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June 2003

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EXECUTIVE SUMMARY

- * Tobacco control efforts in California during the 2001-2002 legislative session were hampered by the resurgence of the tobacco industry and a lack of commitment from the Davis Administration.
- * During the 2001-2002 legislative session, the tobacco industry spent a total of \$5.95 million in political expenditures, which is an increase of \$1.3 million over the previous legislative session.
- * Campaign contributions from the tobacco industry to legislators, legislative candidates, political parties and constitutional officers totaled \$1.66 million, a 13% increase over the previous election cycle.
- * Tobacco industry to campaign contributions continue to favor Republicans over Democrats, although the divide is not as great as in previous years. Thus, of the \$1,153,466 that was contributed to an identifiable party (including candidates, constitutional officers, legislators and political parties) during the 2001-2002 legislative session, \$706,150 went to Republicans (61%) compared to \$447,316 to Democrats (39%). This is an increase from the previous election cycle, when Republicans received 58% (\$857,023) of the tobacco industry's contributions in California and Democrats received 42% (\$613,587).
- * An additional \$513,000 was contributed to non-partisan committees in 2001-2002.
- * The largest recipients of tobacco industry funds during the 2001-2002 legislative session were Assemblyman Tony Strickland (R-Dist.37), who received \$63,000 and Senator James Brulte (R-Dist.31) who received \$67,500.
- * On average, for every one point increase in a legislator's tobacco policy score, tobacco industry campaign contributions decreased by \$3,270. This is a slight decrease from the 1997-1998 legislative session when a one point increase in the policy score resulted in a \$3,690 decrease in tobacco industry campaign contributions
- * During the 2001-2002 legislative session, 74 candidates and elected officials did not accept contributions from the tobacco industry; 16 Republicans (23% of 69 Republicans) and 59 Democrats (59% of 100 Democrats).
- * Among the committees that review tobacco control policy, members of the Assembly Governmental Organizations Committee received the highest average tobacco industry campaign contribution among those recipients who accepted tobacco industry funding: \$16,988 per member accepting tobacco funds. The Assembly Revenue and Taxation Committee ranked a close second (\$16,750 per accepting member), followed by the Senate Governmental Organizations Committee (\$14,694 per accepting member) and the Assembly Health Committee (\$12,778 per accepting member). With the exception of the Assembly Budget and Appropriations Committees, all of the Republican members of these committees accepted tobacco industry campaign contributions.

* The tobacco industry spent \$4.29 million on lobbying expenditures during the 2001-2002 legislative session, including \$3.64 million paid directly to lobbying firms and an additional \$649,076 on activities and other expenditures to influence policy making in California. Excluding activity and other expenditures, the tobacco industry increased its lobbying expenditures by \$1.05 million (a 41% increase) between the 1999-2000 and 2001-2002 legislative sessions.

* The tobacco industry has adopted a new strategy of using independent expenditure committees, which are not required to report political expenditures, to attack and discredit policy makers sympathetic to tobacco control in California.

* Of the 10 tobacco-related bills that were enacted during the 2001-2002 legislative session, the tobacco lobbying firms reported lobbying against seven of them. The three bills not lobbied on included: a) AB2205 which increases the penalty for knowingly holding or selling tobacco products without having paid the appropriate tobacco tax, b) AB 1867 which expands the area around totlots in which smoking is prohibited and c) SB 322 which prohibits the sale of bidis.

* Of the 17 tobacco-related bills that were not enacted during the 2001-2002 legislative session, the tobacco lobbying firms reported lobbying against 12.

* The tobacco industry has also made efforts to gain legitimacy in the public's eye through youth prevention programs and image changes, such as Philip Morris changing its name to Altria and renewing its efforts to donate funds to community projects. The result is that policy makers, such as Carole Migden, are starting to state that the tobacco industry has changed as a justification for accepting tobacco industry campaign contributions.

* The effectiveness of California's tobacco control efforts were recognized by the tobacco industry in September 2002 when R.J. Reynolds filed suit against the California Tobacco Education Media Campaign, claiming that the media campaign made it impossible for the tobacco companies to receive a fair trial with an unbiased jury. Judge Michael T. Garcia ruled against the tobacco company.

* R.J. Reynolds made a second attempt at legitimacy in the court of public opinion, this time in conjunction with Lorillard, by returning to the California Courts in April 2003, filing allegations of vilification by the Media Campaign.

* The tobacco industry spends more than \$1.2 billion annually on advertising and promotions in California alone. At the same time, California's Tobacco Control Program was funded at only about 12% of the tobacco industry's expenditures on advertising and promotions.

* The Tobacco Control Program's budget has continued to erode at the hands of the Davis Administration. The Governor's Proposal for the 2003-2004 Budget appropriates approximately \$86 million for the program, which is a decrease from \$108 million in 2002-2003 and \$154 million in 2001-2002. The decline in revenues is due to a decrease in Proposition 99 revenues as a result of decreased tobacco consumption and a lack of new funds dedicated to the Tobacco Control Program. At the same time, inflation has reduced the purchasing power of the funds that are available.

* In 2001, Governor Davis increased funding for the Media Campaign \$19 million in FY1999-2000 to \$45 million for FY2000-2001 and FY2001-2002. In 2001, Governor Davis also allocated \$20 million from the state's share of MSA revenues for a youth anti-smoking campaign. However, this commitment to the Tobacco Control Program was short-lived, as Governor Davis withdrew the additional funds in 2002.

* While rates of tobacco use in California have remained stable at about 17% between 2000 and 2001, the prevalence decreased to 16.6% in 2002. This drop may be a reflection of the additional funds provided in 2000 and 2001.

* In 2002, there were three proposals introduced to increase the cigarette excise tax. Governor Davis introduced a 50 cent increase which was changed to a 63 cent increase in the Senate's revision of the budget, Senator Deborah Ortiz introduced a 65 cent increase, and Speaker Herb Wesson proposed a \$2.13 increase. While Senator Ortiz intended the revenues from a tax increase to go to tobacco control and access to health care programs, neither the Governor nor Speaker Wesson earmarked any portion of the tax for tobacco control efforts. None of these proposals were enacted.

* In January 2003, Governor Davis included a \$1.10 cigarette tax increase in his 2003-2004 Budget proposal, but these funds were intended to bridge the \$34.6 billion budget deficit and as of April 2003, none of the revenues were earmarked for tobacco control efforts.

* In his May 2003 budget revision, Governor Davis proposed only a 23 cent tax increase in 2003-2004 and an additional 40 cent tax increase in 2004-2005. This decision was made despite a 61% public approval for a cigarette tax increase of \$2.00 and a 68% approval for a cigarette tax increase of 75 cents.

* While state officials decided to securitize \$2.5 billion in Master Settlement Agreement revenues in January 2003, the Governor's May 2003 budget revision indicated that the state would not securitize its remaining share of funds. Instead, the \$173 million expected for the next fiscal year would be used to cover General Fund expenditures for the Healthy Families Program.

* While the Governor's May revision of the 2003-2004 Budget did not reflect the Tobacco Education and Research Oversight Committee's funding recommendations, funding for the Tobacco Control Program was increased by 6% as opposed to a decrease or a diversion of funds as a result of a one time increase in the Proposition 10 backfill.

* While the Davis Administration has not exhibited the hostility to the Tobacco Control Program evidenced during the Wilson years, it has also failed to give an effective program a priority. Progress only took place when the administration was faced with external pressures, either mounted by health advocates or, in one case, a legal challenge by the tobacco industry.

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INTRODUCTION

Under the Davis Administration, tobacco control efforts have had a low priority. However, unlike his predecessor, Governor Pete Wilson, Davis has not engaged been actively hostile to the program. In particular, the Davis Administration has not diverted funds from the Health Education and Research Programs mandated by the voters in 1988 (1). Instead, the Davis Administration has maintained a level of complacency on the issue of tobacco control, acting only when pressured to do so, while the tobacco industry continues to increase both its political expenditures to influence policy making in California and its expenditures on advertising and promotion to recruit new smokers.

The California Tobacco Control Program was born in 1988 as a result of Proposition 99, a voter initiative to increase the state excise tax on cigarettes by 25 cents/pack as well as on other tobacco products other than cigarettes (2, 3). Revenue from Proposition 99 was required to be spent according to the following formula: 20% for anti-tobacco education, 35% for patient care in hospitals, 10% for physicians services among patients who could not afford treatment, 5% for research on tobacco-related disease, 5% for environmental concerns, and the remaining 25% to be left unallocated and distributed by the legislature to support the same activities as the other accounts (2).

In the early 1990s, smoking was falling faster in California than anywhere in the USA and probably the world. The prevalence of smoking in California prior to the inception of the Tobacco Control Program was 22.8%. Under the Administration of Governor George Deukmejian (R), the prevalence of smoking dropped by 2.6% to 20.2% in 1990 (Figure 1a). Under the Administration of Governor Pete Wilson (R), the prevalence of smoking in California declined by 1.9% from 20.3% in 1991 to 18.4% in 1998. Smoking in California was at a historical low in 1995 when the prevalence of smoking was 16.7%; however the rate increased to 18.6% in the following year and remained constant (within a few tenths of a percentage) throughout the remainder of the Wilson Administration.

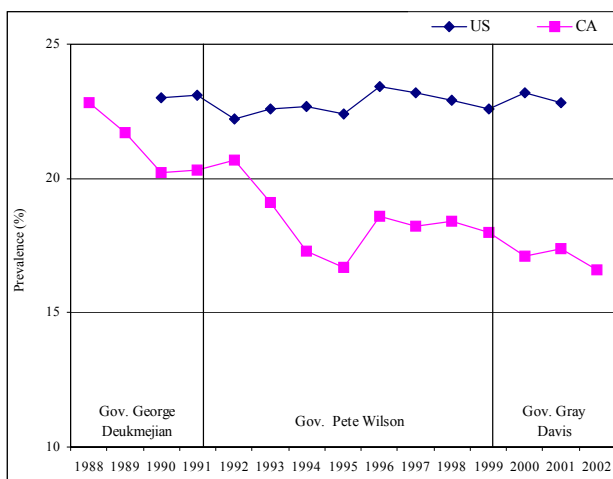


Figure 1a:Smoking prevalence in US and CA, 1988-2002 (Source: CA Dept. of Health Services, www.dhs.cahwnet.gov/tobacco/html/factsheets.htm)

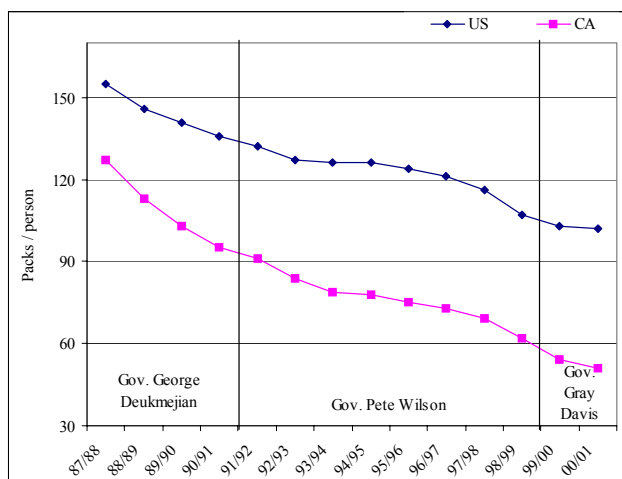


Figure 1b:Per Capita Cigarette Consumption, US and CA, 1988-2001 (Source: CA Dept. of Health Services, www.dhs.cahwnet.gov/tobacco/html/factsheets.htm)

Governor Gray Davis (D) took office in 1999 when the prevalence rate was 18.0%. The smoking rate declined to 17.1% in 2000, perhaps because of the augmentation of Proposition 99 revenues with an additional \$20 million in previously unallocated funds for tobacco control; these funds were used specifically for the anti-smoking media campaign (1). In 2002, despite a \$45 million decrease in tobacco control funding, the prevalence of smoking in California fell to an all time low of 16.6%. This decrease may be a reflection of the additional funding for tobacco control efforts in 2000 - 2001. In contrast, the smoking prevalence in the United States decreased less than one percent from 23% to 22.8% between 1990 and 2001.

In addition to the progress made in reducing the number of people smoking in California, progress has also been made to decrease the frequency with which the remaining smokers use tobacco. Per capita cigarette consumption has steadily decreased from 127 packs per capita in 1987/1988 to 51 packs per capita in 2000/2001; that is half the consumption rate for the United States (Figure 1b). As with the drop in prevalence, most of the drop in consumption occurred in the early years of the program when it was well-funded and aggressive. The decline in cigarette consumption in California between 1989 and 1997 was associated with 59,000 fewer coronary heart disease deaths in California than would have been expected without the program (4).

Throughout the early 1990s, California was *the* leader in tobacco control, surpassing the efforts of any other state or the federal government (3, p.3). The low political priority that the Davis Administration and legislature have given the Tobacco Control Program have impeded effective tobacco control policy making and appropriate levels of funding. While smoking prevalence is at historic low, the rate of decline has been small. Is the diminished progress in reducing rates of tobacco use in California due to a failure to introduce new approaches? Is it due to decreased funding for tobacco control? Is it due to increased funding by the tobacco industry for advertising and promotion, as well as political expenditures? (5)

Until goaded by tobacco industry lawsuits, the Davis Administration eschewed effective and aggressive messages and instead required the program to rely heavily on messages focused on cessation and general health, rather than exposing the activities of the tobacco industry in California. During the 2001-2002 legislative session, policymakers focused on less effective tobacco control policies, such as increasing the minimum age to purchase tobacco products from 18 to 21 (6), rather than strategies that have been documented to be effective, such as increasing the cigarette excise tax. Perhaps this is because California has always been known as a leader in tobacco control and there is a belief that the tobacco industry is no longer a powerful force in California. This notion is not accurate.

RESURGENCE OF THE TOBACCO INDUSTRY IN CALIFORNIA

Several publications have documented that the influence of the tobacco industry has been present in California for many decades (1, 3, 7). However, the strategies used by the tobacco industry have evolved over time, shifting from a focus on laws to facilitate a smokefree environment to attacks on funding for tobacco control efforts. In 2000, the tobacco industry spent \$764,095 to campaign in favor of Proposition 28, which would have repealed the 50 cent tax established by Proposition 10, and Proposition 37, which would have redefined mitigation fees as taxes, making them subject to a two-thirds vote; both pro-tobacco industry initiatives

failed (1). In 2002, the tobacco industry supported of a weak licensing bill that would raid Proposition 99 and 10 funds to fund enforcement.

The tobacco industry continues to develop new and renew previous support from elected officials and third party allies in California, as elsewhere. In particular, the tobacco industry has continued to increase its political expenditures in California, including individual campaign contributions, contributions to party committees and lobbying expenditures. The resulting influence has been reflected in the actions of some officials with regards to sponsorship of bills and the speed with which some bills favorable to the tobacco industry have moved through the legislative process (discussed in legislation section). In addition, the tobacco industry has adopted a new strategy of using independent expenditure committees, which are not required to report political expenditures, to attack and discredit tobacco control policy makers in California.

The tobacco industry also maintains its pursuit for legitimacy in the public's eye. In 2002, Philip Morris changed its corporate name to Altria and highly publicized its youth prevention programs; R. J. Reynolds also has a youth prevention program. Philip Morris distributed book covers to school children in California with a message that had been acknowledged by the former Vice President of Corporate Responsibility and Youth Smoking Prevention, Corky Newton, of Brown and Williamson as ineffective for educating youth and decreasing the likelihood of smoking initiation. After a series of correspondence between Attorney General Bill Lockyer and Senior Vice President and General Counsel for Philip Morris, Denise Keane, Philip Morris agreed to recall the book covers, although the company “wholeheartedly” maintained that the book covers were sending the right message (8). The tobacco companies need to recruit new young smokers to replace those dying daily as a result of smoking; however, they see their efforts as youth prevention.

The result of Philip Morris' outreach to the public through donations to community groups and youth prevention programs is that public opinion of the tobacco company is changing. A survey conducted by Philip Morris found that 59% of respondents across the U.S. and 53% of respondents in California believed that Philip Morris was “changing for the better”(9). Moreover, legislators in California, such as Carole Migden, who were previously not accepting money from the tobacco industry have started accepting its money, using the justification that “the relationship has become more complicated” as Philip Morris “involves themselves in a lot of civic good works” (10). Despite the image that tobacco companies, like Philip Morris, try to exhibit in public, they are still working out of the public eye to influence policymakers through campaign contributions and pressure from third party allies. California's elected officials have allowed these practices to continue unchecked.

The tobacco industry made a move that may have backfired in April 2003, when R.J. Reynolds and Lorillard filed a lawsuit against Director of the Department of Health Services, Diana Bontá, and head of the Cancer Control Branch (which includes the Tobacco Control Section), Dileep Bal, claiming that the state's media campaign vilifies the tobacco companies. In response, Governor Davis rallied behind the media campaign and supported release of strong advertisements (11) particularly four new ads that reveal the tobacco industry's marketing tactics. “I am proud to present four new ads that will continue to unmask the hidden agenda and sneaky tactics of Big Tobacco. The Ads reveal the tools they use to lure social smokers and turn them into lifelong addicts,” said Davis at a press conference in Sacramento on April 7, 2003

(12). The Davis Administration must amend for past deficiencies and live up to Governor Davis's challenge to the tobacco industry to "Bring it on" (13).

THE DAVIS ADMINISTRATION'S TOBACCO CONTROL POLICY

Tobacco control advocates had high hopes that with the election of Democratic Governor Gray Davis in 1998, efforts to de-fund tobacco control programs and to water down the media campaign would end (7). However, the stagnation that was seen in the Wilson Administration continued into the Davis Administration. Under the Wilson Administration, revenues from Proposition 99 were misappropriated and diverted to non-tobacco control programs (7). While these practices were halted when Governor Davis took office, the lack of financial commitment to tobacco control efforts remained. Governor Davis opposed funding increases for the Tobacco Control Program which would allow the program to return to the levels of success seen in the early 1990s. In 1999, he vetoed AB 100 which would have mandated that the tobacco settlement funds be used for health purposes, including tobacco education, prevention, and cessation and lobbied successfully against similar bills in subsequent years (1). Governor Davis' support for the Tobacco Control Program has only been seen when there is pressure to act, mainly from the health advocates.

In 2000, under pressure from the Western States Affiliate of the American Heart Association (AHA), American Lung Association (ALA), American Cancer Society (ACS), American Association of Retired Persons and Americans for Nonsmokers' Rights (ANR), Governor Davis increased funding to the Tobacco Control Program (1). These health advocacy organizations were the same groups that filed suit against the State of California when the Wilson Administration failed to respect the allocation formula for Proposition 99 revenues (changing the 20% to the Health Education Account and 5% to the Research Account specified in Proposition 99 to 10% and 1%, respectively) (7). After the Wilson Administration lost in court and could not divert these funds to medical care, it simply left the funds unspent rather than using them to reduce smoking. As a result, the funds in question, totaling approximately \$40 million, had remained in a reserve account (named the ANR II Restricted Reserve, after the law suit that stopped the diversions) (7). Governor Davis maintained Governor Wilson's policy of not spending these funds through the first year of his gubernatorial career. In 2000, under pressure from the health advocates, he finally released the \$32.5 million from the ANR II Restricted Reserve and appropriated \$20 million to the Media Campaign, which was previously funded at \$17.9 million (1).

The result of the Davis Administrations' tobacco control policy is that the Tobacco Control Program's competitiveness with the tobacco industry has continued to be eroded. In the first year of existence, the Tobacco Control Program was funded at 40% of the tobacco industry's expenditures on promotions and advertising. This translates to about \$40 per smoker spent by the Tobacco Control Program and \$101 per smoker spent by the tobacco industry in California (in year 2003 dollars). By 2000, the tobacco industry was spending over one billion dollars annually in California on promotions and advertising alone (14), while the Tobacco Control Program was being funded at only 12% of that total (15) and the gap between the expenditures was continuing to grow. As of 2000, the state was spending about \$26 per smoker for the Tobacco Control Program compared to \$217 per smoker spent by the tobacco industry (in year 2003 dollars).

Figure 2 shows the trend in spending by the Tobacco Control Program and the tobacco industry with all figures inflated to 2003 dollars to reflect changes in purchasing power over time. Given the disparity between the two forces, it should not be surprising that the Tobacco Control Program has not enjoyed the same reductions in the prevalence of tobacco use as was seen in the early years of the program. While the total number of smokers in California has decreased since the origins of the Tobacco Control Program, efforts to prevent youth from starting to smoke and helping adult smokers to quit are more difficult as the tobacco industry has doubled its budget to recruit new smokers and the state has not kept pace.

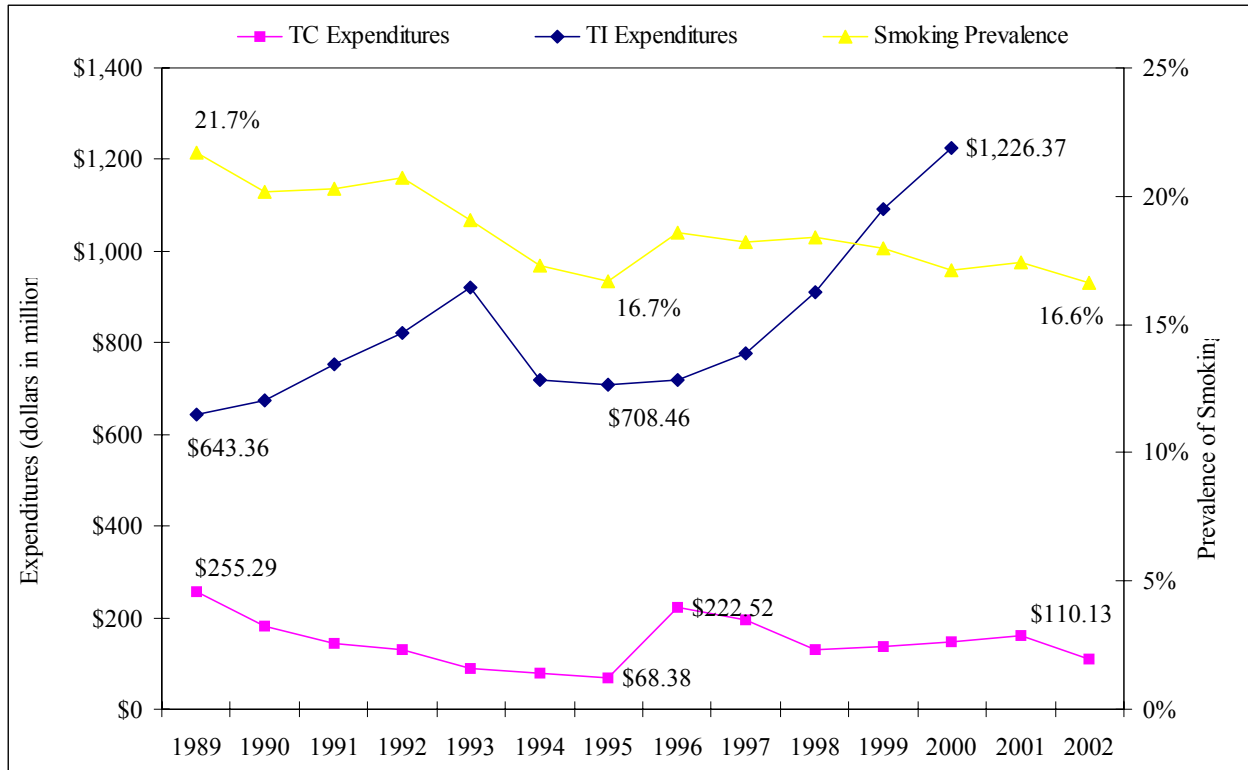


Figure 2: Trends in Expenditures by the Tobacco Industry (TI Expenditures - data available only up to 2000), Tobacco Control Expenditures (TC Expenditures), and the Prevalence of Smoking Among Adults in California Since the Inception of California’s Tobacco Control Program (amounts shown in 2003 dollars)

From 1996 to 2001, the adult smoking prevalence in California remained between 17% and 18%, which totals more than four million people. It was not until 2002 that the smoking prevalence in California dropped to 16.6%, a new historical low. This accomplishment may reflect Governor Davis' allocation of more than \$20 million to the Media Campaign in 2000-2001 from the ANR II Restricted Reserve and the one time allocation of \$20 million, from the state's share of the Master Settlement Agreement, for a youth anti-smoking program (1). Approximately \$20 million remained in the ANR II Restricted Reserve, which was used for the Media Campaign in 2001-2002. While allocations to tobacco control efforts reduce the funds available for other programs, it can save the state money in health care costs and lost

productivity. The increased funding for the Media Campaign and for the creation of the youth anti-smoking program was not repeated in subsequent years. Additionally, the release of the ANR II Restricted Reserve was disputed during the Wilson Administration and the first year of Governor Davis' Administration, during which time, neither agreed to release the funds which were rightfully dedicated, by Proposition 99, for tobacco control efforts.

A 2003 report from the University of California San Francisco found that in 1999, the 4.7 million smokers in California (18% prevalence rate) cost the state approximately \$15.8 billion, which is an increase from the \$7.6 billion spent in 1989 when the smoking rate was 21.7%; this further breaks down to \$475 per Californian and \$3,331 per smoker (16). Direct health care costs related to tobacco use totaled \$8.6 billion (54% of total cost of smoking), lost productivity due to illness totaled \$1.5 billion (10% of total cost of smoking), and lost productivity due to death accounted for the remaining \$5.7 billion (36% of the total cost of smoking) (16). Furthermore, approximately one in five deaths in California in 1999 was attributed to tobacco use for a total of 43,137 deaths (16).

California's Financial Challenges

In 2003, California, like most states across the nation, faced difficult financial times (17). In January 2003, Governor Davis announced that the state was facing a budget deficit of \$34.6 billion (18). In response to the deficit, Governor Davis began making immediate spending cuts as well as decreasing funding to programs for the next fiscal year. Despite a \$43 million decrease in Proposition 99 revenues, Governor Gray Davis did not appropriate new funds to the Tobacco Control Program. The decrease in Proposition 99 revenues, coupled with a \$31 million realignment backfill, resulted in the program being reduced to approximately \$106 million for FY2003-04 (19), down from \$113 million for FY 2002-03 (20).

Ironically, Anita Gore, California Department of Finance spokeswoman justified the cuts on the basis of the program's success: "California is in the forefront of smoking prevention. We have quite a successful campaign, and it will continue - just to a lesser degree. It could be that more funding will be available in the future, depending on the financial situation of the state" (17). During Davis's time in office as Governor, only once did he increase tobacco control spending. In 2001, Governor Davis agreed to commit \$20 million of the nearly \$500 million the state annually received from the Master Settlement Agreement to fund a youth anti-smoking program (1). However, this was a one time commitment not to be repeated.

In 2001, a study in the *New England Journal of Medicine* showed that California ranked 20th in the nation for spending of tobacco settlement revenues, spending only \$3.44 per capita as compared to the CDC's recommended \$5.12; this in stark contrast to the \$22.41 per capita received in 2001 from tobacco settlement revenues (21). According to a report by Campaign for Tobacco Free Kids, when revenues from tobacco excise taxes were included, California ranked 17th in the nation, spending \$88.4 million on tobacco control prevention and education in 2002-2003; this includes only 4% of the \$2.2 billion in tobacco settlement payments and tobacco taxes revenues expected during 2002-2003 (22).

Securitization

Beginning in Spring 2002, in response to the growing state budget deficit (at that time it was estimated to be \$24 billion), Governor Davis and the legislature made the decision to securitize California's share of the MSA revenues (23). Securitization is defined as selling the expected revenues for a set period of time for a discounted up-front lump sum payment. Securitization also shifts the risk that the tobacco companies will stop making MSA payments from the government to private investors (24). Therefore, while the state accepts a lower one-time upfront payment for the expected revenues, the state does not maintain the risk of the future revenues which may include missed or delayed payments by the tobacco companies. The act of securitizing the tobacco bonds decreases the state's dependence on the tobacco companies, which is a benefit. The negative aspect of California's decision to securitize is that none of the revenues generated in the sale will be used for tobacco control efforts. Instead of accepting the \$12.5 billion MSA payments in annual installments, California's leaders decided to sell the state's share of MSA revenues to investors at a discount for a lump sum of \$4.5 billion, to help solve the state's budget problems; however, this decision will cost the state \$8 billion over time (23). Initially, the Governor had intended only to securitize enough of the MSA revenues to generate \$2.4 billion (25), however, as the size of the debt increased, so too did the attractiveness of securitization.

In February, 2002, Senator Steve Peace, Chair of the Senate Budget and Fiscal Review Committee, introduced legislation to securitize the MSA payments. The bill (SB 1831) was signed by the Governor in September 2002 (to be further discussed in the legislation section) (26). As a result, California was labeled one of the most disappointing states in 2002 in Campaign for Tobacco Free Kids' annual report on states' allocation of tobacco settlement dollars, falling from 8th to 17th in the nation for tobacco control funding (22). However, California was not alone in its attempts to find a fix for the budget deficit; as of February 2003, thirteen states had securitized some portion of their share of the MSA revenues, including Alabama, Alaska, Arkansas, California, Iowa, Louisiana, New Jersey, Oregon, Rhode Island, South Carolina, South Dakota, Washington, and Wisconsin (27).

In January, 2003, the San Francisco law firm of Orrick, Herrington & Sutcliffe finalized the sale of the first \$3 billion bond and was scheduled to make a second sale in April 2003 (28). The deal is composed of a \$2.6 billion bond at a fixed rate and \$375 million bond at an auction rate (28). While the bonds were estimated to generate a yield of between 6.5% and 7.5% - as opposed to the 4.7% yield for general obligation bonds - there is no guarantee that the payments will not decrease or that the life of the bond will need to be extended, which increases the risk of the bond for the new bondholder (29). Some investors also feared the worst pay-offs if the tobacco companies continued to be overwhelmed with litigation, potentially threatening their financial stability and ability to make the scheduled payments (29). While this is a benefit to the state, the negative side remains that \$8 billion was lost for the one time lump sum payment.

This fear became a reality in March 2003 when Philip Morris claimed that it would be unable to make scheduled settlement payments on April 15, 2003 if it was required to post a \$12 billion bond while it appealed a decision made in the Illinois class action suit regarding light cigarettes brought against the company by Sharon Price and Michael Fruth (30-33). As a result

of Philip Morris' announcement, California was forced to postpone the second sale of the tobacco settlement bonds (34).

While it was suspected that Philip Morris would in fact be able to pay the bond and the scheduled payments, the influence of the tobacco industry won again after a Brief of Amici Curiae was filed in the Illinois Circuit Court by 37 attorneys general and chief law enforcement officers. The Brief from the Attorneys General stated that if Philip Morris did not make the scheduled payments, it would “endanger vital interests of the state” (35). Judge Nicholas Byron decided to reduce the amount of the bond to a \$6 billion note and allow Philip Morris to pay the bond in quarterly installments of \$200 million (31, 35). (See Litigation section for a more thorough discussion of this case.) California Attorney General Bill Lockyer did not sign the amicus brief.

Because of the uncertainties in the bond market surrounding the tobacco bonds, in the Governor's May revision of the 2003-2004 budget (36), it was announced that the state would not securitize the remaining MSA revenues. “Due to market conditions and a large number of states securitizing their own tobacco settlement moneys, the Administration determined that California should not seek to sell additional securitized bonds” (36). Therefore, the \$173 million in MSA funds expected in 2003-2004 will be used to cover General Fund expenditures for the Healthy Families Program. None of the funds were allocated to tobacco control.

EFFORTS TO INCREASE TOBACCO TAXES

Tobacco taxes reduce smoking by increasing the price and also as a potential source of revenues for tobacco control programs. Governor Davis has included several different proposals for cigarette tax increases in the past two years (18, 37), but has consistently refused to earmark a portion of the new revenues for tobacco control efforts. Governor Davis intended to use any new revenues to patch the budget deficit. In addition to Governor Davis' proposal, there were several other efforts to increase the cigarette tax.

2002 Efforts to Increase the Cigarette Tax

During the 2002 legislative session, there were three different cigarette tax increase proposals introduced. In January 2002, Governor Davis proposed a 50 cent cigarette tax increase in his 2002-2003 Budget Proposal, with the intention of decreasing the state's budget deficit (37). In January, the budget deficit was estimated to be \$12 billion (38). While health advocates were in favor of the tax increase, they were not satisfied with the lack of a dedication of funds for tobacco control.

Second, in February 2002, Senator Deborah Ortiz (D-Dist.6) introduced a 65 cent cigarette tax increase (39). Revenues generated from the tax increase would be used for “tobacco use and prevention and control, education and research, disease prevention, the provision of medical and preventative health services for low-income and uninsured individuals, and the expansion of medical insurance coverage for the uninsured” (39). Health advocates, including the American Lung Association, American Heart Association, American Cancer Society, and the Next Generation California Tobacco Alliance, supported Senator Ortiz's proposal (40). The bill

was heard in the Senate Revenue and Taxation Committee and the Senate Health and Human Services Committee, but no action was taken on the bill.

As the budget developed into the summer, the Governor's initial cigarette tax proposal was increased to a 63 cent tax increase by the Senate, with all of the expected revenues intended to cover the growing budget deficit. According to a May 2002 report by the Legislative Analyst's Office, California's budget deficit had grown since January by \$11.1 billion, raising the state's total budget deficit to \$23.6 billion (41). In July 2002, the American Lung Association of California, American Heart Association Western States Affiliate, American Cancer Society California Division, Americans for Nonsmokers' Rights, Campaign for Tobacco-Free Kids, and the Next Generation California Tobacco Control Alliance joined together to launch an ad campaign to restore the tobacco control budget (42, 43); they announced:

The 60-second radio spots remind the public that tobacco still kills more than 40,000 Californians every year and explain that Californians have a choice: we can continue to lead the nation in saving lives from tobacco, or we can fall behind...and let our children pay the ultimate price (42, 43).

Despite this concerted effort from the health groups, a dedication of funds to tobacco control programs was never made and the 63 cent tobacco tax increase, included in a revision of the state's budget, did not receive enough support to materialize.

Finally, a third proposal was put forth in August 2002 to increase the cigarette excise tax to \$2.13 for a total of \$3 per pack of cigarettes; this proposal, like the Governor's, did not include an earmark for tobacco control activities (44). A study conducted by researchers at the University of California San Francisco found that a \$2.13 cigarette tax increase could produce almost 590,000 new quitters which translates to 320 million packs of unsmoked cigarettes and a \$790 million annual decrease in revenues for the tobacco industry (45). Furthermore, the tax increase would save the state of California \$1.41 billion in medical expenditures and almost 5,800 deaths in the long term, as well as \$1.78 billion in additional state revenues (45). The proposal, backed largely by Assembly Speaker Herb Wesson, was removed from the bill in a revision made in the middle of August because of strong opposition from Assembly Republicans and a lack of support from the Governor.

2003 Efforts to Increase the Cigarette Tax

With the release of the Governor's 2003-2004 Budget Proposal came another cigarette tax increase proposal. Governor Davis proposed increasing the cigarette tobacco tax by \$1.10, bringing the tobacco tax to \$1.97 per pack (18). The new revenues would be passed on to local governments who would also receive responsibility for many programs and services previously administered by the state (46).

In an analysis conducted by the Legislative Analyst's Office, it was suggested that a cigarette tax increase would only increase the problem of smuggling, thereby resulting in a greater loss in tax revenues (47). However, previous research on the impact of a tax increase has shown that the prevalence of tax evasion is only about 5% (48).

Researchers at the University of California also conducted a detailed analysis of both the Governor's \$1.10 proposal and Assembly Speaker Wesson's \$2.13 proposal from the previous legislative session (49). The study found that the proposals would result in an annual loss of revenues to the tobacco industry between \$667 million with the \$1.10 tax increase and \$1.05 billion with the \$2.13 tax increase. With regards to claims of smuggling, they found that smuggling at a magnitude large enough to offset the impact of increased revenues would have to amount to about 483 million packs of cigarettes, half of all cigarettes smoked in California (49).

The study also pointed out the opportunities missed by the Governor and Speaker Wesson by not allocating a portion of the tobacco tax increase for tobacco control programs. After allocating 20 cents for tobacco control programs, the increased tax would respectively generate between \$806 million and \$1.59 billion for the state and between \$47 million and \$92 million for local governments. Moreover, between 555,000 and 818,000 smokers would quit, resulting in a decrease of between \$29 million and \$43 million in direct medical costs within the first year. In terms of health benefits, the tobacco tax increase would result in between 475 and 700 fewer heart attacks, 145 and 215 fewer deaths due to heart attacks, 380 and 560 fewer low birth weight babies being born, 500 and 745 fewer cases of childhood asthma, and prevent between 20 and 30 cases of Sudden Infant Death Syndrome (49). Put simply, "If you increase the tax, people stop smoking. The budget crisis will intensify with ever-increasing medical costs caused by smoking," said Kirk Kleinschmidt, Chair of the Tobacco Education Research Oversight Committee, California's tobacco oversight body (46).

Tobacco Tax Campaign

In addition to the Governor's proposal, a coalition of health advocates has been formed to advance their own proposal of a \$1.50 cigarette tax increase. In April 2003, the American Heart Association, the American Cancer Society, the American Lung Association, Americans for Nonsmokers' Rights, Campaign for Tobacco Free Kids, and the Next Generation California Tobacco Control Alliance joined together to form the Coalition for a Healthy Future (Tobacco Tax for Tobacco Programs) (50). The purpose of the coalition was to earmark 20 cents of any cigarette tax increase for tobacco prevention and control programs (51); this was a five cent increase from the previous year's campaign for a 15 cent earmark for tobacco control (40).

The plan for the Coalition is to stress core messages in support of the tobacco tax increase with an earmark including: 1) it is only fair to spend tobacco tax revenues on tobacco control because you are taxing only the smokers who could use the programs, specifically a disproportionate amount of minorities and under-served populations; 2) tobacco money should be spent for tobacco control just like gasoline tax is spent for transportation improvements; 3) it is a win-win solution as it will prevent death and disease due to tobacco use and generate revenues for the state; 4) tobacco control programs which have been proven time and time again to be effective have already suffered the effects of inflation and funding cuts and need to be restored to reasonable levels of funding; and 5) there are still over 4 million smokers in California who could use these services and without them, these smokers will continue to suffer the effects of tobacco (51).

During meetings of the coalition, the partners decided that a \$1.50 should be the focus of the campaign, pushing beyond the Governor's \$1.10 proposal but not going as far as Speaker

Wesson's \$2.13 proposal. The coalition also estimated revenues from such a proposal, with a 20 cent earmark, to generate approximately \$175 million, which would be allocated to a) restore previous levels of funding for the Department of Health Services Tobacco Control programs; b) to smoking cessation services such as the California Smokers' Helpline and benefits for under-served populations; c) outreach and prevention for special populations; d) local law enforcement grants; e) the California Department of Education's competitive grants; and f) the Tobacco Related Disease Research Program (each component will be discussed in the next section).

While the Coalition worked to garner support from legislators, many of whom had already stated their opposition to new taxes, there is considerable support from the public. In a survey conducted by the Public Policy Institute of California's Statewide Survey, 2,004 Californians were asked their opinion on raising money by increasing different tax options (52). Of the responses, 74% favored increasing the cigarette tax, 56% supported an Internet tax, and 53% supported an increase in the income tax, among other responses provided.

In March, 2003, the Next Generation California Tobacco Control Alliance commissioned Fairbank, Maslin, Maullin, and Associates to conduct a poll on Californians' opinions on increasing the tobacco tax (53). The study revealed that there is strong support for a tobacco tax increase (68%), ranked over increasing the state income tax on the wealthy, establishing an Internet sales tax, raising vehicle license fees, or increasing the state sales tax. Sixty-eight percent of the 800 randomly sampled Californians surveyed stated they support a 75 cent tobacco tax increase and support remained in the 60% range up until a \$2.00 tobacco tax increase, the highest amount asked (53). Moreover, 67% of those surveyed stated that they favored earmarking some of the tax increase to tobacco prevention and control programs and 52% stated support for earmarking all of the new revenues to tobacco prevention and control programs. The respondents felt that the most convincing argument in support of the tobacco tax increase with an earmark was that the public health groups supported the proposal and the tobacco industry opposed it (53).

The coalition of health advocates, known as the Campaign for a Healthy Future, launched a webpage in April 2003 (www.healthyfuture.net) to provide background information, regular updates on its progress and a letter writing campaign. In addition to individual's elected officials, the Campaign urged supporters to write to Governor Davis, Senate President Pro-Tempore John Burton, and Assembly Speaker Herb Wesson. The Campaign for a Healthy Future officially kicked off its efforts with a press conference in Sacramento followed by visits to legislative leaders. The Campaign also placed an ad (Figure 3) in the April 28 edition of the Sacramento Bee (54). The ad emphasized the public's support for the tax increase and the financial and health benefits

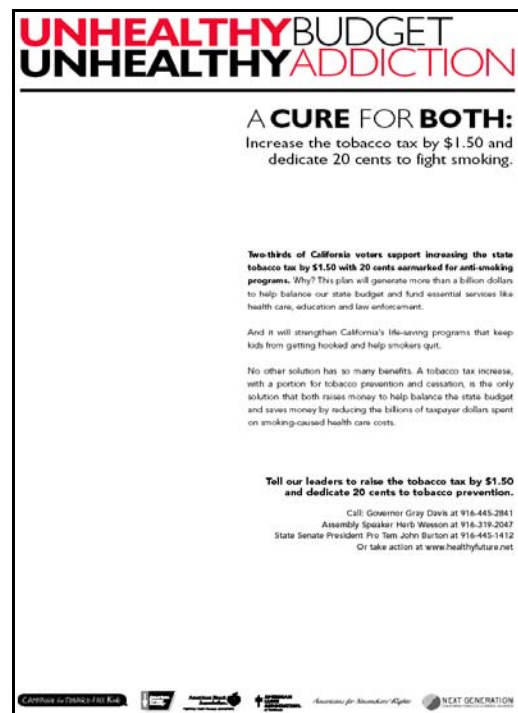


Figure 3: Campaign for a Healthy Future's Ad in the Sacramento Bee, April 28, 2003 (www.healthyfuture.net/media_campaign)

of increasing the cigarette tax. The Campaign also scheduled local kick-off events beginning May 12 in San Francisco to garner support at the local level.

On May 14, Governor Davis released his May revision of the 2003-2004 budget (see California Tobacco Control Budget for details). In the revision, Governor Davis decreased the proposed cigarette tax increase from \$1.10 (18) to 23 cents in 2003-2004 and an additional 40 cents in 2004-2005 (36). This tax proposal is expected to generate \$267 million in 2003-2004 and \$678 million in 2004-2005, as opposed to the \$1.1 billion which would have been generated by a \$1.10 cigarette tax increase (49). Similar to the original \$1.10 proposal, the new cigarette tax increase proposal does not earmark any of the new revenues for tobacco control activities. The decision to increase the tobacco tax by only 23 cents was made in light of a 61% approval rating for a cigarette tax increase of \$2.00 and a 68% approval rating for a cigarette tax increase of 75 cents (53).

THE CALIFORNIA TOBACCO CONTROL BUDGET

Funded by Proposition 99 and a backfilled portion of Proposition 10 revenues, the California Tobacco Control Program is made up of three main components: a) the Tobacco Control Section in the Department of Health Services, b) the Department of Education, and c) the Tobacco Related Disease Research Program (TRDRP). Proposition 99, by voter initiative, requires that 20% of the revenues from the cigarette tax are allocated for anti-tobacco education programs and that 5% is allocated to tobacco-related research. In addition, some funds from Proposition 10, which increased the cigarette excise tax by 50 cents in 1998, are transferred to Proposition 99 (and breast cancer) programs to 'backfill' for revenue losses to those programs resulting from decreases in consumption due to the price increase associated with Proposition 10 (55).

The Tobacco Control Section (TCS) and the California Department of Education (CDE) programs are funded by the Health Education Account and TRDRP is funded through the Research Account. Historically, the TCS component, which funds the media campaign, competitive grants, local lead agencies, and evaluation has been funded at about double the amount of either of the other two components. While CDE and TRDRP were funded almost equally at the program's inception, beginning in 1993, funding for TRDRP was significantly reduced, not to be returned to similar funding levels until 1996.

Within the first four years of the program, when the decline in tobacco use was greatest, California had committed an average of \$14.27 per smoker for TCS, \$8.59 per student for CDE and \$6.79 per smoker for TRDRP. Figure 4 shows the total budget figures for each year since the program began with dollar amounts inflated to 2003 dollars for the sake of comparing amounts across years. The line shows the total funding for the Tobacco Control Program and the bars show the funding levels for each of the three components of the program.

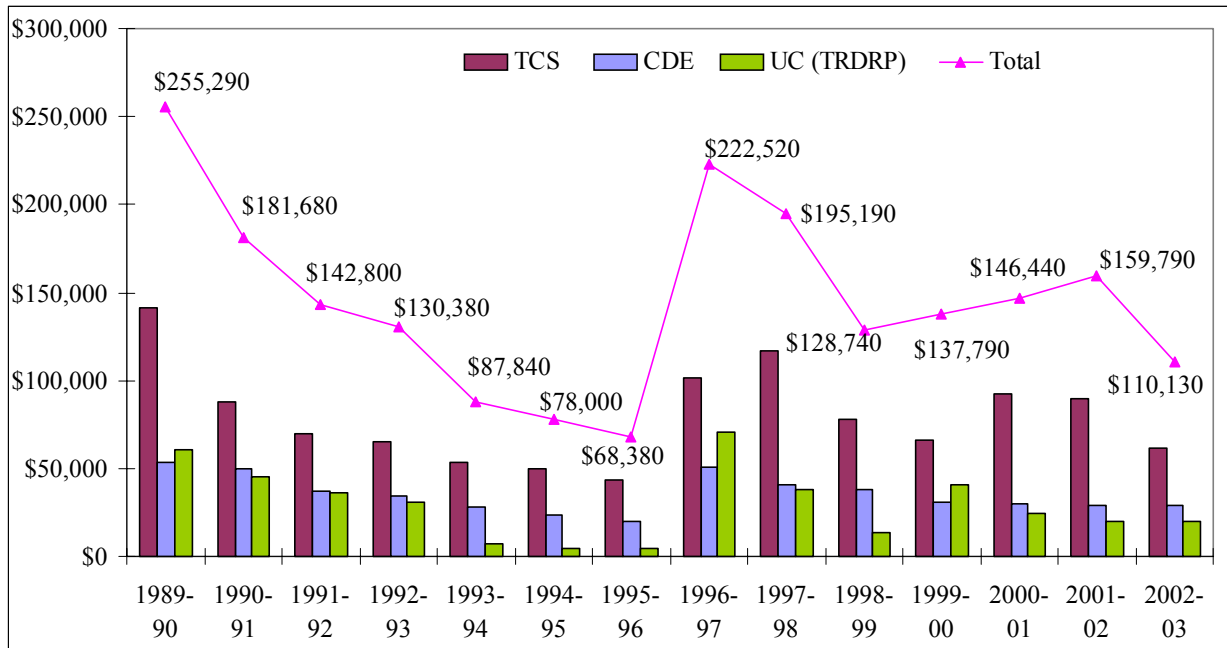


Figure 4: California Tobacco Control Program Expenditures by Program Area, 1989-2003 (in 2003 dollars in thousands)

When the effects of inflation have been removed, California's fiscal commitment to tobacco control slowly dwindled throughout the 1990s and has plateaued for the past few years (15). Between 1989, when the program began, and the mid 1990s, when Governor Wilson was diverting funds from the Health Education and Research Accounts to medical services, funding for the California Tobacco Control Program dwindled. In 1996, Governor Wilson released a portion of the funds he had previously withheld, which accounts for the large increase in funding between 1995-1996 and 1996-1997 (56). Additionally, it was at that time that the original Proposition 99 formula for allocating the cigarette tax revenues was reinstated. Therefore, rather than the 10% and 1% which was being given to the Health Education Account and the Research Account, respectively, funding was returned to the 20% and 5% initially intended.

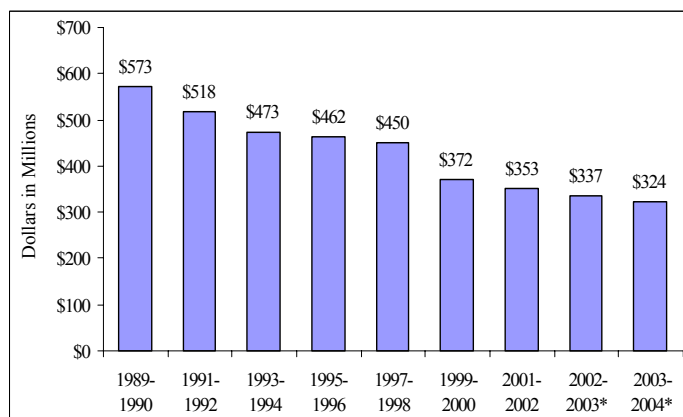


Figure 5: Declining Revenues from Proposition 99 (Source: Governor's Budget Summary, 2003-2004)

In addition to a lack of new funds being dedicated to tobacco control efforts, revenues from Proposition 99 are declining as consumption declines. Between 1987/1988 and 2000/2001, cigarette consumption in California has decreased from 127 packs per capita to 51 packs per capita; this represents a 60% decrease in consumption. Between 1989/1990 and 2001/2002, revenues from the 25 cent cigarette tax imposed by Proposition 99 decreased from \$573 million to \$353 million (Figure 5); this is a 38% decline in revenues (57). It is

estimated that the revenues from Proposition 99 will decrease to \$337 in 2002/2003 and \$324 in 2003/2004 (57).

Governor's Budget Proposal for Tobacco Control

In 2001, under pressure from the American Heart Association and Americans for Nonsmokers' Rights, Governor Davis made a significant financial commitment to the Tobacco Control Program in his 2001-2002 budget. The campaign focused on increasing funding for the Tobacco Control Program by using the revenues due to the state as a result of the Master Settlement Agreement (Figure 6). The final lines of the ad read, "Gov. Gray Davis can pass the leadership test today on our state's most important life-and death issue." For the first time during his time in office, Governor Davis proposed to spend \$20 million of the \$500 million annual payment from the MSA on tobacco control efforts (1, 58).

Davis proposed to spend \$15 million, plus a one time start up allocation of \$5 million, for a youth anti-smoking program. Therefore, while revenues from Proposition 99 provided \$84.9 million for the Tobacco Control Section, \$28.1 million for the Department of Education, and \$19.4 million for the Tobacco-Related Diseased Research Program, Governor Davis chose to allocate an additional \$20 million from the MSA funds (see Table 1) (58). It should also be noted that Governor Davis had approved an increase in funding for the Media Campaign from \$17.9 million in 1999 to \$45.3 million for FY00-01 and FY01-02 (1).

However, the willingness to support the program shown by Governor Davis in the 2001-2002 budget dwindled. In 2002, revenues from Proposition 99 provided \$60.4 million for the Tobacco Control Section, \$28.0 million for the Department of Education, and \$19.4 million for the Tobacco-Related Disease Research Program (see Table 1) (37). While Governor Davis allocated the remaining funds from the ANR II Restricted Reserve for the Media Campaign, he chose not to continue using revenues from the MSA to pay for youth anti-smoking programs.

ONE IN A SERIES

Don't forget to conserve lives, Governor Davis

California can once again show the world how it's done:

During the early 1990's California reduced smoking faster than anywhere else in the world, saving 30,000 lives from heart disease alone between 1989 and 1997.

But most of these gains were posted two governors ago.

Since then, real per capita hunting for California's major anti-tobacco program has dropped by 33%. The result? Smoking rates have stalled at 16.7-18.6% among adults for the last six years. Lower than the rest of the country, yes. But much higher than if our state still ran as large and strong a campaign as it did in the early 1990s.

If that campaign had continued at full strength 13,000 Californians who have died of heart disease would be alive today.

What do we need to do? Invest what the U.S. Centers for Disease Control recommends for California — about \$100 million more a year than it spends now.

Where can we get the money? From the tobacco industry's own settlements. In fact, after all, Big Tobacco continues to pump a billion dollars a year into California to promote smoking, settlement or no settlement. That's ten times more than the state now invests to reduce tobacco addiction, disease and death.

We urge Governor Davis for proposing to add \$20 million to our state's proven tobacco control efforts next year, it even appears that he'll soon make good on his two-year-old promise to launch a new generation of aggressive anti-tobacco TV spots.

The kind that promote smoke-free air, increase young people against Big Tobacco's marketing, and help addicted smokers quit once and for all.

Of course California can do much more than try to defend its old gains against Big Tobacco.

But ending tobacco addiction and death will require rare political vision and will.



THE TEN PERCENT CHALLENGE:
Cut California's smoking rate to 10% by 2006.

So the American Heart Association issues the TEN PERCENT CHALLENGE: Cut California's smoking rate to 10% by 2006.

Is this realistic? Can the number of adult smokers really drop 40% in less than five years? You bet. This is one problem we know exactly how to solve.

- Launch a large media campaign like the early 1990's original.
- Bolster and promote the California Smokers Hotline.
- Strengthen local programs to protect clean indoor air and erode the social acceptability of smoking.

These steps will quickly help many of today's California smokers quit. Thanks to the progress we've already made, 60% of California smokers are now the "light" smokers (fewer than 15 cigarettes a day) most responsive to educational messages.

And as soon as they quit, their risk of a heart attack drops dramatically.

At the same time, expanding anti-tobacco campaigns will stop Big Tobacco from adding more teens and young adults to replace the tens of thousands of California smokers and non-smokers it kills every year.

If Gov. Davis accepts the TEN PERCENT CHALLENGE, he will save 50,000 lives in the next five years.

It requires tough leadership to confront powerful corporate interests. Real insight to invest in programs that pay off now and for generations to come... Real commitment to work disease and death we know will occur unless our state takes action immediately.

Vision and will — the ability to imagine a brighter future and lead others toward a positive goal.

Gov. Gray Davis can pass the leadership test today on our state's most important life-and-death issue.

Let's show the world how it's done. Cut California's smoking rate to 10% by 2006. Send these messages to Sacramento, now.


Fighting Heart Disease and Stroke
Member Since 1962
Americans for Nonsmokers' Rights

<p>Governor Gray Davis:</p> <p>Wouldn't you like to see California's smoking rate drop to 10% by 2006? The American Heart Association's TEN PERCENT CHALLENGE is a challenge to meet \$200 million in state funds in California by 2006. Fully 70% of the money would be coming from the tobacco industry.</p> <p>NAME: _____</p> <p>ADDRESS: _____</p> <p>CITY/STATE/ZIP: _____</p>	<p>State Senate President Pro Tem Burton & Assembly Speaker Herzig:</p> <p>Big-hearted smokers never walk. Accepting the American Heart Association's TEN PERCENT CHALLENGE will reduce tobacco addiction, disease and death in our state. How we know how to solve. Tell us in writing. Gov. Gray Davis to reduce the smoking rate to 10% by 2006.</p> <p>NAME: _____</p> <p>ADDRESS: _____</p> <p>CITY/STATE/ZIP: _____</p>	<p>American Heart Association:</p> <p>I enthusiastically support your campaign to reduce smoking rates to 10% and prevent 50,000 deaths from smoking-related heart disease by 2006. Let's do it!</p> <p><input type="checkbox"/> Add me to the statewide network of California Heart on Smoking the process on Big Tobacco.</p> <p>NAME: _____</p> <p>ADDRESS: _____</p> <p>CITY/STATE/ZIP: _____</p>
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 Fill out complete and mail to: American Heart Association, P.O. Box 160136, Sacramento, CA 95816.

Figure 6: AHA and ANR's campaign advertisement to increase funding for tobacco control programs

Governor Davis did not, however, use the budget crisis as an excuse to divert funds from the Proposition 99 accounts. Nevertheless, the cuts from other funding sources significantly reduced the Tobacco Control Program's budget. While the Program had a total of \$152.4 million to spend in 2001-2002, the total amount available in 2002-2003 was reduced by \$44.6 million to \$107.8 million; this represents a 29% decrease in funding.

Cynthia Hallett, Executive Director of Americans for Nonsmokers' Rights commented on the budget reductions, "Granted we are in a budget crunch, but the voters decided in 1989 to fund tobacco prevention" (59). However, health advocates did much more than comment. In June 2002, the American Heart Association and Americans for Nonsmokers' Rights bought a full page ad in *The New York Times* urging Governor Davis to dedicate 15 cents of his proposed 50 cent tobacco tax to the tobacco control program to compete with the more than \$1 billion spent by the tobacco industry annually on advertising and promotions (Figure 7).

In July 2002, the American Lung Association of California, American Heart Association Western States Affiliate, American Cancer Society California Division, Americans for Nonsmokers' Rights, Campaign for Tobacco-Free Kids, and the Next Generation California Tobacco Control Alliance joined together to launch a radio advertisement seeking a 15 cent earmark of any new tobacco tax (See 2002 Efforts to Increase Tobacco Taxes for details) (42, 43).

The effort put forth by the health advocates was not successful. In addition to withdrawing funding from the MSA revenues, the Davis Administration decided to securitize California's share of the MSA payments (23). This decision eliminated any future opportunities to use the tobacco settlement funds for tobacco control efforts. (It is not clear what the long term implications of the decision not to complete the securitization in May 2003 will have on this situation.)

In the Governor's 2003-2004 budget proposal, the Health Education Account and the Research Account were reduced by \$6.6 million, as a result of declining Proposition 99 revenues

THE LAST STRAW?

Gray Davis gives corporate pushers the license to kill.

He smothers successful anti-smoking programs while Big Tobacco pours \$1 billion into California.

When it comes to pushing the deadliest drug in America, money talks.

Giant tobacco companies like Philip Morris and RJ Reynolds spend over \$1 billion a year to market and promote their lethal products in California.

The horrifying result? Tobacco will kill 45,000 Californians in 2002—more than murder, suicide, auto accidents, illegal drugs and HIV/AIDS combined...

Big Tobacco is the #1 public health threat in California, killing over 3,500 every month and addicting hundreds of fresh victims daily.

Gray Davis promised to battle Big Tobacco when he was elected. Now his May Budget Revision reads like a tobacco lobbyist's wish list.

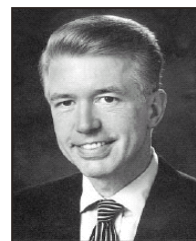
The Governor aims to...

▶ Slash California's powerful anti-tobacco programs in half.

▶ Boost taxes on smokers 50¢ a pack—with none of the revenue going to help smokers quit or save the next generation from addiction.

▶ Turn California's share of the \$25 billion Master Settlement Agreement into a crushing debt. If Davis backtracks against these payments, as he proposes, anti-tobacco programs will be compromised for 25 years.

How much will it cost to make Big Tobacco's hit men this happy?



Anti-tobacco programs save California \$3.62 for every dollar invested. The Governor plans to hijack \$61 million from anti-tobacco programs until used up covering \$211 million more in medical expenditures—and extend the state's budget crisis.

▶ Every dollar cut from the state's anti-tobacco programs this year will end up costing California \$3.62 more in medical expenditures.

▶ More California teens will be hooked on tobacco, burdening the state's health system for decades.

▶ More Californians will keep smoking their way to deadly heart attacks. An estimated 15,000 additional Californians were felled by heart disease alone after the state's world-class anti-tobacco

programs were cut and cannibalized under Governor Pete Wilson.

Big Tobacco is spending \$3 million a day to addict and kill Californians. Tell the legislature to take the lead and protect our state from these corporate killers.

Yes, we can stop Big Tobacco. Right now, California's cost-effective anti-tobacco and community health programs are preventing addiction and helping current smokers quit, saving hundreds of millions of taxpayer dollars and thousands of lives.

Solutions? They're obvious. To fully fund the state's anti-tobacco programs, dedicate 15¢ of the new 50¢ tobacco tax—or simply make the tax 65¢ a pack and earmark the necessary funds. Either way, we keep Big Tobacco on the run and guarantee Californians a safer, healthier state. Do you agree?

Send Sacramento a message now.



Fighting Heart Disease and Stroke
Western States Affiliate

Americans for Nonsmokers' Rights

<p>Governor Gray Davis: In the middle of a budget crisis, you want to cut anti-tobacco programs that save the state three times what they cost—and condemn a fresh generation of Californians to addiction and death. There's no way to balance the budget, put any new tobacco tax to work saving thousands of lives next thousands of millions of dollars.</p>	<p>State Senate President Pro-Tom Burton & State Assembly Speaker Wesson: Big Tobacco will spend \$1 billion this year to kill 45,000 Californians, admit that number—and keep the state's health care budget. Best way to fight heart? Use tobacco taxes to fully fund anti-tobacco programs that save taxpayers \$3.62 for every dollar invested. We're counting on you.</p>	<p>American Heart Association: Big Tobacco is America's #1 public health menace. I fully support your efforts to target basic common sense. Tell the state's budget makers. <input type="checkbox"/> Add me to the statewide network of Californians intent on keeping the pressure on Big Tobacco.</p>
NAME: _____ ADDRESS: _____ CITY/STATE/ZIP: _____	NAME: _____ ADDRESS: _____ CITY/STATE/ZIP: _____	NAME: _____ ADDRESS: _____ CITY/STATE/ZIP: _____

Fill out coupons and mail to: American Heart Association, P.O. Box 160126, Sacramento, CA 95816.

Figure 7: AHA and ANR's campaign advertisement to dedicate 15 cents of the proposed 50 cent cigarette tax increase to tobacco control efforts

(37), which were estimated to be \$279 million (18). In the budget, the Tobacco Control Section was the only component whose funding was reduced; the budget allocated \$53.8 million for the Tobacco Control Section, \$28.0 million for the Department of Education, and \$19.4 million for the Tobacco-Related Disease Research Program (18). Despite the Governor's proposal to increase the cigarette excise tax by \$1.10 for a total of \$1.97, Governor Davis did not earmark any of the new revenues for tobacco prevention and education programs (37). In response to negative media coverage of the tobacco control budget reductions, Steve Maviglio of the Governor's Office said, "California leads the nation in terms of efforts to stop smoking. We're still head and shoulders above other states" (59). However, while California may still be ahead of other state tobacco control programs, the tobacco industry continues to increase funding for tobacco advertising and promotion.

On May 14, the Governor's May revision of the 2003-2004 budget was released. In addition to the decision not to securitize California's remaining share of the MSA payments and the reduced cigarette tax proposal of 23 cents instead of \$1.10 (see Efforts to Increase Tobacco Taxes), the Health and Education Account received an additional \$8.4 million dollars and the Research Account received an addition \$2.0 million; these funds came from a revised calculation of the Proposition 10 backfill (36). In addition, the reserve which was held in the Research Account was reduced to 2% of the total expenditures as opposed to the previous 12%, making the reserve consistent with the Health Education Account. Moreover, estimates of the revenues raised by Proposition 99 were increased from \$279 million to \$304 million due to the reduction in the Governor's cigarette tax proposal. Therefore, the budget allocated \$61.6 million for the Tobacco Control Section, \$28.0 million for the Department of Education, and \$23.9 million for the Tobacco-Related Disease Research Program (see Table 1) (36). This represents a 6% increase in funding for the Tobacco Control Program (TCS, CDE and TRDRP). However, it should be noted that the increase in the backfill from Proposition 10 was a one time increase, not expected to continue in future years.

Given the \$38.2 billion budget deficit faced by state officials, funding for many programs is significantly being reduced. However, funding for the tobacco control programs has remained untouched. While Governor Davis has not allocated any new funds for the Tobacco Control Program in his 2003-2004 budget, there have been no attempts at diverting funds from the Proposition 99 Health and Education and Research Accounts. The decline in revenues to the Proposition 99 Accounts, as a result of decreased consumption, is the driving force behind the decrease in tobacco control funding. While it is positive that the prevalence of smoking in California has declined from 17.1% to 16.6%, a continued effort and commitment from the Davis Administration is necessary to accomplish further reductions. Such a commitment would include sound policy to hold the tobacco industry accountable for its practices and appropriate levels of funding to support tobacco prevention and education, as recommended by California's Tobacco Education and Research Oversight Committee.

Table 1: Appropriations from the Governor's Budget to the Health Education and Research Accounts During the Davis Administration, 1999/2000 - 2003/2004

	1999-2000	2000-01	2001-02	2002-03*	2003-04*
Total Revenues	\$371,890	\$351,157	\$334,066	\$321,999	\$304,000
Other Adjustments (Realignment Backfill)					\$6,530
Board of Equalization Fee	-\$1,283	-\$1,337	-\$1,545	-\$2,105	-\$2,320
TOTAL Revenues to be Allocated	\$370,607	\$349,820	\$332,521	\$319,894	\$308,210

California Budget Calculations for Health Education (Dollars in Thousands)

	1999-2000	2000-01	2001-02	2002-03	2003-04
Beginning Balance	\$63,605	\$59,487	\$69,273	\$12,737	\$13,539
Prior Year Adjustment	-\$5,739	\$39,517	-\$29,018	.	.
20% of Total Proposition 99 Revenues	\$74,121	\$69,964	\$66,504	\$63,979	\$61,642
Prop 10 Backfill	\$14,880	\$14,900	\$15,900	\$13,400	\$13,400
Interest	\$2,211	\$7,350	\$3,558	\$3,558	\$3,558
Net Resources Listed in the Budget	\$149,078	\$191,218	\$126,217	\$93,674	\$92,139
Total Actual Expenditures	\$89,592	\$121,945	\$113,480	\$88,536	\$90,135
Dept of Health Services	\$60,319	\$93,403	\$84,928	\$60,356	\$62,139
Dept of Education	\$27,722	\$27,661	\$28,064	\$27,996	\$27,996
Direct Pro Rate Charges	\$1,551	\$881	\$488	\$184	\$175
Reserve	\$59,487	\$69,273	\$12,737	\$5,138	\$1,829

California Budget Calculations for Research Account (Dollars in Thousands)

	1999-2000	2000-01	2001-02	2002-03	2003-04
Beginning Balance	\$85,527	\$75,120	\$56,334	\$8,825	\$8,032
Prior Year Adjustment	.	\$109	-\$46,096	.	.
5% of Total Proposition 99 Revenues	\$18,530	\$17,491	\$16,626	\$15,995	\$15,411
Prop 10 Backfill	\$3,720	\$3,700	\$4,000	\$3,400	\$3,400
Interest	\$531	\$4,905	\$2,325	\$2,325	\$2,325
Net Resources Listed in the Budget	\$108,308	\$101,325	\$33,189	\$30,545	\$29,168
Total Actual Expenditures	\$33,188	\$44,991	\$24,364	\$24,513	\$28,601
TRDRP	\$31,311	\$39,823	\$19,434	\$19,434	\$23,863
DHS Cancer Registry	\$1,719	\$5,050	\$4,930	\$4,930	\$4,738
Direct Pro Rata Charges	\$158	\$118	.	\$149	.
Reserve	\$75,120	\$56,334	\$8,825	\$6,032	\$567

Note: * indicates estimated amounts, whereas 1999-2000, 2000-01, and 2001-02 are actual expenditures

Source: California Department of Finance, Cigarette and Tobacco Products Surtax Fund Expenditures and Available Revenues, 1999-2000, 2000-01, 2001-02, 2002-03, 2003-04

Tobacco Education and Research Oversight Committee

The Tobacco Education and Research Oversight Committee (TEROC) is an official state commission, created by the legislature to oversee the implementation of tobacco control prevention and education and tobacco-related disease research programs funded by Proposition 99 tobacco tax revenues (60). The Committee is composed of 13 members: eight are appointed by the Governor, two by the Speaker of the House, two by the Senate Rules Committee, and one by the Superintendent of Public Instruction (60). TEROC is mandated by the legislature (California Health and Safety Code Section 104350-104480) to submit a master plan to guide policy makers in California with regards to tobacco control policy making (61).

The Governor's initial 2003-2004 budget proposal was released on January 10. Budget and policy recommendations from the state's Tobacco Education and Research Oversight Committee (TEROC) were not released until the following Tuesday, January 14, 2003. While the Governor's budget proposal was largely focused on the fiscal crisis, the TEROC recommendations focused on effective means through which to reduce tobacco use in California. Despite the availability of TEROC's report, the Governor's May revision of the 2003-2004 budget did not take any of TEROC's recommendations into consideration.

The latest master plan, "Toward a Tobacco-Free California, 2003-2005: The Myth of Victory" (61) lays out six objectives for the Tobacco Control Program in the next three years:

- 1) Strengthen the fundamental structure of the California Tobacco Control program.
- 2) Increase the price of tobacco products.
- 3) Work toward eliminating disparities and achieving parity in all aspects of tobacco control.
- 4) Decrease exposure to secondhand smoke.
- 5) Increase availability of cessation assistance.
- 6) Initiate efforts to regulate the tobacco industry and its influence.

TEROC's first two priorities involve increasing the funding for tobacco control programs.

The basic structure of the Tobacco Control Program must be energized and strengthened to continue to protect the public's health by making tobacco use unacceptable. To keep the infrastructure strong and effective, funding for the program must be protected. The purchasing power of Prop 99 funding for tobacco control is decreasing because of inflation and dropping consumption, and funds were also reduced by \$46 million in the state budget for fiscal year 2002-2003. At the same time, the amount spent by the tobacco industry for marketing in California is increasing... Restoring funds to the Tobacco Control Program - thereby maintaining its effectiveness to fight the pervasive influence of the tobacco industry and assist smokers to quit - will result in a further reduction in the incidence of lung cancer, heart disease, emphysema and other deadly tobacco-related diseases. Decreasing illness and deaths from tobacco-related diseases will significantly lower the economic costs to the state. Because the main opponent of the Tobacco Control Program is the tobacco industry, future Tobacco Control Program budgets should be competitive with the expenditures by the tobacco industry on promotion and advertising in California (61).

To implement its recommendations, TEROC developed a budget plan taking into account the proportion of spending for the Tobacco Control Program in relation to the expenditures by the tobacco industry on advertising and promotion in California during the early years of the program when the prevalence of tobacco use was at its greatest decline.

Between 1989 and 1993, when the Tobacco Control Program was effectively competing with the tobacco industry, the four-year average allocation of funds for the Program was 25% of the expenditures by the tobacco industry on advertising and promotion. As of 2000, this ratio had dropped to 12%. To return to the same level of competitiveness the Program had with the tobacco industry in the early years, the Tobacco Control Program would have to be funded at 25% of the industry's expenditures, which totaled approximately \$1.16 billion in 2000; accounting for inflation, this is equal to about \$1.21 billion in 2002. Therefore, if the tobacco control budget were funded at 25% of the tobacco industry's expenditures, the budget would need to be increased to \$301.4 million, which is \$194 million more than the FY 2002-2003 budget [Table 2] (61).

Table 2: Budget Necessary to Return the Tobacco Control Program to Same Ratio of Spending to the Tobacco Industry that Existed During the First Four Years of the Program

	Original Share of Tobacco Control Program (percent of total)	Necessary Expenditures (2002 dollars in millions)	FY 2002-03 Budget (in millions)	Underfunding (2002 dollars in millions)
TCS	51%	\$153.7	\$60.4	\$93.3
CDE	25%	\$75.4	\$28.0	\$47.4
TRDRP	24%	\$72.3	\$19.4	\$52.9
TOTAL		\$301.4	\$107.8	\$193.6

Source: Tobacco Education Research Oversight Committee, 2003. *Toward a Tobacco Free California, 2003-2005: The Myth of Victory*. Sacramento, CA: California Department of Health Services; 2003 January.

Since it is TEROC's responsibility to make budget recommendations for the next three years, [Table 3] shows the funding necessary to maintain the same ration of spending with the tobacco industry (25%), accounting for annual inflation. However, it is also important that attention is paid to future spending levels of the tobacco industry, making adjustments to this budget proposal accordingly. Future budgets should continue to account for inflation adjustments, as this was a significant factor contributing to the under-funding of the Tobacco Control in the past (61).

Table 3: Budget Proposal for the Tobacco Control Program, Fiscal Years 2002-2005

	Actual FY 2002-03 Budget (in millions)	Recommended FY 2002-03 Budget (in millions)	Recommended FY 2003-04 Budget (in millions)	Recommended FY 2004-05 Budget (in millions)
TCS	\$60.4	\$153.7	\$158.3	\$163.1
CDE	\$28.0	\$75.4	\$77.6	\$79.9
TRDRP	\$19.4	\$72.3	\$74.5	\$76.7
TOTAL	\$107.8	\$301.4	\$310.5	\$319.8

Source: Tobacco Education Research Oversight Committee, 2003. *Toward a Tobacco Free California, 2003-2005: The Myth of Victory*. Sacramento, CA: California Department of Health Services; 2003 January.

TEROC's budget proposal for fiscal years 2002 through 2005 directly identified the main competitor of the tobacco control program: the tobacco industry. The proposal also took into account the eroding effect of inflation. In essence, TEROC's proposal was asking for level funding for the Tobacco Control Program since its inception. While the Governor's May revision of the 2003-2004 Budget (36) does not reflect these funding recommendations, the funding for the Tobacco Control Program was increased by 6% as opposed to a decrease or a diversion of funds as a result of a one time increase in the Proposition 10 backfill. Table 4 summarizes the appropriations for each component of the Tobacco Control Program.

Table 4: Appropriations for Tobacco Control Programs from the Health Education Account and Research Accounts, 1999/2000 - 2003/2004

California Budget Calculations for Health Education (Dollars in Thousands)					
	1999-2000	2000-01	2001-02	2002-03	2003-04*
HEALTH EDUCATION ACCOUNT					
Dept of Health Services					
Administrative Support	\$1,016	\$1,778	\$1,733	\$1,773	\$790
Media Campaign	\$19,624	\$45,264	\$45,264	\$21,121	\$19,019
Competitive Grants	\$17,690	\$17,690	\$17,690	\$16,775	\$18,775
Local Lead Agencies	\$17,426	\$17,426	\$17,426	\$16,525	\$19,525
Evaluation	\$4,405	\$4,381	\$4,381	\$4,162	\$4,030
Tobacco Settlement Funds	.	.	\$20,000	.	.
Total to the Tobacco Control Section	\$60,161	\$86,539	\$106,494	\$60,356	\$62,139
Total to the Department of Education	\$28,011	\$28,038	\$28,042	\$27,996	\$27,996
Total from the Health Education Account	\$88,172	\$114,577	\$134,536	\$88,352	\$90,135
RESEARCH ACCOUNT					
Total to the Tobacco-Related Disease Research Program	\$36,726	\$22,627	\$19,434	\$19,434	\$23,863
Total to the Dept. of Health Services' Cancer Registry	\$1,719	\$5,050	\$4,930	\$4,930	\$4,738
Total from the Research Account	\$38,445	\$27,677	\$24,364	\$24,364	\$28,601
TOTAL for the Tobacco Control Program	\$126,617	\$142,254	\$158,900	\$112,716	\$118,736

Source: California Department of Health Services, Proposition 99 Health Education Account, TCS Funding, CDE and TRDRP Budget Appropriation Summary
Note: * indicates the proposed expenditures

Implications of Reduced Revenues on Tobacco Control Programs

Funding for the tobacco education media campaign was cut in the Budget Act of 2002 by \$24 million from the previous year and it was cut another \$4.5 million in the Governor's 2003-2004 budget proposal, leaving it at \$16.7 million (18). In the Governor's May revise of the 2003-2004 budget, funding for the Media Campaign was increased to \$19 million as a result of

Proposition 10 backfill funds, but this is still a \$2 million reduction in funding from the previous fiscal year (36).

The results of a 1998 independent evaluation found that the media campaign increased young people's belief that the tobacco industry was working to get kids addicted to cigarettes and recommended that the media campaign "should continue to educate the public, including youth, about the negative influence of tobacco advertising and promotions"(62). A second evaluation found that almost all youth and adults were exposed to the media campaign in 1998 and that the exposure was significantly greater in 1998 than in 1996 (63); one major difference was that the media campaign was funded at \$31.9 million in 1998, as opposed to \$12.2 million in 1996 (15). In 1998, exposure to the messages of the media campaign were associated with more negative attitudes towards the tobacco industry and more support among youth for policies restricting tobacco marketing (63). Youth had more beliefs about the negative consequences of smoking and fewer beliefs about the benefits of smoking, as well as being less susceptible to smoking (63).

The Governor's budget also protects the least effective component of the health education programs. The Department of Education's Safe and Healthy Kids Program is funded under the Health Education Account and has maintained level funding since 1999 at about \$28 million; the program's funding was reduced in 1998 from \$33 million to \$28 million (15) and has remained at the level of \$28 million ever since. The program, however, has yet to demonstrate effectiveness on changing youth's attitudes or behavior regarding tobacco. An independent evaluation conducted by the Gallup Organization, Stanford University, and the University of Southern California, found that in 1996, only 54% of 5th grade teachers and 52% of 8th grade teachers reported implementing at least one tobacco lesson during the previous year and upon comparison of schools with tobacco control funding and those without, there were no significant differences in tobacco-related knowledge, beliefs and attitudes or tobacco uptake and the quitting process (62). Teachers stated that there was a lack of time and adequate instructional materials. The evaluation recommended that there was a need for "more detailed information about the extent and effectiveness of prevention and cessation approaches being implemented in grantee high schools" (62).

In a follow up evaluation, it was reported while the percentage of teachers who were teaching tobacco education had increased to about 75%, less than one-third of the student smokers were aware of cessation services at their school (63). Additionally, differences between grantee schools and non-grantee schools showed that there were no significant differences with regards to quit attempts in the past year, beliefs about the consequences of tobacco use, perceived peer norms, self-efficacy of refusing to use tobacco, and negative attitudes toward the tobacco industry (63).

Finally, funds for tobacco-related research, which has increased the public health community's knowledge of the dangers of tobacco use and the tobacco industry, are being used for routine surveillance, not research. The 5% of revenues from Proposition 99 which are allocated to the Research Account are not all going to TRDRP. Since the 1999-2000 budget, approximately \$5 million of the UC Research Account funds have been allocated to the California Cancer Registry, a diversion which was not intended in the creation of Proposition 99

and has been contested for years without change (15). While the Research Account has received \$24.4 million since 2001-2002, TRDRP has only received \$19.4 million (37). As a result, TRDRP must decrease the number of projects that can be funded (64). However, in the Governor's May revision of the 2003-2004 budget, funding for TRDRP was increased to \$23.9 million as a result of revenues from the Proposition 10 backfill and a reduction in the funds reserved each year (36).

TOBACCO CONTROL MEDIA CAMPAIGN

The California Tobacco Education Media Campaign is administered through the Department of Health Services Tobacco Control Section and is one element of the Tobacco Control Program, along with Local Lead Agencies, Competitive Grantees, and Evaluation. The media campaign “has the goal of reducing tobacco use in California by promoting a social norm of not accepting tobacco” (65). The Campaign covers several forms of the media including television, radio, print, billboards, transit and print (Figure 8a), with messages on the tobacco industry, secondhand smoke, addiction, cessation, cigarette additives, smokeless tobacco, general health, pregnancy, and prevention among youth (66).

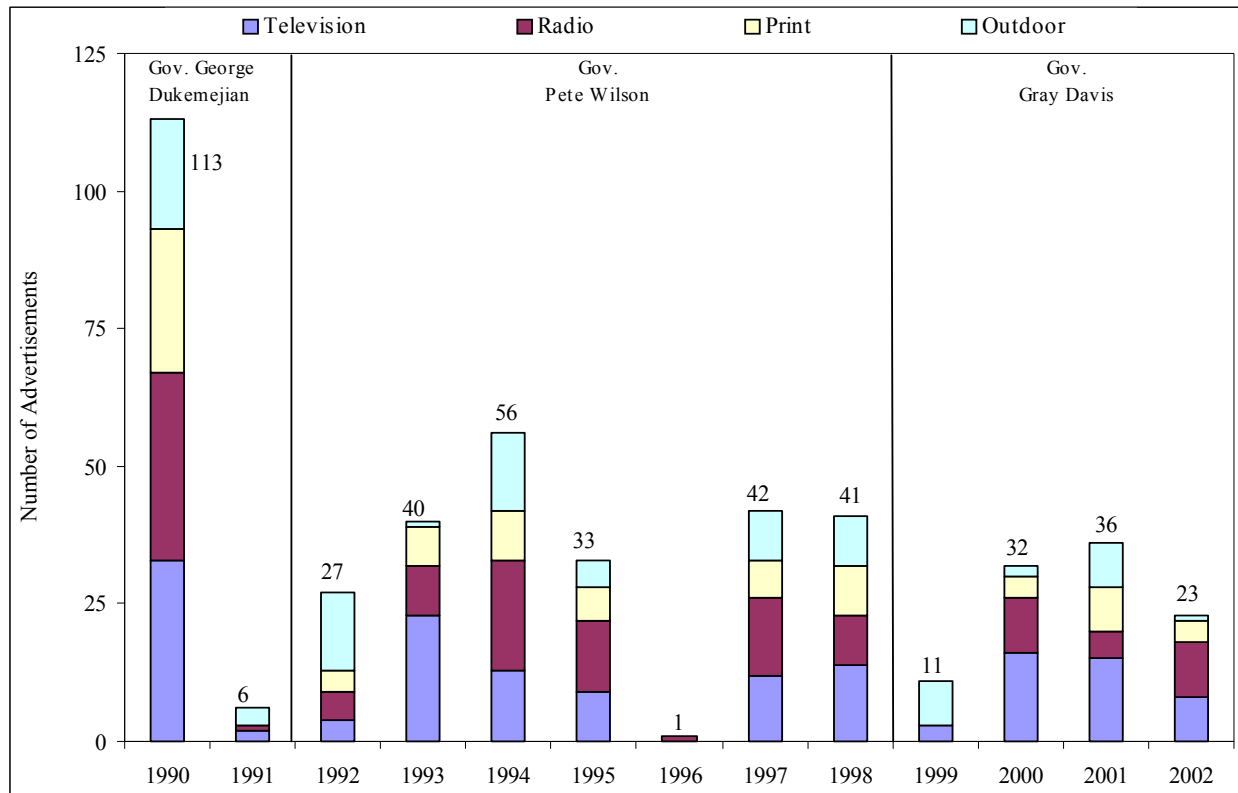


Figure 8a: Total Number and Type of Advertisement for the California Tobacco Education Media Campaign, 1990-2002 (Source: California Tobacco Control Section)

In the early years of the program, under Governor George Deukmejian, the Media Campaign was highly productive with over 100 ads in the first year.

The tobacco industry recognized this fact and quickly reacted. In a 1990 tobacco industry document from Kurt Malmgren, Senior Vice President of State Activities for the Tobacco Institute, to Samuel Chilcote, Jr., Malmgren states,

As previously reported, [the Tobacco Institute's national legal counsel] Covington and Burling and California legal counsel have been reviewing possible grounds for a legal attack on the ad program. Among the possible bases for suit that have been reviewed are that the ad campaign is an improper expenditure of funds under Prop 99 and AB 75, that it is defamatory, that it is deceptive advertising, and presents First Amendment concerns.

Aside from tactical questions as to the desirability of pursuing any legal action, the considered judgment of counsel here and on the ground in California is that there is no basis for suit which would have a realistic chance of success.

It is also our considered opinion that the industry should not attempt a 'dollar-for-dollar' response in the media. Our goal is to keep the advertisements - not the tobacco industry - at the center of the controversy. If the industry attempts to meet the Department of Health Services head on in the media, the controversy is likely to shift from the ads to the industry" (67).

Hence, the tobacco industry realized that a direct and public attack on the Media Campaign would be fruitless. One month later, in a May memo from Terry Eagan from the Government Affairs Division of Philip Morris USA to Roger Mazingo in the State Government Relations Division of R.J. Reynolds, Eagan writes:

California's growing fiscal crisis has created funding problems that have caused both the Governor's office and the Legislature to scramble for money to maintain existing programs. The estimated revenue shortfall is now \$3.6 billion...

The tobacco industry has decided that the timing is excellent for an attempt to divert money from the anti-smoking media campaign into other programs that are doomed to suffer because of the current fiscal crisis.

Strategy sessions on this issue resulted in the conclusion that it is important that the tobacco industry not be identified as an instigator of any attempt to encourage special interests to seek re-direction of the media money to other programs. It is agreed that under no circumstances can we visibly participate in this process. The press, however, will assume, as they always do, that the industry is behind any 'conspiracy' to change existing funding patterns. We should be prepared for this.

Currently a host of groups interested in chasing the media money have surfaced. These groups include: the counties (from both urban and rural perspectives), the Black Health Network (Walk-in clinics), the California Health Federation (clinics), the Department of Education (defending their existing tobacco revenue sources), the doctors, the hospitals, the dentists, and the ambulance operators, Literally dozens of other interest groups can be expected to surface when the money goes into play (68).

The tobacco industry realized that it could not attack the Media Campaign directly. Instead, it used the state's fiscal crisis to set up the opportunity for third parties to pursue the Media Campaign's funds.

While the tobacco industry was not successful in de-funding the Media Campaign, productivity did decline from 1990 when 113 ads were produced to 1991 when there were only six ads produced (66).

The Media Campaign had received an almost \$2 million increase in funding from \$14.3 million in 1990/1991 to \$16.0 million in 1991/1992. However, progress was halted as the newly elected Republican Governor Pete Wilson refused to sign a new contract with the advertising agency. The stated reason for the decrease was because the contract between the Department of Health Services and an advertising agency had to be rebid, a process which consumed was dragged out so as to consume a large portion of the year (69). The Wilson Administration then required that the contract with an advertising agency had to be rebid every other year, which lasted, on average, six to nine months, during which time no new ads were produced (69). This bureaucratic device was one way that the Administration effectively stifled the media campaign under Governor Pete Wilson. Moreover, Governor Wilson implemented a cumbersome formal review process over the Media Campaign, removing autonomy from the Department of Health Services. The contract was finally signed on May 7, 2002, after the American Lung Association sued both Governor Wilson and the Director of the Department of Health Services, Molly Coye (3).

Despite Governor Wilson's attempts to shut down the program, more than 20 ads were produced each year through 1995, but there was a gradual watering down of the content of the messages (66). In the early years of the program, Californians saw messages that covered addiction, cessation, pregnancy and smoking, youth prevention, youth access, and general health messages, but specifically emphasized anti-industry and secondhand smoke messages. By the mid-1990s, the anti-tobacco industry ads were disappearing. In 1994, the successful production of an ad called "Nicotine Soundbite," which used footage of the tobacco industry executives testifying in April 1994 at hearings conducted by Representative Henry Waxman (D-California) that they did not believe nicotine was addictive. Governor Wilson removed the ad from the air, following protests from R.J. Reynolds' lawyers stating that it was a defamation of the executives (3). Figure 8b shows the trends in the messages of the Media Campaign since its inception.

However, the message of the Media Campaign would be diluted even further. In the summer of 1996, the Department of Health Services, under the Wilson Administration, prohibited the Media Campaign from attacking the tobacco industry using the following four terms: "tobacco industry," "profit," "nicotine addiction," and "lies" (3). This new constraint on the design of ads, coupled with a new contract with a new advertising agency resulted in the production of one ad in 1996, which was focused on youth access to tobacco products (69). The number of ads produced picked up in the following two years, with several anti-tobacco industry ads being produced, but they were not as effective as those that had previously produced.

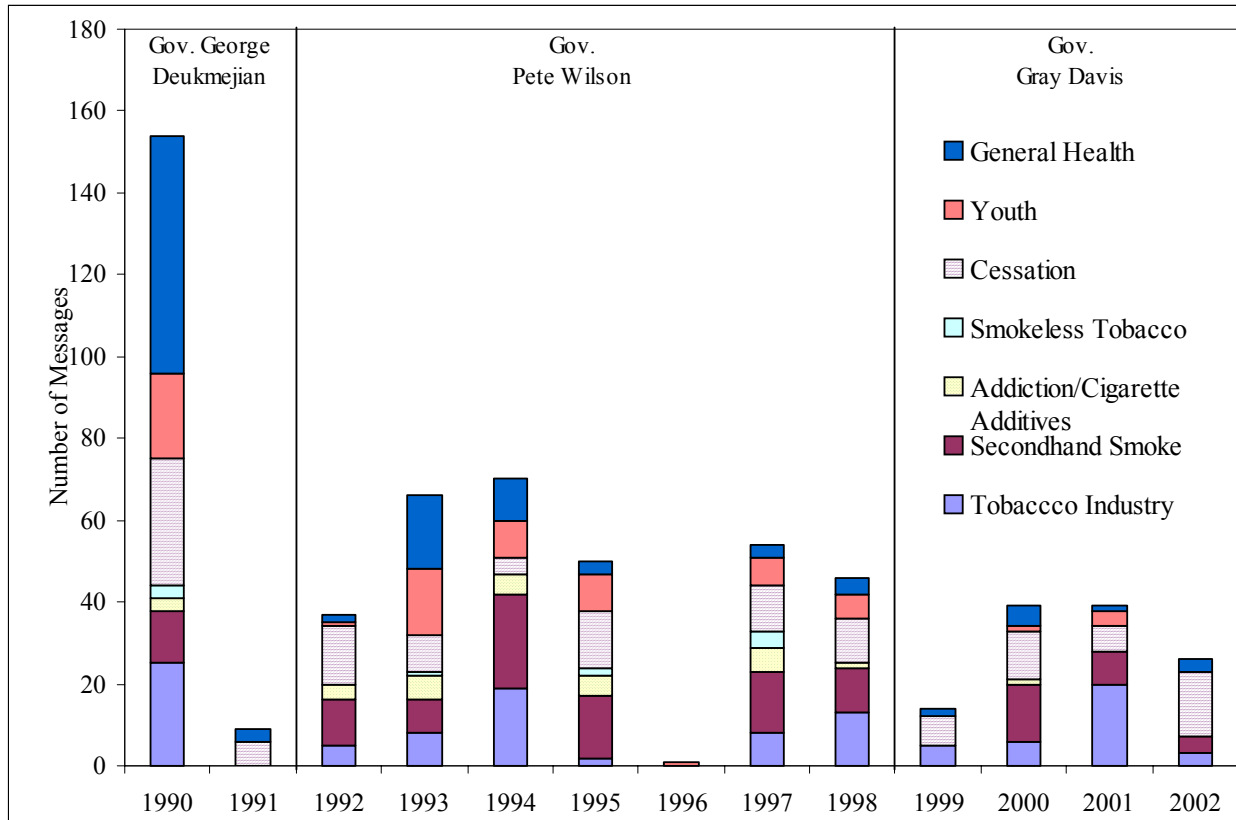


Figure 8b: Advertising Messages of the California Tobacco Education Media Campaign. 1990-2002 (Source: California Tobacco Control Section)

The weakening of the Media Campaign under Governor Wilson reached beyond the number of ads shown to the public and translated into cigarettes smoked. It was estimated that “the loss of program effectiveness after 1994 meant that Californians smoked 840 million packs of cigarettes (worth about \$1.2 billion to the tobacco industry) between 1994 and 1998 that would not have been smoked had the program remained as effective as it was between 1989 and 1994” (3).

Governor Wilson's efforts to eliminate or reduce the effectiveness of the Media Campaign continued until his last days in office when he refused to approve waiting ads and instead, left them to newly elected Democratic Governor Gray Davis (69). When Governor Davis came into office, he nominally reversed Wilson's ban on attacks of the tobacco industry after complaints from health advocates, but the number of ads focused on the tobacco industry's behavior remained small. More important, Davis did not modify Wilson's cumbersome process for approving ads (1). Furthermore, the Media Campaign's budget was reduced from \$23.3 million in 1998-1999 to \$19.6 million in 1999-2000, in part due to declining revenues from Proposition 99. Despite evidence that the Media Campaign reduced cigarette sales by 232 million packs between the third quarter of 1990 and the fourth quarter of 1992 (70), Governor Davis chose not to make a commitment to financially support the Media Campaign. Figure 7 shows the trend in funding for the Media Campaign with annual budgets shown in real 2003

dollars, thereby eliminating the effect of inflation and allowing for ease in comparisons across time.

In March 2001, the American Heart Association and Americans for Nonsmokers' Rights launched a lobbying and newspaper campaign to strengthen California's Tobacco Control Program, specifically the Media Campaign to counter the effects of the tobacco industry's marketing and promotion (Figure 9). In response, Governor Davis increased the funding to the Media Campaign to \$45.3 million for FY00-01 and FY01-02 through the use of previously restricted ANR II funds and carryover from the previous fiscal year (1).

The augmentation in funding for the Media Campaign quickly dwindled as Governor Davis withdrew the additional support in his 2002-2003 budget (37), reducing the Media Campaign's budget allocation to \$21.1 million. As a result of declining revenue from Proposition 99 and no new dedication of funds, the Governor's 2003-2004 budget proposal reduces the Media Campaign budget to \$16.7 million (18). However, the Governor's May revision of the 2003-2004 increased the Media Campaign's funding to \$19.0 million; however, this is still a \$2 million reduction in funding from 2002-2003 (36).

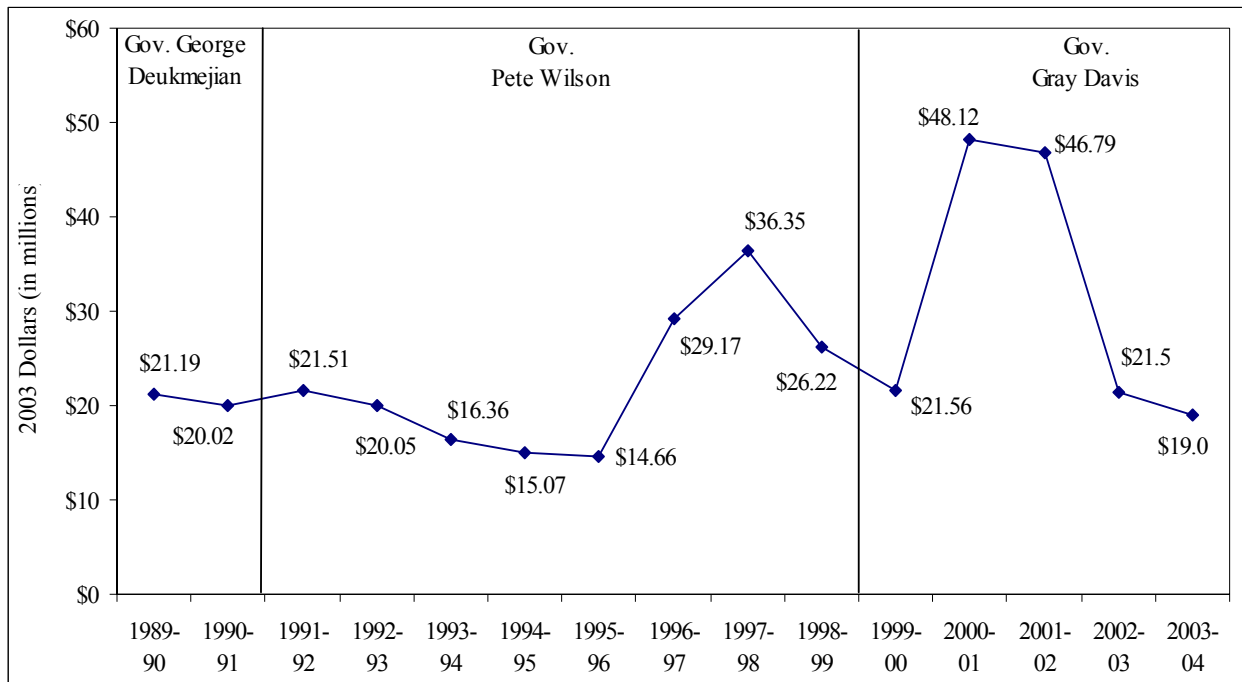


Figure 9: California Tobacco Education Media Campaign Budget, 1989-2003 (amounts shown in 2003 dollars (Source: California Tobacco Control Section))

Recent Impediments to the Media Campaign's Progress

While it appeared that some forward progress was being made within the Davis Administration in 2000, allowing the Media Campaign to produce quality ads, that support

dwindled in 2001. While there were 32 ads produced in 2000 and 36 ads produced in 2001, Governor Davis cut the funding for the program in half, from \$45.3 million to \$21.1 million for the 2002-03 budget (15). There were only 9 new ads produced in 2002. Despite then Governor Wilson's decision to halt the Media Campaign in 1992 (3), there were still more advertisements aired in 1992 than while Governor Davis was in office during 2002.

At a TEROC meeting on September 9, 2002, Colleen Stevens, Chief of the Tobacco Control Section's Media Unit, reported that there were once again delays in the approval process for new ads (71). Once informed of this delay, Professor Stanton Glantz, who, while serving as a TEROC member several years earlier, was assured by the Governor's Cabinet Secretary, Susan Kennedy, that decisions would be made within 72 hours, wrote Kirk Kleinschmidt, Chair of TEROC.

As you know, this [delays in ad approval] was a chronic problem during the Wilson Administration which continued into the Davis Administration during the time I was a member of TEROC. After several strong protests by TEROC and some fo the public health constituency, the Governor's Office made a commitment to see that decisions were made within 72 hours of the time ads were submitted for approval. In fact, Susan Kennedy from the Governor's Office had me called out of a TEROC meeting to take a telephone call from her at which time she told me of this policy and assured me that the delays would be ended (72)

In response, Chairman Kleinschmidt wrote to DHS Chief Deputy Director David Souleles to inquire about the review and approval process. In a letter from the Director of the California Department of Health Services, Diana Bontá, the Director stated,

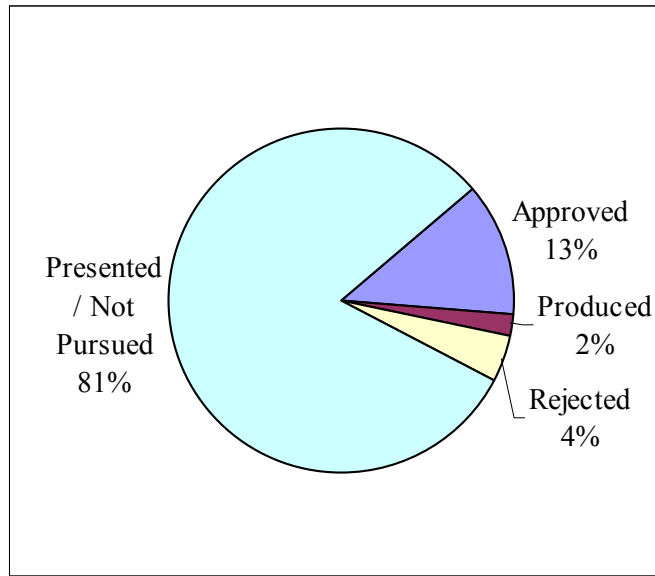
...your letter asks about a 72-hour time frame for the review and approval of scripts, storyboards and final rough cut ads. This guideline is a goal for each one who reviews advertising materials. We continue to strive to meet that goal to ensure that new ads are released on a timely basis. I want to assure you that the Tobacco Education Media Campaign continues to be a top priority for the department (73).

In a letter of clarification from Chief Deputy Director Souleles to Chairman Kleinschmidt, it was clarified that the goal of the review process was 72 hours at each level of review, including the Agency, the Director of the Department of Health Services' office, and the Governor's office (74). Hence, once a new ad was submitted for review, it was understood that a decision would be made within 9 business days (3 business days at each level of the review process).

However, Director Bontá's commitment to the program went a step further when a meeting was set up in March 2003 between the Director, Chief of the Media Unit Colleen Stevens and Ground Zero, the advertising agency responsible for the production of California's media campaign (75). The meeting was intended to review the productivity of Ground Zero (Figure 10), suggesting that the delay in getting new ads out to the public was due to a lack of production, not the review process. Participants from Ground Zero presented statistics on their progress: 461 ads presented, 58 ads approved, 9 ads in production, and 20 ads that had been rejected (75). Ground Zero also cited an ad named "Cartel" as an example of the time and funds wasted when quality ads are rejected. (The Cartel ad was an anti-industry ad highlighting the

tobacco industry's attempts at legitimacy by comparing the tobacco industry's public service work with a cocaine dealer visiting an elderly woman. It has been estimated that the ad cost over \$200,000 to create.)

In addition, representatives from Ground Zero indicated that they were not being



provided with the opportunity to run an edgy media campaign that would really have an impact on the public. They indicated that the Department of Health Services was asking for safe ads that would not raise complaints, ads that wouldn't require thinking and ads that would get through the system (75). Additional barriers that were cited included the editing, decisions being made on a personal like/dislike basis rather than an objective assessment, and the time for approval throughout the Administration; the delay in approval voids the message relevancy (75). Ground Zero summarized their opinion by saying that an effective program requires an aggressive campaign with targeted messages (75).

Figure 10: Status of advertisements proposed by Ground Zero to DHS

Shortly thereafter, several strong ads were approved and began airing. However, the Davis Administration's renewed commitment to the Media Campaign was just getting started. Two lawsuits brought by tobacco companies in the Fall of 2002 (part of a private lawsuit) and the Spring of 2003 once again forced the hand of the Administration and led it to support the Media Campaign in a meaningful way.

Tobacco Industry Accusations of "Jury Polluting" by the Media Campaign

The tobacco industry attempted to make use of the courts to force the media campaign to abandon messages that exposed the tobacco industry's behavior. In doing so, they were pursuing a legal strategy that in 1990 their attorneys had advised would not succeed. When exploring litigation against the then-new media campaign and its focus on the tobacco industry, the Tobacco Institute considered legal action, but its lawyers recommended:

Aside from tactical questions as to the desirability of pursuing any legal action, the considered judgment of counsel here and on the ground in California is that there is no basis for suit which would have a realistic chance of success (67).

In 2000, Laurence and Laurie Lucier, two smokers who became ill as a result of their tobacco use, filed suit against Philip Morris and R.J. Reynolds (76). The lawsuit was originally

filed in the Superior Court of San Francisco, but was moved to the Superior Court in Sacramento in response to a request by Philip Morris for a change of venue (77).

In the Fall 2002, R.J. Reynolds filed a motion which alleged pollution of the jury pool as a result of the California Tobacco Education Media Campaign (78). The memo their attorney filed with the court argued that the “right to a fair trial in a fair tribunal is a basic requirement of due process” (78) And went on to say:

No longer was the State targeting cigarettes, but rather cigarette companies and their executives and witnesses. The express objective of the refocused media campaign is to hold cigarette companies ‘accountable’ by changing the ‘legal climate’ within the State - in other words to affect the outcome of jury trials through extrajudicial communications (78).

In internal memoranda, the State itself refers to these ads as ‘propaganda’ designed to ‘ambush’ by directly attacking the integrity, motives, and honesty of cigarette companies. Some messages go so far as to call the companies liars (78).

In at least one instance, the State reached even further, purchasing billboard space near a courthouse to display to jurors messages that vilified cigarette companies (78).

In the motion, R.. Reynolds asked to dismiss the lawsuit, move the trial to a county where potential jurors were exposed to fewer of the Media Campaign's ads or to suspend the operations of the Media Campaign for the duration of the trial (78).

Colleens Stevens, Chief of the DHS Tobacco Control Section Media Unit, responded, “That allegation is ludicrous. There is absolutely no coordination between the media campaign and the lawsuits”and goes on to say that the state buys advertising slots about a year in advance of airing the ads (79). Even so, R.J. Reynolds went on in its memo to the Court to say

Polling data compiled by independent experts reinforces these findings. For instance, recent polls conducted by Wirthlin Worldwide in Sacramento County showed that 94% of jury-eligible adults recalled seeing state-sponsored ads. Of those, 79% reported that the ads made them feel less favorable to tobacco companies (78).

Judge Michael T. Garcia disagreed with R.J. Reynolds and denied the motion for a change of venue on the basis of the inability to find an unbiased juror. Judge Michael Garcia stated:

Plaintiffs offer no response to Reynolds’ factual showing that the State’s messages reflect blatant and unprecedented attempts to impart inflammatory messages to prospective jurors. Nowhere, to be certain, do Plaintiffs offer evidence showing that the State’s propaganda campaign is anything less than it purports to be - ‘a multi-million dollar paid television, radio, billboard, and print advertising campaign’ designed ‘to expose the industry’s manipulative tactics’ (80).

The Judge went on to say:

Foremost, Plaintiffs' [R.J. Reynolds and Lorillard] assessment of the undisputed record evidence is in irreconcilable tension with both common sense and binding precedent. Plaintiffs admit that 72%-82% of prospective jurors in Sacramento County have been influenced by the State's anti-tobacco media program. In their next breath, however, Plaintiffs suggest that this is not enough for remedial action by the Court because there exists the possibility from among the 18%-28% of prospective jurors not impacted by the State's propaganda campaign, that an impartial jury could be seated" (80).

While the Court denied R.J. Reynolds motion to move the trial or halt activities by the Media Campaign based allegations that it would be impossible to find an unbiased jury, the Media Campaign did still pay a price for the motion. Staff of the Media Campaign were forced to devote their time to producing documents for Reynolds' motion, rather than working on the development and production of new ads. Hence, while R.J. Reynolds did not succeed in completely impeding forward progress, it did succeed in delaying further productivity by the Media Campaign.

On February 7, 2003, the jury issued a verdict stating that Philip Morris and R.J. Reynolds were found not liable for plaintiffs' lung cancer (77).

Tobacco Industry Claims of "Vilification" by the Media Campaign

In April, 2003, R.J. Reynolds, in conjunction with Lorillard, once again attacked the Media Campaign in the Court; this time the United States District Court, Eastern District of California when they filed a lawsuit against California Department of Health Services' Director Diana Bontá, and Acting Chief of the Tobacco Control Section, Dileep Bal (11).

The suit claimed that "the creation and distribution of the anti-industry ads constitutes a violation of Plaintiffs' [R.J. Reynolds and Lorillard] rights under the First, Sixth, and Fourteenth Amendments" (11). Foremost, in the tobacco companies' claims' against the taxpayer-financed media campaign is that it is entitled to its right to free speech and "a central component of the right of free speech is the right not to be compelled to pay for speech that one would not voluntarily fund" (11). "In a case decided in 2001, the U.S. Supreme Court ruled that a company should not be forced to pay for advertisements that hurts its sales" (81). R. J. Reynolds felt that this ruling would apply to the California Media Campaign if it were financed by MSA dollars. However, the Media Campaign is financed through tax dollars and not MSA funds. Moreover, even if the campaign was financed by MSA funds, the tobacco companies were ordered to make those payments as part of a settlement and not merely a good will donation.

In response to this suit that the media campaign "vilifies" the tobacco industry, the Davis Administration was put under pressure to respond. Similar to the Governor's response to the American Heart Association's campaign against cuts to the media campaign in previous years, Governor Davis publicly renewed his commitment to the Media Campaign. While Governor Davis showed no financial commitment for the Media Campaign in his 2003-2004 budget proposal (18), in April 2003, Governor Davis praised the Media Campaign and challenged the

tobacco industry. Governor Davis stated that California would not back off from the gutsy media campaign that earned California the nickname, “America’s smoke-free section” (81). Davis went on to say,

If big tobacco wants to fight, I say: ‘Bring it on.’ They spend infinitely more than we do (on marketing) to get their message out. I don’t think anyone should feel too sorry for them (81).

Yes, these ads are tough, but the research shows that the more aggressive the ads, the greater the decline in the number of smokers...We are proud of this program. It has worked wonderfully and many other states literally copy our ads” (13).

We have spent hundreds of millions of dollars on tobacco education. The results are clear: fewer Californians smoke today, and those who smoke are smoking less since the passage of Proposition 99 (82).

These statements echo comments from Governor Davis in the past, such as:

While we must continue our fight against the tobacco industry's attempts to addict new smokers, Californians should be encouraged by the success of our state's anti-tobacco campaign. It gives me great satisfaction to know that our comprehensive tobacco control program is taking effective action for a healthy California (April 2001) (83).

We are in a race with tobacco. The race is between the health of Californians and tobacco's bottom line, and I intend to see that Californians finish first (May 1999) (84).

On the topic of tobacco control, Governor Davis has shown a pattern of only acting in times of pressure from the health advocates. Reversal of the policies set by Governor Wilson and increases in funding for the California Media Campaign only came at the hand of public pressure, mainly from the health advocates. In 2003, ironically, the Governor was pressured into action at the hand of the tobacco industry after the lawsuit was filed against the Media Campaign for vilification. In contrast to the long delays in the approval process for advertisements and the tendency to only approve weak messages, after the lawsuit was filed, the Governor rapidly approved several strong advertisements.

TOBACCO INDUSTRY POLITICAL EXPENDITURES IN CALIFORNIA

The tobacco industry continues to be a powerful force in California policy making, albeit a well-disguised force at times. The tobacco industry spent a total of \$5,954,027 on state level political activity in California during the 2001-2002 legislative session (Table 5), which includes campaign contributions to individual legislators and legislative candidates and political parties, as well as contributions to constitutional officers and lobbying expenditures. This is almost \$1.3 million more than was spent in the previous election cycle (1), a 28% increase.

Table 5: Summary of Tobacco Industry Expenditures to Influence Policy Making in California, 1976-2002

Company	Legislature	Political Parties	Constitutional Officers	Lobbying	2001-2002 Total	1999-2000 Total	1976-1998 Total	Grand Total
Philip Morris (PM)	\$598,500	\$460,340	\$5,000	\$800,030	\$1,863,870	\$2,240,694	\$22,198,785	\$26,303,349
Miller Brewing	\$102,000	\$0	\$0	\$446,292	\$548,292	.	.	\$548,292
Kraft Foods	\$0	\$0	\$5,000	\$452,432	\$457,432	.	.	\$457,432
Brown & Williamson (BW)	\$14,500	\$90,224	\$0	\$587,781	\$692,505	\$700,652	\$5,509,166	\$6,902,323
Lorillard	\$38,000	\$3,192	\$0	\$493,975	\$535,167	\$231,319	\$2,917,366	\$3,683,852
R.J. Reynolds (RJR)	\$86,250	\$137,379	\$0	\$618,170	\$841,799	\$797,191	\$1,548,084	\$3,187,074
U.S. Tobacco (UST)	\$9,000	\$62,627	\$0	\$310,073	\$381,700	\$214,205	\$359,809	\$955,714
Smokeless Tobacco Council (STC)	\$4,250	\$8,054	\$0	\$263,817	\$276,121	\$258,967	\$255,699	\$790,787
Tobacco Institute (TI)	\$0	\$0	\$0	\$0	\$0	\$0	\$544,113	\$544,113
CA Distributors Assoc. (CDA)	\$36,500	\$4,500	\$1,000	\$87,537	\$129,537	\$123,575	\$73,777	\$326,889
Others (Cigarettes Cheaper & Cigar Association)	\$0	\$0	\$150	\$227,454	\$227,604	\$96,005	.	\$323,609
TOTALS	\$889,000	\$766,316	\$11,150	\$4,287,561	\$5,954,027	\$4,662,608	\$33,406,799	\$44,023,434

Political expenditures from the tobacco industry to legislators, legislative candidates, political parties and constitutional officers totaled \$1,666,466 which is a 13% increase over the previous election cycle. Figure 11 shows the trend in campaign contributions from the tobacco industry to elected officials in California over the past five legislative cycles.

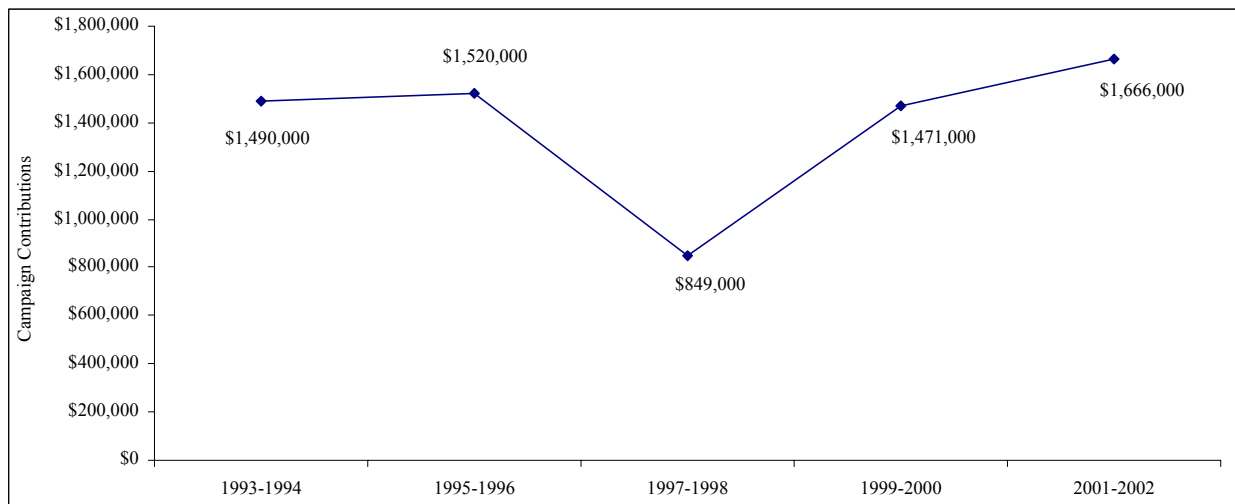


Figure 11: Tobacco Industry Campaign Contributions in California to legislators, legislative candidates, political parties and constitutional officers, 1993/1994 - 2001/2002

While the tobacco industry continues to increase its political expenditures in California, the partisan divide in contributions has decreased for contributions made to individual legislators and legislative candidates (Figure 12). Of the \$889,000 spent by the tobacco industry on legislators and legislative candidates, \$484,500 (54%) was spent on Republicans and \$404,500 was spent on Democrats. However, the tobacco industry continues to strongly favor Republican political committees. Of the \$253,316 spent by the tobacco industry on political committees with partisan affiliations, \$211,500 (83%) was spent on Republican committees and \$41,816 (17%) was spent on Democratic committees. (Note: The remaining \$513,000 in political committee expenditures was made to committees without partisan affiliations.) Of the \$11,150 spent on contributions to constitutional officers, \$10,150 was spent on Republicans (91%) and \$1,000 (9%) was spent on Democrats. Trends and greater detail for each of these categories are discussed in the paragraphs that follow. Thus, of the \$1,153,466 that was contributed to an identifiable party, \$706,150 went to Republicans (61%) compared to \$447,316 to Democrats (39%). This is an increase from the previous election cycle, when Republicans received 58% (\$857,023) of the tobacco industry’s contributions in California and Democrats received 42% (\$613,587).

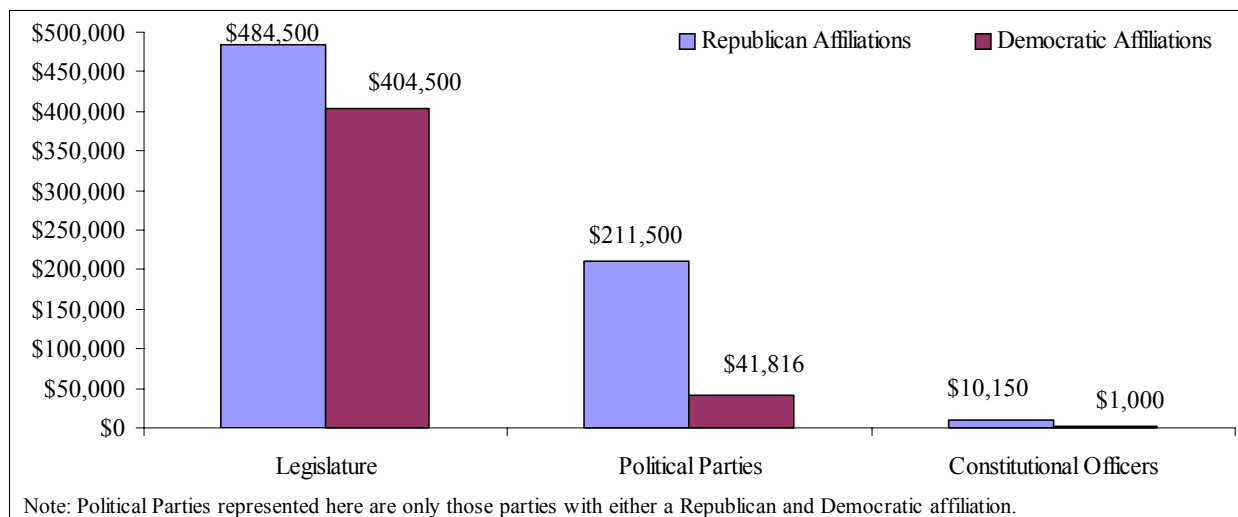


Figure 12: Total Tobacco Industry Campaign Contributions by Political Party, 2001-2002

The data on political expenditures made by the tobacco industry in the state of California were collected from disclosure statements filed with the Political Reform Division of the California Secretary of State’s Office (85). The information can be accessed online through the California Automated Lobbying and Campaign Contribution and Expenditure Search System (Cal-Access) at <http://cal-access.ss.ca.gov>. The following organizations were included and defined as “tobacco industry” sources of funds: Brown and Williamson, California Distributors’ Association, Cigar Association of America, Cigarettes Cheaper, Lorillard Tobacco Company, Philip Morris Inc. (which changed its name to Altria in 2003), R.J. Reynolds, Smokeless Tobacco Council, the Tobacco Institute, and US Tobacco.

Furthermore, for the first time, Philip Morris' subsidiaries Kraft Foods and Miller Brewing were also included as tobacco industry sources of funds. The Kraft and Miller financial records are listed separate from Philip Morris because their political involvement in California includes food and beverage policies and not solely tobacco policy. However, previous research in Wisconsin has indicated that Philip Morris' subsidiaries such as Miller Brewing had lobbied on interests affecting "brewing, food or tobacco industries" (86). While the individual corporations' official lobbying filings with the California Secretary of State do not indicate that Kraft and Miller were lobbying on tobacco-related bills, Christy E. Bouma and Brian L. Hatch of the Capitol Connection lobbying firm, were the lobbyists for all three corporations (85). While these two lobbyists lobbied for seven other clients during the 2001-2002, Philip Morris, Kraft, and Miller were three of Capitol Connection's six clients at the beginning of 2003.

The information provided in this report includes contributions to individual legislators, legislative candidates, political parties, political party-controlled committees, state constitutional officers and candidates and expenditures made for lobbying legislative and administrative officials. We collected contribution data for candidates, political parties, and lobbying expenditures made from January 1, 2001 to December 31, 2002.¹ A complete list of all candidates and elected officials and their tobacco industry campaign contributions and tobacco policy scores are listed in Appendix A.

In addition to the political expenditures that are reported in this document, there are other political expenditures that can be made by the tobacco industry that are not documented. First, it is possible that some individual tobacco companies chose not to report their political contributions. For example, in Georgia in 2002 when Philip Morris was fined \$50,000 by the State Ethics Committee for failing to disclose \$450,000 in state political campaign contributions (87). The tobacco industry can also create independent expenditure committees, which are not required to report political expenditures, thereby making their activities almost invisible.

The tobacco industry also established an "independent expenditure" committee in Washington, D.C. and has plans to target pro-tobacco control legislators in California, spending as much as \$200,000 to see that an individual anti-tobacco candidate is not elected. There are no legal requirements for any disclosure of the sources of these funds.

Given the current rules regarding political expenditures, use of funds in this manner can be more devastating than if the committee made campaign contributions to an individual's opponent. If tobacco contributions were made to an opponent, the information must, by law, be disclosed and so this information could be publicly discussed. Since independent expenditure committees are not required to report financial information, there is no way to track the potential influence of such expenditures. While this report lists all of the reported campaign contributions, it is important to be suspicious when a new organization enters the political scene and begins to take a strong position for or against a candidate or policy related to tobacco control.

¹ Common Cause of California released a report in October 2002 outlining the campaign contributions and lobbying expenditures of the tobacco industry in California through the second quarter of 2002. The numbers in this report differ from those of Common Cause because this report includes data through the fourth quarter of 2002.

Unlike previous reports published by the University of California San Francisco, this report on the politics of tobacco in California also includes lobbying expenditures includes data collected from Section C entitled “Activity Expenses” and Section D entitled “Other Payments to Influence Legislative or Administrative Action” on Form 635 (Report of Lobbyist Employer and Report of Lobbying Coalition) which is filed with the Secretary of State on a quarterly basis (85). Section C, entitled “Activity Expenses” defines activity expense as:

any expense which benefits, in whole or in part, an elected state officer, a legislative official, an agency official, a state candidate, or a member of the immediate family of such officials or candidates. Activity expenses include gifts, honoraria, consulting fees, salaries, and any other form of compensation, but do not include campaign contributions (85).

Section D, “Other Payments to Influence Legislative or Administrative Action,” includes:

all other payments...made in connection with your attempts to influence legislative or administrative action. Such payments would include payments to a lobbying coalition; payments in support of your lobbyist (but not made directly to the lobbyist), such as the payment of a credit card charge for activity expenses which have been reported by the lobbyist; payments for office overhead and operating expenses and subscription services, payments to expert witnesses, and compensation to employees (other than a lobbyist) who [spent] 10 percent or more of their compensated time in a calendar month in connection with lobbying activities (85).

While Section D may include operating expenses (overhead and subscription services), there is no way in which to get an itemized list of expenses. Therefore, since many of the expenses included in this section are related to active lobbying for the tobacco industry, these expenditures were included for the first time this year, largely because of the magnitude of the expenditures recorded in these two categories. In the 2001-02 legislative cycle, the tobacco industry, as defined above, spent \$18,166 on activity expenses and \$630,910 on other payments to influence the legislature, for a total of \$649,076 (Table 6).

Table 6: Tobacco Industry Activity Expenses & Other Payments to Influence the Legislature, 2001-2002

	B/W	Cigar Assoc.	PM	Miller Brewing	Kraft Food	RJR	STC	CDA PAC	TI	UST	LOR	Cig. Cheaper	2001-2002 Total
Activity Expenses	\$0	\$0	\$5,476	\$65	\$0	\$2,930	\$817	\$817	\$0	\$6,998	\$1,065	\$0	\$18,166
Total Other Payments to Influence	\$202,071	\$0	\$97,029	\$15,445	\$42,432	\$123,795	\$0	\$0	\$0	\$8,970	\$141,169	\$0	\$630,910
TOTALS	\$202,071	\$0	\$102,504	\$15,509	\$42,432	\$126,725	\$817	\$817	\$0	\$15,968	\$142,234	\$0	\$649,076

Tobacco Policy Scores

In order to relate the information on political expenditures by the tobacco industry to legislative behavior, “tobacco policy scores” were created for each member of the 2001-2002 Legislative Session. The score was obtained by polling individuals with extensive knowledge of and experience with the California Legislature and tobacco policy making. Each legislator was

evaluated based on a scale of 0 to 10. A score of 0 represented an extremely pro-tobacco industry legislator, someone who favored policies that would be beneficial to the tobacco industry. A score of 10 represented an extremely pro-tobacco control legislator, someone who favored policies that would advance tobacco control efforts. The average of the scores is reported for each legislator. Scores ranging from 0.0 to 3.9 are considered pro-tobacco industry, from 4.0 to 6.0 are considered neutral, and from 6.1 to 10.0 are considered pro-tobacco control.

There was no difference in the average policy scores in the Senate and in the Assembly (Senate: average 5.2, standard deviation 3.0, n=40 and Assembly: average 5.2, standard deviation 2.5, n=80; **p= 0.455**) and did not change substantially from the previous legislative cycle, when the average policy scores for the Senate and the Assembly were 5.5 (standard deviation 2.7, n=40) and 4.9 (standard deviation 2.3, n=79; p=.245) respectively (1). Republicans were more pro-tobacco industry with an average policy score of 2.6 (standard deviation 1.4, n=44) and the Democrats were pro-tobacco control with an average policy score of 6.7 (standard deviation 1.9, n=76; **p<0.001**). Again, this is similar to the previous legislative cycle, when the Republicans had an average policy score of 2.8 (standard deviation 1.5, n=47) and the Democrats had an average policy score of 6.6 (standard deviation 1.7, n=71; p<0.001) (1).

In the Assembly, Dion Aroner (D-Dist.14) received the highest tobacco policy score, 9.8 and Mark Wyland (R-Dist.74) and Phil Wyman (R-Dist.34) received the lowest tobacco policy scores, 1.0. Assembly Republicans received a pro-tobacco industry policy score of 2.8 (standard deviation=1.23, n=30) and Assembly Democrats received a pro- tobacco control policy score of 6.7 (standard deviation=1.85, n=50, p<0.001).

In the Senate, Wesley Chesbro (D-Dist. 2) and Tom Torlakson (D-Dist.7) received the highest tobacco policy scores, both 9.7, indicating a pro-tobacco control policy position. Senators William Knight (R-Dist.17), Dick Ackerman (R-Dist.33) and Jim Battin (R-Dist.37) received the lowest tobacco policy scores, 1.0, indicating a pro-tobacco industry position. Senate Republicans received a pro-tobacco industry policy score of 2.3 (standard deviation=1.69, n=14) and Senate Democrats received a pro-tobacco control policy score of 6.8 (standard deviation=2.26, n=26, p<0.001).

Legislative Officeholder and Candidates

During the 2001-2002 legislative cycle, the tobacco industry contributed a total of \$652,750 to 69 members of the Assembly, \$236,250 to 25 members of the Senate and \$11,150 to 3 constitutional officers or candidates, for a total of \$900,150 in campaign contributions (Table 4). This amount is a \$345,961 decrease from the previous legislative session when a total of \$1,246,111 was contributed by the tobacco industry to legislative or constitutional office holders or candidates (1). The difference in contributions between the two election cycles may be a reflection of Proposition 28, which would have repealed Proposition 10, and Proposition 37, which would have redefined mitigation fees, during the 1999-2000 election cycle. While the tobacco industry spent \$764,095 on initiatives during the 1999-2000 election cycle (1), campaign contributions to individual legislators and candidates may also have increased for this reason. The difference between the previous two legislative sessions (1997-1998 and 1999-2000) was a doubling of direct campaign contributions to legislative or constitutional office

holder and candidates from \$614,145 (1). There was an increase of \$286,005 in tobacco industry campaign contributions during the 1997/1998 and 2001/2002 election cycles.

Contributions from the tobacco industry continue to favor Republican over Democratic legislative candidates, although the divide was not as great in years past (Figure 13). During 2001-2002, Republican candidates, constitutional officers and elected officials received \$494,650 in tobacco industry campaign contributions which accounted for 55% of all tobacco industry campaign contributions in California; Democratic candidates, constitutional officers and elected officials received \$405,500. Historically, Republican candidates and elected officials have received up to 77% of the tobacco industry campaign contributions in California (1, 7).

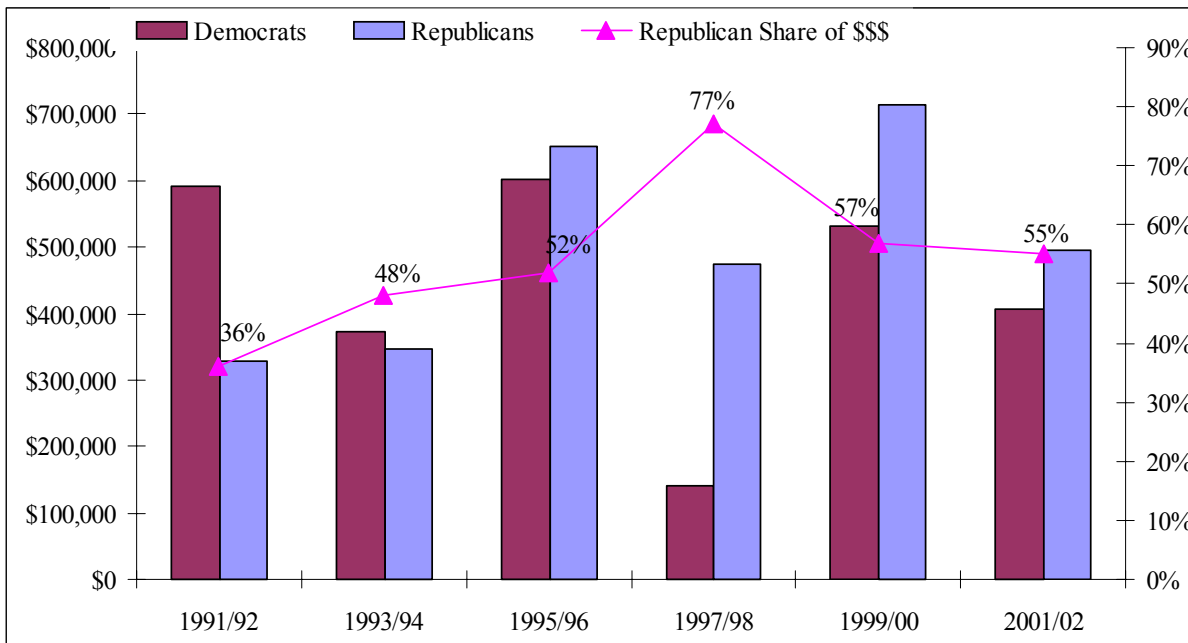


Figure 13: Tobacco Industry Campaign Contributions to Elected Officials and Candidates by Political Affiliation, 1991/1992 - 2001/2002

Before entering into a more detailed discussion of the tobacco industry's campaign contributions in California, it is important to make note of the elected officials who were running for new elected positions in 2002: Senator Bruce McPherson (R) was a candidate for Lieutenant Governor; Assemblyman Kevin Shelley (D) was a candidate for Secretary of State; Senator Tom McClintock (R) was a candidate for State Controller; Senator Dick Ackerman (R) was a candidate for Attorney General; Senator Jack O'Connell was a candidate for Superintendent of Public Instruction; and Assemblyman Bill Leonard (R) and Assemblywoman Carole Migden (D) were both among the candidates for the four members of the Board of Equalization. Lastly, Senator Steve Peace (D), who met his term limit, was appointed by Governor Davis as Director of Finance, making him the top budget advisor (88). For the purpose of this report, all of the data on campaign contributions made to these individuals and the tobacco policy scores assigned to these individuals will be listed under the individuals' elected capacity during the 2001-2002 legislative session. Additionally, the positions of leadership or committee membership during the 2001-2002 legislative session will also be included.

Elected Officials Receiving the Highest Amounts of Tobacco Industry Campaign Contributions

Table 7 shows the top 26 recipients of tobacco industry campaign contributions during the 2001-2002 legislative cycle, all of whom received \$9,000 or more in tobacco industry campaign contributions. Senate Minority Leader James Brulte (R-Dist. 31) received the most tobacco industry campaign contributions, \$67,500, which is about a \$22,000 decrease from the top recipient during the 1999-2000 legislative cycle, Assemblyman Scott Baugh (R-Dist.67) who received a total of \$90,000 in contributions (1). Assembly Republican Caucus Chair Tony Strickland (R-Dist.37) was the top recipient in the Assembly. Additionally, Senators Brulte (R-Dist.31), Machado (D-Dist.5), and Vincent (D-Dist.25) and Assemblyman Cardoza (D-Dist.26) were also top 20 recipients during the 1999-2000 legislative cycle (1). Of the legislators and candidates who received more than \$9,000, there were fifteen Republicans (58%) and 11 Democrats (42%). The average tobacco policy score for the top 26 recipients was 3.3 (standard deviation=1.78, n=26), which is the same score as was received for the top 20 recipients in 1999-2000, but is significantly more pro-tobacco industry than the remainder of the legislature which received an average tobacco policy score of 5.7 (standard deviation=2.64, n=94, p<0.001).

Table 7: Top 26 Recipients of Tobacco Industry Campaign Contributions in California, 2001-2002

Name of Candidate	A/S	Party	District	2001-2002	1999-2000	1997-1998	1976-1996	Grand	Tobacco
				Total	Total	Total	Total	Total	Policy Score
Brulte, James	S	R	31	\$67,500	\$75,500	\$3,495	\$69,625	\$216,120	2.5
Strickland, Tony	A	R	37	\$63,000	\$14,500	\$0	\$0	\$77,500	2.0
Horton, Jerome	A	D	51	\$61,000	\$0	\$0	\$0	\$61,000	2.5
Chavez, Edward	A	D	57	\$60,000	\$10,000	\$0	\$0	\$70,000	5.0
Wesson, Herb	A	D	47	\$47,000	\$16,692	\$0	\$0	\$63,692	4.7
Canciamilla, Joe	A	D	11	\$40,000	\$7,500	\$0	\$0	\$47,500	4.3
Machado, Mike	S	D	5	\$24,750	\$80,344	\$27,500	\$5,750	\$138,344	6.0
Ashburn, Roy	A	R	18	\$15,500	\$12,250	\$40,500	\$1,000	\$69,250	2.3
Matthews, Barbara	A	D	17	\$15,500	\$11,500	\$0	\$0	\$27,000	5.3
Cardoza, Dennis	A	D	26	\$14,000	\$73,500	\$1,250	\$12,750	\$101,500	3.5
Daucher, Lynn	A	R	72	\$14,000	\$2,500	\$0	\$0	\$16,500	3.0
Briggs, Mike	A	R	29	\$13,750	\$3,500	\$0	\$0	\$17,250	2.3
Leonard, Bill ^	A	R	63	\$13,000	\$9,000	\$82,250	\$21,000	\$125,250	2.0
Migden, Carole	A	D	13	\$13,000	\$25,000	\$0	\$0	\$38,000	7.5
Vincent, Edward	S	D	25	\$13,000	\$38,000	\$6,000	\$1,000	\$58,000	1.5
Battin, Jim	S	R	37	\$12,000	\$20,500	\$2,000	\$4,000	\$38,500	1.0
Ackerman, Dick	S	R	33	\$11,500	\$33,955	\$24,000	\$1,000	\$70,455	1.0
Murray, Kevin	S	D	26	\$11,500	\$15,000	\$500	\$10,000	\$37,000	3.5
Maddox, Ken	A	R	68	\$11,000	\$12,000	\$0	\$0	\$23,000	3.3
Campbell, John	A	R	70	\$10,000	\$8,000	\$0	\$0	\$18,000	2.3
Cohn, Rebecca	A	D	24	\$10,000	\$0	\$0	\$0	\$10,000	7.3
Wyland, Mark	A	R	74	\$10,000	\$4,500	\$0	\$0	\$14,500	1.0
Harman, Tom	A	R	67	\$9,750	\$5,500	\$0	\$0	\$15,250	3.0
Cogdill, Dave	A	R	25	\$9,000	\$20,000	\$0	\$0	\$29,000	3.0
Margett, Bob	S	R	29	\$9,000	\$8,750	\$1,400	\$3,000	\$22,150	2.5
Pacheco, Robert "Bob"	A	R	60	\$9,000	\$12,500	\$0	\$0	\$21,500	2.7

Elected Officials and Candidates Who Did Not Accept Tobacco Industry Contributions

Table 8 shows the elected officials and candidates who did not accept any tobacco industry campaign contributions during the 2001-2002 legislative cycle. Sixteen of these individuals were Republicans (23% of all Republicans) and 57 were Democrats (27% of all Democrats). Moreover, nineteen of these legislators not accepting tobacco industry campaign contributions during the 2001-2002 legislative cycle have *never* accepted tobacco industry contributions; there were 33 members in 1999-2000 and 28 members during the 1997-1998 legislative cycle (1).

Table 8: Elected Officials and Candidates Who Did Not Accept Tobacco Industry Campaign Contributions, 2001-2002

Name of Candidate	A/S	Party	District	Tobacco Policy Score	Name of Candidate	A/S	Party	District	Tobacco Policy Score
Aanestad, Sam	A	R	4	3.5	Leach, Lynne	A	R	16	2.3
Acuna Jr., Hoey V.	A	D	80	.	Leno, Mark	A	D	13	.
Alarcon, Richard	S	D	20	5.5	Lieber, Sally	A	D	22	.
Alquist, Elaine White *	A	D	22	6.5	Liu, Carol	A	D	44	7.3
Aries, Rusty	S	D	12	.	Lowenthal, Alan *	A	D	54	8.5
Aroner, Dion *	A	D	14	9.8	Maestas, Katherine E.	A	D	10	.
Berg, Patricia	A	D	1	.	Maldonado, Abel	A	R	33	5.7
Bermudez, Rudolph	A	D	56	.	McCabe, Brian L.	A	R	17	.
Bowen, Debra	S	D	28	8.0	Montanez, Cindy	A	D	39	.
Brown, Robert K.	A	R	1	.	Munn, John R.	A	R	8	.
Campbell, Bill	A	R	71	2.3	Nakanishi, Alan	A	R	10	.
Chan, Wilma	A	D	16	8.8	Nakano, George *	A	D	53	7.3
Chesbro, Wesley *	S	D	16	9.7	Nation, Joseph	A	D	6	7.8
Chu, Judy	A	D	49	7.8	Negrette McLeod, Gloria	A	D	61	6.3
Denham, Jeff	S	R	16	.	Nunez, Fabian	A	D	46	.
Dunn, Joseph	S	D	16	7.7	Ortiz, Deborah *	S	D	6	9.0
Escutia, Martha M.	S	D	16	8.0	Parra, Nicole M.	A	D	30	.
Figueroa, Liz	S	D	16	7.7	Pavley, Fran	A	D	41	7.5
Florez, Dean	A	D	16	6.3	Pohl, Bob	A	R	35	.
Frommer, Dario	A	D	16	8.0	Ridley-Thomas, Mark	A	D	48	.
Gardner, M. Dean	A	R	16	.	Romero, Gloria *	S	D	24	7.3
Gerber, Donna C.	A	D	16	.	Russall, James A.	A	R	21	.
Goldberg, Jackie	A	D	16	8.0	Scott, Jack *	S	D	21	7.5
Hall, Vincent Henry	A	D	16	.	Shelley, Kevin *	A	D	12	8.0
Hallinan, Thomas	A	D	16	.	Sher, Byron D.	S	D	11	8.3
Hancock, Loni	A	D	16	.	Speier, Jackie *	S	D	8	8.7
Havice, Sally	A	D	16	5.8	Steinberg, Darrell *	A	D	9	9.3
Horton, Shirley A.	A	R	16	.	Strom-Martin, Virginia *	A	D	1	7.3
Houston, Guy Spencer	A	R	16	.	Thomson, Helen	A	D	8	6.5
Jackson, Hannah-Beth *	A	D	16	8.0	Torlakson, Tom *	S	D	7	9.7
Karnette, Betty *	S	D	16	7.7	Vargas, Juan	A	D	79	9.0
Keeley, Fred *	A	D	16	8.3	Vasconcellos, John	S	D	13	7.0
Kehoe, Christine	A	D	16	7.8	Washington Jr., Carl	A	D	52	5.8
Kelley, David G.	A	R	16	2.7	Wayne, Howard *	A	D	78	9.3
Koretz, Paul	A	D	16	8.5	Wilson, Linda	A	R	53	.
Kuehl, Sheila *	S	D	16	7.3	Wolk, Lois	A	D	8	.
Laird, John	A	D	16	.	Yee, Leland	A	D	12	.

Note: * indicates that legislator has never accepted tobacco industry contributions

Note: Houston accepted \$1,000 from RJR and then returned it a short time later.

The average tobacco policy score for the elected officials who did not accept tobacco industry contributions was 7.2 (standard deviation=1.88, n=45), which is the same score as was received for the top 20 recipients in 1999-2000 (1), and significantly more pro-tobacco control than the remainder of the legislature which received an average tobacco policy score of 4.0 (standard deviation=2.32, n=75, $p<0.001$).

The Relationship Between Campaign Contributions and Legislative Behavior

Research has shown that tobacco industry campaign contributions can influence state legislators in the area of tobacco control policy making (89, 90). Using the data from the 2001-2002 legislative session, we sought to test the hypothesis that tobacco industry campaign contributions to state legislators were associated with sympathetic policy actions towards the tobacco industry and at the same time, the tobacco industry may reward elected officials who have been pro-tobacco industry in the past. Simultaneous equations regression using two stage least squares was used to test this hypothesis.

The regression model is composed of two equations. The first predicts the tobacco policy score received in 2001-2002 (dependent variable) from the total tobacco industry campaign contributions received during the 2001-2002 election cycle, the political affiliation of the individual (Republican or Democrat), and dummy variables to control for Senator Brulte and Assemblymen Strickland, Horton and Chavez, all of whom received considerably more tobacco industry contributions than the rest of the legislators. The second equation predicts the total tobacco industry campaign contributions received during the 2001-2002 election cycle (dependent variable) from the tobacco policy score, the political affiliation of the individual (Republican or Democrat), and dummy variables for each of the elected officials listed above. The total campaign contributions include only tobacco industry campaign contributions made to individuals and does not include donations to political parties or party-controlled committees.

The results of this analysis are presented in Table 9 and all of the findings were statistically significant (at least $p<0.01$). First, for every \$1,000 increase in the campaign contributions received by the tobacco industry, the legislator's tobacco policy score decreased (ie. became more pro-tobacco industry) by an average of 0.27 points. This is consistent with previous research on the California legislature which showed that for every \$1,000 increase in tobacco industry campaign contributions, the legislator's tobacco policy score decreased by 0.20 (7). On average, Republican legislators had tobacco policy scores that were 3.24 points below their Democratic colleagues receiving the same amount of tobacco industry campaign contributions. The difference between Republican and Democratic changes in policy scores based on tobacco industry campaign contributions has decreased slightly since the 1997-1998 legislative session when Republican tobacco policy scores were 3.76 points lower than their Democratic colleagues accepting the same amount of tobacco industry contributions (7). (Note: Data from 1999-2000 legislative session not available.)

Second, on average, for every one point increase in a legislator's tobacco policy score, tobacco industry campaign contributions decreased by \$3,270. This is a slight decrease from the 1997-1998 legislative session when a one point increase in the policy score resulted in a \$3,690 decrease in tobacco industry campaign contributions (7).

Table 9: Relationship Between Tobacco Industry Campaign Contributions and Legislative Behavior During the 2001-2002 Legislative Session

Variable	Coefficient	Standard Error	t value	p
Dependent Variable = Tobacco Policy Scores (0-10)				
Constant	7.76	0.33	23.44	<0.0001
Contributions (thousands of dollars)	-0.27	0.06	-4.29	<0.0001
Republican	-3.24	0.46	-7.09	<0.0001
Brulte	16.19	4.34	3.73	<0.0005
Strickland	14.48	4.10	3.53	<0.001
Horton	11.20	4.17	2.68	<0.01
Chavez	13.43	4.12	3.26	<0.005
R ² =0.54				
Dependent Variable = Tobacco Industry Campaign Contributions (dollars in thousands)				
Constant	25.79	5.30	4.87	<0.0001
Tobacco Policy Score	-3.27	0.77	-4.24	<0.0001
Republican	-10.18	3.51	-2.90	<0.005
Brulte	60.07	7.40	8.12	<0.0001
Strickland	53.93	7.41	7.27	<0.0001
Horton	43.39	8.07	5.38	<0.0001
Chavez	50.56	7.49	6.75	<0.0001
R ² =0.70				

Local health and tobacco control advocates recognized the “purchasing power” associated with tobacco industry campaign contributions and the magnitude of financial resources needed to run a political campaign. In 2003, for the first time ever, the California Voters Education Project, in conjunction with the American Heart Association, American Lung Association and American Cancer Society, organized an awards ceremony to recognize the legislators who did not accept tobacco industry contributions during the 2001-2002 legislative cycle (91). Steven Gallegos, Director of Public Advocacy for the Western States Affiliate of the American Heart Association, said, “If more of our elected officials took a stand to improve the health of Californians through effective policy making and appropriations to tobacco control efforts, we'd see less smoking and consequently less disease and death” (91).

In addition to making the public aware of the commitment that these legislators have made against the tobacco industry’s funding, it also served as an educational opportunity. Assemblywoman Judy Chu (D-Dist.49) accepted two \$500 contributions from the California Distributors’ Association (CDA), formerly known as the California Association of Tobacco and Candy Distributors. Once she was made aware of the CDA’s background, Assemblywoman Chu returned the donations with a letter which read, “It has recently come to my attention that a significant portion of your funding originates from tobacco related sources. Although I appreciate your confidence in my candidacy, I have long had the policy of not accepting

donations from entities associated with the tobacco industry because of my strong philosophical objection to the adverse consequences of smoking on public health” (92).

How do the legislators feel about public attention being drawn to the affiliations of campaign donors? In response to the Fall 2002 release of Common Cause's report on tobacco campaign contributions received among California legislators (93), Patricia Soto, assistant to Assembly Speaker Herb Wesson (D-Dist.47), stated that “he [Speaker Wesson] does not accept any direct contributions from tobacco companies” and went on to say “The contributions he does accept don't affect his policy decisions” and pointed to Speaker Wesson's proposal of a \$2.13 tax increase (94). Ms. Soto did not disclose Speaker Wesson's tobacco industry contributions. Of the \$47,000 in tobacco industry campaign contributions received by Speaker Wesson, \$38,000 came from Philip Morris. Moreover, Speaker Wesson led efforts to transfer enforcement of youth access provisions from the Department of Health Services to the Alcohol Beverage Control Commission (10), a position favored by the tobacco industry. He received a neutral tobacco policy score of 4.7. Speaker Wesson is not alone in accepting tobacco industry funds and thinking that it is acceptable. On the topic of accepting tobacco industry campaign contributions, Lisa Rea, former head lobbyist for the American Heart Association said, “This seems to be open season. In the past, Republican members took most of the money, and now Democrats have been as willing to take the money as the Republican Party” (10).

In 2000, Assemblywoman Carole Migden (D-Dist.13) accepted \$25,000 from Philip Morris, making it the second largest contributor to her campaign (10). Migden said, “The relationship has become more complicated. They [Philip Morris] involve themselves in a lot of civic good works” and went on to cite the large amounts of money donated by Philip Morris to defeat Proposition 22 in 2000, which would have barred same-sex marriage in California (10). This is also the same elected official who addressed the gay and lesbian population at the 1996 “Alive with Pleasure” state conference:

The tobacco industry not only has an adverse effect on the health of the lesbian and gay community, but they are a dangerous force in their support of efforts which will thwart important civil rights gains.

Personally, I find all these conservatives taking all this tobacco money a little hypocritical. They demand an end to federal subsidies for abortion, yet support subsidies for tobacco farmers. They claim to care about the fetus, yet smoking causes 100,000 miscarriages a year in the United States. They claim to care about families, but are silent about teenage smoking. They rail against kids having access to condoms, but not cigarettes. How can Jesse Helms denounce homosexuality as a threat to public health, but not denounce cigarettes? (95)

The shift in opinion of at least this California elected officials on accepting tobacco industry contributions is an indicator that the good will campaigns of the tobacco industry, specifically Philip Morris and R.J. Reynolds who sponsor youth prevention programs, may be working. Funds from the tobacco companies do not appear to carry the same stigma that they had in previous years.

The California Legislature Versus the United States Congress

In 2001-2002, the tobacco industry continued the trend of contributing more money to members of the California Legislature than to California's delegation to Congress; this reflects the tobacco industry's continued commitment to impact policy at the state level rather than the federal level (1). While the tobacco industry made an average campaign contribution of \$9,457 to California legislators, the average campaign contribution to California's Congressional delegation was \$4,318. This is a slight decrease from the previous election cycle when the tobacco industry's average campaign contribution to California's legislators was \$10,376 and the average campaign contribution to California's Congressional delegation was \$4,486 (1). Furthermore, the top recipient in the California legislature, Senate Minority Leader James Brulte (R-Dist. 31) received \$67,500, which is more than six times the largest tobacco industry campaign contribution to California's Congressional delegation, which was to Representative Bill Thomas (R) (Table 10) (96). Finally, Representative Gary Condit and Representative Doug Ose returned campaign contributions received from the tobacco industry. The difference in the tobacco industry's political contributions to members of the California legislature and to California's Congressional delegation likely reflects the industry's ongoing efforts to restrict California's Tobacco Control Program.

Table 10: Tobacco Industry Campaign Contributions to California's Congressional Delegation, 2001-2002

Name of Candidate	Party	Tobacco Contributions
		Received in 2001-02
Thomas, Bill	R	\$11,000
Baca, Joe	D	\$10,310
Pombo, Richard	R	\$9,000
Dooley, Cal	D	\$8,000
Herger, Wally	R	\$8,000
Miller, Gary	R	\$7,500
Cardoza, Dennis	D	\$6,000
Radanovich, George	R	\$6,000
Thompson, Mike	D	\$4,750
Nunes, Devin Gerald	R	\$4,500
Sanchez, Loretta	D	\$4,000
Calvert, Ken	R	\$3,500
Issa, Darrell	R	\$3,500
Monteith, Dick	R	\$3,500
Lewis, Jerry	R	\$3,000
Briggs, Mike Earl	R	\$2,000
Cox, Christopher	R	\$2,000
Becerra, Xavier	D	\$1,000
Napolitano, Grace	D	\$1,000
Woolsey, Lynn	D	\$1,000
Cunningham, Randy "Duke"	R	\$500
Dreier, David	R	\$500
Schiff, Adam	D	\$250
Condit, Gary	D	-\$500
Ose, Doug	R	-\$1,000
TOTAL		\$99,310

However, this is not to say that the tobacco industry, and Philip Morris in particular, is not continuing to make large campaign contributions in Congress. During the 2001-2002 legislative cycle, the tobacco industry gave \$466,572 to 77 Democratic members of the House and \$1,290,484 to 147 Republican members of the House for a total of \$1,757,056 and a \$7,844 average contribution (97). In the Senate, the tobacco industry gave \$141,592 to 26 Democratic Senators and \$334,971 to 25 Republican Senators for a total of \$476,563 and a \$9,344 average contribution (97). Historically, Philip Morris is the largest donor having contributed \$19,774,738 between the 1990 and 2002 election cycles, with about 75% of those contributions going to Republican candidates or elected officials (98). Historically, tobacco industry campaign contributions in California mirror the national patterns of partisan donations by the tobacco industry (1).

Political Parties

The tobacco industry contributed a total of \$766,316 to political action committees (Table 11). Of the total contributions to political action committees, \$253,316 was contributed specifically to political parties and party-controlled committees, which is an increase of almost \$29,000 from the 1999-2000 legislative cycle. A complete list of tobacco industry campaign contributions from each of the individual companies is listed in Appendix B.

Table 11: Tobacco Industry Campaign Contributions to Political Parties/Committees, 1976-2002

Parties/Committees	2001-2002 Total	1999-2000 Total	1976-1998 Total	Grand Total
Democratic Parties				
Assembly Democratic Leadership 2000	\$0			\$0
Assembly Democrat Victory Fund	\$0	\$0	\$91,500	\$91,500
Assembly Democratic Voter Registration	\$25,000			\$25,000
California Democratic Moderates PAC	\$15,000			\$15,000
Democratic Business PAC	\$0	\$52,000		\$52,000
Democratic Congressional Campaign Committee	\$803			\$803
Democratic Legislative Campaign Committee	\$878			\$878
Democratic National Committee Non-Federal Corporate	\$135			\$135
Senate Democratic Leadership Fund	\$0	\$7,000		\$7,000
Subtotal for Democratic Parties	\$41,816	\$59,000	\$91,500	\$192,316
Republican Parties				
Assembly Republican PAC (ARPAC)	\$0	\$56,500	\$33,250	\$89,750
California Republican Party*	\$211,500	\$5,000	\$325,390	\$541,890
Golden State Republican Fund	\$0	\$19,000	\$0	\$19,000
Hispanic Republican Caucus	\$0	\$12,000	\$0	\$12,000
Senate Republican Leadership	\$0	\$50,000	\$0	\$50,000
Subtotal for Republican Parties	\$211,500	\$142,500	\$358,640	\$712,640
Other PACs receiving Tobacco Industry Funds				
Bay Area Free Enterprise	\$1,000			\$1,000
Black Leadership PAC	\$60,000			\$60,000
California African American PAC	\$7,000			\$7,000
CDA/ PAC	\$5,000			\$5,000
California Friends of Latino PAC	\$5,000			\$5,000
California Latino Alliance	\$13,000			\$13,000
California Manufacturers & Technology Assoc. PAC	\$2,500			\$2,500
Californians for a Better Economy	\$25,000			\$25,000
Californians for Civil Justice Reform PAC	\$25,000			\$25,000
Californians for Common Sense	\$90,000			\$90,000
Californians United	\$72,000			\$72,000
California Voter Registration 2002	\$2,500			\$2,500
Citizens Right to Petition	\$80,000			\$80,000
Dairy Institute Legislative Committee	\$5,000			\$5,000
JOBS-PAC	\$85,000			\$85,000
Los Angeles Labor Federation Voter Improvement	\$5,000			\$5,000
Political Future PAC	\$25,000			\$25,000
Taxpayers PAC	\$5,000			\$5,000
Subtotal for Other Parties	\$513,000	\$0	\$0	\$513,000
TOTAL	\$766,316	\$201,500	\$450,140	\$1,417,956

Republican controlled parties received a total of \$211,500, accounting for 83% of all tobacco industry contributions to political parties and an increase of \$69,000 over the previous

legislative cycle. The Democratic committees received a total of \$41,816, which is half of the tobacco industry campaign contributions to Democratic committees during the 1999-2000 legislative cycle. The California Democratic Party, however, continues to maintain its past practice of not accepting tobacco industry campaign contributions, as it has since the 1995-1996 legislative cycle (1). Tobacco industry campaign contributions favoring Republican controlled committees has varied over time, reaching a peak during the mid 1990s, but increasing again now in the early 2000s (Figure 14).

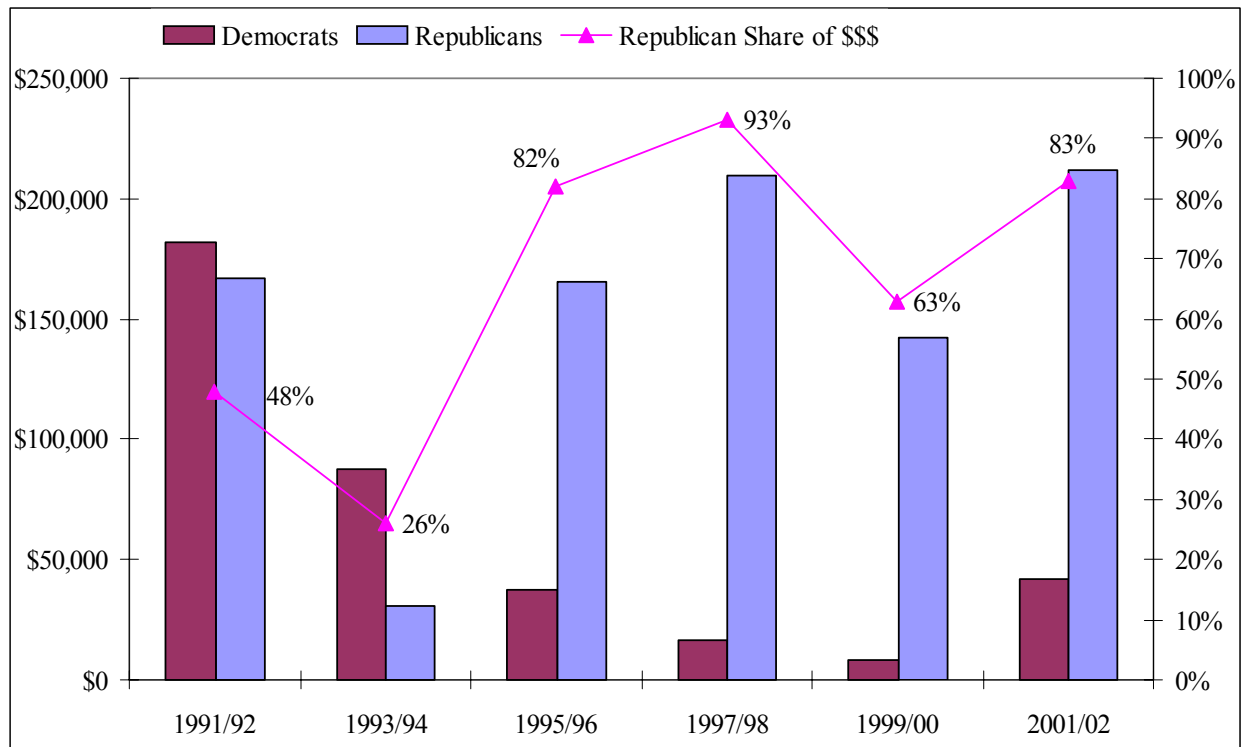


Figure 14: Tobacco Industry Campaign Contributions to Political Parties and Committees by Political Affiliation, 1991/1992 - 2001/2002

Political parties and committees are also important when calculating the political expenditures of the tobacco industry. These organizations can accept tobacco industry contributions and then pass those funds onto individual candidates. In these instances, the individual candidates are reporting the contributions received from the political committees and there is no way to directly indicate that the tobacco industry contributed to his/her campaign. Nevertheless, by documenting the funds received by political parties and campaigns from the tobacco industry, it is still possible to keep track of the potential policy influences.

Legislative Leaders

During the 2001-2002 legislative cycle, the Democrats maintained control of both the Assembly and the Senate. Among the leadership, several individuals were among the top recipients of tobacco industry campaign contributions. Among the Democratic leaders in the Assembly, Speaker Herb Wesson (Dist.47) who accepted \$47,000 in tobacco industry campaign

contributions, was the only individual to be among the largest recipients. Majority Leader Marco Firebaugh (Dist. 50) and Budget Chair Jenny Oropeza (Dist. 55) were the only other Democratic leaders in the Assembly who accepted tobacco industry campaign contributions, \$6,000 and \$1,000 respectively (Table 12). The remaining members of the Democratic leadership in the Assembly did not accept tobacco industry contributions and received pro-tobacco control policy scores; Assemblymen Aroner, Keeley, and Steinberg have never accepted tobacco industry contributions. Despite a total of \$54,000 in tobacco industry contributions, the Assembly Democratic leadership received an average tobacco policy score of 8.0 indicating a pro-tobacco control position.

Table 12: Tobacco Industry Campaign Contributions to Members of the Assembly Democratic Caucus Leadership, 2001-2002

Name of Candidate	Position	2001-2002	1999-2000	1997-1998	1976-1996	Grand	Tobacco Policy
		Total	Total	Total	Total	Total	Score
Wesson, Herb	Speaker	\$47,000	\$16,692	\$0	\$0	\$63,692	4.7
Keeley, Fred	Speaker pro-Tempore	\$0	\$0	\$0	\$0	\$0	8.3
Kehoe, Christine	Asst. Speaker pro-Tempore	\$0	\$0	\$0	\$0	\$0	7.8
Firebaugh, Marco Antonio	Majority Leader	\$6,000	\$15,500	\$0	\$1,100	\$22,600	7.0
Vargas, Juan	Asst. Majority Leader	\$0	\$500	\$0	\$0	\$500	9.0
Aroner, Dion	Dem. Caucus Chair	\$0	\$0	\$0	\$0	\$0	9.8
Chan, Wilma	Majority Whip	\$0	\$0	\$0	\$0	\$0	8.8
Steinberg, Darrell	Appropriations Chair	\$0	\$0	\$0	\$0	\$0	9.3
Nation, Joseph	Rules Chair	\$0	\$500	\$0	\$0	\$500	7.8
Oropeza, Jenny	Budget Chair	\$1,000	\$0	\$0	\$0	\$1,000	7.3
TOTALS		\$54,000	\$33,192	\$0	\$1,100	\$88,292	8.0

The Republican leaders in the Assembly accepted a total of \$152,250 in tobacco industry campaign contributions and received an average tobacco policy score of 2.7 (Table 13). Among the top recipients were Republican Caucus Chair Tony Strickland (Dist. 37), Assistant Caucus Chair Lynn Daucher (Dist. 72), Assistant Republican Leader for the Central Valley Mike Briggs (Dist. 29), Vice-Chair of Budget John Campbell (Dist. 70), and Vice-Chair of Rules Dave Cogdill (Dist. 25). Additionally, Republican Party Whip Phil Wyman (Dist. 34) was the recipient of the lowest tobacco policy score, indicating an extreme pro-tobacco policy position.

Table 13: Tobacco Industry Campaign Contributions to the Assembly Republican Leadership, 1976-2002

Name of Candidate	Position	2001-2002	1999-2000	1997-1998	1976-1996	Grand	Tobacco Policy
		Total	Total	Total	Total	Total	Score
Cox, Dave	Republican Leader	\$7,000	\$16,750	\$0	\$0	\$23,750	2.0
Strickland, Tony	Republican Caucus Chair/	\$63,000	\$14,500	\$0	\$0	\$77,500	2.0
	Asst. Republican Leader						
Richman, Keith	Asst. Republican Leader	\$8,000	\$0	\$0	\$0	\$8,000	6.8
Briggs, Mike	Asst. Republican Leader for	\$13,750	\$3,500	\$0	\$0	\$17,250	2.3
	Central Valley						
Daucher, Lynn	Asst. Caucus Chair/Whip	\$14,000	\$2,500	\$0	\$0	\$16,500	3.0
LaSuer, Jay	Asst. Caucus Chair	\$6,750	\$7,500	\$0	\$0	\$14,250	1.7
Cogdill, Dave	Vice-Chair of Rules	\$9,000	\$20,000	\$0	\$0	\$29,000	3.0
Bates, Patricia	Vice-Chair of Appropriations	\$8,000	\$9,250	\$0	\$0	\$17,250	3.5
Campbell, John	Vice-Chair of Budget	\$10,000	\$8,000	\$0	\$0	\$18,000	2.3
Wyman, Phil	Whip	\$5,000	\$1,000	\$0	\$0	\$6,000	1.0
Mountjoy, Dennis	Whip	\$7,750	\$5,500	\$0	\$0	\$13,250	1.7
TOTALS		\$152,250	\$88,500	\$0	\$0	\$240,750	2.7

The members of the Senate leadership accepted a total of \$87,000 in tobacco industry campaign contributions and received an average tobacco policy score of 4.1 (Table 14). Minority Leader James Brulte (R-Dist. 31), who received a tobacco policy score of 2.5, received the most total campaign contributions from the tobacco industry during the 2001-2002 legislative cycle. In comparison to the other members of the Senate leadership, President Pro-Tempore John Burton (D-Dist. 3) was the only Senate leader to receive a pro-tobacco control policy score and accepted the least amount of tobacco industry contributions (\$2,500).

Table 14: Tobacco Industry Campaign Contributions to Members of the Senate Leadership, 2001-2002

Name of Candidate	Position	Party	2001-2002	1999-2000	1997-1998	1976-1996	Grand Total	Tobacco
			Total	Total	Total	Total		Policy Score
Burton, John	President pro Tem	D	\$2,500	\$4,000	\$1,000	\$6,150	\$13,650	8.3
Polanco, Richard	Majority Leader	D	\$3,500	\$19,500	\$7,000	\$54,400	\$84,400	3.5
Brulte, James	Minority Leader	R	\$67,500	\$75,500	\$3,495	\$69,625	\$216,120	2.5
O'Connell, Jack	Dem. Caucus Chair	D	\$0	\$0	\$0	\$22,500	\$22,500	3.8
Poochigian, Charles	Rep. Caucus Chair	R	\$7,000	\$7,000	\$0	\$7,500	\$21,500	3.7
Alarcon, Richard	Majority Whip	D	\$0	\$0	\$500	\$0	\$500	5.5
Haynes, Ray	Minority Whip	R	\$7,000	\$11,000	\$6,750	\$12,500	\$37,250	1.5
TOTALS			\$87,500	\$117,000	\$18,745	\$172,675	\$395,920	4.1

Legislative Committees

In addition to considering the contributions made to individual legislators, it is also important to consider the composition of the legislative committees. There are several committees which review tobacco-related policies, including the health, budget, appropriations, rules, revenue and taxation, and governmental organizations committees, as discussed in the next section on legislation. During the 2001-2002 legislative session, each of these committees reviewed at least one tobacco-related bill, ranging in topic from securitization of the Master Settlement Agreement revues to tobacco retail licensing to tobacco excise taxes to the sale and distribution of tobacco products to restrictions on tobacco advertising and promotions. By reviewing the committee members' collective campaign contributions from the tobacco industry and the committee's average tobacco policy score, this provides some further insight into the fate of these bills.

Among all of the Committees reviewed, the Assembly Governmental Organizations Committee received the highest average tobacco industry campaign contribution among those recipients who accepted tobacco industry funding: \$16,988 per member accepting tobacco funds. This was closely followed by the Assembly Revenue and Taxation Committee (\$16,750 per accepting member), the Senate Governmental Organizations Committee (\$14,694 per accepting member) and the Assembly Health Committee (\$12,778 per accepting member). With the exception of Assemblymen Sam Aanestad, Abel Maldonado, and David G. Kelley, all of the Republican members of these committees accepted tobacco industry campaign contributions. All of the Committees received neutral average tobacco policy scores, except for the Senate Revenue and Taxation Committee which received a pro-tobacco control policy score of 6.3

Assembly Health Committee

Nine of the nineteen members of the Assembly Health Committee accepted tobacco industry campaign contributions for a total of \$115,000 during the 2001-2002 legislative cycle (Table 15), a substantial increase from the previous election cycle when the members of the Assembly Health Committee received a total of \$14,900 from the tobacco industry (1). Despite the contributions accepted, the Health Committee received a tobacco policy score of 6.0, indicating a neutral position on tobacco-related issues. The top recipient, Edward Chavez (D-Dist.57) accepted \$60,000 in tobacco industry campaign contributions and received a tobacco policy score of 5.0. While Chair of the Committee Helen Thompson (D-Dist.8) did not accept tobacco industry campaign contributions, Vice Chair Robert Pacheco (R-Dist.60) accepted \$9,000 and received a tobacco policy score of 2.7. Assemblyman Keith Richman (R-Dist.38), Assembly Assistant Republican leader and also a physician, accepted \$8,000 in tobacco industry campaign contributions, receiving a tobacco policy score of 6.8. Assembly Majority Whip Wilma Chan (D-Dist.16) and Democratic Caucus Chair Dion Aroner (D-Dist.14), who received tobacco policy scores of 8.8 and 9.8, respectively, have never accepted any contributions from the tobacco industry.

Table 15: Tobacco Industry Campaign Contributions to Members of the Assembly Health Committee, 2001-2002

Name of Candidate	Party	District	2001-2002	1999-2000	1997-1998	1976-1996	Grand	Tobacco
			Total	Total	Total	Total	Total	Policy Score
Thomson, Helen (Chair)	D	8	\$0	\$5,000	\$0	\$0	\$5,000	6.5
Pacheco, Robert "Bob" (Vice Chair)	R	60	\$9,000	\$12,500	\$0	\$0	\$21,500	2.7
Zettel, Charlene	R	75	\$6,000	\$0	\$0	\$0	\$6,000	4.8
Bates, Patricia	R	73	\$8,000	\$9,250	\$0	\$0	\$17,250	3.5
Richman, Keith	R	38	\$8,000	\$0	\$0	\$0	\$8,000	6.8
Dickerson, Richard	R	2	\$8,000	\$22,500	\$0	\$0	\$30,500	2.0
Runner, George	R	36	\$3,000	\$11,500	\$1,250	\$1,000	\$16,750	1.7
Aanestad, Sam	R	3	\$0	\$500	\$0	\$0	\$500	3.5
Washington Jr., Carl	D	52	\$0	\$0	\$0	\$2,500	\$2,500	5.8
Chan, Wilma	D	16	\$0	\$0	\$0	\$0	\$0	8.8
Wayne, Howard	D	78	\$0	\$0	\$0	\$0	\$0	9.3
Koretz, Paul	D	42	\$0	\$0	\$0	\$0	\$0	8.5
Cohn, Rebecca	D	24	\$10,000	\$0	\$0	\$0	\$10,000	7.3
Frommer, Dario	D	43	\$0	\$0	\$0	\$0	\$0	8.0
Salinas, Simon	D	28	\$3,000	\$0	\$0	\$0	\$3,000	7.7
Goldberg, Jackie	D	45	\$0	\$0	\$0	\$0	\$0	8.0
Negrette McLeod, Gloria	D	61	\$0	\$0	\$0	\$0	\$0	6.3
Chavez, Edward	D	57	\$60,000	\$10,000	\$0	\$0	\$70,000	5.0
Strom-Martin, Virginia	D	1	\$0	\$0	\$0	\$0	\$0	7.3
TOTALS			\$115,000	\$71,250	\$1,250	\$3,500	\$191,000	6.0

Senate Health and Human Services Committee

In the Senate Health and Human Services Committee, five of the twelve members accepted tobacco industry campaign contributions, for a total of \$41,500 (Table 16). The Committee received an average tobacco policy score of 5.5, which is similar to the score of the Assembly Health Committee. The top recipient was Senator Edward Vincent (D-Dist. 25) who accepted \$13,000 in tobacco industry campaign contributions. Vice Chair Ray Haynes (R-Dist.36) who was also the Senate Minority Whip, and Senate Majority Leader Richard Polanco (D-Dist.22) accepted \$7,000 and \$3,500, respectively, in tobacco industry contributions; both also received pro-tobacco policy scores. Finally, Senator Jim Battin (R-Dist.37) received the lowest policy score, 1.0 and \$12,000 in tobacco industry contributions.

Table 16: Tobacco Industry Campaign Contributions to Members of the Senate Health and Human Services Committee, 2001-2002

Name of Candidate	Party	District	2001-2002	1999-2000	1997-1998	1976-1996	Grand Total	Tobacco
			Total	Total	Total	Total		Policy Score
Ortiz, Deborah (Chair)	D	6	\$0	\$0	\$0	\$0	\$0	9.0
Haynes, Ray (Vice Chair)	R	36	\$7,000	\$11,000	\$6,750	\$12,500	\$37,250	1.5
Battin, Jim	R	37	\$12,000	\$20,500	\$2,000	\$4,000	\$38,500	1.0
Chesbro, Wesley	D	2	\$0	\$0	\$0	\$0	\$0	9.7
Escutia, Martha M.	D	30	\$0	\$0	\$0	\$500	\$500	8.0
Figueroa, Liz	D	10	\$0	\$0	\$0	\$500	\$500	7.7
Kuehl, Sheila	D	23	\$0	\$0	\$0	\$0	\$0	7.3
Morrow, Bill	R	38	\$6,000	\$22,000	\$5,500	\$22,250	\$55,750	2.0
Polanco, Richard	D	22	\$3,500	\$19,500	\$7,000	\$54,400	\$84,400	3.5
Romero, Gloria	D	24	\$0	\$0	\$0	\$0	\$0	7.3
Vasconcellos, John	D	13	\$0	\$0	\$0	\$20,000	\$20,000	7.0
Vincent, Edward	D	25	\$13,000	\$38,000	\$6,000	\$1,000	\$58,000	1.5
TOTALS			\$41,500	\$111,000	\$27,250	\$115,150	\$294,900	5.5

Assembly Budget Committee

Twenty-one of the 33 members of the Assembly Budget Committee accepted campaign contributions from the tobacco industry for a total of \$144,500 (Table 17). Despite these contributions, the committee received an average tobacco policy score of 5.4 indicating a neutral position. The top recipient of tobacco industry contributions was Joe Canciamilla (D-Dist.11) who received \$40,000 in tobacco industry contributions and a tobacco policy score of 4.3. Chair of the Budget Committee, Jenny Oropeza (D-Dist.55), and Vice-Chair John Campbell (R-Dist.70) accepted \$1,000 and \$10,000, respectively, in tobacco industry campaign contributions. Additionally, among the Assembly leadership,, Assistant Republican Leader Keith Richman (R-Dist.38), Assistant Republican Caucus Chair Jay LaSuer (R-Dist.77) and Assistant Republican Caucus Chair and Whip Lynn Daucher (R-Dist.72) accepted tobacco industry contributions, although many of these legislators received pro-tobacco control policy scores. Speaker Pro-Tempore Fred Keeley (D-Dist.27), Assistant Speaker Pro-Tempore Christine Kehoe (D-Dist. 76), Assistant Democratic Majority Leader Juan Vargas (D-Dist. 79), and Democratic Majority Whip Wilma Chan (D-Dist. 16) did not accept tobacco industry contributions.

Table 17: Tobacco Industry Campaign Contributions to Members of the Assembly Budget Committee, 2001-2002

Name of Candidate	Party	District	2001-2002 Total	1999-2000 Total	1997-1998 Total	1976-1996 Total	Grand Total	Tobacco Policy Score
Oropeza, Jenny (Chair)	D	55	\$1,000	\$0	\$0	\$0	\$1,000	7.3
Campbell, John (Vice-Chair)	R	70	\$10,000	\$8,000	\$0	\$0	\$18,000	2.3
Maldonado, Abel	R	33	\$0	\$2,250	\$0	\$0	\$2,250	5.7
Bates, Patricia	R	73	\$8,000	\$9,250	\$0	\$0	\$17,250	3.5
Leonard, Bill	R	63	\$3,000	\$9,000	\$103,250	\$115,250	\$230,500	2.0
Richman, Keith	R	38	\$8,000	\$0	\$0	\$0	\$8,000	6.8
LaSuer, Jay	R	77	\$6,750	\$7,500	\$0	\$0	\$14,250	1.7
Pacheco, Rod	R	64	\$8,000	\$7,000	\$500	\$2,500	\$18,000	3.0
Pacheco, Robert "Bob"	R	60	\$9,000	\$12,500	\$0	\$0	\$21,500	2.7
Cogdill, Dave	R	25	\$9,000	\$20,000	\$0	\$0	\$29,000	3.0
Daucher, Lynn	R	72	\$14,000	\$2,500	\$0	\$0	\$16,500	3.0
Harman, Tom	R	67	\$9,750	\$5,500	\$0	\$0	\$15,250	3.0
Runner, George	R	36	\$3,000	\$11,500	\$1,250	\$1,000	\$16,750	1.7
Kelley, David G.	R	80	\$0	\$7,750	\$0	\$17,250	\$25,000	2.7
Keeley, Fred	D	27	\$0	\$0	\$0	\$0	\$0	8.3
Chan, Wilma	D	16	\$0	\$0	\$0	\$0	\$0	8.8
Dutra, John	D	20	\$3,000	\$0	\$0	\$0	\$3,000	5.0
Canciamilla, Joe	D	11	\$40,000	\$7,500	\$0	\$0	\$47,500	4.3
Papan, Lou	D	19	\$1,000	\$25,750	\$33,000	\$34,000	\$93,750	1.7
Pavley, Fran	D	41	\$0	\$0	\$0	\$0	\$0	7.5
Aroner, Dion	D	14	\$0	\$0	\$0	\$0	\$0	9.8
Florez, Dean	D	30	\$0	\$750	\$0	\$0	\$750	6.3
Nakano, George	D	53	\$0	\$0	\$0	\$0	\$0	7.3
Cedillo, Gil	D	22	\$1,000	\$0	\$0	\$0	\$1,000	8.0
Vargas, Juan	D	79	\$0	\$500	\$0	\$0	\$500	9.0
Kehoe, Christine	D	76	\$0	\$0	\$0	\$0	\$0	7.8
Chu, Judy	D	49	\$1,000	\$0	\$0	\$0	\$500	7.8
Diaz, Manny	D	23	\$3,000	\$0	\$0	\$0	\$3,000	6.7
Simitian, S. Joseph	D	21	\$3,000	\$2,500	\$0	\$0	\$5,500	8.0
Frommer, Dario	D	43	\$0	\$0	\$0	\$0	\$0	8.0
Goldberg, Jackie	D	45	\$0	\$0	\$0	\$0	\$0	8.0
Cardenas, Tony	D	39	\$1,000	\$7,000	\$0	\$1,000	\$9,000	5.5
Wright, Roderick D.	D	48	\$2,500	\$20,750	\$31,500	\$37,250	\$92,000	2.3
TOTALS			\$145,000	\$167,500	\$169,500	\$208,250	\$689,750	5.4

Senate Budget and Fiscal Review Committee

Six of the thirteen members of the Senate Budget and Fiscal Committee who received a neutral tobacco policy score, 5.6, accepted a total of \$37,500 in tobacco industry contributions (Table 18). Both the Chair of the Committee, Senator Steve Peace (D-Dist.4), and Vice Chair Dick Ackerman (R-Dist.33), who was also running for Attorney General against Attorney General Bill Lockyer, accepted tobacco industry contributions in the amounts of \$4,000 and \$11,500 respectively and received pro-tobacco policy scores. Senator Ackerman was also the top recipient for this committee and received the lowest tobacco policy score. Additionally, among the Senate leadership on the Committee, Minority Whip Ray Haynes (R-Dist.36) and Democratic Majority Leader Richard Polanco (D-Dist. 22) accepted tobacco industry campaign contributions in the amounts of \$7,000 and \$3,500, respectively. Democratic Caucus Chair Jack O'Connell (D-Dist.18), who also ran for Superintendent of Public Instruction, was the only Senate leader on the committee who did not accept tobacco industry contributions.

Table 18: Tobacco Industry Campaign Contributions to Members of the Senate Budget and Fiscal Review Committee, 2001-2002

Name of Candidate	Party	District	2001-2002	1999-2000	1997-1998	1976-1996	Grand Total	Tobacco Policy Score
			Total	Total	Total	Total		
Peace, Steve (Chair)	D	40	\$4,000	\$21,000	\$6,000	\$35,000	\$66,000	4.3
Ackerman, Dick (Vice Chair)	R	33	\$11,500	\$0	\$0	\$0	\$11,500	1.0
Chesbro, Wesley	D	2	\$0	\$0	\$0	\$0	\$0	9.7
Dunn, Joseph	D	34	\$0	\$8,000	\$0	\$0	\$8,000	7.7
Haynes, Ray	R	36	\$7,000	\$11,000	\$6,750	\$12,500	\$37,250	1.5
Kuehl, Sheila	D	23	\$0	\$0	\$0	\$0	\$0	7.3
Margett, Bob	R	29	\$9,000	\$8,750	\$1,400	\$3,000	\$22,150	2.5
McPherson, Bruce	R	15	\$2,500	\$6,000	\$0	\$0	\$8,500	7.5
O'Connell, Jack	D	18	\$0	\$0	\$0	\$22,500	\$22,500	3.8
Ortiz, Deborah	D	6	\$0	\$0	\$0	\$0	\$0	9.0
Polanco, Richard	D	22	\$3,500	\$19,500	\$7,000	\$54,400	\$84,400	3.5
Sher, Byron D.	D	11	\$0	\$0	\$0	\$0	\$0	8.3
Vasconcellos, John	D	13	\$0	\$0	\$0	\$20,000	\$20,000	7.0
TOTALS			\$37,500	\$74,250	\$21,150	\$147,400	\$280,300	5.6

Assembly Appropriations Committee

The majority of members of the Assembly Appropriations Committee (15 of 23 members) accepted tobacco industry contributions for a total of \$91,000 and received a neutral average tobacco policy score (Table 19).

Table 19: Tobacco Industry Campaign Contributions to Members of the Assembly Appropriations Committee, 2001-2002

Name of Candidate	Party	District	2001-2002	1999-2000	1997-1998	1976-1996	Grand Total	Tobacco Policy Score
			Total	Total	Total	Total		
Steinberg, Darrell (Chair)	D	9	\$0	\$0	\$0	\$0	\$0	9.3
Bates, Patricia (Vice Chair)	R	73	\$8,000	\$9,250	\$0	\$0	\$17,250	3.5
Maldonado, Abel	R	33	\$0	\$2,250	\$0	\$0	\$2,250	5.7
Zettel, Charlene	R	75	\$6,000	\$0	\$0	\$0	\$6,000	4.8
Ashburn, Roy	R	18	\$15,500	\$12,250	\$40,500	\$1,000	\$69,250	2.3
Pacheco, Robert "Bob"	R	60	\$9,000	\$12,500	\$0	\$0	\$21,500	2.7
Daucher, Lynn	R	72	\$14,000	\$2,500	\$0	\$0	\$16,500	3.0
Runner, George	R	36	\$3,000	\$11,500	\$1,250	\$1,000	\$16,750	1.7
Washington Jr., Carl	D	52	\$0	\$0	\$0	\$2,500	\$2,500	5.8
Correa, Lou	D	69	\$1,000	\$5,000	\$0	\$0	\$6,000	4.3
Wiggins, Patricia	D	7	\$8,000	\$2,500	\$0	\$0	\$10,500	5.3
Papan, Lou	D	19	\$1,000	\$25,750	\$33,000	\$34,000	\$93,750	1.7
Pavley, Fran	D	41	\$0	\$0	\$0	\$0	\$0	7.5
Aroner, Dion	D	14	\$0	\$0	\$0	\$0	\$0	9.8
Alquist, Elaine White	D	22	\$0	\$0	\$0	\$0	\$0	6.5
Cohn, Rebecca	D	24	\$10,000	\$0	\$0	\$0	\$10,000	7.3
Diaz, Manny	D	23	\$3,000	\$0	\$0	\$0	\$3,000	6.7
Simitian, S. Joseph	D	21	\$3,000	\$2,500	\$0	\$0	\$5,500	8.0
Corbett, Ellen	D	18	\$1,000	\$0	\$0	\$0	\$1,000	7.5
Goldberg, Jackie	D	45	\$0	\$0	\$0	\$0	\$0	8.0
Negrette McLeod, Gloria	D	61	\$0	\$0	\$0	\$0	\$0	6.3
Firebaugh, Marco Antonio	D	50	\$6,000	\$15,500	\$0	\$1,100	\$22,600	7.0
Wright, Roderick D.	D	48	\$2,500	\$20,750	\$31,500	\$37,250	\$92,000	2.3
TOTALS			\$91,000	\$122,250	\$106,250	\$76,850	\$396,350	5.5

While Chair Darrell Steinberg (D-Dist.9) received a pro-tobacco control policy score of 9.3 and has never accepted tobacco industry contributions, Vice Chair Patricia Bates (R-Dist.73) accepted \$8,000 during the 2001-2002 legislative cycle and received a tobacco policy score of 3.5. The top recipient in the Committee was Roy Ashburn (R-Dist.18) who accepted \$15,500 from the tobacco industry and received a tobacco policy score of 2.3. Additionally, among the Assembly Leadership, Assistant Republican Caucus Chair and Whip Lynn Daucher (R-Dist.72) accepted \$14,000 and Democratic Majority Leader Marco Firebaugh (D-Dist.5) accepted \$6,000 from the tobacco industry.

Senate Appropriations Committee

A total of \$55,500 was accepted from the tobacco industry by nine of the thirteen members of the Senate Appropriations Committee, which received a neutral tobacco policy score of 6.0 (Table 20). Chair Deirdre Alpert (D-Dist.39) and Vice Chair Jim Battin (R-Dist.37) both accepted tobacco industry campaign contributions; \$4,000 and \$12,000, respectively. Furthermore, Jim Battin was the top recipient for the Committee and received the lowest tobacco policy score. Among the Senate leadership, President Pro-Tempore John Burton (D-Dist.3) and Republican Caucus Chair Charles Poochigan (R-Dist.14) both accepted tobacco industry contributions of \$2,500 and \$7,000, respectively. However, Senator Burton received a high pro-tobacco control policy score of 8.3 as did Chair Deirdre Alpert who received a score of 9.0.

Table 20: Tobacco Industry Campaign Contributions to Members of the Senate Appropriations Committee, 2001-2002

Name of Candidate	Party	District	2001-2002	1999-2000	1997-1998	1976-1996	Grand Total	Tobacco Policy Score
			Total	Total	Total	Total		
Alpert, Deirdre (Chair)	D	39	\$4,000	\$12,750	\$0	\$7,500	\$24,250	9.0
Battin, Jim (Vice Chair)	R	37	\$12,000	\$20,500	\$2,000	\$4,000	\$38,500	1.0
Bowen, Debra	D	28	\$0	\$0	\$0	\$0	\$0	8.0
Burton, John	D	3	\$2,500	\$4,000	\$1,000	\$6,150	\$13,650	8.3
Escutia, Martha M.	D	30	\$0	\$0	\$0	\$500	\$500	8.0
Johannessen, Maurice	R	4	\$5,000	\$2,500	\$750	\$2,500	\$10,750	2.0
Johnson, Ross	R	35	\$7,000	\$83,000	\$111,500	\$84,250	\$285,750	1.5
Karnette, Betty	D	27	\$0	\$0	\$0	\$0	\$0	7.7
McPherson, Bruce	R	15	\$2,500	\$6,000	\$0	\$0	\$8,500	7.5
Murray, Kevin	D	26	\$11,500	\$15,000	\$500	\$10,000	\$37,000	3.5
Perata, Don	D	9	\$4,000	\$0	\$0	\$0	\$4,000	8.5
Poochigian, Charles	R	14	\$7,000	\$7,000	\$0	\$7,500	\$21,500	3.7
Speier, Jackie	D	8	\$0	\$0	\$0	\$0	\$0	8.7
TOTALS			\$55,500	\$150,750	\$115,750	\$122,400	\$444,400	6.0

Assembly Rules Committee

Half of the Assembly Rules Committee (5 of 10 members) accepted a total of \$35,000 in tobacco industry contributions and the Committee received a tobacco policy score of 5.5 (Table 21). Chair Joseph Nation (D-Dist.6) did not receive tobacco industry contributions, however, Vice Chair Dave Cogdill (D-Dist. 25) accepted \$9,000 in contributions and received a tobacco policy score of 3.0. Republican Alternate and Assistant Caucus Chair and Whip, Lynn Daucher

(R-Dist.72) was the top recipient. Assemblyman Bill Leonard (R-Dist.63), who was also running for Board of Equalization, received \$3,000 in campaign contributions and a policy score of 2.0.

Table 21: Tobacco Industry Campaign Contributions to Members of the Assembly Rules Committee, 2001-2002

Name of Candidate	Party	District	2001-2002	1999-2000	1997-1998	1976-1996	Grand	Tobacco
			Total	Total	Total	Total	Total	Policy Score
Nation, Joseph (Chair)	D	6	\$0	\$500	\$0	\$0	\$500	7.8
Cogdill, Dave (Vice Chair)	R	25	\$9,000	\$20,000	\$0	\$0	\$29,000	3.0
Leonard, Bill	R	63	\$3,000	\$9,000	\$82,250	\$21,000	\$115,250	2.0
Leslie, Tim	R	4	\$8,000	\$7,500	\$5,000	\$38,000	\$58,500	2.8
Nakano, George	D	53	\$0	\$0	\$0	\$0	\$0	7.3
Chu, Judy	D	49	\$1,000	\$0	\$0	\$0	\$1,000	7.8
Liu, Carol	D	44	\$0	\$0	\$0	\$0	\$0	7.3
Negrette McLeod, Gloria	D	61	\$0	\$0	\$0	\$0	\$0	6.3
Frommer, Dario (Dem. Alternate)	D	43	\$0	\$0	\$0	\$0	\$0	8.0
Daucher, Lynn (Rep. Alternate)	R	72	\$14,000	\$2,500	\$0	\$0	\$16,500	3.0
TOTALS			\$35,000	\$39,500	\$87,250	\$59,000	\$220,750	5.5

Senate Rules Committee

A total of \$13,500 in tobacco industry campaign contributions was received by three of the five members of the Senate Rules Committee (Table 22). Both Chair John Burton (D-Dist.3) and Vice Chair Ross Johnson (R-Dist.35) accepted tobacco industry funds in the amount of \$2,500 and \$7,000, respectively. Senator Burton, however, received a pro-tobacco control policy score of 8.3, while Senate Johnson received a pro-tobacco industry policy score of 1.5. Also of note, Senator William Knight (R-Dist.17) received the lowest tobacco policy score, 1.0.

Table 22: Tobacco Industry Campaign Contributions to Members of the Senate Rules Committee, 2001-2002

Name of Candidate	Party	District	2001-2002	1999-2000	1997-1998	1976-1996	Grand	Tobacco
			Total	Total	Total	Total	Total	Policy Score
Burton, John (Chair)	D	3	\$2,500	\$4,000	\$1,000	\$6,150	\$11,150	8.3
Johnson, Ross (Vice Chair)	R	35	\$7,000	\$83,000	\$111,500	\$84,250	\$278,750	1.5
Karnette, Betty	D	27	\$0	\$0	\$0	\$0	\$0	7.7
Knight, William J. Pete	R	17	\$4,000	\$1,500	\$500	\$13,500	\$15,500	1.0
Romero, Gloria	D	24	\$0	\$0	\$0	\$0	\$0	7.3
TOTALS			\$13,500	\$88,500	\$113,000	\$103,900	\$305,400	5.2

Assembly Revenue and Taxation Committee

Five of the seven members of the Assembly Revenue and Taxation Committee received a total of \$83,750 in tobacco industry campaign contributions and the Committee received an average tobacco policy score of 5.9 (Table 23).

Table 23: Tobacco Industry Campaign Contributions to Members of the Assembly Revenue and Taxation Committee, 2001-2002

Name of Candidate	Party	District	2001-2002	1999-2000	1997-1998	1976-1996	Grand Total	Tobacco
			Total	Total	Total	Total		Policy Score
Chavez, Edward (Chair)	D	57	\$60,000	\$10,000	\$0	\$0	\$70,000	5.0
Wyland, Mark (Vice Chair)	R	74	\$10,000	\$4,500	\$0	\$0	\$14,500	1.0
Harman, Tom	R	67	\$9,750	\$5,500	\$0	\$0	\$15,250	3.0
Aroner, Dion	D	14	\$0	\$0	\$0	\$0	\$0	9.8
Alquist, Elaine White	D	22	\$0	\$0	\$0	\$0	\$0	6.5
Cedillo, Gil	D	46	\$1,000	\$0	\$0	\$0	\$1,000	8.0
Simitian, S. Joseph	D	21	\$3,000	\$2,500	\$0	\$0	\$5,500	8.0
TOTALS			\$83,750	\$22,500	\$0	\$0	\$106,250	5.9

Both Chair Edward Chavez (D-Dist.57) and Vice Chair Mark Wyland (R-Dist.74) accepted tobacco industry funds of \$60,000 and \$10,000. Assemblyman Chavez received the fourth largest tobacco industry contributions in the legislature although he received a neutral tobacco policy score. In response to the Common Cause's release of the tobacco industry's campaign contributions in California, Assemblyman Chavez said, "I voted for bills that were not well received by the tobacco industry, including strengthening the laws for online cigarette sales. It's obvious that I vote independently of who gives me money" (99).

Senate Revenue and Taxation Committee

Two-thirds of the Senate Revenue and Taxation Committee (4 of 6 members) accepted tobacco industry campaign contributions totaling \$17,500 and the Committee received a tobacco policy score of 6.3 (Table 24). This Committee received the lowest average tobacco industry contribution (\$4,375) among the members accepting tobacco industry funding. Chair Jack Scott (D-Dist.21) did not accept tobacco funding, but Vice Chair Charles Poochigian (R-Dist.14), who was also the Republican Caucus Chair, received \$7,000 in tobacco industry campaign contributions and a pro-tobacco policy score of 3.7. Fellow Republican William Knight (R-Dist.17) also accepted tobacco industry contributions.

Table 24: Tobacco Industry Campaign Contributions to Members of the Senate Revenue and Taxation Committee, 2001-2002

Name of Candidate	Party	District	2001-2002	1999-2000	1997-1998	1976-1996	Grand Total	Tobacco
			Total	Total	Total	Total		Policy Score
Scott, Jack (Chair)	D	21	\$0	\$0	\$0	\$0	\$0	7.5
Poochigian, Charles	R	14	\$7,000	\$7,000	\$0	\$7,500	\$21,500	3.7
Alpert, Deirdre	D	39	\$4,000	\$12,750	\$0	\$7,500	\$24,250	9.0
Bowen, Debra	D	28	\$0	\$0	\$0	\$0	\$0	8.0
Burton, John	D	3	\$2,500	\$4,000	\$1,000	\$6,150	\$13,650	8.3
Knight, William J. Pete	R	17	\$4,000	\$1,500	\$500	\$13,500	\$19,500	1.0
TOTALS			\$17,500	\$25,250	\$1,500	\$34,650	\$78,900	6.3

Assembly Labor and Employment Committees

A total of \$20,500 was received by half of the Assembly Labor and Employment (4 of 8 members) and the Committee received a tobacco policy score of 6.0 (Table 25). This was the only committee of which neither the Chair, Paul Koretz (D-Dist.42), or the Vice Chair, Gloria Negrette McLeod (D-Dist.61), accepted tobacco industry campaign contributions; both legislators also received pro-tobacco control policy scores. The top recipient for this committee was Assemblywoman Carole Migden (D-Dist.13) who accepted \$13,000 in tobacco industry funds, yet received a pro-tobacco control policy score of 7.5; Migden was running for Board of Equalization. Assemblyman Kevin Shelley (D-Dist.12), who was running for Secretary of State, did not accept tobacco industry contributions. Assemblyman Mark Wyland (R-Dist.74) received the lowest tobacco policy score, 1.0, and accepted \$4,000 in tobacco industry contributions.

Table 25: Tobacco Industry Campaign Contributions to Members of the Assembly Labor and Employment Committee, 2001-2002

Name of Candidate	Party	District	2001-2002	1999-2000	1997-1998	1976-1996	Grand	Tobacco
			Total	Total	Total	Total	Total	Policy Score
Koretz, Paul (Chair)	D	42	\$0	\$0	\$0	\$0	\$0	8.5
Negrette McLeod, Gloria (Vice Chair)	D	61	\$0	\$0	\$0	\$0	\$0	6.3
Pescetti, Anthony	R	10	\$3,000	\$18,250	\$0	\$0	\$21,250	3.0
Wyland, Mark	R	74	\$4,000	\$4,500	\$0	\$0	\$8,500	1.0
Havice, Sally	D	56	\$0	\$0	\$0	\$500	\$500	5.8
Chu, Judy	D	49	\$1,000	\$0	\$0	\$0	\$500	7.8
Shelley, Kevin	D	12	\$0	\$0	\$0	\$0	\$0	8.0
Migden, Carole	D	13	\$13,000	\$25,000	\$0	\$0	\$38,000	7.5
TOTALS			\$21,000	\$47,750	\$0	\$500	\$68,750	6.0

Senate Labor and Industrial Relations Committee

Half (4 of 8 members) of the Senate Labor and Industrial Relations Committee accepted tobacco industry contributions totaling \$25,500; the committee received an average tobacco policy score of 4.7 (Table 26).

Table 26: Tobacco Industry Campaign Contributions to Members of the Senate Labor and Industrial Relations Committee, 2001-2002

Name of Candidate	Party	District	2001-2002	1999-2000	1997-1998	1976-1996	Grand	Tobacco
			Total	Total	Total	Total	Total	Policy Score
Alarcon, Richard (Chair)	D	20	\$0	\$0	\$500	\$0	\$500	5.5
Oller, Thomas "Rico" (Vice Chair)	R	1	\$7,000	\$29,500	\$1,000	\$2,000	\$39,500	1.5
Figueroa, Liz	D	10	\$0	\$0	\$0	\$500	\$500	7.7
Kuehl, Sheila	D	23	\$0	\$0	\$0	\$0	\$0	7.3
Margett, Bob	R	29	\$9,000	\$8,750	\$1,400	\$3,000	\$22,150	2.5
McClintock, Tom	R	19	\$6,000	\$14,318	\$3,500	\$23,818	\$47,636	2.5
Polanco, Richard	D	22	\$3,500	\$19,500	\$7,000	\$54,400	\$84,400	3.5
Romero, Gloria	D	24	\$0	\$0	\$0	\$0	\$0	7.3
TOTALS			\$25,500	\$72,068	\$13,400	\$83,718	\$194,686	4.7

While Chair Richard Alarcon (D-Dist.20) did not accept tobacco industry funds, Vice-Chair Thomas “Rico” Oller (R-Dist.1) accepted \$7,000 from the tobacco industry and received a tobacco policy score of 1.5. Senator Bob Margett was the top recipient, receiving \$9,000 from the tobacco industry and a pro-tobacco policy score of 2.5. Also, Democratic Majority Leader Richard Polanco (D-Dist. 22) accepted \$3,500 in tobacco industry campaign contributions and a pro-tobacco policy score of 3.5. Senator Tom McClintock (R-Dist.19), who was running for State Controller, accepted \$6,000 in tobacco industry funds.

Assembly Governmental Organizations Committee

Twenty of 23 members of the Assembly Governmental Organizations Committee received tobacco industry campaign contributions for a total of \$339,750 and an average tobacco policy score of 4.7 (Table 27). This committee also received the largest average tobacco industry contribution among those members accepting tobacco funds: \$16,988 per accepting member. Vice Chair Tony Strickland (R-Dist.37) and Chair Jerome Horton (D-Dist.51) were the number two and number three top recipients of tobacco industry contributions during the 2001-2002 legislative cycle, receiving \$63,000 and \$61,000, respectively and pro-tobacco industry policy scores of 2.5 and 2.0, respectively. Additionally, the fourth largest recipient, Assemblyman Edward Chavez (D-Dist.57) who received \$60,000, was also on this committee. Among the Assembly leadership, Assistant Caucus Chair Jay LaSuer (R-Dist.77) and Assistant Democratic Majority Leader Marco Firebaugh (D-Dist.50) accepted tobacco industry campaign contributions; Assistant Majority Whip Wilma Chan (D-Dist.16), however, did not.

Table 27: Tobacco Industry Campaign Contributions to Members of the Assembly Governmental Organizations Committee, 2001-2002

Name of Candidate	Party	District	2001-2002	1999-2000	1997-1998	1976-1996	Grand Total	Tobacco Policy Score
			Total	Total	Total	Total		
Horton, Jerome (Chair)	D	51	\$61,000	\$0	\$0	\$0	\$61,000	2.5
Strickland, Tony (Vice Chair)	R	37	\$63,000	\$14,500	\$0	\$0	\$77,500	2.0
Briggs, Mike	R	29	\$13,750	\$3,500	\$0	\$0	\$17,250	2.3
Maddox, Ken	R	68	\$11,000	\$12,000	\$0	\$0	\$23,000	3.3
LaSuer, Jay	R	77	\$6,750	\$7,500	\$0	\$0	\$14,250	1.7
Dickerson, Richard	R	2	\$8,000	\$22,500	\$0	\$0	\$30,500	2.0
Harman, Tom	R	67	\$9,750	\$5,500	\$0	\$0	\$15,250	3.0
Wyland, Mark	R	74	\$10,000	\$4,500	\$0	\$0	\$14,500	1.0
Chan, Wilma	D	16	\$0	\$0	\$0	\$0	\$0	8.8
Canciamilla, Joe	D	11	\$40,000	\$7,500	\$0	\$0	\$47,500	4.3
Wiggins, Patricia	D	7	\$8,000	\$2,500	\$0	\$0	\$10,500	5.3
Longville, John	D	62	\$3,000	\$7,500	\$0	\$0	\$10,500	6.5
Reyes, Sarah	D	31	\$8,000	\$1,000	\$0	\$0	\$9,000	6.0
Calderon, Ronald	D	58	\$3,000	\$13,000	\$0	\$0	\$16,000	4.3
Liu, Carol	D	44	\$0	\$0	\$0	\$0	\$0	7.3
Cohn, Rebecca	D	24	\$10,000	\$0	\$0	\$0	\$10,000	7.3
Corbett, Ellen	D	18	\$1,000	\$0	\$0	\$0	\$1,000	7.5
Cardoza, Dennis	D	26	\$14,000	\$73,500	\$1,250	\$12,750	\$101,500	3.5
Firebaugh, Marco Antonio	D	50	\$6,000	\$15,500	\$0	\$1,100	\$22,600	7.0
Oropeza, Jenny	D	55	\$1,000	\$0	\$0	\$0	\$1,000	7.3
Nation, Joseph	D	6	\$0	\$500	\$0	\$0	\$500	7.8
Chavez, Edward	D	57	\$60,000	\$10,000	\$0	\$0	\$70,000	5.0
Wright, Roderick D.	D	48	\$2,500	\$20,750	\$31,500	\$37,250	\$92,000	2.3
TOTALS			\$339,750	\$221,750	\$32,750	\$51,100	\$645,350	4.7

Senate Governmental Organizations Committee

Nine of the 13 members of the Senate Governmental Organizations Committee accepted tobacco industry funds for a total of \$132,250; the Committee received an average tobacco policy score of 4.6 (Table 28). Chair Vincent Edward (D-Dist.25) and Vice Chair Ross Johnson (R-Dist.35) accepted \$13,000 and \$4,000, respectively from the tobacco industry and both received pro-tobacco industry policy scores of 1.5. The top recipient of tobacco industry campaign contributions for the 2001-2002 legislative cycle, Senate Minority Leader James Brulte (R-Dist.31) who received \$67,500 in contributions, was also on this committee. Also of note, Democratic Caucus Chair Jack O'Connell (D-Dist.18), who also ran for Superintendent of Public Instruction, did not accept contributions from the tobacco industry.

Table 28: Tobacco Industry Campaign Contributions to Members of the Senate Governmental Organizations Committee, 2001-2002

Name of Candidate	Party	District	2001-2002	1999-2000	1997-1998	1976-1996	Grand Total	Tobacco
			Total	Total	Total	Total		Policy Score
Vincent, Edward	D	25	\$13,000	\$38,000	\$6,000	\$1,000	\$58,000	1.5
Johnson, Ross	R	35	\$4,000	\$83,000	\$111,500	\$84,250	\$282,750	1.5
Brulte, James	R	31	\$67,500	\$75,500	\$3,495	\$69,625	\$216,120	2.5
Chesbro, Wesley	D	2	\$0	\$0	\$0	\$0	\$0	9.7
Dunn, Joseph	D	34	\$0	\$8,000	\$0	\$0	\$8,000	7.7
Johannessen, Maurice	R	4	\$5,000	\$2,500	\$750	\$2,500	\$10,750	2.0
Karnette, Betty	D	27	\$0	\$0	\$0	\$0	\$0	7.7
Knight, William J. Pete	R	17	\$4,000	\$1,500	\$500	\$13,500	\$19,500	1.0
Machado, Mike	D	5	\$24,750	\$80,344	\$27,500	\$5,750	\$138,344	6.0
Morrow, Bill	R	38	\$6,000	\$22,000	\$5,500	\$22,250	\$55,750	2.0
O'Connell, Jack	D	18	\$0	\$0	\$22,500	\$22,500	\$45,000	3.8
Perata, Don	D	9	\$4,000	\$0	\$0	\$0	\$4,000	8.5
Soto, Nell	D	32	\$4,000	\$19,750	\$0	\$0	\$23,750	5.5
TOTALS			\$132,250	\$330,594	\$177,745	\$221,375	\$861,964	4.6

Constitutional Officers

During the 2001-2002 legislative cycle, one constitutional candidate and two constitutional officers accepted tobacco industry funding for a total of \$11,150 (Table 29). Gubernatorial candidate Bill Simon (R) accepted \$5,000 from Philip Morris and \$5,000 from Kraft Foods (See Appendix C for a list of campaign contributions from the individual tobacco companies to constitutional officers and candidates). Board of Equalization members Johan Klehs (D) and Claude Parrish (R) accepted \$1,000 and \$500, respectively, from the tobacco industry; they were also the only incumbent candidates to accept tobacco funds. While three of the remaining incumbent candidates – Governor Gray Davis (D), Lt. Governor Cruz Bustamante (D), Secretary of State, and Attorney General Bill Lockyer (D) – have accepted tobacco industry contributions in past elections, none of them accepted tobacco industry dollars during the 2001-2002 legislative cycle. (Note: Secretary of State Bill Jones (R) termed out of office.)

Table 29: Tobacco Industry Campaign Contributions to Constitutional Officers and Candidates, 1976-2002

Name of Candidate	Party	Position	2001-2002	1999-2000	1976-1998	Grand Total
			Total	Total	Total	
Davis, Gray*	D	Gov	\$0	\$0	\$3,500	\$3,500
Simon, Bill	R	Gov.	\$10,000	\$0	\$0	\$10,000
Bustamante, Cruz*	D	Lt. Gov	\$0	\$0	\$72,750	\$72,750
Jones, Bill*	R	Sec. of State	\$0	\$0	\$48,750	\$48,750
Olberg, Keith	R	Sec. Of State	\$0	\$10,250	\$53,250	\$63,500
Connell, Kathleen*	D	State Controller	\$0	\$0	\$0	\$0
Westly, Steve	D	State Controller	\$0	\$0	\$0	\$0
Angelides, Philip*	D	Treasurer	\$0	\$0	\$0	\$0
Conlon, Gregory Phillip	R	Treasurer	\$0	\$0	\$0	\$0
Lockyer, Bill*	D	Att. Gen.	\$0	\$1,000	\$177,850	\$178,850
Eastin, Delaine*	NP	Sup. Pub. Inst.	\$0	\$0	\$0	\$0
Smith, Katherine H.	NP	Sup. Pub. Inst.	\$0	\$0	\$0	\$0
Low, Harry W.*	D	Ins. Comm.	\$0	\$0	\$0	\$0
Garemendi, John	D	Ins. Comm.	\$0	\$0	\$0	\$0
Mendoza, Gary S.	R	Ins. Comm.	\$0	\$0	\$0	\$0
Andal, Dean*	R	BOE	\$0	\$0	\$0	\$0
Chiang, John*	D	BOE	\$0	\$0	\$0	\$0
Klehs, Johan*	D	BOE	\$1,000	\$0	\$0	\$1,000
Parrish, Claude*	R	BOE	\$150	\$0	\$0	\$150
TOTAL			\$11,150	\$11,250	\$356,100	\$378,500

* incumbent elected official

Note: Sen. McPherson was a candidate for Lt. Gov; Assmb. Shelley was a candidate for Sec. of State; Sen. McClintock was a candidate for State Controller; Sen. Ackerman was a candidate for Att. Gen.; Sen. O'Connell was a candidate for Sup. Pub. Inst.; Assmb. Leonard and Assmb. Migden were both candidates for Board of Equalization
"Other" includes Liberty Tobacco, Inc.

While Governor Davis, who has accepted a total of \$3,500 from the tobacco industry over the life of his gubernatorial career, has made the decision to refuse tobacco industry campaign contributions (100), the Democratic Governor's Association has not. Governor Davis, chair of the Democratic Governor's Association, raised \$4.2 million for the organization in 2001, including more than \$60,000 from Philip Morris (101).

In addition to individuals listed in Table 30, there were several other legislators who were running for the position of a constitutional officer in 2002. Senator McPherson, who was a candidate for Lieutenant Governor accepted \$2,500 from the tobacco industry and received a pro-tobacco control policy score of 7.5. Assemblyman Kevin Shelley, who was a candidate for Secretary of State, has never accepted tobacco industry funds and received a pro-tobacco control policy score of 8.0. Senator McClintock, who was a candidate for State Controller, received \$6,000 from the tobacco industry and a pro-tobacco industry score of 2.5. Senator Dick Ackerman, who received \$11,500 from the tobacco industry and a pro-tobacco industry policy score of 1.0, was a candidate for Attorney General. Senator Jack O'Connell, who did not accept any funds from the tobacco industry and received a pro-tobacco industry policy score of 3.8, was a candidate for Superintendent of Public Instruction. Assemblyman Bill Leonard and Assemblywoman Carole Migden, who were both candidates for Board of Equalization, accepted

\$13,000 each from the tobacco industry; Assemblyman Leonard received a pro-tobacco industry score of 2.0 and Assemblywoman Migden received a pro-tobacco control policy score of 7.5.

Finally, while not a constitutional officer, it is important to note that following the 2002 state election, when Senator Steve Peace termed out, Governor Davis appointed Peace as Director of Finance, making him the top budget advisor (88). Ex-senator Peace, who accepted \$4,000 from the tobacco industry and received a neutral tobacco policy score of 4.3, has a history of accepting tobacco industry campaign contributions, totaling \$66,000 over the life of his career as an elected official in California. Peace's former chief of staff was previously a tobacco industry lobbyist (102). Additionally, in 2002, then Senator Peace verbally assaulted the lobbyists from the American Heart Association and the American Lung Association during a press conference at the capitol (102).

Lobbying Expenditures

In addition to campaign contributions totaling \$1,656,466, the tobacco industry also spent \$4,287,562 for lobbying purposes during the 2001-2002 legislative cycle (Table 30).

Table 30: Tobacco Industry Lobbying Expenditures, 1976-2002

Name of Firm	2001-2002 Total	1999-2000 Total	1997-1998 Total	1976-1996 Total	Grand Total
Capitol Advocacy	\$82,858	\$0	\$0	\$0	\$82,858
Capitol Connection	\$300,736	\$116,668	\$0	\$0	\$417,404
Capitol Strategies Group, Inc.	\$349,720	\$334,395	\$0	\$0	\$684,115
Carpenter Snodgrass & Assoc.	\$182,000	\$165,000	\$308,747	\$2,085,913	\$2,741,660
Carter Lobbying Firm, Art	\$267,641	\$165,502	\$0	\$0	\$433,143
DCK Advocates, Inc.	\$45,454	\$0	\$0	\$0	\$45,454
Dowd Relations	\$27,500	\$260,591	\$0	\$0	\$288,091
Joseph G. Yocca	\$78,190	\$0	\$0	\$0	\$78,190
Lang Hansen O'Malley and Miller Governmental Relations	\$472,333	\$611,000	\$520,332	\$1,419,831	\$3,023,496
Livingston & Mattesich Law Corp.	\$330,783	\$0	\$0	\$0	\$330,783
McCabe and Co.	\$148,816	\$0	\$0	\$0	\$148,816
Nielsen, Marksamer, Parrinello, Mueller and Naylor, LLP	\$378,665	\$236,389	\$429,327	\$2,064,108	\$3,108,489
Ross Communications	\$22,500	\$0	\$0	\$0	\$22,500
Sacramento Advocates	\$310,000	\$0	\$0	\$0	\$310,000
Spencer Roberts & Associates, Inc.	\$45,833	\$154,484	\$0	\$0	\$200,317
The Apex Group	\$188,748	\$40,446	\$0	\$0	\$229,194
The Flanigan Law Firm	\$406,709	\$346,742	\$0	\$0	\$753,451
Walt Klein & Assoc.	\$0	\$161,691	\$0	\$0	\$161,691
SUBTOTAL	\$3,638,485	\$2,592,908	\$1,258,406	\$5,569,852	\$13,059,651
Activity Expenses	\$18,166	\$0	\$0	\$0	\$18,166
Other Payments to Influence Policy Making	\$630,910	\$0	\$0	\$0	\$630,910
SUBTOTAL	\$649,076	\$0	\$0	\$0	\$649,076
TOTALS	\$4,287,562	\$2,592,908	\$1,258,406	\$5,569,852	\$13,708,728

Of this total, \$3,638,486 was paid directly to lobbying firms or individuals and the remaining \$649,076 was spent on activities and other expenditures to influence policy making in California. Excluding the activities and “other expenditures” categories, the tobacco industry increased its total lobbying expenditures by \$1,045,578, a 40% increase, between the 1999-2000 and 2001-2002 legislative cycles, which is a little less than the previous increase of \$1,334,502 between the 1997-1998 and 1999-2000 legislative cycles (1). Over the course of two election cycles, the tobacco industry's lobby expenditures in California almost tripled. (See Appendix D for a complete list of lobbying expenditures by each of the individual tobacco companies.)

Among the individual tobacco companies, Philip Morris spent the most money at \$800,030 and R.J. Reynolds came in second with \$618,170, which was about \$182,000 less. Brown and Williamson spent \$587,781 and Lorillard spent \$493,975. The remaining tobacco companies spent less than \$400,000 in lobbying expenditures during the 2001-2002 legislative cycle. While Philip Morris and Brown and Williamson decreased their direct expenditures to lobbying firms by \$123,824 and \$133,621, respectively, R.J. Reynolds and Lorillard increased their direct expenditures to lobbying firms by \$84,051 and \$199,442, respectively (1).

The three lobbying firms on which the tobacco industry spent the most money during the 1999-2000 legislative cycle were Lang Hansen, receiving \$611,000, The Flanigan Law Firm, receiving \$346,742, and Capitol Strategies Group, Inc., receiving \$334,395 (1). During the 2001-2002 legislative cycle, the positions changed slightly. Lang Hansen O'Malley and Miller Governmental Relations received the most tobacco money at \$472,333, followed by the Flanigan Law Firm at \$406,709, Nielsen Marksamer Parrinello Mueller and Naylor at \$378,665 and finally Capitol Strategies Group, Inc. at \$349,720.

There were several tobacco industry lobbying firms that were also lobbying on behalf of health care or pharmaceutical companies. Capitol Advocacy, who received \$82,858 from UST, was also a lobbyist for the California Association of Health Facilities, the Coalition of Physicians and Surgery Centers Supporting Quality Care for Injured Workers, the Long Term Care Pharmacy Alliance, and Medimmune, Inc. Dowd Relations, who received \$13,750 each from Brown and Williamson and Lorillard, also lobbied for Pharmaceutical Research and Manufacturers of America. Lang, Hansen, O'Malley and Miller Governmental Relations received \$472,333 from Philip Morris and also lobbied on behalf of Medical Management International, Inc. Nielsen, Merksamer, Parrinello, Mueler and Naylor LLP received \$84,763 each from Brown and Williamson, R.J. Reynolds, and Lorillard and \$124,457 from Philip Morris; they also lobbied for the AIDS Healthcare Foundation, the California Academy of Ophthalmology, FNC Medical, and Health Net of California and Affiliated Entities. Spencer Roberts and Associates, Inc. received \$45,833 from Brown and Williamson and also lobbied on behalf of Eli Lilly and Company.

Carpenter Snodgrass and Associations, who accepted \$182,000 from the Cigar Association, and Art Carter Lobbying Firm, who accepted \$241,391 from Brown and Williamson and \$26,250 from Lorillard, also lobbied for the California Grocers Association and the International Brotherhood of Electrical Workers, respectively. Both of these organizations have a history across the nation of serving as third-party allies of the tobacco industry (103).

The lobbyists hired by the tobacco industry reported lobbying on seven out of ten tobacco-related bills that were enacted during the 2001-2002 legislative session and twelve out of seventeen other pieces of tobacco related legislation. Brief descriptions of the bills are provided in the next section. However, among the bills that were enacted, the three bills the industry did not report lobbying on were AB 2205 (Koretz, D-Dist.42) which increased the penalty for knowingly held or sold without the appropriate paid tobacco tax, AB 1867 (Vargas, D-Dist.79) which expanded the area around totlots in which smoking is prohibited to 25 feet and increased the fine to \$250 per person, and SB 322 (Ortiz, D-Dist.6) which prohibits the sale of bidis (unfiltered, sometimes sweet-flavored cigarettes) and imposes a fine of \$2,000 per violation.

2001-02 LEGISLATIVE ACTIVITY

During the 2001-2002 California legislative session, there were 28 tobacco-related bills, ranging from tobacco retailer licensing, increasing the minimum age to purchase tobacco, increasing the cigarette excise tax, and the securitization of California's share of the Master Settlement Agreement (MSA) funds. While most bills were pro-health, there were several pro-tobacco industry bills, such as the securitization of MSA funds and tobacco retailer licensing. Public attention focused on a select few pieces of legislation, including the minimum age bill and the licensing bill, as well as the looming budget deficit. No one in the legislature directed attention towards effective ways in which to improve the Tobacco Control Program.

The tobacco industry's political expenditures to influence policy making in California were dollars well spent. While there were a handful of tobacco-related bills that were passed during the 2001-2002 legislative session, the legislature also cut the Tobacco Control Budget cut by \$26 million, authorized the securitization of California's share of the Master Settlement Agreement funds, and did not pass a cigarette excise tax increase. Despite small victories for the health community, the 2001-2002 legislative session was more successful for the tobacco industry.

While it is generally easy to discern the positions that the health groups take on a bill, either through formal sponsorship or public statements, the tobacco companies rarely take a public position on a bill since doing so would make it more difficult for legislators to vote to support the industry's position. This fact needs to be kept in mind when assessing the legislative histories discussed below.

Enacted Tobacco-Related Legislation in 2001-2002

During the 2001-2002 session, there were four main categories of tobacco control legislation which were passed: tobacco taxation, securitization of the Master Settlement Agreement revenues, restrictions on second hand smoke, and restrictions on the sale of tobacco products (Table 31). Most of the legislation was sponsored by legislators with policy scores that indicate a pro-tobacco control position, with the exception of Senator Peace who received a 4.3.

Governor Gray Davis characterized the package of bills which he signed in September: "California has long set the national standard for fighting the harmful, sometimes fatal effects of

tobacco use. These bills will help ensure that California's tough anti-tobacco laws are being enforced and their intent is being upheld" (104). While most of the bills represent modest improvements in tobacco control policy, none were vigorously opposed by the tobacco industry. Selling off the future payments from the Master Settlement Agreement ("securitization") was viewed as a public health loss by public health groups.

Tobacco Taxes

While there were several unsuccessful efforts in the legislature to increase the tobacco tax (to be discussed in the next section), there were three tobacco tax-related bills that were enacted, none were opposed by the tobacco industry.

SB 312, sponsored by Deirdre Alpert (D-Dist.39) who received a tobacco policy score of 9.0, but accepted a \$4,000 in tobacco industry campaign contributions during the 2001-2002 legislative session and has accepted a total of \$24,500 in tobacco industry campaign contributions throughout her career as an elected official. SB 312 redefines untaxed tobacco products to include tobacco products returned to a distributor who has already claimed a deduction, refund or credit for those returned products (105). Therefore, a distributor can exclude the wholesale costs of tobacco products returned by a customer from the wholesale costs used to calculate the tax due or claim a refund of the tax paid (106). The bill was supported by the California [Tobacco] Distributors Association and the Board of Equalization; no opposition was acknowledged. SB 312 was enacted October 2, 2001.

AB 2205 sponsored by Assemblyman Paul Koretz (D-Dist. 42) increased the penalties for knowingly possessing, selling or offering to sell unstamped cigarettes from \$100 to \$200 per carton (107). This penalty was initially set at \$25 in 1959, increased to \$50 in 1983 and increased again in 1993 to \$100. AB 2205 specified that the first \$50 of the penalty would be allocated to the local prosecuting jurisdiction and the next \$50 would be given to the Board of Equalization. Any remaining revenues generated from the fine increase are to be deposited into the "Unlawful Sales Reduction Fund." The Fund is to be used among local agencies to establish a "multi-agency task force, the composition of which would include prosecutors and local law enforcement personnel and may include state law enforcement personnel, for the purpose of significantly reducing the sales of black market cigarettes" (108). Before the passage of Assemblyman Koretz's bill, Board of Equalization investigators did not have the authority to issue misdemeanor citations, which means that only about 2% of all cigarettes seized (about 17,000 cartons annually) have been assessed the \$100 penalty. Under AB 2205, it has been estimated that about 50% of the cartons seized would be assessed the \$200 penalty which is expected to result in approximately \$1.6 million in new revenues. Assemblyman Koretz received a policy score of 8.5 and has a solid history of not accepting tobacco industry campaign contributions. Support for AB 2205 included, but was not limited to, the Los Angeles City Attorney (who sponsored the bill), the American Lung Association, the California Department of Justice, the California Independent Grocers Association, the California Grocers Association, the City of Los Angeles, and the State Board of Equalizations; no opposition was noted (109). AB 2205 was enacted September 18, 2002.

SB 1701 was sponsored by Senator Steve Peace (D-Dist. 40) who received a policy score of 4.3 and accepted a total of \$4,000 in tobacco industry campaign contributions during the 2001-2002 legislative session and has accepted a total of \$32,500 in tobacco industry campaign contributions over the life of his legislative career. This piece of legislation requires the Board of Equalization to create new tobacco tax stamps and meter impressions which can be read by a scanner and contain the following information: the distributor's name and address, date affixed, and the value of the tax stamp or meter impression (110). It was estimated that this piece of legislation would cost \$314,000 in 2002-03, \$593,000 in 2003-04 and \$966,000 in 2004-05, with on-going annual costs of approximately \$264,000 after July 1, 2005 (111). These estimates do not include the termination of contracts with Meyercord to produce the cigarette stamps (approximately \$700,000 annually) and Bank of America to sell the stamps (\$586,000 annually). There are no estimates available on the potential impact of this legislation, however, it is expected to decrease tax evasion as a result of counterfeit cigarette tax stamps and so increase revenues (111). The Board of Equalization is required to begin use of such technology by January 1, 2005. This bill was supported by the Board of Equalization, the California Distributors Association, and California Children and Families Commission supported the bill early on (112). SB 1701 was enacted September 26, 2002.

While the (low) fines for selling untaxed cigarettes doubled and loopholes for avoiding tax payments were closed, the California Distributors Association and the California Grocers Association, tobacco industry allies, both supported the tobacco-tax related bills.

Securitization of Master Settlement Agreement Funds

Senator Peace also sponsored legislation to sell off the \$400-\$500 million per year expected to be paid to the state from the Master Settlement Agreement over the next 25 years, a process known as "securitization." Under SB 1831, this income stream, worth approximately \$12.5 billion over the next 25 years would be used to pay the principal and interest on bonds that would be sold for \$4.5 billion to pay expenses in the 2002-2003 budget year. This procedure would result in a loss of between \$400 and \$500 million annually in future revenues beginning in FY 2003-04 (26). The logistics and implications of this decision were discussed earlier in this report under the budget section. There was no official support or opposition for this bill by either the health groups or the tobacco industry. Nevertheless, it was viewed as a loss by the health groups because it eliminated funds that could have been used for tobacco control in the future. SB 1831 was enacted September 9, 2002.

Table 31: Summary of Enacted Tobacco-Related Legislation in 2001-2002

Bill No.	Sponsor	Topic	Description	Status
Tobacco Tax				
SB 312	Alpert (D-Dist.39)	Cigarette & tobacco products taxes	Defines 'untaxed tobacco product' as any distributed tobacco product that results in a tax liability but was returned to the distributor after the tax was paid and the distributor claimed a deduction, refund or credit. Provides the wholesale cost used to calculate state excise taxes does not include the wholesale cost of tobacco products returned during the same reporting period in which the products were distributed when the distributor refunds the amount paid in cash or credit.	Chaptered Oct. 2, 2001; amends California Revenue and Taxation Code, Sec. 30005.5, 30123, 30131.2, 30177, and 30178.2 and adds Sec. 30176.2
AB 2205	Koretz (D-Dist.42)	Tobacco products: prevention of sales of untaxed cigarettes: multiagency task force	Increases the penalty for each carton of cigarettes knowingly held or sold without a tax stamp or meter impression from \$100 to \$200 per carton and a misdemeanor and a fine of no more than \$1,000 and/or imprisonment for up to one year. Revenues generated from this increase will be deposited in a new account called the "Unlawful Sales Reduction Fund," to be used for local multiagency efforts to reduce the sale of black-market cigarettes. The Board of Equalization will continue enforcement.	Chaptered Sept. 18, 2002 and is effective Jan. 1, 2003 - Jan. 1, 2006; amends California Revenue and Taxation Code, Sec. 30474
SB 1701	Peace (D-Dist.40)	Tobacco taxes: tax stamps	Requires the Board of Equalization (Starting 1/1/05) to replace cigarette tax stamps/meter impressions with those encrypted with distributor's name and address, date affixed, value of the stamp/meter impression and can be read by scanner.	Chaptered Sept. 26, 2002 and is effective until Jan. 1, 2005; creates California Revenue and Taxation Code, Sec. 30162.1
Securitization of Master Settlement Agreement Funds				
SB 1831	Peace (D-Dist.40)	Tobacco assets: sales	Authorizes the sale of future payments from the Master Settlement Agreement (MSA) to provide up to \$4.5 billion to the state's general fund. Expects an annual loss of between \$400 and \$500 million of future settlement revenues to the state beginning in FY 2003-04. MSA Funding to local governments are not affected.	Chaptered Sept. 9, 2002, Creates California Government Code, Sec. 63049-63049.5 and amends California Health and Safety Code, Sec. 104897
Secondhand Tobacco Smoke				
AB 188	Vargas (D-Dist.79)	Smoking: playgrounds	Prohibits smoking and disposal of tobacco products within a playground/tot lot sandbox area. Allows for local enforcement and violators are subject to a \$100 fine per offense.	Chaptered Aug. 6, 2001; Health and Safety Code Sec. 104495.
AB 1867	Vargas (D-Dist.79)	Smoking: playgrounds	Expands AB 188 to the area within 25 feet of a playground or totlot. Increases the fine for violation to \$250 per offense.	Chaptered Sept. 15, 2002; Health and Safety Code Sec. 104495
Tobacco Sales				
AB 1830	Frommer (D-Dist.43)	Tobacco products: sales to minors	Prohibits the sale or distribution of tobacco products to minors through public or private postal services. Requires the distributor or retailer to verify that the purchaser of the tobacco products is at least 18 years of age by matching the name, address, and date of birth provided by the customer to a database of individuals verified to be at least 18 years of age or require the purchaser to submit valid proof that he/she is at least 18 years old. Creates a two carton minimum on each cigarette order and requires that purchases be made by personal check or credit card and distributor or retailer must call purchaser to confirm the order. Enforcement may be carried out by a district attorney or the Attorney General. Violation will result in a civil penalty of \$1,000-\$2,000 for the first violation, \$2,500-\$3,500 for the second violation, \$4,000-\$5,000 for the third violation within five years; \$5,500-\$6,500 for the fourth violation within five years, and \$10,000 for five or more violations within five years.	Chaptered Sept. 18, 2002; creates the California Business and Professions Code, Sec. 22963

Bill No.	Sponsor	Topic	Description	Status
SB 322	Ortiz (D-Dist.6)	Tobacco	Prohibits the sale, distribution or importation of bidis. Allows for local law enforcement, but businesses that prohibit minors are exempted. Violation results in a misdemeanor or civil action and a civil penalty of \$2,000 per violation.	Chaptered Oct. 1, 2001; changes the California Penal Code Sec. 308.1; effective January 1, 2002.
SB 757	Ortiz (D-Dist.6)	Tobacco control	<p>Changes the CA Penal Code which prohibits the sale of tobacco to minors to add the following language: "knowingly or under circumstances in which it has knowledge, or should otherwise have grounds for knowledge." To be enforced by local government and violation may result in misdemeanor, fine of \$200 for the first offense, \$500 for the second offense, and \$1,000 for the third offense.</p> <p>Requires that cigarettes be manufactured, distributed, or sold in packages of no less than 20 cigarettes. Requires that loose tobacco (for rolling) be manufactured, distributed or sold in packages containing no less than 0.60 ounces. Allows for local law enforcement and violation will result in a civil penalty of \$200 for the first offense, \$500 for the second offense, and \$1,000 for the third offense.</p> <p>Authorizes the Department of Health Services (DHS) to conduct onsite sting operations of tobacco retailers in response to public complaints or at locations with previous violations, as opposed to a random selection process. Authorizes DHS to investigate illegal sales of tobacco to minors via telephone, mail or internet. Removes the requirement that youth operatives disclose their true age upon request, but youth are still required to present valid ID if requested.</p> <p>Prohibits the sale or display of cigarettes by self-service display (display which is accessible to the public without assistance from an employee). This applies only to cigarettes and not tobacco products in general. Violation will result in a fine of \$200-\$300 for the first offense; \$600-\$900 for the second offense within 5 years; \$1,200-\$1,800 for the third offense within 5 years; \$3,000-\$4,000 for a fourth offense within 5 years; and \$5,000-\$6,000 for a fifth offense within 5 years.</p> <p>Expands current law which prohibits the distribution of free/low cost tobacco to further prohibit the distribution of free/low cost tobacco products, coupons, offers, and rebates. Allows for local prosecution or enforcement by the Attorney General. Areas which prohibit minors are exempt. Violation will result in a civil penalty of at least \$200 for the first offense, \$500 for the second, and \$1,000 for each additional.</p>	<p>Chaptered Oct. 1, 2001; changes the California Penal Code Sec. 308.3; effective Jan. 1, 2002.</p> <p>Chaptered Oct. 1, 2001; changes the California Business and Professions Code Sec. 22952; effective Jan. 1, 2002.</p> <p>Chaptered Oct. 1, 2001; changes the California Business and Professions Code Sec. 22962; effective January 1, 2002.</p> <p>Chaptered Oct. 1, 2001; changes to the California Health and Safety Code, Sec. 118950; effective Jan. 1, 2002.</p>

Secondhand Smoke

One piece of legislation which was first introduced and passed in 2001 was revised in 2002. Legislation to restrict smoking around playgrounds and totlots was introduced by Assemblyman Juan Vargas (D-Dist. 79) who received a tobacco policy score of 9.0, among the highest scores of all legislators in 2001-2002, and did not accept tobacco industry campaign contributions in 2001-2002. The initial bill, AB 188, prohibited smoking and the disposal of tobacco products within the bounds of playground or tot-lot and infraction of this restriction

would result in a fine of \$100 per offense (113); this bill was enacted August 6, 2001. Assemblyman Vargas introduced legislation in 2002, AB 1867, to specify the restricted area to within 25 feet of a playground or tot-lot and to increase the penalty for infraction to \$250 per offense (114).

AB 1867 was supported by the American Cancer Society, the California Park and Recreation Society, the City of San Diego, and the Southgate Recreation and Park District; supporters argued that exposure to tobacco-related waste poses a danger to the health of children. The California Alliance for Consumer Protection argued against the bill, stating that “the measure is overly broad, unenforceable, and unnecessarily restricts the public access for families with parents who smoke” (115). (The California Alliance for Consumer Protection is a public policy research organization committed to the betterment of California's consumers in both economic markets and the Legislative process by furthering the concepts of competition.) AB 1867 was enacted September 15, 2002.

Tobacco Sales

There were four pieces of legislation that dealt with the sale of tobacco products that passed in the 2001-2002 legislative session; three of these bills were sponsored by tobacco-control proponent Senator Deborah Ortiz (D-Dist.6) who received a tobacco policy score of 9.0 and has a history of not accepting tobacco industry campaign contributions. The fourth piece of legislation, AB 1830, was sponsored by Assemblyman Dario Frommer (D-Dist.43) who received a policy score of 8.0 and has never accepted tobacco industry campaign contributions.

Senator Ortiz sponsored SB322, a bill to prohibit the sale, distribution or importation of bidis with a penalty for violation of \$2,000 per offense (116). Bidis are small Indian-made, unfiltered cigarettes wrapped in tobacco leaves flavored to be sweet and appealing. The bill was supported by the Attorney General (who was the sponsored the bill), the American Heart Association, the American Cancer Society, and the American Lung Association, who argued that bidis are a high risk to public health as bidis are a highly carcinogenic tobacco product (117). There was no official opposition to this bill. SB 322 was enacted October 1, 2001.

Senator Ortiz sponsored SB 757, which specifically strengthened tobacco control laws for the sale of tobacco to youth. SB 757 added language to the California Penal Code regarding the sale of tobacco to minors to include circumstances in which the retailer could somehow have known that the individual purchasing the tobacco was underage (118). Second, this law requires that cigarettes be sold in packages with a minimum of 20 cigarettes and loose tobacco to be sold in quantities no less than 0.60 ounces. Third, the law prohibits the distribution of free/low-cost tobacco products as well as the distribution of coupons, coupon offers, and rebates. The fine for infraction of any of these restrictions is \$200 for the first offense, \$500 for the second offense, and \$1,000 for the third offense. Additionally, the law prohibits self-service displays of cigarettes in which individuals may access cigarettes without assistance from any employee; the fine for violations is \$200-\$300 for the first infraction, \$600-\$900 for the second infraction within 5 years, \$1,200-\$1,800 for the third infraction in 5 years, \$3,000-\$4,000 for the fourth infraction within 5 years and \$5,000-\$6,000 for a fifth infraction within 5 years. Finally, the law allows the Department of Health Services to conduct sting operations in response to complaints

or as a follow-up to establishments previously in violation, rather than continuing the practice of only random compliance checks and includes sales over the telephone, through the mail and over the Internet. Youth involved in the sting operations are no longer required to disclose their true age upon request, but must supply valid identification with their true age if requested. SB 757 was supported by the Attorney General (co-sponsor), the State Department of Health Services (co-sponsor), the American Cancer Society, the Governor's Office, the American Lung Association, the American Heart Association, the Santa Clara County District Attorney, and Cigarettes Cheaper (119). Supporters argued that the sting operations in response to complaints, in addition to the random checks would be a more effective means of reducing illegal sales of tobacco products to youth. In addition, the removal of the disclosure of the decoy's true age will better reflect a realistic transaction between a retailer and the potential youth customer (119). SB 757 was enacted October 1, 2001.

Lastly, Senator Ortiz sponsored AB 1766. This piece of legislation requires retailers of all non face-to-face sales of tobacco to pay all California tobacco excise taxes and to attach a warning on tobacco products indicating that the buyer is responsible for any and all unpaid taxes and that the buyer's name and address had been communicated to the state tax collection agency (120). Infraction of this law would result in the same graduated penalty system as was included in SB 757. This bill was supported by the Attorney General's Office and the County of Los Angeles, with no opposition noted, and was enacted September 18, 2002 (121).

Assemblyman Frommer's AB1830 prohibits the sale or distribution of tobacco products to minors through the mail and requires distributors or retailers to verify that the customer is at least 18 years of age by matching the name, address, and date of birth provided with a database of individuals verified to be at least 18 years old or for the customer to submit valid proof of age (122). Sales are restricted to a two carton minimum and purchases must be made by personal check or credit card which the retailer or distributor must call to verify. Infraction of this law will result in a fine of \$1,000-\$2,000 for the first offense, \$2,500-\$3,500 for the second offense within five years, \$4,000-\$5,000 for the third offense within 5 years, \$5,500-\$6,500 for the fourth offense within 5 years and \$10,000 for all subsequent violations (122). AB 1830 was supported by the American Cancer Society, the American Lung Association of California, the California Association for Health, Physical Education, Recreation and Dance, the California Medical Association, and the Office of the Attorney General; no opposition was noted (123). AB 1830 was enacted September 18, 2002.

Proposed But Not Enacted Tobacco-Related Legislation in 2001-2002

In addition to the tobacco-related legislation that was enacted, there were several other tobacco-related bills introduced and discussed during the 2001-2002 legislative session (Table 32). While some bills were simply referred to committee and died there, other bills received a great deal of attention from interested parties, including health advocates and the tobacco industry, and the general public as well.

Tobacco Settlement Funds

In addition to SB 1831, which authorized the securitization of the Master Settlement payments to provide up to \$4.5 billion for California's General Fund, Assemblywoman Carole Migden, who received \$13,000 in tobacco industry campaign contributions during the 2001-2002 legislative session and a tobacco policy score of 7.5, also proposed legislation to securitize the Master Settlement payments. AB 2353 proposed the securitization of payments to generate up to \$2.4 billion for California's general fund (124), as opposed to the \$4.5 billion to be securitized under SB 1831. However, as estimates of the state budget deficit doubled the January estimate of \$ 12 billion (41), the increased revenues generated by SB 1831 were more attractive. (42, 43)

In addition to the securitization of the MSA funds, there were two bills that intended to create a "Tobacco Settlement Fund" into which the tobacco settlement dollars would be deposited. SB 35 (125), sponsored by Senator Martha Escutia (D-Dist. 30) who received a tobacco policy score of 8.0 and did not accept tobacco industry contributions, was initially introduced in December of 2000. The MSA revenues deposited into this account were to be appropriated by the legislature to reduce the public costs and individual suffering resulting from tobacco-related illnesses and to improve access to health care. The bill was co-sponsored by Lt. Governor Cruz Bustamante, the Pacific Institute of Community Organizations, the California Primary Care Association, the American Association of Retired Persons, the California Medical Association, the American Cancer Society, the American Heart Association, and the American Lung Association; no opposition was noted (126). While the bill was voted out of the Senate in June 2001 with a vote of 35-3, no further action was taken because Governor Davis and the legislature decided to securitize the MSA funds.

The second "Tobacco Settlement Fund" bill was SB 184 (127) was sponsored by Senator Joseph Dunn (D-Dist.34) who received a tobacco policy score of 7.7 and did not accept tobacco industry contributions; the bill was introduced in February 2001. California's share of the MSA revenues was to be deposited into the Fund and the Legislature was given the authority to appropriate the funds to expand health care services. SB 184 was scheduled for a hearing that was cancelled by the bill's author and no further action was taken.

Table 32: Proposed, But Not Enacted, Tobacco-Related Legislation in 2001-2002

Bill No.	Sponsor	Topic	Description	Status
Tobacco Settlement Funds				
SB 184	Dunn (D-Dist.34)	Tobacco settlement fund allocations	Creates the Tobacco Settlement Fund, into which all funds received as a result of the MSA will be deposited. Provides for Legislative appropriation of these funds for the purpose of expanding health and health care services.	Hearing cancelled by author, nothing further.
SB 35	Escutia (D-Dist. 30)	Tobacco settlement fund allocations	Creates the Tobacco Settlement Fund and specifies that all revenues from the MSA be deposited in this account (for unspecified purposes).	Referred to Committee on Government Organizations and Health, nothing further.
AB 2353	Migden (D-Dist.13)	Securitizing MSA Funds	Authorizes the sale of payments from the Master Settlement Agreement for proceeds of up to \$2.4 billion to go to the general fund to solve the budget deficit.	Referred to Committee on Government Organizations, nothing further.
Licensure				
AB 744	Wesson (D-Dist.47)	Tobacco products	Declare the intent of the Legislature to license and regulate manufacturers, distributors, and retailers of tobacco products.	Read once, died at desk.
SB 1700	Peace (D-Dist.40)	Tobacco products	Establishes a tobacco licensing program for manufacturers, wholesalers, distributors, and retailers to be administered by the Board of Equalization. Requires a two cent/pack fee for licensing which will be used to fund enforcement and administration, support costs associated with the Department of Health's enforcement of youth access laws, and to support costs to the Department of Justice for criminal investigations associated with counterfeit cigarettes. Prohibits manufacturers from selling tobacco products to unlicensed wholesalers and distributors and in turn, to unlicensed retailers. Preempts local licensing laws until 2007. Reimburses wholesalers and distributors for the cost of applying the tobacco stamps. Requires Department of Health services to train retailers regarding tobacco control laws.	Passed in Senate Appropriations Committee, suspended in Assembly.
AB 1666	Horton (D-Dist.51)	California Cigarette and Tobacco Products Licensing Act of 2002	Creates a tobacco licensing program to be administered by the Board of Equalization and to be financed by Proposition 99 and Proposition 10 funds. Requires tobacco manufacturers to sign on to the terms of the Master Settlement Agreement. Authorizes members of the Board of Equalization, who are to enforce this program, limited peace officer status for the purpose of arresting violators.	Passed Assembly, amended and passed in Senate, inactive in Assembly. Main provisions were then transferred to SB 1843.
SB 1843	Budget & Fiscal Review Comm.	California Cigarette and Tobacco Products Licensing Act of 2002	All provisions of AB 1666 were transferred into this bill with the exception of the anti-preemption language and the earmark of Prop. 99 and Prop. 10 funds to support the administration and enforcement of the licensing program. Instead it requires the proposed \$2.13 cigarette excise tax to be earmarked to pay for administration and enforcement.	Passed in Senate, third reading in Assembly, nothing further.

Bill No.	Sponsor	Topic	Description	Status
Tobacco Taxes				
AB 1768	Wayne (D-Dist.78)	Taxation: cigarette stamps and meter machines	Requires that the 0.85% discount given to tobacco distributors for affixing the tobacco stamps or meter impressions apply only to the first \$0.10 of the value of the stamp or the meter impression.	Amended into a bill on coordination of state and local public safety response to emergencies on Aug.31.
AB 3001	Committee on Budget	State Board of Equalization: administration of taxes: tax	Appropriates a total of \$1,074,000 from Prop. 99 and Prop. 10 to the Board of Equalization to fund the investigation of tobacco tax evasion.	Read three times and then died.
SB 1702	Peace Dist.40)	(D- Investigators of the State Board of Equalization: limited peace officer powers	Extends the authority to arrest and serve warrants to the Investigations Division of the State Board of Equalization .	Held in Assembly Appropriations, nothing further.
AB 2906	Horton (D-Dist.51)	Tobacco settlement agreement: escrow compliance	Prohibits the application of tobacco tax stamps or meter impressions if the manufacturer is not in participation with the Master Settlement Agreement. Requires the destruction of unstamped cigarettes seized by the Board of Equalization.	Referred to Committee on Government Organizations, then to Committee on Rules, then to Committee on Health & Human Services, nothing further.
SB 1849	Committee on Budget and Fiscal Review	Sales and use tax: personal income and corporation taxes: cigarette taxes: satellite television subscription tax	Increases the cigarette excise tax by \$2.13 for the purpose of reducing the budget deficit.	Read by Assembly Budget Committee, but died in file.
SB 1890	Ortiz (D-Dist.6)	Tobacco Use Reduction and Compensation Act of 2002	Raises the cigarette excise tax by \$0.65 and increases the tax on other tobacco products at a rate to be determined annually by the Board of Equalization using a formula based on the wholesale cost of these products. Requires that revenues collected from this tax be used for tobacco use prevention programs, comprehensive tobacco cessation services, scientific research on medical conditions caused by tobacco use, medical and preventive health services for low-income and uninsured individuals, and the expansion of medical coverage for uninsured families, adults & children.	Referred to Revenue and Taxation Committee and died.
Sale and Distribution of Tobacco Products				
AB 1453	Koretz (D-Dist. 42)	Tobacco: minimum legal age: display and distribution limitations	Increases the minimum age to purchase tobacco products from 18 to 21. Prohibits the distribution of free samples by mail to anyone identified as under 21 years of age. Prohibits display of ashtrays or other receptacles on premises where tobacco is prohibited. Requires the availability of one or more receptacles for the disposal of tobacco-related waste wherever smoking is allowed.	Amended into a bill on hours of employment at ski establishments on August 30, 2002; ordered to enrollment but returned to Senate on August 31,2002
AB 224	Matthews (D-Dist.17)	Sales and use taxes: cigarette and tobacco products	Requires the office of the Legislative Analyst to conduct a study of the sales and marketing of both cigars and smokeless tobacco products and is expected to be submitted to the Legislature by December 31, 2002.	Referred to Committee on Revenue and Taxation and died in committee.
AB 412	Wesson (D-Dist.47)	Tobacco products: tobacco sales	Imposes a civil penalty for the sale of cigarettes through self-service displays and prohibits the free distribution of tobacco on private property that is open to the public, excluding areas where minors are prohibited. Imposes a civil penalty for manufacturing, distributing or selling a package of cigarettes that do not contain at least 20 cigarettes or loose tobacco that does not contain at least 0.60 ounces of tobacco.	Referred to Committee on Government Organizations, sent to the Senate, referred to Committee on Rules for assignment, referred to Committee on Jud. and suspended.

Bill No.	Sponsor	Topic	Description	Status
Advertising Restrictions				
AB 1527	Wiggins (D-Dist.7)	Tobacco products	Restricts retail advertising of cigarettes to brand name and price, but does not include loose tobacco. Prohibits manufacturer from offering monetary payments to tobacco retailers for product promotion or display requirements.	Referred to Committee on Government Organizations, referred to Committee on Appropriations, referred to Committee on Health & Human Services, rereferred to Committee on Appropriations.
SB 2082	Bowen (D-Dist.28)	Cigarettes: advertising & sales	Requires that retailers advertising the sale of cigarettes on the Internet must disclose that a purchaser in California is responsible for state taxes and the minimum amount of those taxes. As a result of this bill, violation of this requirement is a new crime.	Referred to Committee on Revenue & Taxation, referred to Committee on Appropriations, to Assembly, referred to Committee on Revenue & Taxation and Government Organizations, failed passage in committee.

Tobacco Licensing

The most contentious tobacco-related issue in the 2001-02 legislative session was tobacco retailer licensing. Proposed legislation on this topic began with SB 1700 (Peace), which re-emerged as AB1666 (Horton), and SB 1843 (Senate Budget and Fiscal Review Committee) after health advocates defeated each subsequent version of the bill. SB 1700 was introduced in February, 2002 by Senator Steve Peace (D-Dist.40), who accepted \$4,000 in campaign contributions from the tobacco industry in 2001-02 and a total of \$66,000 over the his political tenure. Bills the reemerge repeatedly in different forms taking advantage of procedural processes, as in this case, often reflects strong pressure behind the scenes from powerful interest groups.

The stated purpose of SB1700 was for the Board of Equalization (BOE) to administer the licensure process for tobacco manufacturers, distributors, wholesalers, and retailers of tobacco products. In addition, the manufacturers would be assessed a \$0.02 per pack for the license, with the revenue intended to support BOE's administrative costs as well as DHS' costs to control youth access to tobacco; violation of this law could result in fines, suspensions and revocation of licenses (128, 129). However, in addition to these provisions, there was also language that preempted local laws that license tobacco retailers and reimbursed wholesalers and distributors for the cost incurred while affixing tax stamps (128). Enactment of such local licensing laws had become a priority for several local tobacco control coalitions and was being encouraged by the DHS Tobacco Control Section. This bill would have stopped that activity through state preemption. In addition, the bill would establish a licensing program for retailers and increase the enforcement capabilities of the Board of Equalization and the Attorney General. Finally, the supporters claimed that the bill was self-financed with an administrative fee of \$0.02 per pack of cigarettes, generating \$35 million in the first year. However, long-term financing of the licensing bill threatened to raid Proposition 99 revenues.

SB 1700 was supported by the California [Tobacco] Distributors Association, the Office of the Attorney General, the Board of Equalization, and the California Children and Families Commission. These organizations argued that the bill was intended to create stronger enforcement and protection against black-market untaxed cigarettes, which BOE claimed was costing over \$270 million in lost revenues (130). (This estimate was very controversial among economic experts consulted by health groups; they believed that it substantially overestimated the amount of smuggling.) The tobacco industry lobbied SB 1700 and each of its subsequent versions.

The bill was opposed by the Orange County Tobacco Use Prevention Coalition, CEASE (Coalition Engaged in a Smoke-Free Effort), Santa Barbara County, the California Taxpayers Association, the American Lung Association, the Berkeley Tobacco Prevention Coalition, the American Heart Association and the City of Los Angeles. The opposition argued that the bill would preempt local control, should establish an annual retailer licensing fee, should incorporate violations of other tobacco control laws, and that the initial violation should have a penalty and not merely a warning (130).

The health groups succeeded in stopping the bill. After it passed the Senate on June 10, it was suspended in the Assembly Committee on Governmental Organization on July 1 (128).

However, the issue of licensure did not die when SB1700 was suspended; it turned up in the Assembly in the form of a hijacked version of AB166. This bill, initially introduced in February of 2001 as a foster care bill sponsored by Assemblyman Keeley, had passed the Assembly on June 5. However, on June 29, Assemblyman Jerome Horton amended AB 1666 to delete all the language on foster care and replace it with language that made it a revised version of the SB 1700 tobacco licensing bill. Assemblyman Horton (D-Dist.51) accepted tobacco industry campaign dollars totaling \$61,000, surpassed, in the Assembly only by Assemblyman Tony Strickland (R-Dist.37) who accepted a total of \$63,000.

The new bill ("Tobacco Licensing Act of 2002") took up where SB1700 left off, but introduced additional provisions in the tobacco industry's favor (102). While the explicit preemption language seen in SB1700 was removed, the absence of anti-preemption language in AB 1666 threatened to prevent local communities from pursuing local tobacco retail licensing and to improve enforcement of existing tobacco laws (131). Instead of the local agencies enforcing licensing and compliance, the power would shift to officials in Sacramento (132).

Furthermore, AB 1666 replaced the annual retail licensing fee of \$150 with a one time licensing fee of \$100, increased the tobacco stamp application payments to wholesalers and distributors to \$4.68 per case up from \$4.44 per case, decreased the fee on cigarette manufacturers from \$0.02 per pack to \$0.01 per pack, removed the provisions to suspend or revoke licenses for non-compliance with regulations, and removed the DHS requirement to develop retail education and training curricula (133). The increase in the application payments to wholesalers and distributors was, in essence, creating a permanent subsidy for the tobacco groups.

The proposed legislation also imposed an annual license fee on distributors and manufacturers of \$1,000, although none of the revenues generated from this act would be used to enforce tobacco control laws (133); retailers were not required to pay an annual licensing fee. It was estimated that approximately \$17.2 million would be generated from these actions, with \$16 million being generated by one-time fees. The remaining costs associated with the BOE's administration and enforcement of this act would come from Proposition 99 and Proposition 10 dollars, which would have represented a substantial ongoing drain on the revenues available for tobacco control and early childhood education (133). AB 1666 would have imposed a cut on the state tobacco control program without doing so explicitly.

There was also much debate over the magnitude of tobacco smuggling and counterfeit stamps. While the financial impact of cigarette smuggling was initially estimated, by the Board of Equalization, at \$270 million (133), further research by the Technical Assistance Legal Center (TALC) indicated that the actual amount was only between \$32.7 million and \$60 million (131). Moreover, a 1999 study by researchers at the University of California, San Diego on the effect of cigarette tax evasion demonstrated that “Despite the potential savings, tax evasion by individual smokers does not appear to pose a serious threat to California’s excise tax or its tobacco control objectives” and only about 5% of California smokers “avoided the excise tax by usually purchasing cigarettes from non- or lower-taxed sources, such as out-of-state outlets, military commissaries, or the internet” (48). Regardless of the amount of smuggling, the proposed legislation did not provide evidence that these licensing actions would reduce the sale of untaxed cigarettes in California. Restrictions are in place for the wholesalers and distributors, but very little control is placed over the manufacturers who are most able to control the distribution of taxed/untaxed cigarettes.

Finally, and perhaps most important, since AB 1666 had already passed through the Assembly, it was a consensus item in the Senate to be voted on without any public hearings (131). This procedural move deprived public health advocates of a forum in the Legislature to express opposition to the bill and mobilize public attention.

Even so, the health groups were able to raise enough concerns about the bill through individual lobbying and media advocacy to generate controversy about the bill. The bill was sent to the inactive file on August 31 by motion of Assemblyman Horton. There was no official support or opposition of the bill, which may be a reflection of the fact that the bill was quickly shifted from SB 1700 to AB 1666 (134).

The issue of licensure would turn up one more time before the session ended. This time it was in the form of SB1843 (Senate Budget and Fiscal Review Committee), which was introduced in February of 2002 as a bill pertaining to public employees’ retirement and was suddenly transformed into “The Cigarette and Tobacco Products Tax Law” in August 2002 . This piece of legislation received heightened media attention due to the passion with which Senator Peace supported the legislation which he initially drafted with his former chief of staff, Dan Howle, who was a tobacco industry lobbyist prior to working with Senator Peace (102).

While some of the concerns from AB1666 were resolved, SB 1843 was essentially the same bill as AB 1666. SB1843 no longer allowed for the Board of Equalization to raid the

Proposition 99 and Proposition 10 funds to administer the licensing program and the new language in this version of the bill did not preempt local tobacco control laws. The bill, however, still maintained the one time licensing fee, and so would have created a permanent subsidy of tobacco distributors (albeit from the general fund rather than Propositions 99 and 10).

Another important aspect of the one-time license fee was that it would not allow for the creation of a database of tobacco retailers to be used by the Department of Health Services (DHS) to ensure compliance with licensing requirements, particularly restrictions on selling cigarettes to teens. The DHS was hoping to use a database created from an annual license to create such a database. would allow for the collection of such information. In fact, the bill explicitly prohibited DHS from using the licence information as part of a program to enforce youth access laws. The bill limited licensing information solely for the enforcement of tax collection laws, a responsibility which does not lie in the purview of DHS. Finally, audits of the Licensing Act were to be conducted by the Bureau of State Audits without involvement from DHS, despite the fact that DHS is the agency responsible for the evaluation and surveillance of California's Tobacco Control Program.

The rate of reimbursement (\$4.68 per case of cigarettes) for affixing tobacco tax stamps would have created a perminant subsidy of approximately \$10 million annually to tobacco wholesalers and distributors. Tobacco control advocates argued that individuals are not paid to file their annual taxes, why should the tobacco industry receive reimbursement for fulfilling their tax requirements? However, while the wholesalers and distributors would be reimbursed for affixing the tax stamps, details on the extent of penalties, including minimum and maximum fines for violations, were missing from the bill's language.

The Licensing Act did not include smokeless tobacco manufacturers and favored large tobacco companies because the payments necessary to obtain a manufacturers license were too large for small manufacturers. The Act also did not prohibit the sale of tobacco from mobile vendors such as ice cream trucks or out of individuals' vehicles.

There were also three new issues raised in SB 1843, including the lack of sufficient funds to administer the Act, the appropriation of funds without accountability, and the inclusion of the tobacco industry in enforcing compliance. First, the one-time license fee of \$100 will generate approximately \$5 million, with an additional \$11 to \$13 million generated from the one time \$0.01 per pack fee on cigarette manufacturers and importers. However, it is estimated that the annual cost to administer and enforce the licensing program is \$15 million. Therefore, it was suggested that the revenues generated from the proposed \$2.13 per pack cigarette tax be used to finance this program; however, this would leave nothing for increased funding for tobacco education and prevention. Second, along the same lines, there were no details on what the BOE would be doing to enforce the act, particularly activities that would total \$15 million.

The bill did not include a requirement to follow the Smokefree Workplace Act (PC 308) or other tobacco control laws as a condition for the permit. Thus, for example, a store owner could sell cigarettes to youth, allow smoking in his store, and allow self-service display without losing the ability to sell cigarettes. However, if the store owner had one pack of untaxed cigarettes, he could be fined.

Finally, while DHS was left out of the “Tobacco Tax Compliance Task Force” in previous versions of this legislation, they were included in this draft; however, so too were the tobacco retailers, wholesalers/distributors and manufacturers. SB 1843 required that the Task Force include members of each of the categories for whom there are licensure requirements.

SB 1843 was amended in the third reading, but was not passed during the 2001-2002 legislative session.

During its various phases, health advocates were publicly fighting the licensing legislation. The American Lung Association began a campaign comparing the different iterations of the pro-tobacco licensing bill to a fox guarding a henhouse (Figure 15). In addition to working to achieve a meaningful licensing bill, health advocates were also working to maintain funding for California’s Tobacco Control Program. While lobbyists from the American Heart Association, American Lung Association, and the American Cancer Society had been working in private with legislators, in the beginning of July 2002, they took the fight public. The three advocacy groups held a press conference in Sacramento “to appeal for a restoration of tobacco-control funding and the defeat of a retail tobacco-licensing measure” (102). While Lisa Rea, lobbyist for the American Heart Association, was speaking Senator Peace erupted, screaming that Rea was a liar. Upon Rea’s rebuttal, “Why did you not support a portion of the tobacco tax going to tobacco control prevention to save lives is beyond me,” Peace shouted back “Most of it’s beyond you and that’s been the problem. I’m not going to cut a health-care program to support an advertising program” (102). Peace went on to say that the tobacco industry was using the health lobbyists because the tobacco industry wanted to “scuttle the Senate’s version of the budget in hopes of averting a tax increase of 63 cents per pack” (102).

While health advocates were able to prevent the big passage of the pro-tobacco industry licensing bill in 2002, a new version of the bill, AB 71 was to be introduced early in the 2003 legislative session by Assemblyman Hort, containing many of the same provisions seen in 2002.

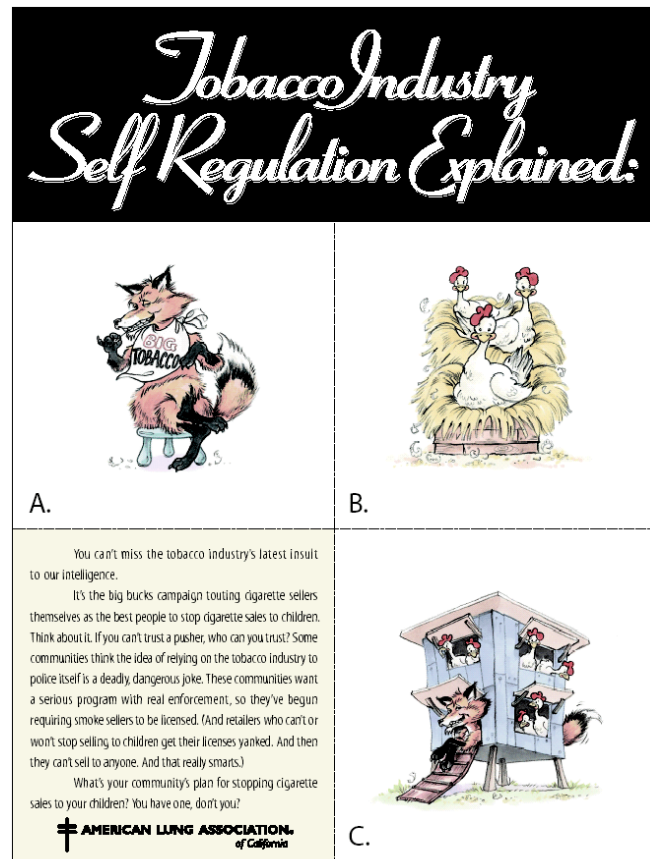


Figure 15: ALA’s campaign advertisement against a pro-tobacco industry licensing bill and in support of increasing tobacco control funding

Tobacco Tax Stamps

During the 2001-2002 legislative session, there were several bills related to tobacco taxes. AB 2906, introduced in February 2002 by Assemblyman Jerome Horton (D-Dist. 51), would have prohibited manufacturers from applying a tobacco tax stamp or meter impression if they are not in compliance with the provisions of the Master Settlement Agreement (135). The Attorney General would have been required to post a list of manufacturers in compliance with the MSA provisions. Finally, any cigarettes seized by the Board of Equalization because a manufacturer was found not to be in compliance were to be destroyed. The bill was supported by the Attorney General's Office, who argued that the bill would protect compliant tobacco manufacturers from noncompliant manufacturers and allowed the Attorney General to track the compliance of manufacturers over time and to make that information available to the public (136). The bill was opposed by the Department of Finance as it would create new General Fund costs that were not included in the 2002 budget bill (136). While AB 2906 was unanimously passed by a vote of 79-0 in the Assembly in May 2002, the bill died in the Senate.

Senator Steve Peace (D-Dist.40) introduced SB 1702 in February 2002, which gave the Investigations Division of the Board of Equalization the authority to arrest and serve warrants (137). The bill was sponsored by the Board of Equalization and supported by the Department of Justice (138). The bill passed the Senate by a vote of 38-0, but died in the Assembly.

AB 3001, introduced in March 2002 by the Assembly Budget Committee, raided Proposition 99 and Proposition 10 to provide a total of \$1,074,000 to the Board of Equalization for enforcement of tobacco tax evasion (139). A total of \$354,000 would be taken from the Cigarette and Tobacco Products Surtax Fund (Proposition 99) and \$720,000 would be taken from the California Children and Families Trust Fund (Proposition 10) (139). AB 3001 was not enacted in 2002.

In addition to these bills, which were focused on increasing resources to the BOE, Assemblyman Howard Wayne (D-Dist.78), who did not accept tobacco industry contributions and received a pro-tobacco control policy score of 9.3, introduced AB 1768. This bill proposed to reduce the subsidy that the state provides tobacco distributors by reducing the discount provided to distributors for the cost of tobacco tax stamps and the effort to affix these stamps from 0.85% on the \$0.87 cost of the tax stamps to 0.85% on the first \$0.10 of the cost of the tax stamps (140). While the licensed distributors discount has consistently been 0.85% of the stamp value, the stamp value has increased over the years from seven cents in the 1960s to its current value of 87 cents (Table 33).

Table 33: Estimated Discount Per Roll of Tax Stamps to Licensed Distributors

Time Period	Tax Increase Based On	Stamp Value (per pack of 20 cigarettes)	Roll Value (30,000 stamps)	Licensed Distributors Discount	Discount Amount per Roll
8/1/67 - 9/30/67	SB 556	\$0.07	\$2,100	0.85%	\$17.85
10/1/67 - 12/31/88	SB 556	\$0.10	\$3,000	0.85%	\$25.50
1/1/89 - 12/31/93	Proposition 99	\$0.35	\$10,500	0.85%	\$89.25
1/1/94 - 12/31/98	AB 3601	\$0.37	\$11,100	0.85%	\$94.35
1/1/99 - present	Proposition 10	\$0.87	\$26,100	0.85%	\$221.85

Source: Wilson, C, Ridley R, and Shedd, M.S. 2002. Staff Legislative Bill Analysis: AB 1768.

Based on the current tax of \$0.87, \$0.02 of the tax goes to the Breast Cancer Fund, \$0.10 goes to the General Fund, \$0.25 goes to the Cigarette and Tobacco Products Surtax Fund, and the remaining \$0.50 goes to the California Children and Families Trust Fund; this distribution was to remain the same in AB 1768 (141). It is estimated that the decrease in the discount would result in \$8.4 million in new revenues (142). These revenues would have provided \$0.192 million to the Breast Cancer Fund, \$0.965 million to the General Fund, \$2.415 million to the Cigarette and Tobacco Products Surtax Fund, and \$4.828 million to the California Children and Families Trust Fund (141).

Health advocates supported this legislation because it would provide new funds for tobacco control in a financially tight year. Lisa Rea, then head lobbyist for the American Heart Association, said, “We need this money. It’s \$8.4 million that could be spent on tobacco control and prevention. This year especially we need it” (142). While Tom Ryan, spokesman for Philip Morris stated, “The proposed legislation does not have a direct impact on Philip Morris USA. We have not taken a position on it,” the California [Tobacco] Distributors Association was in opposition to it. Dennis Loper, lobbyist for the California Distributors Association, said that the tax stamp discount barely covered the cost to distributors in the 1960s, let alone today. Loper went on to say, “The cost of stamping increases annually, but the only time the distributors benefits is when the tax itself increases” (142).

Despite support from Governor Davis and the American Heart Association and the fact that this legislation would generate \$8.4 million annually without costing the state a penny, almost \$1 million of which would go into the General Fund helping to ease the budget deficit, it was not passed. The bill was opposed by the California [Tobacco] Distributors Association who argued that the discount was intended to help reimburse distributors for the cost of affixing the tobacco stamps, including the cost of labor, machinery, and equipment, as well as the tax bond required by the Board of Equalization and reducing the subsidy would cause economic loss for the distributors (143).

AB 1768 was amended into a bill on coordination of state and local public safety agencies by Assemblywoman Jenny Oropeza (D-Dist.55) on August 31, 2002 (143). Hence the opportunity to reduce the subsidy to the tobacco industry was lost.

Tobacco Tax Increases

There were two proposals in the Senate to increase the cigarette excise tax. SB 1890, introduced in February 2002 by Senator Deborah Ortiz (D-Dist.6) who did not accept tobacco contributions and received a tobacco policy score of 9.0, proposed to increase the cigarette excise tax by 65 cents and the tax on other tobacco products at a rate to be determined by the Board of Equalization (39). The revenues collected from the tax increase were to be used for tobacco use prevention programs, comprehensive tobacco cessation programs, scientific research on medical conditions caused by tobacco use, medical and preventive health services for low-income and uninsured individuals and the expansion of medical coverage for uninsured families, adults, and children (39). It was estimated that the 65 cent tax increase would generate \$314 million in new cigarette tax revenues in 2002-2003 and an additional \$605 million in 2003-04.

SB 1890 was sponsored by the American Cancer Society, the American Heart Association, and the American Lung Association and was supported by the California Medical Association, the California Healthcare Association, the Next Generation California Tobacco Control Alliance, Health Access California, the California Conference of Local Health Officers, the California Academy of Family Physicians, the California School of Nurses Organization, and the American Academy of Pediatrics (144). The bill was opposed by the California [Tobacco] Distributors Association, the California Independent Grocers Association, the California Association of Retail Tobacconists, the African-American Beverage and Grocers Association, and the California Licensed Beverage Association (144), all allies of the tobacco industry. While the tobacco companies did not take a public position on the bill, they have a long history of opposing tobacco tax increases.

The bill was heard by the Senate Committee on Revenue and Taxation and Health and Human Services, but it was not enacted in 2002.

Governor Davis proposed a cigarette tax increase of 50 cents in his 2002-2003 budget proposal (37). Director of the California Department of Health Services, Diana Bontá, supported the Governor's initial tobacco tax proposal of 50 cents, despite the fact that none of the revenues from the new tax were to be earmarked for tobacco use and prevention programs (145). Director Bontá acknowledged that "despite some budget reductions in our tobacco mitigation efforts this year, California will continue to commit nearly \$90 million to tobacco prevention, education and cessation efforts next fiscal year - far more than any other state currently spends" (145). While the Senate changed the Governor's tax increase from 50 cents to 65 cents in its revisions of the budget, the final 2002-2003 budget did not include a cigarette tax increase.

In contrast to Governor Davis' proposed 50 cent tax, Assembly Speaker Herb Wesson (D-Dist 47) supported a much larger cigarette tax increase. Put forth in the Senate Budget and Fiscal Review Committee, Senator Wesson's bill, SB 1849, proposed a cigarette excise tax increase of \$2.13 for the purpose of reducing the state deficit, bring the total tax per pack of cigarettes to \$3 (44); the proposal was intended to match New York City's cigarette tax of \$3.00, which is the highest in the nation. Speaker Wesson, himself a smoker, vowed to quit the habit if the \$2.13 tax increase passed (146). The additional revenues from a \$2.13 tax increase were expected to total \$1.7 billion which would help to fill a gap in the budget deficit (147). Opponents of the tax increase used standard tobacco industry arguments that such a tax increase would disproportionately impact men, young people, African Americans, high-school educated, and low-income smokers who smoke the most (146).

While health advocates were in support of a tobacco tax increase, they were fighting for a portion of the tax (15 cents) to be earmarked for tobacco use and prevention programs (102). (See Efforts to Increase Tobacco Taxes for a more detailed description of the health advocates campaigns in support of tobacco tax increases.) The increase in the price of cigarettes through a tax increase has been shown to reduce tobacco use and an earmark of any new revenues could help to reinvigorate the Tobacco Control Program. Researchers at the University of California San Francisco calculated the effects of a \$2.13 increase in the cigarette tax and there were significant benefits, both in terms of improved health outcomes and in terms of monetary savings (Table 34) (148).

Table 34: Effects of a \$2.13 Cigarette Tax Increase in California in 2002

Long-term savings:	First year savings:
* almost 590,000 new quitters	* 500 heart attacks and 250 strokes prevented
* over 320 million packs of cigarettes unsmoked	* 150 heart attack deaths and 100 stroke deaths prevented
* reduction of tobacco industry revenues by \$790 million annually	* \$24 million in medical expenditures savings from prevented cardiovascular disease
* \$1.41 billion saved annually in medical	* 400 low birthweight births prevented
* almost 5,800 deaths annually prevented	* \$2.5 million in medical expenditure savings from prevented neonatal care
* \$1.78 billion in additional revenues to the state	* \$600,000 in medical expenditure savings from prevented childhood respiratory illnesses
	* 550 prevented new childhood asthma cases
	* 20 prevented sudden infant death syndrom cases

Source: Ong, M. and Glantz, S. 2002. Effects of a \$2.13 cigarette tax increase in California

In spite of several different tax proposals, at the end of the legislative session, none of the tax increase proposals were approved. This may be due to policy makers focus on efforts to reduce the state’s multi-billion dollar growing budget deficit. In addition, tobacco control funding was significantly reduced and revenues from the Master Settlement Agreement were sold off. Despite the good intentions of some pro-tobacco control legislators (who did not accept tobacco funds and received high tobacco policy scores), too much focus was placed on legislation that should not have been the top priority. In particular, the media attention focused on Assemblyman Koretz's bill to increase the minimum age to purchase tobacco to 21 decreased the attention on the dangerous licensing bill, securitization, and the fight to at least maintain the current levels of tobacco control funding. Hence, the legislative session ended without a concerted effort by the legislators to reinvigorate California's Tobacco Control Program.

Tobacco Sales

There were three pieces of legislation that dealt with the sale of tobacco products. AB 224 was introduced in February 2002 by Barbara Matthews (D-Dist. 17) who accepted a total of \$15,500 from the tobacco industry during the 2001-2002 legislative session and a tobacco policy score of 5.3. AB 224 requested a study from the Legislative Analyst’s Office on the sales and marketing practices of cigars and smokeless tobacco products (149). This bill was referred to the Revenue and Taxation Committee and died in committee.

AB 412 was by Assembly Speaker Herb Wesson (D-Dist. 47) who accepted \$47,000 from the tobacco industry and received a tobacco policy score of 4.7. This piece of legislation imposed a civil penalty for the sale of cigarettes through self-service displays and prohibits the free distribution of tobacco products on private property which is open to the public, except those areas which prohibit minors to be present (150). This bill also imposes a civil penalty for the sale of packs of cigarettes containing less than 20 cigarettes and loose leaf tobacco that is less than 0.60 ounces in weight (150). While this bill was not passed, the provisions of this bill can be found in SB 757 which was enacted.

Increasing the Minimum Age to Purchase Tobacco to 21

The third piece of legislation dealing with restrictions on the sale of tobacco products was AB 1453, introduced in February 2001 by Assemblyman Paul Koretz (D-Dist.42) who did not accept tobacco industry contributions and received a tobacco policy score of 8.5. AB 1453 proposed an increase in the minimum age to purchase tobacco, and all other associated restrictions, from 18 to 21 (6). The bill also prohibited waste receptacles for tobacco products in establishments in which smoking was illegal and required the display of waste receptacles for tobacco products in establishments that allowed smoking.

Assemblyman Koretz sponsored this piece of legislation after urging from the California Medical Association (CMA) (151). The bill was supported by the American Lung Association and the Campaign for Tobacco Free Kids, while the American Heart Association remained neutral (152). Philip Morris also remained neutral on the bill, as reflected in Philip Morris spokesman Tom Ryan's comments: "We think that the minimum age for smoking is a societal issue and we'll abide by the laws as far as the minimum age for purchase of tobacco products" (153).

While there were no organizations that formally protested AB 1453, there was a great deal of skepticism about the bill, mainly because increases in the price of cigarettes, through a tobacco tax increase, would be more effective in reducing youth tobacco consumption (154). Professor of Medicine at the University of California, Stanton Glantz, critiqued the bill stating, "There is no good evidence that laws restricting sales of cigarettes to kids actually affect smoking by kids. We know that the way to reduce youth smoking is not by supply side controls, it's by demand reduction. The state's anti-smoking program has achieved the lowest youth smoking rates in the country if not the world...and that's exactly what the governor is dismantling" (152). Given the environment of limited resources, discussions over AB 1453 would divert attention away from other important issues and if it passed, "would require diverting already limited resources away from programs of proven effectiveness into an area that would not do anything meaningful to reduce tobacco consumption" (155).

While AB 1453 was not a pro-tobacco industry bill, but it was not an example of effective tobacco control legislation. Additionally, attention focused on the bill could have distracted health advocates and the public from the crucial issues of tobacco control funding and a meaningful licensing bill (see below). While the Assembly voted 42-10 to pass the bill (156), it was killed in the Senate Appropriations Committee (157). Given the State Board of Equalization's estimate that the bill would reduce the state's tobacco tax revenues by about 3% or \$25.7 million annually, the Committee did not debate the bill out of a concern over the decreased revenues (157).

Just two weeks after the bill died, the Department of Health Services released the 2002 Youth Tobacco Purchase Survey results, which indicated that the illegal tobacco sales rates for 2002 were 19.3%, an increase from 17.1% in 2001 and 12.8% in 2000 (158). While the Synar Amendment, passed in 1992, requires states to maintain rates of illegal sales to minors at or below 20% at the risk of losing up to 40% of their Substance Abuse and Mental Health federal

grants, this requirement is only related to youth under the age of 18. However, if AB1453 had passed, an already ineffective system of enforcement would be required to enforce the minimum age to purchase laws on a larger population, suggesting only higher rates of illegal sales and jeopardizing federal funding for substance abuse.

Another important indirect affect of this bill was that it diverted media and legislative attention from issues surrounding the funding and effectiveness of the state's Tobacco Control Program.

Advertising Restrictions

Restrictions on tobacco advertising and promotions was a timely issue since the Attorney General filed suit against R.J. Reynolds for violation of the current advertising restrictions during this legislative session (see MSA Enforcement). There were two bills introduced during the 2001-2002 legislative session which would have restricted tobacco advertising and promotion. AB 1527, sponsored by Assemblywoman Patricia Wiggins (D-Dist. 7) who accepted \$8,000 from the tobacco industry and received a tobacco policy score of 5.3, was introduced in February 2001 and restricted cigarette advertising to the brand name and price (159). The bill further prohibited the manufacturer from offering monetary rewards to retailers for product promotions or display requirements. The bill was sponsored by the Korean Grocers Association of California and supported by the Breast Cancer Fund. The supporters argued that the tobacco industry provides kick-backs, sometimes up to \$2,000, to retailers who comply with the industry practices and promotions and provides an unfair advantage to retailers who comply with the law (160). The bill was opposed by the California Chamber of Commerce, the California Retailers Association, California Manufacturers and Technology Association and Philip Morris Companies. The opposition argued that the bill created government interference with merchandising agreements and conflicts with free market competition (160); these are all common tobacco industry arguments. The bill was passed to the Senate in May 2001 after a vote of 62-7 in the Assembly, but died in the Senate (160).

Senator Debra Bowen (D-Dist.28), who did not accept tobacco industry funds and received a tobacco policy score of 8.0, introduced SB 2082 in February 2002. This bill required retailers selling tobacco over the Internet to disclose that any customers in California would be responsible for state cigarette excise taxes (161). Both of these bills were referred to several committees, but were not enacted. The bill was supported by the Board of Equalization, but no opposition was noted (162). The bill was voted out of the Senate by a vote of 25-11, but died in the Assembly in November 2002.

2003 LEGISLATION

Within the first few weeks of the 2003 Legislative Session, there were a variety of tobacco-related bills introduced primarily, but not exclusively, by legislators who received pro-tobacco control policy scores and had not accepted tobacco industry campaign contributions (Table 35). Several of these bills were legislation that had been introduced during the 2001-2002 legislative cycle, including such issues as licensing, Internet sites listing manufacturers in

compliance with MSA provisions, increasing the minimum age to purchase tobacco products to 21, and restrictions on tobacco advertising and promotions.

Licensure

Two licensing bills were introduced. Assemblyman Jerome Horton (D-Dist. 51), who accepted a total of \$61,000 from the tobacco industry and received a pro-tobacco policy score of 2.5, introduced AB 71, which like AB 1666 in the previous legislative session, prohibits retailers, manufacturers, distributors and wholesalers from distributing or selling tobacco products without a license (163). The authority for enforcement rests with the Board of Equalization, in conjunction with the Alcoholic Beverage Control Board, the Attorney General, the Franchise Tax Board, and the Department of Health Services. Use of counterfeit stamps or tax evasion will result in the suspension of the license; fines for violation have not yet been determined; a second violation may result in a civil penalty of five times the value of the cigarettes or \$5,000, whichever is greater (164). Wholesalers and distributors, not retailers, are required to pay an annual fee of \$1,000 per license. To cover the start-up cost of administration, tobacco manufacturers and importers are required to pay an administrative fee of \$0.01 per pack of cigarettes. The Board of Equalization estimates that fees assess under AB 71 would generate \$22.1 million in FY 2003-04 and \$2.7 million annually thereafter. (As a result, like the earlier legislation, it would require additional money from the general fund or other sources to operate in future years.) Revenue generated from this act, along with an unspecified amount of any new tobacco tax, would be deposited into the "Cigarette and Tobacco Products Compliance Fund," to be used for enforcement. Additionally, this act requires the Attorney General to create an Internet site listing the tobacco manufacturers that are in compliance with the terms of the MSA and have made all necessary payments to escrow accounts. The use of tax stamps or meter impressions by manufacturers who are not on the list is prohibited.

The most pro-tobacco industry aspect of the bill includes the subsidy provided to tobacco distributors for affixing the tobacco tax stamps. AB 1768 (Wayne) from the 2001-2002 legislative session sought to reduce the 0.85% of the total tax rate discount provided to the tobacco distributors. AB 71 proposes to change the discount from 0.85% of the tax, which amounts to approximately \$222 per roll of 30,000 tax stamps (141) to a discount of \$4.68 per case of cigarettes (\$0.00039 per cigarette). While the 0.85% discount resulted in a \$9.4 million subsidy to the tobacco industry, the new formula proposed by Assemblyman Horton would increase the subsidy to \$9.9 million.

When the bill was first introduced, it was supported by the American Cancer Society, the American Heart Association, the American Lung Association, and the California [Tobacco] Distributors Association. However, the health advocates noted that their support was contingent upon the following amendments: include an annual licensing fee for retailers, limit the distributor/wholesaler stamp discount to off-set the cost of affixing the stamps, link the tobacco retailer license to tobacco control laws, and appropriate funding for the Stop Tobacco Access to Kids Enforcement (STAKE) program (164). Support from the health advocates was withdrawn in May 2003. The California Distributors Association, the City of Los Angeles and the League of California Cities supported this bill (164).

The second licensing bill, SB 433, was introduced in the Senate by Senator Deborah Ortiz (D-Dist 6) who did not accept any funds from the tobacco industry and received a pro-tobacco policy score of 9.0. SB 433 states that all tobacco distributors and wholesalers must apply to the Board of Equalization for a license; tobacco retailers are not included in this requirement (165). The specific definitions and details of the bill were not defined as of the beginning of May 2003. The American Lung Association, the American Heart Association, and the American Cancer Society support SB 433 and no public opposition has been recorded.

SB 433 was still being developed as of May 2003 and had the potential to be an effective and meaningful licensing bill, while AB 71 is a pro-tobacco industry bill, providing the tobacco companies with a \$500,000 increase in the subsidy received for affixing tobacco tax stamps.

Taxes

As of May 2003, Governor Davis' proposal of a \$1.10 cigarette tax in his original January budget, reduced to 23 cents in the May revision of the budget, was the only tobacco tax proposal introduced. However, there were three bills addressing tobacco taxes. The first bill, AB 1040, was introduced by Assemblyman Leno (D-Dist.13). The bill proposes the County Board of Supervisors may impose a local tax on retailers in addition to any other authorized tax and that the Board of Equalization will be the contracting agency for administration (166). Perhaps most importantly, the bill specifies that 20% of all revenues from any new local tobacco tax be dedicated only for local tobacco prevention health programs. This bill is sponsored by the American Heart Association and supported by the American Lung Association and is opposed by the California Distributors Association.

The second bill, AB 1276, was introduced by Assemblyman Jerome Horton (D-Dist.51). This bill requires the creation of an Internet site by the Attorney General to list manufacturers who have complied with MSA escrow payments by April 15 of each year and prohibits the use of tax stamps or meter impressions by manufacturers who are not listed on the site (167). Violations of the bill would result in suspension or revoking of the license for the first violation, and a fine of five times the retail value of the cigarettes in question or \$5,000, whichever is greater. The Board of Equalization estimates that the bill will result in a one time start-up cost of \$150,000 and on-going cost of \$240,000 for enforcement; it is also assumed that a portion of these costs would be covered by penalties assessed. A similar version of this bill, AB 2906, was introduced by Assemblyman Horton during the 2001-2002 legislative session. AB 1276 is sponsored by the Attorney General and no opposition is noted.

The third bill, AB 1666, was introduced by Assemblyman John Campbell (R-Dist.71) who accepted \$10,000 in campaign contributions from the tobacco industry and a pro-tobacco policy score of 2.3. This pro-tobacco bill reduces the amount of the security deposit to be paid by a distributor that defers payments for tobacco tax stamps or meter register settings to a minimum of 50% (down from 70%), but no more than 200% of the total payment deferred (133). The bill also allows the distributor to choose monthly or bi-monthly payments for the amounts owed. The bill is supported by the California Distributors Association, arguing that the reductions will help them to meet the increasing costs of bond requirements; no opposition to the bill was filed (168).

Table 35: Tobacco-Related Legislation Introduced During the 2003 Legislative Session (as of May 2003)

Bill No.	Author	Title	Topic
Licensing			
AB 71	Horton (D-Dist 51)	California Cigarette and Tobacco Products Licensing Act of 2003	<p>Provides for the licensure by the State Board of Equalization of manufacturers, distributors, wholesalers, importers and retailers of cigarette or tobacco products. Prohibits retailers, manufacturers, distributors, and wholesalers from distributing or selling tobacco products unless licensed; violation will result in the suspension of the license. Sale of counterfeit tobacco products is considered a crime and would result in [unspecified] fines or imprisonment for possession, sale or purchase of fraudulent cigarette tax stamps. Additionally, manufacturers and importers that produce false products would be required to pay a fee to the Board of Equalization.</p> <p>Revenues generated from this Act would be deposited into the Cigarette and Tobacco Products Compliance fund, along with a specified portion of the new cigarette tax. In the first year, \$11 million would be appropriated from this fund to finance the implementation, enforcement and administration of this Act. Allows the Executive Director of the State Board of Equalization to desingate individuals to exercise the arrest powers of a peace officer in the capacity of enforcing this Act.</p> <p>Requires the Attorney General to develop an Internet site to list the tobacco manufacturers that are in compliance with the requirements of the MSA and have made all payments to escrow accounts. This Act also prohibits any tax stamp or meter impressions to be affixed unless the manufacturer is included in the Attorney General's list. Failure to comply is considered a misdemeanor and may result in additional civil penalties. (See also AB 1276)</p>
SB 433	Ortiz (D-Dist 6)	Tobacco products: licensing of retailers	Declares the Legislature's intent that the Board of Equalization license cigarette retailers and maintain the license on the premise for which it was issued.
Taxes			
AB 1040	Leno (D-Dist.13)	Cigarette taxes	Authorizes the County Board of Supervisors to impose a tax, in addition to other local taxes, on the sale of cigarettes and tobacco products at retail locations within the county's boundaries, even if the retailer is not incorporated in the county. If the county passed an ordinance for such a tax, arrangements would be required with the Board of Equalization to administer the tax.
AB 1276	Horton (D-Dist 51)	Tobacco Settlement Agreement: escrow compliance	Requires the Attorney General to create an Internet site to list tobacco manufacturers that have provided current certification of escrow payments by April 15th of each year. Prohibits any tax or meter impression to be affixed unless the manufacturer is in compliance and is listed on the website. Violation would result in civil penalties. Provides for the disgorgement of profits and gains received while in violation of this bill. (See also AB 71)
AB 1666	Campbell (R-Dist 70)	Cigarettes and tobacco products	Reduces the amount of the security deposit required by a distributor that defers payments for stamps or meter register settings to at least 50% of, but not more than twice the amount of, stamps and meter registers for which payment is deferred. Deferred payments for the stamps or meter register settings, as well as the taxes collected on those tobacco products, must be remitted either monthly or semi-monthly.
Tobacco Sales and Distribution			
AB 221	Koretz (D-Dist 42)	Tobacco products: minimum legal age: advertising, display and distribution limitations	Increases the minimum age to purchase tobacco products to 21. All tobacco promotion/advertising restriction currently in place would now apply to youth under the age of 21. Enforcement of this law, through random on-site sting operations, would allow for youth under the age of 21 and not only 15 and 16 year olds, to assist in the operations.
SB 1016	Bowen (D-Dist 28)	Tobacco products: sales to minors	Prohibits public or private postal services from knowingly delivering packages containing tobacco products unless a visible label that states that the package is not to be delivered to anyone under the age of 18 is affixed to the package. Requires that the service delivering the package containing tobacco products verify that the recipient is over the age of 18 and applicable excise and use taxes have been paid.

Bill No.	Author	Title	Topic
Smoking Restrictions			
AB 210	Nation (D-Dist 6)	Tobacco : dwellings	Prohibits the smoking of any tobacco-related product within any common area in an common dwelling, as well as in indoor and outdoor common areas of multifamily residential housing; violation would result in an [unspecified] fine.
AB 384	Leslie (D-Dist 13)	Tobacco products: correctional facilities.	Requires the Dept. of Corrections and the Dept. of the Youth Authority to prohibit the possession of tobacco products by inmates in state prison and Youth Authority facilities, as well as eliminate the sale of these items in these facilities.
AB 549	Cohn (D-Dist 24)	School facilities: smoking.	Requires school districts to prohibit smoking by anyone on a schoolsite during construction, reconstruction, rehabilitation or repair.
AB 846	Vargas (D-Dist 79)	Smoking: public buildings	Prohibits smoking inside a defined public building and within 20 feet of the main entrance or exit, as opposed to the current law which requires no smoking within 5 feet of the entrance or exit.
Advertising and Promotion			
AB 1033	Montanez (D-Dist 39)	Tobacco: prohibition on free distribution	Prohibits the free distribution of any tobacco products to any individual, as opposed to current legislation which prohibits the free distribution to individuals under age 18; violations would result in criminal or civil penalties.
Other			
AB 586	Koretz (D-Dist 42)	Tobacco-related Waste	Prohibits the display or availability of ashtrays or other receptacles designed for tobacco-related waste for use on premises where smoking is prohibited by law. Also requires the provision of one or more receptacles for tobacco-related waste where smoking is permitted by law. Violation would result in fines.
SB 676	Ortiz (D-Dist 6)	Tobacco products: health care costs: tobacco manufacturer fees	Imposes a fee, to be determined by the Department of Health, on specified tobacco product manufacturers (effective after January 1, 2005). Creates the Tobacco-Related Health Care Costs Trust Fund into which revenues from this bill would be deposited. The purpose of this fund would be to reimburse state and local governments for the cost of treating individuals with tobacco-related diseases.
SB 858	Ortiz (D-Dist 6)	Tobacco control	Provides that any funds appropriated to the Department of Health Services for the implementation of tobacco use prevention programs would be available for encumbrance and expenditure for two fiscal years after the date of appropriation.

Similar to previous legislative sessions, the tobacco industry - represented by the California Distributors Association - is working to prevent any new fees and to decrease already established fees for operations or tobacco tax. In the same way that the tobacco industry has fought state level tobacco tax increases, it can be expected that the tobacco industry will also fight AB 1040 to prevent local tobacco taxes.

Tobacco Sales

Assemblyman Koretz (D-Dist.42), who did not accept tobacco funds and received a pro-tobacco control policy score of 8.5, re-introduced his youth access legislation (AB 1453) from the 2001-2002 legislative session (6). AB 221 would increase the minimum age to purchase tobacco, as well as all related advertising and promotion restrictions, from 18 to 21 years (169). The bill also states that youth under the age of 21, and not only 15 and 16 year olds, would be allowed to participate in random on-site sting operations for the purpose of enforcement youth access restrictions. The bill is sponsored by the American College of Obstetricians and Gynecologists, the American Lung Association, the California Medical Association (sponsor), the California State PTA, the Kaiser Permanente Medical Care Program, and Preventing Tobacco Addiction Foundation (sponsor). Ths supporters argue that increasing the drinking age to 21 decreased drunk driving deaths, binge drinking and youth drinking (170). The opponents of the bill include Assemblyman Steven Samuelian, the California Independent Grocers and

Convenience Stores, the California Retailers Association, the California State Package Store and Tavern Owners Association, the Frontiers of Freedom Foundation, the National Tax Limitation Committee, UST Public Affairs Inc, and the Young Americans for Freedom. The opponents argue that bill is not consistent with federal law and that it will harm retailers and the state by shifting tobacco sales and the associated tax revenues to neighboring states, claiming that it would reduce tax revenues by up to 3% or \$66 million annually, as well as the argument that individuals can vote, get married, serve on a jury, and be in the military by age 18 indicating the beginning of adulthood (170).

The second tobacco sales bill was introduced by Senator Debra Bowen (D-Dist. 28) who did not accept tobacco industry funds and received a pro-tobacco control policy score of 8.0. SB 1016 prohibits public and private postal services from knowingly delivering packages containing tobacco products to anyone under the age of 18 (171). Furthermore, this bill requires the delivering agency to verify that the recipient is over the age of 18 and that appropriate excise and use taxes had been paid (172). The bill also requires the seller to submit quarterly reports to the Attorney General in compliance with the federal Jenkins Act which states that anyone selling cigarettes in a state that imposes a tax must submit an invoice of all tobacco shipments. The author has also proposed to amend the bill to require the Attorney General to provide an annual report on the actions taken to enforce the bill and for sellers to submit monthly reports on tobacco shipments (172). This bill is supported by the Office of the Attorney General and the American Lung Association of California (172).

Smoking Restrictions

There were four bills, all introduced in the Assembly, which restricted the locations in which smoking is permitted. AB 210, introduced by Assemblyman Joseph Nation (D-Dist.6) who did not accept tobacco funding and received a tobacco policy score of 7.8, prohibits the use of any tobacco-related products in common areas of multi-family homes under penalty of an undetermined fine (173). As of May 2003, there was no formal support or opposition to this bill.

Assemblyman Tim Leslie (D-Dist.13), who received a tobacco policy score of 2.8 and received \$8,000 from the tobacco industry, introduced AB 384, which prohibits the possession of tobacco products by inmates in state prisons and youth facilities and to eliminate the sale of tobacco products in these facilities (174). This bill is supported by the California Correctional Supervisors Organization and the California Medical Association. No formal opposition is registered (175).

Assemblywoman Rebecca Cohn (D-Dist. 24), who received \$10,000 from the tobacco industry and a tobacco policy score of 7.3, introduced AB 549, which prohibits anyone from smoking on a school site during construction or repair (176). As of May 2003, there was no formal support or opposition to this bill.

Lastly, AB 846, introduced by Assemblyman Juan Vargas (D-Dist.79) who received a tobacco policy score of 9.0 and did not accept tobacco industry contributions, prohibits smoking inside a defined public building and within 20 feet of the main entrance or exit; this would expand the current law which restricts smoking to no less than five feet from the entrance or exit

(177). Additionally, this bill does not preempt local authority from increasing the distance. This bill is supported by the American Cancer Society, the American Heart Association, and the American Lung Association (178).

Advertising and Promotion

There was one piece of legislation which was introduced by a freshman member of the Assembly, Assemblywoman Cindy Montanez (D-Dist.39). AB 1033 expands the current law which prohibits the free distribution of tobacco products to individuals under the age of 18 to prohibit free distribution of tobacco products to anyone (179). The penalty for violation is a minimum of \$500 per offense and a maximum penalty of \$2,000 per offense. According to an estimate from the Board of Equalization, between 2001-2002, 1.4 million packs of cigarettes were distributed for free in California (180). This bill is sponsored by the American Heart Association and supported by the American Lung Association and the California Medical Association; no public opposition has been noted (180).

Other Tobacco-Related Legislation

Assemblyman Koretz (D-Dist 42) introduced AB 586 which contained two of the provisions found in AB 1453 from the previous legislative session (6). AB 586 prohibits the availability of ashtrays or other receptacles designed for tobacco waste in locations where smoking is prohibited by law; a minimum of one receptacle must be made available for tobacco waste in locations where smoking is permitted by law (181). The bill also requires a \$0.02 fee on all disposable bags and cups that contain less than 40% post-consumer recycled content. This bill is supported by 27 different environmental organizations and opposed by 53 different corporations and plastic-associated organizations (182).

Senator Deborah Ortiz (D-Dist. 6), who also introduced a new licensing bill, introduced two other bills relating to funding for tobacco control and care for tobacco-related disease. SB 676 imposes an unspecified fee on tobacco product manufacturers to create the Tobacco-Related Health Care Costs Trust Fund which would be used to reimburse state and local governments for the cost of treating individuals with tobacco-related disease (183). This bill is supported by the American Cancer Society, the American Heart Association, and the American Lung Association and is opposed by the California Manufacturers and Technology Association, the Cigar Association of America, and the Lorillard Tobacco Company (184).

The second bill introduced by Senator Ortiz extends the period during which the Department of Health Services may encumber and spend funds appropriate for tobacco use prevention programs for up to two years after the appropriation date (185). This bill is co-sponsored by the American Cancer Society and the American Heart Association and the American Lung Association of California; no opposition is noted (186). The supporters argue that the bill will provide stability and continuity and allow more effective administration of available resources to the Tobacco Control Program whereas the funding levels might otherwise fluctuate.

Finally, Senate Constitutional Amendment 3 was introduced February 6, 2003 (187). This constitutional amendment was sponsored by Senator Tom McClintock (R-Dist.19) and Senator James Brulte (R-Dist.31), and co-sponsored by Senators Tom Aanestad (R-Dist.3), Richard Ackerman (R-Dist.33), Roy Ashburn (R-Dist.18), James Battin (R-Dist.37), Dennis Hollingsworth (R-Dist.36), Ross Johnson (R-Dist.35), William Knight (R-Dist.17), Bob Margett (R-Dist.29), Bruce McPherson (R-Dist.15), Bill Morrow (R-Dist.38), Thomas “Rico” Oller (R-Dist.1), and Charles Poochigan (R-Dist.14). In total, the fourteen senators received a total of \$161,000 in campaign contributions from the tobacco industry and all except for Senator McPherson received pro-tobacco industry policy scores. The amendment, as it relates to tobacco control, would allow the legislature to limit the appropriations for special fund revenues (187). Although not clearly stated in the text, the special funds in question would include accounts from Proposition 99, Proposition 10, and Proposition 98, despite the fact that these funds are allocated based on voter initiatives. The significance of this constitutional amendment is that this is the first time in recent years that there has been an attempt to divert funds from the Health Education and Research Accounts established by voter initiative. As of May 2003, no formal support or opposition has been noted, however, health advocates should remain alert and advised of the status of this bill throughout the legislative session.

LITIGATION AND LEGAL ACTIONS BY THE ATTORNEY GENERAL'S OFFICE

Attorney General Bill Lockyer (D) and the California Office of the Attorney General have been vigilant in their enforcement of the provisions of the 1998 Master Settlement Agreement (MSA). California began receiving its share of the MSA payments in January of 2000 and renamed its Tobacco Litigation Section to the “Tobacco Litigation and Enforcement Section,” stressing the role of enforcement of existing laws and provisions (188). Between the end of 2000 and Spring 2003, there were several lawsuits filed and official action taken against the tobacco companies, including R.J. Reynolds, Philip Morris, Brown and Williamson, Swedish Match North America, and U.S. Smokeless Tobacco. These lawsuits initiated by the Attorney General were in addition to defending the suit filed by R.J. Reynolds and Lorillard against the California Tobacco Education Media Campaign (discussed in the Media Campaign section).

R.J. Reynolds

The California Attorney General pursued four suits against R.J. Reynolds between the end of 2000 and 2002. In the first suit, R.J. Reynolds was accused of violating terms of the MSA and California's consumer protection laws by mailing about 900,000 free cigarette packs to 115,000 homes in 1999 (189). On December 28, 2000, the San Diego Superior Court approved a settlement that states that R.J. Reynolds is allowed to mail cigarettes only to adults who have given prior consent to receive the free cigarettes or are using them for evaluation or testing purposes (190, 191). Prior to receipt, R.J. Reynolds must verify that the individual signing the consent form is an adult, can only mail to individuals whose consent forms have been received within 180 days prior to mailing and the company must report to the state on the number of free mailings sent out. Finally, R.J. Reynolds agreed to pay \$175,000 for investigative costs (190, 191).

Next, in a case filed against R.J. Reynolds by Attorney General Bill Lockyer in the San Diego Superior Court in March, 2001, Reynolds was accused of outdoor advertising at its NASCAR Winston Cup and NHRA Winston Drag Racing Series (192). The advertising was a violation of the MSA agreement which restricted the posting of outdoor advertising for tobacco brand name sponsorship 90 days before and 10 days after an event (193). R.J. Reynolds argued, "Given that NASCAR and NHRA racing schedules begin in February and end in November, Reynolds Tobacco's year-long placement of sponsorship signs complies with the MSA" (194). In December, 2001, Superior Court Judge Ronald S. Prager ruled that R.J. Reynolds' advertising campaign at the stock car and drag races was a violation of the MSA (193). Of the settlement, Attorney General Lockyer said, "It is obvious that the tobacco company is illegally using their sponsored events to try and sidestep restrictions on advertising of their deadly tobacco products" (193).

Third, in May, 2002, Los Angeles Superior Court Judge Conrad R. Aragon ruled in favor of Attorney General Lockyer who had filed suit against R.J. Reynolds claiming that the tobacco company had violated state law (California Health & Safety Code Section 118950) which prohibits the free distribution of product samples on public grounds where minors are allowed (195). Judge Conrad stated that the law had been violated because R.J. Reynolds had handed out more than 100,000 packs of cigarettes at street fairs and car races where minors were present; the fine was \$14,826,200 (195). Attorney General Lockyer stated, "Marketing ploys designed to hook children on cigarettes are illegal and won't be tolerated in California. This case and others brought by my office should send a strong warning to tobacco product manufacturers that California will vigorously enforce laws enacted to control tobacco sales and distribution" (195).

Finally, the Attorney General filed suit against R.J. Reynolds in March, 2001 for violating provisions of the MSA by targeting children through magazine advertising (196). Unlike the other major tobacco companies (Philip Morris, Brown and Williamson, and Lorillard), R.J. Reynolds continued to advertise to youth following the MSA and actually increased their spending for such purposes (196). The Attorney General's office stated that Reynolds "has continuously and systematically targeted youth" by placing a high number of advertisements in such magazines as Sports Illustrated and Rolling Stones, which have a high youth readership (197). R.J. Reynolds chairman, Andrew J. Schindler said that "the additional restrictions supported by the attorneys general would reduce competition for adults smokers," which would result in a benefit for Philip Morris who has the largest market share of cigarettes (197). However, Attorney General Lockyer responded by saying, "some companies that have a smaller market share than Reynolds are restricting their advertising" (197). In June 2001, San Diego Superior Court Judge Ronald S. Prager ruled that R.J. Reynolds made "absolutely no changes to its advertising campaigns" and failed to reduce youth exposure to tobacco advertising in its market planning and did not track its progress to meet that goal (198). As such, the Judge ordered R.J. Reynolds to pay \$20 million in fines as well as the attorneys' fees, as well as taking immediate action to comply with the provisions of the MSA which prohibits the direct or indirect targeting of youth in advertising, promotions and marketing (198).

Swedish Match

In May, 2001, the Attorney General Bill Lockyer filed suit in the Santa Cruz Superior Court against the smokeless tobacco manufacturer Swedish Match North America, Inc., alleging illegal distribution of free tobacco samples on public grounds (199); a suit very similar to the one filed against R.J. Reynolds. Swedish Match distributed the smokeless tobacco products to hundreds of attendees at the Watsonville Speedway and the California Mid-State Fair in Paso Robles (200). The case was settled in July 2001 (200). A permanent injunction was issued for Swedish Match to be “permanently restrained and enjoined from engaging in, directing, facilitating, or participating in any manner in the nonsale distribution on public grounds, in the State of California, of smokeless tobacco or other tobacco products, or coupons, coupon offers, or rebate offers for smokeless tobacco or other tobacco products” (201). In lieu of civil penalties, Swedish Match also agreed to pay \$375,000 to the Public Health Institute, a public health research organization, who would, in cooperation with the Tobacco Control Section, use the funds for the Public Health Trust project to address the harm caused by Swedish Match by distributing free smokeless tobacco products (201). Ten percent of the funds (\$37,500) may be retained by the Public Health Institute for administrative purposes and distribute the remaining funds, in conjunction with the Tobacco Control Section, to address the harms caused by Swedish Match, including: a) developing programs to monitor events in California at which it is likely that tobacco products may distributed for free, b) funding tobacco prevention, education and/or cessation programs, c) contracting with the Tobacco Education Clearinghouse of California to produce materials to eliminate tobacco-sponsored events and tobacco use on public grounds, and d) funding the production of educational materials on smokeless tobacco products (201). The settlement also required Swedish Match to reimburse the California Attorney General's Office a total of \$10,200 for investigate costs incurred for the case (201).

U.S. Smokeless Tobacco

In October, 2001, Attorney General Bill Lockyer settled a case with U.S. Smokeless Tobacco Company in which it was alleged that the company was distributing free tobacco products on public grounds at the Placer County fairgrounds in Auburn and at the Alameda County fairgrounds in Livermore (202, 203). U.S. Smokeless Tobacco Company, which produces Skoal, Copenhagen and Rooster brand tobacco products, agreed to permanently stop the distribution of free samples on public grounds in California. The company also agreed to pay \$150,000 to the Public Health Institute and reimburse the California Department of Justice for investigative costs in the amount of \$21,000 (202, 204). The Public Health Institute may retain ten percent of the funds (\$15,000) for administrative purposes and distribute the remaining funds, in conjunction with the Tobacco Control Section, to address the harms allegedly caused by U.S. Smokeless Tobacco through the same types of opportunities listed in the U.S. Smokeless Tobacco case (see above) (204).

Philip Morris

In Spring and Fall, 2000, Philip Morris distributed book covers to schools throughout California (8) (Figure 16). Upon receipt of this information, Attorney General Bill Lockyer sent a letter to Philip Morris, on February 22, 2001, asking Philip Morris discontinue this practice and

recall the book covers. On March 13, 2001, Denise Keane, Senior Vice President and General Counsel for Philip Morris responded to the letter stating,

We wholeheartedly believe that the book covers that we developed communicated the right message, and we undertook their circulation for one reason only - that we were confident that they could play a role in the continuing need to encourage children not to smoke. That having been said, we are committed to continuously improving our process and working collaboratively. It is for these reasons that we decided to discontinue the distribution of book covers unless and until we could develop a more effective way to engage interested and responsible stakeholders (8).

In response, Attorney General Lockyer wrote back stating his concerns about Philip Morris' research that indicated that their "Don't Smoke" message was an effective strategy to prevent youth smoking. He wrote

Corky Newton, the recently retired Vice President of Corporate Responsibility and Youth Smoking Prevention at Brown and Williamson Tobacco Company, agrees that the "Don't Smoke" message is ineffective in dissuading teens from smoking. In her newly published book about how to protect teenagers from smoking, Ms. Newton claims that teenagers think of the word "don't" as a challenge to rebel. They dislike being told "don't" and everyone knows such a message is an ineffective form of communicating rules to teenagers (205).

Ultimately, Philip Morris recalled the book covers. In a letter from the Attorney General Bill Lockyer and then Superintendent of Education Delaine Easton to the County and District Superintendents of Education, dated April 13, 2001, Philip Morris' agreement to cooperate was reported to the local superintendents of education and concluded by saying, "The schools, in conjunction with the parents should decide which materials are most effective in implementing youth tobacco products prevention programs, not the company selling Marlboro, the number one brand of cigarettes among children" (206).

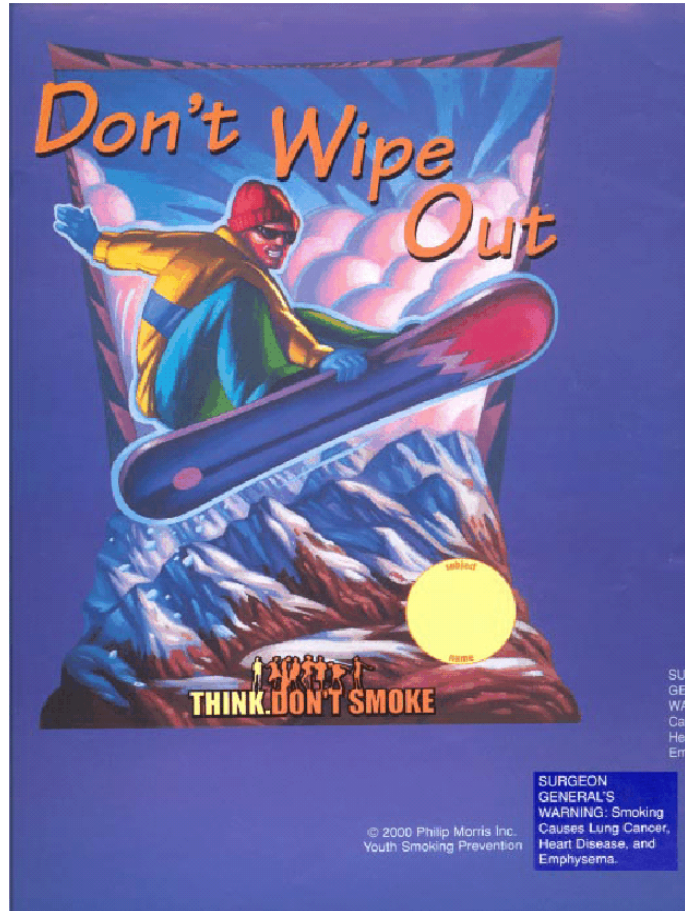


Figure 16: An example of Philip Morris' bookcovers

Brown & Williamson

In 2001, Brown and Williamson refused to pay its share of approximately \$204 million in MSA payments to the 46 states and six U.S. territories because it disputed the calculations used to determine the payment owed to each state. After negotiations with the National Association of Attorneys General's (NAAG) Tobacco Committee, Brown and Williamson agreed to make the back payments on the date of their next annual payment, April 15, 2002 (207). California's share of this payment was \$30 million.

Dirt Cheap Cigarettes

In April, 2003, Attorney General Bill Lockyer filed suit against five out-of-state tobacco retailers, following months of investigation with as many as 39 other states (208). The five companies named in the suit included Dirt Cheap Cigarettes Inc. (Missouri), smokin 4 less (Virginia), Cyco.net Inc. (New Mexico), eSmokes (Florida), and LLP Enterprises/CigOutlet (Virginia) (208). The companies were accused of selling cigarettes to minors through the Internet and failing to report tobacco sales to California's tax authorities, thereby reducing revenues from the state excise tax (209). It was estimated by the Board of Equalization that \$54 million in tax revenue was lost in the previous fiscal year as a result of Internet merchants who had failed to report their sales to California officials (208). The lawsuit requests the permanent prohibition of these practices and a minimum combined penalty of \$1 million (210). As of this writing (May 2003), this suit was still pending.

Settlements with other Corporations

Attorney General Bill Lockyer also worked in conjunction with several other states' Attorneys General to reach settlements with two major corporations to curb the sale of tobacco products to minors (211, 212). In February 2002, the Attorneys General settled with Walgreens to implement new policies to reduce the sale of tobacco products to minors. Walgreens agreed under the "Assurance of Voluntary Compliance" to standards for hiring and training of employees on the sale of tobacco products (211). Attorney General Lockyer said, "While many retailers express their desire to reduce underage sales, Walgreens has demonstrated its commitment to taking important steps to ensure that clerks are properly trained, I.D.'s are checked, self-service displays of tobacco products are eliminated and all tobacco sales are monitored. Walgreens should be commended for providing a national model for retailers across the country who are concerned about the health of their young customers" (211). Walgreens clerks are required to check the identification of all customers who appear to be under the age of 27, will continue to use cash registers that require clerks to enter the customers' information from photo identification, and will use an outside firm to conduct random compliance checks (212).

Six months later, in August 2002, Attorney General Lockyer and law enforcement officials from 42 other states, reached an agreement with Exxon Mobil Corp. to implement new policies to reduce the sale of tobacco products to minors (212). The terms of the agreement with Exxon Mobil are almost identical to those reached with Walgreens. Additionally, Exxon Mobil agreed to make "good-faith efforts to ensure that the 16,000 gas stations displaying the Exxon or

Mobil names, but not operated by Exxon Mobil Corp., comply with laws governing the sale of tobacco to minors” (212).

Individual Private Lawsuits

In addition to legal actions taken by the California Attorney General's Office, there were several private lawsuits pursued between 2001 and 2002, several of which gained national attention. However, when the judgement was made in the plaintiff's favor, the tobacco company defendant appealed the case and the judgements were reduced. (This reduction in judgements is not unusual and, even after the reductions, the judgements remained substantial.)

In March 2001, Richard Boeken, represented by Michael J. Piuze, filed a complaint against Philip Morris in the California Superior Court in Los Angeles (213). Mr. Boeken alleged negligence, strict liability, deceit/fraudulent concealment, false representation and breach of express warranty. Boeken became a regular smoker in 1957 at the age of 13 and was a two-pack per day smoker for 40 years and he was diagnosed with lung cancer in 1999 (214). In June, 2001 a jury awarded Boeken \$3 billion in punitive damages and \$5.5 million in compensatory damages, making it the largest damage award ever for an individual's suit against a tobacco company (215). The award was reduced by Superior Court Judge Charles McCoy on August 9, 2001, to \$100 million after Philip Morris appealed the case (216). Richard Boeken died of cancer in January 2002 (217).

The Boeken case would be overshadowed the following year by Los Angeles County Superior Court Judge Susan Bryant-Deason (218). Betty Bullock began smoking in the 1950s at the age of 17 and was diagnosed with cancer in 2001. Bullock was represented by the same attorney who represented Boeken, Michael J. Piuze. Bullock alleged that Philip Morris had manufactured and sold cigarettes that were defective in design, concealed the dangers of cigarettes and the addictiveness of nicotine, manipulated the levels of nicotine to keep smokers addicted, misled the public about the harm of cigarettes, and conspired with other companies in doing so (218). In September, 2002, Bullock was awarded \$850,000 in compensatory damages and an additional \$28 billion in punitive damages (219), making the award the largest penalty against a tobacco company. In December, 2002, on appeal from Philip Morris, Judge Warren Ettinger denied Philip Morris' request for a new trial, but lowered the amount of punitive damages to \$28 million (219). While Mrs. Bullock decided to appeal the decision in December 2002, there have been no further developments as of this writing (May 2003).

Price et al. v. Philip Morris

The trend in tobacco companies successfully working to reduce financial payments as a result of litigation came to a head April, 2003. Philip Morris Incorporated was the defendant in a class action lawsuit filed in the Third Circuit Court in Madison County, Illinois in February 2000, alleging that Philip Morris had been in violation of Illinois' Consumer Fraud and Deceptive Practices Act (30). The plaintiffs claimed that Philip Morris had deceptively labeled Cambridge Lights and Marlboro Lights as having decreased tar and nicotine delivery systems, when this was not true (30). The plaintiffs sought reimbursement for the price of cigarettes purchased plus interest, as well as punitive damages and legal fees.

On March 21, 2002, Judge Nicholas G. Byron, of the Third Judicial Circuit Court in Madison County, issued a judgement. The judgement stated that Philip Morris was to pay \$7.1005 billion in compensatory damages, \$3 billion in punitive damages and attorneys' fees in the amount of 25% of the compensatory damages (approximately \$1.8 billion) (220). The judgement further stated "That Defendant's request for stay of execution of this Judgement is allowed for a period of thirty days from the entry of this Order. Thereafter, the enforcement of the Judgment will be stayed only if an appeal bond is presented and approved...Bond is set in the amount of twelve billion dollars" (220).

On March 27, 2002, Denise F. Keane, Senior Vice President and General Counsel for Philip Morris wrote to Washington Attorney General Christine O. Gregoire. In the letter, Ms. Keane stated, "Philip Morris will, as it always has in the past, endeavor to meet all of its payment obligations under the MSA, including its obligation to make the \$2.5 billion payment due on April 15, 2003. However, because of the extraordinary amount of the bond presently required by the Madison County trial judge, it is presently uncertain whether Philip Morris USA will be able to make the Section IX (c) payment on April 15" (33). Keane goes on to say

Philip Morris is not financially able to post the enormous bond that the Madison County court has demanded. In this regard, we are prepared to share with you, subject to appropriate confidentiality, non-public Philip Morris USA financial information demonstrating that Philip Morris USA is unable to post a bond in such an amount. Unfortunately, efforts to date have been unavailing in persuading the Illinois legislature to pass reasonable bond cap legislation. We are available at any time to discuss with you all measures that are being taken to avoid a failure of payment on April 15 (33).

The bond effort mentioned in the letter failed after the Senate Executive Committee voted 7-3 against the bill to capping bond amounts (221).

In response, Attorney General Christine O. Gregoire, along with 36 other Attorneys Generals – not including California Attorney General Bill Lockyear, filed a Brief of Amici Curiae to the Third Judicial Circuit Court in Madison County, Illinois. The brief stated that Philip Morris had informed the states of its inability to make the scheduled MSA payment and the \$12 billion appeal bond and that many state programs were dependent upon its share of the scheduled MSA payment on April 15, 2003 (35).

After indicating the amount per state that was in question, the Brief asked the Court "to exercise its discretion to set an appeal bond that does not endanger vital interests of the state" (35). Finally, the Brief stated

- 1) Failure by Philip Morris to make its \$2.6 billion payment on April 15, 2003 would irreparably injure vital public health and safety interests of the States [including public health efforts and tobacco prevention programs].
- 2) Any substantial delay in the receipt of Philip Morris' payment would severely prejudice the States [as states' fiscal years end on June 30 and without Philip Morris payments, programs would have to be cut].
- 3) This Court should act on the request to reduce the appeal bond before April 15 (35).

This amicus was widely criticized by health advocates as putting the attorneys general who filed it in league with the tobacco industry and opposed to public health. They found the allusion to public health programs particularly problematic, since so little of the MSA money actually went to tobacco control or public health.

On April 4, 2003, Philip Morris filed several motions in an attempt to appeal the decision in the class action lawsuit, including a reduced appeal bond and an appeal of the \$3 billion in punitive damages. The brief stated, "The only issue that Philip Morris USA raises for this Court's consideration and determination is whether the award of punitive damages to the State of Illinois contained in the *Price* judgment is released under the Master Settlement Agreement (MSA) into which the State entered with various cigarette manufacturers, including Philip Morris USA, in November 1998" (222). The motions also sought a reduced appeal bond, claiming that Philip Morris was unable to pay such a bond (222); this point was disputed by University of Illinois Professor Emeritus, former Associate Dean for Executive Education, and former Chairperson of the Department of Finance, Charles Linke. Upon review of Philip Morris' 2002 Annual Report, Professor Linke concluded that Philip Morris would be able to make the bond payment and scheduled MSA payments (223).

Despite the dispute over Philip Morris' financial status, Judge Nicholas Byron "ordered an appeal bond secured by \$800 million in cash payable in four equal quarterly installments of \$200 million beginning in September 2003, and a preexisting \$6 billion long-term note to be placed in escrow pending the resolution of the case" (223).

LOCAL EFFORTS TO USE THE MASTER SETTLEMENT AGREEMENT FUNDS

As a result of the 1998 Master Settlement Agreement (MSA), California was expected to receive \$21.4 billion over 25 years. Half of the MSA revenues were to be divided between 58 counties and four cities (Los Angeles, San Diego, San Francisco, and San Jose) (224). While the State of California made the decision to securitize MSA revenues in 2003, revenues due to the counties and cities remain in tact.

California began receiving its share of the MSA payments in 2000. In 2001, less than one-third of the counties had allocated any portion of the funds for tobacco control efforts (1). While several counties have not decided how to spend those dollars, by September, 2002, less than half of the counties had allocated any of the MSA revenues to tobacco control efforts (Table 36) (225). Additionally, there were several counties that followed the example set by the state and securitized their share of funding, including the counties of Merced, Modoc, and Tulare. Merced, which has an adult smoking prevalence of 17.8% and whose cost associated with smoking in 1999 totaled \$94.2 million, used the one time payment of \$22 million to pay for a new juvenile hall and an animal shelter. Modoc, which has an adult smoking prevalence of 23.3% and whose cost associated with smoking in 1999 totaled \$6.6 million, used the funds from the securitization to pay off the debt of the county hospital. Finally, Tulare, which has an adult smoking prevalence of 18% and a \$164.4 million cost associated with smoking in 1999, did not indicate for what purpose the securitized revenues would be used.

Table 36: 1999 Cost of Smoking and FY01-02 Use of Master Settlement Agreement Funds, by County

County/City	Smoking Prevalence	Cost of Smoking (in thousands)	Master Settlement Agreement		
			Initial Payment (in thousands)	Annual Payment (in thousands)	Use of Funds
Alameda	13.3%	\$710,496	\$5,925	\$15,830	100% dedicated to health care
Alpine	19.2%	\$542	\$5	\$14	100% placed in county's general fund
Amador	19.3%	\$22,549	\$139	\$372	20% of funds received to date are allocated to tobacco control; remaining funds are used for road repair and contingency fund
Butte	23.5%	\$141,737	\$844	\$2,254	No decision made yet; proposed to use funds for medical, education/prevention, enforcement and cessation activities
Calaveras	18.6%	\$33,348	\$148	\$396	Action pending
Colusa	23.1%	\$12,911	\$75	\$201	\$350,000 allocated to Colusa Regional Medical Center; remaining funds are unallocated
Contra Costa	17.5%	\$428,587	\$3,723	\$9,946	Total amount given to Contra Costs Health Services to provide indigent care
Del Norte	23.7%	\$16,699	\$109	\$290	(Not available)
El Dorado	18.6%	\$92,782	\$584	\$1,559	From 2002-2006, 85% of the funds will go to public health programs and 15% to anti-smoking education
Fresno	17.9%	\$337,383	\$3,092	\$8,260	100% placed in county's general fund
Glenn	23.1%	\$15,262	\$115	\$307	100% placed in county's general fund
Humboldt	23.4%	\$84,837	\$552	\$1,474	Bulk of funds remain in general fund, \$75,000 for tobacco control and \$140,000 for alcohol and other drug treatment
Imperial	18.1%	\$63,881	\$506	\$1,353	No decision made yet; proposed to use funds for prevention and enforcement
Inyo	18.6%	\$9,900	\$85	\$226	Board of Supervisors is soliciting funding proposals
Kern	18.3%	\$329,688	\$2,517	\$6,725	\$32.6 million used for capital projects; remaining amount is invested in a trust fund (expected annual interest: \$3.5 million)
Kings	18.6%	\$51,737	\$470	\$1,256	(Not available)
Lake	23.5%	\$47,424	\$235	\$627	A portion to be used for Basin 2000 sewer project; remaining revenue to go to general fund
Lassen	24.3%	\$18,255	\$128	\$342	(Not available)
Los Angeles	17.5%	\$4,255,752	\$41,055	\$109,681	\$17 million each to ambulatory care and tobacco control and prevention, and \$11 million to community maternal health
Madera	18.3%	\$56,265	\$408	\$1,090	Revenues deposited into a capital improvement fund
Marin	16.2%	\$110,610	\$4,066	\$2,847	Board of Supervisors has agreed to give up rights to settlement dollars to settle a lawsuit with tobacco companies; in return, county is to receive \$30.6 million in tax exempt revenue bonds
Mariposa	18.8%	\$11,179	\$66	\$177	(Not available)
Mendocino	23.3%	\$60,988	\$372	\$994	No decision made yet; proposed to use funds for prevention
Merced	17.8%	\$94,156	\$826	\$2,208	Board of Supervisors voted to securitize their revenues, in return for approximately \$22 million to be used for a new juvenile hall and animal shelter
Modoc	23.3%	\$6,587	\$45	\$120	Board of Supervisors decided to securitize the revenues to pay off the debt of the hospital
Mono	19.0%	\$5,613	\$46	\$123	Funds for next 2 years to be used to pay off the remaining \$1.4 million debt from the county hospital; after that, funds are likely to be used for treatment of tobacco-related illness or paramedic services
Monterey	16.9%	\$169,948	\$1,647	\$4,401	Funds to be used for health services, public works, capital projects and health coalition trust fund
Napa	16.0%	\$65,694	\$513	\$750	Funds to be used for health-related services (including cessation, community clinics, children's mental health services, alcohol/drug stabilization, community dental clinic and media)
Nevada	14.5%	\$59,206	\$364	\$972	Funds to be used to increase county employee salaries
Orange	18.3%	\$1,104,084	\$11,166	\$29,830	\$2.2 million was allocated for tobacco control
Placer	18.5%	\$137,434	\$800	\$2,138	Board of Supervisors have placed the funds into a "Reserve Account;" use to be determined
Plumas	23.4%	\$17,415	\$91	\$244	(Not available)
Riverside	20.9%	\$821,320	\$5,421	\$14,484	No decision has been made yet; proposed to be used for enforcement, media, and prevention

County/City	Smoking Prevalence	Cost of Smoking (in thousands)	Master Settlement Agreement		
			Initial Payment (in thousands)	Annual Payment (in thousands)	Use of Funds
Sacramento	16.8%	\$627,280	\$4,823	\$12,885	Funds used to create a one-time fund (mental health programs, health care, clean air refuse trucks, and increase country reserve), Tobacco Settlement Fund (tobacco prevention programs, personal/public health programs), and Capital Project Fund (health/community facilities)
San Benito	16.6%	\$20,899	\$170	\$454	100% placed in county's general fund
San Bernardino	20.8%	\$818,455	\$6,570	\$17,552	\$38.8 million to the Medical Center reserve and debt center, \$1 million each for smoking cessation/tobacco education and indigent health care
San Diego	18.1%	\$1,249,274	\$11,571	\$30,913	100% to health care, mental health, alcohol and drug services, HIV/AIDS services, health education, juvenile diversion programs, domestic violence, tobacco education and prevention, chronic disease and cancer institute
San Francisco	18.4%	\$432,979	\$7,183	\$19,189	\$1 million annually for tobacco control, including enforcement, capacity building, media, cessation and evaluation
San Joaquin	18.4%	\$318,792	\$2,226	\$5,948	40% to health care facilities, 20% to road projects, 20% to capital projects, 20% to automation expansion/replacement
San Luis Obispo	13.8%	\$111,585	\$1,006	\$2,687	\$1 million was used to create the Community Health Grant Fund; \$1 million annually to County Health Dept. \$750,000 to Preventive Care Advisory Committee, and \$250,000 to be added to endowment
San Mateo	17.5%	\$348,551	\$3,009	\$8,039	100% to Health Services Agency; \$270,000 used for tobacco control in FY01-02 for enforcement, media, cessation, community based prevention services, and evaluation
Santa Barbara	13.7%	\$159,126	\$1,712	\$4,574	20% of annual revenues to be deposited into endowment for the next 12 years; remainder to be used for tobacco prevention, treatment and education, Project Clean Water, hospital and emergency room care, specialty medical care, adult/aging program, dental health and air pollution
Santa Clara	13.1%	\$645,170	\$6,937	\$18,532	\$1 million annually to tobacco control and prevention and \$3 million annually to the Children's Health Initiative
Santa Cruz	16.9%	\$103,172	\$1,064	\$2,843	\$150,000 annually to augment tobacco enforcement and tobacco control media efforts
Shasta	23.2%	\$129,967	\$681	\$1,820	75% allocated for new county buildings and use of the remaining funds is undecided
Sierra	18.7%	\$1,634	\$15	\$41	100% placed in county's general fund
Suskiyou	23.3%	\$30,538	\$202	\$539	100% placed in county's general fund
Solano	17.5%	\$187,073	\$1,577	\$4,213	Yet to be decided; will be based on the priorities of reducing rates of tobacco, alcohol, and other drug use, and improving access to quality primary and preventive health services
Sonoma	15.9%	\$216,853	\$1,798	\$4,804	\$1 million for local health programs (infrastructure for primary care clinics, reduce youth tobacco use initiative, cessation support for low-income and medically underserved smokers, and infant car seat programs)
Stanislaus	17.9%	\$227,237	\$1,716	\$4,585	\$2 million to community centers; \$4 million to rebuild streets
Sutter	18.4%	\$48,755	\$298	\$797	(Not available)
Tehama	23.2%	\$43,947	\$230	\$614	No decision has been made yet; proposed to be used for tobacco control prevention and enforcement and health services to improve access to care and improve public health
Trinity	23.4%	\$13,206	\$61	\$162	100% placed in county's general fund
Tulare	18.0%	\$164,426	\$1,445	\$3,860	Securitized total revenues
Tuolumne	19.0%	\$35,122	\$224	\$600	Proposal to spend funds on county hospital
Ventura	13.5%	\$304,329	\$3,099	\$8,000	\$8 million on health care programs, including \$1.2 for tobacco prevention
Yolo	23.5%	\$85,424	\$564	\$1,746	No decision made yet; proposed to use funds to improve roads and bridges, build a new health department and probation building
Yuba	18.4%	\$41,718	\$270	\$721	(Not available)

Source for smoking prevalence and cost of smoking: Max et. al., 2002. The Cost of Smoking in California.

Source for MSA payments and use of funds: American Lung Association of California, 2002. Tracking Tobacco Settlement Funds, California: Tracking By City and County.

The remaining counties chose to deposit the revenues to the general fund or allocate it for public works, capital projects, health care or tobacco control. Of the counties that chose to use some portion of their MSA funds for tobacco control efforts, most funded smoking cessation programs, media campaigns, and tobacco use prevention and education. While the State of California's 1999 adult smoking prevalence was 18.0%, the prevalence dropped to 16.6% in 2002. The local rates of tobacco use in 1999 were as high as 23.7% in Del Norte County (information on use of MSA funds was unavailable) and as low as 13.1% in Santa Clara County where \$1 million of the MSA revenues is allocated annually to tobacco control and prevention (16, 225). In addition to the wide range in adult smoking prevalence across the state, there is also a wide range of costs associated with smoking across the state. The cost incurred by counties as a result of smoking in 1999 ranged from a low of \$58 per resident in El Dorado County where the smoking rate was 18.6% and 15% of the MSA revenues are allocated to anti-smoking education to a high of \$67 per resident in Plumas County where the smoking rate was 23.4% (information on use of MSA funds was unavailable) (16, 225).

CONCLUSION

Tobacco control efforts in California during the 2001-2002 legislative session were hampered by a resurgence of the tobacco industry and a lack of commitment from the Davis Administration. While the tobacco industry continues to spend over one billion dollars annually on advertising and promotion and spent almost \$6 million in political expenditures during the 2001-2002 legislative session, the Davis Administration has maintained a tobacco control policy that only reacts to pressure rather than prevents the influence of the tobacco industry from spreading. While smoking prevalence is on the decline and funds for tobacco control efforts were not threatened in the Governor's budget, Governor Davis' words have not matched his actions. While Governor Davis speaks highly of the Tobacco Control Program, actions to reinvigorate the program have only been taken when pressured to do so, either by health advocates or, in one case, a legal challenge by the tobacco industry.

First, it appears that the tobacco industry has shifted its strategy in California from attacking efforts to continue to advance clean indoor air to attacks specifically on the Tobacco Control Program, specifically its funding. The tobacco industry supported a weak licensing bill that raided Proposition 99 and Proposition 10 accounts to fund enforcement of the weak bill. In addition, R.J. Reynolds directly attacked the California Tobacco Education Media Campaign, a strategy which was discouraged by the industry's lawyers (Covington and Burling in Washington, DC as well as its California attorneys) in 1990 (67).

In response to the tobacco industry's actions, the Davis Administration has only acted only when pressured to do so. In 2000, Governor Davis allocated reserved funds in addition to the Proposition 99 revenues to increase the budget for the highly effective Media Campaign and MSA funds to create a youth anti-smoking program in 2001. However, these appropriations were a one time action, not to be continued in 2002. As a result of litigation from R.J. Reynolds and Lorillard in April 2003, Governor Davis once again stood up for the Media Campaign. However, this is a practice that only occurs when his hand is forced and that force must continue to come

from the health advocates. In order to be a leader in tobacco control across the nation and around the world, California needs leaders who are committed to improving the health of Californians, not elected officials who solely react to the political climate.

While vigorous action by health groups has prevented passage of substantial pro-tobacco legislation (particularly the licensing bill in all its various forms), the legislation that has passed has been largely functioning at the margins of tobacco control. The two most important areas of legislative action – a substantial tax increase and reinvigoration of the state tobacco control program – received little attention in the Legislature during 2001-2002.

California is no longer the premier tobacco control program in the country as it once was. While the rate of smoking in California has declined greatly from 21.7% when the Tobacco Control Program began to 16.6% in 2002, it is not enjoying the same levels of progress seen in early years, when Governor Deukmejian left the program alone and let the Department of Health Services run an edgy Media Campaign and aggressive local programs. In May 1999, Governor Davis said, “We are in a race with tobacco. The race is between the health of Californians and tobacco's bottom line, and I intend to see that Californians finish first (May 1999)” (84). While recent events have forced action on the part of the Administration, time will tell if Governor Davis makes the commitment to see that California does "finish first." To date, this rhetoric has not been matched with the resources to meet this commitment.

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Appendix A: Tobacco Industry Campaign Contributions to Legislators and Legislative Candidates, 1967-2002

Name of Candidate	A/S	Party	Dist.	B/W	PM	Miller Brewing	Kraft Foods	RJR	STC	CDA				2001-2002 Total	1999-2000 Total	1997-1998 Total	1976-1996 Total	Grand Total	Tob. Policy Score
										PAC	TI	UST	LOR						
Aanestad, Sam ^	A	R	3											\$0	\$500	\$0	\$0	\$500	3.5
Aghazarian, Greg *	A	R	26		\$6,000			\$1,000						\$7,000	\$0	\$0	\$0	\$7,000	.
Alquist, Elaine White	A	D	22											\$0	\$0	\$0	\$0	\$0	6.5
Arguello, Dan *	A	D	49		\$3,000									\$3,000	\$0	\$0	\$0	\$3,000	.
Aroner, Dion	A	D	14											\$0	\$0	\$0	\$0	\$0	9.8
Ashburn, Roy	A	R	18		\$13,500			\$1,000						\$15,500	\$12,250	\$40,500	\$1,000	\$69,250	2.3
Bagatelos, Jonathan P. *	A	R	10		\$3,000			\$3,000						\$6,000	\$0	\$0	\$0	\$6,000	.
Bates, Patricia	A	R	73		\$6,000			\$2,000						\$8,000	\$9,250	\$0	\$0	\$17,250	3.5
Benoit, John *	A	R	64	\$1,000	\$3,000									\$4,000	\$0	\$0	\$0	\$4,000	.
Bogh, Russ	A	R	65		\$3,000			\$3,000		\$1,000				\$7,000	\$0	\$0	\$0	\$7,000	2.7
Briggs, Mike	A	R	29		\$10,000			\$3,000	\$750					\$13,750	\$3,500	\$0	\$0	\$17,250	2.3
Calderon, Ronald	A	D	58		\$3,000			\$0						\$3,000	\$13,000	\$0	\$0	\$16,000	4.3
Campbell, Bill	A	R	71											\$0	\$32,750	\$1,500	\$1,000	\$35,250	2.3
Campbell, John	A	R	70		\$6,000			\$2,000						\$10,000	\$8,000	\$0	\$0	\$18,000	2.3
Canciamilla, Joe	A	D	11		\$25,000	\$15,000								\$40,000	\$7,500	\$0	\$0	\$47,500	4.3
Cardenas, Tony	A	D	39						\$1,000					\$1,000	\$7,000	\$0	\$1,000	\$9,000	5.5
Cardoza, Dennis	A	D	26		\$4,000	\$10,000								\$14,000	\$73,500	\$1,250	\$12,750	\$101,500	3.5
Cedillo, Gil ^	A	D	22							\$1,000				\$1,000	\$0	\$0	\$0	\$1,000	8.0
Chan, Wilma	A	D	16											\$0	\$0	\$0	\$0	\$0	8.8
Chavez, Edward	A	D	57		\$35,000	\$22,000		\$1,000			\$1,000	\$1,000		\$60,000	\$10,000	\$0	\$0	\$70,000	5.0
Chu, Judy	A	D	49							\$1,000				\$1,000	\$0	\$0	\$0	\$1,000	7.8
Cogdill, Dave	A	R	25		\$6,000			\$3,000						\$9,000	\$20,000	\$0	\$0	\$29,000	3.0
Cohn, Rebecca	A	D	24		\$5,000	\$5,000								\$10,000	\$0	\$0	\$0	\$10,000	7.3
Corbett, Ellen	A	D	18							\$1,000				\$1,000	\$0	\$0	\$0	\$1,000	7.5
Correa, Lou	A	D	69											\$1,000	\$5,000	\$0	\$0	\$6,000	4.3
Cox, Dave	A	R	5		\$6,000									\$7,000	\$16,750	\$0	\$0	\$23,750	2.0
Daucher, Lynn	A	R	72		\$11,000			\$2,000						\$14,000	\$2,500	\$0	\$0	\$16,500	3.0
Diaz, Manny	A	D	23		\$3,000									\$3,000	\$0	\$0	\$0	\$3,000	6.7
Dickerson, Richard ^	A	R	2		\$6,000			\$2,000						\$8,000	\$22,500	\$0	\$0	\$30,500	2.0
Dutra, John	A	D	20		\$3,000									\$3,000	\$0	\$0	\$0	\$3,000	5.0
Dutton, Robert *	A	R	63	\$1,000	\$3,000									\$4,000	\$0	\$0	\$0	\$4,000	.
Dymally, Mervyn *	A	D	52					\$4,000						\$5,000	\$0	\$0	\$0	\$5,000	.
Firebaugh, Marco A.	A	D	50		\$3,000			\$1,000						\$6,000	\$15,500	\$0	\$1,100	\$22,600	7.0
Florez, Dean	A	D	30											\$0	\$750	\$0	\$0	\$750	6.3
Frommer, Dario	A	D	43											\$0	\$0	\$0	\$0	\$0	8.0
Gallegos, Martin	A	D	57							\$750	\$3,000			\$3,750	\$2,000	\$0	\$4,550	\$10,300	.
Garcia, Bonnie *	A	R	80					\$1,000						\$1,000	\$0	\$0	\$0	\$1,000	.
Goldberg, Jackie	A	D	45											\$0	\$0	\$0	\$0	\$0	8.0
Hardy, Steve *	A	D	8		\$3,000					\$1,000				\$5,000	\$0	\$0	\$0	\$5,000	.
Harman, Tom	A	R	67		\$6,000			\$2,750						\$9,750	\$5,500	\$0	\$0	\$15,250	3.0
Havice, Sally	A	D	56											\$0	\$0	\$0	\$500	\$500	5.8
Hertzberg, Robert M.	A	D	40		\$3,000									\$3,000	\$3,000	\$0	\$0	\$6,000	7.0
Hollingsworth, Dennis ^	A	R	36		\$6,000									\$6,000	\$5,250	\$0	\$0	\$11,250	2.5
Horton, Jerome	A	D	51	\$3,000	\$40,000	\$17,000				\$1,000				\$61,000	\$0	\$0	\$0	\$61,000	2.5
Houston, Guy Spencer *	A	R	15					\$0						\$0	\$0	\$0	\$0	\$0	.
Jackson, Hannah-Beth	A	D	35											\$0	\$0	\$0	\$0	\$0	8.0
Keeley, Fred	A	D	27											\$0	\$0	\$0	\$0	\$0	8.3
Keene, Rick *	A	R	3		\$3,000									\$3,000	\$0	\$0	\$0	\$3,000	.
Kehoe, Christine	A	D	76											\$0	\$0	\$0	\$0	\$0	7.8
Kelley, David G.	A	R	80											\$0	\$7,750	\$0	\$17,250	\$25,000	2.7
Koretz, Paul	A	D	42											\$0	\$0	\$0	\$0	\$0	8.5

Name of Candidate	A/S	Party	Dist.	B/W	PM	Miller Brewing	Kraft Foods	RJR	STC	CDA PAC	TI	UST	LOR	Others	2001-2002	1999-2000	1997-1998	1976-1996	Grand Total	Tob. Policy Score
															Total	Total	Total	Total		
LaMalfa, Doug *	A	R	2	\$2,000	\$3,000										\$5,000	\$0	\$0	\$0	\$5,000	.
LaSuer, Jay	A	R	77		\$6,000			\$750							\$6,750	\$7,500	\$0	\$0	\$14,250	1.7
Leach, Lynne	A	R	15												\$0	\$750	\$0	\$2,500	\$3,250	2.3
Leonard, Bill ^	A	R	63		\$8,000	\$5,000									\$13,000	\$9,000	\$82,250	\$21,000	\$125,250	2.0
Leslie, Tim	A	R	4		\$6,000			\$2,000							\$8,000	\$7,500	\$5,000	\$38,000	\$58,500	2.8
Levine, Lloyd *	A	D	40							\$500					\$500	\$0	\$0	\$0	\$500	.
Liu, Carol	A	D	44												\$0	\$0	\$0	\$0	\$0	7.3
Longville, John	A	D	62		\$3,000										\$3,000	\$7,500	\$0	\$0	\$10,500	6.5
Lowenthal, Alan	A	D	54												\$0	\$0	\$0	\$0	\$0	8.5
Maddox, Ken	A	R	68	\$3,000	\$6,000			\$2,000							\$11,000	\$12,000	\$0	\$0	\$23,000	3.3
Maldonado, Abel	A	R	33												\$0	\$2,250	\$0	\$0	\$2,250	5.7
Mathews, Barbara	A	D	17		\$13,000					\$2,500					\$15,500	\$11,500	\$0	\$0	\$27,000	5.3
Maze, Bill *	A	R	34		\$3,000										\$3,000	\$0	\$0	\$0	\$3,000	.
McCarthy, Kevin O. *	A	R	32		\$3,000										\$3,000	\$0	\$0	\$0	\$3,000	.
Migden, Carole	A	D	13		\$8,000	\$5,000									\$13,000	\$25,000	\$0	\$0	\$38,000	7.5
Mounjoy, Dennis	A	R	59		\$6,000			\$1,750							\$7,750	\$5,500	\$0	\$0	\$13,250	1.7
Nakano, George	A	D	53												\$0	\$0	\$0	\$0	\$0	7.3
Nation, Joseph	A	D	6												\$0	\$500	\$0	\$0	\$500	7.8
Negrette McLeod, Gloria	A	D	61												\$0	\$0	\$0	\$0	\$0	6.3
Oropeza, Jenny	A	D	55							\$1,000					\$1,000	\$0	\$0	\$0	\$1,000	7.3
Pacheco, Robert "Bob"	A	R	60		\$6,000			\$3,000							\$9,000	\$12,500	\$0	\$0	\$21,500	2.7
Pacheco, Rod	A	R	64		\$6,000			\$2,000							\$8,000	\$7,000	\$500	\$2,500	\$18,000	3.0
Papan, Lou	A	D	19					\$1,000							\$1,000	\$25,750	\$33,000	\$34,000	\$93,750	1.7
Pavley, Fran	A	D	41												\$0	\$0	\$0	\$0	\$0	7.5
Pescetti, Anthony	A	R	10		\$3,000										\$3,000	\$18,250	\$0	\$0	\$21,250	3.0
Plescia, George A. *	A	R	75	\$1,000	\$3,000										\$4,000	\$0	\$0	\$0	\$4,000	.
Reyes, Sarah	A	D	31		\$8,000										\$8,000	\$1,000	\$0	\$0	\$9,000	6.0
Richman, Keith	A	R	38		\$3,000	\$5,000									\$8,000	\$0	\$0	\$0	\$8,000	6.8
Runner, George	A	R	36		\$3,000										\$3,000	\$11,500	\$1,250	\$1,000	\$16,750	1.7
Runner, Sharon *	A	R	36		\$3,000										\$3,000	\$0	\$0	\$0	\$3,000	.
Salinas, Simon	A	D	28		\$3,000										\$3,000	\$0	\$0	\$0	\$3,000	7.7
Samuelian, Steven N. *	A	R	29		\$6,000										\$6,000	\$0	\$0	\$0	\$6,000	.
Shelley, Kevin	A	D	12												\$0	\$0	\$0	\$0	\$0	8.0
Simitian, S. Joseph	A	D	21		\$3,000										\$3,000	\$2,500	\$0	\$0	\$5,500	8.0
Spitzer, Todd *	A	R	71	\$1,000	\$3,000										\$4,000	\$0	\$0	\$0	\$4,000	.
Steinberg, Darrell	A	D	9												\$0	\$0	\$0	\$0	\$0	9.3
Strickland, Tony	A	R	37		\$41,000	\$15,000		\$3,000			\$1,000	\$3,000			\$63,000	\$14,500	\$0	\$0	\$77,500	2.0
Strom-Martin, Virginia	A	D	1												\$0	\$0	\$0	\$0	\$0	7.3
Thomson, Helen	A	D	8												\$0	\$5,000	\$0	\$0	\$5,000	6.5
Vargas, Juan	A	D	79												\$0	\$500	\$0	\$0	\$500	9.0
Washington Jr., Carl	A	D	52												\$0	\$0	\$0	\$2,500	\$2,500	5.8
Wayne, Howard	A	D	78												\$0	\$0	\$0	\$0	\$0	9.3
Wesson, Herb	A	D	47		\$38,000	\$3,000				\$6,000					\$47,000	\$16,692	\$0	\$0	\$63,692	4.7
Wiggins, Patricia	A	D	7		\$8,000										\$8,000	\$2,500	\$0	\$0	\$10,500	5.3
Wright, Roderick D.	A	D	48					\$2,500							\$2,500	\$20,750	\$31,500	\$37,250	\$92,000	2.3
Wyland, Mark	A	R	74	\$1,000	\$6,000			\$2,000							\$10,000	\$4,500	\$0	\$0	\$14,500	1.0
Wyman, Phil	A	R	34		\$3,000			\$2,000							\$5,000	\$1,000	\$0	\$0	\$6,000	1.0
Zettel, Charlene	A	R	75		\$6,000										\$6,000	\$0	\$0	\$0	\$6,000	4.8
TOTAL				\$13,000	\$444,500	\$102,000	\$0	\$53,750	\$1,750	\$16,750	\$0	\$8,000	\$13,000	\$0	\$652,750	\$516,692	\$196,750	\$177,900	\$1,544,092	5.3

Name of Candidate	A/S	Party	Dist.	B/W	PM	Miller Brewing	Kraft Foods	RJR	STC	CDA PAC	TI	UST	LOR	Others	2001-2002	1999-2000	1997-1998	1976-1996	Grand Total	Tob. Policy Score
															Total	Total	Total	Total		
Ackerman, Dick	S	R	33		\$6,000			\$3,000		\$1,500			\$1,000		\$11,500	\$33,955	\$24,000	\$1,000	\$70,455	1.0
Alarcon, Richard	S	D	20												\$0	\$0	\$500	\$0	\$500	5.5
Alpert, Deirdre	S	D	39		\$3,000					\$1,000					\$4,000	\$12,750	\$0	\$7,500	\$24,250	9.0
Battin, Jim	S	R	37		\$6,000			\$3,000	\$1,500	\$1,500					\$12,000	\$20,500	\$2,000	\$4,000	\$38,500	1.0
Bowen, Debra	S	D	28												\$0	\$0	\$0	\$0	\$0	8.0
Brulte, James	S	R	31		\$49,000			\$5,500					\$13,000		\$67,500	\$75,500	\$3,495	\$69,625	\$216,120	2.5
Burton, John	S	D	3							\$2,500					\$2,500	\$4,000	\$1,000	\$6,150	\$13,650	8.3
Chesbro, Wesley	S	D	2												\$0	\$0	\$0	\$0	\$0	9.7
Costa, Jim	S	D	16		\$3,000										\$3,000	\$21,000	\$7,000	\$49,750	\$80,750	3.0
Ducheny, Denise M.	S	R	40					\$2,000					\$2,500		\$4,500	\$0	\$0	\$0	\$4,500	.
Dunn, Joseph	S	D	34												\$0	\$8,000	\$0	\$0	\$8,000	7.7
Escutia, Martha M.	S	D	30												\$0	\$0	\$0	\$500	\$500	8.0
Figuroa, Liz	S	D	10												\$0	\$0	\$0	\$500	\$500	7.7
Haynes, Ray	S	R	36		\$6,000			\$1,000							\$7,000	\$11,000	\$6,750	\$12,500	\$37,250	1.5
Johannessen, Maurice	S	R	4		\$3,000			\$1,000				\$1,000			\$5,000	\$2,500	\$750	\$2,500	\$10,750	2.0
Johnson, Ross	S	R	35		\$6,000			\$1,000							\$7,000	\$83,000	\$111,500	\$84,250	\$285,750	1.5
Karnette, Betty	S	D	27												\$0	\$0	\$0	\$0	\$0	7.7
Knight, William J. Pete	S	R	17		\$3,000			\$1,000							\$4,000	\$1,500	\$500	\$13,500	\$19,500	1.0
Kuehl, Sheila	S	D	23												\$0	\$0	\$0	\$0	\$0	7.3
Machado, Mike	S	D	5		\$20,000					\$3,750			\$1,000		\$24,750	\$80,344	\$27,500	\$5,750	\$138,344	6.0
Margett, Bob	S	R	29		\$6,000			\$2,000					\$1,000		\$9,000	\$8,750	\$1,400	\$3,000	\$22,150	2.5
McClintock, Tom	S	R	19		\$3,000			\$2,000		\$1,000					\$6,000	\$13,318	\$1,000	\$3,500	\$23,818	2.5
McPherson, Bruce	S	R	15							\$2,500					\$2,500	\$6,000	\$0	\$0	\$8,500	7.5
Monteith, Dick	S	R	12		\$3,000			\$3,000							\$6,000	\$2,000	\$0	\$1,750	\$9,750	1.5
Morrow, Bill	S	R	38		\$4,000			\$1,000					\$1,000		\$6,000	\$22,000	\$5,500	\$22,250	\$55,750	2.0
Murray, Kevin	S	D	26	\$1,500	\$6,000			\$2,000		\$1,000			\$1,000		\$11,500	\$15,000	\$500	\$10,000	\$37,000	3.5
O'Connell, Jack	S	D	18												\$0	\$0	\$0	\$22,500	\$22,500	3.8
Oller, Thomas "Rico"	S	R	1		\$6,000			\$1,000							\$7,000	\$29,500	\$1,000	\$2,000	\$39,500	1.5
Ortiz, Deborah	S	D	6												\$0	\$0	\$0	\$0	\$0	9.0
Peace, Steve	S	D	40		\$3,000					\$1,000					\$4,000	\$21,000	\$6,000	\$35,000	\$66,000	4.3
Perata, Don	S	D	9		\$3,000					\$1,000					\$4,000	\$0	\$0	\$0	\$4,000	8.5
Polanco, Richard	S	D	22										\$3,500		\$3,500	\$19,500	\$7,000	\$54,400	\$84,400	3.5
Poochigian, Charles	S	R	14		\$6,000			\$1,000							\$7,000	\$7,000	\$0	\$7,500	\$21,500	3.7
Romero, Gloria	S	D	24												\$0	\$0	\$0	\$0	\$0	7.3
Scott, Jack	S	D	21												\$0	\$0	\$0	\$0	\$0	7.5
Sher, Byron D.	S	D	11												\$0	\$0	\$0	\$0	\$0	8.3
Soto, Nell	S	D	32		\$3,000								\$1,000		\$4,000	\$19,750	\$0	\$0	\$23,750	5.5
Speier, Jackie	S	D	8												\$0	\$0	\$0	\$0	\$0	8.7
Torlakson, Tom	S	D	7												\$0	\$0	\$0	\$0	\$0	9.7
Vasconcellos, John	S	D	13												\$0	\$0	\$0	\$20,000	\$20,000	7.0
Vincent, Edward	S	D	25		\$6,000			\$3,000	\$1,000	\$3,000					\$13,000	\$38,000	\$6,000	\$1,000	\$58,000	1.5
TOTAL				\$1,500	\$154,000	\$0	\$0	\$32,500	\$2,500	\$19,750	\$0	\$1,000	\$25,000	\$0	\$236,250	\$555,867	\$213,395	\$440,425	\$1,445,937	5.2

TOTAL FOR CA LEGISLATURE \$14,500 \$598,500 \$102,000 \$0 \$86,250 \$4,250 \$36,500 \$0 \$9,000 \$38,000 \$0 \$889,000 \$1,072,559 \$410,145 \$618,325 \$2,990,029

Note: Mike Briggs received \$2,000 from PM for his Congressional campaign and Dennis Cardoza received \$1,000 from PM for his Congressional campaign

Note: BW is Brown and Williamson, PM is Philip Morris, RJR is R.J. Reynolds, STC is Smokeless Tobacco Company, CDA PAC is CA Distributors Association, TI is Tobacco Institute, UST is U.S. Smokeless Tobacco, and LOR is Lorillard.

Appendix B: Tobacco Industry Campaign Contributions to Political Parties and Committees, 1976-2002

Parties/Committees	B/W	PM	Miller Brewing	Kraft Foods	RJR	STC	CDA PAC	TI	UST	LOR	Others	2001- 2002 Total	1999- 2000 Total	1976- 1998 Total	Grand Total
Assembly Democratic Leadership 2000												\$0			\$0
Assembly Democrat Victory Fund												\$0	\$0	\$91,500	\$91,500
Assembly Democratic Voter Registration	\$25,000											\$25,000			\$25,000
Assembly Republican PAC (ARPAC)												\$0	\$56,500	\$33,250	\$89,750
Bay Area Free Enterprise						\$1,000						\$1,000			\$1,000
Black Leadership Political Action Committee	\$5,000	\$55,000										\$60,000			\$60,000
California African American PAC		\$5,000			\$2,000							\$7,000			\$7,000
California Friends of Latino Political Action Committee	\$5,000											\$5,000			\$5,000
California Democratic Moderates PAC		\$15,000										\$15,000			\$15,000
CDA/ PAC					\$5,000							\$5,000			\$5,000
California Latino Alliance					\$2,500			\$7,500	\$3,000			\$13,000			\$13,000
California Manufacturers & Technology Assoc. PAC					\$2,500							\$2,500			\$2,500
Californians for a Better Economy		\$25,000										\$25,000			\$25,000
Californians for Civil Justice Reform PAC		\$25,000										\$25,000			\$25,000
Californians for Common Sense		\$45,000			\$45,000							\$90,000			\$90,000
Californians United	\$10,000	\$50,000			\$5,000	\$5,000	\$2,000					\$72,000			\$72,000
California Republican Party*	\$25,000	\$95,000			\$65,000	\$2,000			\$24,500			\$211,500	\$5,000	\$325,390	\$541,890
California Voter Registration 2002							\$2,500					\$2,500			\$2,500
Citizens Right to Petition	\$15,000	\$30,000			\$10,000				\$25,000			\$80,000			\$80,000
Dairy Institute Legislative Committee		\$5,000										\$5,000			\$5,000
Democratic Business PAC												\$0	\$52,000		\$52,000
Democratic Congressional Campaign Committee		\$160			\$155				\$461	\$26		\$803			\$803
Democratic Legislative Campaign Committee	\$224	\$45			\$224	\$54			\$166	\$166		\$878			\$878
Democratic National Committee Non- Federal Corporate		\$135										\$135			\$135
Golden State Republican Fund												\$0	\$19,000	\$0	\$19,000
Hispanic Republican Caucus												\$0	\$12,000	\$0	\$12,000
JOBS-PAC		\$85,000										\$85,000			\$85,000
Los Angeles Labor Federation Voter Improvement	\$5,000											\$5,000			\$5,000
Political Future PAC		\$25,000										\$25,000			\$25,000
Senate Democratic Leadership Fund												\$0	\$7,000		\$7,000
Senate Republican Leadership												\$0	\$50,000	\$0	\$50,000
Taxpayers PAC									\$5,000			\$5,000			\$5,000
TOTAL	\$90,224	\$460,340	\$0	\$0	#####	\$8,054	\$4,500	\$0	\$62,627	\$3,192	\$0	\$766,316	\$201,500	\$450,140	\$1,417,956

* Note: California Republican Party also received a \$12,250 non-monetary donation from Philip Morris

Appendix C: Tobacco Industry Campaign Contributions to Constitutional Officers and Candidates, 1976-2002

Name of Candidate	Party	Position	B/W	PM	Miller Brewing	Kraft Foods	RJR	CDA				Others	2001-2002	1999-2000	1976-1998	Grand	
								PAC	TI	UST	LOR		Total	Total	Total	Total	
Davis, Gray*	D	Gov											\$0	\$0	\$3,500	\$3,500	
Simon, Bill	R	Gov.		\$5,000		\$5,000							\$10,000	\$0	\$0	\$10,000	
Bustamante, Cruz*	D	Lt. Gov											\$0	\$0	\$72,750	\$72,750	
Jones, Bill*	R	Sec. of State											\$0	\$0	\$48,750	\$48,750	
Olberg, Keith	R	Sec. Of State											\$0	\$10,250	\$53,250	\$63,500	
Connell, Kathleen*	D	State Controller											\$0	\$0	\$0	\$0	
Westly, Steve	D	State Controller											\$0	\$0	\$0	\$0	
Angelides, Philip*	D	Treasurer											\$0	\$0	\$0	\$0	
Conlon, Gregory Phillip	R	Treasurer											\$0	\$0	\$0	\$0	
Lockyer, Bill*	D	Att. Gen.											\$0	\$1,000	\$177,850	\$178,850	
Eastin, Delaine*	NP	Sup. Pub. Inst.											\$0	\$0	\$0	\$0	
Smith, Katherine H.	NP	Sup. Pub. Inst.											\$0	\$0	\$0	\$0	
Low, Harry W.*	D	Ins. Comm.											\$0	\$0	\$0	\$0	
Garemendi, John	D	Ins. Comm.											\$0	\$0	\$0	\$0	
Mendoza, Gary S.	R	Ins. Comm.											\$0	\$0	\$0	\$0	
Andal, Dean*	R	BOE											\$0	\$0	\$0	\$0	
Chiang, John*	D	BOE											\$0	\$0	\$0	\$0	
Klehs, Johan*	D	BOE							\$1,000				\$1,000	\$0	\$0	\$1,000	
Parrish, Claude*	R	BOE										\$150	\$150	\$0	\$0	\$150	
TOTAL			\$0	\$5,000	\$0	\$5,000	\$0	\$0	\$1,000	\$0	\$0	\$0	\$150	\$11,150	\$11,250	\$356,100	\$378,500

* incumbent elected official

Appendix D: Tobacco Industry Lobbying Expenditures, 1976-2002

Name of Firm	B/W	Cigar Assoc.	PM	Miller Brewing	Kraft Foods	RJR	STC	CDA PAC	TI	UST	LOR	Cig. Cheaper	2001-2002 Total	1999-2000 Total	1997-1998 Total	1976-1996 Total	Grand Total
Capitol Advocacy										\$82,858			\$82,858	\$0	\$0	\$0	\$82,858
Capitol Connection			\$100,736	\$100,000	\$100,000								\$300,736	\$116,668	\$0	\$0	\$417,404
Capitol Strategies Group, Inc.							\$263,000	\$86,720					\$349,720	\$334,395	\$0	\$0	\$684,115
Carpenter Snodgrass & Assoc.		\$182,000											\$182,000	\$165,000	\$308,747	\$2,085,913	\$2,741,660
Carter Lobbying Firm, Art	\$241,391										\$26,250		\$267,641	\$165,502	\$0	\$0	\$433,143
DCK Advocates, Inc.												\$45,454	\$45,454	\$0	\$0	\$0	\$45,454
Dowd Relations	\$13,750										\$13,750		\$27,500	\$260,591	\$0	\$0	\$288,091
Joseph G. Yocca											\$78,190		\$78,190	\$0	\$0	\$0	\$78,190
Lang Hansen O'Malley and Miller Governmental Relations			\$472,333										\$472,333	\$611,000	\$520,332	\$1,419,831	\$3,023,496
Livingston & Mattesich Law Corp.				\$330,783									\$330,783	\$0	\$0	\$0	\$330,783
McCabe and Co.											\$148,816		\$148,816	\$0	\$0	\$0	\$148,816
Nielsen, Marksamer, Parrinello, Mueller and Naylor	\$84,736		\$124,457			\$84,736					\$84,736		\$378,665	\$236,389	\$429,327	\$2,064,108	\$3,108,489
Ross Communications										\$22,500			\$22,500	\$0	\$0	\$0	\$22,500
Sacramento Advocates				\$310,000									\$310,000	\$0	\$0	\$0	\$310,000
Spencer Roberts & Associates, Inc.	\$45,833												\$45,833	\$154,484	\$0	\$0	\$200,317
The Apex Group										\$188,748			\$188,748	\$40,446	\$0	\$0	\$229,194
The Flanigan Law Firm						\$406,709							\$406,709	\$346,742	\$0	\$0	\$753,451
Walt Klein & Assoc.													\$0	\$161,691	\$0	\$0	\$161,691
Activity Expenses	\$0	\$0	\$5,476	\$65	\$0	\$2,930	\$817	\$817	\$0	\$6,998	\$1,065	\$0	\$18,166	\$0	\$0	\$0	\$18,166
Total Other Payments to Influence Policy Making	\$202,071	\$0	\$97,029	\$15,445	\$42,432	\$123,795	\$0	\$0	\$0	\$8,970	\$141,169	\$0	\$630,910	\$0	\$0	\$0	\$630,910
TOTALS	\$587,781	\$182,000	\$800,030	\$446,292	\$452,432	\$618,170	\$263,817	\$87,537	\$0	\$310,073	\$493,975	\$45,454	\$4,287,562	\$2,592,908	\$1,258,406	\$5,569,852	\$13,708,728

