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Influence of the Tobacco Industry on Wisconsin Tobacco Control Policies

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### Publication Date

2002-10-01

**Influence of the Tobacco Industry on Wisconsin Tobacco Control Policies**

**A report of the  
Monitoring and Evaluation Program  
University of Wisconsin Comprehensive Cancer Center**

**October 2002**

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## **Executive Summary:**

The purpose of this report by the Monitoring and Evaluation Program of the University of Wisconsin Comprehensive Cancer Center is to assist policy makers and tobacco control advocates in understanding the role of the tobacco industry in forming state and local policies on tobacco in Wisconsin. These activities in policy-making play an integral role in the level of tobacco use in the state. The late John Slade formulated a public health model of tobacco addiction where the agent (of the disease) is tobacco, the host is the smoker and the vector is the tobacco industry. Slade went on to hold that the environmental conditions, which include the political conditions, laws and regulations either foster the ability of the vector tobacco industry to claim more lives or reduce their toll.<sup>1</sup> The research question is therefore whether the tobacco industry influenced the political, economic and regulatory environment in Wisconsin and if so, how that influence occurred and the nature of its effects.

Based on an examination of primarily tobacco industry internal documents, news sources and government data sources we conclude that the tobacco industry in Wisconsin has played a dominant role in shaping public policy on tobacco through the use of its economic and political power and strategic alliances with influential industries. Tobacco industry policies have contributed to higher than average rates of smoking among young people in the early nineties, higher rates of smoking among young adults than the national average and higher than expected smoking rates among adults in Wisconsin given its socio-economic characteristics.<sup>2</sup>

This report should increase understanding of the political and economic dimensions of Wisconsin's tobacco industry and how it influences public policy related to tobacco use. This report describes the structure of the major tobacco companies, their economic interests in Wisconsin and their activities to secure their public policy agenda in

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<sup>1</sup> Orleans CT, Slade J, eds. Nicotine Addiction, Principles and Management. New York, NY: Oxford University Press. 1993:3-23. U.S. Department of Health and Human Services. Reducing the Health Consequences of Smoking: 25 years of progress. A Report of the Surgeon General. 1989.

<sup>2</sup> The effect of community-level policies and practices on tobacco use is well documented. These include enforcement of smokefree workplaces, mass media campaigns to market anti-tobacco messages, restrictions on sale of tobacco to minors and reduced economic and social barriers to cessation services. U.S. Department of Health and Human Services. Reducing Tobacco Use, A Report of the Surgeon General, 2000. CDC, U.S. Department of Health and Human Services, Best Practices for Comprehensive Tobacco Control Programs, 1999; American Journal of Preventive Medicine, The Guide to Community Preventive Services: Tobacco Use Prevention and Control, Reviews, Recommendations and Expert Commentary, 2001.

regard to tobacco. The report also describes the critical role played by the industry's primary allies, the tavern and restaurant association, the convenience store association, the grocer's association and their political agency, the now defunct Tobacco Institute. We also examine the development and efforts of the Wisconsin tobacco control movement regulating the environment and opposing the tobacco industry. Finally, the report examines in detail the history of the tobacco industry's lobbying effort and political contributions in Wisconsin.

Cigarette sales in Wisconsin declined by 15% in the period, 1991-2001. Although sales declined, profits for the tobacco industry substantially exceed those of comparable consumer product businesses. Gross cigarette sales in Wisconsin are slightly less than 400 million packs per year and constitute approximately \$1 billion in revenue to the industry. In addition to tobacco sales, Philip Morris, the dominant tobacco company in Wisconsin has operating revenue of \$8 billion and profits of over \$1 billion from its major subsidiaries Oscar Mayer, Tombstone Pizza and until recently, Miller Brewing in which it continues to own a significant minor share. Philip Morris is also a major buyer of dairy products for its Kraft Cheese division and manufactures approximately half of the cigarettes sold in Wisconsin.

For over 40 years, the tobacco industry has initiated and maintained strong inter-institutional relationships with tobacco retailers, tavern and restaurant operators and a decreasing number of tobacco farmers. This effort has included initiating and sustaining a series of organizations and coalitions for the purpose of mobilizing the "grassroots" of their economic allies in support of the tobacco industry policy agenda.

Lobbying, grassroots mobilization, media advocacy, philanthropic gifts to non-profit organizations and contributions to candidates, committees and political parties have been the major tools for influencing public policy. These activities have enabled the tobacco industry to realize most of their specific policy goals:<sup>3</sup>

- A constant level of cigarette tax as a percentage of price
- State preemption of local authority to regulate cigarettes
- Clean indoor air ordinances limited to a small percentage of the population and to a small number of public places.

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<sup>3</sup> PMI, Bible, GC: "We Want You to Know Where We Stand." January 1995. Bates: 25012137-2501213794. On TDO: <http://tobaccodocuments.org/pm/2501213717-3794>. 78 pages. Philip Morris CEO Bible cites three "major threats to our business: Excise tax, Advertising restrictions and Smoking Restrictions." The memo focused on events in the European Union that had proposed and instituted advertising bans.

- Largely unregulated youth access to cigarettes

Reported contributions by the tobacco industry to Wisconsin non-gubernatorial political candidates, committees and parties totaled \$356,572 in the three and a half year period from 1/1/99 to 8/26/02. It is likely that “soft money” contributions to federal and state organizations and non-reported contributions to “issue” advocacy organizations such as the Wisconsin Manufacturers and Commerce supplemented their direct and reported contributions. Though the industry and its major allied organizations tend to favor the party in the majority, contributions in the past six years have overwhelmingly been directly primarily to Republican office holders at the state and federal level.

The tobacco industry and its allied organizations spend considerable resources on lobbying for their policy agenda. Since 1997 the industry has spent over \$7.2 million on lobbying the state legislature. They hire former Democratic and Republican legislators and other influential individuals as well as lobbyists who often also lobby for health organizations.

Their influence which stopped or altered these policies have contributed to:

- Higher than expected number of smokers and cigarette consumption given the states socio-economic characteristics (and resulting loss of life and economic burden).
- Among the highest rates of youth smoking in the nation.
- The highest rate of tobacco sales to youth in the nation.
- Higher than average exposure to secondhand smoke in workplaces compared to the rest of the nation.

Despite some changes in statements on intent and attempts to re-position itself as a “new tobacco industry” over the past year, there is no indication that the overall policy goals of the tobacco industry and its primary allies have changed.



## **Introduction:**

The purpose of this report by the Monitoring and Evaluation Program of the University of Wisconsin Comprehensive Cancer Center is to assist policy makers and tobacco control advocates in understanding the role of the tobacco industry in forming state and local policies on tobacco in Wisconsin. These activities in policy-making play an integral role in the level of tobacco use in the state. The late John Slade formulated the now familiar public health model of tobacco addiction where the agent (of the disease) is tobacco, the host is the smoker and the vector is the tobacco industry. Slade went on to hold that the environmental conditions, which include the political conditions, laws and regulations either foster the ability of the vector tobacco industry to claim more lives or reduce their toll.<sup>4</sup> The research question is therefore whether the tobacco industry influenced the political, economic and regulatory environment in Wisconsin and if so, how that influence occurred and the nature of its effects.

The Master Settlement Agreement negotiated between the states' Attorneys General and the tobacco industry in 1998 required the tobacco industry to make previously confidential industry documents available through the Internet. These documents supplemented the millions of documents previously made available to the public and researchers as a result of the litigation between Minnesota and the tobacco industry. As a result of the Master Settlement Agreement and other litigation approximately 30 million industry documents are now available for examination online. Over one thousand documents directly reference Wisconsin and several hundred pertain to the policy concerns and practices of the tobacco industry.

Much has been written over the years on the scope and magnitude of the health burden created by tobacco use in Wisconsin.<sup>5</sup> There has also been considerable research and action aimed at the methods of reducing this harm through prevention, cessation, changes in

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<sup>4</sup> Orleans CT, Slade J, eds. Nicotine Addiction, Principles and Management. New York, NY: Oxford University Press. 1993:3-23. U.S. Department of Health and Human Services. Reducing the Health Consequences of Smoking: 25 years of progress. A Report of the Surgeon General. 1989.

<sup>5</sup> The Burden of Tobacco in Wisconsin, April 2002. Published by Division of Public Health, The American Cancer Society, the UW Comprehensive Cancer Center and the Wisconsin Tobacco Control Board. Report analysis found 7,350 smoking related deaths and \$2.98 billion in smoking related costs in 1998.

the social environment in which tobacco is used and reducing harm to non-smokers as a result of exposure to second hand smoke.

Spurred in part by the weight of scientific evidence and in some instances personal experience, health professional and advocates as well as local citizens decided to take action to reduce tobacco use in their communities. However, as health advocates in Wisconsin began meaningful initiatives to reduce tobacco use in local communities and the state, they were often frustrated by visible and at times, invisible but powerful opposition.

Practical methods that might prevent tobacco use such as requiring retailers to place cigarettes out of the reach of minors were strongly opposed by powerful interests such as the convenience store industry at the state and local level. The state government increasingly prevented the local communities from enacting laws that would reduce tobacco use among minors. Over time, many advocates came to a common conclusion that much of the opposition to their initiatives came from a common source: the tobacco industry.

### *Early History*

In his thesis entitled, “Unenforced Legislation in Wisconsin” submitted in support of his Bachelor’s Degree received in 1912 from the University of Wisconsin, G.H.A. Jenner wrote,

“The one law in Wisconsin which is violated most openly and generally throughout the whole state is the cigarette law . . . That the law is flagrantly and openly violated is a fact which is known to every person in the state. Immediately after the law was passed, many places which sold cigarettes stopped it, but when they saw that no attempt was made to enforce the law, they all gradually took it up again and now there are as many places selling them as there were before the law was passed . . .

The object of this law is to prevent boys getting into the habit of smoking when it is likely to injure their health. In spite of the law, however, it is safe to say that a majority of minors at the age of nineteen or twenty have acquired the habit of using tobacco. No tobacco man stops to question a young who asks for a package of tobacco whether he is old enough to smoke and in fact few dealers refuse it even to small boys whom the dealer cannot help knowing are too young to smoke.”<sup>6</sup>

Despite the fact that the 1891 law restricting sale of cigarettes to minors was rarely if ever enforced, it was repealed in 1959. That year, the Child Welfare Committee of the Legislative Council noted in its rationale for repeal, “These provisions (relating to different ages of permissible sale for different tobacco products) are confusing because of the gaps and

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<sup>6</sup> Legislative History of Restrictions on the Sale of Cigarettes to Minors in Wisconsin. LRL- IB- 170. 1959.

inconsistencies between them. More important, they are, for the most part, completely ignored.”<sup>7</sup>

The following session there were four attempts to reinstate the prohibition on sale to minors. All were unsuccessful. In response to the state repeal attempts, a number of cities still made sale of tobacco to minors illegal. Cities from Milwaukee to Cassville passed such ordinances as well as ordinances prohibiting children from smoking in taverns unless accompanied by parents or guardians.

Although there were no laws preventing the sale of tobacco to minors, some minor attempts were made to discourage youth from initiating smoking. In 1961 (three years prior to the US Surgeon General’s Report on Smoking and Health) the Wisconsin State Board of Health published a pamphlet, “Let’s Talk about You and Smoking.” The pamphlet described the alarming increase in lung cancer and noted that “the frequency of lung cancer occurrence in cigarette smokers is many times greater than in non-smokers of comparable age, sex, occupation and place of residence. Also interestingly, the pamphlet noted, “They (teens) cannot rely on filter cigarettes since there is no real evidence as yet that they decrease the chance of lung cancer.”<sup>8</sup>

Other than the Surgeon General’s Report of 1964 and the resulting brief decline in cigarette consumption, smoking prevalence continued at unprecedented levels in Wisconsin and the US from 1960 until 1967. Only when the Federal Communications Commission required under its “Fairness Doctrine” that television stations air one anti-smoking advertisement for each tobacco advertisement, did tobacco usage begin its decades long decline to current levels. In just over one year, as a result of these first counter-marketing advertisements, tobacco use declined almost seven percent.

In this period of little activity and acceptance of the status quo, despite mounting evidence of the dangers of tobacco use, occasionally opinion-leaders such as Carl Neupart, a Wisconsin State Health Officer, would speak out against tobacco use, though usually against “youth smoking.”

Also at this time, research was initiated on the value of intervention strategies. In 1963, Dr. Robert Craig of the Education Department of Marquette University conducted a Youth Tobacco Survey of 4,000 Milwaukee school-aged children. His study found that 63% of the male students and 50% of the female students had smoked by the seventh grade. By the

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<sup>7</sup> Report of the Legislative Council, Child Welfare Committee. 107.

<sup>8</sup> Neupart C. “Wisconsin’s Health.” La Crosse Tribune. 8 Oct 1961.

11<sup>th</sup> grade, 83% had tried smoking. In response to these findings, Craig showed a filmstrip on lung cancer and smoking produced by the American Cancer Society. He found that the filmstrip caused no significant changes in the smoking habits of the students though there was some reduction in stated “intention” to smoke by younger students. Interestingly, among other findings, Craig’s studies found no relationship between parental and youth smoking.<sup>9</sup>

One example of the on going discussion of the efficacy of restricting youth and public smoking was an editorial by William Evjue, publisher of the (Madison) Capital Times, who called on state schools to initiate a curriculum to instruct students on the dangers of smoking.<sup>10</sup> In 1971, the Wisconsin State Journal asked readers if they thought youth over 16 should be allowed to smoke in school. Pointing out that all schools allow smoking for teachers and that smoking was common for students, the newspaper asked youth opinions on the topic.<sup>11</sup>

As will be discussed later in this report, over the next thirty years, individuals, health organizations and policy makers made significant attempts to assist smokers to quit, prevent youth addiction and protect the social environment from secondhand smoke with different degrees of success. However, the tobacco industry and its primary allies attempted to and in some instances successfully blocked most of these efforts.

## **D) Tobacco’s Economic Impact in Wisconsin**

### *Corporate Overview*

The tobacco industry in Wisconsin is comprised of Philip Morris,<sup>12</sup> RJR, Brown and Williamson (owned by the British-American Tobacco), Lorillard and US Tobacco. Because there is no data available on sales of specific brands in each state, it is assumed for this report that the sales of each company’s brands in Wisconsin are proportional to national sales. In addition to selling more than half of all cigarettes, Philip Morris owns major subsidiary corporations in the state including Tombstone Pizza, Miller Beer and Oscar Mayer. As a result of its overall sales and domestic corporate holdings, Philip Morris is the preeminent tobacco corporation in the state.

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<sup>9</sup> “Tobacco and The Teenager.” The Crusader, publication of the Wisconsin Anti-Tuberculosis Association, Mar 1963. [Note: the Anti Tuberculosis Association is now known as the American Lung Association]

<sup>10</sup> Evjue W. Capital Times, 6 Jul 1966.

<sup>11</sup> Wisconsin State Journal, 10 Jan 1971. (Tobacco Institute Collection, TIMN0290009).  
<http://legacy.library.ucsf.edu/>

<sup>12</sup> Although now having officially changed its name to Altria, in this report we will refer to by its familiar and well known name, Philip Morris.

Despite annual payments of billions of dollars to the states as a result of the Master Settlement Agreement, higher prices, and a resulting decrease in cigarette sales, the major tobacco companies continue to be among the most profitable major corporations in the US. Due to the increase in the average retail price of cigarettes and the reduction in production costs, the five large tobacco companies have made record increases in revenues and profits. In the year 2000, the industry as a whole recorded total cigarette shipments of 420 billion cigarettes, down 9% from the 461 billion cigarettes shipped in 1998. Despite such substantial reductions in cigarette production and shipment, Philip Morris, R.J. Reynolds, Brown & Williamson, UST, and Lorillard all posted profit increases in 2000.

### *The Tobacco Institute*

From 1958 to 1998, the Tobacco Institute was the consolidated public relations and political agency of the tobacco industry. An executive committee of the CEOs of Philip Morris, RJ Reynolds, Lorillard and Brown and Williamson governed the Tobacco Institute. These companies accounted for 98% of the sales of all cigarettes sold in the US. The Tobacco Institute was funded by tens of millions of dollars in contributions each year from industry manufacturers (using a formula based on each company's share of the previous year's domestic market). It operated at the international, national, state and even local level with a functionally unlimited ability to commit resources in the interests of policies favorable to the major tobacco companies. In 1990, the Tobacco Institute's expenditures were \$47,000,000 and in 1991, they were \$44,500,000, sums comparable to the budgets of the national Republican or Democratic parties at the time.

As will be detailed later, the Tobacco Institute was very active in Wisconsin, hiring high-level local political/legislative staff and coalition organizers and making major campaign contributions. In 1998, the Tobacco Institute was closed as a condition of the Master Settlement Agreement.

Late in the 1990s, the Tobacco Institute reduced its activity slightly as expenditures for policy purposes became increasingly funneled through each company.<sup>13</sup> This strategy of individual companies funding policy efforts (as opposed to a central source such as the Tobacco Institute or a similar body) continues to date, as indicated by tobacco companies' recent campaign to repeal a smoke free restaurant ordinance in Duluth in October 2001 or

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<sup>13</sup> Tobacco Institute Collection, Bates #20412120102. [www.tobaccoinstitute.com](http://www.tobaccoinstitute.com).

Philip Morris' attempt to mobilize the Kenosha smokers in opposition to a similar ordinance in 2000. In the case of the Duluth ordinance, individual grants of approximately \$5,000 were made by each of the major tobacco companies to the local pro-smoking organization.<sup>14</sup>

While many of its actions have been made public through the release of once-internal tobacco industry documents, it is probable the Tobacco Institute's most egregious activities are still secret. Former Tobacco Institute officials have inferred that it was involved in bribery of public officials and health officials. Also, missing from the vast collection of over millions of documents is any documentation of internal industry discussion or assessment of specific politicians and their activities on behalf of the tobacco industry. Given the level of funding of politicians and the high level of documentation of every aspect of tactics and strategy, these discussions must have taken place.

The activities of the Tobacco Institute and its affiliated corporate members in Wisconsin were similar to the activities of the organization in other states with viable anti-tobacco organizations or activity. These activities can be categorized into the following areas:<sup>15</sup>

- Lobbying and legislative activity
- Youth Access
- Market Expansion
- Clean Indoor Air
- Manipulating the media
- Undermining science

#### Lobbying and Legislative Activity:

Records of Tobacco Institute activity date back to 1960 when in Wisconsin, its earliest organizational form was the Wisconsin Food and Tobacco Institute. As part of this "institute" the Wisconsin Community Relations Committee was created. One of the key goals of the Committee was to develop strong organizational ties between Wisconsin grocers and the tobacco industry. In an internal memo, one Philip Morris executive recounts a banquet to

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<sup>14</sup> Wall Street Journal, 12 Dec 2001.

<sup>15</sup> Trochim, W. Preliminary Report and Conceptual Map to Battelle Group, Tobacco Tactics Project. Cornell University, Unpublished Paper. 13 Oct 2001.

his superior where, “Mr. Stacy (a grocer leader) took the rostrum and clearly indicated his complete sympathy with the aims of the Tobacco Institute.”<sup>16</sup>

The Tobacco Institute employed lobbyists in Wisconsin through much of its last ten years, 1989-99. Many of these lobbyists were former Democratic legislators whose primary responsibility was to ensure that public policies that would reduce tobacco use were not instituted. Tobacco Institute documents indicate that all legislation related to tobacco use was closely scrutinized.

Examination of some of the Tobacco Institute’s activity in the late 1980s provides a glimpse of the scope of their work:

*Youth Access:* In 1985 and again in 1987, Senator Chuck Chvala introduced legislation to prohibit the sale of cigarettes to persons under the age of 18. At the time, Wisconsin was one of only nine states that still allowed the sale of cigarettes to minors. In 1988, the bill was “killed” by Senator Gary George in the Committee on Joint Finance, the Committee he chaired.<sup>17</sup> Senator George received numerous campaign contributions over his career from the tobacco industry and prior to his action on Joint Finance to kill the bill. In 1985, Senator George briefed a Tobacco Institute gathering in Tucson, Arizona on tobacco control legislative efforts in Wisconsin, discussing among other topics the possibility that the industry could be sued for injuries due to second hand smoke and more specifically, the upcoming Wisconsin legislation prohibiting the sale of cigarettes to minors.<sup>18</sup>

In 1991, the Wisconsin Ethics Board investigated whether Senator George and Miller Brewing Company violated the lobbying law as a result of Miller’s employment of Senator George in 1988. The Board concluded that administrative rules promulgated by the Secretary of State and in effect at the time of the employment, permitted Miller’s payment.<sup>19</sup>

*Market Expansion:* In 1988, the Tobacco Institute strongly opposed efforts by the City of Milwaukee to prevent distribution of free cigarettes (At the time, small packs of cigarettes were distributed to passers-by on streets, and may have been given to children). The Tobacco Institute hired a team of state and national lawyers to oppose the measure, citing an infringement of the industry’s “free speech.” The proposed municipal ordinance

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<sup>16</sup> Inter-office Memo. (Philip Morris Collection, Bates #2010022387). 23 Sept 1960.

<http://legacy.library.ucsf.edu>

<sup>17</sup> “Cigarette bill hits surprise Senate detour.” Milwaukee Journal. 23 March 1988.

<sup>18</sup> Speech by Wisconsin State Senator Gary George. 15 Nov 1985. Bates Number: 690138841/8851.

<sup>19</sup> Wisconsin Ethics Board. Complaints and Investigations (1991). Revised, August 1993.

passed and the Tobacco Institute sued the city. The court found that the city could not restrict free distribution because local regulation of the marketing of cigarettes was preempted by the state. Milwaukee legislators led by Representative Peter Bock introduced state legislation that would allow cities to control the distribution of the free cigarettes. The industry opposed this legislation on the theory that it would create “a checkerboard” of laws where some municipalities allowed free distribution and others prohibited it. At the same time the industry was advocating against local policies at the municipal level of government, it was actively opposing a statewide ban.

*Clean Indoor Air:* In 1983, the state passed one of the first Clean Indoor Air laws in the nation. While this law was weak and allowed numerous exceptions such as for all manufacturing and assembly workplaces, it signaled an on-going and potentially increasing problem for the industry. The law also allowed employers and property owners to exempt entire properties from the protections provided by the act. A 1988 attempt to strengthen the measure by preventing building-wide exemptions was vigorously and successfully opposed by the Tobacco Institute.

By 1992, efforts by health groups at the local and state level to reduce the tobacco industry’s access to youth and promote clean indoor air laws were reaching alarming levels to the tobacco industry. In a fifteen-page memo to the Tobacco Institute President, a regional political specialist surveyed on-going and prospective events in each state and determined that Wisconsin was one of fourteen states with “immediate and serious challenges”. One of the cited reasons was the proposal for smoke free restaurant ordinances. The author proposed a list of measures including, “... We fund our allies in the convenience stores (emphasis added) groups to regularly report on ordinance introductions and assist in campaigns to stop unreasonable measures.”<sup>20</sup>

Opposition to policies promoting smoke free environments was the major focus of the Tobacco Institute for most of the last decade of its existence. In 1993, for example, a plurality of their funds were directly allocated to studies, front-organizations and legal challenges to protect what it termed as “public smoking.” Nationally, in addition to the \$4,159,000 expended for this categorical purpose, it allocated an additional \$3,000,000 for developing coalitions, much of which was focused on promoting “public smoking.” And a

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<sup>20</sup> Malmgren KL. Expanded Local Program. 30 Nov 1992. (Philip Morris Documents #2023959567-9579). [www.pmdocs.com](http://www.pmdocs.com).



further three and a half million dollars in the same year for the “contingency fund” were allocated for unanticipated actions.

“*The List*”:<sup>21</sup> June 1997 was the focus of intense legislative and public activity on the state budget as well as a public health campaign to increase the tobacco tax to \$1. At the same time, many anticipated that a settlement between the tobacco industry and the states’ Attorneys General would occur in the next few months. A settlement could potentially generate hundreds of millions of dollars in revenue to the state. Most observers considered it likely that at least some of the funds would be dedicated to tobacco control.

In the face of these challenges, the leading tobacco industry lobbyists met to plan their overall legislative strategy. As part of the strategy, each legislator of the 1997-98 floor period was assigned a rating number from 1-5 (“5” being most sympathetic to the industry) and contact lobbyists who were closest to the legislator. Neither this list nor any document related to it appears on any of the industry document websites.

The lobbyists assigned to work with legislators were employed by Philip Morris (DJ Klauser, Liz Buchen, Joe Czerwinski, Bill Gerrard, Paul Sicula), Tobacco Institute (Alice O’Connor), RJR (Mike Vaughn), Smokeless Tobacco (Pat Essie), Brown and Williamson (Lisa Hilbert and Bob Jentz), Tavern League (Scott Stenger) Merchants Federation (Chris Tackett and Doug Johnson) and Grocers (Brandon Scholz).

There are few surprises on the list. Rep. Frank Urban, Rep. Johnnie Morris-Tatum and former Senator, now federal Judge Lynn Adelman are not only listed as a “1” but have the addition of “don’t bother” under notes. Rep. Judy Robson is the only legislator omitted from the list.

However, there are some inconsistencies in the legislative records and the tobacco industry attributed “scores.” Rep. John Gard, who opposed both the tobacco tax increase and funding for tobacco control in 1998, is listed as a “1” on the list (a strong proponent of tobacco control), while Senator Robert Cowles (R-Green Bay), a supporter of both higher taxes and tobacco control is listed as a “4.”

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<sup>21</sup> The list is attached as Appendix D.

## Manipulating the Media

A complex and comprehensive media strategy was central to all Tobacco Institute operations. Each campaign policy memo details specific messages relative to the campaign, the messenger (e.g. always a “non-tobacco person”) and the method of contact.

For example, in 1994 the Tobacco Institute began a state-based campaign to oppose (the federally proposed) OSHA rule for smoke free workplaces which would have included bars and restaurants. The Tobacco Institute’s plan called for a “grass-roots campaign” to oppose the rule and “. . .An aggressive media outreach plan. To begin, need to have media kit with description of coalition, biography of chairman, fact sheet on issue, initial press release, etc. Media plan should focus on press conference and release on new coalition, marketing to talk radio shows and other free media, release of economic impact report and editorial board tour.” The memo also provided detail and a budget for a paid media campaign.<sup>22</sup>

Review of the Tobacco Institute’s Wisconsin files show an almost obsessive interest in their press coverage. News clippings or any report of “bad press” engendered a flow of internal documents and plots to respond. An example is the Institute’s response to a November 1992 letter from the President of the American Lung Association of Wisconsin, John Brahm, to Wisconsin newspaper editors and TV and radio broadcasters. In the letter, Brahm asked the broadcasters not to broadcast offers of the Tobacco Institute’s “Helping Youth Say No” campaign because it actually encourages young people to smoke. He said that the campaign does not mention the health consequences of smoking and portrays it merely as a pleasurable adult experience. Despite the request from the Lung Association television stations across Wisconsin ran Tobacco Institute ads as public service announcements.<sup>23</sup>

In response to Brahm’s letter and resulting news story, the Tobacco Institute internally planned to directly respond to “challenge him to defend his allegation” and demand that he publicly debate a Tobacco Institute representative and a representative of the Consortium (a retailers front organization). Copies of the Wisconsin correspondence and

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<sup>22</sup> Tobacco Institute Documents (Bates #203899063). [www.tobaccoinstitute.com](http://www.tobaccoinstitute.com).

<sup>23</sup> Lung Association says anti-smoking campaign a Tobacco Institute ploy. Tobacco Institute Documents (Bates #0058458). [www.tobaccoinstitute.com](http://www.tobaccoinstitute.com).

updates were sent to all members of the national Tobacco Institute Executive Committee (tobacco company executives) and Management Committee.<sup>24</sup>

Brennan Dawson, national spokesperson for the Tobacco Institute wrote to Brahm, denounced his request to pull the ads as “unconscionable,” and requested that he tour the state with a representative of the Tobacco Institute and debate the issue on television stations (assuming that the television stations would be interested in airing such a debate). Brahm responded to her letter by restating the claim that the ads promoted smoking as “adult” and did not mention any adverse health effects related to smoking and declined to “debate the issue with a trained spokesperson from the Tobacco Institute.”<sup>25</sup> The Tobacco Institute also organized responses to critical editorials or news articles. In 1991, the Tobacco Institute circulated a series of draft letters to be sent to the editor of the Wisconsin State Journal in response to an editorial supporting the recommendation that a smoking ban in county offices include the Dane County Jail. One of the unsigned draft letters said, “no one has shown that passive smoke in the air is harmful to non-smokers.” This ignored the many studies conducted by the tobacco industry’s own scientists showing the harm related to second hand smoke. The letter went on to say, that, “The only real reason to ban smoking is to satisfy somebody’s outraged moral sense and their desire to impose their will on their fellow man.”<sup>26</sup>

Throughout the period 1993-95, the Tobacco Institute was actively engaged in the opposition to the City of Fond du Lac’s unique ordinance requiring clerk-assisted sales of cigarettes. In 1995, the Tobacco Institute public relations firm Morgan and Myers, summarized their activities against the ordinance and legislation against preemption. The memo cites its media visits to “discuss the issue of local control vs. statewide uniformity in relation to the city ordinance banning self-service cigarette sales.” It continued, “Followed up on the \$100 million in charitable contributions” news release by sending it to local media outlets.”<sup>27</sup>

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<sup>24</sup> Tobacco Institute Memorandum. Tobacco Institute Documents (Bates #0218918). [www.tobaccoinstitute.com](http://www.tobaccoinstitute.com).

<sup>25</sup> Letter from American Lung Association. 12 Nov 1992. Tobacco Institute Documents (Bates #0206450). [www.tobaccoinstitute.com](http://www.tobaccoinstitute.com).

<sup>26</sup> Letter to Wisconsin State Journal. 1 Nov. 2000. Tobacco Institute Documents (Bates #TIMN0059451). [www.tobaccoinstitute.com](http://www.tobaccoinstitute.com).

<sup>27</sup> MAN Activity Report. October/ November 1995. Philip Morris Collection (Bates No. 2046039298). <http://legacy.library.ucsf.edu/>.

## Undermining Science

Tobacco Institute documents reflect an on-going interest and concern over cancer research activities at the University of Wisconsin. These documents include 1968 correspondence with scientists at the Wisconsin Alumni Research Foundation on whether they intended to “paint” mice with tobacco related products to show tumor effects, as well as annual records of National Cancer Institute grants to Wisconsin universities.

The tobacco industry was not without its friends and supporters in the Wisconsin scientific establishment. Key among them was a preeminent cancer researcher, now an Emeritus Professor at the UW-Madison McCardle Labs. Not only was he a long-time member of the Council on Tobacco Research (the “scientific” arm of the Tobacco Institute) but also, as a result of his service and possibly his academic focus on the role of nutrition and caloric intake and cancer, was selected for membership on the Scientific Advisory Board (SAB) of that body. The SAB functioned as the management group and included many of the scientists that have inadvertently become well-known for ghostwriting and signing pseudo-scientific articles for the purpose of discrediting research on the health risks related to tobacco use.

## Conclusion

In the period between 1991-97, the State Activities Division of the Tobacco Institute expended an average of \$114,344 per year in Wisconsin. This does not include many of the other expenditures of the Tobacco Institute in the state to promote other programs such as the Accommodation Program (to resist smoke-free restaurants) and the “It’s the Law” program (to oppose point-of-purchase restrictions) but only expenditures on lobbying and legislative activities. Nor does it include campaign contributions or the individual and greater expenditures of many of the individual tobacco companies.

This expenditure was the 12<sup>th</sup> highest expenditure in the nation over the same time period. Most of the other expenditures of this level were in larger states. A high level of Tobacco Institute expenditures has been positively correlated with 1) the strength of tobacco control organizations 2) attempts to change youth possession, purchase and use laws 3) whether the state is a tax initiative state and 4) if the state received ASSIST funding. No significance was noted between high Tobacco Institute expenditures and changes in smoke-

free laws for public and private workplaces, if the state is a major tobacco grower or the political identity of the governing party.<sup>28</sup>

Overall, evidence indicates that these expenditures were effective in their intent: preventing the implementation of laws that reduce the sale of tobacco products, particularly to youth. In a study published in the American Journal of Preventive Medicine on state laws governing sales of tobacco products to youth, Wisconsin ranked next to last, just above 50<sup>th</sup>-ranked North Carolina. More importantly, the study also found a strong association between the presence of these laws and the youth smoking rate. Using a scoring system where public health attributes such as “state retailer compliance below 20%”, New York scored 21, Connecticut, 20 and California 19, while Wisconsin scored 2 in its ranking based on the NCI’s State Cancer Legislative Database. At the time of the study, the youth smoking rate was 36% in Wisconsin but would increase to 39% in the next two years.<sup>29</sup> Since the study was reported, Wisconsin has been ranked as the worst record in the nation in tobacco sales to minors.

The Tobacco Institute’s effort to defeat state policies that reduce youth smoking was overwhelmingly successful in the years 1988-1998. In this period no major initiative passed and as a result, by 1998 youth smoking rates reached their highest historical rate.

### **Philip Morris (Altria)**

Philip Morris Companies Inc. (in April 2002 Philip Morris officially changed its name to Altria) is a holding company whose principal wholly owned subsidiaries, Philip Morris Incorporated (domestic tobacco), Philip Morris International Inc. (international tobacco), Kraft Foods Inc. and Miller Brewing Company, are primarily engaged in the manufacture and sale of tobacco and various food and beverage products. Philip Morris is the world’s largest tobacco company, the 24<sup>th</sup> largest corporation in the world, and the 5<sup>th</sup> most profitable corporation in the world.<sup>30</sup> The company employs 175,000 people in its global operations, including 3,500 employees at Miller Brewing in Milwaukee and 3,000 employees at Oscar Mayer in Madison.

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<sup>28</sup> Morley CP, Cummings KM, Hyland A, Giovino GA and JK Horan. Tobacco Institute Lobbying at the State and Local Levels of Government in the 1990s. Tobacco Control. 11 (2002): 102i-109i.

<sup>29</sup> Luke DA, Stamatakis KA, Brownson, RC, State Youth-Access Tobacco control Policies and Youth Smoking Behavior in the United States. American Journal of Preventive Medicine 19 (2000): 180-188.

<sup>30</sup> “The 2002 Global 500.” Fortune Magazine. 22 July 2002.

Philip Morris' revenues increased from \$75 billion in 1998 to \$80 billion in 2000 and \$90 billion in 2001. Perhaps most indicative of the success of the tobacco industry over the past few years, Philip Morris' increase in profits dwarfed their increases in revenues. Operating profits for Philip Morris were \$8.6 billion in 2001; compare this operating profit well in excess of 12% to the average profit of 3.5% of the top 8,000 public companies in the US. This profit margin of more than three times the average explains much of the reason why Philip Morris' stock price increased by nearly 60% at the same time the Dow Jones 500 declined by 20% in 2001.

This growth was spurred in large part by substantial increases in revenues and profits from domestic tobacco sales. Philip Morris Inc., the company's domestic tobacco subsidiary, increased revenues 48% from \$15.3 billion in 1998 to \$22.7 billion in 2000, and saw profits increase 260% from \$1.5 billion in 1998 to \$5.4 billion in 2000. Thus, contrary to the predictions of some observers that the tobacco industry would abandon the domestic market to avoid costly litigation, the industry, and particularly the industry leader Phillip Morris, has never been as profitable as in the last few tumultuous years. There is no (legal) industry that has consistent earnings of the scope of this leader of the domestic tobacco industry where profits for calendar year 2000, 2001 and the first quarter of 2002 were 20% of earnings.

Philip Morris had total cigarette shipments in the United States of 211.9 billion units in 2000, an increase of 1.8% over 1999. Phillip Morris Inc. accounted for 50.5% of the domestic cigarette industry's total shipments in 2000 (an increase of 0.9 share points over 1999 and a milestone for the corporation as it assumed more than 50% of the total domestic cigarette market).

Phillip Morris Inc.'s major brands are Marlboro, Virginia Slims, Parliament, Merit and Benson & Hedges. Its principal discount brands are Basic and Cambridge. Marlboro, the nation's most popular brand, had shipments of 158.2 billion units in 2000 (up 3.5% from 1999), equal to 37.7% of the domestic market. Much of the increase in market share is due to its introduction of a menthol line of Marlboros that is successfully competing with Newport and Kool for the African-American market and is now the fastest-growing menthol brand.

Philip Morris is the dominant tobacco company in the state of Wisconsin. Several of the corporation's subsidiaries are located in the state, including Miller Brewing Co., Oscar Mayer, Tombstone Pizza, and several Kraft plants. These large businesses, although not directly involved in tobacco production, increase the political, economic and social importance of Philip Morris to the state of Wisconsin. Their large workforces and high

revenues enable such businesses to lobby and successfully influence policies at the state and local level. In addition to the 3,500 employees of Miller Brewing in Milwaukee and the 3,000 employees of Oscar Mayer in Madison, Philip Morris also employs 650 employees at Tombstone Pizza in Medford, 750 employees at two Kraft Pizza plants in Little Chute and Sussex, and 250 employees at Kraft Foods Inc., in Beaver Dam, for a total of 8,150 employees in the state [Table 1]. Kraft Foods Inc is also the largest buyer of Wisconsin cheese in the nation, leaving Wisconsin's dairy industry heavily dependent on the multi-national giant. Throughout much of the 1980-1990s, Philip Morris was the largest private employer in Wisconsin.

**Table 1: Philip Morris Wisconsin Subsidiaries**

<b>Subsidiary</b>	<b>Location</b>	<b>Employees</b>
Miller Brewing Co	Milwaukee	3,500
Oscar Meyer (Kraft)	Madison	3,000
Tombstone (Kraft)	Medford	650
Kraft Pizza Co	Sussex	450
Kraft Pizza Co	Little Chute	300
Kraft Foods Inc.	Beaver Dam	250
<b>Total Employees:</b>		<b>8,150</b>

Source: Wisconsin Manufacturers Directory 2001. Harris Info Source.

Oscar Mayer and Kraft Foods Pizza (whose Tombstone and DiGiorno brands are manufactured predominately in Wisconsin) had operating revenue of \$3.4 billion in 2000 and income of \$512 million. Miller Beer, which is based in Milwaukee, has maintained control of approximately 20% of the nation's beer market-share in the last two years. Unlike Oscar Mayer, which is heavily concentrated in Wisconsin, Miller Beer has breweries in eight locations in the nation. Given the presence of these well-established, high-wage manufacturing facilities, Philip Morris has secured a place as a leading employer or, in the frequently voiced sentiment of former Governor Tommy Thompson, "Wisconsin's Number One Corporate Citizen."

### *Lobbying and Political Action*

As one of the wealthiest corporations in the world and as a major employer in Wisconsin, Philip Morris plays an unusually visible role in fashioning public policy in regard to tobacco. It employs the former Acting Governor, Martin Schrieber and the former

Director of the Wisconsin Tavern League, Scott Stenger, as its lobbyists as well as a contract lobbyist who also lobbies for the Lutheran Social Services Association of Wisconsin. In the first eighteen months of the (2001-2002) legislative session, Philip Morris had the seventh highest expenditures for lobbying at \$463,502.

More importantly, in the previous two legislative sessions it expended \$1.5 million in lobbying fees. It is also a major contributor to political campaign treasuries. In the 1997-98 legislative session, Philip Morris, combined with the separately reported lobbying for Miller Brewing, had the second highest level of lobbying expenditures, exceeded only by Nicolet Mining, a corporation concerned about the proposed and successful moratorium on mining. In the 97-98 legislative session, one of the most contentious issues was the disposition of the tobacco settlement money and the level of state appropriation for tobacco control. A secondary issue was the proposed increase in the tobacco tax. This issue was secondary to the industry in 1997-98 because Governor Thompson had proposed raising the tax by only five cents in his 1997-98 budget.

Unlike other tobacco companies, Philip Morris has lobbied on a broad range of tobacco related legislation including proposals to ban smoking in the Capitol, reduce youth access to tobacco, prohibit tobacco use on school grounds and preempt municipalities to enforce retail sale laws.

Non-tobacco related corporate subsidiaries of Philip Morris such as Oscar Mayer have been active in winning key legislative issues on Philip Morris' tobacco policy agenda. These include the successful 1992 proposal to legislate smoking as a protected employment right and to make "discrimination against smokers" illegal. Oscar Mayer CEO John Bowlin lobbied both Governor Thompson and his deputy James Klauser not to veto the measure.<sup>31</sup>

In 1978, in what the Capital Times headlined as a "Smoking Lobby Triumph,"<sup>32</sup> the tobacco industry forced the withdrawal of an early attempt to pass a "Clean Indoor Air" bill with "the fine help we received from Miller Brewing."<sup>33</sup> The bill, authored by Rep. Mary Lou Munts and Senator Fred Risser was so "watered down" by amendments that it was withdrawn by the Rep. Munts.

As noted later in this report, Governor Thompson was rewarded with the highest level of campaign contributions as well as free trips to Africa and Australia for his family and

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<sup>31</sup> Campbell WI. 1 May 1992. (Philip Morris Documents #2023014308). [www.pmdocs.com](http://www.pmdocs.com).

<sup>32</sup> Milwaukee Journal, 31 Mar 1978.

<sup>33</sup> Re: Wisconsin Bill S-195, 6 Apr 1978. (Philip Morris Collection #1000217574/7576). <http://legacy.library.ucsf.edu>.



friends. The Philip Morris Company organized fund-raisers to benefit Thompson. For one fund-raiser prior to the November 1998 election, the CEO of Philip Morris' US operations, Mike Szymanczk notified all senior management of the company that he was hosting a fundraiser for the Governor at the Madison Club. The letter went to employees of "Grade Level 16 and above". He noted "The reception provides a great opportunity for us to demonstrate our support for an outstanding political leader."<sup>34</sup> Further memos from the Senior Vice President of Philip Morris, Ellen Merlo encouraged staff to ensure that additional related businesses attend the fundraiser. She directed staff to "do suppliers in the area, we can also do Madden and Leo Burnett (the ad agency)...There are any retail or wholesale accounts in the states we should solicit them. I am sure MES (Szymanczk) will take a plane, so if anyone wants to go, they can."<sup>35</sup>

As noted previously, other than statutorily required reporting such as lobbyists' records and campaign contributions, there is little official documentation of the political operations of the tobacco companies and specifically its dominant member, Philip Morris. Given the millions of dollars spent in the coordinated activity of lobbying and contributing to the political campaigns of politicians, there are few records available amidst the 1500 non-scientific documents related to Wisconsin in the tobacco industry archives.<sup>36</sup>

One of the few records available is a memo by Philip Morris lobbyist, Joe Czerwinski, a former Democratic State Representative from Milwaukee, who died in 1999 from lung cancer. This memo is one of the rare broad overviews of all tobacco issues and their relationship to current political actors and corporate activities.

In his June 1996 memo to a national political Philip Morris staff member, Czerwinski accurately reviewed the major issues 1995-96 legislative session as well as the next session and "handicapped" the upcoming Fall elections.<sup>37</sup>

The memo notes in part:

Key Issues in Wisconsin:

Youth access dominated the last session of the legislature. We can expect the same next year. The relationship with the convenience stores, retailers, distributors and grocers should be enhanced. Sen. George, Rep. Jensen, Rep. Foti, Rep. Brancel, Sen. Rude, Rep. Meyer, Rep. Klusman, Rep. Kunicki were helpful

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<sup>34</sup> Reception Honoring Governor Tommy Thompson. 10 Aug 1998. (Philip Morris Collection, Bates #2073296945). <http://legacy.library.ucsf.edu>.

<sup>35</sup> Merlo, Ellen to Comes, Cheryl, Fundraiser for Gov. Thompson, 4 August 1998. (Philip Morris Collection, Bates No. 2073296950).

<sup>36</sup> Legacy Tobacco Documents Library, University of California-San Francisco. <http://legacy.library.ucsf.edu>.

<sup>37</sup> Czerwinski memo. 17 Jun 1996. (Philip Morris Collection, Bates #206290448). <http://legacy.library.ucsf.edu>

The ASSIST program is very active and led the fight, along with cancer and heart, to reverse the state's preemption law. The ASSIST guidelines prohibit lobbying activities at the state and federal levels. There is proof that these activities have taken place and should be pursued.

Medicaid liability has not been pursued by the AG.

Divestment has been an issue in the past and we can expect it in the future.

We can expect excise tax legislation in the future.

Several pieces of smoking ban legislation was introduced last session, the same can be expected next session.

#### *Potential Political Scenarios*

. . . On June 4<sup>th</sup> the senate changed parties. (Note: from Republican to Democratic) This change is not a benefit for PM issues. The republicans have targeted 4 democrats that they believe are vulnerable and hold the promise of regaining the majority.

#### *Changing Political Dynamics*

. . . The percentage of contributions should lean towards the republicans. The republican majority in the assembly this past session, though difficult, did take our views and concerns seriously.

#### *Steps to Enhance Company Objectives*

Given the numbers of employed PM provides Wisconsin an effort to organize campaign volunteers on an assembly and senate grid would be most effective. . . . .

Cross company, Kraft, Miller, Tombstone, etc. cooperation in any volunteer, contributions and 501c3 donations would make our presence more effective.

. . . The use of independent expenditures, PAC to PAC contributions, get out the vote initiatives and the use of soft money, will need to be handled cautiously and imaginatively. For instance, contributions to a national democratic or republican PAC which agrees to forward sums to state PACS may be wise. There are individual legislators that should not be forgotten, the use of limited resources should not lose potential while staying involved financially.

It is probable that the Philip Morris executives agreed with their lobbyist and political consultant, Joe Czerwinski, and decided to award their friends and punish their enemies. One of the means of weighing into the political foray of 1996 without gaining the wrath of their enemies, was the attempt by companies to contribute to the political educational effort of the Wisconsin Manufacturers and Commerce (WMC).

In the weeks immediately prior to the November 1996, the WMC ran a large number of very hard-hitting ads against a number of incumbents including Senate Majority Leader Chuck Chvala and Senator Lynn Adelman in the Madison and Milwaukee media markets. Both incumbents had been strong opponents of the tobacco industry. A Dane County judge blocked the ads, because the contributions to the ad campaign had not been disclosed to the

State Elections Board. After a complex series of legal challenges that lasted continued for years, the ads were found to be illegal.

The very nature of the dispute over the ads run by the WMC and other political advocacy groups was in large over the secrecy of the identity of the contributors. Thus, while we cannot say for certain whether Philip Morris and other tobacco companies were major contributors to this effort against the Democratic Senators there are indications that were the case.

Reviews of document files of Philip Morris include dozens of newspaper articles, internal background reports and memos from Philip Morris attorneys to political staff and the Wisconsin Election Board related to the controversial ads. Also, included in the files are numerous fax cover memos from WMC related to the ads but in almost all cases no accompanying memos are available.<sup>38</sup>

### *Media Advocacy*

As a corporation with major holdings in Wisconsin, Philip Morris has not only worked to influence the political process and outcomes, but also to shape the public debate on tobacco. Key among the elements of controlling public opinion is influencing the media. As a major buyer of advertising through its holdings in Miller Brewing, Kraft Foods and numerous other subsidiaries, Philip Morris is well positioned to compel the media to respond to its agenda.

In March 1995, Philip Morris' long-time public relations consultant in Wisconsin, Morgan & Myers/The Barkin Group prepared a "Milwaukee Media Plan" for Philip Morris on strategies for responding to a number of critical newspaper articles primarily published in the former Milwaukee Journal.<sup>39</sup> The memo describes articles ranging from advice from a public health nurse on how to quit smoking to a Journal editorial on the FDA charge against the industry for "spiking" cigarettes with nicotine.

Morgan & Myers recommended that Philip Morris develop a list of third-party spokespeople and message carriers, sponsor local events and expand local support for other Philip Morris programs such as the Accommodation Program (to discourage smoke free

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<sup>38</sup> WMC to Sheila Reynolds (PM Counsel) Status Report on Litigation. 6 Nov 1996. Bates No. 2073297290. Letter, Raymond Taffora, Esq to Kevin Kennedy, Wisconsin Election Board, Re: Proposed Radio Scripts. 1 Oct 2002. Bates No. 2073297293.

"Lobbyist's anti-Chvala ads blocked." Capital Times, 31 Oct 1998. Bates No. 207329730.

<sup>39</sup> Morgan&Myers/The Barkin Group. Milwaukee Media Plan. (Philip Morris Collection, #2046117748/7767). <http://legacy.library.ucsf.edu>.

restaurants and ordinances) and youth access (“It’s the Law”) programs. It identified the Wisconsin Restaurant Association, the Wisconsin Convenience Store Association, Grocers Association and Tavern League as Philip Morris’s primary “third party potential advocates.”

Philip Morris took its consultants’ recommendations seriously and responded to perceived attacks and threats. For example, Philip Morris documents indicate clippings of articles including a letter to the editor from long-time anti-tobacco advocate Ira Sharenow, with the hand-written notation on the corner saying, “This is 5 major hits against us in Wisconsin media. We need to respond in media strongly! Let me do it. Please. – JRN.”<sup>40</sup> In 1993, documents indicate a flurry of e-mails on how to respond to a request from another advocate, Bonnie Sumner who requested information on the Philip Morris “youth” program. One e-mail asked “Is she with the medical college or is she a legitimate reporter? Did we check her out with Morgan and Myers?”<sup>41</sup>

In 1995, much of Philip Morris’ interest focused on the effort in the City of Fond du Lac to institute an ordinance that would have banned self-service or unassisted sales for cigarettes. Philip Morris operatives met with Wisconsin Merchants Federation, convenience store representatives and also the editorial writers from Wisconsin State Journal, Oshkosh Northwestern, Appleton Post Crescent, Milwaukee Journal-Sentinel, Capitol Times and the Fond du Lac Reporter. Instructions on the meetings emphasized that Philip Morris was not to discuss the merits of the proposal but instead, the issue of “local control vs. statewide uniformity.”<sup>42</sup>

Where Philip Morris could not influence the media, it simply established its own. Invisible to the health community and most of the non-smoking public, was the bi-monthly Philip Morris Magazine, a glossy, multi-color, forty-eight page magazine published bi-monthly and promoting “the good life.” As noted in Ashes to Ashes, the preeminent history of Philip Morris written by Richard Kluger, “The magazine had a claimed circulation of 13 million but was probably exaggerated by half.”<sup>43</sup> Nonetheless, with an estimated state circulation of 200,000, Philip Morris had a major voice in publishing and potentially a loyal and large mailing list to call upon in the event of a political issue.

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<sup>40</sup> Wisconsin State Journal Opinion Article. 19 Aug 1990. Philip Morris Documents (#2021199002). [www.pmdocs.com](http://www.pmdocs.com).

<sup>41</sup> Sumner B. RE: MS. Bonnie Sumner. (Philip Morris Collection, #2044424907). <http://legacy.library.ucsf.edu>.

<sup>42</sup> MAN Activity Report. October/ November 1995. Philip Morris Collection (Bates #2046039298). <http://legacy.library.ucsf.edu/>.

<sup>43</sup> Kluger, Richard. Ashes to Ashes. New York: Alfred A. Knopf, 1996.

In 1991, Philip Morris established the “Computer Aided Research and Media Analysis” project or CARMA. The purpose of the program was to conduct a detailed analysis of all editorial and news article in the entire national media of dailies, weeklies, magazines, trade magazines, radio, television and wire services. Each media mention of any issue related to the tobacco industry was categorized as “favorable,” “unfavorable” or “neutral.” The article was also categorized according to the number of “impressions,” or how many viewers or readers saw the article.

Part of the impetus for this quarter of a million dollars per year effort was the alarm over the negative press arising from revelations concerning the impact of the Philip Morris’ rival, RJR’s “Joe Camel” campaign on sharply increasing youth consumption of Camel cigarettes.<sup>44</sup> The cover memo of its “1991 Media Analysis” the author noted, “In its efforts to regain market share, the company’s highly publicized campaigns, including the “Joe Camel” ads, have had a profound impact on the media’s coverage of advertising related issues. The near universal condemnation of the “Joe Camel” ads, primarily as a result of their reported appeal to youths, generated criticism often aimed at the industry in general and not just RJR.”<sup>45</sup>

The 1991 Media Analysis reported that there were 600 articles on the tobacco industry published in Region VII, the five state northern Midwest area that includes Wisconsin. California, alone, following the initiation of its first state funded tobacco control campaign generated over 900 articles. The coverage was approximately 4:1 unfavorable. One of the few newspapers in the country highlighted for special scrutiny was the Wisconsin State Journal, which is described as a “problem newspaper” because of the 8:1 ratio of unfavorable to favorable articles.<sup>46</sup>

The issues most often discussed were second-hand smoke and tobacco-related disease. Each of these articles generated nearly 200 mentions. This contrasts to “restaurant bans” and “accommodation” with 600 mentions each.

The analysis details the highly unfavorable press for the tobacco industry on every issue with a single exception- as the report notes, “discrimination issues tend to attract the most favorable coverage for the tobacco industry.” In fact, the verbatim message, “Employer hiring bans on smokers are an invasion of privacy” appeared in 138 publications.

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<sup>44</sup> CARMA, Profile Region VII. 23 Apr 1992. (Philip Morris Collection, #2023917551/7571). <http://legacy.library.ucsf.edu/>.

<sup>45</sup> 1991 Media Analysis. Philip Morris Collection (Bates #2023917385). <http://legacy.library.ucsf.edu/>.

<sup>46</sup> CARMA. Jan-Dec 1991. Philip Morris Collection (Bates # 2023917551). <http://legacy.library.ucsf.edu/>.

The following year, 1992, a legislative proposal to prohibit “discrimination” against smokers was introduced by State Representative David Clarenbach and was signed into law by Governor Thompson.

As mentioned earlier, Philip Morris along with RJ Reynolds and the Tobacco Institute was active in opposing the City of Fond du Lac’s 1993 ordinance requiring clerk-assisted sales of cigarettes. When the State Court of Appeals overturned the measure in 1996 due to preemption by Wis. Stat. 134.66, Philip Morris directed its staff to participate in a “media tour” on the need for “uniformity” in state law.<sup>47</sup> Media activities focused on the views of the tobacco industry ally, Wisconsin Merchants Federation rather than that of the tobacco industry. It also highlighted that media attention on the attempt in the legislature to overturn the preemptive language.<sup>48</sup>

#### *Opposition to Organized Tobacco Control Efforts*

In contrast to the experience of a number of other states where the tobacco industry sued and directly harassed ASSIST project members and staff, Philip Morris did not litigate directly against organized tobacco control organizations in Wisconsin. (ASSIST is the abbreviation for the National Cancer Institute funded, American Stop Smoking Intervention Study for Cancer Prevention. The Wisconsin Division of Public Health coordinated ASSIST from 1991-1998). Records from Philip Morris indicate however, that they closely tracked activities of the Wisconsin ASSIST Project. Philip Morris files contain lengthy intelligence reports on the national and state programs. The report in 1993 on Wisconsin notes in part: “Wisconsin’s ASSIST coalition includes 27 legislators, the Urban League and the state association of broadcasters. It will use those resources to develop a local anti-smoking network, with licensing and dedicated tax issues at the top of the agenda.”<sup>49</sup>

At the outset of the ASSIST Project, Philip Morris lobbyist Joe Czerwinski asked the newly elected Assembly Speaker Walter Kunicki to request a memo from the Legislative Fiscal Bureau on the program. A copy of the memo was provided from the local lobbyist to national staff. However, as Czerwinski noted in this memo cited on page 21, Philip Morris

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<sup>47</sup> Wis. Stat. 134.66 prohibits any unit of local government from instituting a law that is more restrictive than the state law. This prohibits local governments from requiring merchants to directly sell cigarettes as opposed to having open stands of tobacco products where buyers including children can “help themselves.”

<sup>48</sup> Media Activities. 1996 (Philip Morris Collections, Bates #2047530496). <http://legacy.library.ucsf.edu/>.

<sup>49</sup> Forward, ASSIST Wisconsin Tobacco Control Plan. Philip Morris Documents (#2023665070). [www.pmdocs.com](http://www.pmdocs.com).

decided not to pursue an investigation against ASSIST despite his report that funds were used for lobbying.

A 1994 Philip Morris memo on Budget Issues listed “ASSIST”- ID lobbying activity” as a key “Proactive “ issue and Excise Tax (25-35 cents) and Restaurant Smoking Bans as the major “Defensive” issues. This is the only Philip Morris memo that contains even a single mentioning of non-tobacco interests of Philip Morris from its substantial lobbying staff and correspondence. It notes in an addendum that Oscar Mayer is interested in “solid waste” and that Kraft is interested in the topic of “milk price gouging”- a charge often made against Kraft Foods by milk producers.<sup>50</sup> This sole focus on tobacco contradicts the often-cited defense that Philip Morris is a large and diverse corporation that has many interests to promote in the State Capitol.

In 1993 a Philip Morris internal memo listed Wisconsin as one of only five states where preemption of local smoking ordinances was likely to pass. Other states on the list of “likely” candidates were Alabama, Delaware, North Carolina and South Carolina. However, there is no record of any substantial legislative activity on this measure in the 1993-94 session.<sup>51</sup>

In 1995-96, the “other preemption issue” was the central focus of tobacco control and public health advocates, i.e. the reinstatement of local authority over the sale and regulation of tobacco products. As noted previously, the issue of state preemption of local authority became prominent with the passage in Fond du Lac of an ordinance regulating sale of tobacco products. This ordinance was in response to a local study showing the high rate of illegal sales to youth in the area.<sup>52</sup> The study found high rates of minors illegally purchasing cigarettes and stealing cigarettes from easily accessible displays.

Marathon Oil sued the city and prevailed through the courts. Tobacco control advocates responded by attempting to repeal the preemptive language in the statutes.<sup>53</sup> Despite enormous efforts by the Tri-agency to win support for this effort, including getting the majority of the legislature to sponsor the reform legislation, the bill was kept in the Joint

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<sup>50</sup> Region VII Preliminary 1994 Budget and Issues Review. 1994. Philip Morris Collection (Bates# 2043987384). <http://legacy.library.ucsf.edu/>

<sup>51</sup> Legislative Activity: Smoking Restriction Preemption/Accommodation. Philip Morris Documents (#2025381437). [www.pmdocs.com](http://www.pmdocs.com).

<sup>52</sup> Cismoski J. May 1994. Results of the Fond du Lac School Districts 1994 Alcohol, Tobacco and Other Drug Use Survey and Summary.

<sup>53</sup> Wisconsin Statute 134.66

Committee on Finance by the Assembly Republican leadership and never allowed for a floor vote.

Killing the preemption repeal bill was the first item on the Legislative Action plan of Philip Morris in 1996.<sup>54</sup> The plan notes that “Marketing Uniformity” was the key issue of the day. Inscribed next to “Marketing Uniformity” by an anonymous writer is “AB 516,” the measure to repeal preemption. Listed immediately below under “Grassroots/ Media” is “Retailer Training Program/ Tour” and “Retailer Crime Prevention Seminar”. “Key allies” are “Retailers, Wholesalers, Business and Trade Associations and Law Enforcement.”

As always an essential element of the Philip Morris plan was both media advocacy and extensive use of their traditional allies in the Merchants Federation and Petroleum Marketers/ Convenience Stores. In their plan outlining the attack on Assembly Bill 516, it notes under the Merchants Federation, “Amenable to helping us however we see fit.” Grocers Association, then directed by John Ellingson, it notes, “Will not lend his personal support to issue. He says *Philip Morris hasn't given anything to the association* recently.”<sup>55</sup> (emphasis added)

Philip Morris and other entities were successful in the 1995-96 session in their attempt to maintain state preemption over local units of government and were successful in the following 1997-98 session when a similar bill, Senate Bill 314, was killed in the Assembly.

#### *Federal Action from Wisconsin*

From the beginning of the Clinton Administration in 1993, Philip Morris and the rest of the tobacco industry was deeply concerned about the long-feared regulation of tobacco products by the Food and Drug Administration. In August 1995, the FDA notified the White House of its rationale and intent to regulate tobacco in an 800-page “brief.” The tobacco industry prepared furiously for the day when the final rules would be promulgated. In internal memos, the day when the rules would be promulgated is repeatedly referred to as “Judgement (sic) Day”. Among the preparations made were identification of political leaders to be contacted by the top officers of Philip Morris. Wisconsin was among only ten states contacted by the two Senior Vice Presidents Steve Parrish and Ellen Merlo. Not only was Governor Thompson on the list, but also Assembly Majority Leader Steven Foti, the only

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<sup>54</sup> 1995-96 Legislative Plan (Wisconsin). Bates No. 2044009154.

<sup>55</sup> “Fondy” Media Action Plan. Sept 1995. Bates No. 2046113158.



legislative leader (non-Governor) in the US on the list.<sup>56</sup> Very senior Philip Morris officials would brief these individuals on the Philip Morris “spin” on opposition to the regulation.

A second list called “The Second Wave” of “Judgement (sic) Day” included tobacco industry allies to call and notify of the major talking points. The list consisted of the CEOs of the Wisconsin Restaurant Association, Convenience Stores, Wisconsin Manufacturers and Commerce, Wisconsin Merchants Association, Tavern League and Grocers Association.<sup>57</sup> Under the Philip Morris plan, each of the subsidiary organizations would received the Philip Morris “talking points” in opposition to the FDA regulation in writing and verbally.

### *Opposition to Tobacco Excise Taxes*

A key element of any tobacco control strategy is a higher tobacco tax relative to price. In 1981 Governor Lee Dreyfus increased the cigarette tax from 16 cents to 20 cents. In 1982, he proposed increasing the tax to 25 cents. The proposal to increase tax was accepted and the tax increase was successful on two counts. First, tobacco excise revenue increased from \$88.3 million to \$111.8 million in the first year. At the same time cigarette consumption declined by 2.8 million packs, for the first decline in consumption since 1970.

In 1987, Wisconsin had the highest tax in the nation at 25 cents per pack, but was soon eclipsed by Massachusetts and California when they raised their taxes by 25 cents in one increment through voters’ initiatives.

While the tobacco industry preferred to have lower taxes, increases of a few cents in state taxes every few years was not a cause of substantial concern; especially as the tobacco companies regularly increased its prices by five to eight cents every few months. For example, in 1990, a successful proposal by then Representative Judy Robson to increase the cigarette tax five cents under the slogan of “Pennies for Prevention” was little noticed in tobacco industry reports. The measure passed and Governor Thompson signed the measure increasing the tax. However, he removed the earmarked \$25,000,000 for public health and transferred the revenue into the general fund. It is possible that the real concern of the

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<sup>56</sup> FDA “Judgement Day:” Executive Contacts. Apr 1997. Philip Morris Collection, Bates #2070317014). <http://legacy.library.ucsf.edu/>. It is important to note that Rep. Foti in the period 1997-98 was substantially the highest recipient of direct tobacco contributions in the legislature, receiving \$2650 in direct PAC contributions. He also received \$1,850 in contributions from individuals employed by Philip Morris. During this period he was the primary spokesperson against increasing the tobacco tax and supporting the elimination of the retail compliance check programs.

<sup>57</sup> *Second Wave: Judgement Day*. Apr 1997. (Philip Morris Collection, Bates #2063394064). <http://legacy.library.ucsf.edu/>.

industry was not the five-cent increase in tax as much as public health organizations using a substantial share of their funds for tobacco control in their communities.

In 1996, state smoke free advocates began a campaign to increase tobacco taxes from the then 44 cents to a dollar a pack. In the 1997-98 budget, Governor Thompson, as noted previously, proposed a five-cent increase. Various legislators proposed a range of increases, including Joint Finance Committee, which proposed 16 cents. In response to the discussion, Philip Morris issued a warning to the state and the legislature that any “double digit” hike in the tax would be considered “punitive” and “anti-business” and that they would have to “re-evaluate” future investment in their major holdings of Oscar Mayer and Miller Brewing.<sup>58</sup>

The threat backfired. Even tobacco industry supporter, Assembly Speaker Scott Jensen, said in a moment of unusual candor, “Usually, they’re (the threats) done a bit more subtly. But the letters are getting more heavy-handed every session.” Tax supporter, Senator Judy Robson said, “This is America’s most lethal industry. They’re trying to blackmail us and it’s not going to fly.” The state’s largest newspaper, the Journal Sentinel editorialized that, “Philip Morris’ bully tactics mustn’t prevail” and called their attempt a “public relations disaster.”<sup>59</sup>

The letter may have been a public relations disaster but either it or other tactics did convince the legislature that not only was a dollar tax too much but that the Joint Finance proposal of 16 cents should be inched back to 15 cents. While the tobacco industry did not get its wish of “no more than a double digit tax increase” it was far less than the 56-cent increase proposed by the public health advocates and also less than the 45-cent increase that they would soon impose on its customers to pay for the settlement of the multi-state litigation.

### *Opposition to Clean Indoor Air Activities*

Philip Morris along with the Tobacco Institute has played a leading role in opposition to smoke free environments. In 1992, it retained Michael Christopher, a former Madison City Council member and friend of then Mayor Paul Soglin to lobby against the state’s first smoke free ordinance.

Smoke free restaurant ordinances were not an issue in the state again until 1996, when La Crosse advocates attempted unsuccessfully to pass an ordinance at the county level.

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<sup>58</sup> “Philip Morris says levy could affect Miller.” [Milwaukee Journal Sentinel](#). 17 Jun 1997.

<sup>59</sup> “Philip Morris’ bully tactics mustn’t prevail.” [Milwaukee Journal Sentinel](#). 18 Jun 1997.

However, in the previous year, 1995, when the issue of whether the state should finance a new stadium for the Milwaukee Brewers was the dominant subject in state politics, a late noteworthy sub-issue was whether the ballpark should be smoke free. As part of the financing package, Miller Brewing floated the proposal that it might agree to purchase the “naming rights” to a “Miller Park” stadium for \$20 million.

Late in the budget deliberations, Senator Robson successfully attached an amendment to the financing package requiring the entire stadium to be smoke free. Governor Thompson vetoed the smoke free requirement despite assurances that the specific provisions of the bill would not be vetoed. A Miller Brewing spokesperson said, “We lobbied to have smoking provision removed. There was no quid pro quo (referring to the decision to pay \$20 million for the naming rights). It was more as business issue, being part of Philip Morris Companies than anything else.”<sup>60</sup>

By 1998 community discussions on whether smoking should be permitted in restaurants and other public places began to proliferate. In a 1998 letter from the Regional Governmental Affairs Director, Paul Lucas to the Philip Morris state lobbyists asked, “What protection (against smoke free ordinances), if any, does Wisconsin’s preemption law allow for? Does it not address such local restrictions? I’d like to know exactly what the preemption law protects against and what is outside its authority?”<sup>61</sup> Apparently, the answer from the lobbyists was that there is no state law preempting local authority to adopt clean indoor air measures. Preemption is a tactic commonly used by the tobacco industry and other organizations with significant state-based power, where a weak or no law at the state level is supplemented by a provision that prevents (or preempts) the local level of government from enacting a law of its own on the issue.

Following passage of smoke-free ordinances in Fond du Lac and La Crosse, Philip Morris became concerned that the campaigns would soon sweep the state. In November 1999, in response it developed an “Action Plan to Enhance Clean Indoor Air Quality.” Adopted from its Accommodation Program, it emphasized state legislation to preempt local ordinances, defeat clean indoor air requirements at the local level and construction of a model enhanced air ventilation system to exhaust cigarette smoke. The action plan had a number of familiar characteristics:

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<sup>60</sup> “Smoking ban at Stadium Vetoed.” 13 Oct 1995. [Milwaukee Journal Sentinel](#).

<sup>61</sup> [Beloit Tobacco Ordinance](#). (Philip Morris Collection, PM ID #2072300600). 22 Jul 1998. <http://legacy.library.ucsf.edu>

- Develop a coalition of the Restaurant Association, Tavern League and Tourism Federation. This Coalition was slightly different in that it would include ventilation manufacturers (Johnson Controls based in La Crosse), contractors and Sheet Metal Worker local unions.
- Hold a conference on the Accommodation Program.
- Conduct a poll on “attitudes towards smoking” in Winnebago (Neenah) and La Crosse counties.

The new proposed strategy was to retrofit a restaurant/ tavern with a “model ventilation upgrade based on need for improved ventilation as well as local political climate.” The locations for the site were all cities with upcoming smoke-free ordinance campaigns e.g. Marshfield, Kenosha, Neenah.

The activities recommended were to meet with area legislators (despite the fact that the issue was ostensibly local), local chambers of commerce, editorial boards and finally (emphasis added):

*“Develop draft legislation to provide for state preemption on smoking ban opt-out ordinance language.*

*Build legislative candidate support for legislation to establish state preemption on smoking ban opt-out language.”*

The following year, the Wisconsin Restaurant Association requested candidate support for state preemption of ordinances in support of clean indoor air.<sup>62</sup> Despite these ambitious plans for state and local action, no legislation was proposed or enacted. The Restaurant Association received a sharp warning from the Wisconsin Alliance of Cities that they would fight any attempt to preempt local authority to protect public health. The WRA has not, to date, attempted to promote state preemption of smoke free ordinances.

## **R.J. Reynolds**

The R.J. Reynolds Tobacco Holdings, Inc.'s subsidiaries include R. J. Reynolds Tobacco Company (RJR Tobacco) and RJR Acquisition Corp. RJR Tobacco's business consists exclusively of the manufacture and sale of cigarettes in the United States. RJR

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<sup>62</sup> Action Plan to Enhance Clean Indoor Air Policy. (Philip Morris Collection, Bates Number: 2071787620/7621). 11 Nov 1999.

Tobacco's largest-selling cigarette brands are Camel, Winston, Salem and Doral. These brands, and its other brands, including Vantage, More, Now, Monarch and Best Value, are manufactured in a variety of styles. R.J. Reynolds is the nation's second largest tobacco company, employing 8,100 people.

In 1998 the company recorded sales of \$5.7 billion. Revenues grew 15% over the next two years for year 2000 sales of \$8.2 billion. Although the year 2000 profits of \$1.8 billion were less than 1999 profits of \$2.3 billion, they were still a substantial increase when compared to 1998's loss of \$516 million, largely due to initial payout due to the Master Settlement Agreement. This national revenue includes \$164 million dollar revenue for R.J. Reynolds and \$18 million in profit [Table 2].

In the last four and half years, RJR Tobacco has spent over one half of a million dollars lobbying the legislature on a wide variety of issues related to tobacco control in Wisconsin. Unlike, Philip Morris, RJR has not made direct contributions to Wisconsin political campaigns. However, it may have made unreported soft money contributions to issue committees. Michael Vaughn, who also represents the state's HMOs, represents RJR in the legislature.

Most of the political coalition organizational activity of RJR Tobacco in Wisconsin has been coordinated through the Tobacco Institute. One exceptional instance of independent activity was where RJR operative Mark Smith's organized the Fond du Lac Jaycees to "front" the RJR "Support the Law" projects. This project was instituted to thwart the attempt by the local tobacco coalition to pass an ordinance reducing youth access to tobacco. Previously, the company attempted to use an RJR employee and the program was seen as an attempt to improve the corporate image rather than a meaningful attempt to reduce youth smoking.<sup>63</sup>

Part of the effort to organize opposition to the ordinance was a letter to business owners from RJ Reynolds warning them that placing cigarettes out of reach of children would reduce sales by 10%. It also threatened them by noting, "Stores would probably lose some cigarette company allowances- as high as \$5,000 a year. Immediate cost of retrofitting would average \$4,000 a year. In addition, the estimated profit loss resulting from lower

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<sup>63</sup> Smith M. Weekly Status Report. (RJ Reynolds Collection #512688385/8385). <http://legacy.library.ucsf.edu/>

volume would average \$4,000 a year per store. ...Retail sales must increase by an extra \$50,000 a year to make up for such a profit loss.<sup>64</sup>

While the tobacco industry was successful in scaring the retailers into opposing the ordinance, the City Council voted for it as a result of well-organized community support. Unfortunately, overwhelming local support was insufficient to overcome opposition from the industry.

### **Brown & Williamson Tobacco Co**

Brown & Williamson Tobacco Corporation, headquartered in Louisville, Ky., markets tobacco products both domestically and internationally. A U.S. subsidiary of the London-based British American Tobacco, Brown & Williamson is the third largest cigarette manufacturer and marketer in the U.S., and employs nearly 5,000 people. The Company's brands include Kool, Lucky Strike, GPC, Viceroy, Capri, Raleigh, Pall Mall, Carlton, Belair, Tareyton, and Barclay. In 2001, Brown and Williamson's Wisconsin revenues totaled 121 million dollars with a profit of 21 million dollars. [Table 2]

Brown and Williamson has spent \$409,257 in lobbying expenses in Wisconsin since January 1997. It's lobbyists, Ronald Hermes and James Tenuta, are also the lobbyists for the Dental Hygienists Association, the Physical Therapy Association and the Head Start Association.

Brown and Williamson has largely been a minor actor in Wisconsin tobacco politics. Given its relatively small and declining share of the tobacco market in the state it has opted to be a supporting actor working in the industry-wide coalitions and organizations.

### **U.S. Tobacco**

UST Inc. is predominantly a manufacturer of smokeless tobacco products, but also produces cigars and wines. Tobacco segment sales are made principally to wholesalers and chain stores throughout the United States, with select sales to international markets. The Company's 4,900 employees manufacture and market smokeless tobacco products including moist brands such as Copenhagen, Skoal, Red Seal, and Rooster, and dry brands such as Bruton, Cc and Red Seal.

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<sup>64</sup> Notice for WI Businesses. 13 Jul 1993. Lorillard Collection (Bates #91372728). <http://legacy.library.ucsf.edu/>

UST's tobacco operations have increased revenues by nearly 8% over the past year, from \$1.51 billion in 2000 to \$1.63 billion in 2001. Operating profits saw a larger increase of 11.0% over the same period, from \$441.7 million in 2000 to \$491.6 million in 2001. Total revenues for UST in Wisconsin totaled 32 million dollars with a profit of 15 million. [Table 2]

UST in concert with its allied organization, the Smokeless Tobacco Council has played a significant role in lobbying on tobacco issues. In the 1997-98 session, these two entities spent \$229,000 in lobbying. In the 1999-2000 session, they spent \$226,000 in lobbying. Patrick Osborne, a former gubernatorial aide, currently represents the Smokeless Tobacco Council. Other major clients of Mr. Osborne are the Wisconsin Association of Health and Life Insurers Association and Marathon Oil Co., which is a major retail seller of tobacco under the name, Super America. Marathon Oil also played a key role in the revision of the state law on compliance checks of retail tobacco sellers. UST is represented by Essie and Associates. Other clients of Essie include WEAC, the state teachers union and the Health and Hospital Association.

### **Lorillard Inc.**

Lorillard Inc is a subsidiary of Loews Corporation, and accounts for just over 20% of Loews' revenues. Loews Corporation's subsidiaries also include their wholly owned Loews Hotels Holding Corporation (which includes Loews Cinemas), CNA Financial Corporation (insurance), the Diamond Offshore Drilling, Inc. (oil and gas), and Bulova Corporation (watches and clocks). With 3,300 employees, Lorillard Inc. is engaged in the production and sale of cigarettes and tobacco products in the United States only. Lorillard's principal cigarette brand names are Newport, Kent, True, Maverick and Old Gold. The company's largest selling brand, Newport, accounted for approximately 80% of Lorillard's sales in 2001. Newport is the second most popular brand among youth- particularly African American youth.

On the strength of the Newport brand, Lorillard showed tremendous growth over the past couple of years. Revenues increased 51% between 1998 and 2000, from \$2.9 billion to \$4.4 billion. Operating income grew by 114%, increasing from \$354 million to \$756 million between 1998 and 2000. However, Lorillard did experience a 5% decrease in revenue in 2001 while maintaining steady profit margins. In Wisconsin, Lorillard posted 2001 revenue of 74 million dollars with a net profit of 14 million. [Table 2]

Since 1999, Lorillard has spent close to \$250,000 on lobbying expenses. Peter Theo, a lobbyist who also represents the Wisconsin Optometric Association, represents Lorillard's interests in the legislature.

### Summary

Despite setbacks in the public's opinion of tobacco companies and sustained reductions in cigarette consumption, the tobacco industry continues to be a very profitable business in the US and in Wisconsin. This vast profitability in a relatively small market is reflected in industry expenditures for lobbying and campaign contributions. This is to insure that they maintain policies friendly to the industry and ensure low cost cigarettes, unimpeded sale and unregulated use. As indicated in Table 2, estimated profits of the tobacco industry in Wisconsin in year 2001 was \$168 million on revenue of \$869 million.

**Table 2: Estimated Wisconsin Revenues and Profits<sup>65</sup>**

Wisconsin	Revenues (in millions of dollars)			Profits (in millions of dollars)		
	1999	2000	2001	1999	2000	2001
PHILIP MORRIS Inc	373	432	473	93	102	100
RJR	144	156	164	14	16	18
Brown & Williamson	137	110	121	15	24	21
UST	25	26	32	15	15	15
Lorillard	78	83	79	12	14	14
<b>Total</b>	<b>757</b>	<b>807</b>	<b>869</b>	<b>149</b>	<b>171</b>	<b>168</b>

Source: U.S. Securities and Exchange Commission filings at [www.sec.gov](http://www.sec.gov)

<sup>65</sup> These are rough estimates of the revenues and profits generated from the sale of tobacco in the state of Wisconsin. The estimates are based upon per capita of national revenue and profit and filings for domestic tobacco companies with the Securities and Exchange Commission (SEC). Brown and Williamson Tobacco, however, is owned by the British American Tobacco Council, which does not file with the SEC. Thus the British American Tobacco estimates are based upon the company's annual reports. British American Tobacco does not release specific data for Brown & Williamson's domestic revenues and income. The data in this table are estimates based on British American Tobacco's sales throughout North America and should thus be read with caution. The estimates are listed solely to provide a rough idea of the tobacco industry's activities in the state and should not be treated as definitive measures of corporate activity.



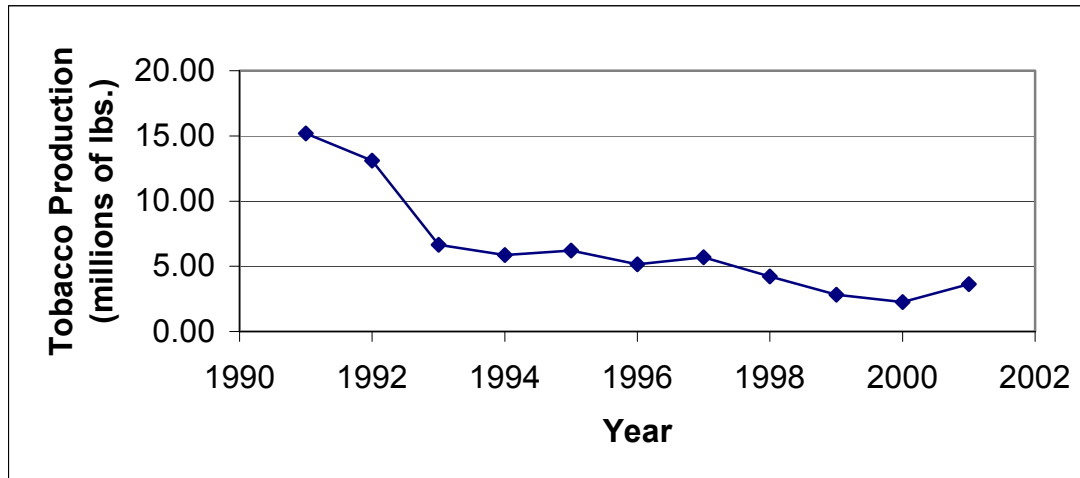
## **Agriculture**

Tobacco as an agricultural commodity has a long history in the state of Wisconsin. The state's soil supports the growth of two different types of tobacco leaf. Southern Wisconsin Havana Seed and Northern Wisconsin Havana Seed. Wisconsin tobacco is primarily used for the "wrap leaf" for cigars and for chewing tobacco. Despite increases in the popularity of smokeless tobacco, "dry chew" which requires frequent spitting, is declining in use leaving the cultivation of cigar leaf tobacco as the major end product of Wisconsin tobacco. Thus, the prospects for the very small Wisconsin tobacco farm sector are unrelated to the decline in cigarette consumption or the performance of the major tobacco companies.

The growing corporate profits of the tobacco industry have not translated into growth for all aspects of the industry. While the big five tobacco companies continue to record growth in revenues and profits, tobacco's agricultural sector is declining in Wisconsin. Tobacco farms in the state of Wisconsin are disappearing as the number of acres devoted to harvesting tobacco decreased 86% in the last decade, from 6900 acres in 1990 to only 960 acres in 2000. As expected, Wisconsin farms' tobacco production decreased over the same period, decreasing 83% from 13,346,000 lbs in 1990 to only 2,254,000 lbs in 2000.

Unfortunately for tobacco farmers, they have not been able to follow the manufacturing corporations' ability to increase revenue despite decreasing sales. As indicated in Figure 1 and Table 3, the value of tobacco crops generated by tobacco farmers dropped 83%, matching the reductions in production of the last decade, from \$20.0 million in 1990 to \$3.5 million in 2000. However, tobacco remains among the state's most valuable crops relative to price per weight, netting the 784 tobacco farms in the state an average of \$3,635 per acre, or \$1.55 per pound. In comparison, corn netted \$251 per acre, barley netted \$74 per acre, and soybeans netted \$182 per acre. It should be noted, however, the high value of the tobacco crop comes in part as a result of the high costs of cultivation.

**Figure 1: Tobacco Crop Production in Wisconsin**



Source: Wisconsin Agricultural Statistics Service 2001.

**Table 3: Wisconsin Tobacco Production Trends**

		1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001
Harvested	(In acres)	7300	7200	4600	2850	2760	2870	2550	2050	1180	940	1570
Yield	(pounds/acre)	2081	1819	1444	2058	2254	1799	2231	2063	2388	2399	2307
Production	(million lbs)	15.19	13.10	6.64	5.87	6.22	5.16	5.69	4.23	2.82	2.25	3.62
Price/Unit	(\$/lbs)	1.55	1.487	1.487	1.45	1.45	1.486	1.505	1.498	1.49	1.55	1.65
Value	(millions of \$)	23.55	19.49	19.49	8.51	9.02	7.67	8.57	6.34	4.20	3.49	5.02

Source: Wisconsin Agricultural Statistics Service 2001 and DATCP 2001.

Wisconsin’s tobacco farmers experienced greater declines in production and value than the national average. As cigarette sales dropped and tobacco corporations increased foreign tobacco imports throughout the last decade, tobacco harvesting and production in the United States decreased. However, these decreases affected the nation less than they affected Wisconsin’s tobacco farmers. In 1990, Wisconsin produced 0.82% of U.S. tobacco, compared to only 0.34% of U.S. tobacco in 2001. The number of acres devoted across the country to the harvesting of tobacco dropped only 36% in the last decade compared to Wisconsin’s drop of 86%.

As in Wisconsin, the nation’s tobacco production decreased in relative proportion to the decrease in acreage devoted to tobacco, from 1.6 billion lbs in 1990 to 1.1 billion lbs in 2000, a decrease of just over 35%. Similarly, the value of tobacco crops in the U.S. dropped

considerably, from \$2.8 billion in 1990 to \$2.0 billion in 2000.<sup>66</sup> A 31% drop in the value of tobacco produced nationally is a significant reduction, but nonetheless smaller than the 86% reduction in value experienced in Wisconsin over the same period.

## **Manufacturing**

There is no significant manufacture of tobacco products in Wisconsin. There are only four tobacco warehouses in the entire state, and only 10 manufacturers, devoted primarily to the production of chewing tobacco and cigars. No cigarettes are produced in the state. Of the major tobacco companies, only Lorillard has manufacturing plants in the state located in Eau Claire, Green Bay, and Waunakee primarily for the manufacturing of chewing tobacco.

Despite the low levels of tobacco product production and manufacturing in the state, Wisconsin smokers consume tobacco products at rates very similar to the national averages. While Wisconsin harvests only 0.2% of the country's tobacco and manufacturers an infinitesimal share, Wisconsin residents purchase 2% of the country's cigarettes- nearly 400 million packs per year.

Significantly more tobacco is imported for sale to Wisconsin residents than is produced, harvested, or manufactured in the state. Thus the bulk of the value from tobacco falls upon the in-state retailers and the out-of-state corporations, as opposed to Wisconsin farmers, buyers, or warehouses.<sup>67</sup>

## **Advertising and Promotions<sup>68</sup>**

The sale of cigarettes and tobacco products in the state impacts every sector of Wisconsin's economy. In order to maintain cigarette sales, tobacco companies spend over \$150 million in advertising and promotional expenditures each year in Wisconsin. While advertising as it is traditionally known, i.e. print, billboard and electronic media has rapidly declined, promotions to consumers and sellers of tobacco to spur sales has sharply increased. The focus of much tobacco advertising has changed since 1998 and the Master Settlement

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<sup>66</sup> United States Department of Agriculture. National Agricultural Statistics Service (NASS). <http://www.usda.gov/nass/pubs/estindx.htm>.

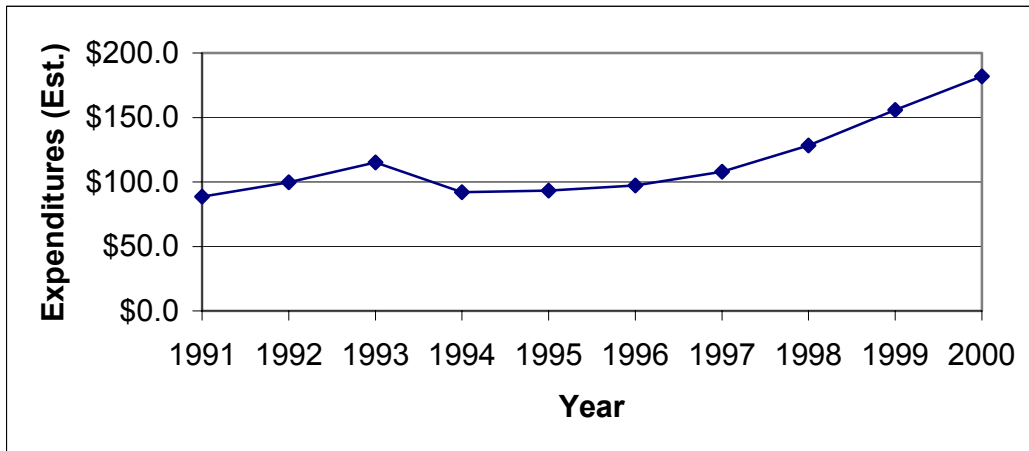
<sup>67</sup> Warner KE, Fulton, GA, Nicolas P, Grimes DR. "Employment Implications of Declining Tobacco Product Sales for the Regional Economies of the United States." *Journal of the American Medical Association*. 275 (1996): 1241-6.

<sup>68</sup> The Federal Trade Commission collects national data from the tobacco industry on its advertising and promotion. Assuming the industry expends its advertising budget on the basis of current smokers and likely future smokers, we estimate the Wisconsin share of the advertising and promotion at 1.96 percent of the national figures. This multiplier is used throughout the discussion of advertising and promotions.

Agreement. A key provision of the settlement required the tobacco industry to end billboard advertising. In 1991, the tobacco industry spent \$7 million per year in billboard advertising in Wisconsin.

While tobacco companies purchase ads in newspapers, magazines, on the Internet and television (although direct advertising for cigarettes is not allowed, Philip Morris still advertises extensively on television through its “good corporate citizen” ads), the primary advertising “battleground” for the tobacco industry is at the point of sale in retail establishments. Estimated expenditures by tobacco companies for advertising and promotion in the state of Wisconsin increased from \$88.6 million dollars in 1991 to \$182 million in 2000, an increase of over 100 percent. [Figure 2]

**Figure 2: Estimated Tobacco Advertising and Promotional Expenditures in the State of Wisconsin**



Source: Federal Trade Commission – Cigarette Report 1999 (estimates based upon per capita of federal data).

Examination of the tobacco industry’s advertising and promotional expenditures provides important information on tobacco marketing and retail sales. In Wisconsin alone, the industry spent an estimated \$6.6 million on point of sale advertising in 2000. [Table 4] Point of sale advertising includes the placement of tobacco “iconography” and paraphernalia such as ads, clocks and posters throughout retail establishments increasing in density as the attention of the customer moves towards the displays near the counter where tobacco is purchased. It is anticipated that this expenditure will increase in the future, as control of the retail marketplace becomes a greater point of contest between the major tobacco companies.<sup>69</sup>

<sup>69</sup> Ono, Y. “Tobacco: For Philip Morris, every store is a battlefield.” Wall Street Journal. 29 June 1999.

**Table 4: Estimated Cigarette Advertising and Promotional Expenditures in Wisconsin<sup>70</sup>**

Based on per capita of national statistics of the Federal Trade Commission.

(in thousands of dollars)	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
<b>Type of Ad</b>										
Newspaper	919	676	690	460	364	268	324	561	971	981
Magazine	5,301	4,518	4,484	4,796	4,743	4,632	4,516	5,362	7,193	5,603
Outdoor	7,360	5,635	4,412	4,575	5,216	5,570	5,629	5,617	1,025	176
Transit	1,147	1,016	746	559	430	550	503	765	106	.08
Point of Sale	6,568	6,977	7,642	6531	4,937	4,815	5,820	5,541	6,279	6,594
Promotional Allowances	22,039	28,857	29,689	32,000	35,559	40,995	46,477	54,872	67,529	74,366
Sampling Distribution	1,086	940	766	133	264	304	421	275	643	424
Specialty Item Distribution	3,514	6,480	14,405	16,216	12,678	10,375	9,770	6,782	6,398	5,031
Public Entertainment	2,261	1,710	1,606	1,549	2,109	3,263	3,721	4,737	5,096	5,883
Direct Mail	1,239	655	600	594	660	738	711	1,101	660	1,765
Internet	0	0	0	0	0	8	4	2	12	18
Coupons (Inc Value Add<97)	35,888	41,463	48,782	23,804	25,700	24,944	10,532	11,897	10,121	13,401
Value Added	0	0	0	0	0	0	18,495	29,646	48,791	66,813
All Others	1,311	793	793	909	642	890	957	1,174	1,042	1,205
<b>Total (in millions)</b>	<b>\$88.6</b>	<b>\$99.7</b>	<b>\$115.7</b>	<b>\$92.1</b>	<b>\$93.3</b>	<b>\$97.4</b>	<b>\$107.9</b>	<b>\$128.3</b>	<b>\$155.9</b>	<b>\$181.9</b>

Source: Federal Trade Commission – Cigarette Report for 2000 (2002) (table represents per capita of federal data).

The majority of point of sale advertising items are found in convenience stores. Considering that there are approximately 2,000 convenience stores in the state, each store averages nearly \$3,000 in yearly payments in exchange for displaying tobacco merchandise and logos in their stores.

Convenience stores that participate in the Philip Morris Retail Leaders Program can earn as much as \$20,000 per year in additional fees as well as other incentives such as vacations and NASCAR tickets. This program has come under legal attack by other tobacco companies because it is claimed that it is exclusionary, i.e. it requires sellers to not market other producers' brands. These "allowances" are paid entirely to sellers, as opposed to discounts and specialty items that are directed at buyers.

The largest expenditures for the tobacco industry are promotional allowances. Promotional allowances to customers usually take the form of rebates (e.g. by mailing proof of purchase of a carton of cigarettes) or multi-pack discount offers (three packs for the price of two). Promotional allowances are also made to retailers who receive bonuses for reaching specific targets. These allowances are paid to retailers to facilitate sales. In the promotional

<sup>70</sup> Federal Trade Commission. 2002. Cigarette Report for 2000. <http://www.ftc.gov/os/2002/05/2002cigrpt.pdf>.

allowances category, the industry spent an estimated \$74.4 million in Wisconsin or nearly \$77 per year per smoker. Contrast this to the state's tobacco control program that in 2002 was expending \$15 million for the entire state or less than \$3 person.

Newspaper advertising expenditures, as calculated on the state's proportion of national tobacco sales of 2%, rose from \$561,000 to \$981,000 between 1998 and 2000 in Wisconsin, an increase of 73%. This category of advertisements is small compared to other expenditures, accounting for only 0.5 percent of all advertising and promotional expenditures. This may be due in large part to the industry's focus on advertising in so-called alternative press publications that target the tobacco industry's primary demographic target group – 18 to 24 year olds. Given the large readership of alternative publications such as the Isthmus, the Onion, and the Shepherd Express, expenditures in Wisconsin may be higher than the consumption share estimates.

A recent study of the proliferation of tobacco advertisements in "alternative weeklies" in the past five years documented an increase from 16 ads in the weeklies of Philadelphia and San Francisco in 1994 to 884 ads in 1999. Half of these ads were for specific tobacco products and half were for entertainment-focused promotions such as "Camel Night" at a specific bar. These brand-sponsored nights offer low cost entertainment, free tobacco samples and other tobacco brand name giveaways.<sup>71</sup> Expenditures on magazine advertisements also increased 34% percent, from \$5.3 million in 1998 to \$7.2 million in 1999.<sup>72</sup>

From 1999 to 2000, the industry spent an estimated \$11.0 million on public entertainment promotions in the state, advertising at events such as concerts, auto races, and fishing tournaments.<sup>73</sup> Obviously the tobacco companies believe that such expenditures are justified in light of the high level of cigarette and tobacco sales in Wisconsin. One of the features of this advertising is that it is "buried" deeply in the background of other visual messages, e.g. on the cap of a fisherman or on the side of a speeding racecar.

The issue of the intensity and method of tobacco marketing is especially important to Wisconsin in light of the initiation of a comprehensive tobacco control program. There is evidence that states with such programs have experienced sharply increased and more intensive retail marketing programs. For example, stores in states with tobacco control

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<sup>71</sup> Sepe E, Glantz S. "Bar and Club Tobacco Promotions in the Alternative Press: Targeting Young Adults." American Journal of Public Health. 92 (2002): 75-78.

<sup>72</sup> Cigarette Report for 2000.

<sup>73</sup> Ibid

programs were nearly three times more likely to have gift with purchase program than those without such programs. Also, states with programs experienced 50% more exterior advertising for Marlboro products than states without comprehensive programs.<sup>74</sup>

### **Philanthropy**

Tobacco companies - Philip Morris in particular – support high profile charities and well-publicized public entertainment programs and events in the state through generous contributions. In the 1980s tobacco companies, and in particular Philip Morris, were major charitable forces in the state giving over \$6 million to 5,000 charities. Given the amount of money and the scope of the contributions, the purpose of these contributions was to reach as large a number of organizations as possible (little more than \$1,000 per charity) as opposed to substantially funding any on-going effort<sup>75</sup> or focusing on any specific cause or concern. The effort to influence public opinion through corporate giving has substantially declined in the past decade. This is due in part to the high cost and ineffectiveness of the strategy to increase the public’s opinion of the tobacco industry and second, the increasing criticism of non-profits for accepting these gifts.

In the latter half of the decade (1995-1999) the tobacco industry sponsored eleven different non-profit organizations or events in the state of Wisconsin.<sup>76</sup> [Table 5] Philanthropic contributions and entertainment promotions are often used as subject matter for public relations messages designed to enhance corporate image that appear on television, radio, and in print.<sup>77</sup> While no current list of contributions is available, some of the major gifts of Philip Morris and Miller Brewing are to the Wisconsin AIDS Resource Center, which received \$110,000 in 2001 from these entities.

Examination of the distribution of contributions listed in Table 5 indicates that grants were made to domestic violence centers in five of the nine Congressional Districts, including the Wisconsin Coalition Against Domestic Violence, which organizes domestic abuse programs throughout the state. The focus on domestic violence by Philip Morris is in part

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<sup>74</sup> Slater S, Chaloupka FJ, Wakefield M. “State Variation in Retail Promotions and Advertising for Marlboro Cigarettes.” *Tobacco Control*. 10 (2001): 337-339.

<sup>75</sup> Kluger, Richard. *Ashes to Ashes*. New York: Alfred A. Knopf, 1996.

<sup>76</sup> Siegel M. “Tobacco industry sponsorship in the United States (1995-1999).” Boston University School of Public Health. 2000.

<sup>77</sup> Dorfman, Lori. 27 Nov. 2000. “Philip Morris puts up good citizen smokescreen.” <http://www.alternet.org/story.html?StoryID=10129>.

driven by the criticism of the significant role of alcohol in domestic violence. This particular philanthropic effort is portrayed in its advertisements as a “defense of motherhood.”

**Table 5: Philanthropic Sponsorship of Wisconsin Events**

Org/Event	City	Year	Company	
Women's Horizons, Inc	Kenosha	1999	Philip Morris	Part of \$2 million to:
WI Coalition Against Domestic Violence	Madison	1999	Philip Morris	<i>National Network to End Domestic Violence</i>
Domestic Abuse Intervention Services	Madison	1999	Philip Morris	“
Sojourner Truth House, Inc	Milwaukee	1999	Philip Morris	“
Advocates of Ozaukee	Sauville	1999	Philip Morris	“
CAP Services - Family Crisis Center	Stevens Point	1999	Philip Morris	“
Wisconsin Sesquicentennial	Various	1998	Philip Morris	
Fighting Hunger		1995-99	Philip Morris	
Lincoln County Commission on Aging	Merrill	1999	Philip Morris	Part of \$2.1 million to: <i>Senior Helping Initiative</i>
Explorations in the City of Lights: African American Artists in Paris, 1945-1965	Milwaukee	1996-97	Philip Morris	Exhibit at 5 national locations, including Milwaukee Art Museum
Milwaukee Dance Theatre	Milwaukee	1998	Philip Morris	

Source: Siegel, 2000 – Tobacco Industry Sponsorship in the United States 1995-1999

These philanthropic contributions may be used to gain industry allies or sway opinion on tobacco control measures. For example, in 1994, when the New York City Council was considering smoking restrictions for public areas, Philip Morris threatened to end its support and funding of the arts community in the city. Furthermore, Philip Morris pressured some of the beneficiaries and recipients of its arts donations to oppose the proposed bill.<sup>78</sup>

One of the key aspects of the philanthropic efforts of Philip Morris is the scope of advertising trumpeting its activities. Saturation advertising depicting Philip Morris’s contributions to women’s domestic violence shelters, Bosnian food relief, bottled water in storm areas and kindly elderly retailers who admonish misguided minors and then decline to sell them cigarettes have become part of the American tableau. Advertisements extolling the corporate benevolence of Philip Morris are not subject to the advertising reporting requirements to the Federal Trade Commission. Indeed, one could argue that the tobacco industry and in particular Philip Morris has substituted real philanthropy, to giving far less money and at the same time cynically publicizing small gifts with a large advertising budget.

<sup>78</sup>Dreyfuss R. “Philip Morris Money.” *The American Prospect*. 11 (27 Mar 2000 – 10 April 2000).



## **Cigarette Prices and Tobacco Taxation**

The most critical economic determinant of tobacco use is its overall price determined in part by the excise tax. From the late 1980s until the Master Settlement Agreement (MSA) in November 1998, the tobacco industry typically increased the price of a pack of cigarettes by 5 to 8 cents every eight to twelve months. These price increases of 2-3% of the price of a pack of cigarettes caused little if any reduction in sales. Large increases in taxes, in the range of 10% of the price of a pack of cigarettes, have the ability to reduce consumption.<sup>79</sup> On November 16, 1998, the tobacco industry uniformly raised the price of cigarettes 45 cents per pack. Additional price increase, some up to 18 cents per pack, have increased the wholesale price of cigarettes from approximately \$1.75 following the MSA to \$2.25 in July 2002.

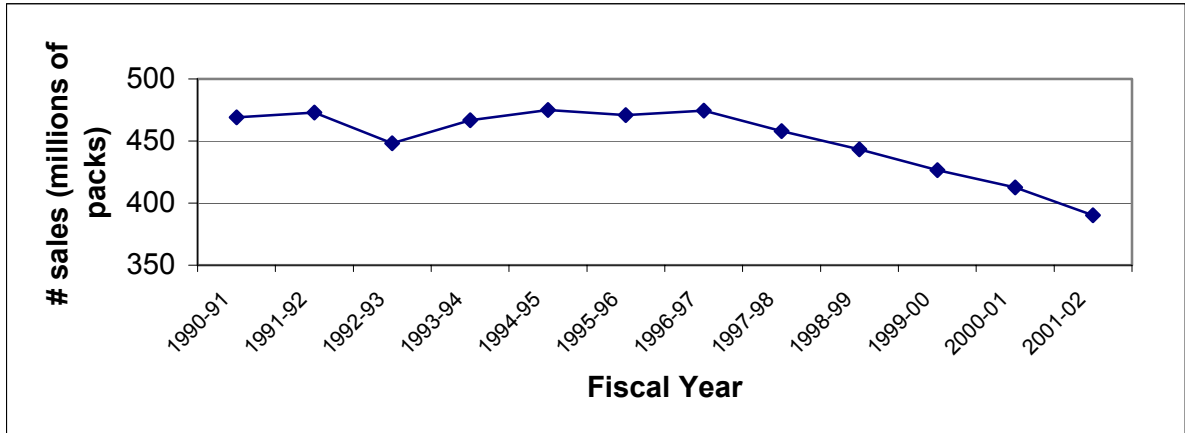
In addition, to these steady price increases over the 1998-2002 period, the federal government increased its tax in January 2000 from 24 cents to 34 cents per pack and an additional 5 cents to a total of 39 cents in January 2002. As a result of these price increases and excise tax increases at the state and federal level, cigarette consumption decreased nationally by 13.3% in the period of 1997-2001.

As of October 1, 2001, Wisconsin receives 77 cents in excise tax for each pack of cigarettes. Despite the decrease in the statewide sale of cigarettes throughout the last decade, the state's total excise tax revenues from cigarettes have grown due to increases in the cigarette tax. The state cigarette tax has increased from 30 cents/pack in 1990 to the current level of 77 cents/pack. Although annual cigarette sales in the state dropped 18% in the last decade, tax revenue from cigarettes has increased 81% from \$137 million in 1991 to \$248 million in 2000.

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<sup>79</sup> Chaloupka FJ and Warner KE. 1999. "The Economics of Smoking." Prepared for *The Handbook of Health Economics*.

**Figure 3: Cigarette Sales in Wisconsin by fiscal year**



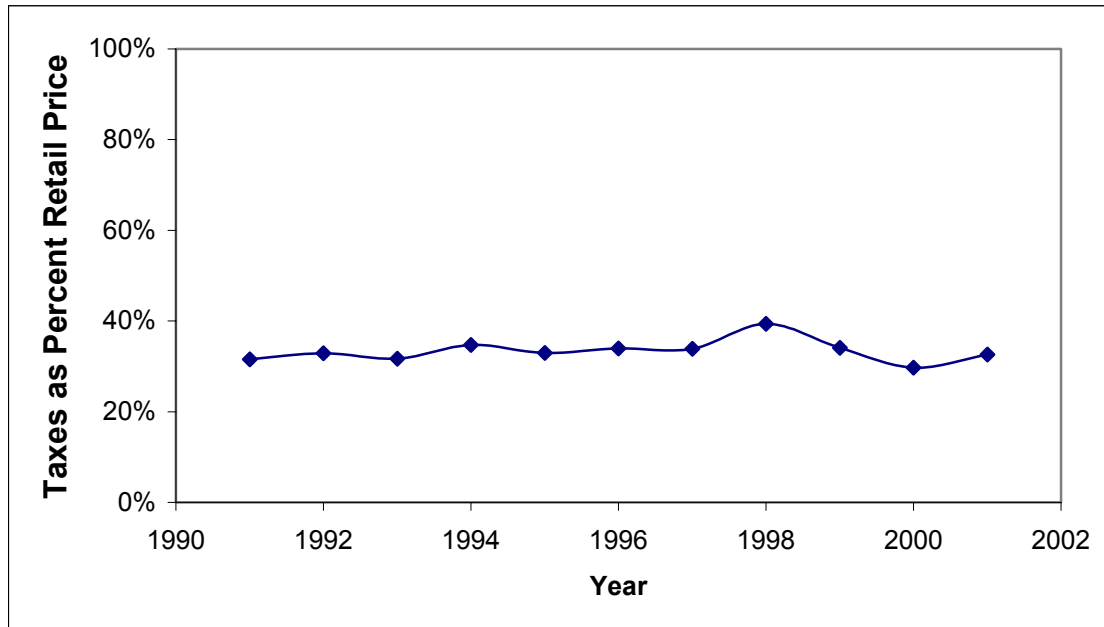
Fiscal Year	90-91	91-92	92-93	93-94	94-95	95-96	96-97	97-98	98-99	99-00	00-01	01-02
Number of packs sold (millions)	469.1	472.9	448.1	466.8	475.0	471.0	474.4	457.9	443.4	427.8	412.7	390.1

Source: Wisconsin Legislative Fiscal Bureau 2002.

As noted previously, tobacco companies have steadily increased their prices while the government periodically increased taxes. Because tax increases are debated and well publicized, the public perception is that the increasing cost of cigarettes is due entirely or at least in large part to tax increases. The relatively stable proportion of taxes as a percentage of overall retail cost belies the popularly held view that taxes comprise the majority of the cost of cigarettes.

While the cigarette excise tax increased 33% since 1998, the average retail price of a pack of cigarettes increased at a greater rate than the taxes. In 1998 the average price of a pack of cigarettes in the state was \$2.11. Today, the average retail price is roughly \$3.40 per pack, an increase of 61%. In 1998, cigarette taxes, at 59 cents per pack at the state level and 24 cents per pack at the federal level, accounted for 39.4% of the average retail price for a pack of cigarettes in the state. Today, despite increases in both the state tax to 77 cent per pack and the federal tax rate to 34 cents per pack, cigarette taxes actually account for a *lower* percentage of the average retail price of a pack of cigarettes than they did in 1998, down from 39% to only 33% [Figure 4 and Table 6].

**Figure 4: Cigarette Tax as a Percent of Average Retail Price per Pack of Cigarettes**



Source: Tobacco Institute: Tax Burden Historical Compilation 2000 and Wisconsin Legislative Fiscal Bureau 2002

**Table 6: Cigarette Excise Tax Data for Wisconsin**

Year	Ave Retail Price (generics included) (cents)	State Tax (cents)	Fed Tax (cents)	Total Tax (cents)	Tax as % of Ave Retail Price
1991	158.6	30	20	50	32%
1992	176.5	38	20	58	33%
1993	195.5	38	24	62	32%
1994	178.6	38	24	62	35%
1995	188.0	38	24	62	33%
1996	200.5	44	24	68	34%
1997	200.7	44	24	68	34%
1998	210.8	59	24	83	39%
1999	243.5	59	24	83	34%
2000	312.8	59	34	93	30%
2001	340.8	77	34	111	33%

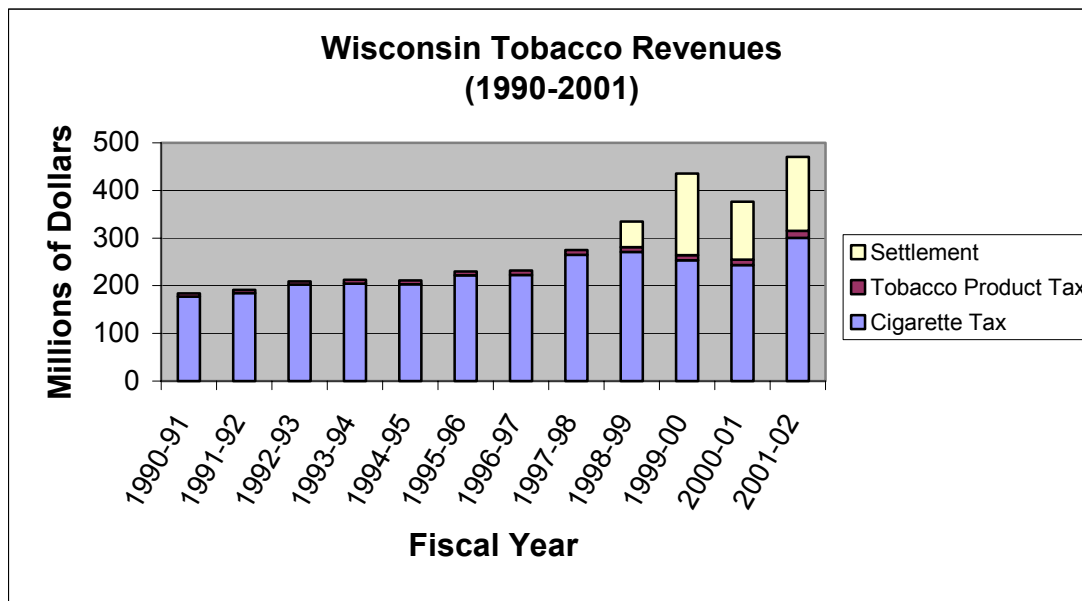
Source: Tobacco Institute: Tax Burden Historical Compilation 2000 and Wisconsin Legislative Fiscal Bureau 2002.

Nationally, an average of approximately 50 cents of every cigarette purchaser's dollar goes to the manufacturer. Farmers receive an average of only two cents for each dollar spent on cigarettes. Wholesalers and retailers receive 19 cents, and states receive 25 cents through

excise taxes.<sup>80</sup> Wisconsin, with a higher-than-average excise tax, receives a larger proportion of the cigarette purchaser's dollar than the average state.

In addition to the revenue the state receives through cigarette taxation, Wisconsin also receives revenues from excise taxes on other tobacco products and directly from the tobacco corporations as one of 46 states signed on to the Master Settlement Agreement. In the year 2001, the state collected nearly \$14.5 million dollars from taxes on non-cigarette tobacco products, an increase of 227% from the \$4.6 million in revenues earned in 1990. Wisconsin received another \$155 million in 2001 as its share of the Master Settlement Agreement. In total, in 2001, the Wisconsin state government received over \$471 million dollars from taxes on tobacco sales and from MSA payments. [Figure 5]

**Figure 5: Wisconsin Tobacco Revenues (1990-2001)**



(in millions of dollars) inflation adjusted to \$ in 2001

Fiscal Year	1990-91	1991-92	1992-93	1993-94	1994-95	1995-96	1996-97	1997-98	1998-99	1999-00	2000-01	2001-02
Cigarette Tax	177.66	184.60	202.32	204.63	202.93	221.58	222.29	264.70	270.72	253.53	243.51	300.4
Tobacco Tax	6.39	7.16	6.98	7.45	7.97	8.27	9.54	9.99	9.89	10.56	11.36	14.5
Settlement									53.80	171.38	121.54	155.53
<b>Total</b>	<b>184.05</b>	<b>191.76</b>	<b>209.3</b>	<b>212.08</b>	<b>210.9</b>	<b>229.85</b>	<b>231.83</b>	<b>274.69</b>	<b>334.41</b>	<b>435.47</b>	<b>376.41</b>	<b>470.43</b>

Source: Wisconsin Legislative Fiscal Bureau. Revenue Estimates. January 2002

<sup>80</sup> Capehart T. Tobacco Situation and Outlook TBS-245 (December 1999). U.S. Department of Agriculture. <http://www.ers.usda.gov/briefing/tobacco/Data/importupdate.pdf>.

While excise tax revenues serve an important role in the state's economy, there is an emerging body of research indicating that the most significant benefit of cigarette taxes is not tax revenues but rather declining cigarette consumption. As cigarette prices and taxes increase, cigarette consumption decreases.<sup>81</sup>

A number of recent studies have concluded that higher taxes and the resulting decreases in cigarette consumption improve the overall economy as well as the health of individuals in the states examined. This is particularly true for states where cigarettes are not manufactured.<sup>82</sup> In Wisconsin, for example, the adverse health effects associated with cigarette consumption cost the state's workers and employers an estimated \$1.41 billion dollars annually through the decrease in earnings and productivity caused by tobacco-related illnesses.<sup>83</sup> A reduction in cigarette consumption would reduce the adverse health effects of smoking, and thereby reduce the economic burden of tobacco-related illnesses.

Furthermore, a reduction in cigarette consumption as a result of increased cigarette taxes has been shown to transfer income that would otherwise be exported to cigarette manufacturing states back into Wisconsin's economy. Personal income that would otherwise be spent on cigarettes would be redirected back into the state's economy, potentially resulting in an increase in jobs in the state. It has been estimated that cigarette consumption in 1996 in Wisconsin cost the state 2,600 jobs through out-of-state diversion of income.<sup>84</sup> While these specific examples represent estimates, they nonetheless provide an important analysis and contribution to the on-going debate of the economic impact of cigarette consumption and taxation in Wisconsin.

A more detailed and complete analysis of the effects of tobacco use on the structure of the private and public sectors of the Wisconsin economy would provide important information in such areas as employment, state revenues, and household income.

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<sup>81</sup> Chaloupka F. "The Impact of Proposed Cigarette Price Increases." Health Science Analysis Project: Advocacy Institute. June 1998. / Gruber J, Zinman J. "Youth Smoking in the US: Evidence and Implications." National Bureau of Economic Research. Working Paper 7780.

<sup>82</sup> Warner KE, Fulton GA. The economic implications of tobacco product sales in a nontobacco state. Journal of the American Medical Association. 68 (1994): 771-6.

<sup>83</sup> Smoking Attributable Mortality, Morbidity and Economic Cost (SAMMEC). Wisconsin Department of Public Health, Monitoring and Evaluation Program (MEP). Report: 2002.

<sup>84</sup> SAMMEC.

## **Retail Tobacco Sales**

In 2002 there were 16,912 licensed retailers of tobacco products in Wisconsin.<sup>85</sup> Tobacco licenses do not specify the type of establishment in which the tobacco is sold or the mode of sale e.g. over the counter or vending machine. Tobacco licenses are issued at the municipal level of government. Most municipalities charge \$5 per year for licenses, although they can charge up to \$100 per year. Based on US Census Bureau data in 1999 there were 2,139 convenience stores, 1,183 supermarkets, 459 beer, wine, and liquor stores, 707 drug stores, and 12,934 hotels, restaurants, bars, and taverns in the state of Wisconsin, for a total of 17,387 retail outlets holding tobacco licenses.<sup>86</sup>

In light of the high number of tobacco licenses and one billion dollars in sales, one can conclude tobacco is an important element to the convenience and food sector of Wisconsin's retail industry

## **Cigarettes and Convenience Stores**

*“As important as gas is, tobacco is what holds this biz together. It's lynch pin, glue, determinant.”<sup>87</sup>*

The partnership between the tobacco industry and its retail outlets is particularly evident in the relationship between the tobacco industry and the convenience store industry. As the single item responsible for generating the greatest percent of in-store sales, cigarettes are a vital component of the convenience store industry. Nationally, cigarettes account for the highest percentage of in-store revenues of any product in convenience stores. In 2001, cigarettes sales accounted for 39% of all in-store revenues and 15% of total sales, including fuel. [Table 7] Over the past several years Wisconsin convenience stores have followed industry trends, increasing revenues from sales of cigarettes despite the decline in cigarette consumption. Part of this increase is due to the increasing prices per pack of cigarettes. Another indication of the changing consumer economy of tobacco is increase in the retail share of the “tobacco buyer's dollar” from 15% in 1991 to 19% in 1998. While retailers

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<sup>85</sup> Gary Nelson, Bureau of Substance Abuse Services, Wisconsin Department of Health and Family Services (personal communication). Gary Nelson is the coordinator of the Synar Tobacco Control project, designed to implement the requirements of federal Synar legislation to reduce tobacco sales to minors.

<sup>86</sup> 1999 County Business Patterns Economic Profile. U.S. Census Bureau. 2000.

<sup>87</sup> National Association of Convenience Stores - Outlook 2005. 2000.

earned an average of 24 cents per pack in 1991, they earned 40 cents in 1998 and 68 cents in 2001.<sup>88</sup>

The average retail price of a pack of cigarettes has increased over 61% since 1998. While much of this is due to excise tax and manufacturers increase, a variable part of the increase is due to the “extra pennies” added to each price and tax increase by cigarette retailers at each price change. [Table 6]

**Table 7: Cigarette Sales and Convenience Store Revenues**

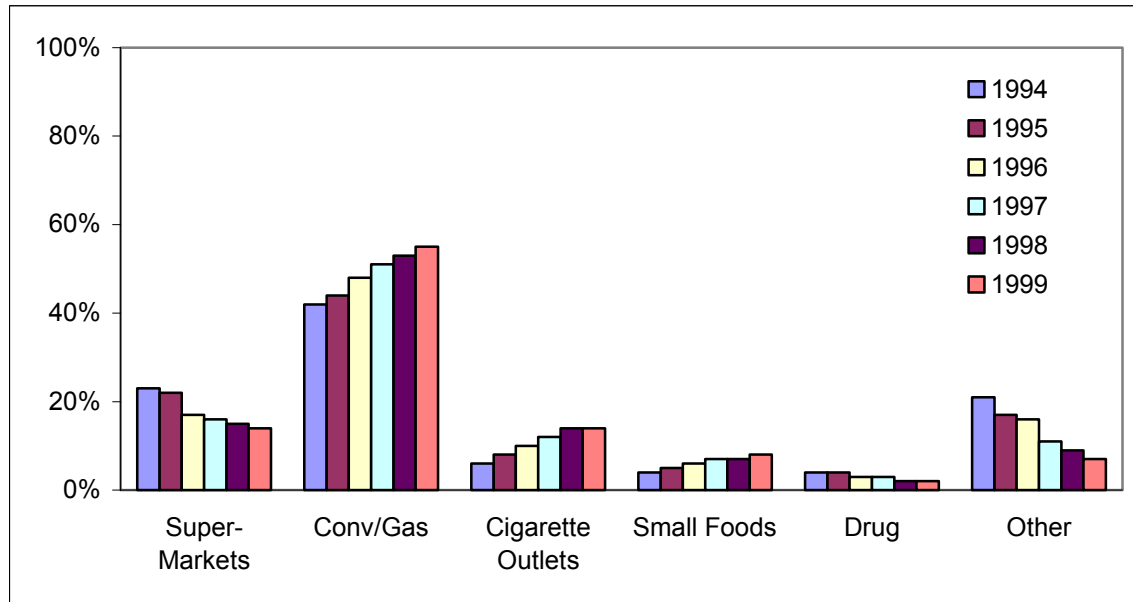
National Averages			
Year	Ave Cig Sales/Store	Cigarettes as % In-Store Sales	Cigarettes as % Total Sales
1998	\$224,600	28.9%	10.6%
1999	\$298,700	34.9%	12.6%
2000	\$311,800	36.1%	11.6%
2001	\$348,100	38.7%	15.3%

Source: 2002 NACS/CSNews Industry Databank

In addition to the price increase, convenience stores have substantially increased their share of the market for cigarette purchases. Today, convenience stores sell 53% of all cigarettes sold in the country, up from 33% a decade ago. [Figure 6] This shift in sales is due to both the expansion of the convenience store industry and their dominance of the cigarette retail market.

<sup>88</sup> Specialty brands have substantially higher profits than standard brands. For example, the Vice President for Marketing of American Spirit cigarettes reports that retailers have a profit of 84 cents per pack for their brand, while the VP of Kretek International reports his brands (“Dreams Vanilla” and “Djarum”) have a return on investment of “five times that of mainstream cigarettes.” [www.retailmerchandising.net/tobacco/2001](http://www.retailmerchandising.net/tobacco/2001)

**Figure 6: Cigarette Volume Trends by Retail Segment**



Source: RJRT/IRI-Marlin Data and C-Store Decisions Sales Trend 01

In 2000 there were 2,139 convenience stores in Wisconsin, with estimated sales of \$4.8 billion.<sup>89</sup> Following 2000 national trends where cigarettes made up 11.6% of total sales, roughly \$556 million in Wisconsin convenience store sales came directly from cigarette purchases. Thus the estimated average cigarette sales per Wisconsin store were roughly \$260,000. The national average for cigarette sales per store in the year 2000 was \$311,800.<sup>90</sup>

Of further importance to the convenience store industry's interests, and thus the interests of the Wisconsin Association of Convenience Stores (WACS), is the effect of cigarettes on the sales of other merchandise. Cigarettes are known to have the greatest "market basket" effect on other merchandise. This means that cigarette purchasers supplement their purchases with other merchandise more often than purchasers of any other product.<sup>91</sup> Often these supplements are purchases of other high profit products, such as beer and soft drinks. Thus, in addition to the direct revenues and profits generated through cigarette sales, the retail industry depends on cigarettes and tobacco products to spur purchases of non-tobacco products.

<sup>89</sup> Trade Dimensions Census. 2001. CSNews Industry Databank 2001.

<http://www.csnews.com/csnews/index.jsp>.

<sup>90</sup> 2001 NACS SOI Reports. 2001. CSNews Industry Databank 2001. <http://www.csnews.com/csnews/index.jsp>.

<sup>91</sup> Convenience Store Decisions Executive Summary. 2001. CSNews Industry Databank 2001.

<http://www.csnews.com/csnews/index.jsp>.



Cigarettes and tobacco obviously have a large impact upon the Wisconsin economy, and are an integral component of the food and convenience store industry's business. However, the retail mark-up of cigarettes varies from establishment to establishment, based on competitive forces between businesses and the wholesale cost to the retailer. It is estimated that cigarettes are generally marked-up (increased in price by the retailer) by about 40-65 cents per pack. While gasoline sales generate a high volume of revenue, the mark-up is generally only a few cents per gallon. Thus, the profit for a \$3-4 pack of cigarettes can be up to one dollar given both the profit per pack and in larger stores many of the promotional items and "incentives" provided to the retailer by the manufacturer.

Based on these data describing the importance of tobacco sales to the convenience store industry and other sectors of the food and beverage retail trade, it is clear that the interests of the tobacco and convenience store industries may converge. Legislation that may reduce tobacco sales is perceived as a threat to the convenience store industry, as well as other retailers of tobacco products. Thus it may be in the interests of the convenience, grocery, and other retail store operators and owners to promote inexpensive and easily accessible cigarettes. As indicated by sales and through analysis of their legislative record described later in this report, trade organizations such as Wisconsin Association of Convenience Stores and the Wisconsin Grocers Association have in fact been consistent allies of the tobacco industry.

## **II) Tobacco and the State Political Process**

Through generous contributions to political candidates, political parties and committees and extensive lobbying efforts, the tobacco industry has played the dominant major role in shaping public policy on tobacco.

For this report, we examined reports of campaign contribution for the three and a half year period, 1/1/99- 8/26/02, a period without the major contributions for the major cycle of a gubernatorial election.<sup>92</sup> During this period, the tobacco industry and its allied industries distributed a total of \$356,572 to the campaigns of Wisconsin elected officials in office today.<sup>93</sup> This sum includes campaign contributions from tobacco industry and allied retail and trade organizations to successful candidates for the 2000 U.S. House of Representatives elections, 2000 State Senate elections (even districts), mid-term donations for 2002 State Senate incumbents (odd districts), 2000 State Assembly elections, and contributions to Republican and Democratic state parties and legislative campaign committees.

Close to 50% of the total figure of \$356,572, or \$126,465 came directly from tobacco corporation Political Action Committees (PACs), while half came from allied PACs associated with tobacco companies. The above figure does not include direct contributions from individuals employed by the tobacco companies and their subsidiaries. It is common practice for businesses to act as conduits for the campaign contributions of their employees. For example, the records of the Wisconsin Democracy Campaign indicate that in the period 1/1/99-8/26/02, the employees of Philip Morris, Miller Brewing, and Oscar Mayer contributed \$140,600 to the campaigns of Wisconsin candidates. These contributions are not included in the \$356,572 figure.<sup>94</sup>

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<sup>92</sup> Because legislative races are usually functionally uncontested, campaign contributions are focused on relatively few races and leadership PACs. Gubernatorial contests are always heavily funded even when they are not necessarily competitive. Candidates in the 2002 Wisconsin gubernatorial election are expected to spend \$20 million, many times that of all legislative elections in the previous four years.

<sup>93</sup> This does not include contributions to unsuccessful candidates, nor does it include contributions from individuals employed by tobacco companies and their subsidiaries.

<sup>94</sup> Wisconsin Cooperative Campaign Finance Database. 17 Apr 2001. Wisconsin Democracy Campaign. <http://www.opensecrets.org/wdc/>.

## **Allied Tobacco Industry Organizations**

The Petroleum Marketers Association/Wisconsin Association of Convenience Stores (PMAW/WACS), Wisconsin Grocers Association (WGA), Wisconsin Restaurant Association (WRA) and the Tavern League have long histories of working in close cooperation with the tobacco industry. They have adopted many of the tobacco industry's primary policy issues as central to their own agendas. In policy areas, such as those effecting retail sales of tobacco, these organizations and not the tobacco companies, have played a primary role.

These organizations have worked with the tobacco industry and its major lobbying/political action arm, the Tobacco Institute for many years. Whether it was lobbying to defeat the first Clean Indoor Air Act in 1982 or sponsoring the public relations effort to deflect criticism for sale of tobacco to minors, (e.g. "It's the Law,") these organizations and their predecessor bodies have worked intimately with the tobacco industry. Thus, to fully understand the scope and purpose of the tobacco industry agenda it is essential to examine the lobbying and political activities of these four organizations.

While many other organizations such as the Wisconsin Merchants Federation and Wisconsin Manufacturers and Commerce have worked with the tobacco industry on their legislative agenda, these four organizations are unique in their long-term ties to the industry, duplication of agenda and in some cases, the multiple arenas of activity such as the local and state level. Indeed, in many instances, these organizations have taken not only the role of spokesperson, but have effectively led the tobacco industry's battles. This would be understandable if their outcomes jointly benefited both the Association and the tobacco industry. For example, the Tavern League strongly opposes smoke-free restaurants, while their allies in the Wisconsin Restaurant Association strongly argue that these ordinances will "drive" smokers from their restaurants to local taverns. Similarly, Wisconsin Restaurant Association opposes compliance checks against retailers selling tobacco to minors, when few if any restaurants have retail sales of cigarettes.

Budgetary records from the Tobacco Institute indicate long-term funding of many of these organizations. For example, the Wisconsin Petroleum Marketers Association received \$2,500 in 1995 and 1996. The Tobacco Farmers Association received \$2,000 in 1996 and \$14,000 in 1995 for an unspecified "Special Project." The Retail Merchants Association and Wisconsin Manufacturing and Commerce each received \$1000 in both 1995 and 1996. The Wisconsin Merchants Federation and other business coalition organizations received

contributions as well. With the exception of the contribution to the Farmers Association, these contributions represent only a fraction of the expenditures of these groups for lobbying and political activity for the purpose of increasing tobacco use.

*Petroleum Marketers Association of Wisconsin / Wisconsin Association of Convenience Stores (PMAW/WACS)*

As previously noted, cigarette sales are the single largest profit center of the convenience store market. In the 2001-02 legislative session, the Petroleum Marketers and Convenience Stores Association statement to the Wisconsin Ethics Board lobbying regarding their interest in tobacco is cited as “relating to the regulation/ taxation of tobacco products.” In previous legislative sessions, this association played a leading role in defeating legislative proposals that would have reduced youth access to tobacco products by allowing municipalities to pass ordinances requiring retailers to place tobacco products behind a counter (Assembly Bill 516, 1995-96 session). It has also opposed increases in the cigarette excise tax and increases in municipal license fees.

Interestingly, the Association has not been an active proponent of legislation that would reduce or eliminate the two-thirds rebate of excise taxes to Indian tribes for their sale of cigarettes to non-tribal members (though they indicated interest in the issue in their lobbying report for 1997-98). Tribal sales occur in a limited number of outlets but account for approximately 6% of all cigarette sales in the state or an additional \$60 million in sales to non-tribal outlets. Tribal sellers often sell cartons of cigarettes for \$4-5 less than non-tribal sales because of the tax “rebate” provided by the state even when the sale is to non-tribal members.

However, reductions in the rebate are opposed by the tobacco industry because the rebate effectively lowers the retail price by up to 50 cents per pack without reducing the manufacturers share of the revenue. Unlike the Wisconsin Association of Convenience stores, restrictions on tribal sales to non-tribal members is a central issue for other state associations such as the New York Association of Convenience Stores and to state revenue departments such as in the State of Washington where a significant share of the market has been diverted to non-tax sellers.

In 1997-98, the Petroleum Marketers and Convenience Stores Association disbursed \$299,468 in lobbying expenses. In 1999-2000, the association spent \$217,366. After the first twelve months of the 2001-2002 legislative session, the association has spent \$261,974 in

lobbying the legislature. The Petroleum Marketers and Convenience Stores do not retain an outside contractor for lobbying. It's primary lobbyist is Bob Bartlett, the Executive Director of the organization.

As an example of the PMAW/WACS's association with tobacco companies, in 1991, the Tobacco Institute, the political arm of the tobacco industry, wrote to the leaders of the Wisconsin Restaurant Association, Wisconsin Grocers Association, and the Wisconsin Association of Convenience Stores regarding the introduction of their "It's the Law Program," a public relations effort ostensibly designed to curb tobacco sales to minors. This correspondence alerted the trade associations of the new program in the hope that they would support it for its public relations effect with the knowledge that it would not reduce sales.<sup>95</sup>

Regardless of whether or not there are current and formal ties between tobacco manufacturers and tobacco retail organizations, the activities and lobbying of such trade organizations effectively collaborate to normalize tobacco use and reduce the cost of cigarettes.

#### *Wisconsin Grocers Association*

The Wisconsin Grocers Association, led by Brandon Scholz, former member of the Tobacco Control Board and Republican Party leader, along with Assembly Majority Leader Steven Foti, led the successful campaign in the 1999-2000 legislative session to preempt municipal authority to conduct compliance checks of tobacco retailers.<sup>96</sup> This measure was included in the Governor's proposed budget bill in 1999. In the year following passage of the new bill, retailer violations of the law preventing sale of cigarettes to minors increased by 50%. By 2001, the federal government reported that Wisconsin had the highest rate of illegal tobacco sales in the nation.<sup>97</sup> In the current legislative session, the Wisconsin Grocers Association lists as topics of interest in its Wisconsin Ethics Board registration, "Tobacco Compliance" and "Tobacco Tax." Presumably, "Tobacco Compliance" means proposed legislation addressing the lack of retailer compliance with laws prohibiting the sale of tobacco to minors. (see appendix)

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<sup>95</sup> Letter to Legislators. 3 Mar 1998. Philip Morris Collection (Bates #2072175143/5144). <http://legacy.library.ucsf.edu/>.

<sup>96</sup> The new state law preempted local authorities from enforcing the law without creating a state authority to do the same. As a result, the Grocers Association initiative effectively ended enforcement of the state law.

<sup>97</sup> SAMSHA News: Fewer Retailers Selling Cigarettes to Youth Under State Enforcement Efforts. 27 Sept 2002.

Since 1999, the Wisconsin Grocers Association has been the leading organizational advocate against compliance checks of retailers. This is especially notable because of the small and declining level of tobacco sales in grocery stores. In the period of 1995-2000, tobacco sales of groceries and supermarkets declined by almost 50%. In the early 1990s nearly 25% of cigarettes were sold in food outlets, by 2005, it is estimated that less than 10% of cigarettes will be sold there [figure 6].

In the 1997-98 legislative session, the Wisconsin Grocers Association lobbied on the issue of sale of tobacco to minors, the minimum mark-up law (preventing sale of cigarettes below a specified value), the tax refund to tribes for their sale of cigarettes and other restrictions on the sale of tobacco. The association spent \$72,303 lobbying in the 1997-98 session. Their primary lobbyist is the Grocers Association Director, Brandon Scholz.

#### *Wisconsin Restaurant Association*

The strategic purpose of the relationship between the restaurant and tobacco industries is the tobacco industries' need to allow unrestricted use of its product in public and enclosed spaces.

The restaurant industry's interest has been in varying parts, ideological and economic. Restaurateurs as small business owners are ideologically opposed to government regulations whether that entails the temperature of the soup they serve, the wages paid to their employees or the air they breathe in their establishments.

At the same time, many restaurant owners have accepted the notion promoted by the tobacco industry that if smokers are prohibited from smoking either during or after a meal, they will not go out to eat. Despite the fact that smokers comprise less than one-quarter of the population, restaurant associations often cite a prospective 20-30% loss of business if smoking is prohibited.<sup>98</sup> This is despite dozens of independent studies have shown no detrimental impact on restaurant revenues.

The programmatic basis of the long-term relationship between the restaurant and tobacco industries is in the tobacco industry's Accommodation Program. This program was developed by the Tobacco Institute to fight against the growing movement for smoke-free restaurants. The effort was two-fold: to encourage the "hospitality industry" to continue to allow smoking in their establishments, i.e. avoid voluntary prohibitions and second, to create

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<sup>98</sup> Samuels B, Glantz, S. "The politics of local tobacco control." Journal of the American Medical Association. 266 (1991): 2110-2117.

an alliance to oppose legislation for smoke-free public places at the local, state and national level.

In a 1994 Philip Morris memo outlining the Accommodation Program, it noted, “We need to build a strong and relevant partnership with the hospitality industry. And that we are able to invest in supporting the industry. Sponsorship opportunities allow us to get on the agenda, build critical relationships and make our issue a priority where it otherwise might not be one.”<sup>99</sup> The eleven-page memo also notes that the primary policy goal of the program was to pass legislation that preempts local governments from enacting comprehensive and effective clean indoor air laws. These state laws would in the language of the memo, “alleviate the volume of local activity.”

In the past few years, as the Accommodation Program became increasingly viewed as a tobacco industry enterprise, Philip Morris initiated the OPTIONS program. Unlike the previous program, which stressed the “rights” of smokers, OPTIONS focuses on technical ventilation solutions to externalize the smoke, funding local public opinion polls and local “educational” efforts on smoking “options.”

The Wisconsin Restaurant Association is a leading proponent of the Accommodation Program, and has played a key role in opposing state and local efforts to provide smoke-free public places for more than a decade. Also, many of its individual members and county chapters promoted “Accommodation” materials. Most recently, in the last legislative campaign period, it surveyed candidates on their support for a state law preempting local government from enacting smoke-free restaurant ordinances.

The WRA has opposed smoking ordinances and provided assistance to the tobacco industry on a wide range of issues since 1981. In 1981, it passed its first resolution against smoke-free ordinances stating that such measures would “invite disorder” in restaurants.<sup>100</sup> In 1983, it participated in the leadership of a coalition to defeat Wisconsin’s Clean Indoor Air Act through directing calls and opposition and testifying against the measure.<sup>101</sup>

The Wisconsin Restaurant Association’s opposition to the Clean Indoor Air law resulted in a very weak law that only requires restaurants that have over 50 seats (the majority of establishments) to have a non-smoking section. There are no specifications on

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<sup>99</sup> Philip Morris Collection, Bates #204555517337/7347. <http://legacy.library.ucsf.edu/>

<sup>100</sup> *On Smoking in Restaurants Position of the Wisconsin Restaurant Association*, Mar 1981. Lorillard Collection (Bates #85706461). <http://legacy.library.ucsf.edu/>

<sup>101</sup> *Transcript of senate hearing on SB 80*. 30 Mar 1983. #5852569, #6805340157. <http://www.tobaccodocuments.org>

protections offered to the “non-smokers” merely that they are not seated in an area identified as the smoking section.<sup>102</sup>

In 1992, the Wisconsin Restaurant Association strongly opposed the Madison smoke-free ordinance. Their opposition, which included organizing their members to appear before the council, followed some ambivalence on the part of the association as indicated in this July 1991 letter from its CEO, Ed Lump to its members. In the letter, Lump noted,

. . .Recent statistics conclusively show that second-hand smoke causes cancer. The only way the public can be protected against second-hand smoke when dining out is to either make conscious choices to not patronize restaurants that allow smoking or to pass a law that bans smoking in all restaurants . . .

. . .There is a feeling that employees of restaurants need to be protected from second-hand smoke because they have very little choice in the air they breath if they want a job. It is possible that as statistical evidence mounts on the adverse health risks of breathing second-hand smoke that there will be workman’s comp and civil liability lawsuits filed against employers when employees become ill. . .

. . .A smoke-free environment has the potential of reducing costs to restaurant operators. There simply is less maintenance because there are not carpet or table burns; less ceiling, window and drapery cleaning is necessary; and the risk of fire is greatly reduced . . .

<sup>103</sup>

Despite the comprehensive and convincing statement in support of smoke-free environments, the ties between the WRA and the tobacco industry grew. In 1998, Restaurant Association, CEO Ed Lump, was listed in a Philip Morris roster of spokespersons against smoke-free ordinances. His “media story” that was to be promoted to the media was “Association Executive comments on how a hospitality association can help fight proposed government restrictions that threaten the industry.” It does not reference which industry is of concern.<sup>104</sup>

By November 1999, with its local chapters fighting ordinances in a number of cities, the Association sent ten “Talking Points” to its members. In addition to the usual points on giving restaurant owners the right to decide, the Association noted, “What will the city want to ban next? Alcohol? Dairy products? Red meat? Salt shakers on tables? How far will government go before someone says, “Enough, let people decide how to live their own lives.”<sup>105</sup>

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<sup>102</sup> Wisconsin Clean Indoor Air Act. WIS STAT 131.

<sup>103</sup> Philip Morris Collection, Bates #20444014058. 30 Jul 1991.

<sup>104</sup> Philip Morris Places Spokesperson Inventory. 17 Jun 1998. Philip Morris Collection (Bates # 2072909447/9467). <http://legacy.library.ucsf.edu/>

<sup>105</sup> Wisconsin Restaurant Association Talking Points. 11 Nov 1999.



One of the tasks undertaken by the Restaurant Association to help fight clean indoor air restrictions was to sponsor a poll paid for by Philip Morris. The poll, conducted by the Madison based Chamberlain Associates predicted a 20% decline in revenue in the event of a smoking ordinance.<sup>106</sup> Most recently, in addition to polling and other public relations efforts on behalf of the tobacco industry, the WRA web-site now includes a page on why restaurants should oppose smoke free ordinances. It also includes a notice that “this page is funded by “Options” by Philip Morris Co.”<sup>107</sup>

In 1997, The Wisconsin Restaurant Association worked to defeat a nascent attempt to establish a smoke-free ordinance in Sheboygan. Jack Lenzi, Philip Morris’s Midwest Governmental Affairs Director assured a company official in a memo that “Lump (WRA CEO) and Stenger (Tavern League CEO) are engaged on the issue; have started phone calls.”<sup>108</sup>

The Wisconsin Restaurant Association is also cited repeatedly in numerous internal correspondence of the industry to organizations to assist them in opposition to initiatives to reduce youth access to tobacco<sup>109</sup> and participation in the Tobacco Action Network,<sup>110</sup> a coalition of tobacco industry allies. In the 2000 election cycle, the Wisconsin Restaurant Association included “support for preemption of local bans on smoking in restaurants” in its candidate questionnaire. It has not as yet been successful in introducing such a measure in the 2001-02 legislative session.

In addition to its steadfast work in opposition to smoke-free ordinances, the Restaurant Association supports the tobacco industry on issues only distantly related to the restaurant business. In 1999, the WRA wrote a letter to Governor Thompson’s Chief of Staff, Bob Wood supporting restrictions on municipalities to conduct compliance checks on retailers. This is despite the fact that restaurants rarely sell individual packs of cigarettes (after vending machines were banned).<sup>111</sup>

Overall, the restaurant association has played a very visible role in leading the opposition to local smoke-free ordinances. The state association and its local chapters have

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<sup>106</sup> Nationwide Survey Finds Broad Support for Accommodation. 1998. Philip Morris Collection (#2071815608/5610). <http://legacy.library.ucsf.edu/>

<sup>107</sup> <http://www.wirerestaurant.org/alerts/smoking/ed.htm>

<sup>108</sup> Re: Smkg Ban. 17 Jan 1997. Philip Morris Collection (Bates #2072301619). <http://legacy.library.ucsf.edu/>

<sup>109</sup> List of cosponsors for public relations campaign. 30 Sept 1996. (Tobacco Institute Collections, Bates# TIMN0194969/4978). <http://legacy.library.ucsf.edu/>; It’s the law program correspondence. 7 Dec 1990. (Tobacco Institute Collections, Bates# TIMN0218582/8583). <http://legacy.library.ucsf.edu/>

<sup>110</sup> Wisconsin senate bill 80 (Clean Indoor Air Act). 6 Aug 1981. (Lorillard documents #85706612/6617).

<sup>111</sup> Philip Morris Collection, Bates #2079197136/7137. 1 Jul 1999.

been the most vocal and visible opponents of smoke-free restaurant ordinances in every community where the issue has been raised. Through communications to local restaurants, coordination of “message” to media and working with the tobacco industry, the association has been the key organizational leader helping the tobacco industry realize the central item in its agenda- opposition to local clean-air ordinances.

### *Wisconsin Tavern League*

The Wisconsin Tavern League, the trade association of bars and taverns, has been primarily interested in taxation of cigarettes and opposing smoke-free environments. However, due to the strong ties between the League and the tobacco industry, it, like the Restaurant Association and the Convenience Stores Association, support the tobacco industry on a broad range of issues that have little impact on their members. For example, the Tavern League has been a vocal opponent of compliance checks of retailers despite the fact that taverns are rarely the subjects of these investigations. In addition to heavy lobbying against Assembly Bill 516, which would have given municipalities the ability to pass ordinances on the marketing of cigarettes, the League sent memos to the legislature warning against the “patchwork of regulations that could create additional economic burdens on our members.”<sup>112</sup>

Local Tavern League members are often more vocal and strident in their opposition to restaurant ordinances than the Wisconsin Restaurant Association members, despite the fact that taverns are exempt from the ordinances.

It is possible that much of the source of the strong ties between the League and the industry, particularly, Philip Morris, may be due to the fact that the same lobbyist that represents Philip Morris represents the Tavern League. Scott Stenger, the lobbyist for the Tavern League had previously been employed as their former Executive Director. Currently, he serves as the Governmental Affairs Director of the Wisconsin Tavern League and as a lobbyist for Philip Morris. It should also be noted that the Wisconsin Restaurant Association and the Wisconsin Tavern League share the same office building.

The former President of the Tavern League, Ed Thompson, a 2002 Libertarian candidate for Governor noted that one of his primary goals, as Governor would be to substantially reduce cigarette excise tax.<sup>113</sup>

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<sup>112</sup> Memo to Wisconsin Legislators. 25 Jan 1996. Philip Morris Collection (#2063535461A). <http://legacy.library.ucsf.edu/>

<sup>113</sup> Press release of Libertarian Party. 9 Aug 2002.

### *Wisconsin Tobacco Growers Association*

Despite the fact that the Wisconsin tobacco farm sector does not produce tobacco for cigarette manufacture, its growers and growers association have worked on behalf of the cigarette industry for many years. The Tobacco Growers Association has often testified in legislative hearings against bills related to limiting cigarette use. It has been the recipient of tens of thousands of dollars from the Tobacco Institute. Despite the fact that tobacco is grown in only a small number of farms and at only a fraction of other crops, there is sentimental value to the crop and reluctance on the part of legislators to adversely affect the financial condition of the farming community. One indication of this sentiment for Wisconsin tobacco growers is the publication of the Tobacco Institute entitled, *Wisconsin's Tobacco Heritage*.<sup>114</sup>

### **Political Action**

#### *Issue Campaigns*

In addition to participating in political and legislative campaigns, the tobacco industry engages its allies and members of the public in campaigns on specific issues such as tax increases or efforts to control the sale of tobacco. The dynamics and organizational structure of these campaigns changes from issue to issue and from year to year.

The alliances formed between the tobacco industry and various retail and trade organizations are documented in internal tobacco company documents released through the Master Settlement Agreement. For example, in a 1990 memorandum, “Pro-Active Proposal – Vending” the Tobacco Institute highlighted the importance of working in coalition with allies such as the “Teamsters and Hotel, Bartender Unions to stimulate support for pro-active vending legislation... We are hoping that WAMO (the vending machine trade association) and WAMC along with the WI Tavern League, WI Restaurant Association, WI Candy and Tobacco Wholesalers and other reps of the WI Hospitality Industry will work together.”<sup>115</sup>

The Tobacco Institute’s “State Tax Plan” for Wisconsin highlighted the industry’s plan to challenge increases in the cigarette excise tax. In the document, the Tobacco Institute cited their “ongoing relationships with the following groups: Wisconsin Grocers Association,

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<sup>114</sup> *Wisconsin's Tobacco Heritage*. Tobacco Institute Collection (Bates #TIWI0002371/2386). <http://legacy.library.ucsf.edu/>

<sup>115</sup> *Pro-active proposal – vending*. Sept 1990. (Tobacco Institute Collections, TIOR0019804/9806), <http://legacy.library.ucsf.edu/>

Wisconsin Association of Convenience Stores, Wisconsin Truck Stop Operators Association, Wisconsin Innkeepers Association, Wisconsin Restaurant Association, Wisconsin Retail Gasoline Dealers Association.” The document further explained that “we will attempt to secure the cooperation of trade association executives and lobbyists for direct contact with legislators and also enlist membership in grassroots programs.”<sup>116</sup>

A 1994 Tobacco Institute memo cited three main objectives for building new coalitions and adapting existing coalitions to campaign against state Occupational Safety and Health Administration anti-smoking regulations. “Build broad based coalitions to: enable credible, new spokespeople to fight proposed regulations; fight issue on economic grounds rather than to defend tobacco use; raise noise level on over-reaching government regulation.”<sup>117</sup> In Philip Morris’ Wisconsin state plan for 1997 the company lists the Petroleum Marketers Association/Wisconsin Association of Convenience Stores, the Wisconsin Restaurant Association, the Wisconsin Tobacco Growers, and the Wisconsin Tavern League as “key allies” in their defensive measures against excise taxes, divestment, ingredients disclosure, and smoking uniformity in the state.<sup>118</sup>

The Wisconsin Association of Convenience Stores, Wisconsin Grocers Association, Wisconsin Restaurant Association, and the Tavern League were the four trade organizations deemed as “allies” for reporting purposes due to their histories of working in concert with the industry on major issues of common concern and high level of lobbying activity from these organizations on tobacco related bills (see appendix).

### *Industry Contributions to Campaigns*

Political contributions from interest groups take two major forms, generally known as “soft” and “hard” contributions. “Soft” contributions are legal contributions but are not covered by the State or Federal Elections Law. They are made to political parties or its committees and as a result can exceed contribution limits. “Hard” contributions made to candidates vary from office to office and are often increased in each year. In 2002, individuals can contribute \$10,000 to a candidate for Governor and a single Political Action Committees can contribute \$43,158.

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<sup>116</sup> State tax plan. 8 Sept 1990. (Tobacco Institute Collections, TIOR0019799). <http://legacy.library.ucsf.edu/>

<sup>117</sup> Campaign against state OSHA anti-smoking regulations. 30 Mar 1994. (Philip Morris document #2023899061). <http://www.pmdocs.com>.

<sup>118</sup> State plan 1997 region VII. 20 Sept 1996. (Philip Morris Collections, Bates #2062980565). <http://legacy.library.ucsf.edu>

There are however, no limits to contributions made to parties so long as the money is not used directly in support of a candidate but rather “get out the vote” drives and other political education. Parties can funnel contributions to State and local party units where there are contested races.

Tobacco companies contribute large amounts of “soft money” to political parties and the Senate and House Campaign Committees of each party. Since 1996, tobacco companies have overwhelmingly favored the Republican Party and their respective Senate and House campaign committees. For example, in the 2000 election cycle at the national level, of the \$2.4 million contributed by Philip Morris, 88% went to the Republican Party. Of the \$1.04 million contributed by US Tobacco, 95% went to the Republican Party. Similarly, of the \$1.5 million contributed by RJ Reynolds, only 10% went to the Democratic Party (see appendix).

About half of the money contributed to political parties at the national level is “soft.” However, these funds at least have the benefit of being reported. That is, the parties are required to report the source of these funds. At the state level, political committees of trade organizations are not required to report the source of their funds. For example, Philip Morris can contribute \$25,000 to the PAC of the Wisconsin Manufacturers and Commerce and they are not required to report the source of their funds as long as the money is not forwarded to a candidate in the form of a campaign contribution. They can, however, run commercials “educating” the public on the specific positions of the candidate or harsh condemnations of an opponent.<sup>119</sup>

As an example, in the November 1996 state senate election campaign, the Wisconsin Manufacturers and Commerce ran a series of ads attacking Senate Majority Leader Chuck Chvala. None of the expenditures by the WMC were registered with the State Elections Board. Tobacco companies and other interest groups were able to make corporate contributions to this effort and avoid the existing prohibitions on direct corporate or union funding of campaigns. Apparently, Philip Morris was sufficiently interested in this effort to have its lobbyists forward news articles on the WMC campaign to its offices.<sup>120</sup> This practice

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<sup>119</sup> The October 18, 2002 indictment of Senator Charles Chvala includes a description of a \$25,000 contribution in 2000 from Philip Morris Mgt. Co. to the Democratic Leadership Campaign Committee located in the Washington DC area. This contribution was unreported. However, the DLCC then forwarded these funds to Democratic Senate campaigns. It is unknown the extent of similar contributions to similar Republican committees or contributions from other tobacco companies.

<sup>120</sup> “Lobby Defends Anti-Chvala Ads.” Capital Times. 1 Nov 1996.

has been the source of constant litigation for the past three years as the State Elections Board and campaign finance reform organizations have sought to require these committees to disclose the names of their contributors.

As a result of the two major exclusions from state and federal election law- no limits on contributions to federal parties and committees and no requirement to report identities of contributors to state committees, this study cannot report the full extent of the contributions made by the tobacco companies to state and local political bodies. Nor is it possible to report what percentage of the millions of dollars contributed at the federal level was redeployed at the state and local party level.

As indicated in Table 13, direct reportable contributions from the major tobacco companies in Wisconsin declined in only one election cycle, but contributions from their four major allied organizations have increased. Contributions from the tobacco industry in the 99-00 period were \$77,550 with an almost identical amount from the tobacco industry's allied organizations. Two years later, the tobacco company amount had fallen to \$48,915 with their allied organizations contributing \$140,220.

There is every indication that the tobacco organizations are as active in the last and current biennium in political activities as they were in 99-00. However, given the current campaign finance law, they may have found less visible and controversial means of influencing the political process.

In a 1996 memo to Philip Morris from one of its Wisconsin lobbyists, he notes, "For instance, contribution to a national democratic (sic) or republican (sic) PAC which agrees to forward sums to state PAC's may be wise. There are individual legislators that should not be forgotten, the use of limited resources should not lose potential while staying involved (sic) financially."<sup>121</sup>

#### *Individual contributions from tobacco industry employees*

Philip Morris employees provide the vast majority of tobacco industry contributions to state politicians. Legitimate questions have been raised as to whether persons who identify themselves as employees of Miller Brewing Co. are contributing on behalf of the corporate effort of Philip Morris or alternately whether their immediate employer Miller Beer has interests, which are separate and distinct from Philip Morris.

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<sup>121</sup> Key issues in Wisconsin. 17 Jun 1996. OCR 2062904487. <http://legacy.library.ucsf.edu/>.

First, there are of course instances where employees have civic interests that are independent of the corporation of their employment. Certainly, there are employees who, especially in local electoral contests, are familiar with or friends with a candidate and contribute on their behalf. Others have strong interests on behalf of a cause that is shared with an elected official and they contribute based on the shared belief or interest.

However, the vast majority of funds that are contributed to candidates are not through individual contributions but rather through political conduits that are legal entities entirely controlled by the tobacco entity. Conduits are legal mechanisms where contributions are made to a common and registered fund. Checks are written off of the fund to candidates and office holders. A letter is sent to the candidate citing the name of the person(s) on behalf of which the contribution(s) was made. Thus, unlike a contribution from a PAC or political action committee, specific contributors to the conduit are listed. Also, importantly, for the recipient, the contributions are not listed as PAC contributions, which may appear to be made on behalf of special interests, but rather they appear as the contributions of many individuals- including many of whom live outside of their electoral district or even outside of Wisconsin and have never heard of the candidate.

Often conduit contributions are given in a single event such as the period, March 1-15, 2001 when employees of Philip Morris contributed \$20,200 to the campaign of Governor McCallum. This contribution was part of an overall \$26,000 contribution from Philip Morris employees in the six-month reporting period, January- June 2001.

Philip Morris wholly controls the political conduit for Miller Beer employees. There is no separate entity for political purposes controlled by Miller Beer for a “Miller Beer” interest. All legislative lobbyists from “Miller” are actually registered to “the Philip Morris Management Company,” as the principal. Also, as noted above, the legislative agenda of Philip Morris as well as the internal correspondence of top officials indicate a sole interest in tobacco policy to the exclusion of all other issues. Tobacco is the economic core of the corporation and the political center of all activity.

Thus, while an employee may or may not believe that their contributions to Philip Morris are serving the interests of their immediate employer, Miller Beer, there is no indication that the governing leadership of the corporation shares that view.

*US Senate*

Neither of Wisconsin's two members of the US Senate received campaign contributions from the tobacco industry. In fact, Russ Feingold (D) and Herb Kohl (D) have not received any money from the tobacco industry since 1995. This is in contrast to Senator Feingold's predecessor, Robert Kasten, who in his first term (1980-1986) was the largest recipient of tobacco industry contributions in the senate.

### *US House of Representatives*

Wisconsin's four Republican and five Democratic members of Congress received a total of \$38,250 in direct campaign contributions in the year 2000 election cycle (1999-2000) [Table 8]. Republican Representatives received \$23,250, or 61 percent of the direct contributions to Wisconsin House members, compared to \$15,000, or 39 percent received by Wisconsin House Democrats.

If the donations of restaurant, convenience store and grocers association and the Tavern League are included with direct contributions from the industry, Wisconsin's Representatives in the U.S. House received a total of \$62,250 in campaign contributions from the tobacco industry and its partners in the year 2000 election cycle. Republicans received 71 percent of these contributions, or \$44,250, while 29 percent, or \$18,000, went to Democrats.

Not every candidate received money from the tobacco industry. Two members of Congress, Tammy Baldwin (2<sup>nd</sup> district) and Ron Kind (3<sup>rd</sup> district), did not receive any direct contributions from the industry.

**Table 8: Tobacco campaign contributions to members of U.S. Congress**

Contributions from tobacco company PACs and allied organizations to members of the U.S. Congress from Wisconsin between 1/1/99 and 12/31/00

U.S. House	Party and district	Direct contributions from tobacco companies	Contributions from allied trade organizations	Total
Ryan, P	R-1	\$10,000	\$11,000	\$21,000
Green, Mark	R-8	\$8,500	\$5,500	\$14,000
Kleczyka, G	D-4	\$10,000	\$500	\$10,500
Petri, Tom	R-6	\$2,000	\$4,500	\$6,500
Obey, D	D-7	\$4,000	\$0	\$4,000
Sensenbrenner, F	R-9	\$2,750	\$0	\$2,750
Barret, T	D-6	\$1,000	\$1,500	\$2,500
Kind, R	D-3	\$0	\$1,000	\$1,000
Baldwin, T	D-2	\$0	\$0	\$0
<b>Total U.S. House (WI members)</b>		<b>\$38,250</b>	<b>\$24,000</b>	<b>\$62,250</b>

Source: Campaign finance reports of the Wisconsin State Elections Board, 2001



## *Governor*

Former Governor Tommy Thompson was the largest direct recipient of contributions from the tobacco industry in the history of the state. In his four election campaigns, former Governor Thompson received over \$75,000 in direct contributions from the tobacco industry. In addition to contributions, former Governor Thompson received significant notoriety in 1997 when it was disclosed that he took several international trips in 1996 paid by Philip Morris and that were not reported to the State Ethics Board. These trips in which he was accompanied by four Philip Morris lobbyists, including John Lenzi and Midwest Governmental Affairs Director Paul Lucas, were to Australia (in which he went scuba diving with Philip Morris CEO Geoffrey Bible) and to Lake Victoria in Tanzania. His wife accompanied former Governor Thompson and a few friends on these fully paid trips. An exact value for each of the trips was never reported, but one Ethics Board estimate valued the trips as approximately \$7,000 per person per trip. Thus, the value of the trips for the Governor and his wife was approximately \$28,000.

Following an investigation, the State Ethics Board determined that the Governor believed the trip was not sponsored by Philip Morris but another little known organization that later was found to be entirely funded by Philip Morris and controlled by Philip Morris VP, Andrew Whist. The Governor later admitted that following the trip he sent thank-you notes to each of the Philip Morris lobbyists.<sup>122</sup>

Lobbyists from Philip Morris asserted that despite the fact that they spent a week with the Governor on two separate occasions, they did not discuss any policy issues with him. Governor Thompson's phone records, requested by Milwaukee Journal Sentinel in 1997 indicated numerous phone calls from the Governor to Philip Morris CEO Geoffrey Bible and to Philip Morris officer Andrew Whist. Philip Morris documents indicate a lengthy correspondence from the company to the Governor inviting him to numerous dinners and entertainment events, in addition to international trips.

Most notable is a request from a Philip Morris executive in which he asks the Governor to sign into law, proposed legislation, Senate Bill 292, providing anti-discrimination rights to smokers. The Governor signed the bill.<sup>123</sup>

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<sup>122</sup> AP Story: Ethics Officials to Check Wisconsin, Minnesota Records. Philip Morris Collection, Bates #2073297050). <http://legacy.library.ucsf.edu/>.

<sup>123</sup> Anne Landman's Tobacco Document Collection. 1861. <http://tobaccodocuments.org/landman/>

One of the best indicators of Governor Thompson's favorable disposition towards the tobacco industry is seen in Philip Morris's review of news articles and editorials in Wisconsin media in 1991 as indicated by the previously discussed CARMA media review and analysis.

In the review, Gov. Thompson substantially leads the list of nearly all newsmakers as a source of favorable news about the tobacco industry. In the CARMA survey, Thompson outranked Walker Merryman, the Director of the Tobacco Institute and Senator Jesse Helms. Only Philip Morris and the Tobacco Institute itself generated more favorable stories about the tobacco industry.<sup>124</sup>

In his 2002 gubernatorial campaign, Acting Governor Scott McCallum received considerable contributions from the tobacco industry and its allied associations. McCallum's fundraising includes an \$18,000 donation from a Philip Morris PAC- one of the largest PAC contributions in his campaign. He also received a \$2,500 contribution from the Brown & Williamson PAC. The Wisconsin Grocer's Association and the Wisconsin Restaurant Association both gave McCallum large contributions of \$17,950 and \$9,750 respectively.<sup>125</sup>

These figures do not include the large number of individual contributions from employees of tobacco companies (the full extent of these funds we do not know). Just for McCallum alone in this election cycle, Philip Morris employees donated \$41,025 to his campaign with the majority coming from persons currently employed by Miller Brewing Co. at \$32,975. Thus, as June 30, 2002, four months before the 2002 election, Governor McCallum received \$90,225. If this level of fund raising keeps apace Governor McCallum will raise more money from the tobacco industry in one election than Governor Thompson raised in three.

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<sup>124</sup> No Wisconsinite was ranked as a news source for unfavorable stories. However, a number of Wisconsinites were prolific in generating by-lines on tobacco, both "pro" and "con" including the state's leading pro-smoking advocate, Carol Thompson with four stories, Ira Sharenow with three, Daniel Nash with three stories, Jack Lohman and Cynthia Wood, both members of the Wisconsin Initiative on Smoking and Health, with two stories.

<sup>125</sup> State Elections Board. 2001-02 filings.

**Table 9: Tobacco Company and Allied Industry’s Contribution to Scott McCallum (1/1/99-8/26/02) (PAC, Conduit, and Individual<sup>126</sup> donation)**

	<b>Amount</b>
<b>Tobacco Companies</b>	
Phillip Morris	\$18,000
RJ Reynolds	\$0
Brown & Williamson	\$2,500
US Tobacco	\$0
<b>Allied Industry</b>	
WRA	\$9,750
PMAW/WACS	\$0
Tavern League	\$1,000
WGA	\$17,950
<b>Individual Employee</b>	\$41,025
<b>Total</b>	<b>\$90,225</b>

Source: Wisconsin Democracy Campaign  
Source: State Elections Board

*Wisconsin State Senate*

Fifteen Republicans and 18 Democrats serve in the State Senate. Direct contributions from the tobacco industry to current state senators totaled \$14,850 [Table 10]. Eight percent of the direct contributions, or \$1,250, went to Republican candidates while 92 percent or \$13,600, went to Democrats.

The direct contributions to State Senate candidates were augmented with contributions from industry allies, more than doubling the receipts by the senators. Total contributions to current state senators from the tobacco industry and its allies totaled \$107,659, with Republican Senators receiving 25 percent of the total, or \$26,775, and Democrats receiving 75 percent of the contributions, or \$80,884.

The contributions to State Senate candidates were also supplemented with contributions from individual tobacco company employees (mostly Philip Morris employees). Total reported tobacco industry related individual contributions to current

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<sup>126</sup> This includes individual employee contribution from Miller Brewing, Miller Brands, Oscar Mayer, Philip Morris, Kraft Foods, and US Tobacco. These same six companies are used elsewhere in the report when “individual employee contribution” is noted.

State Senators totaled \$44,449, with Republican Senators receiving 31 percent of the total, or \$13,650, and Democrats receiving 69 percent of the contributions, or \$30,799.

**Table 10: Tobacco contributions to WI State Senators**

Contributions from tobacco company PACs and allied organizations to Wisconsin State Senators between 1/1/99 and 8/26/02

WI Senate Member	Party and district	Direct from tobacco companies (PACs/conduits)	From allied trade organizations (PACs/conduits)	From tobacco company employees (individual)	Total
George, G	D-6	\$7,000	\$4,850	\$7,250	\$19,100
Plache, K	D-21	\$0	\$6,550	\$6,700	\$13,250
Burke, B	D-3	\$1,000	\$5,150	\$2,272	\$8,422
Darling, A	R-8	\$400	\$3,950	\$2,900	\$7,250
Shibilski, K	D-24	\$4,150	\$850	\$2,050	\$7,050
Decker, R	D-29	\$0	\$5,200	\$1,150	\$6,350
Chvala, C	D-16	\$0	\$2,200	\$3,350	\$5,550
Erpenbach, J	D-27	\$0	\$4,500	\$900	\$5,400
Welch, R	R-14	\$550	\$3,200	\$1,350	\$5,100
Breske, R	D-12	\$300	\$1,335	\$2,322	\$3,957
Wirch, R	D-22	\$150	\$2,150	\$1,100	\$3,400
Kanavas, T	R-33	\$0	\$2,200	\$1,150	\$3,350
Panzer, M	R-20	\$0	\$100	\$2,650	\$2,750
Harsdorf, S	R-10	\$0	\$0	\$2,000	\$2,000
Meyer, M	D-32	\$0	\$400	\$1,550	\$1,950
Moore, G	D-4	\$1,000	\$250	\$555	\$1,805
Moen, R	D-31	\$0	\$1,700	\$100	\$1,800
Lazich, M	R-28	\$150	\$300	\$1,100	\$1,550
Fitzgerald, S	R-13	\$0	\$550	\$950	\$1,500
Baumgart, J	D-9	\$0	\$0	\$1,300	\$1,300
Rosenzweig, P	R-5	\$150	\$100	\$1,050	\$1,300
Zien, D	R-23	\$0	\$650	\$100	\$750
Schultz, D	R-17	\$0	\$375	\$300	\$675
Robson, J	D-15	\$0	\$650	\$0	\$650
Hansen, D	D-30	\$0	\$450	\$200	\$650
Huelsman, J	R-11	\$0	\$250	\$0	\$250
Jauch, R	D-25	\$0	\$250	\$0	\$250
Lasee, A	R-1	\$0	\$200	\$0	\$200
Cowles, R	R-2	\$0	\$0	\$100	\$100
Ellis, M	R-19	\$0	\$0	\$0	\$0
Farrow, M	R-33/LG	\$0	\$0	\$0	\$0
Grobschmidt, R	D-7	\$0	\$0	\$0	\$0
Risser, F	D-26	\$0	\$0	\$0	\$0
Roessler, C	R-18	\$0	\$0	\$0	\$0
<b>Total WI Senate</b>		<b>\$14,850</b>	<b>\$48,360</b>	<b>\$44,449</b>	<b>\$107,659</b>

Source: Campaign finance reports of the Wisconsin State Elections Board, 2002

Source: Wisconsin Democracy Campaign

In addition to their support of individual campaigns, the tobacco industry also contributed to legislative campaign committees. During the period of 1/1/99-8/26/02 the Committee to Elect a Republican Senate received \$4,000 in direct contributions and \$10,750 in total support, and the State Senate Democratic Campaign Committee received \$12,500 in direct contributions and \$23,700 in total support [Table 11].

**Table 11: Tobacco contributions to Campaign Committees**

Contributions from tobacco company PACs and allied organizations to Wisconsin State Senate and Assembly campaign committees and between 1/1/99 and 8/26/02.

	State Senate Democratic Campaign	Assembly Democratic Campaign	Democratic Party of Wisconsin	Republican Assembly Campaign	Elect a Republican Senate	Republican Party of Wisconsin
<b>Industry PACs</b>						
Philip Morris	\$6,000	\$5,000	\$1,000	\$5,500	\$3,000	\$5,500
RJR	\$0	\$0	\$0	\$0	\$0	\$0
B&W	\$5,000	\$1,000	\$2,500	\$3,500	\$0	\$5,000
UST	\$1,500	\$0	\$0	\$0	\$1,000	\$0
<b>Total Direct</b>	<b>\$12,500</b>	<b>\$6,000</b>	<b>\$3,500</b>	<b>\$9,000</b>	<b>\$4,000</b>	<b>\$10,500</b>
<b>Individual</b>	<b>\$200</b>	<b>\$150</b>	<b>\$0</b>	<b>\$2,500</b>	<b>\$100</b>	<b>\$0</b>
<b>Allies</b>						
WRA	\$2,750	\$1,100	\$0	\$4,875	\$4,850	\$0
PMAW/WACS	\$1,400	\$500	\$0	\$300	\$700	\$300
Tavern Industry	\$6,000	\$500	\$0	\$8,600	\$0	\$0
WGA	\$850	\$200	\$0	\$636	\$1,100	\$500
<b>Total indirect</b>	<b>\$11,000</b>	<b>\$2,300</b>	<b>\$0</b>	<b>\$14,411</b>	<b>\$6,650</b>	<b>\$800</b>
<b>Grand Total</b>	<b>\$23,700</b>	<b>\$8,450</b>	<b>\$3,500</b>	<b>\$25,911</b>	<b>\$10,750</b>	<b>\$11,300</b>

Source: Campaign finance reports of the Wisconsin State Elections Board, 2002.

Source: Wisconsin Democracy Campaign

### *Wisconsin State Assembly*

During the period of 1/1/99-8/26/02 the Republican Assembly Campaign Committee received \$9,000 in direct contributions from the tobacco industry and a total of \$25,941 from all tobacco interests, while the Assembly Democratic Campaign Committee received \$6,000 in direct contributions and \$8,450 in total contributions. Another major difference was the \$10,500 in contributions directly from the tobacco industry to the state Republican Party compared to the \$3,500 in contributions to the Democratic Party.

Direct contributions from tobacco industry PACs to the year 2000 Wisconsin Assembly campaigns (1/1/99-8/26/02) totaled \$7,000 [Table 12]. Contributions to Assembly Republicans made up 89 percent of the total, or \$6,250, while Democrats received only 11 percent of the direct contributions, or \$750. At the Assembly level, tobacco companies rarely make direct contributions to specific campaigns, leaving this form of political involvement to their employees as well as state allies, such as the Wisconsin Restaurant Association and Tavern League.

Contributions from Wisconsin PACs, conduits, and individuals with tobacco interests to the State Assembly reached \$111,285. Contributions to Republicans in the State Assembly totaled \$88,237, or 79 percent of all contributions, while contributions to the Democrats totaled \$23,048, receiving 21 percent of the total contributions. Contributions from tobacco company employees to candidates were \$36,075. Again, these funds are overwhelmingly given to the majority party, Republicans, with most of the funds channeled to ten legislators.

**Table 12: Tobacco contributions to WI Assembly members**

Contributions from tobacco company PACs and allied organizations to Wisconsin State Assembly members between 1/1/99 and 8/26/02

WI Assembly Member	Party and District	Direct from tobacco companies (PACs/conduits)	From allied trade organizations (PACs/conduits)	From tobacco company employees (individual)	Total
Jensen, S	R-32	\$0	\$5,324	\$6,550	\$11,874
Foti, S	R-38	\$1,000	\$3,950	\$3,450	\$8,400
Riley, A	D-18	\$500	\$1,500	\$3,950	\$5,950
Gard, J	R-89	\$500	\$3,793	\$1,000	\$5,293
Skindrud, R	R-79	\$500	\$3,100	\$1,275	\$4,875
Huebsch, M	R-94	\$150	\$2,450	\$300	\$2,900
Pettis, M	R-28	\$650	\$1,700	\$200	\$2,550
Fitzgerald, J	R-39	\$0	\$2,000	\$550	\$2,550
Petrowski, J	R-86	\$250	\$1,770	\$500	\$2,520
Hines, J	R-42	\$250	\$2,100	\$100	\$2,450
Krawczyk, J	R-88	\$250	\$1,750	\$300	\$2,300
Gunderson, S	R-83	\$0	\$1,300	\$925	\$2,225
Montgomery, P	R-4	\$0	\$1,750	\$450	\$2,200
Suder, S	R-69	\$250	\$750	\$1,100	\$2,100
Duff, M	R-98	\$0	\$1,300	\$800	\$2,100
Krug, S	D-12	\$0	\$400	\$1,650	\$2,050
Stone, J	R-82	\$400	\$850	\$700	\$1,950
Hoven, T	R-60	\$0	\$1,200	\$750	\$1,950

Ladwig, B	R-63	\$400	\$1,250	\$200	\$1,850
Johnsrud, D	R-96	\$0	\$1,750	\$100	\$1,850
Kreuser, J	D-64	\$250	\$850	\$600	\$1,700
Ward, D	R-37	\$250	\$1,000	\$450	\$1,700
Vrakas, D	R-33	\$0	\$1,350	\$300	\$1,650
Lassa, J	D-71	\$0	\$1,650	\$0	\$1,650
Hahn, E	R-47	\$500	\$450	\$650	\$1,600
Loeffelholz, G	R-49	\$100	\$1,300	\$0	\$1,400
Huber, G	D-85	\$0	\$900	\$350	\$1,250
Walker, S	R-14	\$0	\$550	\$700	\$1,250
Friske, D	R-35	\$100	\$1,000	\$100	\$1,200
Starzyk, S	R-66	\$0	\$1,000	\$200	\$1,200
McCormick, T	R-56	\$0	\$900	\$300	\$1,200
Plale, J	D-21	\$0	\$550	\$600	\$1,150
Seratti, L	R-36	\$0	\$300	\$775	\$1,075
Wieckert, S	R-57	\$0	\$925	\$100	\$1,025
Bies, G	R-1	\$0	\$900	\$125	\$1,025
Rhodes, K	R-30	\$100	\$800	\$100	\$1,000
Meyer, D	D-95	\$0	\$500	\$450	\$950
Gundrum, M	R-84	\$0	\$550	\$400	\$950
Freese, S	R-51	\$100	\$650	\$100	\$850
Albers, S	R-50	\$0	\$700	\$100	\$800
Staskunas, T	D-15	\$0	\$200	\$550	\$750
Nass, S	R-31	\$0	\$200	\$525	\$725
Young, L	D-16	\$0	\$600	\$100	\$700
Lehman, M	R-58	\$0	\$500	\$150	\$650
Lasee, F	R-02	\$0	\$500	\$150	\$650
Meyerhofer, L	D-5	\$0	\$530	\$100	\$630
Powers, M	R-80	\$100	\$500	\$0	\$600
Ryba, J	D-90	\$0	\$500	\$100	\$600
Lippert, M	R-70	\$0	\$400	\$200	\$600
Kestell, S	R-27	\$400	\$0	\$150	\$550
Hubler, M	D-75	\$0	\$500	\$0	\$500
Grothman, G	R-59	\$0	\$500	\$0	\$500
Balow, L	D-68	\$0	\$400	\$100	\$500
Turner, R	D-61	\$0	\$500	\$0	\$500
Boyle, F	D-73	\$0	\$450	\$0	\$450
Townsend, J	R-52	\$0	\$450	\$0	\$450
Travis, D	D-81	\$0	\$230	\$200	\$430
Kaufert, D	R-55	\$0	\$400	\$0	\$400
Hundertmark, J	R-40	\$0	\$400	\$0	\$400
Kreibick, R	R-93	\$0	\$250	\$150	\$400
Olsen, L	R-41	\$0	\$300	\$100	\$400
Schneider, M	D-72	\$0	\$88	\$300	\$388
Shilling, J	D-95	\$0	\$350	\$0	\$350
Ainsworth, J	R-6	\$0	\$250	\$100	\$350

Gronemus, B	D-91	\$0	\$250	\$100	\$350
Ott, A	R-3	\$0	\$200	\$150	\$350
Sherman, G	D-74	\$0	\$300	\$0	\$300
Bock, P	D-7	\$0	\$200	\$100	\$300
Kedzie, N	R-26	\$0	\$300	\$0	\$300
Wasserman, S	D-22	\$0	\$0	\$300	\$300
Coggs, S	D-17	\$0	\$250	\$0	\$250
Jeskewitz, S	R-24	\$0	\$250	\$0	\$250
Pocan, M	D-78	\$0	\$200	\$0	\$200
Sinicki, C	D-20	\$0	\$200	\$0	\$200
Sykora, T	R-67	\$0	\$0	\$200	\$200
Underheim, G	R-54	\$0	\$0	\$200	\$200
Musser, T	R-92	\$0	\$100	\$100	\$200
Colon, P	D-8	\$0	\$0	\$200	\$200
Owens, C	R-53	\$0	\$100	\$0	\$100
Carpenter, T	D-9	\$0	\$0	\$100	\$100
Leibham, J	R-26	\$0	\$0	\$100	\$100
Richards, J	D-19	\$0	\$0	\$100	\$100
Schoof, D	D-45	\$0	\$0	\$100	\$100
Wood, W	D-44	\$0	\$0	\$100	\$100
Lehman, J	D-62	\$0	\$50	\$0	\$50
Berceau, T	D-76	\$0	\$0	\$0	\$0
Black, S	D-77	\$0	\$0	\$0	\$0
Cullen, D	D-13	\$0	\$0	\$0	\$0
Hebl, T	D-46	\$0	\$0	\$0	\$0
Krusick, P	D-97	\$0	\$0	\$0	\$0
La Fave, J	D-23	\$0	\$0	\$0	\$0
Miller, M	D-48	\$0	\$0	\$0	\$0
Morris-Tatum, J	D-11	\$0	\$0	\$0	\$0
Plouff, J	D-29	\$0	\$0	\$0	\$0
Reynolds, M	D-87	\$0	\$0	\$0	\$0
Steinbrink, J	D-65	\$0	\$0	\$0	\$0
Urban, F	R-99	\$0	\$0	\$0	\$0
Williams, A	D-10	\$0	\$0	\$0	\$0
Ziegelbauer, B	D-25	\$0	\$0	\$0	\$0
<b>Total WI Assembly</b>		<b>\$7,000</b>	<b>\$68,210</b>	<b>\$36,075</b>	<b>\$111,285</b>

Source: Campaign finance reports of the Wisconsin State Elections Board, 2002

Source: Wisconsin Democracy Campaign



**Table 13: Campaign Finance Contributions**

Disbursements by tobacco manufacturers and allied organizations to the campaigns of current Wisconsin legislators 1999 to present

<b>Corporate Campaign Contributions</b>	<b>1999-00</b>	<b>2001-02</b>	<b>Total</b>
Brown & Williamson	\$12,500	\$11,000	\$23,500
Philip Morris	\$55,750	\$36,915	\$92,665
RJR	\$6,000	\$0	\$6,000
UST	\$3,300	\$1,000	\$4,300
<b>Total Direct</b>	<b>\$77,550</b>	<b>\$48,915</b>	<b>\$126,465</b>
PMAW/WACS	\$25,355	\$24,625	\$49,980
WGA	\$1,709	\$33,555	\$35,264
WRA	\$40,225	\$31,940	\$72,165
Tavern League	\$22,598	\$50,100	\$72,698
<b>Totals Indirect</b>	<b>\$89,887</b>	<b>\$140,220</b>	<b>\$230,107</b>
<b>Grand Totals</b>	<b>\$167,437</b>	<b>\$189,135</b>	<b>\$356,572</b>

Source: Campaign finance reports of the Wisconsin State Elections Board, 2002

### *Lobbying Expenditures*

In addition to direct contributions to the campaigns of elected officials, the tobacco industry influences the political climate of the state through extensive lobbying of the legislature. Since 1997, the tobacco industry has directly spent \$7,243,346 lobbying to influence the outcomes of various Wisconsin Assembly and Senate Bills [Table 14]. In every session, Philip Morris remains a powerful lobbying force in the Wisconsin legislature with expenditures so far this cycle at \$463,502 (the 7<sup>th</sup> highest total lobbying expenditure for the 2001-02 session).<sup>127</sup> R.J. Reynolds (\$140,073) and Lorillard (\$106,772) also spent sizable sums in their lobbying activity in the 2001-02 session among several other companies and organizations [Table 14].

As with campaign finance donations, the tobacco industry allies in retail sales and the restaurant and tavern industries augment the efforts of the big tobacco companies, lobbying on a broad range of tobacco related bills [Table 14]. As noted above, in many instances,

<sup>127</sup> Summary: Top 10's and Graphs. State Ethics Board.  
<http://ethics.state.wi.us/LobbyingRegistrationReports/SLAESummary20012002.pdf>

tobacco retailer organizations such as the associations for convenience stores and groceries lobby on a more extensive array of legislation than the manufacturers.

The 1997-98 legislative session was the most active for the tobacco industry and its allied organizations. In that session, tobacco industry and the key lobbying partners spent \$2 million in lobbying fees. This session included the Legislative Council on Minors Access to Tobacco. The Council proposed numerous changes in law to reduce youth access, banning of vending machines and higher fees for licenses to sell tobacco. These measures were strongly opposed by industry allies, particularly, the tobacco sellers represented by the Convenience Stores Association and Grocers Association.

In the 1997-1998 legislative session, the Wisconsin Restaurant Association lobbied on three separate tobacco related bills appearing before the legislature, while the Wisconsin Grocers Association lobbied on six separate tobacco bills and the Wisconsin Association of Convenience Stores lobbied on ten tobacco bills, more than both Brown and Williamson and R.J. Reynolds. Increases in excise taxes were also a major concern and interest of all registered lobbying tobacco organizations.

In the following legislative session of 1999-2000, WRA lobbied on Senate Bill 413 regarding the sale of grey market cigarettes. This focus by the restaurant industry on legislation concerning the sale of cigarettes was an indication of a change of interest by the organization. In the 1999-2000 session, WACS also lobbied on bills preventing the sale of grey market cigarettes as well as legislation on sales of cigarettes to minors. The WGA continued their support for the tobacco industry by aligning itself with the industry through lobbying on eight tobacco related bills.

Government regulation of the use and sale of tobacco products has a direct impact on convenience store sales. As a result, the National Association of Convenience Stores (NACS), and its Wisconsin chapter, WACS, make contributions to political candidates at all levels of government and lobby on both national and state level bills. Thus far in the current legislative session, WACS has lobbied on two issues brought forth in the legislature regarding the sale of cigarettes and their regulation and taxation, and WGA has already lobbied on six separate issues. Taking into account the lobbying expenditures of such allies, tobacco interests have spent \$7,243,346 since 1997 lobbying state legislators.

**Table 14: Lobbying Expenditures**

Expenditures by tobacco manufacturers and allied organizations, 1997-present.

<b>Lobbying Organization</b>	<b>1997-98</b>	<b>1999-00</b>	<b>2001-02*</b>	<b>1997-Present</b>
Brown & Williamson	\$147,733	\$197,010	\$64,514	\$409,257
Cigar Assn of America	\$35,000	\$77,000	\$50,350	\$162,350
Lorillard	N/A	\$142,771	\$106,772	\$249,543
Philip Morris	\$966,375	\$516,641	\$463,502	\$1,946,518
RJ Reynolds	\$214,266	\$152,426	\$140,073	\$506,765
Smokeless Tobacco Council	\$105,884	\$121,058	\$92,679	\$319,621
UST Tobacco	\$123,683	\$105,123	\$86,397	\$315,203
Miller Brewing	\$346,632	\$349,974	\$176,447	\$873,053
Kraft Foods	\$200,015	\$147,607	\$82,230	\$429,852
<b>Total Direct</b>	<b>\$2,139,588</b>	<b>\$1,809,610</b>	<b>\$1,262,964</b>	<b>\$5,212,162</b>
PMAW/WACS	\$299,468	\$217,366	\$261,974	\$778,808
WI Grocers Assn	\$72,303	\$69,745	\$61,334	\$203,382
WI Restaurant Assn	\$183,082	\$242,128	\$234,159	\$659,369
WI Tavern League	\$115,943	\$173,763	\$99,919	\$389,625
<b>Totals Indirect</b>	<b>\$670,796</b>	<b>\$703,002</b>	<b>\$657,386</b>	<b>\$2,031,184</b>
<b>Grand Totals</b>	<b>\$2,810,384</b>	<b>\$2,512,612</b>	<b>\$1,920,350</b>	<b>\$7,243,346</b>

\*Reported total expenditures from January 2001 to July 2002

Source: Wisconsin Ethics Board, 2002

*Opposition to Tobacco Industry Proposals*

There have always been members of the medical community and individuals in the public cognizant of the health effects of tobacco. These organizations and individuals educate the public on prevention and encourage cessation, and in some instances oppose the tobacco industry's policy initiatives.

As early as the late 1950's organizations such as the predecessor organization to the American Lung Association, the Wisconsin Anti-Tuberculosis Association, organized speaking and media tours for speakers such as Sloan Kettering's pioneer tobacco scientist, Dr. Ernest Wynder.<sup>128</sup> Despite his best efforts, Wynder underestimated tobacco's mortality effect by about 95% and also recommended that cigarette manufacturers produce cigarettes with less tars. By the early 1960's the Anti-Tuberculosis Association was promoting medical research in the state as well as smoking prevention.<sup>129</sup>

<sup>128</sup> "Says Cigarettes Kill 20,000." *Capital Times*. 24 Apr 1959.

<sup>129</sup> *The Crusader*. Wisconsin Anti-Tuberculosis Association. Mar 1963.

Over the next ten years, despite the Surgeon General's Report of 1964 and the Federal Communications Commission ruling requiring anti-tobacco commercials and the resulting Surgeon General's "warning" on all cigarettes, there was little public controversy in Wisconsin about tobacco use. The few exceptions are noteworthy.

One of the first national research conferences on tobacco and health was held at the UW-Madison on May 1, 1967. In its keynote address an unknown but articulate and well-informed US Senator asked the conferees to help smokers quit, prevent young people from initiating smoking and find a safer cigarette (the panacea of the time).<sup>130</sup>

In February 1973, by a vote of 12-10, the Madison City Council voted to ban smoking in the Council chambers.<sup>131</sup> However, two years later, the state legislature refused to take up a measure to prohibit smoking in legislative hearings. The unidentified Committee Chair who killed the bill said, "I don't think anyone's behaviors or morals should be legislated."<sup>132</sup>

In the period between 1964-1986, there was little organized opposition to the tobacco industry or to encourage policies that might reduce the burden of tobacco. While there had been thousands of articles published establishing the relationship between tobacco use and sickness and death, few organizations were ready to assume the seemingly impossible dual tasks of "taking on" the tobacco industry and transforming American culture and its custom of accommodating tobacco smoking.

At the same time, most Wisconsin health advocates like their counterparts throughout the country, assumed that as long as smokers and young non-smokers had sufficient information on the health risks of tobacco they would make "the right decision" and stop or not start smoking. Also, there was little recognition of the role of the tobacco industry in subverting scientific examination of the effects of tobacco use.

Political leaders who opposed the formidable tobacco industry and their tightly organized allies worked with little and under funded organized external support in the community. Senator Fred Risser (D-Madison), author of the Clean Indoor Air Act and other tobacco control initiatives did so with only minimal organized support from the public. Often

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<sup>130</sup> National Research Conference on Smoking and Health. 1 May 1967. (R.J. Reynolds Collection, Bates #500020719/0727). <http://legacy.library.ucsf.edu/>

<sup>131</sup> Tobacco Institute Newsletter. 8 Feb 1973. (Philip Morris Collection, Bates #1002367109/7112). <http://legacy.library.ucsf.edu/>

<sup>132</sup> Tobacco Institute Newsletter. 22 Apr 1975. (R.J. Reynolds Collection, Bates # 500016515/6522). <http://legacy.library.ucsf.edu/>

Risser and other legislators faced consistent derision of the press, as exemplified by the front-page story in Sunday edition of the Wisconsin State Journal published in 1988 that began, “Anti-smoking rhetoric isn’t just coming from the health fanatics anymore.”<sup>133</sup>

The major health advocacy groups, often known as “the tri-agency”, the American Heart Association, the American Cancer Society and the American Lung Association coalesced into the Clean Air Coalition in support of Risser’s Senate Bill 80, the Clean Indoor Air Act. They worked for more than a year building grassroots support such as petition gathering, initiating letters to the editor and letters to legislators. A secret financial “angel,” Wally Jerome of Jerome Foods of Barron, Wisconsin, funded much of this activity.<sup>134</sup> Largely due to limited financial and staff capacity, legislators such as Reps. Mary Lou Munts and Becky Young (D-Madison), Louis Fortis (D-Glendale) and Rep. Steve Gunderson (R-La Crosse) often had to fight quixotic battles against the industry and its allies with only occasional support from the press.

Over the next few years, the American Cancer Society and Lung Association focused intensively on providing cessation services for smokers. The organizations provided “train the trainer” programs to increase the capacity of health service organizations and workplaces to provide cessation services. The Lung Association alone, reported assisting over 650 businesses in one year with cessation programs. These programs reached thousands of people through a large group of dedicated volunteers. However, because they attempted to treat nicotine addiction without the benefit of either nicotine replacement or any other pharmacotherapies, their success rate was relatively low. This limited success rate made it difficult to sustain volunteer efforts or continue to interest smokers in attempting to quit.

By 1986, smoking rates continued to be relatively constant despite the best efforts of the health agencies and a public that was generally well informed about smoking risks (the Surgeon General’s warning had been on the side of the pack of cigarettes for more than two decades). Indeed, in the face of smoking rates increasing among women and youth and the working class, health advocates began to mobilize for action that favored an institutional rather than an individual strategy. They were motivated by the changing face of tobacco use in Wisconsin as well as events occurring on the national state. Most notable, in 1984 was US Surgeon General Koop’s visionary call for a “smoke free America by 2000”- a stunning

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<sup>133</sup> “State Anti-Smokers Get Down to Business.” *Wisconsin State Journal*. 24 Apr 1988.

<sup>134</sup> Discussion with Nancy Freeman, former Program Director of American Cancer Society (Wisconsin Division). Sept 2002.

pronouncement given the political and social climate of the time. This was followed two years later by the 1986 Surgeon General's Report on environmental tobacco smoke, "The Health Consequences of Involuntary Smoking." This report transformed the nature of the debate about smoking from one of "personal right" to "harm to others."

Wisconsin advocates from the three major voluntary organizations, the American Lung Association, the American Heart Association and the biggest of the three, American Cancer Society were strongly influenced by the coalitional effort on tobacco control conducted by their national organizations. Until 1981, the "Big Three" worked almost entirely independently on tobacco.

Due to the effort of Texan oncologist, Charles Le Maistre, Washington lawyer/lobbyist Matt Myers and a handful of others, the "Big Three" agreed in 1981 to hold the first National Conference on Smoking Or Health. The significant result of the conference was to form a very small, i.e. two person, Washington office for joint operations on tobacco control called the Coalition on Smoking and Health.

Wisconsin affiliates of the "Big Three" followed suit when in November 1986, they organized the first Wisconsin Conference on Tobacco Or Health. Perhaps hoping that the same success would come to Wisconsin as did for their national colleagues; the conference keynote speakers were none other than Dr. Le Maistre and Matthew Myers. The conference focused on development of an "action strategy" for making Wisconsin workplaces smoke-free primarily through strengthening of the Clean Indoor Air Law. Specifically, they recommended expanding coverage to private workplaces, requiring minimum non-smoking areas in restaurants and banning smoking in all inpatient health care facilities. Other recommendations included increasing the cigarette tax from 25 cents (at the time the highest state tax in the nation) to 28 cents.<sup>135</sup>

By 1988, there was a substantial change in public sentiment, and support for smoke free environments had burgeoned. Northwest Airlines banned smoking on all flights, hospitals were largely smoke-free, hotels and motels had begun offering "non-smoking rooms" and notably two restaurants in Madison and one in Janesville were smoke-free.<sup>136</sup>

Also in 1988, the Tri-Agency announced a smoking prevention effort entitled, Smoke Free Class of 2000. The program was spurred in part by a survey conducted in 1987 by the University of Minnesota that found that 18% of high school freshman smoked occasionally.

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<sup>135</sup> Proceedings, Wisconsin Conference on Tobacco or Health. 20 Nov 1986.

<sup>136</sup> "State anti-smokers get down to Business." Wisconsin State Journal. 24 Apr 1988.

As the name implies, the goal of the program was to have no smokers in the graduating class in the year 2000. Using a variety of educational methods and strategies, enrolled schools sustained school-based efforts. No information is available on the effectiveness of the program. The program continued until 2000.

In 1989, smoke-free advocates began planning to submit a grant to the National Cancer Institute to participate in their most ambitious effort to date to mobilize communities against tobacco use. The program, called the American Stop Smoking Intervention Study for Cancer Prevention, known by its acronym, ASSIST. Unlike many other federal or state programs, this effort had the unusually long duration of seven and then later extended to eight years. ASSIST also had a number of other characteristics that made it different than previous federal intervention efforts. First, it required the applicant agency, the State Division of Health, to administer the program in concert with a non-governmental agency, the American Cancer Society- Wisconsin Division. Second, it financially supported community-based intervention through a newly created agency, the Tobacco Free Wisconsin Coalition and dozens of county-based organizations. Third, it required a two-year period to develop a comprehensive plan supported by a broad range of state and local collaborators.

While the ASSIST program was not successful in achieving its primary objective of reducing the adult smoking prevalence rate to 14%, it probably increased awareness in a number of communities about second hand smoke and the sale of tobacco to minors as well as the role of the tobacco industry in promoting smoking and resisting regulation and change.

Throughout the five years of the Implementation Phase of the ASSIST project (1993-1998), local coalitions, the state Tri-Agency and the state Coalition began a smoke free movement as a counter to the pervasive and relatively uncontested power of the tobacco industry. Viable broad-based coalitions founded with ASSIST grants in La Crosse and Fond du Lac were among the first to pass smoke free restaurant laws. These same communities spent years laying the groundwork of building community awareness and active support on an issue- tobacco use- that few if any had previously given any consideration. This support was generated through lengthy, contentious and often very high profile battles with retailers by attempting to restrict their access to minors.

While the ASSIST program goals were laudable and its strategy, methodical, its organizational effort was too ambitious to be broadly effective. Attempting to stretch less than \$700,000 among more than 35 local health department organizations left many programs with too little to effectively mount ASSIST's ambitious program. Program funds to

highly populated counties were substantially larger than those of small counties. As a result, many counties received grants of a few thousand dollars per year. While in some cases, a local program was run by a talented and committed part-time professional with myriad other duties, in many other instances it provided too little funding to gain the attention of small over-burdened community health organizations.

Only with the advent of the Governor's Cancer Control Program in 1993, an effort funded with \$400,000 of general purpose revenue per year as the state's "match" to the federal ASSIST grant, did many programs begin to have sufficient funding to focus staff time and have additional resources to mount on-going initiatives. Unlike Wisconsin's ASSIST program, which attempted to "spread" the money around, the Cancer Control Program focused its grants on eight counties that received \$50,000 per year for targeted programs.

The ASSIST program in Wisconsin and its related programs throughout the nation jumpstarted a small but engaged movement with a single focus on the tobacco industry and its attendant ills. ASSIST awarded grants to 19 states, however at the same time, a small number of states initiated tobacco control programs funded by tobacco taxes. First, with California in 1989 and then shortly thereafter, Massachusetts and then Arizona and Oregon, a critical mass began to develop of states with well-funded tobacco control programs able to drive down tobacco prevalence rates while the rest of the nation suffered from a decade long status quo of a constant smoking rate of 25%.

This vitalized "movement," part activist, health professional, bureaucrat and academic initiated the first public debate on tobacco not just as it related to individual health effects but the public policies that supported the tobacco industry's efforts to sustain addiction.

Briefly in the mid-1980's the American Lung Association had a part-time lobbyist, Mark Huber, who worked on the Clean Indoor Air Act. After his departure, it was not until 1992, that a tri-agency organization, the American Cancer Society again had a part-time lobbyist. With the advent of ASSIST, the three well funded voluntary health organizations gained interest and confidence "in the issue" of tobacco and hired lobbyists and additional staff to focus on "the Number One leading cause of preventable death." As a result of the ASSIST funding of tobacco control agencies in a number of counties and most municipalities, "tri-agency" volunteers interested in tobacco found a public forum that was solely engaged in an issue of primary concern.



By 1993, staff of the American Heart Association and the Lung Association joined the American Cancer Society’s newly hired full-time lobbyist. These individuals played at least a dual role of working with the legislature and communicating the impact of public policy with their volunteers and members.

The balance of power did not change overnight. In 1997, the tobacco industry, very narrowly defined, was still outspending health groups by a margin of 10-1 in lobbying. More to the point, it was still one of the largest campaign contributors in the state, not to having extraordinary access to policymakers as indicated by flying the Governor freely to exotic places.

As noted in Table 15, the balance of power has shifted decisively towards equity. While tobacco control advocates were still outspent by a margin of 2-1 in the last session, much of that is due simply to the high hourly rates charged by many of the tobacco company lobbyists.<sup>137</sup>

**Table 15: Anti-Tobacco Lobbying Expenditures**  
Expenditures by anti-tobacco organizations, 1997-present.

<b>Lobbying Organization</b>	<b>1997-98</b>	<b>1999-00</b>	<b>2001-present</b>	<b>1997-present</b>
American Cancer Association	\$102,395	\$167,017	\$152,965	\$422,377
American Heart Association	\$48,724	\$70,893	\$80,476	\$200,093
American Lung Association	\$15,159	\$24,054	\$11,582	\$50,795
Smokefree Wisconsin	\$0	\$0	\$220,560	\$220,560
<b>Total</b>	<b>\$166,278</b>	<b>\$261,964</b>	<b>\$465,583</b>	<b>\$893,825</b>

Source: Wisconsin Ethics Board, 2002

At the same time the ASSIST program was being formed, a new clinical frontier was opening in Madison- the Center for Tobacco Research and Intervention (CTRI)- at the UW Medical School. Founded by Dr. Michael Fiore, CTRI (pronounced “see-tree”) began with an historical article published in the Journal of the American Medical Association. Dr. Fiore and his co-authors proposed that physicians survey tobacco use by their patient at each encounter much as they do taking a blood pressure and pulse. Dr. Fiore would showed four years later, that the relatively simple act of “taking the fifth vital sign” doubled the rate of clinical interventions of moving the patient towards cessation.

<sup>137</sup> In the most recent reporting period, 2001-02, Philip Morris’s contract lobbyists billed an average of \$312 per hour for their services. In contrast, total lobbying costs for the American Cancer Society were about one fifth of that amount at \$65. As a result, ACS spent nearly twice as much time in advocacy at half the price.

Dr. Fiore and CTRI also led the earliest research on the use of the nicotine patch. Later, Dr. Fiore and his colleagues, Drs. Baker and Jorenby, conducted clinical trials of the first use of Zyban, an anti-depressant, to be used in conjunction with the nicotine patch as a safe and effective treatment for nicotine dependence. The “patch and pill” would prove to revolutionize treatment of nicotine addiction from a dependence that was believed to be nearly “untreatable” to success rates in excess of 25%.

Currently, CTRI continues to conduct clinical trials on medicines to treat nicotine addiction, conducting research to understand and prevent relapse back to smoking by people who quit as well as cessation clinic. Dr. Fiore and his staff also teach others how to conduct cessation programs as well as encourage changes in policy by insurers, medical providers and health care purchasers to include nicotine cessation as a standard part of a medical benefit.

Every activity of Dr. Fiore and the CTRI has been closely scrutinized by the tobacco industry. Transcripts of his remarks on TV programs as well as many scholarly programs and every article has been carefully collected and catalogued by the tobacco industry. Tobacco industry archives include more than 100 articles about Dr. Fiore.<sup>138</sup>

### **Impact on Tobacco Policies**

The importance of political influence and activity is not significant in the abstract but only as it may affect policies and practices of the target institution. Clearly, the tobacco industry spent considerable financial and institutional resources and expertise in attempting to influence the legislature and Governor on tobacco policies. However, was the industry successful in this effort? And what was the effect on tobacco use?

Youth Policy: Wisconsin has among the weakest policies in the US to protect children from tobacco products. These policies have resulted in Wisconsin having the highest rate of sales to youth in the nation, as indicated by a report issued by Secretary of Health and Human Services Tommy Thompson in September 2002. In this report, Wisconsin rate of sales to youth in 2001 was 33%. Wisconsin was the only state in the nation to not meet its target. The Wisconsin target of sales was 22%.

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<sup>138</sup> <http://legacy.library.ucsf.edu>: Search: FIORE, M. (all fields)

The State Cancer Legislative Database, a program of the National Cancer Institute, has identified those policies that describe the key variables in regard to youth policies.<sup>139</sup> A review of Wisconsin policies and programs cited as variables in this database is instructive:

- *Minimum Age*: Wisconsin restricts sale of tobacco products to persons 18 and over. However, Wisconsin was among the last states to pass this fundamental protective legislation when it approved this legislation in the 1987-88 legislative session but delayed implementation until July 1989.
- *Packaging*: Wisconsin currently prohibits the sale of single cigarettes. However, as noted above, this is fairly recent legislation and when a municipality attempted to regulate such sales it was blocked by a state court and the legislature.
- *Clerk Intervention*: State law does not require clerk-assisted sales; it preempts local communities from adopting this protection. Attempts to change state law were repeatedly unsuccessful. (*US Oil, Inc. v. City of Fond du Lac*, 199 Wis. 2d 333, 544 N.W.2d 589 (Ct. App. 1995))
- *Photo Identification*: There is no state law requiring photo identification for the purchase of cigarettes.
- *Vending Machines*: Unlike many states with total bans on vending machines, in 1998 Wisconsin's ban on vending machines except in adults-only locations.
- *Free Distribution*: Free distribution is allowed in adults-only locations.
- *Graduated Penalties*: There are graduated penalties for violations of the prohibition on sales. While the monetary penalties are sound and may reduce repeated offenders, the potential for license suspension is remote because it requires many violations in a relatively brief period of time. Indeed, there is no known instance of the loss of a tobacco license. Without the real threat of loss of license, the importance of licensing as a regulatory act is moot. Under current state policy, inspections of retailers do not result in fines: instead the emphasis is on educating and "rewarding" sellers that comply with state law.

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<sup>139</sup> Alciati MH, Frosh M, Green SB, et al. "State laws on youth access to tobacco in the United States: measuring their extensiveness with a new rating system." *Tobacco Control*. 7 (1998): 345-52.

- *Random Inspections:* The law allows but does not require random inspections of retailers. However, because the law requires notice to violators within 72 hours of the inspections, the law may compel local enforcement authorities to notify violators immediately and thus, “pre-announce” the inspection to retailers who have not yet been inspected.  
Further, the protocol used for inspections requires the tester to notify the clerk immediately at the time of the proposed sale. As a result the clerk is likely to notify other sellers in the area that compliance checks in their area are underway. This can substantially reduce the incidence of sales.
- *Statewide Enforcement:* The Bureau of Community Services in the Department of Health and Family Services is the central funding authority for Synar but does not have authority over local units of government in regard to their licensure of tobacco sellers. The current Synar compliance method strongly emphasizes education instead of fines and penalties. This method that limits fines, penalties and license suspension and revocation has been found to be ineffective in reducing compliance violations below 20%.<sup>140</sup>
- *Other Access Requirements:* State law requires a number of procedures by the inspecting agent that are cumbersome and unique relative to other inspecting authorities in state law and relative to other states. Some of these provisions are:
  - Persons under the age of 15 are not permitted to conduct investigations. This prevents investigation of the most egregious cases of sales to minors.
  - The adult supervising the investigation must be an employee of the regulatory authority. This prevents the use of volunteer members of the tobacco coalition or other volunteer adult.
  - The minor must state his or her true age if questioned. This is an unrealistic method of investigation. Minors attempting to purchase cigarettes illegally would not state their true age.

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<sup>140</sup> Kropp, Rick. Educating Retail Merchants to Prevent Tobacco Sales to Minors in their Stores: Elements of a Comprehensive Program. 17 Oct 1996. / Joseph DiFranza, MD and Nancy Rigotti, MD. Unpublished paper and Policies to Reduce Youth Access to Tobacco. Health Science Analysis Project. 25 Jun 1998.

- Minors must be photographed every day of an investigation. This adds time and expense to the investigation and the aura of criminality to the investigator.
- Results of an investigation, whether in violation or not, must be reported to the authority within 72 hours. As stated above, due to staffing shortages, the effect of this will be notification of retailers before completion of an investigation.

In summary, the continued crippling of efforts to reduce tobacco sales to youth, most notably with the passage of a law prohibiting municipalities from conducting compliance checks has created an environment of nearly “open sales” of tobacco products to youth and as noted previously the highest rate of sales in the nation to children.

Tax Policy: Tax policy is one of the key determinants of the smoking consumption. Despite the relatively high state cigarette tax of 77 cents per pack, taxes comprise less than 33% of the cost of a pack of cigarettes. (As of August 2002, the average state excise tax is 59 cents per pack.) While in 1983, Wisconsin had the highest cigarette tax in the nation (at 35 cents); it now has the 16<sup>th</sup> highest tax. The tax is also not the highest in the Midwest, current tax rates are:

Wisconsin: 77 cents (10/1/02)

Minnesota: 48 cents (7/1/92)

Illinois: 98 cents (7/1/02)

Iowa: 36 cents (6/1/91)\*

While there have been nearly biennial increases in the tobacco tax since 1991, none of the tax increases implemented in Wisconsin have been large enough to cause substantial declines in tobacco consumption. However, as noted in Figure 7 below, taken together, tax and price increases taken together have served over time to increasingly depress cigarette sales.

Indeed, the largest price increase of 45 cents in November 1998 that resulted from payments to the states in the Master Settlement Agreement caused a decline in cigarette consumption of 6.1% over the following year. This was the largest decline in cigarette consumption to date in the state.<sup>141</sup>

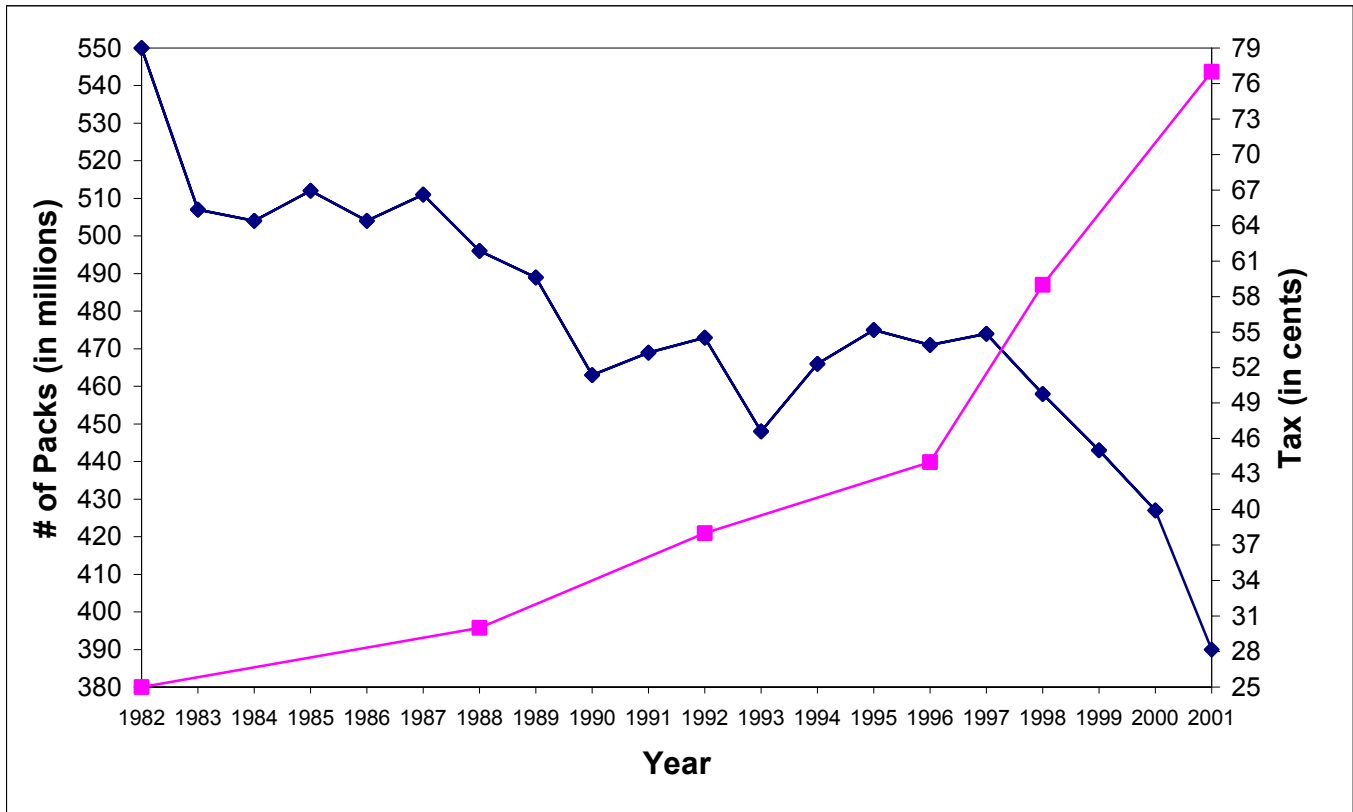
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\* Given the on going and deepening fiscal crisis in state and local government, it is likely that Iowa and Minnesota will increase their taxes for the first time in a decade in the fiscal year, 2003-04.

<sup>141</sup> Milwaukee Journal Sentinel. 15 Dec 1999.

While small tax increases have caused marginal declines in tobacco consumption, no single tax increase has had as great an impact as two of the largest price increases initiated by the industry itself. The following figure indicates the increases in state excise taxes and the overall number of packs sold. The data indicates consistent reductions in packs sold in the year following tax increases.

**Figure 7: Number of Packs sold in WI and State Excise Tax per Pack (1982-2000)**



Clean Indoor Air: While tobacco companies vigorously fought attempts at the local level to impose clean indoor air policies, the industry had been relatively idle at the state level, instead focusing its resources on reducing excise taxes as a proportion of the overall price of cigarettes and providing unencumbered access to cigarettes for children.

The first attempt to pass a state Clean Indoor Air Act was in the 1977-78 session. Senate and Assembly proposals would have required separately ventilated offices for smokers and penalties for violations. By the end of the session in 1978, the tobacco lobbyists characterized the impact of their lobbying as follows, “We were presented a log and whittled

it down to a toothpick.” The Assembly author, Rep. Mary Lou Munts seeing no significant benefit in the bill withdrew it from consideration.<sup>142</sup>

Following the debacle of 1977-78, the bill’s author, Senator Risser, waited six years before attempting again to pass a bill. Following the bill’s demise, the (Madison) Capital Times editorialized on the “Smoking Lobby Triumph” and warned about the “hazards created by smokers.”<sup>143</sup>

The Tobacco Institute responded with a letter stating, “One of the most widely believed but incorrect health assumptions in circulation today is that tobacco smoke in the air is a health hazard to non-smokers.”<sup>144</sup>

When a clean indoor air bill was finally passed in 1984, it covered only public work places and loosely at that. After passage of the Clean Indoor Air Act in 1984, there was little impetus to continue to seek statewide protections. Indeed, many health advocates may have assumed that in the process of winning even the most minimal state protections, local protections might be completely preempted, as was the case when public schools became smoke free. In the course of that legislative process, a provision was added that preempted local units of government from controlling the sale and marketing of tobacco.

Successful activity to create state or local policies to provide clean indoor air was stymied from 1984 (and the passage of the Clean Indoor Air Act) until 1989 when the law was amended to extend the law to private places to employment. Eight years after the passage of the state law, Madison passed the first municipal smoke free restaurant ordinance in Madison in 1992. Following quick passage of smoke free restaurant ordinances in the neighboring communities of Middleton and Shorewood, over five years passed until a successor ordinance was passed in a markedly different geographic community, Fond du Lac. La Crosse, Eau Claire, Kenosha, Neenah, Onalaska, Ashland and Janesville passed ordinances after hard fought and often, bitter struggles largely against the restaurant industry.

Despite the fact that the vast majority of the state population acknowledges the dangers of second hand smoke, relatively few communities have adopted clean indoor ordinances. In part as a result of the opposition by the long-term tobacco industry ally, the Wisconsin Restaurant Association, only 10% of the state’s population lives in communities with local clean indoor air ordinances.

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<sup>142</sup> Philip Morris Collection, Bates No. 100217574. <http://legacy.library.ucsf.edu/>

<sup>143</sup> Editorial. Madison Capital Times. 24 Apr 1978.

<sup>144</sup> Tobacco Institute denies Smoking hazard. 26 Apr 1978.

The ability of the industry and its primary allies to resist these changes in law and social practice has been instrumental in maintaining the social acceptability of smoking indoors. This social acceptability, in turn, is key to avoiding reductions in cigarette consumption, an oft-stated goal of industry.

Funding Tobacco Control: As noted previously, the tobacco industry carefully monitored all activities of its opponents in the smoke free advocacy communities. Whether that entailed attending conferences such as the 1986 Tobacco or Health Conference or collecting the volunteer organizational charts of the American Cancer Society- Wisconsin<sup>145</sup> and literally hundreds of documents and memos of the ASSIST project, the industry was fully informed of all of the strategic and tactical decisions of their opponents in the public health community.

However, there is little documentary evidence of either broad or specific opposition to funding of tobacco control efforts. While there are repeated references in their lobbying reports to activities related to funding of Department of Health and Family Services (DHFS) activities, there is no reference to the funding of tobacco control issues among them. One can only assume given the substantial expenditure of resources opposing the programs' activities that the industry opposed the program. This is particularly the case in the 1997-98 legislative session when Philip Morris expended over \$900,000 in lobbying fees when the legislature was considering the first substantial expenditure for tobacco control. This is also indicated in the list rating legislators and the systematic method of delegating lobbying responsibility as indicated in Appendix.

Finally, there are issues and questions about the Master Settlement Agreement. Opposition by the Thompson Administration to the litigation against the tobacco industry is well documented. The former Governor strenuously resisted Attorney General Doyle's attempts to file suit against the industry and recover Medicaid and other costs associated with tobacco use. For months, Thompson refused Doyle's request to add legal staff to the Attorney General's office. As a result, the Attorney General made an unusual request to private organizations to fund the (public) lawsuit. The State Medical Society, the American Cancer Society, Heart Association and Lung Association made large loans to "kickstart" the effort.

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<sup>145</sup> American Cancer Society Wisconsin Division Organizational Chart. 1993. (Philip Morris Collection, Bates #2024656916). <http://legacy.library.ucsf.edu>



Finally, the Governor relented, allowed outside counsel to be retained and the state became the 21<sup>st</sup> state to file suit.<sup>146</sup>

After the suit was settled in November 1998, Thompson proposed that only \$5 million of the over \$400 million received by the state over the biennium be allocated to a youth prevention program. Later, the Governor signed the full funding of the tobacco control program proposed by the legislature.

Securitization of the Master Settlement Agreement (MSA): Under the MSA, Wisconsin is scheduled to receive \$5.57 billion from the signatory tobacco companies between 2002 and 2039. It received \$240 million in 2000-02.

In 2001, state and local governments began to run substantial deficits. However, Wisconsin's billion dollar deficit came in the year following a large budget surpluses in the previous biennium; so large that the state sent refund checks totaling hundreds of millions of dollars.

In the face of the 2001 deficit, the new Governor, Scott McCallum proposed to "securitize" the state's rights to its tobacco settlement payments as bonds. The value of the bonds would be approximately, \$1.257 billion in total or one quarter of the value of the funds received.

Many public health advocates had assumed that a portion of the continuing tobacco industry payments would be used for tobacco control and other direct public health improvements. If all of the funds that would have been received over the next 35 years were to be "cashed in" in the next year, it is clear that it would make appropriation of those funds for tobacco control progressively more difficult in the years to come as the money was spent many years before. As a result, many public health proponents strongly opposed the Governor's proposal.

After coming under attack for his proposal from the press and others, revisions were made to require the Joint Committee on Finance to transfer \$25 million each year to a segregated tobacco control fund. In that this provision is created as part of this single budget, future legislative bodies can add to, amend or remove this provision.

It is important to re-state that the general fiscal deficit experienced by state and local governments in 2001-03 was well in excess of \$100 billion. New York City's deficit for one

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<sup>146</sup> Wisconsin to Join Move Against Tobacco Industry. 26 Nov 1996. (Associated Press)

year is estimated at \$6 billion, greater amounts are estimated in California. Minnesota has a deficit that is nearly as great as experienced in Wisconsin. Nonetheless, it is worth noting that of the 50 states and thousands of county and municipal governments, Wisconsin is the only state governmental body to securitize its entire settlement. The question is, “Why?”

Summary: Documentary evidence indicates that the tobacco industry and its allied organizations had a major influence on policies concerning the sale, marketing, public use, access to and price of tobacco Wisconsin. This influence retarded and in some cases, ultimately prevented the implementation of policies common in many other states.

Despite enormous efforts by public health and youth advocates throughout the state, these efforts by the tobacco industry were particularly effective in regard to policies to protect youth. As a result of the direct efforts of the tobacco industry, its allies in the retail and convenience businesses, and in partnership with key legislators, Wisconsin continues to have among the weakest protections against the tobacco industry’s access to youth. Since the 1970’s, when it boasted the 9th lowest tobacco consumption rate in the country, Wisconsin has since fallen to 24<sup>th</sup> on an overall national level in the 1990’s.<sup>147</sup> Although Wisconsin’s tobacco consumption has decreased overall in that time frame, Wisconsin’s relative decline compared to other states is sub-par. Youth smoking rates are among the highest in the nation and inspections of retail sellers of tobacco evidence the highest illegal sales rate in the nation.

At the same time, while the state has made substantial headway in advocating for smoke free public places, in a number of areas, particularly in public buildings and worksites, Wisconsin lags behind the national average. Tobacco industry allies, particularly the Wisconsin Restaurant Association has stymied past attempts to provide clean air in restaurants and has planned legislative strategies to preempt future health reforms.

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<sup>147</sup> Orzechowski and Walker. The Tax Burden on Tobacco. 2001. (Decade averages 1971-1980, 1991-2000)

## **Conclusion**

The tobacco industry in Wisconsin is a well-established economic and politically powerful institution in its own right with strong ties to other geographically dispersed and influential organizations. With revenue of nearly one billion dollars per year in cigarette sales, nearly seventeen thousand businesses engaged in tobacco sales throughout the state and a diversified economic base of over 8,000 employees, the tobacco industry remains the continuing obstacle to relieving the state of its formidable burden of tobacco.

For over thirty years, the tobacco industry has been very skillful in identifying and incorporating its narrow political agenda upon its traditional allies including the tavern industry, the restaurant industry, convenience stores and the grocers association. This public policy agenda has had three major components:

- Opposition to clean indoor air protection.
- Opposition to excise taxes on tobacco products
- Opposition to restrictions on the sale of cigarettes to youth

The impact of industry efforts and influence on public health policies on tobacco is well established. In nearly every area of state and local policy, the tobacco industry agenda has been met. However, the past subservience of public policy to the tobacco industry has diminished in the past five years. With the advent of a handful of viable local coalitions, coordinated state organizations, well-funded media programs that discourage initiation and encourage quitting and access to cessation programs and services, Wisconsin may have altered the balance of power with the tobacco giants and in the final equation reduce the burden of tobacco on our citizens.

Appendix A

Tobacco Related Bills By Organization Lobbying

Tobacco Related Bills	BW	CAA	Lori	PMAW	PM	RJR	STC	WGA	WRA	TL	description
2001-2002											
Budget Bill	X	X	X	X	X	X	X	X	X		revenue: tax administration
Budget Bill				X			X	X	X		Health Family Services: Health
Budget Bill								X			Tobacco Control Board
WI sale grey mkt cig	X		X	X	X		X	X			legislative matter
Reg/tax of tobacco				X	X						legislative matter
Mail order cigarettes					X						legislative matter
Sale of tob to minors							X				legislative matter
Tobacco compliance							X				legislative matter
Sale of tob via internet							X				legislative matter
Senate Bill 215										X	late or fraudulent cig tax returns
Senate Bill 219					X				X		billboard elimination grants
Senate Bill 360				X	X			X	X		Sale of cigarettes to minors
Bills: "Sound Science"					X						
Assembly Bill 805				X	X			X	X		Sale of cigarettes to minors

Tobacco Related Bills 1999-2000	BW	CAA	Lori	PMAW	PM	RJR	STC	WGA	WRA	TL	description
Assembly Bill 126		X									regulation of sale of merchandise below cost
Assembly Bill 264		X									HI coverage of smoking cessation treatment
Assembly Bill 196	X										banning smoking in post-secondary school campuses
Assembly Bill 282	X	X			X	X	X				ingredient disclosure in cigs and rule making authority
Assembly Bill 308	X		X		X	X					prohibiting smoking in state capitol and grounds
Assembly Bill 310					X						forfeiture imposed on minor possessing cigarettes
Assembly Bill 339		X					X				agreement between state and tobacco companies
Assembly Bill 404		X			X						corporate income tax deduction for tobacco ads
Assembly Bill 407								X			sale of tobacco to minors
Assembly Bill 868					X			X		X	licensing & compliance-chk for tobacco sale to minors
Assembly Bill 898	X		X					X			sale of cigs not intended for US sale
Senate Bill 22	X	X	X		X	X	X	X			ingredient disclosure in cigs and rule making authority
Senate Bill 115		X	X								HI coverage of smoking cessation treatment
Senate Bill 122		X					X				agreement between state and tobacco companies
Senate Bill 144		X			X	X					prohibiting smoking in state capitol and grounds
Senate Bill 151		X									sale & distribution of cigs in packs with <20
Senate Bill 334				X	X			X	X	X	compliance checks for selling tobacco to minors
Senate Bill 413	X		X	X	X	X		X			sale of cigs not intended for US sale
WI sale of grey mrkt cig	X		X		X						legislative matter
Gen tax of tobacco							X				legislative matter
Sale of tob by minors								X			legislative matter
Budget Bill		X			X		X	X	X		Health and Family Services
Budget Bill		X			X		X	X	X		revenue: tax administration

Tobacco Related Bills 1997-1998	BW	CAA	Lori	PMAW	PM	RJR	STC	WGA	WRA	TL	description
Assembly Bill 21					X	X					prohibiting prisoners from smoking
Assembly Bill 47				X	X			X			sale of cigs/tobacco to minors
Assembly Bill 100	X			X	X	X	X			X	state budget
Assembly Bill 112					X						using tobacco at or near schools
Assembly Bill 205				X	X			X			sale of cigs/tobacco
Assembly Bill 283				X				X			regulation of sale of merchandise below cost
Assembly Bill 336				X	X						fees for retailer licenses for selling tobacco
Assembly Bill 578				X				X			cig tax refund to Indian tribes for sales on reservations
Assembly Bill 670				X							dispensing tobacco to or procuring tobacco for minors
Assembly Bill 691					X						counties/cities' authority to enact tobacco regulations
Assembly Bill 768					X					X	state budget
Assembly Bill 821	X										cigarette vending machines
Senate Bill 63				X	X	X					use of vending machines for cigarette sales
Senate Bill 77	X			X	X	X	X			X	state budget
Senate Bill 98	X			X	X	X					prohibiting smoking in state capitol and grounds
Senate Bill 143					X						sale of cigarettes
Senate Bill 148					X			X			\$ limits in wrongful death & medical malpractice suits
Senate Bill 174					X	X	X	X	X		prohibit tobacco in areas of private schools & businesses
Senate Bill 313	X	X		X	X	X	X	X	X		restrictions on sale or giving away of tobacco
Senate Bill 314	X	X		X	X	X	X	X		X	counties/cities' authority to enact tobacco regulations
Senate Bill 440	X				X						increasing cig tax & fund Tobacco research @ UW
Senate Bill 441	X										prohibiting smoking areas in state offices & capitol

Appendix B  
Acronyms and Abbreviations

ASSIST	American Stop Smoking Intervention Study
BAT	British-American Tobacco
BW	Brown & Williamson Tobacco Co.
CAA	Cigar Association of America
CARMA	Computer Aided Research and Media Analysis Project
DHFS	Department of Health and Family Services
DPH	Department of Public Health
ETS	Environmental Tobacco Survey
Lori	Lorillard Tobacco Co.
MSA	Master Settlement Agreement
OSHA	Occupational Safety & Health Administration
PAC	Political Action Committee
PMAW	Petroleum Marketers Association of Wisconsin
PM	Philip Morris
RJR	R.J. Reynolds
SAB	Scientific Advisory Board
SEC	U.S. Securities and Exchange Commission
STC	Smokeless Tobacco Council
WAMC	Wisconsin Manufacturers and Commerce
WACS	Wisconsin Association of Convenient Stores
WGA	Wisconsin Grocers Association
WRA	Wisconsin Restaurant Association
TL	Tavern League
UST	U.S. Tobacco Co.
WEAC	Wisconsin Education Association Council

Appendix C

"Hard" and "Soft" Contributions to Federal Political Parties and Campaign Committees  
(2000 Election Cycle)

Rank	Company Name	Contribution	Democratic	Republican
1	Philip Morris	\$3,453,589	18%	82%
2	US Tobacco Co	\$1,587,354	10%	90%
3	RJ Reynolds Tobacco	\$992,427	17%	82%
4	Brown & Williamson	\$979,982	14%	85%
5	Lorillard Tobacco Co	\$311,180	16%	83%
6	Swisher International	\$247,025	23%	77%
7	Conwood Co	\$173,855	6%	94%
8	Imperial Trading	\$134,060	5%	95%
9	Brooke Group Ltd	\$106,000	92%	8%
10	Universal Corp	\$64,300	7%	92%
11	Smokeless Tobacco Council	\$58,203	9%	91%
12	Cigar Assn of America	\$55,124	11%	89%
13	Pinkerton Tobacco	\$48,750	16%	82%
14	General Cigar Holdings	\$32,100	13%	87%
15	Dimon Inc	\$28,970	18%	68%
16	Amer Wholesale Marketers	\$19,100	16%	84%
17	Swedish Match	\$11,200	0%	100%
18	Douglas Companies	\$10,250	10%	90%
19	Premier Marketing Inc	\$10,000	0%	100%
20	Consolidated Cigar Corp	\$9,800	35%	61%



Appendix D:

“The List”

Tobacco Industry Lobbyist Rating of  
Wisconsin State Legislators

LEGISLATOR	LOBBYIST	NOTES
<b>ASSEMBLY</b>		
Ben Brancel (R) <i>Speaker</i>	Mike Vaughan Bill Gerrard DJ Klauser (coordinate)	1
Mickey Foti (R) <i>Majority Leader</i>	Scott Stenger Pat Essie Bill Gerrard DJ Klauser Bob Jentz	3
Walter Kunicki (D) <i>Minority Leader</i>	Joe Czerwinski Paul Sicula Pat Essie	4
John Ainsworth (R)	Bill Gerrard	2
Sheryl Albers (R)	Alice O'Connor Mike Vaughan Liz Buchen Bill Gerrard Lisa Hilbert	Brandon Scholz 3
Tammy Baldwin (D)		1
James Baumgart (D)		1
Spencer Black (D)		1
Peter Bock (D)		1
Frank Boyle (D)	Paul Sicula Joe Czerwinski Bill Gerrard	District borders MN 1
David Brandemuehl (R)	Bob Jentz Bill Gerrard Alice O'Connor Mike Vaughan	District borders IL and IA Doug Johnson 2
Timothy Carpenter (D)		1
G. Spencer Coggs (D)	Paul Sicula Joe Czerwinski Pat Essie	Bob Bartlett 2
David Cullen (D)		1
John Dobyys (R)	Mike Vaughan Bill Gerrard Paul Sicula	1
Robert Dueholm (D)	Paul Sicula Joe Czerwinski Bill Gerrard	District borders MN 1
Marc Duff (R)		1

LEGISLATOR	LOBBYIST	NOTES
<b>ASSEMBLY</b>		
Steve Freese (R)	Mike Vaughan Jeff Wiswell Alice O'Connor Bill Gerrard Scott Stenger Bob Jentz	District borders IL and IA 3
John Gard (R)	Bob Jentz Alice O'Connor Mike Vaughan Liz Buchen Bill Gerrard	District borders MI Brandon Scholz, Doug Johnson 1
Robert Goestch (R)	Bill Gerrard Alice O'Connor	2
Mark Green (R)	Alice O'Connor Lisa Hilbert	4
Barbara Gronemus (D)	Bill Gerrard Alice O'Connor Pat Essie Paul Sicula Lisa Hilbert	District borders MN Doug Johnson 5
Glenn Grothman (R)	Alice O'Connor Lisa Hilbert	5
Scott Gunderson (R)	Alice O'Connor	5
Eugene Hahn (R)	Alice O'Connor Scott Stenger Mike Vaughan	5
Joe Handrick (R)	Liz Buchen Alice O'Connor Mike Vaughan Scott Stenger Bill Gerrard Lisa Hilbert	District borders MI Doug Johnson 2
Doris Hanson (D)		1
Sheila Harsdorf (R)	Alice O'Connor Pat Essie Paul Sicula Lisa Hilbert	Chris Tackett 2
Don Hasenohrl (D)	Paul Sicula Joe Czerwinski Lisa Hilbert	3
Tom Hebl (D)	Pat Essie Paul Sicula	2
Tim Hoven (R)	Mike Vaughan Bill Gerrard Pat Essie Alice O'Connor Bob Jentz	3
Gregory Huber (D)		1

LEGISLATOR	LOBBYIST	NOTES
ASSEMBLY		
Mary Hubler (D)		1
Michael Huebsch (R)	Jeff Wiswell Bob Jentz	2
Dave Hutchison (R)	Lisa Hilbert Alice O'Connor	3
Scott Jensen (R)	Mike Vaughan Liz Buchen Bill Gerrard DJ Klauser Alice O'Connor	Brandon Scholz 2
Suzanne Jeskewitz (R)	Alice O'Connor	2
DuWayne Johnsrud (R)	Pat Essie Alice O'Connor Bill Gerrard Lisa Hilbert Bob Jentz	District borders IA Doug Johnson 5
Dean Kaufert (R)	Mike Vaughan Liz Buchen Scott Stenger Bob Jentz	Brandon Scholz, Doug Johnson 5
Neal Kedzie (R)	Jeff Wiswell Alice O'Connor Bill Gerrard	District borders IL Bob Bartlett 4
Carol Kelso (R)	Alice O'Connor Jeff Wiswell Lisa Hilbert Bob Jentz	5
Judy Klusman (R)	Liz Buchen Bill Gerrard Bob Jentz Alice O'Connor	3
Rob Kreibich (R)	Bill Gerrard Mike Vaughan	3
James Kreuser (D)	Paul Sicula Bill Gerrard Scott Stenger	5
Shirley Krug (D)	Pat Essie Lisa Hilbert	2
Peggy Krusick (D)	Pat Essie	3
John La Fave (D)		1
Bonnie Ladwig (R)	Bob Jentz Bill Gerrard Alice O'Connor	3
Frank Lasee (R)	Bob Jentz Scott Stenger	5

LEGISLATOR	LOBBYIST	NOTES
<b>ASSEMBLY</b>		
Mary Lazich (R)	Mike Vaughan Lisa Hilbert	5
John Lehman (D)	Alice O'Connor Pat Essie	3
Michael Lehman (R)	Liz Buchen Alice O'Connor Bob Jentz Lisa Hilbert	4
Barbara Linton (D)	Joe Czerwinski Paul Sicula Scott Stenger Bill Gerrard	District borders MI Bob Bartlett 4
Bill Lorge (R)	Paul Sicula Scott Stenger Bob Jentz	5
Mark Meyer (D)	Bill Gerrard Joe Czerwinski	4
Johnnie Morris-Tatum (D)		1 Don't Bother
Bill Murat (D)	Jeff Wiswell	3
Terry Musser (R)	Scott Stenger Paul Sicula Bob Jentz Lisa Hilbert Alice O'Connor	5
Steve Nass (R)	Mike Vaughan Bob Jentz	3
Barbara Notestein (D)		1
Luther Olsen (R)	Bill Gerrard Lisa Hilbert	5
Al Ott (R)	Bob Jentz Pat Essie	3
Cliff Otte (R)	Bob Jentz Bill Gerrard	2
Tom Ourada (R)	Pat Essie Scott Stenger Alice O'Connor Bob Jentz	2
Carol Owens (R)	Alice O'Connor	3
Jeff Plale (D)	Bill Gerrard	2
Joe Plouff (D)	Scott Stenger	2
Cloyd Porter (R)	Mike Vaughan Liz Buchen Bill Gerrard Joe Czerwinski	District borders IL 5

LEGISLATOR	LOBBYIST	NOTES
<b>ASSEMBLY</b>		
Rosemary Potter (D)	Liz Buchen Paul Sicula Lisa Hilbert	1
Michael Powers (R)	Alice O'Connor Pat Essie Bill Gerrard Lisa Hilbert	District borders IL Doug Johnson 4
Martin Reynolds (D)	Paul Sicula	2
Antonio Riley (D)	Paul Sicula Bob Jentz	2
James Rutkowski (D)	Paul Sicula	2
John Ryba (D)	Pat Essie	2
Chuck Schafer (R)	Mike Vaughan Alice O'Connor Lisa Hilbert Bill Gerrard	Brandon Scholz, 4
Marlin Schneider (D)	Paul Sicula	1
Lorraine Serrati (R)	Scott Stenger Liz Buchen Bill Gerrard	District borders MI Doug Johnson 5
Rick Skindrud (R)	Scott Stenger Alice O'Connor Liz Buchen Lisa Hilbert	4
Thomas Springer (D)	Scott Stenger	3
Tony Staskunas (D)	Paul Sicula Scott Stenger	3
John Steinbrink (D)	Alice O'Connor Bill Gerrard	District borders IL 1
Tom Sykora (R)	Jeff Wiswell Scott Stenger	5
David Travis (D)	Paul Sicula	3
Robert Turner (D)	Mike Vaughan Bill Gerrard Joe Czerwinski	District borders IL 3
Gregg Underheim (R)	Bill Gerrard Mike Vaughan Joe Czerwinski Lisa Hilbert	Doug Johnson 3
Frank Urban (R)		1 Don't Bother
Wm. Vander Loop (D)	Paul Sicula Bill Gerrard Pat Essie	5
Daniel Vrakas (R)	Scott Stenger Bob Jentz	3

LEGISLATOR	LOBBYIST	NOTES
<b>ASSEMBLY</b>		
Scott Walker (R)	<b>Liz Buchen</b> Brian Fojtik Lisa Hilbert	3
David Ward (R)	<b>Mike Vaughan</b> Bob Jentz	3
Sheldon Wasserman (D)		1
Steve Wieckert (R)	<b>Mike Vaughan</b> Lisa Hilbert	4
Annette Williams (D)		1
Wayne Wood (D)		1
Leon Young (D)		1
Rebecca Young (D)		1
Bob Ziegelbauer (D)	<b>Paul Sicula</b>	5
Robert Zukowski (R)	<b>Pat Essie</b> Bill Gerrard	5

*\*First Name in Bold Denotes Lead Lobbyist*

LEGISLATOR	LOBBYIST	NOTES
SENATE		
Chuck Chvala (D) <i>Majority Leader</i>	Paul Sicula Joe Czerwinski	1
Rod Moen (D) <i>Assistant Majority Leader</i>	Joe Czerwinski Alice O'Connor Bill Gerrard Paul Sicula	District borders MN 3
Michael Ellis (R) <i>Minority Leader</i>	Liz Buchen Mike Vaughan Paul Sicula	5
Brian Rude (R) <i>Assistant Minority Leader</i>	Alice O'Connor Joe Czerwinski Liz Buchen Bill Gerrard	District borders IA, MN 5
Lynn Adelman (D)	Paul Sicula	1 Don't Bother
Roger Breske (D)	Scott Stenger Joe Czerwinski	District borders MI 5
Carol Roessler (R)	Alice O'Connor Mike Vaughan	1
Brian Burke (D)	Pat Essie Alice O'Connor Bill Gerrard	Doug Johnson 1
Alice Clausing (D)		District borders MN 1
Rob Cowles (R)	Liz Buchen Scott Stenger	Jeff Wiswell, Doug Johnson 4
Alberta Darling (R)	Liz Buchen Jeff Wiswell	3
Russ Decker (D)	Paul Sicula Alice O'Connor Scott Stenger	Bob Bartlett 3
Gary Drzewiecki (R)	Scott Stenger Liz Buchen Pat Essie	District borders MI Brandon Scholz, Chris Tackett 4
Margaret Farrow (R)		2
Scott Fitzgerald (R)		5
Gary George (D)	Joe Czerwinski	Bob Bartlett, Jack Lenzi, Chris Tackett 5
Richard Grobschmidt (D)	Pat Essie DJ Klauser Paul Sicula Joe Czerwinski	2
Joanne Huelsman (R)		3



LEGISLATOR	LOBBYIST	NOTES
SENATE		
Robert Jauch (D)	<b>Paul Sicula</b> Bill Gerrard Joe Czerwinski	District borders MN, MI 3
Alan Lasee (R)	<b>Jeff Wiswell</b>	4
Gwendolynne Moore (D)		1
Mary Panzer (R)	<b>Alice O'Connor</b> Liz Buchen Paul Sicula	Doug Johnson 3
Kimberly Plache (D)	<b>Paul Sicula</b> Bill Gerrard	District borders IL Doug Johnson 2
Cal Potter (D)	<b>Bill Gerrard</b>	3
Fred Risser (D)		1
Peggy Rosenzweig (R)		1
Dale Schultz (R)	<b>Pat Essie</b> Scott Stenger Alice O'Connor	District borders IL, IA and MN Doug Johnson 3
Kevin Shibilski (D)	<b>Pat Essie</b> Scott Stenger Mike Vaughan	Scott Stenger, Doug Johnson, Bob Bartlett, Brandon Scholz 1
Tim Weeden (R)	<b>Alice O'Connor</b> Bill Gerrard	3
Robert Welch (R)	<b>Liz Buchen</b>	Doug Johnson 5
Joe Wineke (D)	<b>Mike Vaughan</b> Joe Czerwinski Scott Stenger	Doug Johnson, Jeff Wiswell 3
Robert Wirch (D)	<b>Joe Czerwinski</b> Alice O'Connor Paul Sicula	District borders IL Doug Johnson 3
Dave Zien (R)	<b>Scott Stenger</b> Liz Buchen Paul Sicula	4

*\*First Name in Bold Denotes Lead Lobbyist*

04/11/11  
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BT