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October 1997

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This report is the latest in a series of reports that analyze tobacco industry campaign contributions, lobbying, and other political activity in California and other states. The previous reports are:

M. Begay and S. Glantz. *Political Expenditures by the Tobacco Industry in California State Politics* UCSF IHPS Monograph Series, 1991.

M. Begay and S. Glantz. *Political Expenditures by the Tobacco Industry in California State Politics from 1976 to 1991*. UCSF IHPS Monograph Series, 1991.

B. Samuels and S. Glantz. *Tobacco Control Activities and the Tobacco Industry's Response in California Communities, 1990-1991*. UCSF IHPS Monograph Series, 1991.

M.E. Begay and S.A. Glantz. *Undoing Proposition 99: Political Expenditures by the Tobacco Industry in California Politics in 1991*. UCSF IHPS, 1992.

S.A. Glantz and L.R.A. Smith. *The effect of ordinances requiring smokefree restaurants on restaurant sales in California*. UCSF IHPS Monograph Series, 1992.

M.E. Begay, M. Traynor, S.A. Glantz. *Extinguishing Proposition 99: Political Expenditures by the Tobacco Industry in California Politics in 1991-1992*. UCSF IHPS, 1992.

M.E. Begay, M. Traynor, S.A. Glantz. *Tobacco Industry Political Expenditures in California State Politics, January-June, 1993*. UCSF IHPS, 1993.

M.E. Begay, M. Traynor, S.A. Glantz. *Tobacco Industry Political Expenditures in California in the 1991-1992 Election*. UCSF IHPS, 1993.

M.E. Begay, M. Traynor, S.A. Glantz. *The Twilight of Proposition 99: Preauthorization of Tobacco Education Programs and Tobacco Industry Political Expenditures in 1993*. UCSF IHPS, 1994.

H. Macdonald and S. Glantz. *Analysis of the Smoking and Tobacco Products, Statewide Regulation Initiative Statute*. UCSF IHPS, 1994.

H. Macdonald, M. Traynor, S. Glantz. *California's Proposition 99: An Analysis of the Tobacco Industry's Political Advertising Campaign*. UCSF IHPS, 1994.

S. Aguinaga, H. Macdonald, M. Traynor, M. Begay, S. Glantz. *Undermining Popular Government: Tobacco Industry Political Expenditures in California 1993-1994*. UCSF IHPS, 1995. (Available on the World Wide Web at <http://galen.library.ucsf.edu/tobacco/tobexp>)

M. Begay, and S. Glantz. *Question 1: Tobacco Education Outlays From the 1994 Fiscal Year to the 1996 Fiscal Year* UCSF IHPS 1995. (Available on the World Wide Web at <http://galen.library.ucsf.edu/tobacco/q1>)

F. Monardi, E. Balbach, S. Aguinaga, S. Glantz. *Shifting Allegiances: Tobacco Industry Political Expenditures in California, January 1995 - March 1996*. UCSF IHPS 1996 (Available on the World Wide Web at <http://galen.library.ucsf.edu/tobacco/sa>)

F. Monardi, A. O'Neill, and S. Glantz. *Tobacco Industry Political Activity in Colorado 1979 - 1995*. UCSF IHPS 1996. (Available on the World Wide Web at <http://galen.library.ucsf.edu/tobacco/co>)

F. Monardi, and S. Glantz. *Tobacco Industry Political Activity in Washington 1983 - 1996*. UCSF IHPS 1996. (Available on the World Wide Web at <http://galen.library.ucsf.edu/tobacco/wa>)

F. Monardi, and S. Glantz. *Tobacco Industry Political Activity in New Jersey 1982 - 1995*. UCSF IHPS 1996. (Available on the World Wide Web at <http://galen.library.ucsf.edu/tobacco/nj>)

E. Balbach, F. Monardi, B. Fox, S. Glantz. *Holding Government Accountable: Tobacco Policy Making in California, 1995-1997*. UCSF IHPS 1997. (Available on the World Wide Web at <http://galen.library.ucsf.edu/tobacco/ca9596/>)

## EXECUTIVE SUMMARY

- Arizona was the first state in the US to pass a state clean indoor air law (in 1973) and has a long tradition of grass roots nonsmokers' rights activity.
- 38 localities in Arizona have passed tobacco control ordinances dealing with clean indoor air (Flagstaff, Mesa, Tucson, among others) and youth access to tobacco products (Tucson, Scottsdale, Somerton, among others).
- In 1994, Arizona voters passed Proposition 200, which increased the tobacco tax by 40 cents per pack of cigarettes and allocated 23% of the revenues for tobacco control activities, yielding more than \$27 million a year for anti-tobacco efforts. It was the third state to do so.
- The tobacco industry, working through Governor Symington and allies in the Legislature, has successfully limited the scope of the tobacco control program to youth and pregnant women. This limitation will probably limit program effectiveness.
- Although the coalition of health groups that enacted Proposition 200 has prevented funds from being diverted to non-tobacco uses, it failed to force the Arizona Department of Health Services (ADHS) to develop a comprehensive tobacco control program.
- Arizona tobacco control advocates have made great progress at the local level, not only in passing local tobacco control ordinances, but also in defeating tobacco industry efforts to overturn these ordinances.
- The campaign finance and lobbying disclosure laws in Arizona are so weak that it is not possible to quantify the exact amount of money the tobacco industry is spending to influence policy making in that state, it is clear that the tobacco industry has intensified its lobbying efforts in the Legislature.
- The tobacco industry has focused national resources on Arizona through organizations such as the National Smokers' Alliance in unsuccessful attempts to stop or overturn local tobacco control ordinances.
- Despite tobacco industry claims to the contrary, local tobacco control ordinances mandating smokefree restaurants and bars have not affected revenues in those businesses.



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## **INTRODUCTION**

The creation of Arizonans Concerned About Smoking (ACAS) in 1966, placed Arizona at the forefront of the nonsmokers' rights movement and began a 30 year history of tobacco control efforts both at the state and local levels. Arizona was the first state to pass a statewide smoking control law, in 1973. The 1973 law restricted smoking in most public places, such as government buildings, health facilities, public places, and at the time was considered comprehensive in its efforts to protect the health of non-smokers [1].

The early efforts of ACAS, as well as other non-profit voluntary health organizations, such as the American Lung Association (ALA), the American Cancer Society (ACS), the American Heart Association (AHA), and Nonsmokers, Inc., in educating the public about the hazards of tobacco use, lead to the passage of several local ordinances restricting smoking in public places (Tables 1A & 1B). These efforts also resulted in an increase in the state's cigarette excise tax in 1994, with 23 percent of the new revenues earmarked to fund tobacco education programs (Proposition 200).

In tandem with the increase in the aggressiveness and numbers of the tobacco control movement, the tobacco industry political activity in Arizona increased. Arizona was placed on the tobacco industry's national agenda, with an increasing involvement of the National Smokers' Alliance (a Philip Morris-sponsored smokers' rights group) in local tobacco control issues. There were also reports of frequent attempts by the Republican Party and Governor Symington (Republican) to interfere with and weaken the development of the statewide tax-sponsored tobacco control program to reduce its effectiveness.<sup>1</sup> While public health advocates have been successful at defending local ordinances from direct attack by the tobacco industry, they have failed to defend the Proposition 200 anti-tobacco program from political interference designed to reduce the scope and effectiveness of the program.

## **HISTORICAL BACKGROUND OF TOBACCO CONTROL ACTIVITY**

### **Arizonans Concerned About Smoking (ACAS)**

ACAS, a non-profit organization founded in 1966 by Ms. Betty Carnes, was one of the first nonsmokers' rights groups in the United States. ACAS efforts prompted Arizona to be the first state to pass a statewide smoking control law, in 1973 [1]. The 1973 state law restricted smoking in most public places, such as government buildings, health facilities, public places through the establishment of designated smoking areas.[2] Arizona was also the first state in the country to have a smokefree hospital, in the summer of 1983, again due to efforts of ACAS.

The tobacco control activities related to passage of local ordinances in Arizona have increased in the past decade (Tables 1A & 1B). ACAS was involved in the passage of several of those ordinances, such as the Flagstaff and Mesa smokefree restaurants (discussed in more detail below), the Scottsdale ban on vending machines, the Tempe and Cottonwood vending machine placement restrictions (Tables 1A & 1B). ACAS was also active in eliminating tobacco advertisements at the America West Arena and Scottsdale Stadium and at making them smokefree.

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<sup>1</sup>In September, 1997 Governor Symington resigned his office due to a guilty verdict on an indictment related to the handling of state and personal finances. Secretary of State, Jane Hull (Republican), took office. She stated that education is one of her priorities. Although her position on the issues of tobacco control has not been publicly established, it is reported that she will support tobacco control efforts and the state's program.

**Table 1A: Local Tobacco Control Ordinances in Arizona: Clean Indoor Air**

Year	Amended	City/County	Notes
1981		Tombstone	100% smokefree municipal buildings.
1983	1988	Tucson	Designate smoking areas in the workplace, smokefree public places restaurants and bars not included
1986	1996	Mesa	100% smokefree workplaces, public places, include restaurants. Some exemptions for bars.
1986	1992	Phoenix	Designate smoking areas in workplaces, including restaurants and other public places.
1986	1991	Prescott	100% smokefree municipal buildings, designate smoking areas in workplaces and restaurants.
1986	1992	Scottsdale	Designate smoking areas in workplace, including restaurants and other public places.
1986	1993	Tempe	100% smokefree workplaces, includes restaurants, smoking sections in other public places. Bars excluded.
1986		Youngstown	Designate smoking areas in municipal buildings.
1987		Chandler	Designate smoking areas at the workplace and municipal buildings.
1987		Glendale	Designate smoking areas in workplace, includes restaurants and other public places. Bars excluded.
1987	1992	Paradise Valley	25% minimum non-smoking area in restaurants, smokefree public places. Workplaces and bars not included
1987	1993	Pima County	Designate smoking areas in workplace and other public places. 100% smokefree municipal buildings. Restaurants & bars excluded.
1987		South Tucson	Designate smoking areas in municipal buildings.
1987		Yuma	Smokefree restaurants, exempt when seating is 100 or less. Smokefree public places. Bars excluded. Designate smoking areas at workplaces.
1988		Clarkdale	Designate smoking areas in workplace and municipal buildings.
1988		Gilbert	Designate smoking areas in workplaces, 50% minimum non-smoking area in restaurants, some public places smokefree.
1988		Kingman	100% smokefree municipal buildings and food markets, designate smoking areas at workplace.
1988		Maricopa County	Designate smoking areas in municipal buildings and workplaces, and in 40% of restaurant area.
1988		Nogales	Designate smoking areas in municipal buildings.
1988		Sierra Vista	Designates 30% of restaurants as smoking area.
1989	1991, 1992	Flagstaff	Some workplaces areas smokefree, municipal buildings smokefree, 100% smokefree restaurants. Bars excluded.
1990		Bullhead City	Designate smoking areas in workplace.
1990		Cochise County	Designate smoking areas in municipal buildings.
1991		Peoria	Designate smoking areas in workplace and municipal buildings.
1991		Somerton	100% smokefree enclosed public areas. Restaurants & bars excluded.
1991		Surprise	Designate smoking areas in municipal buildings.
1991		Yavapai County	100% smokefree municipal buildings.
1992		Cave Creek	100% smokefree municipal buildings.
1992		Graham County	Designate smoking areas in municipal buildings.
1993		Cottonwood	100% smokefree municipal buildings.
1993		Douglas	100% smokefree municipal buildings.
1993		Fountain Hills	100% smokefree municipal buildings.
1993		Pinal County	100% smokefree municipal buildings.
1993	1995	Winslow	100% smokefree municipal buildings.
1994		Hayden	Designate smoking areas in municipal buildings.
1995		Prescott Valley	Designate smoking areas in workplace, restaurants and municipal buildings.

**Table 1B: Local Tobacco Control Ordinances in Arizona :  
Vending Machines/Youth Access**

Year	City/County	Notes
1992	Paradise Valley	Restriction on vending machine placement
1993	Tucson	Restriction on vending machine placement
1993	Scottsdale	Total ban on tobacco vending machines
1993	Tucson	Restriction on vending machine placement
1994	Buckeye	Total ban on tobacco vending machines
1995	Somerton	Total ban on vending machines
1996	Tempe	Restriction on vending machine placement
1997	Tucson	Licensing tobacco vendors and ban on self-service display of tobacco products

The tobacco industry and its front groups have taken note of ACAS efforts and have attempted to intimidate its advocates through lawsuits as well as personal threats to those involved with the organization [3]. Nonetheless, ACAS continues to be one of the most active tobacco control advocates in the state, mainly through educating the public and the decision makers on the harms of tobacco use.

**Nonsmokers, Inc.**

This non-profit organization headquartered in Tucson, was founded in 1976 to promote smokefree environments through education and advocacy. It has been involved, directly or indirectly, with all the major tobacco control activities in the state. Most of its activities are based on grassroots efforts to educate the public and policy makers about the benefits of smokefree environments. Nonsmokers, Inc. was involved in passing Tucson’s 1976 and 1985 smokefree public places ordinances, Tucson’s 1993 vending machine placement restrictions and 1997 youth access/tobacco retail sale licensing ordinance (Tables 1A & 1B). Tucson’s 1985 city ordinance was the first time that a workplace smoking restrictions initiative was approved by voters in Arizona, despite tobacco industry opposition to the initiative.

In addition, Nonsmokers, Inc. was also involved in other local tobacco control efforts throughout the state, such as the clean indoor air ordinances in Flagstaff and Pima County (Table 1A), and continues to be involved in several tobacco control advocacy projects.

**Coalition for a Tobacco-Free Arizona (CTFA)**

In 1988, Arizona Governor Rose Mofford (Democrat) signed a declaration forming the Rocky Mountain Tobacco Free Challenge (with the governors of Colorado, Nevada, New Mexico, Utah, Wyoming, Idaho, and Montana), a multi-state initiative to prevent tobacco use. No funds were allocated to this effort. In 1989, the Arizona Department of Health Services (ADHS) appointed a steering committee to recommend strategies to coordinate the tobacco control activities in the state. In June, 1990, a set of 34 recommendations were given to the Governor. These were broad recommendations encompassing areas of policy, legislation, education, and cessation. In the Fall, 1990, several tobacco control advocates and others involved in the steering committee, created the Coalition for Tobacco-Free Arizona (CTFA), which started to work on policy proposals related to tobacco control, mainly the provision of clean indoor air. CTFA was, and still is, formed mainly by representatives of health voluntary groups (ACS, ALA, and AHA), ACAS, Nonsmokers, Inc., and other public health professionals and health organizations, such as the Arizona Hospital and Healthcare Association.

CTFA includes as one of its most important achievements the passage of Proposition 200, the 1994 initiative that raised the tobacco excise tax in the state and earmarked 23% of the new revenues to tobacco education programs (discussed in detail later in this paper), and two grants awarded by the New Jersey-based Robert Wood Johnson Foundation: a three-year \$1-plus million implementation grant to support the Coalition activities, awarded in August, 1994 as part of the SmokeLess States Projects, and a five-year \$3.17 million award to the "Full Court Press" Project, a program to reduce tobacco use by youth in Tucson (described below), awarded in Fall, 1995.

Until 1994, CTFA was staffed by representatives from ADHS. As CTFA role in ensuring the appropriate and effective implementation of the tax-sponsored tobacco education program created by Proposition 200, a consensus emerged that it was more appropriate to have ADHS as part of the coalition, but not as its staff. This was done to avoid possible conflict of interests in funding priorities between CTFA goals and ADHS. Proposition 200 made available a large sum of money to fund tobacco control activities and significantly increased the stakes related to tobacco control for both the tobacco industry and the public health community in Arizona.

## **PROPOSITION 200**

### **The Ballot Campaign**

On November 8, 1994, Arizona voters passed Proposition 200 by a margin of 50.7 to 49.3% [4], which increased the cigarette excise tax by 40 cents, with proportional increases in the tax on other tobacco products, and earmarked the new revenues in four accounts, as follows:

- Medically Needy Account, 70% to provide medical care for the poor;
- Health Education Account, 23% for tobacco prevention/education programs;
- Health Research Account, 5% for tobacco-related diseases and prevention research; and,
- Adjustment Account, 2% to offset future loss of revenues by the Arizona Department of Corrections [5].

The idea for Proposition 200 originated with John Rivers, CEO of Arizona Hospital and Healthcare Association (AzHHA, then Arizona Hospital Association) who, in November 1992, began examining ways of raising funds for Arizona's Medicaid Program (Arizona Health Care Cost Containment System - AHCCCS) to pay for medical care for the uninsured. Raising the tobacco tax seemed to be a good alternative, and polling showed that 75% of the public supported such tax increase, provided that the money raised was specifically directed to health care for the poor [6]. In addition to raising money for AHCCCS, Rivers believed the tobacco tax would help decrease tobacco use, a public health measure congruent with AzHHA's goals [7].

Previous attempts to work with the Legislature to raise tobacco taxes had failed. Arizona is a fiscally conservative state, and increasing funds for health and welfare items seldom appears on its formal agenda. Therefore, the initiative process was the only viable way of achieving AzHHA's goal of increasing funds for AHCCCS. The Legislature was informed, ahead of time, about AzHHA's intentions of using the initiative process to raise tobacco taxes. AzHHA intended to keep the Legislature informed throughout the process in an effort to avoid alienation of the Legislature from the intent of the initiative and to maintain Legislature support for the initiative-sponsored programs in the future.

AzHHA studied the experience in states that had passed (California and Massachusetts) or attempted to pass (Montana, Arkansas and Colorado) tobacco tax initiatives in the past. They conducted opinion polls attempting to establish a publicly palatable amount of tax and tested the general public's

support for a tobacco tax increase. From this information, it was clear that a ballot initiative was feasible, and that a tax increase of 40 cents per cigarette pack (with proportional increases in other tobacco products) was the most appropriate course of action<sup>2</sup> [8].

Rivers contacted Jack Nicholl, a California-based political consultant who had managed the campaign to pass Proposition 99 in California in 1988 (a tobacco-tax proposition similar to the initiative Rivers had in mind)[9] and also contacted the voluntary health agencies (American Cancer Society, American Heart Association, and American Lung Association). These non-profit agencies have long been involved with tobacco control issues and have seen all their prior efforts to work with the Arizona Legislature in tobacco control-related issues fail. They embraced the opportunity of joining forces with the Hospital Association. Although they had previously thought about an initiative process, they had not been willing to commit the funds or the political capital necessary to pursue the idea. AzHHA provided them with both, despite the lack of support that some individual hospitals demonstrated for the initiative [10]. At the same time, AzHHA needed the legitimacy and public trust that the voluntary health agencies provided. As discredited as the tobacco industry is, the hospital and healthcare industry did not fare much better in the public's eyes [11]. Therefore, from the beginning it was clear that the AzHHA would be both the best asset and Achilles' heel of the effort to increase the tobacco tax in Arizona.

The initiative campaign sponsors wanted to avoid the portrayal of the campaign as wealthy doctors and hospitals trying to take money from the wealthy tobacco industry. It was expected early in the campaign that framing the initiative in such a way was going to be the main strategy of the opposition (which proved to be true). Thus, the Hospital Association kept a low profile with the public and the voluntary agencies, mainly the ACS, assumed the "spokesperson" role, addressing the media, participating in events, being the most visible supporters of the initiative campaign. Most of the financial support for the initiative, however, was provided by the hospitals (Table 2A).

The campaign to qualify the initiative for the ballot and to pass Proposition 200 has been described in detail elsewhere and will only briefly be discussed here [12]. Nicholl brought the campaign experience in working against the tobacco industry in California and thus provided much insight about how to best avoid the industry attacks that would inevitably come at each stage of the process. A great deal of care was dedicated to drafting the language of the initiative.<sup>3</sup> Experience in other states and localities had shown that the tobacco industry often attempts to avoid public confrontation by keeping the initiative off the ballot, either trying to hinder its qualification, or legally disputing the language of the initiative [9, 13]. Proposition 200 supporters believed that money spent on legal fees to refine the language was well spent since the language was never challenged in court by the tobacco industry [8].

Another important step was to secure former US Senator Barry Goldwater as Campaign Chairman. Goldwater, an icon in Arizona politics with a high profile, was key to the strategies for securing media attention and attracting supporters to the initiative [11, 14].

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<sup>2</sup>Polls indicated public support for a tax high enough to have made Arizona the state with the highest cigarette tax in the country. To be cautious, initiative proponents set the tax lower, to prevent opponents from using the fact that Arizona would have the highest cigarette tax in the nation against them. Fiscal estimates demonstrated that the 40 cent tax would raise enough funds for the programs they sought to fund.

<sup>3</sup>In addition to taxation and appropriation issues, initiative proponents in Arizona had to address issues of Native American tribal sovereignty (Arizona has 22 tribes) and how to avoid non-tribal residents flocking to buy cheaper cigarettes at the reservation stores. The initiative resolved this problem by stating that non-tribal residents would be subject to the tax even if they purchased the tobacco products on a reservation.

The proponents of the proposition then created Arizona for a Healthy Future (AHF), a campaign organization formed by a coalition of health, business, and education groups, which goal was to pass Proposition 200. The three voluntary agencies (ACS, AHA, and ALA) plus the Hospital Association (AzHHA) formed the Executive Committee of AHF. The petition drive was launched in February, 1994, at the time that Goldwater joined the coalition and became campaign chairman. The campaign, launched by AHF during the signature gathering effort, focused on protecting children and saving lives, and not on the taxation issue [8, 11, 14-19].

On July 1, 1994, AHF filed 205,000 signatures (105,541 valid signatures were required) with the Secretary of State to qualify the "Tobacco Tax & Health Care Act" for the November 8, 1994 ballot. The validity of signatures was not challenged by the tobacco industry.

The press was divided in its support for the initiative. For example, an October 21, 1994 editorial in *The Arizona Republic*, the state's leading newspaper, opposed Proposition 200, declaring it as bad public policy despite their editorial position of supporting tobacco control [20]. Nonetheless, since passage of the initiative the media has been supportive of the use of the money as the voters intended.

The initiative was opposed by Governor Fife Symington (R), the President of the Senate, John Greene (R, Phoenix), and several other prominent lawmakers [21, 22]. The lack of support was reportedly based on two main premises: First, these lawmakers thought that fiscal issues, such as a new tax, should be decided by the Legislature, not the public at large. They claimed that hospitals would "pocket the money", and that it would circumvent the appropriation process, using California's Proposition 99<sup>4</sup>, as an example. Second, these lawmakers who opposed the initiative did not approve of authority for public policy making being overridden by the initiative process.<sup>5</sup>

To avoid alienating the legislators from the appropriation and policy-making process, the language of the initiative clearly stated that the responsibility to allocate the funds and to authorize the programs rested ultimately with the Legislature. The only restriction was that funds had to be allocated according to the predetermined percentages to the four accounts.

The lawmakers that opposed the initiative even before it qualified, including President of the Senate John Greene and Governor Symington threatened supporters of Proposition 200, in particular the voluntary health groups and the Hospital Association. At a meeting in April, 1994 at the Governor's office between supporters of the initiative, the Governor, and the President of the Senate, Symington expressed his opposition to the initiative and asked the health groups to stop the campaign. They threatened retaliation such as removal of non-profit status of the organizations supporting the initiative, blocking any future legislation that proponents of this initiative supported, and other legislative measures to affect hospital budgets, for example regulating hospital rates and withholding payment [24-26]. Arizona for a Healthy Future denounced the pressure tactics to the press and the event received wide media attention.

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<sup>4</sup>In California, from 1989 (beginning of the tobacco control program), through FY 1996, the Legislature diverted \$273,814,000 from the Health Education Account and \$71,345,000 from the Research Account to pay for medical services not related to tobacco control before the health groups mounted successful legal challenges that ended this practice[23].

<sup>5</sup>A 1990 initiative created the Heritage Fund, which earmarked funds from the state lottery into the Game & Fish and Park Departments for environmental protection projects. The Fund has been criticized for mismanaging taxpayer funds and may have set a negative precedent regarding initiatives to raise funds that bypass legislative authority.

**Table 2A: Contributions to Support Arizona's Proposition 200**

<b>Arizona for a Healthy Future Contributor</b>	<b>Amount</b>
<i>Hospitals and Health Care Groups</i>	
Arizona Hospital Association	\$619,688
St. Joseph's Hospital & Medical Center	\$216,889
Carondelet Health Care Corporation	\$210,617
St. Luke's Health System	\$122,993
John C. Lincoln Hospital & Health Center	\$90,552
Baptist Hospital & Health System	\$73,209
Phoenix Memorial Hospital	\$60,800
Lutheran Healthcare Network	\$50,551
Yuma Regional Medical Center	\$35,000
Sun Health Corporation	\$20,000
Sierra Vista Community Hospital	\$12,000
Southeast Arizona Medical Center	\$7,000
Valley of the Sun Rehabilitation Hospital	\$6,000
Chandler Regional Hospital	\$5,000
University Medical Center	\$4,000
Phoenix General Hospital & Medical Center	\$3,750
Healthwest Regional Medical Center	\$3,000
El Dorado Hospital & Medical Center	\$2,500
Northwest Hospital	\$2,500
PCS Health Systems, Inc.	\$5,000
<i>Sub-total</i>	<i>\$1,551,049</i>
<i>Voluntary/Non-Profit Health Groups</i>	
American Cancer Society, Az Division	\$86,046
American Heart Association	\$62,263
American Lung Association	\$3,675
Arizonans Concerned About Smoking	\$4,343
Navajo Nation Health Foundation	\$11,034
Mayo Foundation for Medical Education	\$2,000
<i>Sub-total</i>	<i>\$169,361</i>
<i>Other Businesses</i>	
Phoenix Suns Limited Partnership	\$10,000
Banc One Arizona Corporation	\$5,000
Southwest Ambulance, Inc.	\$5,000
Discount Tire Company, Inc.	\$5,000
Chandler Regional Hospital Medical Staff	\$4,000
McMurry Publishing, Inc.	\$3,540
Scottsdale Insurance Company	\$2,500
Phoenix Baptist Hospital Medical Staff	\$2,000
Other (1)	\$38,985
<i>Sub-total</i>	<i>\$76,025</i>
<b>Total</b>	<b>\$1,796,435</b>
<i>(1) Contributions from organizations, business, and individual up to \$1,000</i>	

Source: Arizona Secretary of State Campaign Finance Report

The tobacco industry also opposed the initiative. Following its established pattern, the industry used front-groups, "Enough is Enough" and "No More Taxes" (sponsored mainly by Philip Morris and the Tobacco Institute, respectively) (Table 2B) to support a public relations campaign against the initiative. The tobacco interests portrayed the initiative as an attempt by initiative proponents to divert large amounts of taxpayer money to their own benefit rather than to the public interest. Another part of the industry's campaign was to claim that California's tobacco control program was misusing public funds, similar to campaign that the tobacco industry was waging in California.<sup>6</sup> [27, 28] These accusations served to gain more opposition from the media to the initiative [20, 29].

At the same time, the campaign received public support from former U.S. Surgeon General C. Everett Koop, a leader in tobacco control in the country, who came to Arizona to participate in fundraising events and press conferences. Koop's involvement received wide media attention, both in favor and against the initiative [29-32].

In addition, No More Taxes also used the diversion of health education funds into medical services enacted by the California Legislature as an example of how the tobacco tax funds were going to benefit only the hospitals, and not be used to prevent kids from smoking [27, 33, 34]. This argument was particularly hypocritical, since the tobacco industry was one of the major sources of political pressure supporting diversion of funds away from anti-tobacco education into medical services.

**Table 2B: Contributions to Oppose Arizona's Proposition 200**

<b>Enough is Enough</b>	
<b>Contributor</b>	<b>Amount</b>
Philip Morris USA	\$413,532
Retail Grocers Association	\$450
Other	\$400
Sub-Total	\$414,382
<b>No More Taxes</b>	
<b>Contributor</b>	<b>Amount</b>
The Tobacco Institute	\$5,402,716
Arizona Executive Committee(1)	\$50,000
Enough is Enough	\$426
Other	\$1,120
Sub-Total	\$5,454,262
<b>Total</b>	<b>\$5,868,645</b>
(1)A group created by the tobacco industry to support political campaigns.	

Source: Arizona Secretary of State Campaign Finance Report

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<sup>6</sup>For example, taking some of California's projects out of context and portraying it as waste, specifically, the "smoke-free baby showers" designed to motivate pregnant women not to smoke, the youth education program that ended with a "pool party" designed to train youth to become non-smoking advocates, and a youth summit at a ski resort designed to stop tobacco sponsorship of skiing events. The projects selected to be criticized were among the most innovative and effective projects developed by the California Tobacco Control Program.



Despite being outspent 3 to 1, with 99.96% of the funds from the opposition campaign coming from the tobacco industry (Tables 2A & 2B), supporters of Proposition 200 won by 50.7 to 49.3% of the popular vote on November 8, 1994.

### **After the vote**

Immediately after the passage of Proposition 200, representatives from the voluntary health agencies and AzHHA started to meet with legislators to discuss the Legislature's role in developing implementing legislation for Proposition 200. Later, the three voluntary health agencies (ACS, ALA and AHA) hired a lobbyist, Kevin DeMenna, to assist them in overseeing the legislative process for implementation of Proposition 200. (DeMenna was ranked by the Arizona press as one of the top 10 lobbyists in Arizona [35]). They recognized that they needed professional help to make sure Proposition 200 funds were used as approved by the voters. Passing the initiative was the first step in the effort of funding and developing a comprehensive tobacco control program in Arizona. The crucial step now was ensuring that the funds were used as approved by the voters. It was expected, and later confirmed, that the tobacco industry would launch a major effort to derail the appropriation of the tobacco tax funds, dedicated to health education [36]. AzHHA's lobbyist Laurie Lange and DeMenna met frequently with Representative Sue Gerard (R-Phoenix), Chair of the House Health Committee, to discuss the appropriation of the tobacco tax funds into the Medically Needy and the Health Education Accounts.<sup>7</sup>

The executive committee of Arizona for a Healthy Future also maintained the consulting services of Jack Nicholl, who stressed the importance of keeping the group that had worked to pass the initiative together to protect it against legislative attempts to divert the funds to uses other than those specified in the language of the Proposition. Experience from California [9] and Massachusetts [13] demonstrated that after the passage of the initiative it is important for its supporters to present an unified front to the legislature, to ensure the allocation of funds as approved by the voters [11].

Passage of the initiative provided for the collection of the tobacco tax and established the accounts to which the funds should be allocated. The selection of and funding for specific programs had to be determined by the Legislature. Despite opposition to the initiative from the leaders of the Legislature, legislators could not be indifferent to the fact that the voters had passed Proposition 200, and that it was estimated to raise \$90 million in additional revenues in its first year, 1995.

The tax went into effect immediately upon passage of the initiative, and it raised \$55.5 million in the first 7 months (November 1994 to June 1995, part of FY 1995) and over \$120 million a year beginning in FY 1996 (July, 1995 to June, 1996) (Table 3). These funds were already accumulating, even before the Legislature started to consider ways to appropriate the funds, generating a balance that would have to be considered in future negotiations over the use of the money.

The proponents' of Proposition 200 main goal was to guarantee that no funds would be diverted from the purposes set forth in the initiative language. The specifics of the tobacco control program were to be developed by the state, based on the goals established by Proposition 200. The Coalition for Tobacco Free Arizona worked with the Arizona Department of Health Services, providing assistance in the development of a comprehensive tobacco control program.

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<sup>7</sup>Representative Sue Gerard has proven to be one of the strongest protector of the tobacco tax funds. However, at first, some advocacy groups did not count on her support because not only she is a smoker, but also she has a personal friendship with Philip Morris lobbyist, Rip Wilson.

## LEGISLATIVE SESSION 1995

At the opening of the legislative session in January, 1995, at least 12 bills addressing the allocation of the tobacco funds were introduced, most trying to place the money in the general fund, which was expressly in violation of Proposition 200. At the same time, tobacco lobbying activity at the state Legislature increased dramatically, with the number of paid tobacco industry lobbyists increasing from approximately four to eighteen [36, 37]. One of the bills attempting to place the tobacco tax funds in the general fund was sponsored by Jeff Groscott (R-Mesa), and it was defeated only after Barry Goldwater testified against it at a Ways & Means Committee hearing. Goldwater stressed that it is not for the Legislature to change what the voters had decided, but to implement it. The testimony helped to bring media attention to the battle waging in the Legislature to defend the integrity of Proposition 200.

Despite the mixed support that the initiative received from the media, once passed, most newspapers had articles and editorials opposing the Legislature's attempt to divert money from Proposition 200 into the general fund. In March, another bill surfaced (SB 1197) that attempted to place the tobacco tax money in the general fund which was also defeated [38, 39].

Both California [40, 41] and Massachusetts [42] had experienced problems with diversion of tobacco tax funds for purposes other than health education; the experience in these states helped to raise the awareness of tobacco control advocates in Arizona to the threat posed by diversion and the dangers of any compromise in fund allocation, however small. They insisted that no funds allocated by the voters to tobacco education programs be diverted into services or programs not related to tobacco control. A poll conducted for the Hospital Association by Arizona Opinion and Political Research in March, 1995 confirmed that 64% of respondents agreed with the outcome of the election that increased the tobacco tax, and that 90% of voters wanted the legislators to honor the intent of Proposition 200 [43].

In contrast to California, where the California Medical Association and other medical service provider organizations had played an active role in supporting diversion of funds away from anti-tobacco activities into medical services [9, 40, 41, 44], in Arizona, proponents of Proposition 200 maintained a united front throughout the legislative debate that the initiative was to be implemented as the voters passed it. Although the lobbyists for the Hospital Association and the voluntary organizations were working mainly toward securing funds for the AHCCCS and the health education program, respectively, they agreed to oppose any bill that would harm either aspects of the programs Proposition 200 established or allocate money other than specified by the initiative.

For example, the Legislature offered the hospitals \$16 million from the Medically Needy Account to help pay old debts that the Legislature had with the hospitals because of a previous cut in reimbursement rates for indigent care. The AzHHA refused to accept the money, since Proposition 200 funds were to pay for uninsured care, and not to repay old debts. The AzHHA, through John Rivers, maintained its commitment to keep the integrity of Proposition 200 as approved by the voters [7, 45].

In the 1995 legislative session, in tandem with the fight to ensure appropriation of the Proposition 200 money as approved by the voters, was a fight to prevent the Legislature from passing a bill that would preempt local tobacco control efforts. A well documented tobacco industry strategy is to promote preemptive state legislation because it is easier for the industry to hinder tobacco control efforts at the state level than at the local level.

The issue of preemption was particularly important as Arizona began to implement the Proposition 200 anti-tobacco education programs. Experience from other states, particularly California, indicated that a combination of a hard hitting media campaign with local community-based activities designed to implement

local tobacco control policies [46, 47] is an effective way to reduce tobacco consumption. If the tobacco industry succeeded in getting the Legislature to preempt local tobacco control activities, it would cripple the Proposition 200 anti-tobacco program before it got off the ground. Several bills attempted to introduce preemption language related to local tobacco control, eliminating local governments' power to develop their own tobacco control program.

The preemption effort started in 1995 with HB 2429, a tobacco retail licensing bill with preemption language that would forbid localities from addressing issues related to tobacco use in public places as well as any aspects related to tobacco sales, promotion and advertisement. This bill died in committee but was revived several times under other names, until it was killed by the Speaker of the House, Mark Killian (R-Mesa) [36, 48-52]. The media, in general, came out against HB 2429 as well as any other preemption bill. The health groups succeeded in killing all the preemption bills.

Proponents of the initiative opposed both the diversion of tobacco tax money into the general fund and the preemption strategies, and pushed for an appropriations bill that would reflect the voters' will as manifest in the language of Proposition 200. In addition to their lobbying efforts, proponents of the initiative used the media to denounce the occasions in which the Legislative was attempting to divert the money for purposes other than the ones established in Proposition 200 and to pass preemption bills that would severely limit the efficacy of any tobacco control program.

### **HOUSE BILL 2275: FIRST STEP OF IMPLEMENTATION**

After numerous hearings and several amendments, the enabling legislation for Arizona's Proposition 200 (Tobacco and Health Care Act) emerged as House Bill 2275 (Sue Gerard, R-Phoenix), signed into law in April 19, 1995, and effective July 13, 1995 [53].

While the health groups succeed in preventing diversion of Proposition 200 Health Education funds into the general fund, they failed to convince the Legislature to appropriate all the funds available for anti-tobacco education programs. HB 2275 designated ADHS as the agency responsible for the health education program, with funds provided by the Health Education Account. It allocated \$10 million for FY 96 (July 1995 to June 1996) and \$15 million for FY 97 (July 1996 to June 1997) for anti-tobacco education. These appropriation caps on expenditures from the Health Education Account were well below the \$27 million and \$28.9 million the initiative provided for anti-tobacco education for FY 96 and FY 97 respectively (Table 3). The Legislature justified failing to appropriate full funding as a conservative measure that would allow ADHS to structure a program without incurring the risk of wasting taxpayers funds during the start up period of the program.

The appropriation caps in the first two fiscal years created an earmarked reserve fund in the Health Education Account of approximately \$37 million (Table 3), which could be used after July 1, 1997 (FY 1998), unless the Legislature approved legislation stating otherwise. Therefore, according to HB 2275, once the program was in place for two years, there were no provision to maintain the caps, which would then be removed, providing the tobacco education program the full 23% of the new tobacco tax revenues. In addition, the funds that accrued in the "reserve" of the health education account in the two years of the cap could also be spent on tobacco education programs.

HB 2275 established that the organizations eligible to apply for tobacco tax funds were: county health departments, community health centers, schools, universities, community colleges and Indian tribes. The non-profit organizations involved in the campaign were excluded from applying for the Health Education funds. There was, however, no language prohibiting the voluntary health agencies from subcontracting with any of the eligible agencies. In any event, the restriction on eligible agencies was

**Table 3. Budgetary Projections from the Tobacco Tax and Health Care Fund**

	<b>FY 1995</b>	<b>FY 1996</b>	<b>FY 1997</b>	<b>FY 1998</b>
<b>Funds Available from the Tax Revenue</b>	\$55,517,900	\$124,987,200	\$124,000,000	\$122,000,000
<b>Funds Transferred to Accounts Established by Proposition 200</b>				
DOR Administration	\$158,700	\$314,300	\$331,000	\$320,000
Health Education Account (23%)	\$15,751,000	\$27,093,000	\$28,992,200	\$28,526,100
Health Research Account (5%)	\$0	\$8,404,000	\$6,302,700	\$6,201,300
Medically Needy Account (70%)	\$39,369,600	\$89,036,200	\$88,237,200	\$86,818,600
Corrections Fund (2%)	\$514,100	\$139,700	\$136,900	\$134,000
<b>Total Funds Collected and Transferred</b>	\$55,793,400	\$124,987,200	\$124,000,000	\$122,000,000
<b>DHS Health Education Account</b>	<b>FY 1995</b>	<b>FY 1996</b>	<b>FY 1997</b>	<b>FY 1998</b>
Balance Forward	\$0	\$12,938,400	\$30,322,100	\$34,314,300
Funds Transferred from Tobacco Tax	\$15,751,000	\$27,093,000	\$28,992,200	\$28,526,100
Total Appropriation	\$2,812,600	\$9,709,300	\$25,000,000(1)	\$25,673,490
Total Funds Available but not Appropriated ("Reserve")(2)	\$12,938,400	\$30,322,100	\$34,314,300	\$37,166,910
(1) HB 2275 allocated \$15 million for FY 1997, but HB 2147 retrospectively increased the amount to \$25 million.				
(2) Money collected by the tax, deposited in the account, but not appropriated by the Legislature. It is kept on a "reserve" account.				
<b>DHS Health Research Account</b>	<b>FY 1995</b>	<b>FY 1996</b>	<b>FY 1997</b>	<b>FY 1998</b>
Balance Forward	\$0	\$0	\$7,996,100	\$9,231,600
Funds Transferred from Tobacco Tax	\$0	\$8,404,000	\$6,302,700	\$6,201,300
Total Appropriation	\$0	\$407,900	\$5,067,200	\$5,611,300
Total Funds Available but not Appropriated ("Reserve")	\$0	\$7,996,100	\$9,231,600	\$9,821,600
<b>Medically Needy Account</b>	<b>FY 1995</b>	<b>FY 1996</b>	<b>FY 1997</b>	<b>FY 1998</b>
Balance Forward	\$0	\$39,369,600	\$101,523,600	\$67,182,300
Funds Transferred from Tobacco Tax	\$39,369,600	\$89,036,200	\$88,237,200	\$86,818,600
Total Appropriation	\$0	\$26,882,200	\$122,578,500	\$87,406,900
Total Funds Available but Not Appropriated ("Reserve")	\$39,369,600	\$101,523,600	\$67,182,300	\$66,594,000
<i>AHCCCS Medical Services Stabilization Fund (3)</i>				
(3) This fund was created as a "rainy-day" fund, given that the tobacco tax is meant to be a decreasing source of funds.				
Balance Forward	\$0	\$0	\$14,065,400	\$60,977,900
Funds Transferred from the Medically Needy Account	\$0	\$14,065,400	\$46,912,500	\$15,652,500
Total Funds Available	\$0	\$14,065,400	\$60,977,900	\$76,630,400
<b>Department of Corrections Account</b>	<b>FY 1995</b>	<b>FY 1996</b>	<b>FY 1997</b>	<b>FY 1998</b>
Balance Forward	\$0	\$0	\$0	\$0
Total Funds Transferred from Tobacco Tax	\$514,100	\$139,700	\$136,900	\$134,000
Total Allocation from Funds Transferred	\$514,100	\$139,700	\$136,900	\$134,000
Balance Forward	\$0	\$0	\$0	\$0

Source: Arizona Joint Legislative Budget Committee

perceived as a retaliation measure against Proposition 200 supporters, making good on the threats made early in the effort to pass the initiative. There was also concern that this restriction would prevent the organizations most knowledgeable about tobacco control from applying for funds to implement Proposition 200.

The hospitals received funds from the tax in the form of reimbursement through the AHCCCS. Although no caps were set by HB 2275 in the expenditures by the Medically Needy/Medically Indigent Account (MN/MI Account), the 70% of the tax funds were not fully appropriated from this account, creating a reserve of non-spent monies. HB 2275 created a stabilization fund (“rainy day” fund) for the MN/MI Account, allocating \$15 million to it. Prior to passage of HB 2275, the Legislature had approved Senate Bill 1253, which provided tobacco tax money from the MN/MI Account to pay for organ transplants under AHCCCS eligibility criteria. The passage of SB 1253 served to attract support from the Legislature and the Governor to Proposition 200 because the measure received wide public and media support and provided an opportunity to lawmakers to take advantage of the popularity of Proposition 200. HB 2275 also established three block grants, to be managed by ADHS, for primary care services, qualifying community health centers, and mental health programs (allocating \$5 million to each) and a detox pilot program (\$500,000) and a telemedicine project (\$250,000).

In addition to appropriating money, HB 2275 created the Tobacco Use Prevention Advisory Committee (TUPAC) of 11 members (Table 4). TUPAC’s role is to “review and make recommendations” to ADHS on programs established and funded with Proposition 200 funds, and to provide ADHS consultation regarding the biannual evaluation of the tobacco control program [53]. TUPAC is chaired by the ADHS Director and has bipartisan representation from both houses of the Arizona Legislature and six members of the community. Community representation is appointed by the leadership of the House, the Senate and the Governor, each appointing two members. The community representatives serve at the pleasure of the appointing official. The Coalition for Tobacco-Free Arizona (CTFA) provided a list of names that it considered suitable to fill the role as community representatives on the Committee. However, only Speaker Killian chose his two appointees from the list suggested by CTFA. The Governor’s and Senate’s community appointees represent the retail industry and the alcohol industry (the distribution and sales of tobacco products are part of the retail industry), and were viewed by the health community as antithetical to the goals of the health education program (Table 4).

**Table 4: Tobacco Use Prevention Advisory Committee, 1995-1996**

<b>Name</b>	<b>Position</b>	<b>Appointed by</b>
Jack Dillenberg	Az. Dept. Health Services	As per language of HB 2275
Jan Brewer	Senator	President of the Senate, John Greene
Gus Arzberger	Senator	President of the Senate, John Greene
Sue Gerard	Representative	Speaker of the House, Mark Killian
Andy Nichols	Representative	Speaker of the House, Mark Killian
Michael Hughes	Az. Dept. of Education	President of the Senate, John Greene
Maura McHugh	Business Council for Alcohol Education	President of the Senate, John Greene
Don Morris	Arizonans Concerned About Smoking	Speaker of the House, Mark Killian
David Nielsen	Physician in Phoenix, member of ACAS	Speaker of the House, Mark Killian
Michele Ahlmer	Arizona Retailers Association	Governor Fife Symington
Jack Braddock	Golden Eagle Distributors	Governor Fife Symington

It is important to note that HB 2275 dealt mainly with the allocation of the funds and designation of ADHS as the agency in charge of developing the structure within which the funds for health education would be used. HB 2275 did not address issues concerning specifics of the implementation and development of the program, such as what type of projects should be funded with health education funds, how much should go into the media campaign, who the target population was. These issues were left for development by ADHS. There was no language in either the Proposition or in HB 2275 restricting the target population of the health education program. As discussed later, ADHS' policy limited the target population to pre-adolescents, adolescents, pregnant women and their partners, at least for the first year of the program. As of September, 1997 no revisions to the target population have been made.

## **ADHS: SECOND STEP OF IMPLEMENTING THE PROGRAM**

Passage of HB 2275 in April, 1995, was the first step in implementing Arizona's Tobacco Education and Prevention Program (AzTEPP). The second step was for the Arizona Department of Health Services (ADHS) to establish the program structure. In May, 1995, ADHS started to create the structure to manage the tobacco education and prevention program. The program was housed at the Center for Prevention and Health Promotion. The director of the new program, Martha Clift, was chosen from the ranks of the Department of Health Services. Clift and the Director of the Center, Dr. Joel Meister, who started on the job in October, 1994, developed a strategic plan for the tobacco control program with some input from the Coalition for Tobacco Free Arizona as soon as Proposition 200 was approved by the voters and before the appropriation Legislature was passed. They developed the strategic plan with knowledge that as soon as the enabling legislation was approved, it would be their task to develop and implement the tobacco control program, since the Center for Prevention and Health Promotion was the natural "fit" to house the new program. Clift and Meister realized the importance of having a plan for the state tobacco program.

The strategic plan established that the purpose of the Arizona Tobacco Use Prevention Program is:

To maintain and improve the health and quality of life of all Arizonans by reducing dependence on tobacco products through prevention and treatment and by reducing exposure to environmental tobacco smoke while protecting the rights of smokers, users of tobacco for ceremonial or religious purposes, and non smokers alike; and

To provide information, education and training, and technical assistance to those communities and agencies willing to assume the responsibility for developing and conducting comprehensive community-based tobacco use prevention programs [54].

The main goals of the Arizona Tobacco Education and Prevention Program were:

1. All of Arizona's youth should be tobacco-free;
2. All Arizonans, and especially children, should be protected from environmental tobacco smoke; and
3. All Arizonans who wish to quit using tobacco should have access to affordable, state-of-the-art cessation services [54].

Each goal had specific objectives designed to provide measurable outcomes over a five-year period (1996 to

2001)<sup>8</sup>.

However, it was not until July (after HB 2275 was signed into law) that Clift and Meister were able to start laying down the operational guidelines for the program, such as writing job descriptions, and developing the Requests for Proposals (RFPs) for the media campaign, the local projects, the statewide projects, and the information clearinghouse.

The Director of ADHS, Jack Dillenberg limited the target population for the Arizona Tobacco Education and Prevention Program (AzTEPP) to pre-adolescents, adolescents, and pregnant women and their partners. He justified his choice of targeting a specific group with the limited amount of funds, since the Legislature had capped expenditures at \$10 million in the first year. He felt that this group (youth and pregnant women) would be the most susceptible to the messages conveyed initially by the program [56]. Therefore, despite the evidence that comprehensive tobacco control programs with a broad target audience that include those in the workplace and public places, are the most effective, the decision makers at ADHS decided to narrow its tobacco control program to focus mainly on youth. Limiting the focus of tobacco control programs to young people and pregnant women is a common tobacco industry fallback position when an anti-tobacco education program cannot be stopped.

Nine Requests for Proposals (RFPs) were issued on August 29, 1995, by ADHS, five of which were directly related to health education: media services, local projects, evaluation, clearinghouse, and statewide projects. Proposals were due back by October 26, 1995, which is when expenditure of the tobacco tax funds was allowed by the Secretary of State. By the time the RFPs were released, proposals selected and monies awarded, one year had passed since Proposition 200 was approved by Arizona voters. This situation left ADHS with over \$9 million allocation for FY 96 that had to be spent in the first 6 months of 1996, since in the first half of FY 1996 (July to December 1995) very little of the \$10 million allocated was spent. ADHS spent most of 1995 getting organized to manage the expenditures of the monies. Their early implementation efforts were delayed by incessant questioning of every step by lobbyists for the tobacco industry.

### **Efforts to Weaken the Program**

As soon as the tobacco tax fund expenditures proposals were submitted to the Arizona Secretary of State, in August, 1995 (actual expenditures were authorized in October, 1995), Dillenberg, signed a \$635,000 contract with the Phoenix Suns to use the NBA team to educate children about the dangers of smoking. The Department hoped to use the same kind of sports sponsorship that the tobacco industry uses, except in this case the sports teams would be promoting an anti-tobacco message. A similar contract, for \$190,000 were awarded to the Arizona Cardinals football team. ADHS and its supporters in the public health community viewed these contracts as a way to launch the program quickly in a highly visible manner, gaining support and credibility while the other aspects of the program (such as the local programs and media contract) were being developed and contracted.

The preparation work for these contracts was conducted by Clift and her team. Dillenberg's rapid action, while designed to get the program off the ground, created an opening for the tobacco industry to slow down the program. Clift knew that using the NBA players and the team's mascot in radio and TV spots, as well as using the stadium billboards to display anti-tobacco messages would be an effective message that

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<sup>8</sup>The proposed Tobacco Use Prevention Plan for the State of Arizona, the strategic plan, has been the working document of the program. However, it has been kept in draft format. According to Meister [55] this was done on purpose to avoid a watering down of the goals of the program, such as limitation of the target population, if a final version of it was approved. It was his belief that a draft plan had more flexibility to be changed according to the needs of the program.

could pose a threat to the tobacco industry; she wanted to make sure the Department was ready to respond to the industry's attacks. The tobacco industry took a strong interest in these contracts and sought to delay or kill them.

The campaign with the sports teams started with the slogan "Be smart. Don't start.", suggested by Dillenberg from similar campaigns used in the fight against illegal drugs. Clift and her team insisted that some mention to tobacco had to be made, since as it was, it was not clear as to what it referred to. The slogan changed to allude to the tobacco industry harmful influence in children and its efforts to addict new customers. However, these were considered too strong by ADHS administration. It was then settled as "Be Smart. Don't Start. Keep Tobacco Out of your Game Plan." A billboard at the sports arena had to be painted over three times due to the changes in slogan.

The legality of the Suns and Cardinals contracts was questioned by Steve Duffy, an attorney with the lobbying/law firm Ridge & Isaacson, which represents the Tobacco Institute. In a September, 1995, 12 page memo Duffy questioned the legality of everything ADHS had done to date [57]. The memo had a cover page that indicated that one day prior to making the formal complaint, Duffy, and presumably, Don Isaacson (a partner at Ridge & Isaacson), had met with Dillenberg in person and discussed the terms of the memorandum [57]. The complaints in the memo centered on alleged violations in the rule-making process, including accusations of illegality in the contracts with the Phoenix Suns and Arizona Cardinals. Duffy also claimed that ADHS RFPs established programs that did not respect HB 2275, and alleged that HB 2275 determined the target population to be children and pregnant women, which was not true.

Despite the fact that ADHS had not done anything that was inappropriate or at variance with the law and Departmental policies, a significant amount of time and work was dedicated to responding the letter. Duffy's questioning was grounded on the rule-making process and whether or not there was a violation of it. The questions regarding the legality of the contracts were proven to be moot, as were questions related to violation of the rule making process. In addition, there was nothing in the language of HB 2275 that limited the scope of the health education program to children and pregnant women. It was rather ADHS decision, in agreement with TUPAC, to focus the program on these specific target populations, i.e. pre-adolescents, adolescents, pregnant women and their partners. Nevertheless, these accusations slowed down the program and enhanced the controversy over how well ADHS was going to manage the funds.

TUPAC members Michelle Ahlmer (who represents retailers) and Jack Braddock (who represents liquor industry) complained to the Legislature and Dillenberg that they were not consulted before the sports teams' contracts were awarded and questioned the legality of such award. In addition, Dillenberg's failure to communicate with TUPAC members before signing the contract upset the legislators who were TUPAC members who learned of the contracts through the newspapers. This situation created more controversy and protests over Dillenberg's actions. The matter was finally resolved with Dillenberg's assurance that he would make sure the communications line between ADHS and TUPAC members remained open and that he would inform TUPAC in the future regarding proposed projects. Dillenberg also argued that TUPAC's task is to advise ADHS on programs "established and funded" with the tobacco tax, as per the language of HB 2275. The past tense in the language of the bill is significant because it limits how much input TUPAC really has in the development and oversight of the program, and how accountable ADHS is to TUPAC [58-60].

CTFA also responded to the "Duffy letter", in a January, 1996 letter sent to Jack Dillenberg, Director of ADHS, concluding the same as ADHS legal advisors, i.e. Duffy's claims had no ground [61]. The Coalition denounced Duffy's efforts as an attempt by the tobacco industry to intimidate ADHS and slow the process of implementing the tobacco education and prevention program. CTFA did use the incident to bring to the public the awareness of the threats the tobacco industry could pose for the program and the issue



over the Suns and Cardinals contracts received wide media attention. This incident also led to media questions of the motives behind Ahlmer and Braddock's complaints as representing possible conflict of interests between them, as well as some of the legislative leadership in TUPAC, like Senator Jan Brewer (R-Phoenix), who opposed Proposition 200, and the goals of the tobacco education program.

Motivated by concern that at least half of TUPAC members were sympathetic to the tobacco industry interests, in April, 1996, CTFA created the Citizen's Commission on Tobacco Use Prevention. The Commission was formed by prominent members of the business and health communities. The purposes of this Commission was to be an independent "oversight body to ensure that the use of the tobacco tax revenues is timely and consistent with the original intent" of Proposition 200, passed by Arizona voters. It was expected that members of the Commission would become high profile advocates for the tobacco control program. The Commission never became effective as it did not recruit as many business leaders as it has anticipated. It was disbanded in less than a year after its creation.

### **The Media Campaign**

By December 1995, the \$5.5 million media contract was awarded to Riester Corporation, an advertising firm in Phoenix. In the RFP [62] ADHS identified the "target population of the media program during the first year of the contract shall be pre-adolescents and adolescents, pregnant women and their partners"(Page 5-1) with the goal of preventing tobacco use in any form. ADHS conveyed to all media applicants a message stating that it wanted a campaign that would be unique, different from the campaigns in California and Massachusetts, where the media campaigns had favored exposing the tobacco industry tactics to lure new smokers and the dangerous effects of addiction and second-hand smoke.

Riester conducted research about knowledge, behavior and attitudes regarding tobacco (focus groups and interviews) with 60 youths between the ages of 8 and 17, and developed the tag line for the campaign: "Tobacco. Tumor Causing, Teeth Staining, Smelly, Puking Habit". A high profile media campaign (independent from the early campaign with the sports teams) started immediately, with several TV ads, as well as promotional activities in malls and community events. So far, the media campaign has been the most visible aspect of the program, with research showing that the media spots reached 76% recall among the general public after the first six months [63-65]. Merchandise (t-shirts, bandanas, etc.) with the tag line was also developed and distributed at events and made available to local tobacco control projects for purchase at cost. Another activity developed in conjunction with the media campaign was a 43-foot-long mobile interactive exhibit, mounted inside a Hummer, called the "Ash Kicker". The exhibit mimics a horror show, demonstrating to youth the dangers of tobacco use, for example, the entrance is through a walk-up tongue, in a mouth with rotting teeth and tumors. It is used in tours across the state, in schools, county and state fairs, rodeos, and other public events [66].

It is expected, as stated in the RFP, that as the local and statewide projects develop, the media's role will be coordinated with local activities. Nonetheless, one and a half year after the local projects had started, aside from the Ash Kicker tours, there has been no such coordination.

The evaluation of the media campaign, based on its quality from the advertisement perspective and not on its impact on reducing smoking incidence and prevalence, has been positive, with several other states and the Centers for Disease Prevention and Control requesting copies of the TV ads for distribution [67-69]. Despite the constraints established by ADHS to target only youth and pregnant women, the campaign could be potentially more efficient if it had addressed issues related to addiction, second-hand smoking and the role of the tobacco industry in recruiting young people to become smokers. It is too early to tell how successful the campaign will be at actually preventing tobacco use.

## Local Projects

The RFP for the local projects [70] stated that they were to “promote a comprehensive rather than a piecemeal approach to [tobacco use] prevention at the local level” (page 5-1), in agreement with the goals and objectives of the statewide tobacco use prevention strategic plan. Like the media campaign, the target population was limited to pre-adolescents and adolescents, pregnant women and their partners. Part of the local project activities was to develop a coalition of agencies to work together in tobacco control. This coalition would then develop the comprehensive plan for the locality, based on needs, priorities and resources. Services to be provided include school and community-based tobacco prevention and education, reduction of youth access to tobacco products, promotion of smokefree environments, and cessation services, a broad scope of services even within the constraints of the target population.

ADHS held informational sessions to assist groups from counties who were interest in responding to the RFPs. There were many instances in which County Boards of Supervisors at first did not support a local coalition’s intention to respond to the RFP, based on fear of retaliation from the tobacco industry, such as threats of lawsuits and expensive referendum campaigns.

By June 30, 1996 all but two counties in the state had a local project. Awards ranged from \$70,000 to \$1,517,000 (using a formula based on population of the county). Grantees were provided with two training session to ensure that they had the tools and knowledge to conduct their projects. Given the differences in previous experience in tobacco control among the grantees, the training sessions also served as a forum to exchange expertise. Grantees have to provide ADHS with an evaluation of their activities and programs. The report [65] of the first four months of funding (February through June, 1996) shows that the activities that have been most developed were the creation of coalitions, tobacco use prevention, mainly in schools, some cessation, and barely any progress toward the promotion of smokefree environments. Indeed, at the TUPAC meeting in June, 1997 the issue of the lack of activities regarding the promotion of smokefree environments was brought up by TUPAC member Don Morris. Since it was not part of the agenda, Morris distributed a memo urging all those involved in the tobacco control program to encourage the local projects to move forward on all aspects of a comprehensive tobacco control program [71]. On that same memo, Morris questioned the *de facto* ADHS policy of not criticizing the tobacco industry, exposing its tactics to addict new smokers. Dillenberg reportedly did not receive Morris’ comments and memo well, stating that it was his policy choice not to criticize the tobacco industry.<sup>9</sup>

There are two problems with the local projects’ launching and implementation. One is that despite ADHS provision of training in the most current strategies on tobacco control, several local project coordinators/members have little or no experience in tobacco control, and may need assistance in addition to the statewide training, and staffing problems at AzTEPP may interfere with its ability to provide this assistance. The second problem is related to the lack of coordination, at least in the first year, between the media campaign and the local projects. This lack of coordination may lead to state and local level campaigns with conflicting messages.

In several states, the tobacco industry has been actively using public records acts to distort local coalitions activities and accusing them of using public funds to conduct lobbying activities [12, 28, 72, 73]. Despite the fact that the tobacco industry has not any evidence of wrongdoing by local activists, its threats have a chilling effect on local coalition members. One ways of minimizing this problem and clarifying to all

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<sup>9</sup>California’s media campaign, which portrays tobacco industry practices to addict children and how it lies to the public has been under attack from the Wilson Administration, which tried to delay the production and release new advertisements and attempted to water down their message to protect the interests of the tobacco industry [23].

involved what a coalition and its members can and cannot do is for the Department of Health to distribute information in clear language explaining what is considered lobbying activities, and what is allowed under the law for those receiving state funds.<sup>10</sup> ADHS, through the RFP, encouraged its local projects to conduct public education and advocacy activities, but even before the local projects funds were awarded there was already a rumor that the tobacco industry was looking very careful, waiting the opportunity to accuse local coalitions of misusing state funds for lobbying. This industry strategy created a fear among several of the local project members, which translates in less effective actions in terms of raising community awareness for tobacco control. Despite numerous requests by CTFA, and the fact that ADHS staff received a wealth of information from other states (including ASSIST states), ADHS has not yet issued clear guidelines to its contractors regarding what activities are not permitted.

## **Evaluation**

The evaluation of the program has proven problematic. Despite efforts by Clift, Meister, and others, no baseline survey was conducted prior to the launch of the media campaign and the other components of the health education program to establish prevalence of tobacco use, as well as knowledge, beliefs and attitudes related to tobacco among the target population and the population at large. Originally, Meister and Clift thought about asking a consortium of the three public universities in Arizona to collaborate in a comprehensive evaluation of the program, both at baseline and ongoing evaluation. It was assumed that approximately 10% of the health education budget was going to be earmarked for evaluation, as it is standard in several similar programs. Meister and Clift realized that evaluation was a crucial component to the program and the one most likely to be attacked by the tobacco industry in order to discredit it. However, only 1% of the budget was assigned to evaluation, and the top levels of the Administration made it clear that all they were interested on was prevalence of tobacco use. The plan developed by the university consortium had a higher cost and did not proceed.

There were some data available through a Department of Justice Juvenile Survey. In 1993, this survey showed that 18.4% of children in grades three to six had tried cigarettes, up from 17.2% in 1991. ADHS, however, considered the data incomplete and not adequate to answer program evaluation questions because the survey only has four tobacco-related questions. There was also some information concerning adult smoking available through Arizona's Behavioral Risk Factor Survey (BRFS). Data from the BRFS showed that in 1993 adult smoking prevalence in Arizona is 26.7% for those with a high school education or less, and 14.3% for those with a college degree. Again, the data provided by BRFS is limited since it does not address knowledge, beliefs and attitudes toward tobacco use and tobacco education programs.

Each recipient of Proposition 200 funds had to have an evaluation component in its proposal, and the local projects were to conduct standardized process and outcome evaluations, but as of September, 1997, an evaluation plan for the program as a whole had not yet been established.

After a meeting of a panel of experts in January, 1996, the baseline survey instruments and protocol

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<sup>10</sup>In most states, the definition of lobbying is very narrow. It does not preclude any of the legitimate public health advocacy and educational activities, despite the tobacco industry's efforts to prove the contrary. Indeed, according to the Arizona Secretary of State, and the Arizona Revised Statutes §41-1231, the definition of lobbying is "attempting to influence the passage or defeat of any legislation by directly communicating with any legislator; or attempting to influence any formal rule making proceedings by directly communicating with any state officer or employee. It does not include: interagency communications between state agency employees; communications between a public official, public employee, public lobbyist and any state employee or any state officer except a legislator; or oral communications made by any person regarding a proposed rule, made in a public forum that is sponsored by a public body." (Lobbying in Arizona, Secretary of State, Page 2)

were discussed and by March, 1996 instruments and protocol were ready to be tested. A baseline survey was initiated in April, 1996, by the Epidemiology Division of ADHS (which also handles the BRFS and other statewide surveys). It is a comprehensive adult and youth survey, with a large enough sample (six thousand adults and six thousand youth, ages 10 to 17 years old) to provide detailed information by region as well as to detect small changes longitudinally. The survey addresses issues related to behavior, attitude, and knowledge regarding tobacco use and tobacco policies, including clean indoor air and smoke-free workplaces policies. The youth survey is taking longer than originally predicted because some parents have been reluctant in providing consent for their children to participate [74]. It is expected that results of the survey will be released in Fall, 1997. The adult survey was completed in September 1996, but its results will only be released in conjunction with the youth survey, as per direction of ADHS.

It is not yet clear as by whom, how and when follow-up surveys are to be conducted.

It will be impossible to quantify the full influence the media campaign, since it started in January, 1996, before the survey was conducted.

In October, 1996, CTFA released a study it had commissioned, with the support of the American Cancer Society, by Professor Timothy Hogan of the Arizona State University, on the "Impact of Proposition 200 on Cigarette Consumption in Arizona"[75], looking what was the impact of the tax increase on cigarette sales during the first year of the new tax, before any of the anti-tobacco education programs or media campaign were in place. The study concluded that there was an 8.4% reduction in cigarette consumption, representing 16 million fewer packs sold in the state between December, 1994 and December, 1995. The author states that this result is "consistent with the expected price elasticity of demand of cigarettes." The study also concluded that there was "no substantial increase in smuggling or other illegal tax evasion activities" and that there was no indication that cigarettes were being acquired at higher rates and cheaper prices in bordering states nor that there was an increase in cigarette sales in Indian reservations.

The lack of sound baseline data and plans for ongoing evaluation and surveillance raises concern about the Legislature's allocation of funds growing in the reserve account. Tobacco control advocates believe that without some evaluation results it will be more difficult to convince legislators to allocate to ADHS both the funds remaining in the "reserve account" (i.e. funds that have not been allocated yet but are earmarked to the account) and 100% of the new revenues that are earmarked to the Health Education Account (23% of the total revenue collected by the tax). Indeed, efforts to lift the allocation cap for FY 97 during the 1996 legislative session, and for FY 98, during the 1997 legislative session, failed. Legislators claimed that ADHS has not yet proven that it was capable of running program that is efficient and efficacious. The continuing failure of the Legislature to appropriate all the money Proposition 200 allocates to anti-tobacco activities means that the program will be more limited in scope and effectiveness than it could be.

### **Staffing Problems**

The tobacco control program has had staffing problems from its earlier stages. While Martha Clift was originally assigned to direct the program, it took her over six months to ensure that a minimum number of full time, civil service status positions would be granted to run the program. While the bureaucratic problems (aggravated by a departmental freeze on outside hiring) creating positions were being dealt with, Clift used contract workers to assist in the early parts of program development, such as writing the RFPs and setting the program structure. She was finally given approximately twelve full-time, civil service positions (approximately half of what she requested) and that include all range of employees (budget specialist, administrative assistants, media and public health professionals, etc.). By the end of 1995, in addition to Clift and her assistant, there were seven other full-time employees on board (some of whom have since left

the program). She was never able to fill all the vacancies in the positions created to run the program, including the position of evaluation coordinator. This lack of adequate staffing made getting the program up and running difficult, and the vacancies, persisting in the program's third year, continues to raise questions regarding ADHS's commitment to have an efficiently staffed and run program.

Martha Clift, who had received high marks from the health groups for her efforts on behalf of the tobacco control program from the start, was abruptly transferred to another unit within ADHS in August, 1996. Despite a widespread view among the health groups that Clift was being removed because she was too anti-tobacco, none of the health groups publicly protested this action. Even if public action from tobacco control advocates could not have kept Clift in charge of the program, it might have forced Dillenberg to replace her in a timely fashion with a qualified professional. A year after Clift's dismissal, in September 1997, the position has remained open, with an interim acting director working part time. ADHS authorities claim that the lack of a full time director has not disrupted the tobacco education and prevention program, and that it is proceeding as planned. Those in the tobacco control advocacy community claim that Clift's transfer weakened the program to suit the political demands of the tobacco industry. The interim director, supposedly to be a one to two month position, is Rosalie Lopez, who was the legislative liaison for the Governor with the Legislature on health affairs. There have been some complaints from tobacco control advocates in Arizona that Lopez is not responsive to their concerns and that her limited experience in tobacco control poses a problem in terms of guiding the program staff.

Dr. Joel Meister also left the direction of the Center (since 1996 called Bureau) for Health Promotion and Disease Prevention in January, 1997. He was replaced by Elizabeth Karabatsos, who reportedly has management experience, but no experience in the area of health, and was chosen to the post by Governor Symington.

On June, 1997, Dillenberg resigned as Director of ADHS. His resignation came at the same time as the removal of other high level ADHS administrators, related to the mismanagement of the state behavioral health system and the State Hospital. Dillenberg denies any relationship between his resignation and the removal of other officers, and claimed that this was a professional move, since he was applying for jobs in other states [76]. As of October, 1997 his replacement has not been hired.

It is important to note that since the inception of the program, staff, including Clift and Meister, were aware of a not-so-subtle threat that their actions had to be approved by higher level administration at ADHS and by the Governor's office.<sup>11</sup> This lack of freedom to apply one's best professional judgement for the public health in the area of tobacco control may be one of the problems at finding candidates to fill the vacancies, including the post of Program Director.

## **RESEARCH ACCOUNT**

According to Proposition 200 and HB 2275, 5% of the new revenues should go into a Research Account to sponsor research on the prevention and treatment of tobacco related disease and addiction. HB 2275 determined that the Arizona Disease Control Research Commission is responsible for administering the Research Account with funds transferred to it by ADHS. The Arizona Disease Control Research

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<sup>11</sup>In December, 1994, one month after passage of Proposition 200, Meister participated in a press briefing with CTFA, casually discussing what he thought the tobacco control program goals would be. One hour later he was called to the Governor's office, where he waited while Dillenberg and Governor Symington had a closed doors meeting. After the meeting, Meister was informed by Dillenberg that he had saved Meister job this time, but that he should be careful in his actions in the future [55].

Commission is an independent commission consisted of nine members appointed by the Governor and confirmed by the Senate (three members from the general public, three members from the medical community, and three members from the scientific research community) plus an executive director and administrative staff. The nine commissioners are appointed for three-year terms and may be reappointed. The Commission does not report to ADHS, but the Director of ADHS is Chairman of the Commission and a *ex-officio* member. ADHS transfers the funds from the Treasury to the Research Account but has no input on the choice of funding awards, which is done through a peer review process [77].

HB 2275 allocated 80% of the funds available for the Research Account for FY 1995, and the full amount of the tobacco tax funds allocated to that Account (5% of the total of the new funds collected) for the following years.

In the first year of the Research Account (FY 95, started on October, 1995), the Commission did not issue separate RFPs for funds from the tobacco tax, but rather included tobacco-related research in the RFPs that it had already released for unrestricted medical research (which was funded from sources other than the tobacco tax). This procedure was used for the sake of expediency. Since it was already October, 1995 to wait for approval of another round of RFPs would be time consuming and the Commission was concerned that the funding cycle would be over before awards could be made. Seventy-two proposals were received, and 36 projects were funded with approximately \$2 million from the Research Account. Awards were made based on scientific merit of the proposal and its relevancy to tobacco control and judged through the peer review process.

In the second funding cycle, the Commission had time to issue RFPs for projects dealing solely with tobacco-related research in all areas (medical, behavioral, policy, etc.), as opposed to the previous year strategy of adding the tobacco-related research to its medical research RFPs.<sup>12</sup> The majority of the research projects funded through FY 1997 address basic sciences and medical conditions related to smoking [77]. The small percentage of projects dealing with the behavioral and policy aspects of tobacco use are due to the lack of proposals in this area, rather than the Commission's policy. In an effort to remedy this problem, the Commission's RFP for FY 1998 list a comprehensive range of research areas from where proposals may be submitted [78].

The Research Account has been able to function with minimal political interference. As discussed later, there was one attempt, in 1997, to divert some funds from the Research Account for use in the construction of medical facilities, but this effort at diversion failed.

## **INITIAL IMPLEMENTATION OF THE HEALTH EDUCATION ACCOUNT: A SUMMARY**

The initial phases of implementing the Health Education Account provide important lessons. While attempts to divert tobacco tax moneys into the general fund failed -- largely because the Coalition that supported Proposition 200 remained united -- the Governor and Legislature refused to appropriate all the money. The net effect was a smaller, potentially less effective tobacco control program. Key decisions made by the administration of the program, mainly the limitation of the target population to youth and pregnant women, played well with tobacco industry strategy of opposing more effective measures such as clean indoor policies and comprehensive educational and media programs that point to the role of the industry in causing

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<sup>12</sup>The Commission was going to end in 1996 since it no longer had designated funds. With passage of Proposition 200 the Commission was maintained by the Legislature to manage the Research Account of the tobacco tax funds. Therefore, the Commission's focus now is entirely the management of grants for tobacco-related research [37].

addiction and disease, and the dangers of second-hand smoke. The intense lobbying by the tobacco industry can not be neglected, and certainly played a role in the decisions that were made in the early phases of the program development.

The health groups responded to the perceived capture of at least half of TUPAC by tobacco interests by creating their own citizens' commission, but did not follow through to turn this commission into a major political force to defend Proposition 200. They also did not respond effectively to the removal of Martha Clift as director of the tobacco control program and the delay in finding her replacement. The lack of a full time leadership in the program to coordinate all of its activities, in addition to the evaluation problems discussed earlier, may lead to operational problems and eventually provide grounds for attacks on the program by the Legislature and the tobacco industry. In addition, they compromised over the target population of the program and the media strategy of not exposing tobacco industry tactics. They compromised with the belief that it would be expanded after one year. Some revisions are expected in 1998, but it is not yet clear what changes will be made and how they will be implemented.

These events highlight the importance of decisions made early in the implementation of Proposition 200. As has been observed in California and Massachusetts [9, 42], compromises made during the early implementation phase of the initiative tend to become permanent and are very hard to undo.

## **BATTLES OVER THE SCOPE AND BUDGET OF THE HEALTH EDUCATION PROGRAM**

The expenditure caps imposed by HB 2275 had the effect of reducing the tobacco education program ability to be effective. The \$15 million allocated for FY 1997 (12 months) was a proportional reduction in funds available to the program. This "reduction" was caused not only by the longer period of time in which funds were to be used, but also by the larger number of projects to be funded (local projects, clearinghouse, etc). The media campaign was the part of the program that immediately felt the effects of the change in funds allocation within the Health Education Account. In FY 1996, \$5.5 million of the \$10 million allocated to the Health Education Account went to the media campaign. In FY 1997, with more programs to fund over a 12 month-period, less money was available for the media campaign.<sup>13</sup>

The Arizona Hospital and Healthcare Association has united with the voluntary health organizations and advocacy groups to protect appropriation of funds as determined by Proposition 200. As discussed earlier, in 1996 Legislative Session, AzHHA refused a \$16 million diversion from the Medically Needy Account in order to maintain the integrity of the intent of Proposition 200 as approved by the voters.

One of the major forces against the program has been Governor Symington's office and some members of the Senate. Indeed, two of Symington's staff have their own political consulting and public relations firm that represented the tobacco industry [37]. Through Symington, and his influence in ADHS decisions, tobacco industry representatives managed to limit the scope of the program and the strategy of the media campaign, as well as create problems related to staffing and evaluation. All these actions contributed to hinder the effectiveness of the program. The health groups were not effective in countering the Governor's influence designed to reduce program effectiveness. In addition, the health groups failed to recruit allies at the Senate, where most "roadblock" amendments were inserted into legislation that would further complicate the implementation of the tobacco control program and the appropriation of the tobacco tax money as determined in Proposition 200.

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<sup>13</sup>There were funds to pay for four months of media campaign. As discussed later, in the 1997 legislative session, HB 2147 (Sue Gerard, R-Phoenix), provided an additional \$10 million to the health education account, retroactive to the 1996-1997 budget.

During the 1996 Legislative Session (January-April, 1996), health groups and their allies attempted to lift the spending cap on the anti-tobacco program and broaden its scope.

## **LEGISLATIVE SESSION 1996**

There were two main tobacco-related bills discussed in the Arizona Legislature in the 1996 session (January to April 1996): HB 2129 and SB 1384.

Sue Gerard (R-Phoenix) introduced House Bill 2129, which started to open the media campaign to the adult population by allowing it to address the "correlation between tobacco use and strokes". This measure was supported by CTFA, and it was perceived as a way to force Dillenberg and ADHS to broaden the target population of the media campaign. (As discussed earlier, ADHS established the target population to be pre-adolescents and adolescents, pregnant women and their partners.) HB 2129 also relaxed the restrictions on who can be contracted to receive Proposition 200 funds, and allowed for the use of up to 90% of the Health Education Account funds for anti-tobacco programs (as opposed to setting a dollar amount cap of \$15 million). It passed the House Health Committee, the House Floor, and the Senate Health Committees, but it did not get to the Senate floor (Appendix Tables A5, A9). Later, Gerard introduced HB 2263, also attempting to include adults as a target group of the tobacco control program. This bill passed the House but died in the Senate Health Committee (Appendix Tables A5, A9).

Senate Bill 1384, sponsored by Senator Thomas Patterson (R- Phoenix, at that time Senate Republican Leader) and supported by the tobacco industry, was framed as a youth access bill. It was written as a tobacco sales licensing bill, and prohibited sales of tobacco products to minors. SB 1384 addressed issues such as checking for identification at point of sales, "sting" operations (compliance checks), restricted the placement of vending machines to areas not accessible to minors, or otherwise required the installation of locking devices. The preemption language addressed the advertisement and promotion of tobacco products, eliminating the ability of local governments to act in these areas. It also preempted cities and counties' ability to restrict smoking in bars or to prohibit the placement of cigarette vending machines in bars.

A co-sponsor of SB 1384, Senator Stan Barnes (R-Mesa), suggested an amendment, which was approved, excluding from preemption cities that had tobacco control ordinances stricter than the provisions of the bill and that were passed prior to April 1, 1996. The grandfather clause was included clearly to protect the ordinance approved in March, 1996 by the voters of the City of Mesa, Barnes' district.

Senate Bill 1384 was presented as a means for Arizona to comply with the Synar Amendment. The Synar Amendment is a federal law passed in 1992 mandating states to reduce youth access to tobacco products. It ties the release of federal drug funds to states' compliance with the Amendment. It turned out that the Synar Amendment did not require Arizona to pass additional legislation, since Arizona already complied with the Amendment. Nevertheless, the issue of compliance with the Synar Amendment, and the implied threat of loss of federal monies, had the effect of worrying several legislators about whether or not Arizona was in compliance with the Federal mandate regarding youth access to tobacco products, and whether or not federal funds were in jeopardy.

Senate Bill 1384 serves as an example of both similar bills introduced in the following legislative sessions and of the tobacco industry strategy of passing statewide preemption language disguised as youth access bills.

The Coalition for a Tobacco Free Arizona opposed SB 1384 and launched a letter writing campaign, sending letters to voters as well as to legislators, urging them to oppose the bill. CTFA was supported in its efforts by Americans for Nonsmokers Rights who also addressed letters to the Legislature explaining the



negative impact that preemption of local tobacco control has on tobacco control as a movement.

The Coalition also began an educational campaign with the press, the public and the legislators, explaining that tobacco control matters are better resolved at the local level, therefore, state preemption in any form is in conflict with good tobacco control policies. The educational campaign bore fruit. *The Arizona Republic* ran an editorial against SB 1384 based on the principle that preemption of any kind was bad policy and the media generally supported the anti-preemption position [79-82].

The tobacco industry responded by claiming that the measures were actually anti-tobacco and rallied the senior population of Arizona to cry out, in a unified voice, that we "Must pass this bill to protect Arizona's children from access to tobacco". Legislators reported floods of calls from elderly constituents in support of this bill on those grounds [83]. SB 1384 passed the Senate, by a 16-14 vote (Appendix Table A6).<sup>14</sup>

When SB 1384 reached the House, the then-Speaker of the House, Mark Killian (R-Mesa) tried to propose amendments to eliminate preemption language and turn the bill into essentially a tobacco retail licensing bill. Haley Barbour, then Chairman of the Republican Party, personally called Killian to discourage him from killing SB 1384<sup>15</sup>. The bill passed the House Commerce and Rules Committees (Appendix Table A7 and A8). When Killian did not succeed in eliminating preemption language and despite the political risks of killing a bill sponsored by the Leadership of the Senate, he killed SB 1384.

Health advocates, such as Don Morris from ACAS, and the voluntary health organizations' lobbyist, Kevin DeMenna, worked closely with Speaker Killian, explaining to him the health advocates position of refusing preemptive legislation in tobacco control. Speaker Killian, who in the previous legislative session had already stopped one preemptive bill, continued to be a strong opponent of preemption language in a tobacco control bill.

## **LEGISLATIVE SESSION 1997**

There was no doubt that in 1997 the tobacco industry would find ways to introduce preemptive legislation again. Two main bills were introduced in the House HB 2239 (Hart, R-Kingman) and HB 2240 (Hart, R-Kingman). These were similar bills dealing with preventing youth access to tobacco products and licensing of tobacco products sales, and included preemptive language related to the marketing and sales of tobacco products, including vending machines. The Coalition for Tobacco Free Arizona, now reinforced with the coordinator of Project Rolling Thunder (a program to pass local tobacco control ordinances discussed later), added by the efforts of ACAS, mounted a grassroots campaign to kill both House bills and any Senate bill in committee. Their campaign was successful.

Despite these successes, preemption was not yet out of the picture. It came back as a "strike all"

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<sup>14</sup>This situation is similar to a campaign the tobacco industry (led by Philip Morris) ran in California in 1994, when it attempted to secure passage of a pro-tobacco law through the initiative process by representing it as an anti-tobacco measure. Health groups successfully educated the public about the true nature of this initiative, known as Proposition 188, and the voters defeated it [84].

<sup>15</sup> In the 1996 election cycle, when Barbour was chair of the Republican Party, Philip Morris and RJR Nabisco were the party top contributors [85]. No longer chair of the Republican Party, Barbour is now a lobbyist with the firm Barbour, Griffith & Rogers, who represents the tobacco industry [86].

amendment in a property tax bill, HB 2456 sponsored by Joe Hart (R-Kingman). HB 2456 became a licensing and youth access bill with preemption language and it passed out of the Governmental Operations Committee in the House. On the House floor an amendment proposed by Andy Nichols (D-Tucson) eliminating preemption language was approved by one vote. This bill was sent to the Senate Reform Committee, chaired by Senator Tom Patterson, where it died.

Another important force in the preemption fight in 1997 was the activities being developed in Tucson. Local tobacco control activists in Tucson (including Project Full Court Press and Non-Smokers, Inc.) were working on a youth access bill that would have been preempted by any of the bills being discussed at the state legislature. The Tucson ordinance included banning self-service displays of tobacco products and merchant licensing and was stronger than the preemptive bills proposed at the state level. Local advocates in Tucson rallied youth to go to the state capitol and meet with the Legislature, and to participate in public hearings. On March 3, 1997 the Tucson City Council passed the ordinance at a special session and it became law, effective immediately. This action by advocates in Tucson provided strength in opposing preemption at the state level.

For a third consecutive year, and despite the tobacco industry's best efforts, preemption, disguised as youth access legislation, failed in Arizona, because of the combined efforts of professional lobbying, advocacy groups, and the grassroots movement.

The health groups did succeed in getting more, but not all of the health education funds released in the 1997 session of the Legislature. Sue Gerard (R-Phoenix) introduced HB 2140 increasing funds for the media campaign in order to prevent Arizona's youth from using tobacco. HB 2140 had the support of the Governor, who in a press release [87] urged the Legislature to pass it. In addition to increasing the funding of the Health Education Account from \$15 million to \$25 million, HB 2140 also lifted the restriction against non-profit organizations applying for Tobacco Tax Funds, and allocated 90% of the funds earmarked to the Health Education Account (23% of the total tobacco tax collected). It did not allocate the full 23% in order to create a reserve account to be used when tobacco tax funds revenues decreased. Through a Senate amendment, HB 2140 determined the expenditure of the balance in the Health Education Account in the three fiscal years, starting with FY 1997-1998 as follows: 80% in tobacco education programs, 20% in other health education programs dealing with teen pregnancy, nutrition, organ donation, among other things. That amendment was opposed by the health groups because it represented diversion of the funds for purposes other than determined by Proposition 200. Despite the Governor's support, HB 2140 was held in the Appropriations Committee. Nonetheless, most of the language in HB 2140 was incorporated as amendments to HB 2147, also sponsored by Sue Gerard, which originally dealt with allocation of funds to ADHS for primary care programs. Legislation appropriating the funds for anti-tobacco purposes only was signed into law by the Governor on April 21, 1997.

Among other things, HB 2147 retroactively increased the funds allocated to the Health Education Account to \$25 million for FY 1996-1997<sup>16</sup>, included non-profits among agencies entitled to apply for Proposition 200 funds, increased expenditures of the Health Education Account to 90% of the funds collected into that account, and per a Senate amendment stated that "monies from the tobacco tax and health education account shall not be expended for lobbying activities involving elected officials or political campaigns for individuals or any ballot measure"[88]. HB 2147 did not include HB 2140 language appropriating the funds

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<sup>16</sup>HB 2147 did not specify the time frame for expenditure of the additional \$10 million, and most of it is going to be spent in FY 1998. The General Accounting Office is withholding some of the funds, stating that they were meant to be used in FY 1997. As of October 1997, Representative Gerard was trying to explain to GAO that her intent was for the funds to be spent throughout the calendar year, and not to make ADHS spend \$10 million in 2 months.

accumulated in the reserve account. The scope of the anti-tobacco educational campaign continued to be limited to youth and pregnant women, as had been determined by ADHS.

## **BUDGET**

The Governor attempted to divert money from the Health Education Account several times, but, as of the 1997-1998 budget, had been unsuccessful.

The 1997 attempt at tobacco tax funds diversion was made through a legislative budget proposal. Approximately \$42 million were to be diverted from the tobacco tax, \$34.7 million from the Health Education Account and \$7.6 million from the Research Account to build a state hospital. An intense campaign waged by health advocates eliminated this proposal. Nonetheless, \$14.8 million will still be diverted from unexpended funds of the Medically Needy Account to build a health laboratory run by the state. This diversion is against the language of the initiative, which states that no funds are to be used for capital construction. As previously mentioned, the reserve in the Medically Needy Account result from failure of the Legislature to fully authorize the expenditures of 70% of the tobacco tax funds collected into the account. AzHHA is mounting a referendum campaign to “restore the voter approved intent of Proposition 200”, gathering public support to stop further attempts of diverting Proposition 200 funds to purposes not expressed in the initiative [89].

There have been limits set by HB 2275 on how much ADHS can use for health education, i.e. \$10 million in the first year and \$15 million in the second, and HB 2129 (in the 1996 Legislative Session), trying to increase this amount to 90% of the funds in the account, failed. Although HB 2140, in the 1997 Legislative Session failed, the language was reintroduced in HB 2147, as previously discussed, and the 1998 budget raised the amount authorized to the Health Education Account to 90% of the total amount collected into the account, and retrospectively increased the 1997 cap from \$15 million to \$25 million. As of Fall, 1997, there is \$37.2 million in the health education reserve, and \$66.5 million in the Medically Needy Account (Table 3).

## **TOBACCO INDUSTRY INFLUENCE**

As it has been described [40, 41, 44, 72, 73, 90, 91], the tobacco industry attempts to influence the outcome of legislative action in tobacco control through lobbying as well as campaign contributions to members of the legislature. In Arizona, it is no different. Despite the difficulties in tracking the degree of influence and the amount of contributions, given the campaign finance and lobbying laws in Arizona, the tobacco industry presence is clear.

### **Tobacco Industry Campaign Contributions**

The campaign finance laws in Arizona require that public office candidates’ committees be registered with the Secretary of State. Political Actions Committees (PACs) that contribute money to a candidate’s campaign must also register with the Secretary of State. Contributions made to campaigns such as a ballot proposition can be made by committees and groups which are not registered as PACs in the state.

There are limits on the amount a candidate can receive from both individuals and committees in an election. The value of this limit is adjusted biannually, according to the Metropolitan Phoenix Consumer Price Index. The limits, as of January of 1997, are shown in Table 5 [92, 93].

Philip Morris and US Tobacco are the only tobacco companies which have registered PACs with the Arizona Secretary of State to date. Thus, except for contributions made to ballot initiatives by other tobacco

companies, these are the only two groups whose direct campaign contributions can be monitored. We did not attempt to collect campaign contributions from groups that are known to have ties with the tobacco industry given the difficulty in attributing all of their contributions as tobacco industry contributions. Nonetheless, it is important to keep in mind their potential to influence the Legislature to favor tobacco industry interests. Some of these groups are: Arizona Restaurant Association, Licensed Beverage Association, Arizona Retailers Association, and Whiteco (a billboard company).

In addition to the limitations imposed by Arizona campaign finance laws, most electoral campaigns in Arizona, with few exceptions, are decided in the primaries and do not require large sums of money. This situation reinforces the notion that attempts to influence the legislature would be more through lobbying efforts than through campaign contributions. These lobbying efforts include both meetings with key legislators in order to influence their decision as well as contributions (monetary and gifts) that lobbyists make on behalf of their clients.

**Table 5: Arizona Campaign Contributions Limits, January 1997**

	Local offices	Statewide Offices
Individual's Contributions to a Candidate	\$300	\$760
Political Committee's Contribution to a Candidate	\$300	\$760
Committees Certified by the Secretary of State to give at the Upper Limit	\$1,510	\$3,790
Combined Total from All Political Committees other than Political Parties	\$7,560	\$75,610
Nominee's Total From Political Party and All Political Organizations Combined	\$7,560	\$75,610
Candidate's Obligated or Contributed Personal Monies	\$11,840	\$23,670
Total Contributed by and Individual to Candidates and Committees Who Give to Candidates		\$2,820 in a calendar year

Source: Arizona Secretary of State, 1997

From Appendix Tables A1 to A4, it is clear that the amount of money the tobacco industry officially contributes to legislators campaigns in Arizona is limited when compared to campaign contributions made in other states [41, 72, 73]. For example, in 1996, Philip Morris did not make any contributions. It is nonetheless clear to those involved in tobacco control advocacy in Arizona that tobacco industry money is used to interfere with the development of tobacco control policy.

### **Lobbying**

Lobbyists and their employers have to be registered with the Secretary of State. Lobbyists can contribute to candidates' campaign and political parties and are required to report these expenditures. However, the amount a lobbyist or a lobbying firm receives from a client does not have to be disclosed. Further, no public disclosure need to be made as to in behalf of which client each contribution was made. Therefore, although it is known who are main paid lobbyists for the tobacco companies in Arizona (Table 6), it is not known exactly how much the tobacco industry expends lobbying the Arizona Legislature and public officials both in the form of payment to lobbying firms as well as contributions these firms and their employees made to candidates on behalf of the tobacco industry. It is possible however to track some of the

expenditures (gifts, dinners) made by lobbyists on behalf of their tobacco industry clients.

Another difficulty in tracking tobacco industry lobbying expenditures in Arizona is that, as in other states, lobbyists for the industry are also lobbyists for health care organizations and groups (Table 6) [94]. Therefore, when a campaign contribution is made, or a meeting between lobbyist, and legislator or officeholder takes place, it is not known on behalf of which client the action was taken. Nonetheless, it is well known that those meetings take place all the time, either at the legislators office, or in other places, such as sports arena and basement rooms at the Capitol [35, 95-98].

A report by Arizona Citizen Action [99], a political watchdog group, on lobbying practices in Arizona, show that tobacco lobbyists have provided legislators with campaign contributions, gifts(dinners, tickets for sports events, golf weekends), and in-kind donations. It reports that in the 1995-1996 election cycle, tobacco industry lobbyists contributed \$31,140 to the Arizona legislature [99]. The limitation of the report is that it did not link the gifts with Legislators’ voting records in tobacco-related issues. Some of the legislators mentioned in the report stated that the Arizona Citizen Action report was exaggerating the importance of those gifts. Both legislators and Don Isaacson, a lobbyist for the Tobacco Institute, claimed that donations are made on behalf of a variety of clients and it was not accurate to attribute all contributions to the tobacco industry [99, 100]. The campaign finance and lobbying disclosure laws in Arizona are too weak to permit a clear assessment of the relationship between tobacco industry money and legislative behavior. Nonetheless, the influence of tobacco lobbyists in the Legislature is well known and has been the topic of several media articles [35, 96-98].

**Table 6: Tobacco Industry Lobbyists/ Lobbying Firms Registered in Arizona (1997-1998)**

<b>Lobbyist</b>	<b>Client</b>	<b>Health-Related Organizations Clients</b>
Michelle Ahlmer (DL)	AZ Retailers Assn	
Pam Inmann (LFC)	Philip Morris Inc.	
Law Offices of John Mangum (DL)	Philip Morris Inc.	AZ Association of Chiropractic
Rip Wilson (LFC)	Philip Morris Inc.	AZ Association of Chiropractic
Philip MacDonnell (DL) (1)	RJReynolds	
Fennmore & Craig PC (DL)	Smokeless Tobacco Council	Az Ophtamological Society
Ridge & Isaacson PC (DL)	Tobacco Institute	Mercy Healthcare Arizona Inc., Ventana Health Systems Inc.
Michael Williams (DL)	US Tobacco	United Healthcare of Arizona

1) Also lobbyist for Az Licensed Beverage Association, Az Wholesale Beer and Liquor Association.

Source: Arizona Secretary of State, 1997

### **Tobacco Policy Scores**

A “tobacco policy score” for each member of the 1995-1996 Legislature was compiled (Appendix Tables A5 and A6). The score was obtained from polling five individuals knowledgeable about the Legislature and tobacco policy on a scale of 0 to 10. A score of 0 represented an extremely pro-tobacco industry legislator and a score of 10 represents an extremely pro-tobacco control legislator. The average for each legislator is reported. Also reported is the legislator’s vote in a few tobacco-related bills that came to debate in the 1996 Legislative session (SB 1384, HB 2129, HB 2263).

Senators John Greene (R-Phoenix) and Randall Gnant (R-Phoenix) had the lowest policy scores in the legislature, 0.4 and 0.8, respectively. Senator Mary Hartley (D-Phoenix) and Assembly Members Andy Nichols (D-Tucson) and Susan Gerard (R-Phoenix) had the highest policy scores in the legislature, 9.8, 9.6, and 9.4, respectively.

The tobacco policy scores did not significantly differ between Assembly Members and Senators (Assembly: mean 5.2, standard deviation 2.4, n=60; Senate: mean 5.0, standard deviation 2.8, n=30;  $t=.33$ ,  $p=.73$ ). Republicans had significantly lower tobacco policy scores (more pro-tobacco industry) than Democrats (Republicans: mean 4.7, standard deviation 2.5, n=47; Democrats: mean=5.9, standard deviation 2.5, n=33;  $p<.001$  ).

When comparing the tobacco policy scores with the floor votes of SB 1384, a preemptive bill, the mean score of those voting no (an anti-tobacco vote) is 6.73 (standard deviation 2.44, n=14). The mean score of those voting yes (a pro-tobacco vote) is 3.51 (standard deviation 2.22, n=16). There is a significant difference between those means ( $p<.05$ ).

When comparing the tobacco policy scores with the floor votes of HB 2129, a bill that would expand the scope of the tobacco education program, the mean score of those voting no (a pro-tobacco vote) is 4.39 (standard deviation 2.33, n=8). The mean score of those voting yes (an anti-tobacco vote) is 5.31 (standard deviation 2.46, n=51). There is not a significant difference between those means.

## **ARIZONA'S LAWSUIT AGAINST THE TOBACCO INDUSTRY**

In May, 1996 Arizona's Attorney General Grant Woods (Republican) declared that he was considering joining other eight states and filing a lawsuit against the tobacco industry to recover medical care costs for treatment tobacco-related diseases. Woods would be the first Republican Attorney General to file such a suit. The Speaker of the House, Mark Killian (R-Mesa), expressed support for the suit, but Governor Symington opposed the idea [101]. In June, 1996 Woods officially announced his intention of filing a suit, seeking approximately \$500 million (\$300 million in reimbursement of health care cost incurred in the past and \$200 million to cover future expenses), as well as asking tobacco companies to stop advertising to children [102]. The suit was filed in August, 1996 with the Maricopa County Superior Court.

In October, 1996, Governor Symington ordered Woods to drop the lawsuit against the tobacco companies. The day prior to Symington's announcement, he met with then Republican Party Chairman Haley Barbour, who was on a funding-raising trip to Arizona. Offices of both Symington and Barbour deny that there is any connection between the meeting and Symington's decision. Despite the denials, the press made a strong point of linking the two facts [103-105]. Symington admitted to have met with tobacco industry lobbyists in September 9, 1996, but deny any relationship between that meeting and his decision, even though tobacco industry representatives admit that they were trying to convince the Governor that the state should drop its lawsuit [106].

Symington claimed that the costs involved with the suit were not in Arizona's taxpayers best interest, and that it was better to fight tobacco use with education campaigns. Symington opposed the 18% contingency fee Woods agreed upon with the pool of private attorneys that would lead the suit (one of the smallest percentages of all the suits filed throughout the country).

Woods was forced to drop Arizona Health Care Cost Containment System (the state's Medicaid program) from the suit, but vowed to continue it based on other charges, such as consumer fraud and racketeering, as well as representing the citizens of Arizona and not AHCCCS. Nonetheless, dropping AHCCCS as a plaintiff made Woods case weaker. Philip Morris attorneys "issued a statement applauding

Symington.”[105] The director of AHCCCS, John Kelly, who had initially agreed to cooperate with the lawsuit, stated that to assist with the lawsuit would be an administrative burden to AHCCCS. In a September confidential memo to the Governor (that surfaced 6 months later), Kelly argued that the lawsuit, if leading to a decrease in smoking by sending the message “that smoking is deadly”, would threaten the tobacco tax revenues of AHCCCS. Kelly suggested that it was best for Arizona to wait for the results of other states’ lawsuits, and if they were successful, then proceed with similar suit [107].

In November, Woods amended the suit to add contribution to delinquency of minors as one of the charges, and seeking to recover the money earned with illegal sales of cigarettes to minors [108]. As of September, 1997 there had been no resolution of the lawsuit, either a settlement or a trial.

## **LOCAL TOBACCO CONTROL IN ARIZONA**

After the passage of the state clean indoor air law in 1973, most of the tobacco control activity in Arizona focused at the local level, where clean indoor and youth access ordinances began to pass an increasing rate, mainly in the late 1980s (Tables 1A & 1B). Most of these local successes were obtained by advocacy groups (both statewide ones, such as Nonsmokers, Inc. and ACAS, and local advocacy groups, and more recently, with the help of CTFA) working closely with City Councils and Board of Supervisors throughout the state. In a few instances, the issue was taken to the ballot for the public to decide. As elsewhere [28, 46, 109], the tobacco industry opposed many of these ordinances through the creation of front groups and the financing of opposition campaigns, particularly in the case of referenda. Following a summary of the local tobacco control infrastructure not funded by the state, we will discuss two ordinances, Flagstaff and Mesa, that exemplify the struggle that accompany tobacco control efforts at the local level.

### **Project Rolling Thunder**

The effort to enact local tobacco control ordinances was accelerated by a Coalition for Tobacco Free Arizona project developed in the Summer of 1996, Project Rolling Thunder. Project Rolling Thunder has two main priorities: to fight state preemption laws that would strip localities of their power to pass their own tobacco control laws, and to assist local tobacco control advocates to prepare and pass tobacco control ordinances. It is supported by a \$60,000 grant from the National Center for Tobacco-Free Kids, \$50,000 capacity building grant from St. Lukes Charitable Health Trust, and by the voluntary health organizations, which are members of CTFA [110]. In addition to fighting statewide preemption, another challenge to Project Rolling Thunder is to educate local coalitions about their role as advocates.

### **Full Court Press Project**

The Robert Wood Johnson Foundation awarded CTFA a five-year (starting in Fall, 1995) \$3.17 million grant to develop and implement a youth tobacco use reduction program in Tucson. The Full Court Press Project is administered by the American Cancer Society in partnership with the American Lung Association, Nonsmokers, Inc., Pima Prevention Partnership, Inc., the Tucson Police Department, the University of Arizona, and the youth of Tucson. The overall goal is to reduce teen tobacco use in Tucson by 10% by the year 2000, with a focus on advocacy.

To achieve this goal, the Project has developed several activities targeting youth with the schools, developed a quit smoking program specifically for the target age group conducted surveys to assess tobacco use by teens in Tucson, and spearheaded the effort to pass a strict licensing/youth access ordinance. All programs developed by the Full Court Press Project involve input from the teen population of Tucson [111]. Full Court Press trains youth to become advocates for change, to be spokes people in raising awareness for the tobacco problem, including testify at city, county and state hearings, and to do all the media advocacy

themselves.

Full Court Press conducted baseline surveys of youth smoking prevalence and access to tobacco products. The prevalence survey shows that 20% of middle school and 29% of high school students in Tucson reported smoking one or more cigarettes in the month preceding the survey. The youth access survey shows that youth were able to purchase cigarettes illegally from 36% of the vendors surveyed [112-114]. The activities of Full Court Press are independent of the ADHS program, but it attempts to coordinate its activities with the tobacco control activities developed by ADHS at the local and state level are always made, not always successfully.

### **The City of Flagstaff Ordinance**

In 1988 a group of concerned citizens brought the issue of clean indoor air to the Flagstaff City Council and as a result of their efforts an ordinance related to restricting smoking in public places was passed in Winter 1988-1989 and took effect in June, 1989. The ordinance made public places smokefree, but restaurants were given voluntary compliance status, i.e. they were free to choose their own smoking policy, but it was required that the policy (smokefree, separate smoking or non smoking sections, or smoking allowed everywhere) be posted at the entrance using standard signs provided by the city.

A year later, the City Council was approached again by citizens that desired expansion of the Clean Indoor Air Ordinance to include smokefree dining. After intense debate that lasted throughout most of 1991, the ordinance was amended in December, 1991 to include restaurants as smokefree environments. The restaurants organized to oppose the amendment with the support of the Arizona Restaurant Association and the tobacco industry. At a November, 1991 hearing of the issue by the Flagstaff City Council, the Tobacco Institute paid for the travel expenses of Richard Silberman, from Healthy Buildings International in Virginia, to attend the hearing. Healthy Buildings International is a tobacco-industry supported organization which allegedly specialty is clean indoor air and ventilation system. Its officials have, in several instances, testified in favor of the tobacco industry, denying the dangers of tobacco smoke in the environment [115, 116]. Mr. Silberman testified that his company has concluded that tobacco smoke “is seldom a major contributor to indoor air pollution” [117].

While the debate over the amendment was going on, a movement for a referendum on the smoking ban also started. The movement was lead by Jerry Springer, a retired car dealer who said he opposed the City’s interference with private businesses. Springer failed to qualify his referendum for lack of enough valid signatures. The restaurant owners did not get involved in the referendum campaign. They stated that if the amendment was approved, they would work to elect City Council members who would oppose the ban at the a City Council election scheduled for March 3, 1992. The amendment was approved 4-3 on December 11, 1991 and its provisions were to take effect in June, 1993.

When a new City Council took office in March, 1992, two newly elected members who used their opposition to smokefree dining in their campaign were seated and in April, 1992, the Council rescinded the smoke-free amendment approved the previous December. Supporters of the smokefree restaurants started to organize a referendum for the November, 1992 ballot, with the goal of overruling the City Council rescission of the smokefree restaurant amendment.

At this point, a group called Flagstaff United for Smokefree Public Places was formed by those citizens concerned about clean indoor air. The tobacco industry supported another group, Friends for Flagstaff, to counter any efforts to strengthen the ordinance. The restaurants also opposed amendments to the ordinance that would include their establishments. Despite an intense opposition from restaurants, the media, and from Friends of Flagstaff, Flagstaff United for Smokefree Public Places placed the revised



ordinance to make restaurants in Flagstaff smokefree on the November 6, 1992 ballot. It was approved by 57% of the voters in the November, 1992 election.

The provisions, similar to the December, 1991 amendment, were to take effect as originally planned, in July, 1993. No further action was taken to repeal the ordinance, and in July, 1993 Flagstaff restaurants became smokefree. The language included a one-year review, introduced to appease fears that the ordinance would bring loss of businesses and that it could not be changed if that proved to be true. A study of the economic impact of the ordinance showed no loss of revenues one year after its implementation [118].

In the one year review, given the lack of economic evidence that the smokefree ordinance had harmed restaurants, the public support for it, and the trouble free implementation, the City Council strengthened the ordinance's language, broadening the definition of restaurants by, for example, including as smokefree cocktail lounge in a restaurant unless the lounge is separated from the rest of the restaurant by a floor to ceiling wall and a door with a separate entrance, among other things.

### **The City of Mesa Ordinance**

In the Fall of 1995, Mesa physicians Dr. Clifford Harris, Dr. Leland Fairbanks, and Dr. David Nielsen created Mesa for Clean Air to mount a campaign to put a smoke-free public places initiative on the March 26, 1996 municipal ballot. The initiative was labeled Proposition 200 (although it is unrelated to the statewide Proposition 200, described earlier). The group resorted to the initiative process after the Mesa City Council rejected a clean indoor air ordinance three times and also refused to put the issue to the voters in a referendum. Mesa's Proposition 200 proposed 100% smokefree workplaces and public places, including restaurants, billiards halls, and most bars, such as those that are part of a restaurant. Bars that hold a Class 6 license (under Mesa licensing program there are several types of licenses, Class 6 being related to the sale of alcohol as the main activity of the establishment) were allowed to request exemption from the smokefree provision if they complied with the following requirements: the smoking area in the bar had to be completely separated from any other section or sections of the building by a "floor to ceiling physical wall, a closed door, and a separate, single-pass ventilation system."

Supporters of the initiative contacted the Mesa Chamber of Commerce, the Visitors' Bureau and the Restaurant Association, but did not gain their support. At that point they did not have funds to conduct a public education campaign and opinion polls. Thus, the initiative language was developed without any formally acquired information regarding the public and businesses support for such a strict ordinance. In addition, other experts in the area of tobacco control outside Arizona were not asked for their input regarding the potential controversies that could be caused by the initiative language. Such tactical oversight may have exacerbated the grueling battle that ensued between those supporting the ordinance and those opposing it.

The advocates in Mesa contacted the state voluntary health groups that had supported the statewide Proposition 200 campaign and asked for their support. Support was provided but the voluntaries wanted the campaign to be run as professionally as possible and did not want to invest in the campaign unless they felt confident on the possibility of victory. The voluntaries then hired Jack Nicholl (who had coordinated the state campaign) to assist and coordinate the Mesa campaign. Nicholl requested a local political campaign coordinator, which resulted in Mesa for Clean Air contracting with local political consultant, of Jessica Russell.

Early in the campaign, the Tobacco Institute expressed an expectation that the hospitality industry would organize against the initiative, stating that they might be willing to provide assistance. Indeed, with the financial help of the tobacco industry, an opposition committee was formed, the Mesa Freedom Committee, chaired by Ed Malles. The Tobacco Institute contributed \$181,650 (99.6% of the total contributed) to the

Committee (Table 7A). In addition, the National Smokers Alliance, a smokers’ rights group created by the public relations firm Burston-Masteller for Philip Morris, also formed its own local committee to fight the ordinance, contributing an additional \$16,500 to the opposition campaign.

**Table 7A: Campaign Contribution to Oppose Mesa's Proposition 200**

<b>Mesa Freedom Committee (Includes In-Kind Contributions)</b>	
<b>Organization</b>	<b>Amount</b>
The Tobacco Institute	\$181,650
Other (1)	\$790
<b>Total</b>	<b>\$182,440</b>
(1) Includes individuals, restaurants and other businesses.	

Source: City of Mesa Campaign Finance Report

Mesa for Clean Air raised \$45,240, from various health groups, ACAS, and individuals (Table 7B). Mesa for Clean Air expected to raise more funds from doctors and hospitals than it did. Most hospitals, who were benefitting from the state Proposition 200 funds did not want to get involved in local politics without knowing if there was a risk of jeopardizing their state funds.

**Table 7B: Campaign Contribution to Support Mesa's Proposition 200**

<b>Mesa for Clean Air (Includes In-Kind Contributions)</b>	
<b>Organization</b>	<b>Amount</b>
Arizonans Concerned About Smoking	\$6,000
American Heart Association	\$2,358
American Lung Association	\$1,358
American Cancer Society	\$3,858
American Hospital Association	\$1,358
Lutheran Healthcare Network	\$2,500
Peacock, Hislop, Stanley & Given	\$5,000
Tri-City Anesthesia Consultants	\$2,000
Farnsworth Development	\$2,000
Valley Lutheran Hospital	\$1,000
Clin-Path Associates, PC	\$2,000
Southwest Otologic Institute	\$1,250
Cliff Harris	\$3,554
Leland Fairbanks	\$2,500
Other (1)	\$8,505
<b>Total</b>	<b>\$45,240</b>
(1) Individuals and Organizations contributing up to \$1000.	

Source: City of Mesa Campaign Finance Report

In February, 1996, the Tobacco Institute lobbyist, Steven Duffy, who also represents the Arizona Licensed Beverage Association, filed suit against the city of Mesa, challenging the inclusion of Proposition 200 on the ballot [119]. The plaintiff, represented by Mr. Duffy, was Mesa resident, Mr. Ed Malles, Chairman of the Mesa Freedom Committee. The complaints were related to the form of the initiative that was circulated and signed, claiming that the full text of the statutes to be amended by the initiative were not included in the petition, and that the printing of the text of the initiative was not all in capital letters. The suit requested that Proposition 200 be omitted when the ballots were printed. The request was denied by the Superior Court of Arizona mainly on the grounds that the complaint was filed too late (February 5, 1996). The judge also determined that the complaints challenging the circulation if the petition lacked merit, since the initiative would replace the existing ordinance in its entirety, the printing of the full text of the ordinance was not necessary.

The proposition was approved with 55% of the vote on March, 1996.

Although the ordinance went into effect immediately after passage, both Proposition 200 proponents and city officials agreed that the intent of the ordinance was to take full effect on July 1, 1996, when enforcement would start. However, since the ordinance was in effect, warnings could be issued. The three months between passage and July were to be used to develop informational material for the public and businesses.

In May, 1996, a group of Mesa business owners filed suit in a U.S. District Court in Phoenix seeking to overturn the ordinance [120]. The suit was filed by Bill Brando, one of the Mayoral candidates defeated in the March election. The basis of the suit was the clause that grants businesses with a Class 6 liquor license the right to request an exemption from 100% smokefree mandate, stating that it was unfair to businesses with other types of liquor licenses.

The ordinance enforcement started in July, 1996. With few exceptions, smoking was not allowed in public places, workplaces, or any other place where there was a public gathering, such as entrance to buildings and movie theater lines. Several City Council members, based on the experience from Flagstaff, expected smokers to move in the direction of a recall of the March ballot results regarding Proposition 200. Some business owners (such as billiard hall owners) were already circulating petitions among their customers to file a protest against the ordinance, but not necessarily to recall the election results.

Supporters of the ordinance did not believe that the recall would move forward, since the ordinance was approved by majority of voters. In addition they did not think that an argument based on the alleged economic harm caused by smokefree restaurants would be grounds to qualify for the ballot and overturn the ordinance. Evidence from other cities demonstrated that smokefree ordinances were not bad for business [118, 121].

The 35 bars which were eligible for exemption from the smokefree ordinance generated controversy because other restaurants and bars felt they were not being treated fairly and would therefore loose business. However, the City Council was reluctant to amend the ordinance since it had been approved by a majority of votes. Hotels also tried to amend the ordinance to allow smoking in banquet, reception and meeting rooms, but the amendment was voted down by the City Council in July 15, 1996. On that same day, the City Council approved others changes to the ordinance, including a September 1 postponement for enforcement of the law for bars with Class 6 licenses to allow city staff time to develop ventilation guidelines. It turned out that the "single pass ventilation system" was not feasible in the Arizona heat, and the cost was prohibitive for businesses that would try to implement it. Another amendment approved was an exemption for public housing units, which were initially included in the ban.

At the July 15, 1996 hearing, Mesa business owners staged a protest, stating that they were being driven out of business. Supporters of the ordinance were also present at the hearing.

By the end of July, 1996 restaurant opposition to the smokefree ordinance was evident. Restaurant and bar owners were threatening a lawsuit (eight did file suit, claiming discrimination that favors Class 6 bars), some club owners declared their establishments private clubs, charging a symbolic membership fee in order to be exempt from the ban, and a petition drive was launched to place another proposition on the ballot, offering a weakened version of Proposition 200, giving businesses the option to declare themselves smoking or no-smoking, and requiring special ventilation for those who choose to allow smoking. The petition intended to place the "alternative" proposition on the ballot of March 1997, which required a special election, since elections were not scheduled until March 1998. The effort was headed by a businesswoman, Kat Gallant.<sup>17</sup>

Despite the conflict that some business owners were generating, Mesa residents seemed to be enjoying the ordinance, as evidenced by the fact that the majority of public complaints about the ordinance were not from Mesa residents, but from non-residents. In addition, despite the claim that smokers were favoring facilities in neighboring cities, there was the possibility that the inverse was also true, i.e. patrons that favored smoke-free environments were coming from neighboring cities to eat in Mesa. By the end of July the controversy was widespread, aided by the attention given to the issue by the media.

Business had proposed that the City Council grant more Class 6 licenses in order to decrease the discrimination against non-Class 6 establishments. The City Council voted against granting more Class 6 licenses, concerned that an increase in number of bars in the city would result. Nonetheless, in August the State Liquor Board approved the transfer of one such license, despite zoning laws, providing a precedent for other restaurants to apply for license transfers.

In September, 1996, the Finance Department of the City of Mesa released the first part of a study it had commissioned on the economic impact the smokefree ordinance had on the city for the months of July and August, 1996. The three-stage study was conducted by Applied Economics.<sup>18</sup>

The first stage [122] constituted interviews with selected establishments, chosen by the City staff. Only business that complained about the ordinance were included in the survey, yielding a heavily biased sample. The study first surfaced publicly when the National Smokers Alliance (NSA) provided a copy of this economic study to the County Council of Montgomery County, Maryland, which was considering an ordinance similar to Mesa [123]. The study was provided as evidence of the harm of such ordinances, with no mention made regarding the methodological flaws that tainted the findings. The NSA in Maryland appeared to have had access to the study before it was generally available in Mesa, Arizona. Not surprisingly, the study reported that those businesses surveyed indicated they were losing business, principally due to a decrease in alcohol sales. Business owners also complained about poor enforcement of the ordinance by the city, and called for a major educational campaign informing the public about the ordinance. Businesses that were complying with the ordinance felt that they were being discriminated

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<sup>17</sup>Ms. Gallant, who had run and lost for Mayor of Mesa, was at first not taken seriously by tobacco control advocates. Ms. Gallant is the owner of a franchise of Fantasy's Mens Hair Design, a hair salon where attendants cut men's hair in lingerie. Nonetheless, with the financial support of the tobacco industry, she was able to gather the support of a few other business owners in Mesa to mount the opposition campaign to Mesa's ordinance.

<sup>18</sup>This firm has links to the accounting firm Coopers & Lybrand, which provides services to Philip Morris, and has in the past criticize economic impact studies that have shown no loss of businesses with smoke-free policies.

against, and called for a revision on the exceptions allowed in the ordinance. Another suggestion was that the city start a public relations campaign to attract non smoking customers from neighboring cities. The fact that Mesa is part of a large metropolitan area made business owners afraid that customers will favor other cities, which would reflect in a larger lost of business for Mesa. The study has several methodological problems, all of which biased the results toward a negative finding. Chiefly, among the methodological flaws were the lack of a random sample, the lack of accountability of the seasonal aspects of Mesa businesses, and bias introduced by the survey instrument.

The second stage of the study [124] constituted the sales tax analysis (comparing sales from July/August 1996 to sales from July/August 1995) using data from all restaurants with a liquor license (which includes only 1/3 of Mesa restaurants), bars, motel/hotel restaurant and bars, bowling centers and pool halls (a total of 125 businesses). The report stated that there was 5.2% decrease in overall sales, with a 6.6% increase in sales in bars. (The smoke-free ordinance did not take effect in bars until September 1996.) This analysis of the sales data was misleading because it omitted sales of 2/3 of the restaurants in Mesa. Including all the restaurants revealed an increase of 2% in restaurant revenues.

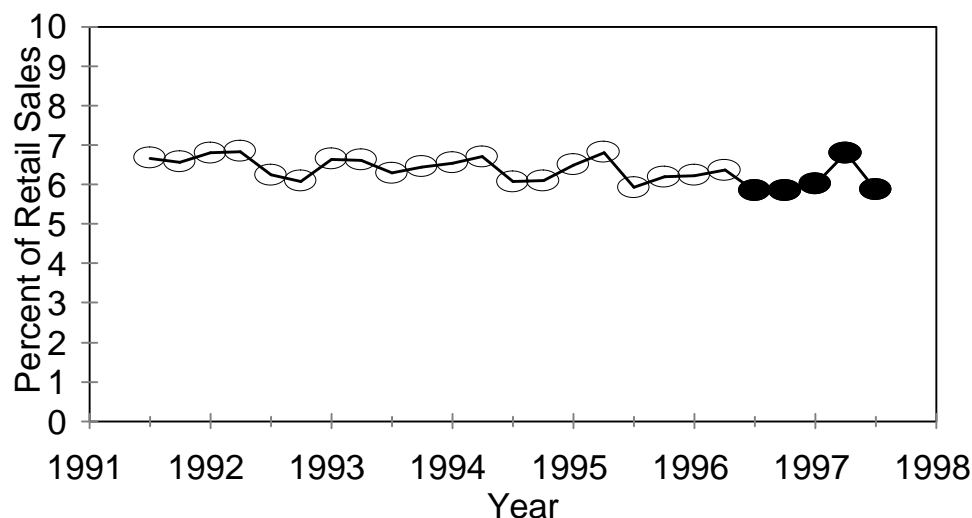
While the early discussion of the effects of the Mesa ordinance were based on surveys of perceived changes by restaurant and bar owners, then later comparisons of early sales tax data, it is necessary to obtain information on the effects of the ordinance over time in order to assess its effects objectively. Sales tax data provide an objective measure of the actual revenues received by restaurants and bars because these data are collected by authorities with no interest in the effects of the ordinance on revenues. It is also important to obtain data for at least a year to account for the underlying random variability in revenues. In order to account for inflation and underlying business conditions, we present restaurant and bar revenues as a fraction of all retail sales.

The regression equation obtained using the same statistical analysis used to study other cities with smokefree restaurant and bar ordinances [121, 125] appears in Table 8. There is no significant effect of the ordinance on restaurant revenues (Figure 1).

**Table 8: Results of Statistical Analysis of Mesa Smokefree Ordinance**

Dependent Variable: Fraction of Retail Sales to Restaurants (percent)					
Predictor	Coef	StDev	t	P	VIF
Constant	1.5739	0.9067	1.74	0.097	
Year	-0.0008	0.0005	-1.66	0.110	1.9
Ordinance*	0.1223	0.2049	-0.60	0.557	1.9
* Ordinance =1 for quarters ordinance in effect; 0 otherwise					
S = 0.002954    R <sup>2</sup> = 28.3%    R <sup>2</sup> <sub>adj</sub> = 21.8%					
Durbin-Watson statistic = 2.17					

## Effect of Mesa Ordinance



**Figure 2.** *The Mesa smokefree ordinance did not affect the fraction of retail sales going to restaurants. Solid points indicate the quarters that the ordinance was in force.*

By October, 1996 there was heightened debate in Mesa about whether or not some compromise on the ordinance should be attempted. The results of the sales tax study commissioned by the city, discussed above, provided fuel for this debate. It became clear that a movement to repeal the ordinance was going forward, and city officials, ordinance proponents and opponents were discussing compromise options.

At this point, the National Smokers Alliance (NSA) became visibly involved in the Mesa controversy. The September/October NSA newsletter [126] stated that three Mesa residents who are NSA members were filing suit against the city, on the basis of discrimination against smokers.

In November, 1996, the discussion about a compromise on the Mesa ordinance was everywhere. Kat Gallant, Chair of Citizens to Repeal Proposition 200, filed a petition with the City Clerk's Office to place a repeal proposal on the ballot. The Vice Mayor Pat Gilbert and the City Council held a series of open meetings to determine on the feasibility of a special election to overturn the ordinance (an option opposed by the City Council due to its costs), as well as on possible compromises that could be achieved. The National Smokers' Alliance was very active in opposing the ordinance. In December, 1996 it hired former Mesa Mayor Peggy Rubach to assist with its efforts to overturn the ordinance. In addition, NSA financially supported the front group created to overturn the ordinance, the Valley Business & Restaurant Owners.

By the end of December, 1996 a compromise was reached, and an ordinance amendment was passed 6-1 by the City Council. The amended ordinance allowed smoking in all bars that make more than 50% of their gross revenue from the sales of alcohol. It also allowed smoking in tobacco shops, rented hotel meetings rooms, and banquet rooms. Restaurants could also allow smoking in outdoor areas and accessory bars, but had to maintain indoors eating areas smokefree. Accessory bars and hotel meeting rooms were required to have separate ventilation, be physically separated from the rest of the facility, and nonsmoking customers could not be required to pass through them to reach smokefree areas. Businesses could apply for an exemption based on a hardship clause, proving that the ordinance had caused "undue" financial suffering. As of September, 1997, only a dozen restaurants have approached the Building Inspector's office requesting exemption from the ban based on the hardship clause (a proven 15% decrease in revenue over four months,

compared to the year before). All have received the exemption and are now allowed to have smoking and non-smoking sections [127].

The compromise was criticized by NSA on the basis that it imposed further financial hardship on businesses. It was supported by the health groups and advocates who had campaigned to pass Mesa's Proposition 200.

A special election was not called, so the ordinance will remain in effect and the ballot measure to overturn the ordinance will not be voted until the March 1998 election. The fact that the ordinance will not come to a vote until March, 1998 will give tobacco control advocates time to organize a campaign to defend the ordinance. It is not yet clear if the state health voluntaries will again have an active role in the campaign. The time the ordinance is in effect will also give time for Mesa businesses to adapt to the changes and for reliable economic data to be collected. The mayor and the majority of city council members are supportive of the smokefree ordinance.

The case of Mesa provide an example of how fiercely the tobacco industry will fight local tobacco control ordinances, mainly the ones that address clean indoor air policies, and supports the claim that the best tobacco victories are won at the local level.

## **CONCLUSION**

Tobacco control in Arizona provides us several lessons. Arizona has one of the oldest tobacco control movements in the country and has survived in an environment of extreme political hostility to tobacco control. The progress that has been made by health advocates reinforces the belief that tobacco control efforts are well served at the local level.

The passage of Proposition 200 was a landmark for Arizona tobacco control. As in other states, it served to bring forward to the legislative agenda the issue of tobacco control. It provided funds to develop health education campaigns of unprecedented in size in that state.

The battle to secure that the funds are properly used and to fight preemption were expected. So far, health advocates have been successful in defeating preemption, and despite the caps that were set in the expenditure of the health education funds, there has been no diversion either to the General Fund or to other purposes. The fact that the coalition of public health and medical care organizations constitute an united force, made it impossible for the Legislature to divert tobacco education money into medical care, as was the case in California and Massachusetts.

Despite successfully defending the money, health advocates have generally failed to force the state to run an effective anti-tobacco program. The limitation of the target population to teenagers and pregnant women could render the tobacco education program useless and inefficient in the long run. However, in 1998 the program will expand to include adult cessation in response to smoking constituents' complaints to legislators that they are paying the taxes but are not receiving any services. If well designed, and combined with a comprehensive media campaign and coordinated with local level efforts, the inclusion of adult cessation may contribute to improve the effectiveness of Arizona's tobacco education and prevention program. If not done properly, however, it could become a large drain of funds with little impact on overall tobacco consumption.

The refusal by ADHS to use strategies exposing the tobacco industry tactics, highlighting the harmful effects of second-hand smoke and tobacco addiction, proven effective in other states, may also hinder the long term effectiveness of the program. In addition, by severely restricting who could apply for

grants, what messages could be delivered, and what activities would be the focus of the program Arizona had not been profiting from the expertise accumulated in the area of tobacco control. With passage of HB 2147, it is expected that agencies with greater expertise in tobacco control will become more directly involved in implementing the goals of Arizona's tobacco control program.

The lack of a director for the program in a permanent position also jeopardizes its development. Although the media campaign has received support from Governor Symington, a strong committed Director is crucial to coordinate all activities of the program. Also troubling is the lack of clarity about how the program evaluation will proceed. Other than the baseline survey, there are no mechanisms in place as of October 1997 to ensure continuing surveillance. The lack of evidence of the program's progress could jeopardize the program's future making it more vulnerable to attacks by the Legislature and the tobacco industry<sup>19</sup>.

The cap of how much money could be used in the program in the first two years led to a large reserve of funds that have not been expended or allocated yet. As most states, Arizona is always looking for additional source of funds, and unless the health groups pressure the government to free the funds on the reserve account to be used in a comprehensive tobacco control program, the risk of losing the funds will persist. It is certain that the tobacco industry will continue its attack on the program, continue to attempt to pass preemptive bills, and suggest other ways in which the money could be spent. It is in the tobacco industry's best interest to keep the health education program as limited in scope and reach as possible.

The Robert Wood Johnson Foundation SmokeLess States Project grant allowed CTFA to hire full-time staff dedicated exclusively to the development of the Coalition and coordination of its activities. In Summer, 1997 grant terminated. It is not clear how or whether the voluntary health groups will commit the funds necessary to continue CTFA's activities. Without such a presence, it is likely that the tobacco industry will make greater inroads into tobacco policy making in Arizona.

While Arizona's tobacco control advocates have essentially fought the tobacco industry to a draw at the state level, they have scored several victories at the local level. Many cities have strong clean indoor air or youth access ordinances against aggressive attack by the tobacco industry. With the local projects well under way, an increase in local level activity is expected. Arizona's tobacco control advocates appear well positioned and unified in their efforts to continue to press for local ordinances. The open question is whether they will build on this base and muster the resources necessary to realize fully the opportunities created by Proposition 200 at the state level.

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<sup>19</sup>Governor Jane Hull (R) has not yet gone on record with her opinion on any aspects of the tobacco control program, including the media campaign. However, health groups are hopeful that they will obtain her support. They also expect that she will take quick action to improve the current situation of the evaluation aspect of the program, which if not changed, could become an embarrassment for her.



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