettes. He talked about the high rate of smoking by pregnant women and the devastating effects, including fetal death, infant death, low birth weight, mental retardation, and respiratory illness.

According to Mr. Nelkin's testimony, driving down tobacco usage would save Pennsylvania \$5.1 billion annually in tax dollars and health premiums that cover treatment of conditions like lung disease and cancer. He said that smoking prevention programs have worked, but they can't work without funds.

The bold thought is that we use tobacco settlement dollars to actually prevent and reduce cigarette smoking. . . . The result would be a healthier population and a dramatic reduction in the incredibly huge tobacco-related health care costs that are paid by all Pennsylvanians.

Why isn't Pennsylvania investing more of their tobacco settlement dollars in preventing tobacco use? You got me. It doesn't make sense. . . .

What's holding us back from bringing down the rates of smoking [further] and taxpayer costs? A lack of will and a lack of funds, a problem easily solved by using the tobacco settlement dollars for their logical purpose.

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**The Public Speaks:  
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**In Pittsburgh:  
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*The American Lung Association says that funding for prevention and cessation should be at least 12 percent, as Act 77 requires.*

**American Lung Association in Pennsylvania speaks.** Sara Steele, Event Manager, testified in Pittsburgh that tobacco use is the leading cause of preventable death in the nation, claiming the lives of nearly half a million Americans and more than 20,000 Pennsylvanians every year.

Ms. Steele said that, in order to reduce the death and disease that result from tobacco use, there must be adequate funding for tobacco prevention and control programs:

For this reason, the American Lung Association in Pennsylvania supports funding tobacco prevention and cessation to at least the [mandated] 12 percent.

*Mercy Behavioral Health knows what works in reducing tobacco use, but the state's significant funding cutbacks have taken their toll in providing tobacco prevention and cessation services.*

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**Mercy Behavioral Health speaks.** Component Director of Prevention and Intervention Services **Stephanie Murtaugh** represented this organization. It has been involved in tobacco cessation and prevention for many years, is part of the Pittsburgh Mercy Health System, and serves 27,000 different Allegheny County individuals annually for a variety of behavioral health needs.

Mercy Behavioral Health knows what works, according to Ms. Murtaugh, and used tobacco settlement funds to help reduce employee smoking within the organization itself—a 50 percent quit rate in the first year, higher than the national quit rate.

The program has been replicated for people served by the organization, but significant funding cutbacks have taken a toll.

Despite having established an expertise, a track record, and significantly positive outcomes, services were cut . . . which has significantly impacted our ability to provide these important services that this funding was meant for. . . And so we want to very much advocate to restore tobacco settlement funding to its intended level, and it's absolutely the only choice that makes sense.

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**In Pittsburgh:  
Speaking about tobacco control**

*A University of Pittsburgh public health researcher said there are 18 cancers caused by tobacco use, and that tobacco's cardiac effects can cause almost as many deaths as lung cancer.*

*Successes in cutting tobacco use have been achieved with public information, education, and treatment, but funding is needed to continue and increase those successes.*

*Smokefree Pa. wants to see 12 percent of settlement dollars used for smoking cessation and tobacco education/control but strongly disagrees with the Department of Health's spending those dollars for "promoting drug industry products and counseling as the only effective ways to quit smoking."*

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**U**niversity of Pittsburgh's Reduce Smoking and Exposure to Tobacco Center speaks. Director **Stephanie Land** said the Center was founded to inform policy and connect tobacco-related researchers with practitioners.

Like others, Dr. Land said that tobacco is the number one cause of preventable deaths worldwide. However, she emphasized that even more is being learned. She testified that there are now 18 cancers known to be caused by tobacco and that tobacco's cardiac effects can cause almost as many deaths as lung cancer.

She also testified that pregnant women are still smoking cigarettes and that western Pennsylvania has some of the highest rates in the country in that regard; that teens are still taking up the tobacco habit; that the tobacco industry is always creating new products; and that many cancer patients and their families are using tobacco and unable to quit.

Public information, education, and treatment have been successful, according to Dr. Land, but more efforts are needed.

The take-home message is that tobacco use remains a crucial front in the battle for greater public health. And the settlement agreement funds should be continued to be maintained for these purposes and ideally restored to the levels that were originally set.

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**S**mokefree Pennsylvania speaks. Founder and Executive Director **William Godshall** testified that, from 1999 to 2002, Smokefree Pennsylvania successfully urged the Pennsylvania General Assembly to appropriate all the settlement funds for health programs, including a significant amount for tobacco education, smoking cessation, and tobacco control programs.

Mr. Godshall testified that his organization "strongly supports appropriating 12 percent of the settlement funds for tobacco education and smoking cessation programs" as originally intended. On the other hand, Mr. Godshall said that Smokefree Pennsylvania is a staunch opponent of any spending by the Department of Health or its contractors "to deceive the public

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about the health risks and benefits of various tobacco or nicotine products.” In short, Smokefree Pennsylvania’s position is that smokers should be informed that “smokefree tobacco/nicotine products are far less hazardous alternatives to cigarettes.”

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*“No program can withstand a funding cut of 49 percent without overwhelming and catastrophic consequences,” according to Tobacco Free Allegheny.*

*The organization advocates a return of funding to the 12 percent mandated by the Tobacco Settlement Act.*

**Tobacco Free Allegheny speaks.** Executive Director **Cindy Thomas** could not attend the hearing and thus provided written testimony.

Ms. Thomas wrote that Tobacco Free Allegheny is the primary contractor in Allegheny County for prevention and control, and one of eight regional contractors who receive settlement funds from the Pennsylvania Health Department’s Division of Tobacco Prevention and Control.

She also wrote that the first funding cut in 2005 and the “more drastic 49 percent cut in 2009” have permanently changed the landscape of tobacco prevention and cessation in the county:

In 2005 we reduced budgets and dropped only a few programs . . . . But no program can withstand a funding cut of 49 percent without overwhelming and catastrophic consequences.

According to the testimony, one of the most significant consequences was “the inability to continue the mandatory three rounds of routine enforcement checks and retailer education.” This inability has affected Allegheny County’s turnaround in the rate of illegal tobacco sales to minors, according to Ms. Thomas. She advocates a return of the funding to the intended level:

Restoring funding for tobacco prevention and cessation programs to the full 12 percent promised in Act 77 would go a long way toward providing local services to communities most in need and would allow us to expand our prevention programs to counter the ever-expanding reach of the tobacco industry.

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**In Pittsburgh:  
Speaking about adultBasic**

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**3. In Pittsburgh:  
Speaking about  
adultBasic**

**Pennsylvania should use incoming tobacco settlement dollars to bring back adultBasic health insurance.**

**Catholic Charities Free Health Care Center speaks.** CEO/President **Annette Fetchko** explained that the Center’s volunteer medical and dental professionals provide free care to people not covered by Medicaid or other subsidized health care programs. She said the Center gets no state or federal dollars as premiums to support the care provided.

*People enrolled in adultBasic and those who were waiting to enroll are devastated by the program’s termination, said the CEO of a Catholic Charities health center.*

Ms. Fetchko testified that, with the state’s termination of adultBasic health insurance on February 28, 2011, the Center saw a 25 percent increase in eligibility inquiries in the weeks leading up to the termination and a 10 percent increase in enrollment for services.

*By resuming adultBasic funding, the state would move toward longer-term sustainable health coverage for those who need it.*

Regarding former adultBasic enrollees and people on the waiting list to enroll, Ms. Fetchko said this:

They are devastated by the termination of this program. It has been a wonderful program that provided a high level of preventative and much needed specialty services to individuals.

Our greatest fear is that we will be creating unmanageable waiting lists for the already over half a million—and that’s just a conservative estimate—of those individuals that we know were on the adultBasic waiting list.

And I think it’s short-sighted to have terminated the adult program so abruptly and not have provided accessible quality alternatives for those individuals in need.”

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**Consumer Health Coalition speaks.** Executive Director **Beth Heeb** testified that a primary function of the Consumer Health Coalition is to assist uninsured individuals with applications for public health insurance programs.



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*A health coalition must refer the newly uninsured to “already overwhelmed” clinics or centers.*

*The costs of uncompensated care are then borne by others through higher insurance premiums known as “the hidden health care tax” for which insured families pay more than \$1,000.*

*A woman with diabetes testified that, without adultBasic or an affordable alternative, she will have to rely on charity and the state for care.*

*“I will see you at the welfare office,” she said.*

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According to Ms. Heeb, the termination of adultBasic resulted in the Coalition’s helpline calls increasing by 40 percent in the first quarter of 2011. She said the state did not do enough to find a viable alternative for adultBasic recipients.

The end of the program and the lack of alternatives has placed over 4,000 Allegheny County residents in hard times; daily we are speaking with these individuals.

She said there was “no worse job” than working on the helpline now. Nine times out of ten, callers must be referred to clinics and centers that are “already overwhelmed.”

Ms. Heeb cited a study saying that uncompensated care is paid through higher insurance premiums known as “the hidden health care tax” that costs an insured family \$1,017 a year.

I am here today to tell you that adultBasic should be reinstated until at least 2014 when federal health care reform is implemented. . . . The funds are there and should be used for their intended purpose.

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**F**ormer adultBasic enrollee speaks. **Cynthia Brazen**, with diabetes for 41 years, said she owns her home, has “no dependents or tax write-offs,” and has worked all her life. Her temporary jobs paid less than \$21,780 a year with no health insurance, qualifying her for adultBasic. Her insulin and diabetes-related surgeries are more than she can afford.

She read from a letter that she wrote to Governor Tom Corbett and to members of the Pennsylvania House and Senate:

If I do not have access to reasonable, usable, affordable health insurance, I will then become a burden to the state and society . . . I have checked my options and I have none. Therefore, I will rely on the charity of doctors, hospitals, and pharmaceutical companies and, of course, the state of Pennsylvania. . . . I will see you at the welfare office.

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**In Pittsburgh:  
Speaking about adultBasic**

*Serious questions exist about whether the Governor—without Act 77’s repeal or alteration—is authorized to change how settlement dollars are allocated.*

*So said the Pa. Health Access Network that represents 1.2 million uninsured residents and more than 50 advocacy groups across the state.*

*A former adultBasic subscriber termed it “scary” to be without insurance. His current plan costs more but allows him only four doctor visits a year.*

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**Pennsylvania Health Access Network speaks. Erin Gill** is the Western Pennsylvania Education and Outreach Coordinator for this coalition of 50+ organizations across the state that work to improve access to affordable quality health care. She was representing the coalition’s nearly one million patients and advocates, including the state’s 1.2 million uninsured residents and the 42,000 former adultBasic enrollees.

We cannot afford to leave all these folks out in the cold, especially when a dedicated revenue stream exists to fund [adultBasic], money that has been specifically mandated by law to go toward programs that improve the health of Pennsylvania residents. . . .

Serious questions have been raised over whether the Governor has the authority to change the allocation of tobacco settlement fund dollars to this radical extent without the legislature voting to officially repeal or substantially alter the existing statute, Act 77. . . .

The legislature should work to ensure adequate funding for adult health programs . . . [by allocating the] funds as originally intended with 30 percent going to adult health programs shared between adultBasic and Medicaid for Workers with Disabilities.

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**A**nother former adultBasic enrollee speaks. **Nick Balandiat**, 50, said that he left his job because of recurring health problems, and that he worries about health insurance.

He termed it “scary” to be without insurance. He testified that adultBasic was affordable, unlike his new plan, Special Care (an unsubsidized state-recommended plan), that costs more and has “inadequate benefits” such as four doctor visits yearly.

I’d just like to be able to actually have actual health insurance I could actually purchase myself. That’s all I ever wanted to do.

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*“The tobacco settlement funds need to once again be the financing mechanism for adultBasic as the law states, and adultBasic needs to be reinstated,” said advocate Charles LaVallee.*

*In his impassioned testimony, he argued that terminating adultBasic has simply shifted the costs to already-insured employers and individuals in the form of higher premiums. The state’s budget is more than just a fiscal document, he said, and the state is wrong to position adultBasic’s demise as just a business decision.*

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**H**omeless Education Network of the Homeless Children’s Education Fund speaks. Health care advocate and Network Director **Charles LaVallee**, formerly a vice president at Highmark Blue Cross/Blue Shield and executive director of the Western Pennsylvania Caring Foundation, said he has travelled the nation helping to implement programs for the uninsured.

“The nation is now watching what we’re doing,” he said, since Pennsylvania has been a leader in dealing with its uninsured. He made six points to emphasize that terminating adultBasic is not a sound investment in Pennsylvania’s future.

- Cost shifting/anti-business: Terminating adultBasic took costs from the state’s budget. But they will be picked up by the insured and their employers through “hidden” higher premiums (e.g., \$1,017 a year more in 2008 for family coverage and \$368 a year more for individual coverage).
- Financial/health risks: 62 percent of U.S. bankruptcies are due to health care costs. Former adultBasic enrollees are one medical event away from medical/financial disaster.
- Need for greater accountability and oversight: Could the state have better monitored eligibility, for example, to save dollars for those who were truly eligible? Were some adultBasic people actually eligible for Medicaid instead?
- Need for measuring return for other settlement dollars: Were other settlement-funded programs monitored, an action necessary prior to terminating adultBasic funds?
- The state’s budget should be both moral AND fiscal: Instead, redirected settlement funds deprived health coverage intended for eligible low income adults.
- The state is wrong to say that terminating adultBasic was just a business decision: It was a personal decision for 42,000 enrollees now at greater risk for negative health consequences and death.

Mr. LaVallee’s closing testimony:

The tobacco settlement funds need to once again be the financing mechanism for adultBasic as the law states, and adultBasic needs to be reinstated.

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Speaking about adultBasic**

*It shouldn't even be an option for the state to divert tobacco settlement funds from their intended purpose for adultBasic, said a husband and wife who are former enrollees.*

*The couple would have agreed to pay higher premiums to prevent the state from terminating their coverage, but "we were never asked what we thought. We were just wished luck and thrown out on the street."*

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**F**ormer adultBasic enrollees speak. **John and Mary Kitchen** are a working couple who own their own business. Mary Kitchen testified that, as the couple's three children were growing, she and her husband went without health coverage because of the cost.

"We were not wealthy," she said, "but we made enough that we did not qualify for Medical Assistance." The children qualified for the state's CHIP coverage (Children's Health Insurance Program).

When the state started adultBasic, Mr. and Mrs. Kitchen applied and were enrolled immediately, making their monthly payments and receiving "very good comprehensive coverage."

Regarding the question of whether settlement funds should be reinstated for adultBasic or if they should be diverted elsewhere, Mrs. Kitchen said the insurance should be reinstated. "None of this should even be an option," she said.

John Kitchen agreed. He said that he and Mary were willing to pay higher premiums for adultBasic but were never asked to contribute more. "We were never asked what we thought," he said of the termination. "We were just wished luck and thrown out on the street."

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**F**ormer adultBasic enrollees speak. **Ken and Loretta Weir** testified that, upon learning adultBasic would be terminated, they started an email campaign with their senators and representatives.

Ken Weir termed the responses he received as "partisanship in politics"—responses saying that one party was dismantling the program, that the money was going to other sources, and that little could be done. When he read about the Auditor General's calls for public hearings, they "gave us a whole new feeling that there was a possibility" of bringing about a change. But the program ended nonetheless, and he and his wife lost their adultBasic at the end of February.

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*From a former  
adultBasic enrollee  
who advocates the  
program's return:*

*"I looked at all the  
things that are being  
done in our  
government in  
Pennsylvania behind  
closed doors. I'm  
really losing faith.  
I'm frightened of the  
direction we're  
moving."*

Loretta Weir testified about her loss of adultBasic, too, and that she was losing faith in government:

I look at what's going on, on a pretty broad scale. I look at the budget. I looked at the budget cuts. I looked at all of the things that are being done in our government in Pennsylvania behind closed doors. I'm really losing faith. I'm frightened of the direction we're moving.

The Weirs asked Auditor General Wagner to take the messages from his public hearings forward. Said Ken Weir specifically:

Will you take this message for us forward because the people are out here? We're here. We're just fragmented voices and we don't have anybody to take this message for us.

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*From another former  
enrollee:*

*"The tobacco funds  
should be used for  
insurance for those  
that simply cannot  
afford other  
insurance."*

**S**till another former adultBasic enrollee speaks. A former enrollee from Somerset County provided her testimony by email and asked to remain anonymous. She wants the Governor to start another insurance program using the tobacco settlement funds and allowing former adultBasic enrollees to apply for the coverage first:

The tobacco funds should be used for insurance for those that simply cannot afford other insurance. In our case [her husband and her], we are considered low income but own our own small business which has been hit with the economy woes and we can't get other insurance that we can afford. For now we are eking out premiums for the Special Care [insurance coverage] but I don't know how much longer we can afford that.

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**In Erie:**  
**Speaking about tobacco control**

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**4. In Erie:  
Speaking about  
tobacco control**

*The state's reduction in funds for tobacco cessation/prevention/control programs has moved such funding even farther from that recommended by the Centers for Disease Control, according to a manager for the Northwestern Pennsylvania Tobacco Control Program.*

*Tobacco cessation programs at the Booker T. Washington Center have been cut, said the Center's Executive Director. He testified that the settlement money should be used as intended.*

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**Too many programs have been cut when they are needed to prevent/control tobacco use and save on future health care costs.**

**N**orthwestern Pennsylvania Tobacco Control Program **speaks.** Tobacco Program Manager **Kelly Kidd** testified that her group uses tobacco settlement monies for prevention and control services in 13 counties. “Unfortunately,” she said, “these funds have been at great risk over the past several years.”

Ms. Kidd said that, in 2005, the organization received \$850,000 to implement services for 200,000 people in Erie County alone. Now, however, that same amount must be spread out over 13 counties for services to 900,000 people.

“This reduction places us even further away from the CDC (Centers for Disease Control and Prevention)-recommended amounts for sustainable tobacco programming,” she testified, and noted that every dollar spent on prevention saves three dollars in health care costs.

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**B**ooker T. Washington Center **speaks.** Executive Director **William Jeffress** said the Center has offered several programs regarding tobacco cessation but that “a lot of them have been cut.”

At first I wasn't going to speak because I really didn't feel that I had a lot to say. But...a lot of the constituents that we work with, they don't have a voice, so I felt it necessary to come and say thank you doing what you're doing.

We do need to let this settlement money go towards the programs that it was meant for.

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**In Erie:  
Speaking about adultBasic**

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**5. In Erie:  
Speaking about  
adultBasic**

*“Using tobacco settlement funds as they were originally intended...can help those most in need at a time when the risks or the need has never been greater,” according to United Way of Erie County.*

*For those who think it’s expensive to provide primary care services to people in an ambulatory care setting, “wait until they show up in the emergency room,” said the CEO of Erie Community Health Network.*

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**The need for health care coverage is great, and tobacco settlement funds should be used to address that need.**

**U**nited Way of Erie County speaks. **Del Birch**, Vice President, termed the theme of his testimony as “The need has never been greater.”

Mr. Birch cited a survey by the United Way of Pennsylvania in which 82 percent of non-profit agencies reported that, with budget cuts of their own, they have still witnessed an increased demand for services—including a 26 percent increase in uninsured clients, “a lot having to do with adultBasic.”

The \$370 million [paid to Pennsylvania each year by the tobacco companies in accordance with the settlement agreement] would restore adultBasic to the 42,000 people across Pennsylvania—13,062 in Erie County and the 400 in Crawford County, restoring their health services that they so desperately need. . . .

Using tobacco settlement funds as they were originally intended so many years ago can help those most in need at a time when the risks or the need has never been greater.

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**E**rie Community Health Network speaks. **John Schultz**, CEO, explained that his organization is a federally qualified health center that provides primary medical and dental services to the uninsured and underinsured population of Erie County.

The organization served almost 14,500 individuals in 2010. But in the first quarter of 2011, the number of uninsured individuals seeking services increased by 50 percent. This increase came at the same time that adultBasic was being terminated.

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**In Erie:  
Speaking about adultBasic**

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I believe use of the tobacco money is one way to fund such programs. Without continued funding, many of the people we now serve will be arriving at hospital emergency rooms for services. . . .

If you think providing basic primary care services to people in an ambulatory setting is expensive, wait until they show up in the emergency room with chronic conditions out of control or just show up for primary medical services.

*St. Vincent Health System saw an increase in emergency department visits even before adultBasic was terminated. Now, the number of visits will likely increase more, with many patients having no insurance at all.*

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**S**t. Vincent Health System speaks. Director of Government Affairs **Sean Wiley** testified that St. Vincent's saw an increase in emergency department visits even prior to the termination of adultBasic, and now he expects the numbers to increase even further.

Mr. Wiley said that about 70,000 patients a year go through the emergency department, a number that exceeds its capacity. He said that all patients still receive the care they need, even though many have no health insurance at all.

We at St. Vincent put about \$26 to \$27 million worth of unreimbursed care a year back into the Erie community. That is individuals who come in and cannot pay for their health care, they do not have insurance, and they fall into that gap [the gap between making too much for Medicaid but too little to afford insurance coverage on their own]. . . .

So we scramble every day to be able to satisfy those needs, those ever-increasing needs [of those who] come through our emergency department on a regular basis. And those numbers, with the elimination of a program such as [adultBasic], will just increase.

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**In Erie:  
Speaking about adultBasic**

*The [adultBasic] safety net is needed for working poor families, according to the associate director of Community Shelter Services.*

*“We cannot afford to let all these folks remain shut out from getting the care they need, especially when a dedicated revenue stream exists in the Tobacco Fund to sustain adultBasic,” according to the Pennsylvania Health Access Network.*

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**C**ommunity Shelter Services speaks. Pat Herr, Associate Director, testified about the working poor. He said that working poor families struggle with many issues, work two jobs, don't sleep, have difficult home environments, and are trying to get to the “middle class.”

When we take a program like adultBasic and eliminate the opportunities for working poor families to have health insurance, it adds more stress, more pressure to an already stressful life. . . .

When I hear the statistics of the number of people in Erie County that [used to have] adultBasic, it's a disproportionate number to those people that need it. We need that safety net.

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**P**ennsylvania Health Access Network speaks. Erin Gill offered testimony in Erie similar to the testimony she provided in Pittsburgh. As the Western Pennsylvania Education and Outreach Coordinator for this coalition of 50+ organizations working to improve access to affordable quality health care, she was once again representing the coalition's nearly one million patients and advocates, including the state's 1.2 million uninsured residents and the 42,000 former adultBasic enrollees.

Ms. Gill testified about adultBasic and the need for it:

It allowed [working people] . . . to not have to live in constant fear of being wiped out financially by one accident or illness. . . .

We cannot afford to let all these folks remain shut out from getting the care they need, especially when a dedicated revenue stream exists in the Tobacco Fund to sustain adultBasic. This is money that has been specifically mandated by law to go toward programs that improve the health of Pennsylvania

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**In Erie:  
Speaking about adultBasic**

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residents and it should continue to go to adultBasic and health programs as intended by law.

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**F**ormer adultBasic enrollee speaks. **Karen Carpinello** broke down in tears as she testified. With her were her husband of 31 years and her eight-year-old son, one of the couple's three children. She said the family makes too much to qualify for Medicaid and talked about the family's inability to afford private health insurance. She also spoke of pre-existing conditions that compound the problem and how difficult it has been for the family since adultBasic was terminated.

*“Without adultBasic,” said a former enrollee who can't afford private insurance, “we can't afford to get sick.”*

We want to be around to watch our son graduate from high school. He needs us. I don't want somebody else raising our son. Without insurance or anything, if anything happens to us, I don't know what we'll do. . . .

We don't have a big house or fancy cars, but what we have we've worked hard for. Without adultBasic, we can't afford to get sick.

*A board member for United Methodist Advocacy in Pennsylvania wants adultBasic funding restored, as well as tobacco prevention funding.*

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**U**nited Methodist Advocacy in Pennsylvania speaks. Board Director **Donna Burkhart** testified that she sees the Pennsylvania state budget as a “moral document, and not just a piece of paper.” If adultBasic is not reinstated, “it shows how Pennsylvania [doesn't care] about its citizens,” she said.

I believe the money should be used as it was designated by law to be used, for adultBasic care, health care.

Ms. Burkhart added that the cut in funding for tobacco education programs shows “that the state does not care about our youth becoming addicted to tobacco, which in the end will cost the state lots of money [to address] future health problems.”

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**In Erie:  
Speaking about adultBasic**

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*A woman who was on the adultBasic waiting list suggested that she and her husband would be better off with regard to health coverage if they were jobless and homeless.*

**F**ormer member of the waiting list for adultBasic. **Debbie Flickner** [phonetic spelling] testified that she had been on the waiting list for adultBasic and believed she was just short of being approved when the program was terminated in February. She and her husband make too much to qualify for Medicaid.

I basically had asked even the welfare office. I said, so more or less you're trying to tell me if me and my husband were both jobless and homeless we'd be eligible then, and they said yes. So it's basically coming down to whether you want a roof over your head or you want your health.

*The tobacco settlement funds have been "skimmed away" from the intended purposes, said health care advocate and the director of the Homeless Education Network.*

*"I hope these hearings spark a great interest throughout the Commonwealth," he testified, saying that adultBasic should be reinstated.*

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**H**omeless Education Network of the Homeless **Children's Education Fund speaks.** Speaking in Erie as he had done in Pittsburgh was health care advocate and Homeless Education Network Director **Charles LaVallee**, formerly a vice president at Highmark Blue Cross/Blue Shield and an executive director of the Western Pennsylvania Caring Foundation.

The tobacco settlement funds have been diverted, skimmed away for other purposes than the law states, which is improving the health status of Pennsylvania residents.

Mr. LaVallee re-emphasized the points he made at the Pittsburgh hearing, saying that the termination of adultBasic is not a sound investment in Pennsylvania's future; citing the financial and health risks of those without insurance; emphasizing the need for greater accountability and oversight of settlement-funded programs and calling for analysis of their returns on investment; noting that Pennsylvania's budget is a moral document and not just a financial one; and criticizing the state's explanation that terminating adultBasic was simply a business decision.

And I hope that these hearings spark a great interest throughout the Commonwealth, [and

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**In Erie:**  
**Speaking about adultBasic**

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that] all kinds of groups—civic leaders  
community leaders, religious leaders—step up  
to the plate and agree that this is wrong and  
needs to be corrected, that tobacco settlement  
funds once again be the financing mechanism as  
the law states . . . and that adultBasic  
needs to be reinstated.

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**In Erie:  
Speaking about responsibility**

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**6. In Erie:  
Speaking about  
responsibility**

**Two opposing views: Government should follow the law or – the other viewpoint – individuals should be more responsible.**

**A**merican Association for Retired Persons speaks. **Helen Brown**, Erie County Coordinator for AARP, spoke at the Erie hearing about the diversion of tobacco settlement funds in general.

It really makes me angry, and I'm pretty slow to anger. It made me angry that they [the Governor and the General Assembly] could decide they don't have to follow the law [Act 77]. Does that mean the rest of us don't have to follow the law?

We get tax bills and we're supposed to pay them, but if we want to put our money somewhere else are we allowed to it without consulting anybody? I don't think so.

I can remember back when this law first came out and I was in a group discussing this. And like all of us, we thought this is the answer, this is great they spelled it out . . . what should happen. [But] it hasn't happened."

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**P**harmacist speaks. **Lou Aliota**, who at the Erie hearing identified himself as a pharmacist registered in four states, did not specifically address the use of tobacco settlement funds by name but testified about his criticisms related to government funding, certain nonprofits, and some individuals.

Speaking about non-profit organizations, Mr. Aliota was critical of those that "make a profit, they just take the profit and put it into the system. . . whether it is for increased salaries, whether it is for increased capital improvement, or increased services."

He was also critical of a former testifier whose organization he said was mismanaged, and of increased medical assistance. He

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said that up to 60 percent of Erie county births were to single mothers and asked, “What happened to personal responsibility?”

With regard to government funds allocated to health care, Mr. Aliota testified that health care has to be run like a business with a bottom line, a return on investment, funding accountability, an end point, a mission, and a goal. “You cannot have a black hole in health care,” he said.

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**In Scranton:  
Speaking about Act 77**

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**7. In Scranton:  
Speaking about  
Act 77**

*“I hold that these dollars should not be folded into the General Fund and should continue to be focused on healthcare and health-related services and activities as were the legislative intents and the statutory requirements of Act 77 of 2001,” according to Senator John Blake.*

**The covenant created with the people by Act 77 should be honored, and the assault on the intentions of Act 77 should be stopped.**

**S**enator John Blake’s office speaks. Regional Director Larry West read written testimony from Senator Blake, who represents the state’s 22nd senatorial district that includes Scranton.

The strongly worded testimony makes it clear that Senator Blake is troubled by plans to move away from Act 77’s specific intentions. Excerpts from the testimony follow:

I hold that [tobacco settlement] dollars should not be folded into the General Fund and should continue to be focused on healthcare and health-related services and activities as were the legislative intents and the statutory requirements of Act 77 of 2001. . . .

I have a particular interest in this matter not only as a member of the General Assembly but also by virtue of having served for a short time as the Chairman of the Tobacco Settlement Investment Board during my previous tenure [as Acting Secretary] at the Department of Community and Economic Development.

Act 77 of 2001 established clearly how Pennsylvania’s tobacco settlement receipts should be expended. The statute has emerged as a best-practice example, a national model. . . .

The covenant with the citizens of Pennsylvania established by Act 77 was to expand tobacco settlement proceeds for health-related endeavors, to ensure a better healthcare delivery system, to expand healthcare insurance coverage to persons in need, to promote healthy living choices and disease prevention; and to advance

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research and development . . . . Act 77 was a visionary piece of legislation and it has returned significant returns to the citizens of our Commonwealth. . . .

[These public hearings] prompt me to state my strong conviction and my unwavering belief that it is essential to retain the health-related focus of Act 77 and to keep these funds and the decisions about their use outside of the General Fund. . . .

[The diversions of \$1.34 billion that are the subject of the Auditor General’s special March 2011 report], which included \$432 million to the General Fund for unspecified purposes, siphoned money not only from health initiatives like adultBasic and tobacco cessation activities but also from a separate endowment account intended to benefit future Pennsylvanians. . . .

And the assault on the intentions of Act 77 continues. . . . The Administration’s decision to redirect tobacco funds to the General Fund could easily result in future state spending completely unrelated to Act 77. . . .

Future tobacco settlement receipts should be expended according to the original intentions of Act 77, including funding critically important health, wellness, and disease-prevention services. Any substantive change in the use of tobacco settlement funds should not deviate from the original focus or intentions of the Act.

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**In Scranton:  
Speaking about tobacco control**

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**8. In Scranton:  
Speaking about  
tobacco control**

**Tobacco prevention works, so Pennsylvania  
needs to invest in programs to protect  
children and others from becoming addicted.**

**T**obacco Free Northeast speaks. Executive Director **Alice Dalla Palu** testified that she has worked in tobacco control for 20 years. Talking about the tobacco settlement fund is “near and dear to my heart,” she said.

*“Tobacco treatment is cost effective and generally a good return on investment,” according to Tobacco Free Northeast.*

This year only four percent or \$14.7 million of the [tobacco settlement money] was available for prevention and cessation. However, the Centers for Disease Control and Prevention recommended that Pennsylvania spend \$155.5 million a year on tobacco prevention and cessation programs.

Since the 45 percent reduction in funds in 2010, the Department of Health tobacco program and the regional primary contractors had to eliminate or reduce tobacco cessation services in communities and eliminate most school-based prevention programs. . . .

It’s not that smokers don’t want to quit. We need to assist them and provide effective services, like any other addiction or chronic disease. Tobacco treatment is cost-effective and generally it’s a positive return on investment, or ROI. The estimated cost per life saved is \$3,500, [lower] than hypertension screening for men at \$5,200 or cervical cancer screening for women at \$4,100. . . .

Tobacco treatment is also a realized gain for employers and insurers. Employers spend \$3,856 per smoker per year in medical costs and lost productivity. Tobacco treatment reduces medical and life insurance costs by \$210 for each successful person who quits per year

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*“It is proven and sound fiscal policy to support tobacco prevention and cessation programs. Policymakers should remember to keep the promise they made in 1998 and restore the funds for tobacco cessation and prevention.”*

immediately. Greater savings are realized for disability costs, lost work time, loss of productivity, or employee replacement cost.

Ms. Dalla Palu also cited Pennsylvania’s “great strides” in reducing smoking over the past eight years: cigarette use by children has declined from 28 to 18 percent; use by adults has declined from 25 to 20 percent. Cigarette sales have declined as well, as have illegal sales to youth, she said.

These results are from the dedication of local service providers who understand prevention and cessation and continue to work hard with fewer dollars to fund the programs. However, two million Pennsylvanians continue to smoke. And healthcare costs attributable to smoking exceed \$5 billion annually.

Since these costs are entirely preventable, it’s proven and sound fiscal policy to support tobacco prevention and cessation programs. Policymakers should remember to keep the promise made in 1998 and restore the funds for tobacco prevention and cessation.

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**N**ortheast Regional Cancer Institute speaks. **Bob Durkin**, President, said that the Institute is a regional cancer research education outreach program that provides support services for hospitals and their cancer programs.

Mr. Durkin testified about the Cancer Institute’s outreach and the research about tobacco use. He pointed out, as others have done, that tobacco is the number one preventable cancer risk factor.

And it’s not just for lung cancer. Intuitively people think that. [They] say, well, you know, smoking and lung cancer. But it’s a known risk factor for, in addition to lung cancer, cancer of the larynx, esophagus, kidney, urinary/bladder,

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*The President of the Northeast Cancer Research Institute echoed what others have pointed out: Tobacco use is the number one preventable cancer risk factor, and that prevention and cessation have been successful at reducing tobacco use.*

*However, he also noted that tobacco use is also an addiction and, thus, must be addressed. “So the way we look at it, it’s essential to maintain the Tobacco [Settlement] Fund.”*

oral cavity, and cervix. And that’s just where the known risk factors are at a particularly high level. They’re also alleged in areas like breast cancer. It’s a factor in virtually the highest percentage of all cancers. . . .

Research that was done between 2000 and 2007 showed that 29.6 percent of all adults in Northeastern Pennsylvania were cigarette smokers . . . compared at the time [to] 23.6 percent in Pennsylvania, to 20 percent in the United States.

Now those numbers have gone down . . . The success of [tobacco prevention and cessation programs], even with limited dollars, have brought things down. . . .

[Even so], we need to recognize it’s [tobacco use] an addiction. We need to recognize that the tobacco companies are at some level of fault. They’re out there marketing to people, so it’s not always fair to simply say, well, it’s your fault, given that [you] decided to smoke. Tremendous pressures in the media, in the society.

So the way we look at it, it’s essential to maintain the Tobacco [Settlement] Fund. . . . [These dollars were put there] to pay for the public health costs the Commonwealth was accruing as a result of tobacco use.

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**American Lung Association in Pennsylvania speaks.** Program Specialist **Anthony Delonti** has been with the American Lung Association for 30 years as first a volunteer and then an employee.

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There's still a high number of people and youth that still smoke in this area [which] unfortunately always seems to have a higher level of tobacco users than the rest of the state. And that's why it's important that the funding is not only maintained but increased so that we can go ahead and continue to address this problem.

[Tobacco use] is the leading preventable cause of death in our state. . . . If there was a plane crash and a hundred-some people died, that would make the headline news, and rightfully so. [But] 1,200 people die each day from tobacco use, and I haven't heard much on any major newscasts lately on tobacco. And it's quite unfortunate when you see the enormity of the problem. . . .

Kids experiment. Cigarettes are made very addictive. A little ammonium nitrate on the tip, a couple hits on a cigarette, it goes right to the brain. The nicotine addiction doesn't take long to get started. . . .

Mr. Delonti also testified about tobacco settlement-funded programs that taught teens how to become peer educators of younger students to prevent tobacco use. The majority of such programs have stopped due to a lack of funding, he said, "so that's why the money still needs to be there."

In response to the Auditor General's question about why the American Lung Association has given Pennsylvania a failing grade for its smoking prevention and cessation efforts, Mr. Delonti explained that the grade was directed at the state's cutback in funding.

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**In Scranton:  
Speaking about adultBasic**

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**9. In Scranton:  
Speaking about  
adultBasic**

*“The Commonwealth should be in the business of helping families, not destabilizing them,” according to the United Way of Lackawanna and Wayne Counties.*

*“We urge the General Assembly and the Governor to . . . restore funding to this vitally important program.”*

**Tobacco settlement monies are needed now more than ever to insure the uninsured.**

**U**nited Way of Lackawanna and Wayne Counties speaks. Peg Kopko, Vice President of Community Impact, testified that United Way had “just wrapped up our fund distribution process, and it was fairly painful because the needs are not going away.”

Removing basic health insurance from 40,000 more individuals in our Commonwealth will certainly place an additional burden on an already overburdened medical system, undoubtedly raising medical costs for all, and be a great risk for the ailing.

People with health insurance are more likely to get the care they need, including preventative care and basic medical checkups. As a result, illnesses become more manageable with proper diagnosis and are often solved prior to becoming more serious and more costly.

Countless studies have also shown that medical bills are the leading cause of personal bankruptcy. The removal of [adultBasic] can only serve to add to this dilemma. The Commonwealth should be in the business of helping families, not destabilizing them.

Ms. Kopko termed the elimination of adultBasic “draconian” and said the waiting list had included 9,000 people from Lackawanna County and more than 2,500 from Wayne County. She urged the General Assembly and the Governor to “restore funding to this vitally important program.”

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**P**ennsylvania Health Access Network speaks. As her colleagues testified at the previous hearings, Project Manager **Antoinette Kraus** explained that her coalition

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represents 50 organizations across the state and 1 million consumers. She was speaking on behalf of the coalition and behalf of the former adultBasic enrollees.

*“At a time when 1.2 million Pennsylvania residents are uninsured, the Governor’s proposal to take away dedicated funding for adult health programs that are needed now more than ever is unconscionable,” according to the Pennsylvania Health Access Network.*

We believe tobacco settlement money should go as it always had [gone], to fund health programs. . . .

In his 2011-2012 budget proposal, Governor Corbett takes [the previous diversions of tobacco settlement monies] even further by calling for transfer of all future tobacco settlement payments to the General Fund. . . . He has not proposed using any of the monies to fund adultBasic, a key component of the [Tobacco Settlement Act]. . . .

At a time when 1.2 million Pennsylvania residents are uninsured, the Governor’s proposal to take away dedicated funding for adult health programs that are needed now more than ever is unconscionable.

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*“The loss of health insurance puts individuals and families at greater risk for crisis . . . As in most situations, the cost of prevention is by far cheaper and more manageable than the cost of corrective action after a crisis,” according to United Neighborhood Services.*

**U**nited Neighborhood Services speaks. Deputy Director **Lisa Durkin** explained that her organization serves primarily low to moderate income families through a network of neighborhood centers; it offers a range of social, recreational, nutritional, and educational programs for children, teens, families, and seniors.

Whether we know it or not, we all know someone living on the edge, one paycheck away from poverty or one day away from the discovery of a life-threatening illness.

The loss of health insurance puts individuals and families at greater risk for crisis. . . . Uninsured individuals and their families are four times more likely to avoid seeing a doctor for preventative or urgent care due to costs. . . .

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Advanced-stage diseases are diagnosed 30 to 50 percent more often in the uninsured. . . . [An estimated] 18,000 uninsured adults die from preventable diseases annually. . . .

Twenty percent of uninsured adults, compared to three percent insured, also say their usual source of health care is the emergency room, where the average cost of a visit is around \$3,500. . . . As in most situations, the cost of prevention is by far cheaper and more manageable than the cost of corrective action after a crisis. . . .

Not only will ensuring access to affordable health coverage save people’s lives, it will also prevent individuals from making unthinkable choices in their basic needs, leading to more crisis, more health problems, more societal burdens, and more children growing up in unstable environments.

*The tobacco settlement money was meant to aid Pennsylvanians with their health needs, wrote a former adultBasic enrollee. To use the money otherwise is “breaking the law.”*

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**F**ormer adultBasic enrollee speaks. Beverly Corcoran could not attend the hearing and asked that her testimony be read into the record.

Her testimony noted that she and her husband own a small business. Ms. Corcoran had health problems and struggled to pay premiums for private insurance. After being on the adultBasic waiting list for two years, they were enrolled and were “very grateful” for the affordable premiums.

The tobacco settlement money was meant for the people of Pennsylvania to aid them in their health needs but it is being diverted to business loan funds and teachers’ pensions.

[These diversions are] breaking the law, in my mind. This is not what the settlement money was to be used for.

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**In Harrisburg:**  
**Speaking about health care funding**

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**10. In Harrisburg:  
Speaking about  
health care  
funding**

**Seniors and hospitals are concerned that tobacco settlement funding for health care, which they originally supported, will be directed elsewhere.**

**A**merican Association of Retired Persons speaks. **Ray Landis** is Advocacy Manager for AARP in Pennsylvania. The state has 1.8 million AARP members over the age of 50.

Mr. Landis testified that a recent AARP survey of its Pennsylvania members showed that health care issues “are far and away the most important problem or challenge” facing Pennsylvania’s over-50 population.

The results of our survey also demonstrate why AARP has such an interest in how health care is delivered to Pennsylvanians. We know what an expense maintaining a health care system is to individuals, corporations, and the Commonwealth. . . . And we know that additional funding for health care programs can make a huge difference in ensuring that programs [to] keep Pennsylvanians healthy continue.

This is why AARP has a great concern about not specifically allocating tobacco settlement funds to health care programs.

AARP’s national policy says that tobacco settlement funds (1) “should not replace existing federal or state funding” in programs designed to improve public health; (2) that “states should develop a public process for deciding how tobacco settlement funds should be spent and for disclosing annually how they are spent”; and (3) that “state governments should ensure that their public health infrastructures are adequate, strong, and sustainable over the long term before they use tobacco settlement funds to balance state budgets.”

*AARP talked of its “great concern” about tobacco settlement monies not going to health care programs.*

*“Without the source of dedicated funding, many of these programs may fall victim to the struggle to produce a balanced budget in the Commonwealth.”*



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Mr. Landis testified that, while Pennsylvania “closely followed” the first two policy recommendations when tobacco funding was originally allocated, the current proposal to shift funding to the General Fund deviates from the third AARP policy recommendation:

It would be a stretch to say our public health infrastructure is adequate, strong, and sustainable over the long term. Tobacco settlement funds have helped to provide health services to many Pennsylvanians who rely on these programs to remain healthy and active participants in daily life. Without the source of dedicated funding, many of these programs may fall victim to the struggle to produce a balanced budget in the Commonwealth.

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**T**he Hospital & Healthsystem Association of Pennsylvania speaks. Paula Bussard, Senior Vice President, Policy & Regulatory Services, testified that HAP supported the passage of Act 77 for several reasons:

- The settlement dollars would be put into a segregated account and used solely for health care
- The settlement was designed to support activities related to health care
- The settlement dollars were initially designated to supplement, not replace, existing state health initiatives; and also to complement federal initiatives such as education and anti-smoking advertising
- The vision was that the funds would support identified health care activities over the term of the settlement

Ms. Bussard said that Pennsylvania hospitals and health systems “applauded” the work of the then-General Assembly and the then-Governor to ensure that settlement funds would support Pennsylvanians’ health care needs. She also noted that Pennsylvania’s action was different from that of other states where funds were not segregated, not used solely for health care, and not used in a “measured or planned way over time.”

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**Speaking about health care funding**

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*The position of the hospital community was presented by the Hospital & Healthsystem of Pennsylvania:*

*“While periodic review and modification of priorities and allocations is appropriate, the hospital community would not support eliminating the use of a segregated fund, nor does the hospital community support the use of these funds for purposes other than health care.”*

Hospitals and health systems supported the prudent decisions made by the Pennsylvania legislature and then-Governor Tom Ridge in 2001 to establish a segregated account and to use Pennsylvania’s share of the national tobacco settlement solely for health care. Act 77 provided an unprecedented opportunity to improve the health of all Pennsylvanians, and that intent has been sustained over the past decade.

Hospitals and health systems believe that it is important to retain Act 77 and its overall goals of segregating the tobacco settlement funds and using those funds solely for health care purposes. While periodic review and modification of priorities and allocations is appropriate, the hospital community would not support eliminating the use of a segregated fund, nor does the hospital community support the use of these funds for purposes other than health care.

In addition, the use of the funds to support health care for uninsured persons, such as the direct provision of uncompensated care and extraordinary expense funds to hospitals, support of health clinics, and expansion of health coverage, remain as important in Pennsylvania in 2011 as they were when Act 77 was enacted in 2001.

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**In Harrisburg:  
Speaking about tobacco control**

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**11. In Harrisburg: Speaking about tobacco control** **Pennsylvania needs to do better: a 55 percent decrease in the allocation of settlement dollars resulted in an “F” grade for tobacco prevention and cessation spending.**

**American Lung Association in Pennsylvania speaks.** Deborah Brown, President and CEO, American Lung Association of the Mid-Atlantic (Delaware, New Jersey, Pennsylvania, and West Virginia), was direct in her opening comments on behalf of the American Lung Association in Pennsylvania:

*“Pennsylvania received a failing grade for tobacco and cessation spending,” said the American Lung Association in Pennsylvania.*

*The state “needs to do better.”*

In order to reduce the death and disease caused by tobacco use, adequately funded tobacco prevention and control programs must be in place. For this reason, the American Lung Association in Pennsylvania supports funding tobacco prevention and cessation at least to the 12 percent designated in Act 77.

Ms. Brown was equally direct in addressing the failing grades assigned to Pennsylvania by the American Lung Association in its annual *State of Tobacco Control* report:

The grades in this report in no way reflect the level of effort invested by the public health community. Pennsylvania received a failing grade for tobacco prevention and cessation spending.

This year \$14.7 million is being spent on tobacco prevention and cessation programs. This is a far cry from the \$155 million best practices state spending recommended by the Centers for Disease Control and Prevention. The \$14.7 million represents 14.2 percent of this [CDC-recommended] budget.

Testifying about the 55 percent decrease in the state’s allocation of tobacco settlement dollars—from a high of \$32

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million to the current \$14.7 million—Ms. Brown said that services have become more limited even though Pennsylvania will see a 23 percent return on every dollar spent on helping smokers to quit.

Pennsylvania needs to do better. The American Lung Association’s commitment to tobacco control is stronger than ever. . . . [And the Association’s] *State of Tobacco Control* is a call to action for national and state-elected officials: Invest in and enact strong tobacco control policies so lives can be saved by improving lung health and preventing lung disease.

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**In Harrisburg:  
Speaking about adultBasic**

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**12. In Harrisburg:  
Speaking about  
adultBasic**

*“Let’s set the record straight – there is a revenue stream for adultBasic,” said health care advocate and the director of the Homeless Education Network. “It is funding from the Tobacco Settlement.”*

**Pennsylvania officials should stop saying there are no funds for adultBasic. Incoming tobacco settlement funds *are* available for use as Act 77 mandates.**

**H**omeless Education Network of the Homeless Children’s Education Fund speaks. Health care advocate and Homeless Education Network Director **Charles LaVallee** travelled to Harrisburg at his own expense to testify for the third time. He explained that adultBasic’s termination is too important to miss a chance to speak about it.

Mr. LaVallee said he was recently tapped by a national foundation to write about the end of adultBasic [April 11, 2011, *Kaiser Health News*, Henry J. Kaiser Family Foundation]. His testimony in Harrisburg, as well as in Pittsburgh and Erie, echoed his column: Pennsylvania has “skimmed away” tobacco settlement monies and used them for other budgetary purposes.

Mr. LaVallee also cited a letter dated March 2, 2011, that he received from a state representative. The representative wrote that adultBasic had no more funding and that the time had passed to consider other options and alternatives.

Mr. LaVallee took exception to those assertions:

According to the Tobacco Settlement Act of 2001, a law that is still in effect, there is a funding stream for adultBasic – it is a percentage of the tobacco settlement funds that Pennsylvania has received, and will continue to receive, for the next 15 years. So let’s set the record straight – there *is* a revenue stream for adultBasic. It is funding from the Tobacco Settlement.

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**In Harrisburg:  
Speaking about adultBasic**

*“The needs are great and we cannot afford to use tobacco settlement dollars for needs other than health care,” said the Pennsylvania Association of Community Health Centers. Calls to its toll-free help line went from 200 a month to 900 with the dissolution of adultBasic, and the callers were “often desperate.”*

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**P**ennsylvania Association of Community Health Centers **speaks.** President and CEO **Cheri Rinehart** said that her organization represents and advocates for the more than 200 community health center sites across the state, as well as for “other like-mission primary care providers and the patients and communities they serve.”

Ms. Rinehart spoke of the rise in health insurance premiums and health care costs, noting cost-drivers such as cost-shifting from government to private payers, as well as chronic disease. She said that preventing and managing chronic disease can reduce future costs, and that community health centers play a role by “reducing emergency department visits, hospitalizations, and other avoidable costly care.”

Ms. Rinehart said adultBasic’s dissolution resulted in a spike in calls to her organization’s toll-free line that helps connect individuals with health care. Instead of 200 calls a month, there were 900 from “often desperate” callers.

Community health centers are “open to all, regardless of ability to pay,” she said, but the centers will not receive reimbursement for care to the un- and underinsured.

[Pennsylvania’s community health centers] provided \$88.3 million in uncompensated care in 2009, the most recent year for which data is available. That is likely to rise significantly based on what we have heard from individual health centers about the sharp increases in the number of uninsured they are serving. . . .

Let’s make sure that the vulnerable citizens of Pennsylvania receive the care they need to see 2014 [when healthcare reform is implemented]. The needs are great and we cannot afford to use tobacco settlement dollars for needs other than health care.

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**In Harrisburg:  
Speaking about adultBasic**

*“I am here today to express our support for efforts to maintain the Tobacco Settlement Fund as a separate account that remains faithful to the intent of both the Master Settlement Agreement and the Tobacco Settlement Act: to reduce tobacco-related illnesses and deaths and improve the health of Pennsylvanians,” testified a member organization of the Pennsylvania Health Access Network.*

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**Pennsylvania Health Access Network speaks. Sharon Ward** is Director of the Pennsylvania Budget and Policy Center, a member of the Pennsylvania Health Access Network. She testified that she was speaking on behalf of the Network’s 50 organizations statewide that represent almost one million health care consumers, including the “42,000 working Pennsylvanians who saw their adultBasic health insurance coverage end on February 28 of this year.”

I am here today to express our support for efforts to maintain the Tobacco Settlement Fund as a separate account that remains faithful to the intent of both the Master Settlement Agreement and the Tobacco Settlement Act: to reduce tobacco-related illnesses and deaths and improve the health of Pennsylvanians. . . .

We are opposed to Governor Corbett’s plan to swallow Tobacco Settlement revenue into the General Fund and, in particular, his plan to use [tobacco settlement dollars] for the new Liberty Loan fund. This is a misappropriation of dedicated dollars. The Tobacco Settlement is not a slush fund for new programs unrelated to health care; it is a critical source of funding for initiatives that protect the public health.

Governor Corbett’s proposal . . . sweeps away the entire act [Act 77, the Tobacco Settlement Act] as though it never existed.

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**Lutheran Advocacy Ministry in Pennsylvania.** The Rev. **L Amy Reumann**, Director, explained that her organization is a partnership ministry of the Evangelical Lutheran Church in America and its agencies and institutions in Pennsylvania.

Our mission is to advocate on behalf of, and in partnership with, those persons who are denied justice and dignity and who lack adequate representation and voice in the arenas of public

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**In Harrisburg:  
Speaking about adultBasic**

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*Some legislators and officials expect the health ministries of the faith community to “absorb” all former adultBasic enrollees, according to the Lutheran Advocacy Ministry in Pennsylvania, who said, “This is no solution.”*

*The organization also questioned whether a Governor can change the allocation of settlement dollars absent action by the General Assembly to repeal or alter Act 77.*

policy. We have long supported the adultBasic program, and I will speak primarily to its value and the need for its continuation.

Pastor Reumann testified that she has heard legislators and leaders suggest that the faith community, via their health ministries, will “absorb” all former adultBasic subscribers.

This is no solution. Even if there were enough community clinics with sufficient funding, staff, equipment and hours in the right locations to begin to do so, they do not have capacity to tend to the needs of 40,000 new patients or to adequately treat or manage the chronic conditions with which many former adultBasic subscribers contend. The solution lies elsewhere. . . .

We support returning the use of Tobacco Settlement Funds to their original purpose as determined by the Tobacco Settlement Act. . . . The redirecting of \$1.34 billion from the Tobacco Settlement Fund since 2005 only hastened the demise of adultBasic. . . .

In 2011, for the first time, none of the money Pennsylvania is receiving from the Tobacco Settlement Fund will go toward adultBasic. Instead, according to Governor Tom Corbett’s 2011-12 budget proposal, these payments will go to the General Fund and be directed toward the proposed Liberty Loan Fund.

It is questionable whether a Governor has the authority to change the allocation of the Tobacco Settlement Fund dollars to this extent without the Legislature voting to officially repeal or substantially alter the existing statute.

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*Strong language from  
the Pennsylvania  
Council of Churches:*

*“While we do not condone and, in fact, are quite disturbed by the misuse of tobacco settlement funds, we are even more disturbed by the proposed complete redirection of these funds from their intended purposes to the General Fund as proposed by Governor Corbett for the coming year.”*

**Pennsylvania Council of Churches speaks.** The Rev. **Sandra Strauss**, Director of Public Advocacy, testified that she was speaking on behalf of the ecumenical organization that represents “hundreds of thousands of people of faith through its 43 member bodies that include 20 Anglican, Orthodox, and Protestant traditions.”

While we do not condone and, in fact, are quite disturbed by the misuse of tobacco settlement funds, we are even more disturbed by the proposed complete redirection of these funds from their intended purposes to the General Fund as proposed by Governor Corbett for the coming year. We are told that the programs funded by these monies will not be affected but, frankly, we find that claim very hard to believe—especially since we have already witnessed the end of the adultBasic program, which has benefited from tobacco settlement funds in past years. . . .

We strongly object to Governor Corbett’s proposal to divert the entire annual infusion of tobacco settlement funds to the General Fund, especially at a time when so many Pennsylvanians have little or no access to the health care they so desperately need. We want to see the funds restored to their intended use as specified in the Tobacco Settlement Act. We are especially interested in restoration of funds to the adultBasic program at a time when so many Pennsylvanians have no health coverage at all.

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**In Philadelphia:**  
**Speaking about tobacco control**

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**13. In Philadelphia:  
Speaking about  
tobacco control**

**The state could lose federal dollars if it doesn't reduce children's access to tobacco. Also, Pennsylvania should allocate more dollars for tobacco dependence treatment.**

*Advances in tobacco control have been systematically dismantled as funding was reduced and redirected, according to the Health Promotion Council's Southeastern PA Tobacco Control Project.*

*It is not correct to think that users can "just quit." Tobacco dependence is a chronic primary disease that needs treatment.*

**H**ealth Promotion Council (an affiliate of Public Health Management Corporation, or PHMC) speaks. Janet Northcott, Regional Tobacco Dependence Treatment Specialist for the Southeastern PA Tobacco Control Project, began her testimony by saying that tobacco control is a relatively new field. Ms. Northcott offered a brief history, noting that the American Medical Association recognized nicotine as an addictive drug only in 1989.

In presenting the history, Ms. Northcott spoke of a federal law by which "states must reduce their access of tobacco to kids under the age of 18 or lose 40 percent of their . . . Substance Abuse and Mental Health Block Grant. . . ."

In 2001, Pennsylvania was cited for not being in compliance within the given time period, and we were told if we are in noncompliance again, we risk losing 40 percent of our Substance Abuse Block Grant. You want to see funding go through the roof for criminal justice, for health care, et cetera, take away the money that treats addicts at the rate of 40 percent prevention through treatment. So we have a related issue.

Ms. Northcott also talked about the [mis]use of the term "tobacco 'cessation,'" explaining it suggests that users can "just quit." The more appropriate term is "Tobacco Dependence Treatment," she said, because tobacco dependence is a chronic primary disease that impacts health beginning intrauterine, affects all aspects of health in all parts of the body, and requires treatment.

According to Ms. Northcott's testimony, Pennsylvania currently funds tobacco control at less than 1 percent of the

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minimum amount recommended by the Centers for Disease Control and Prevention. While the first three years of tobacco settlement funding allowed for the building of tobacco control expertise and infrastructure necessary to provide services and make changes, those advances have been systematically dismantled as funding was reduced and redirected.

The success of tobacco control programming has an impact that goes beyond the funding allocated through Act 77, explained Ms. Northcott, noting that professionals in the field cannot be replaced without having to go through the training and rebuilding process again. She said that community trust will occur only with prolonged program availability and accessibility, and that norm and behavior change cannot occur without community trust.

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**In Philadelphia:  
Speaking about adultBasic**

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**14. In Philadelphia:  
Speaking about  
adultBasic**

**Settlement dollars must be used to help the  
working uninsured become self-sufficient.**

**H**omeless Education Network of the Homeless Children’s Education Fund speaks. Health care advocate and Homeless Education Network Director **Charles LaVallee** once again travelled to Philadelphia at his own expense to testify about the termination of adultBasic. It was his fourth hearing. “I am here as a health advocate,” he said.

In repeating that adultBasic’s termination simply shifts health care costs from the state budget to “the backs of employers and individuals who purchase coverage”—Mr. LaVallee challenged the media to ask questions of the state’s elected leadership.

*“AdultBasic was the bridge from being uninsured to gaining health care services and having that security and moving toward self-sufficiency—perhaps even finding a job with benefits.”*

*“What we did in Pennsylvania was blow up that bridge.”*

Are you [the media] willing to contact members of the General Assembly in your service area and ask each of them a question? The question is a ‘yes’ or ‘no’ question. It is ‘Do you support using the Tobacco Settlement to fund adultBasic using the formula prescribed by law?’ . . .

I have a second question the media should ask our elected leadership. It is another ‘yes’ or ‘no’ question. It is, ‘Do you support the hidden health care tax that will be put on individuals and businesses as a result of terminating adultBasic?’ . . .

AdultBasic was the bridge from being uninsured to gaining health care services and having that security and moving toward self-sufficiency—perhaps even finding a job with benefits.

What we did in Pennsylvania was blow up the bridge.

It can be repaired. The choice is clear: leave former adultBasic enrollees uninsured and on the road to worry and fear, or rebuild the bridge.

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*“Who pays the cost of the bills [of the working uninsured]?”*

*“We all do. We all pay the cost of the uninsured through our taxes and about 10 percent of our personal insurance premiums.”*

**Pennsylvania Health Access Network speaks.** Antoinette Kraus, Project Manager, testified as she had done in Scranton that she was speaking on behalf of the Network’s 50 organizations statewide that represent almost one million health care consumers, including the “42,000 working Pennsylvanians who saw their adultBasic health insurance coverage end on February 28 of this year.”

She named several former enrollees and told their stories, noting that those enrollees, along with many of the 42,000 others, are now among the working uninsured.

Three out of five uninsured adults under the age of 65 reported having problems with medical bills. Who pays the cost of those bills? We all do. We all pay the cost of the uninsured through our taxes and about 10 percent of our personal insurance premiums. . . .

The [incoming] tobacco settlement funds could just as easily be used to continue funding adultBasic or a successor program with more adequate benefits than Special Care [the non-subsidized program recommended by the state following adultBasic’s termination].

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**Community Legal Services, Inc., speaks.** General Counsel **Jonathan M. Stein** testified that his organization is against using tobacco settlement monies as the current Governor has proposed:

We oppose the Corbett Administration’s plan to divert the Tobacco Settlement Fund’s revenue into the General Fund and, in particular, to earmark tobacco dollars for the new Liberty Loan fund, which we believe would be a misappropriation of dedicated dollars.

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**In Philadelphia:  
Speaking about adultBasic**

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*The Tobacco Settlement Fund “is not an open-ended source of revenue for new programs unrelated to health care,” said the Community Legal Services. “It is a critical source of funding for initiatives that protect the public health.”*

The [Tobacco Settlement Fund] is not an open-ended source of revenue for new programs unrelated to health care; it is a critical source of funding for initiatives that protect the public health—which in our view include extending health insurance to the state’s uninsured, starting with the newly uninsured past enrollees of adultBasic.

Mr. Stein also talked about the Blue Cross plans and their former contributions that for several years kept adultBasic alive. “The refusal of the Blues to continue these contributions in the face of an ever-climbing cumulative surplus that now tops \$7 billion was a direct cause of the termination of adultBasic,” he testified.

He called for an audit or an investigation of the filings by the Blue Cross Plans related to their “plans for purported charitable spending,” plans that he said “are rife with deficiencies and inadequacies.”

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**P**ennsylvania Health Law Project speaks. Ann Bacharach, Special Projects Director in the Philadelphia office, testified that the Law Project’s statewide helpline gets more than 2,000 calls a year from people who lack health insurance.

Ms. Bacharach noted that her organization “would be the first to describe adultBasic as less than adequate insurance [because] it never covered prescription drugs, mental health, or substance abuse treatment.

But for many of our clients, [adultBasic] was a lifeline. Having coverage for doctor visits for diabetes and heart disease is a critical component of preventive care. . . . Despite its inadequacies, adultBasic was far better than Special Care, described by the insurers themselves as a limited benefit plan. . . .

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*The Pennsylvania Health Law Project wants to know what happened to all the former adultBasic enrollees after the state terminated their coverage.*

*“Did they find another source of coverage? Are they uninsured and in fear of the next health crisis?”*

Too many adultBasic enrollees will pay Special Care’s high premium unaware of its limited benefits. [Our] review of Special Care plans revealed many of the [insurer’s] websites provided incomplete or outdated information. . . .

While we have been somewhat flooded with a significant increase in the calls to our helpline, our numbers are just a small percentage of those who lost adultBasic. What happened to the [others]? Did they choose Special Care? Are they now on Medicaid? Did they find another source of coverage? Are they uninsured and in fear of the next health crisis? . . .

The Tobacco Settlement Fund should be spent on health care coverage and services, as negotiated in the settlement agreement. Diverting those funds to a business loan program and the General Fund not only violates the spirit of the [settlement] agreement; it leaves vulnerable Pennsylvanians at risk for serious illness, disability, and even death.

Pennsylvania can and should do better.

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**In Philadelphia:**  
**Speaking about financing health care**

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**15. In Philadelphia:  
Speaking about  
financing health  
care**

*A public health  
physician who has  
devoted 30 years of his  
life to advancing  
public health in  
Pennsylvania testified  
about the  
Commonwealth's  
"most chaotic  
inefficiency" in  
financing health care.*

**Tobacco control funding is vital, and so is health insurance like adultBasic. But it's just as important to look at how health care is financed.**

**H**ealth Care for All Pennsylvania speaks. Walter Tsou, M.D., testified that he is a public health physician who has worn many hats, including secretary of Health Care for All Pennsylvania, the single payer advocacy coalition; past co-chair of Smokefree Pennsylvania; former Philadelphia Health Commissioner, and former founding medical director of the Montgomery County Health Department.

Dr. Tsou spoke not only about tobacco control but also about adultBasic and a single payer system for health care needs.

About tobacco control:

The already underfunded tobacco prevention and cessation funds have seen dramatic cuts of 40 percent across the state, eliminating many excellent youth programs and hundreds of public health jobs that were targeted to prevent children from picking up this ugly habit. . . .

There are very few things that are a better investment than teaching kids not to smoke [and thus to avoid] a lifetime of devastating illness, asthma, cancer, heart disease, and emphysema.

In Philadelphia, faced last year with a million dollar cut in tobacco prevention funds, all of the youth prevention programs were eliminated in the city. The lifetime cost of smoking could easily run into the hundreds of thousands of dollars for just one individual. Multiply this by the thousands of kids that were being taught by our health educators and you can see why I believe we are going to go backwards and could



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lose a generation of kids and tens of millions of health care dollars. In short, cutting this program and their respective health educator jobs is disgraceful.

About adultBasic and health care financing:

*Calling adultBasic a needed but “temporary patch,” this public health physician called for a single payer system to finance health care for all.*

While I agree with many of the other speakers that we need to restore funding for adultBasic, it is only a temporary patch placed on a highly dysfunctional system. . . . Indeed, fixing health financing offers [the] only real pathway for getting us out from our current fiscal mess because there are only one or two things that could save not just millions, but billions of dollars.

Senate Bill 400 and House Bill 1660 . . . would establish a state single payer system in Pennsylvania. It would be funded by taxes but, in turn, everyone who pays taxes would be covered with comprehensive benefits. . . .

The Commonwealth is in deep doo-doo but, in the end, all roads point to health care. It is where our taxpayer dollars are subject to the most chaotic inefficiency and where a more rational single payer system could produce sufficient savings to create jobs and save our kids’ future. It is time to put it on the table.

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**In Philadelphia:**  
**Speaking about funding for research**

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**16. In Philadelphia:  
Speaking about  
funding for  
research**

**Using tobacco settlement funds for research is important and should be continued, but better procedures are needed, as is better communication from the state.**

**P**ennsylvania Commonwealth Universal Research Enhancement (CURE) Program speaks. Donna Gentile O'Donnell, Ph.D., member of CURE's Health Research Advisory Committee, explained that the committee/board on which she serves "advises on 19 percent of the tobacco settlement dollars for the [state] Health Department."

[NOTE: According to its 2009-10 annual report issued by the Pennsylvania Department of Health, the CURE Program was established under the Tobacco Settlement Act and "awards grants to Pennsylvania-based organizations for biomedical research, clinical investigations, and health services research . . . to improve the delivery of health care, promote health, prevent disease and injury, and translate research advances to community health care practice." Two types of grants are awarded: (1) formula grants, distributed by a pre-determined formula to institutions that already receive funds from the National Institutes of Health, and (2) non-formula grants, selected via a competitive peer review process. The report says that, over the nine-year period through 2009-10, the Department of Health awarded nearly \$637 in CURE Program grants to fund more than 1,500 health research projects.]

Dr. O'Donnell testified that her committee is one of "a whole series of boards and committees . . . of the different interests that were originally represented in the master settlement."

I want to note this for the record because I think there is always a partisan element which finds expression in these discussions. . . . It is very important to note that the original construction of these dollars and the application of these dollars was done by Republicans and Democrats

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*Testimony from a member of a committee that awards research grants with tobacco settlement monies:*

*“I think they [the Corbett Administration] are overreacting in their proposed intent to re-legislate or reorganize these dollars. I think that there is an important issue here, which is to go back and revisit every available taxpayer dollar and get the maximum bang for the buck.”*

of good will, committed to a good result. . . .  
That was the orientation that we have to be committed to . . . We have to move away from partisan bickering and get committed to a result.

Dr. O’Donnell testified that her committee/board failed taxpayers [regarding the non-formula grants]:

I have said this publicly on the record at other board meetings that I believe, as a member of the CURE board, we have failed the taxpayers. . . . I think this is relevant because I believe the Corbett administration is aware that we failed. Because if you go back and look at what we spent the money on, it did not produce a single new company. . . . The intention of those dollars was always to be entrepreneurial and medically beneficial in nature.

Now I can get into a fairly detailed conversation about why I believe that we failed. It mostly had to do with policies that were adopted before I got on the board. And I’ve been advising aggressively with my colleagues to repeal these policies, which includes the hiring of an outside consultant; procedurally the mechanisms by which they engage in the decision process are put in a black box. The board is not permitted to really know what their decision making is. . . . because the people that sit around the table for CURE represent institutions that benefit from these dollars. So what the board has done is shield itself from any conflict, any direct conflict, but in doing so has given up its mission.

So the reason I offer all this as commentary is because I think that the Corbett Administration is aware of this. I think they are overreacting in their proposed intent to re-legislate or reorganize these dollars. I think that there is an important issue here, which is to go back and revisit every

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available taxpayer dollar and get the maximum bang for the buck.

Dr. O'Donnell said during questioning that she believes the "CURE board has spent way too much money on evaluating projects" and that "there is a more cost efficient way of doing this." She said she was also concerned that she "couldn't get information" from the Department of Health.

I would spend 20 minutes on hold, waiting for a staff member to supply me with information that I have a right to as a board member. . . . When I finally got some of the information that I requested, it was largely redacted, and I was stunned by it. I was like, wait a minute, why are you giving me a redacted copy of a document that I requested?

*It took this public hearing to bring two parties together to clarify some information related to the state Department of Health's funding of grants with tobacco settlement monies.*

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**Treatment Research Institute speaks. Kimberly C. Kirby, Ph.D.**, is a Senior Scientist with the Research Institute; she also serves as Director of (1) Behavioral Treatment & Applications and (2) Parents' Translational Research Center.

Dr. Kirby testified that the Treatment Research Institute receives Department of Health grants each year based on the formula funding [see preceding testimony] and has competed for the non-formula funds. She also asked questions of Dr. Donna Gentile O'Donnell, who explained that she [Dr. O'Donnell] had been speaking in her preceding testimony of the non-formula funds and that successful application for the formula funds was "fairly routine."

Dr. Kirby responded that she had been unaware of the distinction between the two types of funds as had been explained:

Thank you for your clarification. I had never realized there was that distinction between the

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funds. It makes sense because we have tried to use formula funds to develop products and have been told we can't use it that way, which is unfortunate because for a very small amount relatively . . . we could have contributed to that benefit.

I also want to point out a sort of cautionary issue because . . . lots of times when you think about sort of translating things into products that would be adopted by a business or sold by businesses, there's also models of treatment that may have very important fiscal implications.

And since health care is a place where fiscal decisions are becoming more and more critical, I would just caution that to be looking at sort of new approaches as business models for medicine that you could have long-term financial benefits.

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**Pennsylvania Cancer Alliance speaks.** Submitting written testimony for the Cancer Alliance was **Paul Cribbins**, Assistant Vice President for Commonwealth Relations with the University of Pennsylvania's Office of Government and Community Affairs:

The Pennsylvania Cancer Alliance was formed in 1998 as a collation of the state's leading research institutions advocating that the Commonwealth allocate a substantial portion of the proceeds of the tobacco settlement agreement to support research and prevention of diseases directly linked to tobacco use, including cancer.

The members of the Alliance include Drexel University, Fox Chase Cancer Center, Jefferson Kimmel Cancer Center, Penn State Hershey Cancer Institute, Temple University, University

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of Pennsylvania, University of Pittsburgh  
Cancer Institute, and The Wistar Institute.

Mr. Cribbens' testimony indicated that Act 77 specifies that 19 percent of settlement dollars be allocated to support health research through the Commonwealth Universal Research Enhancement program, or CURE.

*Tobacco settlement monies should continue to fund research. So say the following institutions that make up the Pennsylvania Cancer Alliance:*

*Drexel University, Fox Chase Cancer Center, Jefferson Kimmel Cancer Center, Penn State Hershey Cancer Institute, Temple University, University of Pennsylvania, University of Pittsburgh Cancer Institute, and The Wistar Institute*

One percent is to be allocated to National Cancer Institute grant recipients based on their pro rata share of the state's NCI total. The remaining 18 percent is distributed as follows: (a) 70 percent going to research institutions based on their share of the state's total National Institutes of Health funding (called 'formula grants'); and (b) 30 percent distributed by the Department of Health on a competitive basis with priorities established annually (called 'non-formula grants').

In the current fiscal year, there will be approximately \$62 million available from tobacco settlement funds to support research.

Tobacco settlement funding provides critical support to allow Pennsylvania's leading research institutions to engage in collaborative basic research, clinical investigations and prevention studies which will improve cancer prevention and advance the standard of cancer care statewide.

The Cancer Alliance's testimony provides examples of its cancer research initiatives, such as vaccines to treat colorectal cancer and brain tumors, blood testing for early detection of lung cancer, approaches to produce new leukemia treatments, chemoprevention agents for hereditary colon cancer, and genetic predictors of drug effectiveness in breast and colon cancers. In addition to cancer research, the CURE program has also provided grants supporting research projects in a wide range of health-related fields.

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Federal funding for biomedical research has been held flat for several years and it is anticipated that there will be no significant increase in NIH funding in the next fiscal year. In light of the freeze on federal support, the continued availability of the Commonwealth's tobacco settlement funding for research is especially critical. . . .

In order to build on the momentum developed since 2001, Pennsylvania must maintain a continuum of biomedical investments. Biomedical advances require years of applied effort to move from the laboratory to the clinic—usually at least a decade, and often more. For this reason, as well as to ensure the continued benefits flowing from the biomedical sector to the state's economy, it is essential for the Commonwealth to continue to direct tobacco funds to biomedical research.

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**Appendix A:**  
**Distribution List**

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**Appendix A: Distribution List**      **This report was initially distributed to the public officials listed below. It was also made available to the organizations/persons who testified, the general public, and the media.**

The Honorable Joseph B. Scarnati, III  
President Pro Tempore  
Pennsylvania Senate

The Honorable Samuel H. Smith  
Speaker  
Pennsylvania House of Representatives

The Honorable Dominic Pileggi  
Majority Leader  
Pennsylvania Senate

The Honorable Jay Costa  
Democratic Leader  
Pennsylvania Senate

The Honorable Mike Turzai  
Majority Leader  
Pennsylvania House of Representatives

The Honorable Frank Dermody  
Democratic Leader  
Pennsylvania House of Representatives

The Honorable Jake Corman, III  
Chair, Senate Majority Appropriations  
Committee

The Honorable Vincent J. Hughes  
Chair, Senate Democratic  
Appropriations Committee

The Honorable William F. Adolph, Jr.  
Chair, House Majority Appropriations  
Committee

The Honorable Joseph F. Markosek  
Chair, House Democratic Appropriations  
Committee

The Honorable Patricia H. Vance  
Chair, Senate Majority Public  
Health & Welfare Committee

The Honorable Shirley M. Kitchen  
Chair, Senate Democratic Public Health  
& Welfare Committee

The Honorable Matthew E. Baker  
Chair, House Majority Health &  
Welfare Committee

The Honorable John Myers  
Chair, House Democratic Health &  
Welfare Committee

The Honorable Tom Corbett, Governor  
Commonwealth of Pennsylvania

The Honorable Jim Cawley, Lieutenant Governor  
Commonwealth of Pennsylvania



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**Appendix B:  
Special report that called for public hearings**

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**Appendix B: Special report that called for public hearings**  
*(released March 2011)*

The following nine pages contain the March 2011 special report in which Auditor General Jack Wagner called for public hearings to answer the report-titled question:

Should tobacco settlement dollars be spent for health programs like adultBasic and tobacco cessation as intended, or should the monies go to balance the state budget?



## Jack Wagner, Auditor General Special Report

March 2011



# Should tobacco settlement dollars be spent for health programs like adultBasic and tobacco cessation as intended, or should the monies go to balance the state budget?

**I**ntroduction: Why this report? Tobacco settlement monies are no longer keeping critical health initiatives afloat as intended because the funds were quietly diverted to plug holes in the state's annual budgets.

Such initiatives include adultBasic health insurance for 41,000 adults, mostly women, and efforts to prevent, control, and stop tobacco use to keep millions of people, including teens, from suffering tobacco's deadly effects.

This report discusses how tobacco settlement dollars—with little public input—have undergone a sea of change in their transformation from the intended purposes. Furthermore, there is no plan in place to cover the affected programs or to restore their funding.

We call on the Governor and the General Assembly to take immediate action regarding adultBasic, and to hold public hearings about using tobacco settlement dollars as they were originally intended.

### Highlights

- ◆ There has been little or no public input about Pennsylvania's "redirection" of Tobacco Settlement Fund payments, 92 percent of which are mandated to fund *current* health programs.
- ◆ \$1.34 billion has been uncoupled from the Tobacco Settlement Fund for other uses.
- ◆ The redirections mean that adultBasic health coverage for 41,000 Pennsylvanians—mostly women—was shut down on February 28.
- ◆ The redirections also mean that Pennsylvania's tobacco prevention/cessation/control programs were cut to the point where they earned failing grades from the American Lung Association.
- ◆ There has also been little or no public input regarding Pennsylvania's raiding of a separate endowment account that should receive and invest the other 8 percent of tobacco payments to use for *future* health programs.
- ◆ In one raid of the endowment account, the state took \$121 million to prop up the public school employees' pension plan.
- ◆ The endowment account will be decimated by June 1, 2011.

**B**ackground: Tobacco companies agreed to pay billions of dollars to Pennsylvania. In November 1998, Pennsylvania was among 46 states that jointly settled a lawsuit with five major tobacco companies to recover past, present, and future medical expenses for Medicaid enrollees with tobacco-related illnesses.

The joint settlement—called the Master Settlement Agreement—ended a four-year legal battle and obligated the tobacco companies to pay sums to each of the 46 states beginning in 2000. There was no end date specified, but states typically used a 25-year period to compute projections. Thus, over 25 years, the full cost to the tobacco companies was projected to be \$206 billion. Of that amount, Pennsylvania was projected to receive about \$11.2 billion.

The actual and projected annual payments to Pennsylvania are shown at right.

**G**ood intentions: Make Pennsylvanians healthier. In January 2000, then-Governor Tom Ridge issued Pennsylvania's Health Investment Plan that proposed initiatives to be funded by the annual settlement monies. A statement from that plan was included in the Governor's Executive Budget for 2001-02:

Pennsylvania has positioned itself as a national leader by proposing that the use of the tobacco settlement proceeds be limited to initiatives designed to improve the health status of its citizens.

The Health Investment Plan contained several principles to guide the Commonwealth in

**Tobacco company settlement agreement payments to Pennsylvania**  
*(actual and projected)*

Actual payments by fiscal year <sup>1/</sup>	
1998-99	\$142,262,000
1999-00	\$464,554,000
2000-01	\$345,013,000
2001-02	\$433,529,000
2002-03	\$416,918,000
2003-04	\$370,857,000
2004-05	\$366,258,000
2005-06	\$336,227,000
2006-07	\$351,928,000
2007-08	\$382,003,000
2008-09	\$419,238,000
2009-10	\$349,843,000
Total actual payments	<b>\$4,378,630,000</b>
Projected payments <sup>2/</sup>	
2011 through 2018 <sup>3/</sup>	\$370,000,000 Each year
2019 through 2025	\$355,000,000 Each year
Total actual and projected payments	<b>\$9,823,630,000</b>

1/ 1998-99 through 2008-09 figures are from annual Governor's Executive Budget documents. Figures for 2009-10 are from the Department of the Auditor General's audit report of the Tobacco Settlement Fund for that year.

Please note that the figures for 2008-09 and 2009-10 include not just the annual settlement payments but also the strategic contribution payments (see page 6).

2/ Governor's Executive Budget for FY 2010-11.

3/ Includes \$355 million for the annual settlement payments plus \$15 million for strategic contribution payments.

using the tobacco settlement proceeds, including these two most applicable here:

- ◆ To make Pennsylvanians healthier.
- ◆ To set aside a portion of funding so that the health of future generations of Pennsylvanians can benefit, too.

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## **C**onsensus: The General Assembly agreed with the plan to make health care the priority.

By passing the Tobacco Settlement Act (Act 77 of 2001), Pennsylvania's General Assembly signified its agreement with the principles outlined in the *Health Investment Plan*, including making Pennsylvanians healthier and setting aside funds for future generations.

The state heralded its plan as a bipartisan effort focused solely on improving the health of Pennsylvanians. In contrast, other states did not focus solely on health-related uses and/or chose to use settlement monies to boost their general funds.

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## **A**dministration: Who and what.

The Act created the Tobacco Settlement Investment Board to manage and invest the monies. The Act also created the *Tobacco Settlement Fund* as the account to receive and disburse the annual settlement payments.

Also created was the forward-looking *Health Endowment Account for Long-Term Hope*. This visionary endowment account was created to receive a portion of the annual Master Settlement Agreement payments for investment, thus providing a means to keep health programs going in the future if the annual settlement payments decreased or stopped.

## **M**andate: The settlement agreement specified how to divide the annual

**payments.** The Tobacco Settlement Act mandated that the annual Master Settlement Agreement payments should be used according to these percentages:

8% to be put aside for future health programs

- ◆ Deposit into Health Endowment Account

92% to be used for current health programs

- ◆ 30% to share between adultBasic insurance and Medicaid for workers with disabilities
- ◆ 18% for health research
- ◆ 13% for home- and community-based services for the elderly
- ◆ 12% for tobacco use prevention and cessation programs
- ◆ 10% to reimburse hospitals for the uncompensated care they provide
- ◆ 8% to expand PACENET, the Pharmaceutical Assistance Contract for the Elderly (PACE) Needs Enhancement Tier
- ◆ 1% for cancer-specific health research

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## **I**mplementation: Is health care still the priority?

Even though the Tobacco Settlement Act specifically mandated how settlement payments should be appropriated to cover various health initiatives, Pennsylvania chose to "redirect" many of the monies beginning in fiscal year 2005-06 and continuing every year thereafter through fiscal year 2010-11.

The redirections were authorized by mandates in annual budget acts, thus superseding the original Tobacco Settlement Act mandates.

A direct result of the redirections was a dramatic funding cut for two critical initiatives — the tobacco use prevention and cessation program and the adultBasic health insurance program, both discussed next.

**U**p in smoke: Tobacco use prevention and cessation program. We noted on page 3 that, of the funds mandated to support current health initiatives, 12 percent was intended to pay for programs that would prevent, decrease, or stop tobacco use. But that 12 percent share didn't last long before the state lowered it, first to 8 percent (years 2005-06 through 2008-09) and then to 5 percent (years 2009-10 and 2010-11).

In dollar amounts, the funding dropped from a high of \$50.5 million in 2002-03 to a low of \$14.7 million (2010-11).

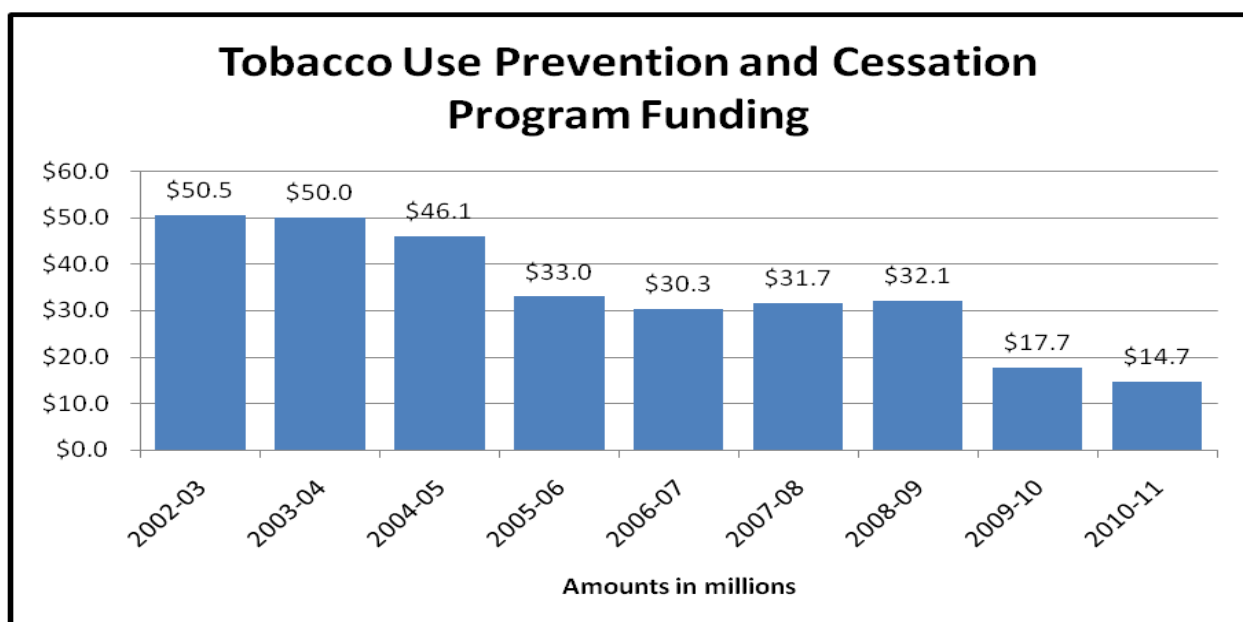
Used by the state Department of Health both locally and statewide, the funds went for tobacco education and awareness, including media campaigns. In fact, television advertising generated most of the calls to the

state's quit-smoking hotline (1-800-784-8669), according to Health officials. But the severe funding cuts in recent years allowed only a single statewide media campaign annually.

Also cut back were local programs, including those focused on educating children about the dangers of smoking. Those programs received only a quarter of the annual funding they needed.

Funding was so meager that the American Lung Association in 2010 gave Pennsylvania grades of "F" for tobacco prevention and control *and* for cessation efforts, saying "Thumbs down to Pennsylvania for cutting state funding for its tobacco control program by close to 55 percent over the past two years."

Unfortunately, Pennsylvania was not alone in receiving failing grades. In fact, the American Lung Association's report cited four major trends nationwide, including this one: "States continued to turn to tobacco taxes to balance budgets and then failed to help smokers quit."



Each year, more than 20,000 Pennsylvanians die from the effects of smoking. Each year, too, Pennsylvanians spend more than \$5 billion to treat smoking-related illnesses.

These statistics cannot improve if the state is unable to counterbalance the sophisticated marketing efforts of tobacco companies.

**G**one: adultBasic health insurance. For thousands of people who earn too much to qualify for Medicaid but not enough to buy health insurance, the state's adultBasic health insurance program filled a critical need. Tobacco monies allowed the state to subsidize this basic coverage so that enrollees paid just \$36 a month. At its highest, adultBasic had 54,000 enrollees.

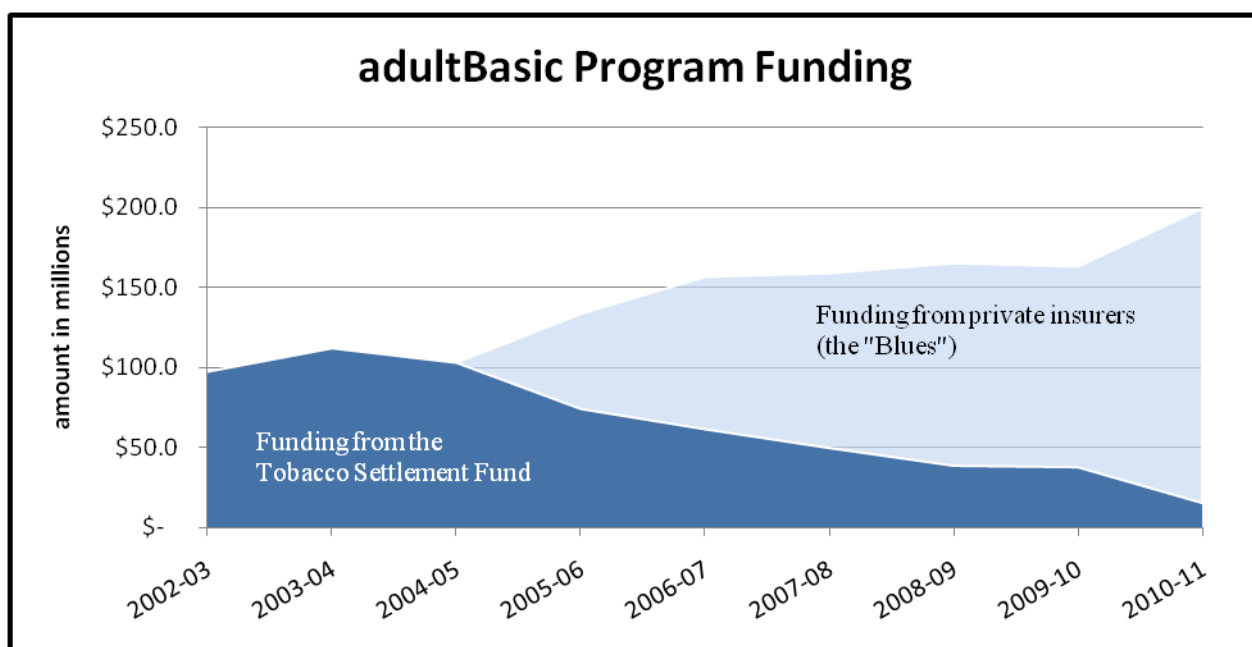
Most enrollees—63 percent—were women. But coverage ended on February 28. There were 41,000 enrollees when coverage ended, along with a waiting list of 505,000. That's half a million people who needed this coverage but never had a chance to get it. The state originally paid for adultBasic with annual tobacco settlement monies,

\$98 million in fiscal year 2002-03, \$112 million in fiscal year 2003-04, and \$103 million in fiscal year 2004-05. But over the next six years, Pennsylvania cut its portion from \$74 million to less than \$22 million by counting on agreements with health insurers Capital Blue Cross, Highmark, Independence Blue Cross, and Blue Cross of Northeastern Pennsylvania, to make up the difference.

The tobacco monies that formerly paid for adultBasic were redirected elsewhere, even as health care costs increased and even as the waiting list for adultBasic grew.

The four health insurers, collectively known as the "Blues," fulfilled their original agreement to pay into adultBasic until December 31, 2010, after which the state had no plan in place to restore funding. The Blues again provided funds for coverage that lasted through the end of February 2011. But now, as before, the state has no plan to use incoming tobacco settlement dollars to pick up where it left off before the Blues stepped in on the state's behalf.

It's important to emphasize that adultBasic was *not* an entitlement. Again, enrollees



paid premiums of \$36 a month and qualified for the program only if they were not eligible for Medicaid or were otherwise uninsured. Most enrollees were women—many with jobs where health coverage is not a benefit.

There have been calls for health insurers, including for-profit insurers, to pick up the funding, but these calls distract the public from recalling that it was tobacco settlement monies that were intended to pay for adultBasic from the start.

**F**uture funding: Where does it stand? As we stated earlier in this report, the Health Endowment Account for Long-term Hope was created to set aside funds for future use. The Tobacco Settlement Act also provided that the endowment account could be used for health care needs in certain situations. Specifically, the law states this:

Whenever the Governor determines that money from the Health [Endowment] Account is necessary to meet the extraordinary or emergency health care needs of the citizens of this Commonwealth...the General Assembly may...appropriate money from the Health [Endowment] Account to meet the needs identified in the Governor's request.

The lack of funding for the 41,000 adultBasic enrollees could be considered an extraordinary health care need. Now, however, even the Health Endowment Account will be wiped out by June 1, 2011.

The decimation of the endowment account results from the same annual budget acts that directed money away from tobacco prevention and cessation programs and

adultBasic. The state simply sent the intended endowment monies elsewhere.

Here's where the endowment account *should have* received its deposits, according to the Tobacco Settlement Act:

- ✓ The *initial/jurisdictional* payments received by the Commonwealth, as required by the Master Settlement Agreement.
- ✓ Eight percent of each *subsequent* annual Master Settlement Agreement payments received by the Commonwealth.
- ✓ Each of ten strategic contribution payments (these are payments made to states that incurred litigation costs related to the settlement) from 2008 to 2017, as required by the Master Settlement Agreement.
- ✓ Investment/interest earnings of the Tobacco Settlement Fund after deduction of investment expenses.
- ✓ Investment/interest earnings of the endowment account itself after deduction of investment expenses and other approved expenses of the Tobacco Settlement Investment Board.
- ✓ Investment/interest earnings of the *Health Venture Investment Account*, another Tobacco Settlement Fund account.
- ✓ Income that will be shared, once certain thresholds have been met, from the *Life Science Greenhouse* program, a self-sustaining investment vehicle started by the Tobacco Settlement Fund.
- ✓ Lapses (monies appropriated but not spent by year end) from certain programs that are funded by annual tobacco payments.

By continually adding to the endowment account and investing the monies within it as originally intended, the state planned to accumulate and grow funds that would be available to extend health initiatives if

tobacco companies stopped making payments. But **with virtually no public input**, Pennsylvania took the account in a different direction from the original plan beginning as early as 2002-03, only one year after the endowment account was created. At that time, the state started transforming the endowment account from a long-term investment vehicle to a short-term checking account to plug holes in the state budget.

Such actions continued nearly every subsequent year, likely fueled by the lack of attention the shifts generated.

The annual budget acts discussed earlier (i.e., those that directed Tobacco Settlement Fund monies elsewhere) were also used to legitimize the demise of the endowment account. In fact, the first redirection of endowment funds in fiscal year 2002-03 resulted when the annual budget act

<b>Demise of the Health Endowment Account for Long-Term Hope</b>		
Fiscal year	Ending balance	Factors leading to the declining balance
FY 2007-08	<b>\$658,580,000</b>	<ul style="list-style-type: none"> <li>✓ Interest in Tobacco Settlement Fund remains there instead of being transferred to Health Endowment Account</li> <li>✓ Interest from Health Endowment Account is transferred to Tobacco Settlement Fund and not kept in endowment account</li> </ul>
FY 2008-09	<b>\$531,973,000</b>	<ul style="list-style-type: none"> <li>✓ \$15 million of interest in Tobacco Settlement Fund remains there instead of going to Health Endowment Account</li> <li>✓ \$50 million of interest in Health Endowment Account is shifted to Tobacco Settlement Fund</li> <li>✓ Strategic contribution payment is deposited into Tobacco Settlement Fund rather than Health Endowment Account</li> </ul>
FY 2009-10	<b>\$432,711,922</b>	<ul style="list-style-type: none"> <li>✓ \$15 million of interest in Tobacco Settlement Fund remains there instead of going to Health Endowment Acct.</li> <li>✓ \$10 million of interest in Health Endowment Account is transferred to Tobacco Settlement Fund</li> <li>✓ Strategic contribution payment is deposited into Tobacco Settlement Fund rather than Health Endowment Account</li> <li>✓ 8% of Master Settlement Agreement payment goes to Tobacco Settlement Fund, not Health Endowment Account</li> <li>✓ \$150 million is transferred to General Fund</li> </ul>
FY 2010-11  (pursuant to Act 46 of 2010)	<b>\$0</b>	<ul style="list-style-type: none"> <li>✓ \$15 million of interest in Tobacco Settlement fund remains there instead of going to Health Endowment Account</li> <li>✓ Strategic contribution payment is deposited into Tobacco Settlement Fund rather than Health Endowment Account</li> <li>✓ 8% of Master Settlement Agreement payment goes to Tobacco Settlement Fund, not Health Endowment Account</li> <li>✓ \$121 million is used to make payment to Public School Employees' Retirement System on behalf of General Fund</li> <li>✓ Any remaining \$\$ get transferred out of Health Endowment Account to Tobacco Settlement Fund by June 1, 2011</li> </ul>



mandated that the endowment account would *not* get the interest earned on the Tobacco Settlement Fund as originally required. Instead, the Tobacco Settlement Fund kept the interest for itself.

In fiscal years 2005-06 through 2007-08, Pennsylvania's annual budget acts mandated that interest earned on the Tobacco Settlement Fund would again remain there rather than helping to build the endowment account. Another mandate made even the endowment account give its interest to the Tobacco Settlement Fund.

In a February 2009 special performance audit report of the Tobacco Settlement Investment Board, we calculated that the above shifts caused the endowment account alone to miss out on at least \$112.1 million since fiscal year 2002-03 through fiscal year 2007-08, plus whatever interest could have been earned on that \$112.1 million.

The redirection was more severe starting in 2008-09 as more endowment revenues went to the Tobacco Settlement Fund and the General Fund. The table on the previous page illustrates the falling balances.

**C**overing budget shortfalls: The right decision? Just like the endowment account gave \$150 million to the state's General Fund in fiscal year 2009-10 and \$121 million to fulfill a General Fund obligation for making a required contribution to PSERS (Public School Employees' Retirement System) in fiscal year 2010-11, now the Tobacco Settlement Fund itself is being used to plug state budget holes.

Specifically, since fiscal year 2002-03, \$795.3 million of Tobacco Settlement

Fund monies were allocated to long-term care costs traditionally paid with General Fund monies.

In other words, the state used monies intended for adultBasic, tobacco prevention, and the Health Endowment Account to pay for—on behalf of the General Fund—Medicaid long-term care for seniors and persons with disabilities, thus freeing up the General Fund for other purposes.

What legislator could argue against helping Pennsylvania seniors and persons with disabilities? Using the information available, legislators decided to pay for *current* long-term care costs for hundreds of thousands of *known* beneficiaries versus putting money into an endowment account for *future* beneficiaries as yet *unknown* and *unnumbered*. But with no public hearings or floor debates, legislators would not have heard the following questions:

- ? What happened to the **traditional** funding that paid for the costs of long-term care services for seniors and persons with disabilities? **Unknown**
- ? Why did the traditional long-term care funding need to be “offset” by health endowment monies? **See next question**
- ? Was the offset needed so the traditional sources of long-term care funding could be used to plug holes elsewhere in the state's budget? **Yes**

Another \$32.4 million was transferred from the Tobacco Settlement Fund to the General Fund for unspecified purposes when Pennsylvania reduced the tobacco prevention program in fiscal years 2009-10 and 2010-11. Finally, a diversion of \$250 million to the General Fund will occur by June 1, 2011, again for unspecified purposes.

<b>\$1.34 billion in quiet “redirections”</b> <i>Where did they go?</i>	
To the General Fund for unspecified purposes: ✓ \$150 million from Health Endowment Account ✓ \$32.4 million from Tobacco Settlement Fund ✓ \$250 million from Tobacco Settlement Fund	\$ 432.4 million
✓ To the General Fund for a Commonwealth-required contribution to the Public School Employees’ Retirement System	\$ 121.0 million
✓ To fund Medicaid long-term care for seniors and persons with disabilities	\$ 795.3 million

**M**ore consequences: **Now what?** With 41,000 Pennsylvanians who lost their adultBasic health insurance benefits, with Pennsylvania receiving an F grade for its tobacco use prevention and cessation program, and with the Health Endowment Account emptied by June 1, 2011, it is unknown where the state will go from here in deciding how to use its remaining annual Master Settlement Agreement payments as they arrive.

In short, with the potential of \$5.4 billion in tobacco settlement monies coming to Pennsylvania in the next 15 years, the state must decide if it will continue to allow the funds to plug the state budget, or if they should pay for critical health programs as the General Assembly originally intended.

**R**ecommendations: **Immediate action and public input needed.** The Governor and the General Assembly should be open and fully transparent regarding the use of Tobacco Settlement monies. Thus, we recommend the following:

1. The Governor and the General Assembly should use incoming tobacco settlement dollars for adultBasic to bridge the gap until health insurance becomes widely available on January 1, 2014, under federal health care reform. If more dollars are needed, other sources of funding—both public and private—should be explored.
2. The Governor and the General Assembly should hold immediate public hearings throughout the Commonwealth to discuss the use of incoming tobacco settlement dollars long-term. The following questions should be answered:
  - ◆ Whether tobacco settlement dollars should be used according to the original intentions, including funding critically important tobacco prevention and cessation programs.
  - ◆ If new/different priorities should be established.
  - ◆ If and how the Health Endowment Account should be restored.