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Tobacco Industry Political Activity and  
Tobacco Control Policy Making in  
Washington: 1983-1996

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# Tobacco Industry Political Activity and Tobacco Control Policy Making in Washington: 1983-1996

## Abstract

The tobacco industry is a major political and legal force in the state of Washington through campaign contributions, lobbying, and filing lawsuits.

The tobacco industry has become a major source of campaign contributions to legislative candidates. In the 1985-86 legislative session, the tobacco industry contributed \$31,100 to legislative candidates. Contributions reached a peak during the 1989-90 legislative session when the tobacco industry contributed \$119,059 to legislative candidates. During the current 1995-1996 election cycle, the tobacco industry has contributed \$69,573 to legislative candidates between January 1, 1995 to September 30, 1996. Tobacco industry contributions to legislative candidates is expected to exceed the 1993-1994 amount of \$70,524.

During the 1993-1994 legislative session, the combined contributions of Philip Morris, RJ Reynolds, and the Tobacco Institute ranked eighth among top contributors to legislative campaigns in Washington.

In the past few election cycles, there has been a significant shift in tobacco industry contributions away from the Democratic party and towards the Republican party in Washington. During the 1989-90 election cycle, 47 percent of tobacco industry contributions to legislators, legislative candidates, political parties and party controlled committees went to the Republican party. Contributions to Republicans increased to 60 percent in the 1991-1992 election cycle and 66 percent in the 1993-1994 election cycle. Between January 1, 1995 and September 30, 1996, the tobacco industry contributions to the Republican party has increased to 83 percent.

The tobacco industry makes significant contributions to legislative leaders. House Speaker Clyde Ballard has received \$11,880 in tobacco industry contributions since 1986, more than any other current legislator. All Republican House Leaders have received tobacco industry contributions and generally had more pro-tobacco industry policy scores. In the Senate, where the Democrats held a one vote majority during the 1995-1996 session, Majority Leader Sid Snyder received \$3,600 from the tobacco industry throughout his career. Valoria Loveland, the Democratic Caucus Chair, received \$1,600 in tobacco industry contributions during the 1995-1996 electoral cycle.

In addition to providing campaign contributions, the tobacco industry is active in lobbying members of the legislature and the administration. In 1993 and 1994, the tobacco industry spent \$643,188. The trend suggests that the tobacco industry will exceed that amount during the 1995-1996 session. In 1995, the tobacco industry spent \$368,660 in lobbying expenditures, an increase in the rate of lobbying expenditures over the previous election cycle. The tobacco industry became an especially active lobby in 1991 and 1992, after a number of local smoke free and youth access ordinances were passed in Washington cities and counties.

A statistical relationship exists between tobacco industry campaign contributions and state legislative behavior. The more money a legislator receives, the less likely he or she is to support tobacco control efforts. The tobacco industry also tends to contribute more money to legislators that have supported the industry in the past.

Besides campaign contributions and lobbying, the tobacco industry has used legal tactics to slow down tobacco control activity in the state of Washington. Legal action by the tobacco industry has 1) lead the city of Puyallup to rescind a smoke-free restaurant ordinance, 2) forced the Department of Labor and Industries to defend their clean indoor air regulations in Superior court, and 3) has created an atmosphere of intimidation among organizations associated with Project ASSIST.

Despite the highest tobacco tax in the nation, none of the money raised from tobacco taxes has been earmarked for tobacco prevention or cessation programs.

The state of Washington is among 19 states and counties that is suing the tobacco industry in order to recover health and medical costs associated with tobacco related illnesses.

# **Tobacco Industry Political Activity and Tobacco Control Policy Making in Washington: 1983 - 1996**

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This report is the latest in a series of Institute for Health Policy Studies reports that analyze tobacco industry campaign contributions, lobbying, and other political activity in California. 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: Reauthorization 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 188: 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>)

## EXECUTIVE SUMMARY

\* The tobacco industry is a major political and legal force in the state of Washington through campaign contributions, lobbying, and filing lawsuits.

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**TABLE OF CONTENTS**

EXECUTIVE SUMMARY ..... 3

INTRODUCTION ..... 7

TOBACCO POLICY SCORES ..... 9

TOBACCO INDUSTRY CAMPAIGN CONTRIBUTIONS ..... 9

    Campaign Contribution Data ..... 9

    Contributions to State Legislators ..... 10

    Legislative Leaders ..... 15

    Legislative Committees ..... 16

    Political Parties ..... 17

    Constitutional Officeholders ..... 17

    Local Officeholders and Candidates, and Local Political Parties ..... 18

    Lobbying ..... 18

    Statewide Propositions ..... 19

    Tobacco Industry Contributions to Other Political Organizations ..... 20

THE RELATIONSHIP BETWEEN CAMPAIGN CONTRIBUTIONS AND LEGISLATIVE  
POLICYMAKING ..... 20

LOCAL TOBACCO POLICY MAKING IN WASHINGTON ..... 22

    Puyallup: A Public Health Failure ..... 23

STATE TOBACCO POLICY MAKING ..... 24

    Tobacco Taxes ..... 24

    State Regulations Requiring Clean Indoor Air in Private Offices and Government Workplaces .. 25

    Youth Access Legislation ..... 28

PROJECT ASSIST IN WASHINGTON ..... 29

    Freedom of Information Act Requests and Lobbying Charges by the Tobacco Industry ..... 30

**WASHINGTON’S LAWSUIT AGAINST THE TOBACCO INDUSTRY ..... 31**

CONCLUSION ..... 32

REFERENCES ..... 33

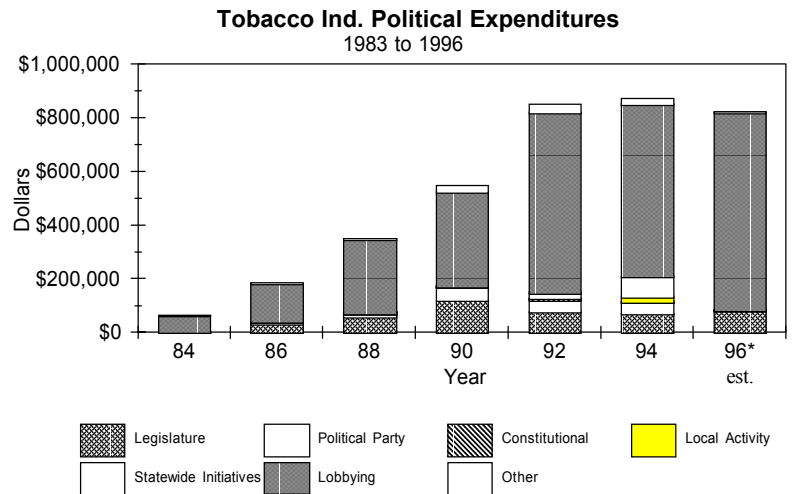


## INTRODUCTION

Washington state has a long history of tobacco control activity at both the local and state level. This activity has almost certainly contributed to the fact that per capita cigarette consumption in Washington, which was about 20% lower than the United States, reached 30% below the United States in 1996 (Figure 1)[1]. Several Washington cities and counties, including Seattle King County and Pierce County, passed local clean indoor air acts in the mid-1980s and began passing local youth access and local vendor liscensing. Washington is also participating in the National Cancer Institute ASSIST program, which involves community tobacco control organization to reduce adult and youth smoking prevalence. Washington as also aggressively increased tobacco taxes, beginning in 1993, and now has the highest tobacco tax in the United States (82.5 cents per pack). The Washington Department of Labor and Industries has been a leader in adopting regulations to make private workplaces smoke free. In addition, Washington is suing the tobacco industry in order to recover health and medical costs associated with tobacco related illnesses.

**Figure 1.** Per capita cigarette consumption is lower in Washington compared to the rest of the United States.

The tobacco industry has not ignored this activity. It has contributed over three million dollars to Washington legislators, political parties, lobbying firms and other political organizations since 1983, (Table 1 and Figure 2) and has become one of the most active contributors to legislative campaigns (Table 2). The tobacco industry has employed lobbyists in the state of Washington as early as the 1983-1984 legislative session (when lobbying expenditures were first reported to the Public Disclosure Commission). The 1985-1986 session was the first where the tobacco industry contributed to state legislative campaigns. Besides campaign contributions and lobbying activity, the tobacco industry has also been active in challenging local ordinances, tobacco control organizations, the Department of Health and the Department of Labor and Industries' Clean Indoor Air regulations.



**Figure 2.** Tobacco industry contributions have steadily increased since 1983-1984

<b>TABLE 1. SUMMARY OF TOBACCO INDUSTRY POLITICAL EXPENDITURES IN 1995-1996*</b>								
	<b>1983-1992</b>	<b>1993-94</b>	<b>PM</b>	<b>RJR</b>	<b>STC</b>	<b>TI</b>	<b>1995-1996*</b>	<b>Gr</b>
<b>Legislature</b>	\$287,918	\$70,524	\$33,400	\$25,573		\$10,600	\$69,573	
<b>Political Party</b>	\$117,491	\$43,800				\$1,000	\$1,000	
<b>Constitutional</b>	\$5,500							\$0
<b>Local Activity</b>	\$1,350	\$20,125						\$0
<b>Statewide Initiatives</b>	\$21,500	\$73,834						\$0
<b>Lobbying</b>	\$1,500,683	\$643,188	\$163,410	\$60,250	\$95,000	\$50,000	\$368,660	\$
<b>Other</b>	\$57,425	\$20,125						\$0
<b>Total</b>	\$1,991,867	\$871,596	\$196,810	\$85,823	\$95,000	\$61,600	\$439,233	\$

\*January 1, 1995 to September 30, 1996

<b>TABLE 2. TOP 10 CONTRIBUTORS TO LEGISLATIVE CAMPAIGNS IN 1993-1994</b>	
ARCO	\$112,400
WA St. Dental PAC	\$90,799
JS West	\$80,569
WA Chiropractic Trust	\$76,100
Soft Drink Assn. PAC	\$76,025
Boeing	\$75,460
WA Health Care Assn PAC	\$73,120
<b>Tobacco Industry*</b>	<b>\$70,524</b>
WA Teamsters Leg. League	\$70,050
WA Optometric PAC	\$64,200
*Philip Morris, RJ Reynolds and Tobacco Institute	

## TOBACCO POLICY SCORES

A “tobacco policy score” was estimated for each member of the 1993-1994 legislature to quantify his or her record on tobacco control issues. On a scale of 0 to 10 [2-5], a score of zero represented an extremely pro-tobacco legislator and a score of 10 represented an extremely pro-tobacco control legislator. We chose to quantify legislative behavior with the tobacco policy score rather than examining individual votes because few tobacco-related issues are voted on by every member of the Legislature and simply examining recorded votes does not capture other ways in which a legislator can influence the outcome regarding a proposed piece of legislation, such as controlling what committee a bill goes to or the offering of friendly or hostile amendments.

Six individuals who have expertise in tobacco control provided ratings of legislators in the 1993-1994 legislature. The average for each legislator is reported. Legislators first elected or appointed in 1994 did not receive a policy score because it was deemed too early to rate their performance accurately.

Representatives Linda Johnson (D-King) and Georgette Valle (D-King) had the highest (most pro-tobacco control) policy score of 9.8 in the House of Representatives. In the Senate, Senators Bob Oke (R-Port Orchard) and John Moyer (R-Spokane) had the highest policy score of 10.0. Representative Randy Tate (R-Pierce) and Senator Valoria Loveland (D-Pasco) had the lowest policy scores (most pro-tobacco industry) in their chambers, 2.0 and 1.7, respectively.

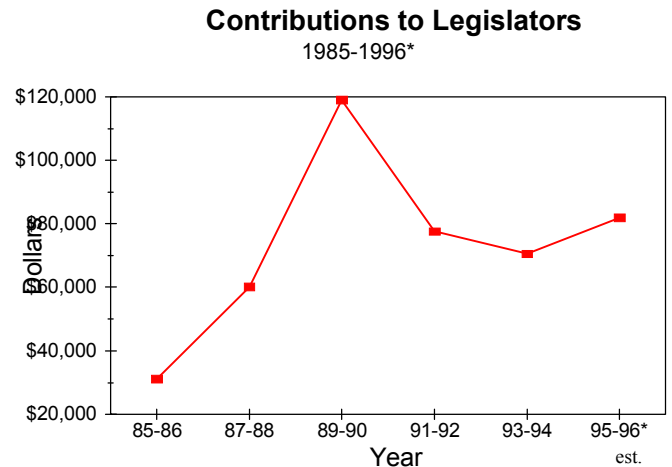
The distribution of tobacco policy scores was near normal with a mean tobacco policy score of 5.6 (median, 5.3) and a standard deviation of 2.0. Members of two houses had similar mean policy scores (Senate: mean 5.8, standard deviation 2.3, n=49; House: mean 5.6, standard deviation 1.9, n=98; p=.70). Republicans had significantly lower tobacco policy scores (more pro-tobacco industry) than Democrats (Republicans: mean 4.4, standard deviation 1.5, n=55; Democrats: mean 6.3, standard deviation, 2.0, n=93; p<.01).

## TOBACCO INDUSTRY CAMPAIGN CONTRIBUTIONS

### Campaign Contribution Data

Data on tobacco industry statewide political expenditures were obtained from disclosure statements filed with the Washington Public Disclosure Commission from 1983 through 1996 using archival records and the Commission’s web site (<http://www.washington.edu/pdc>). Contributions to legislators, constitutional

officers, local candidates (when included in state disclosure filings), statewide and local political parties and party committees, and expenditures towards lobbying and initiatives are reported.\* The following organizations were included as "tobacco industry" sources of funds: American Tobacco Company, Tobacco and Candy Distributors Political Action Committee, Brown and Williamson Tobacco Corporation, Lorillard Tobacco Company, Philip Morris Inc., RJR Nabisco Inc., Smokeless Tobacco Council, The Tobacco Institute, Tobacco Industry and Labor Management Committee and U.S. Tobacco Inc.\*\* Contributions from non-tobacco subsidiaries of these companies, such as Philip Morris' Kraft General Foods and Miller Beer, were not included, nor were contributions from individuals connected with the tobacco industry. Expenditures for legal action to oppose smokefree ordinances and regulations and public relations activity by the tobacco industry, while directed at influencing public policy, are not reportable as political expenditures under Washington law, and so are not included in our data.

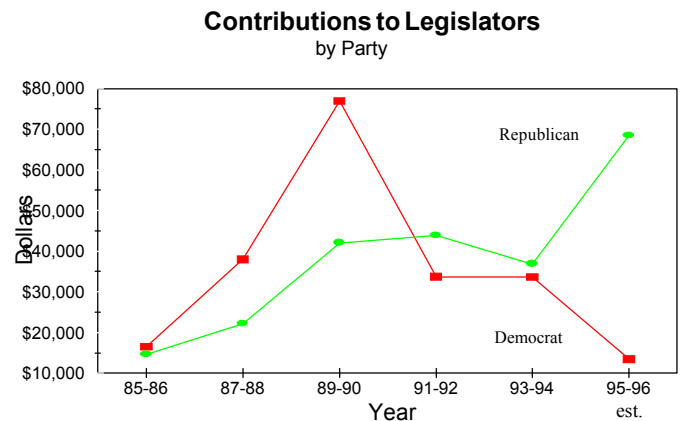


**Figure 3.** After peaking in 1995-1996, tobacco industry contributions are rising again.

All data are reported according to two-year election cycle, except 1995-1996. In the tables, 1995-1996 dollar amounts are reported for the period January 1, 1995 through September 30, 1996 for legislators, legislative candidates and candidates for constitutional office. Contributions to political parties and expenditures for lobbying were only available through 1995. In the graphs, an estimate for the 1995-1996 legislative spending is provided to compare the results with previous two-year periods by adding the 1995 amount to 4/3 of the 1996 (January 1 through September 30) amount. The estimate for lobbying expenditures was computed by doubling the 1995 lobbying expenditures. This approach to estimating the tobacco industry expenditures for the 1995-1996 election cycle will probably underestimate the actual expenditures for this two-year period because typically large contributions arrive shortly before the election.

### Contributions to State Legislators

Tobacco industry contributions to legislators reached a peak of \$119,059 in the 1989-1990 election cycle, then declined in 1992 and 1994, but appears to be increasing in the 1995-1996 election cycle (Figure 3). The large increase during the 1989-1990 session



**Figure 4.** Recently, the tobacco industry has given more money to Republican legislative candidates.

\*Tobacco industry contributions to legislators may also incorporate gifts to legislators such as meals, golf outings, and tickets for sporting events or other entertainment.

\*\* American Tobacco Company, Brown and Williamson Tobacco Corporation, and Lorillard Tobacco Company did not make political contributions or lobbying expenditures during the period of this study -- 1983 through 1996.

may be attributed to the passage of the “1989 Indoor Air Quality in Public Buildings Act” (RCW 70.162) and the activity of some localities to pass local youth access ordinances. During the 1993-94 election cycle, the tobacco industry contributed \$70,524 to state legislators. From January 1, 1995 to September 30, 1996; the tobacco industry has contributed \$69, 753 to Washington legislators and candidates (Table 1). Part of the decline to legislative campaigns can be attributed to new limitations on contributions to legislative campaigns passed by Washington voters in 1992 (Initiative 134). Effective in 1993, corporations, unions, political action committees (PACs), and individuals could only contribute \$500 for each election (primary and general). Appendix Tables A-1 through A-7 list contributions to legislators for each election cycle since 1985-1986, when the tobacco industry began making contributions to Washington politicians.

During the late 1980s, when the Democrats controlled both houses of the Washington Legislature, most tobacco industry contributions went to Democratic legislators, either directly or through the Democratic Party (Figure 4). Republicans won control of the Senate during the 1989-90 session and remained in control of the Senate during the 1991-1992 session. After 1990, tobacco industry contributions to Democrats dropped substantially. The Democrats regained control of the Senate after the 1992 elections. Even though Democrats controlled both houses of the legislature in the 1993-1994 legislative session, the tobacco industry contributed slightly more to Republican legislators and candidates (and the Republican Party) in 1993 and 1994. During the 1993-1994 electoral cycle, the tobacco industry contributed \$36,861 to Republicans and \$33,663 to Democrats. The Republicans took control of the House of Representatives after the 1994 elections. Since then, tobacco industry contributions to Republicans have increased substantially, while contributions to Democrats has dropped. From January 1, 1995 to September 30, 1996 the tobacco industry has contributed \$57,600 to Republican legislators and candidates and \$11,973 to Democratic legislators and candidates.

<b>TABLE 3. TOP 20 RECIPIENTS OF TOBACCO INDUSTRY MONEY IN 1995-1996*</b>							
<b>Officeholder/Candidate</b>	<b>Party</b>	<b>House</b>	<b>1985-92</b>	<b>1993-94</b>	<b>1995-96*</b>	<b>Grand Total</b>	<b>Tobacco Policy Score</b>
Horn, Jim	R	H	\$650	\$800	\$2,950	\$4,400	2.3
Swecker, Dan	R	S			\$2,300	\$2,300	
Blanton, Jerry	R	H		\$500	\$2,300	\$2,800	
McMorris, Cathy	R	H		\$500	\$2,050	\$2,550	
Sherstad, Mike	R	H		\$400	\$2,000	\$2,400	
Benton, Don	R	H			\$2,000	\$2,000	
Scott, Patricia	D	H	\$1,400	\$2,040	\$1,850	\$5,290	3.3
Robertson, Eric	R	H		\$200	\$1,750	\$1,950	
Backlund, Bill	R	H		\$850	\$1,700	\$2,550	
Buck, Jim	R	H			\$1,700	\$1,700	
Loveland, Valoria	D	S		\$580	\$1,600	\$2,180	1.7
Crouse, Larry	R	H		\$150	\$1,600	\$1,750	
Thompson, Bill	R	H		\$150	\$1,600	\$1,750	
Huff, Tom	R	H		\$550	\$1,550	\$2,100	
Lisk, Barbara	R	H	\$900	\$546	\$1,550	\$2,996	2.6
Ballasiotes, Ida	R	H		\$910	\$1,500	\$2,410	4.4
Goldsmith, Gene	R	H			\$1,500	\$1,500	
Carrell, Michael	R	H		\$350	\$1,500	\$1,850	
Grant, William A.	D	H	\$4,250	\$1,350	\$1,500	\$7,100	3.0
Pennington, John	R	H			\$1,350	\$1,350	
*January 1, 1995 to September 30, 1996							

<b>TABLE 4. WASHINGTON LEGISLATORS WHO HAVE NEVER ACCEPTED TOBACCO INDUSTRY CONTRIBUTIONS</b>			
<b>Officeholder</b>	<b>Party</b>	<b>House</b>	<b>Tobacco Policy Score</b>
Brown, Lisa	D	H	8.0
Chappell, David	D	H	4.0
Chopp, Frank	D	H	
Cody, Eileen	D	H	
Conway, Steve	D	H	8.0
Costa, Jeralita	D	H	
Delvin, Jerome	R	H	
Dickerson, Mary	D	H	
Drew, Kathleen	D	S	7.5
Fairley, Darlene	D	S	
Franklin, Rosa	D	S	8.0
Hale, Patricia	R	S	
Hargrove, Steve	R	H	
Johnson, Steven	R	S	
Kessler, Lynn	D	H	7.3
Kohl, Jeanne	D	S	9.0
Long, Jeanine	R	S	
Mason, Sabiha	D	H	
McAuliffe, Rosemary	D	S	8.0
McMahan, Lois	R	H	
Murray, Edward	D	H	
Patterson, Julia	D	H	4.7
Pelesky, Grant	R	H	
Poulsen, Erik	D	H	
Rust, Nancy	D	H	7.2
Smith, Adam	D	S	5.5
Smith, Scott	R	H	
Strannigan, Gary	R	S	
Sutherland, Dean	D	S	6.7
Thibaudeau, Pat	D	S	9.0
Valle, Georgette	D	H	9.8
Veloria, Velma	D	H	8.8
Wolfe, Cathy	D	H	7.3

Since the 1989-1990 electoral session, where a majority of tobacco industry contributions to legislators, legislative candidates and political parties went to the Democratic Party (52.6 percent to Democrats and Democratic party and 47.6 percent to Republicans and Republican party), most tobacco industry contributions have been allocated to Republican candidates and the Republican party). The share of tobacco industry contributions to the Republican candidates and the Republican party has increased from

60.3 percent during the 1991-1992 electoral session, to 66.2 percent in the 1993-1994 electoral session to 83 percent during the current electoral session. It appears that, as in California [4] and nationally [6-9] the tobacco industry has shifted its political support behind the Republican Party as Republicans have won control of Congress and some state legislative chambers.

Table 3 provides a list of the top 20 recipients of tobacco industry money January 1, 1995 through September 30, 1996. Of the twenty top recipients, seventeen were Republicans. Legislators who had served long enough to receive tobacco policy scores, tended to receive low policy scores (pro-tobacco industry), with a mean of 2.9 (standard deviation 0.9). Fourteen of the top 20 recipients of tobacco industry campaign contributions include 14 legislators who were first elected in 1995 or appointed in the middle of the 1993-1994 term. This suggests that the tobacco industry is aggressive in building relationships with new legislators. Representative Jim Horn (R-Mercer Island) and Senator Dan Swecker (R-Rochester) were the largest recipients of tobacco industry contributions, receiving \$2,950 and \$2,300 respectively. Senator Swecker was first elected in 1994. Representative Jim Horn is running for the State Senate in 1996.

Table 4 presents a list of the thirty-three current legislators who have never received tobacco industry contributions. Twenty-four of these legislators are Democrats and nine are Republicans. The average tobacco policy score among the non-recipients is 7.4 (standard deviation, 1.6). The tobacco policy scores of legislators who did not receive tobacco industry campaign contributions were significantly higher (more pro-tobacco control) than the top 20 recipients of tobacco industry campaign contributions ( $p < .001$ ).

Most recipients of tobacco industry contributions are incumbent legislators (Table 5). However, since 1986 tobacco industry support for challengers has steadily increased. During the 1993-1994 election cycle, the tobacco industry supported twenty-nine non-incumbents; twenty seven of those non-incumbents were Republicans. Table 6 lists the challengers that received tobacco industry support in 1994. The tobacco industry provided financial support to twelve Republican candidates who challenged Democratic incumbents. Most of these Democratic incumbents tended to favor tobacco control. Ten of the twelve Republicans defeated the Democratic incumbents.

The tobacco industry also supported fourteen non-incumbents running for open seats; thirteen were Republicans. With some financial support from the tobacco industry, and national political conditions favoring the Republican party in 1994, Republicans won control of the Washington House of Representatives and were one member short of taking control of the Washington Senate.

<b>TABLE 5. TOBACCO INDUSTRY SUPPORT OF INCUMBENTS IN WASHINGTON</b>		
<b>Year</b>	<b>Total Number of Recipients</b>	<b>Percentage of Contributions to Incumbents</b>
<b>1986</b>	43	95%
<b>1988</b>	95	81%
<b>1990</b>	114	82%
<b>1992</b>	149	77%
<b>1994</b>	110	72%

<b>TABLE 6. TOBACCO INDUSTRY SUPPORT OF CHALLENGERS IN 1994</b>				
<b>Support of Challengers Against Incumbents</b>				
<b>Name</b>	<b>Party</b>	<b>Amount</b>	<b>Election Type and Result</b>	<b>Incumbent's TPS</b>
Beeksmas, Barney	R	\$650	Defeats Rep. Karahalios	7.0
Carrell, Mike	R	\$350	Defeats Rep. Fleming	7.3
Crouse, Larry	R	\$150	Defeats Rep. Orr	3.0
Elliot, Ian	R	\$150	Defeats Rep. Cothorn	6.7
Hanna, Ron	R	\$100	Loses to Sen. Oke	10.0
Hickel, Tim	R	\$150	Defeats Rep. Eide	7.3
Johnson, Peggy	R	\$700	Defeats Barbara Holm	6.7
Mulliken, Joyce	R	\$150	Defeats Rep. Hansen	5.3
Robertson, Eric	R	\$200	Defeats Rep. Roland	6.0
Sears, Marilyn	R	\$300	Loses to Rep. Valle	9.8
Sherstad, Michael	R	\$400	Defeated Rep. L. Johnson	9.8
Thompson, Bill	R	\$150	Defeated Rep. Johanson	5.3
<b>Support of Candidates in Open Races</b>				
<b>Name</b>	<b>Party</b>	<b>Amount</b>	<b>Election Type and Result</b>	
Blanton, Jerry	R	\$500	Wins Open House Seat	
Cairnes, Jack	R	\$600	Wins Open House Seat	
Finkbeiner, Bill *	R	\$1,150	Wins Open Senate Seat	
Hankins, Shirley	R	\$550	Wins Open House Seat	
Hatfield, Brian	R	\$1,100	Wins Open House Seat	
Honeyford, Jim	R	\$700	Wins Open House Seat	
Lambert, Kathy	R	\$300	Wins Open House Seat	
Radcliffe, Renee	R	\$300	Wins Open House Seat	
Regala, Debbie	D	\$550	Wins Open House Seat	
Schow, Ray	R	\$1,300	Wins Open Senate Seat	
Skinner, Mary	R	\$300	Wins Open House Seat	
Thomas, Brian	R	\$650	Wins Open House Seat	
Thomas, Les	R	\$750	Wins Open House Seat	
Wahl, Brian	R	\$500	Loses in Open Senate Race	
<b>Candidates That Lost In Primaries</b>				
<b>Name</b>	<b>Party</b>	<b>Amount</b>	<b>Election Type and Result</b>	
Anthony Anton	D	\$500	Loses in Primary	
Murphy, Barry	R	\$250	Loses in Primary	
Peterson, Kay	R	\$500	Loses in Primary	
* House member moving to Senate				

TABLE 7. CAMPAIGN CONTRIBUTIONS TO LEGISLATIVE LEADERS -- 1995-1996*							
	Officeholder	Party	1985-1992	1993-94	1995-96*	Grand Total	Tobacco Policy Score
<b>House Leaders</b>							
Speaker	Ballard, Clyde	R	\$9,650	\$1,180	\$1,050	\$11,880	3.8
Speaker Pro Tempore	Horn, Jim	R	\$650	\$800	\$2,950	\$4,400	2.3
Majority Leader	Foreman, Dale	R	\$0	\$1,000	\$0	\$1,000	3.3
Majority Caucus Chair	Lisk, Barbara	R	\$900	\$546	\$1,550	\$2,996	2.6
Caucus Vice Chair	Backlund, Bill	R		\$850	\$1,700	\$2,550	
Majority Whip	Talcott, Gigi	R	\$0	\$0	\$550	\$550	4.7
Minority Leader	Appelwick, Marlin	D	\$3,516	\$0	\$0	\$3,516	7.3
Minority Floor Leader	Brown, Lisa	D			\$0	\$0	8.0
Minority Caucus Chair	Grant, William A.	D	\$4,250	\$1,350	\$1,500	\$7,100	3.0
Minority Whip	Kessler, Lynn	D	\$0	\$0	\$0	\$0	7.3
<b>Senate Leaders</b>							
Majority Leader	Snyder, Sid	D	\$2,600	\$500	\$500	\$3,600	5.3
Caucus Chair	Loveland, Valoria	D	\$0	\$580	\$1,600	\$2,180	1.7
Majority Floor Leader	Spanel, Harriet	D	\$600	\$0	\$0	\$600	7.3
Majority Whip	Sheldon, Betti	D			\$650	\$650	2.7
Republican Leader	McDonald, Dan	R	\$5,800	\$1,046	\$0	\$6,846	2.6
Caucus Chair	Sellar, George	R	\$4,100	\$34	\$1,000	\$5,134	4.0
Rep. Floor Leader	Newhouse, Irv	R	\$4,050	\$1,600	\$0	\$5,650	5.8
Republican Whip	Anderson, Ann	R	\$1,150	\$1,000	\$800	\$2,950	3.8
TOTALS			\$37,266	\$10,487	\$13,850	\$61,603	
January 1, 1995 to September 30, 1996							

### Legislative Leaders

As in other states [3, 4], the tobacco industry provides relatively large contributions to Washington legislative leaders (Table 7), who control the flow of bills through the legislative process. House Speaker Clyde Ballard (R-East Wenatchee) has received \$11,880 in tobacco industry contributions since 1986, more than any other current legislator. All Republican House Leaders have received tobacco industry contributions and generally had pro-tobacco industry policy scores. Two of the Democratic House leaders, Lisa Brown (D-Spokane) and Lynn Kessler (D-Hoquiam), have never received tobacco industry contributions. Minority Leader Marlin Appelwick (D-Seattle) has not received tobacco industry contributions since 1992.

In the Senate, where the Democrats held a one vote majority during the 1995-1996 session, Majority Leader Sid Snyder (D-Long Beach), received \$3,600 from the tobacco industry throughout his career. Valoria Loveland (D-Pasco), the Democratic Caucus Chair, received \$1,600 in tobacco industry contributions during the 1995-1996 electoral cycle. She is second among Democrats in the legislature in tobacco industry contributions during the 1995-96 electoral cycle and has the lowest tobacco policy score in the legislature (1.7). Although Republican Minority Leader Dan McDonald (R-Bellvue) did not receive any tobacco industry contributions in 1995 or 1996, he is the third leading recipient of career tobacco industry contributions among current legislators (\$6,846).

## Legislative Committees

Several committees play important roles in either tobacco control policy or public policy in general in the state of Washington. The House Health Care Committee and the Senate Health and Long Term Care Committee are particularly important for public health and tobacco control policymaking. The House Finance Committee and the Senate Ways and Means Committee, are important committees that consider tobacco tax rates and are two of the most powerful committees in the Washington legislature. The House Commerce and Labor and the Senate, Labor Commerce and Trade Committees were important in 1995 and 1996 because they considered legislation that would weaken the Department of Labor and Industries clean indoor air regulations (discussed below).

*House Health Care Committee.* Ten of the thirteen members of the house Health Care Committee have accepted contributions from the tobacco industry (Table A-8). All Republicans on the committee have received tobacco industry campaign contributions in the past. The three committee members who have never received tobacco industry campaign contributions were Democrats -- Eileen Cody (D-Seattle), Steve Conway (D-Tacoma), and Edward Murray (D-Seattle).

*Senate Health and Long Term Care Committee.* Six of the nine members of the Senate Health and Long Term Care Committee (formerly called the Health and Human Services Committee) have received tobacco industry campaign contributions (Table A-9). However, most members who received tobacco policy scores from the 1993-1994 legislative session had average to above average tobacco policy scores. The one exception was Alex Deccio (R-Yakima). The three committee members who have not accepted tobacco industry contributions are Democrats Darlene Fairley (D-Lake Forest Park), Rosa Franklin (D-Tacoma), and Pat Thibadeau (D-Seattle). In 1993, both the House Health Care Committee and the Senate Health and Human Services committee passed HB 2071, legislation that required licencing of retailers selling tobacco products, restrictions on vending machine access, and a restriction on the distribution of free samples. The bill also preempted localities from enacting stronger youth access ordinances.

*House Finance Committee.* Ten of the twelve members of the House Finance Committee (Table A-10) have received tobacco industry campaign contributions. Mary Lou Dickerson (D-Olympia) and Dawn Mason (D-Seattle), both freshman Democrats, are the two exceptions. Michael Carrell (R-Tacoma) and John Pennington (R-Carrols), both freshman Republicans, received the most tobacco industry contributions among committee members in 1995 and 1996 (\$1,500 and \$1,350 respectively). Rep. Pennington introduced a bill in 1995 that would have repealed an increase in the tobacco tax scheduled to take effect in July 1995. The bill failed.

*Senate Ways and Means Committee.* Eighteen of the twenty-five members of the Senate Ways and Means committee have received tobacco industry contributions during their legislative careers (Table A-11). Of the seven committee members who have never received contributions, four are Republicans and three are Democrats. The tobacco industry has contributed to the campaigns of seven members during the current electoral period. Among these seven members, five are Democrats and two are Republicans. The Chair of the Senate Ways and Means committee, Nita Rinehart (D-Olympia), did not receive any contributions during the 1995-1996 electoral period and has one of the highest tobacco policy scores (pro tobacco-control) in the legislature. The Vice-Chair, Valoria Loveland, has received \$1,600 during the 1995-1996 electoral period and has the lowest tobacco policy score (pro-tobacco industry) in the Legislature.

*House Commerce and Labor.* The tobacco industry has given substantial contributions to members of the House Commerce and Labor Committee (Table A-12). Both Cathy McMorris (R-Colville), the Chair of the committee, and Jim Horn (R-Mercer Island) have received over \$2,000 dollars during the current election

cycle). Three other members; Bill Thompson (R-Everett), Gene Goldsmith (R-Ferndale) and Barbara Lisk (R-Zillah) have received over \$1,500. The only committee members to have never received tobacco industry contributions are Steve Hargrove (R-Poulsbo ), Steve Conway (D-Tacoma) and Eileen Cody (D-Seattle). This committee was the first committee to consider and pass HB 1066. HB 1066 would have weakened the Department of Labor and Industries clean indoor air rules (discussed below) by allowing employers and employees to negotiate a written smoking room policy. The bill was passed by the House, but not considered by the Senate. Barbara Lisk was the bill's sponsor.

*Senate Labor, Commerce and Trade.* The tobacco industry only contributed to three of the nine members (Table A-13) of the Senate Labor, Commerce and Trade Committee during the current election cycle -- Ann Anderson (R- Whatcom), Alex Deccio (R-Yakima) and Lorraine Wojahn (D-Pierce). The only member to have never accepted tobacco industry contributions was Rosa Franklin (D-Tacoma). The chair of the Committee, Dwight Pelz (D-Seattle) has one of the highest tobacco policy scores (pro-tobacco control) in the legislature. HB 1066 was referred to the Senate Labor and Trade Committee, but the Committee never considered the bill.

### **Political Parties**

The tobacco industry has contributed most “soft money” (contributions to political party committees with no restrictions) contributions to Republican party committees. Table A-14 lists the party committees that have received tobacco industry contributions from 1985 to 1995. During the 1985-1986 legislative session, the tobacco industry contributed slightly more money to Democratic committees. Since 1987, however, most contributions have been donated to Republican party committees. During the 1993-1994 legislative session, the tobacco industry contributed \$43,800 to party committees, 88% went to Republican party committees. During the 1991-1992 and the 1993 and 1994 electoral cycles, Philip Morris has been the leading contributor of “soft money” donations, to Washington state political party committees; 80 percent and 84 percent, respectively. In 1995, the Tobacco Institute contributed \$500 to both the House Republican Organizational Committee and the Senate Republican Campaign Committee.

### **Constitutional Officeholders**

Tobacco industry contributions to state constitutional offices began in 1990 and 1992 (Table A-15). In 1990, Philip Morris contributed \$200 to Lt. Governor Pritchard (Democrat) and in 1992, the Tobacco Institute contributed \$250 to Pritchard's re-election campaign. Governor Mike Lowry (Democrat) received \$2,000 from Philip Morris in 1992. The Tobacco Institute contributed to the other candidates for state constitutional office in 1992, including three-term Republican Attorney General Ken Eikenberry. In 1992 Eikenberry ran against Mike Lowry for Governor. Eikenberry lost to Lowry. Christine Gregoire did not receive any tobacco industry campaign contributions. As discussed below, on June 5, 1996 she filed suit against the tobacco industry to recover the costs of tobacco-induced disease.

Two former legislators and two current legislators are running for state constitutional office in 1996. Democratic gubernatorial nominee Gary Locke and Republican gubernatorial nominee Ellen Craswell are former legislators. Gary Locke is a former representative, who resigned from the legislature in 1993 to become King County executive. During his legislative career he received had \$1,550 in tobacco industry contributions; nevertheless he favored tobacco control (tobacco policy score in 1994 was 8.4). Ellen Craswell served in the Senate until 1992; she had never received tobacco industry contributions.

Two current Senators are running for Lieutenant Governor. The Democratic nominee is Brad Owen. He has received \$300 during the current electoral cycle from the tobacco industry and \$5,700 during his legislative career. Owen's tobacco policy score was 4.3. The Republican nominee is Ann Anderson. She

has received \$800 during the current electoral cycle and \$2,950 throughout her legislative career. Anderson's policy score was 3.8.

### Local Officeholders and Candidates, and Local Political Parties

The tobacco industry has also supported candidates and political parties at the local level, particularly in Seattle and King County (Table A-16). Seattle mayor Norm Rice received \$500 dollars in the early 1990s. (Rice ran unsuccessfully in the 1996 Democratic gubernatorial primary). The tobacco industry has also contributed to current Seattle City Council member Sue Donaldson (\$100) and former Seattle City Council member Sherry Harris (\$500). Candidates for Seattle City Council run in non-partisan at large elections.

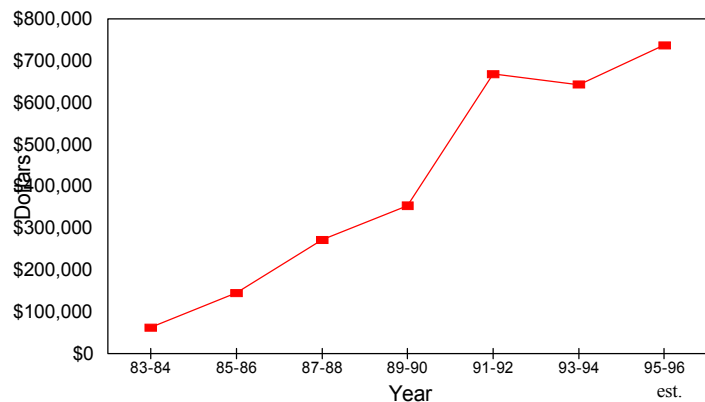
In King County, former King county Executive Tim Hill (Republican), who lost re-election to Gary Locke (Democrat) in 1993, also received tobacco industry support (\$250). Current King County Prosecutor, Norm Maleng (Republican) and County Council member Larry Phillips (Democrat) are also recipients of tobacco industry funds (\$600 and \$100, respectively).

The tobacco industry has also provided some support to local political parties. The King County Republican party has received \$2,500 since 1990 and the Spokane County Democratic Campaign Committee has received \$3,100 since 1990.

### Lobbying

Data on lobbying expenditures came from lobbying disclosure forms filed with the Washington Public Disclosure Commission which started collecting data on lobbying expenditures in 1983. As shown in Figure 5, the tobacco industry's lobbying efforts increased substantially in 1991-1992. Compared to the previous year, lobbying expenditures almost doubled during the 1991-1992 legislative session. The large increase in lobbying expenditures in the 1991-1992 legislative session may have been a reaction to an increase in local tobacco control ordinances passed in the state of Washington in the late 1980s and early 1990s (Table 8).

**Tobacco Industry Lobbying Expenditures**



**Figure 5.** Tobacco industry lobbying expenditures increased dramatically during the 1991-1992 legislative cycle.

Table A-17 summarizes lobbying expenditures in Washington at the state level. Since 1983, the tobacco industry has spent over \$2.2 million in lobbying expenditures in Washington. In 1995, Philip Morris, RJ Reynolds, the Tobacco Institute, and the Smokeless Tobacco Council paid \$368,660 to lobbyists in the state of Washington, an increase in expenditures over the previous election cycle. The tobacco industry has relied on several lobbying firms in the state of Washington. Among the lobbying firms most used by the tobacco industry, the Tobacco Institute has employed Public Affairs Associates and William Fritz, RJ Reynolds has employed Terence Bentler and N. Dean Morgan, Smokeless Tobacco Council has employed Stephen Wehrly and Stuart Halsan, the Tobacco Industry Labor Management Committee has employed Joseph Daniels and Philip Morris has employed Stephen Buckner, Martin Durkan and Kathleen Durkan. The Washington Association of Optometric Physicians also employs Martin and Kathleen Durkan [10].

TABLE 8. ORDINANCES ENACTED IN WASHINGTON		
Year	City / County	Type
1983	Seattle	Indoor Air
1984	Pierce County	Indoor Air
1985	Kennewick	Indoor Air
1986	King County	Indoor Air
1988	King County	Vending Machine Restriction, Licensure, Sampling Ban
1989	Lynnwood	Vending Machine Restriction
1989	Vancouver	Vending Machine Restriction, Licensure
1990	Everett	Vending Machine Restriction, Licensure
1991	Mountlake Terrace	Vending Machine Restriction, Licensure
1991	Battle Ground	Vending Machine Restriction, Sampling Ban
1991	Seattle	Vending Machine Restriction, Licensure, Sampling Ban
1991	Snohomish County	Vending Machine Restriction, Licensure, Sampling Ban

Source: Americans for Non-Smoker's Rights and Southwest Washington Health District

### Statewide Propositions

The tobacco industry contributed to several statewide propositions in 1992 and 1993. In 1992, Initiative 134 proposed to limit campaign contributions and outlaw public financing of election campaigns. It asked Washington voters “shall campaign contributions be limited; public funding of state and local campaigns be prohibited, and campaign related activities be restricted?” Philip Morris contributed \$4,000 to the Citizens for Fair Campaign Financing a group that favored Initiative 134. Philip Morris was the 17th leading contributor to this organization. The Tobacco Institute contributed \$2,500. Including \$6,500 from the tobacco industry, the “Citizens for Fair Campaign Financing” received \$222,245 in contributions. Other major contributors to the “Citizens for Fair Campaign Financing” were the Senate Republican Campaign Committee, the Jeanette Hayner Campaign Committee, PACCAR Inc., the Republican State Committee, Clyde Ballard, the Washington Water Power Company and the Washington Beer and Wine Wholesalers Association. The “People Against Phony Election Reform” opposed Initiative 134. This group received \$194,146 in contributions. Major contributors to “People Against Phony Election Reform” were the Washington Federation of State Employees, the Washington Education Association, the Aerospace Machinists Industrial Dist. Lodge. #75, and LAW PAC -- Washington State Trial Lawyers Association [11]. The initiative passed with 73 percent of the vote.

Also in 1992, Washington voters were asked to consider Initiative 573, which imposed term limits. It asked “Shall candidates for certain offices, who have already served for specified time periods in those offices, be denied ballot access?” The tobacco industry probably opposes term limits because term limits have the potential for upsetting longstanding relationships between special interest groups like the tobacco industry and powerful legislators. The tobacco industry contributed \$15,000 to oppose the initiative. Only Ernest and Julio Gallo (\$25,000) contributed more than the tobacco industry. Philip Morris contributed \$10,000 to the “No on 573” campaign; it was the third largest contributor (along with five other contributors) to this group. RJ Reynolds contributed \$5,000 to “No on 573;” it was tied for sixth (with eleven other contributors) for contributing to “No on 573.” The “No on 573” committee received \$190,972. Other contributors to the “No on 573” committee included Kaiser Aluminum and Chemical Corp., the Association of Trial Lawyers, the Boeing Company, the Hotel and Restaurant Employees Union, and Washington Water Power Company. The “Legislative Initiative Mandating Incumbent Terms” (LIMIT) favored Initiative 573. LIMIT received \$405,967. Major contributors to LIMIT were U.S. Term Limits and Americans to Limit Congressional Terms [11]. Initiative 573 passed with 52% of the vote.

In 1993, Washington voters considered Initiative 601 and Initiative 602\*. Both initiatives would have placed limits on expenditure and tax increases. Initiative 601 would allow state expenditures to increase only by a growth factor taking into account inflation and population change [12]. The more stringent initiative was Initiative 602. Initiative 602 would have limited state revenue collection by a factor taking into account state personal income and previous revenue collections [13]. The tobacco industry favored these initiatives because it would limit future growth in tobacco taxes. Philip Morris contributed \$63,834 and the Tobacco Institute contributed \$10,000 to the Committee to Limit Taxes Now a group that favored the initiatives. Other major contributors to the Committee to Limit Taxes Now were the Washington Beer and Wine Wholesalers, the National Taxpayers Union, Washington Food PAC, BIAC (Business and Industry Action Council), BIAW (Business and Industry Association of Washington), the Washington Affordable Housing Council, Issues PAC of Washington and the American Council of Life Insurance. Major contributors to the Committee for Washington's Future, a group opposed to Initiatives 601 and 602 were the Citizens for Higher Education, the Washington Federation of State Employees, the Washington State Labor Council, the Washington Teamsters' Legislative League, the Washington Federation of Teachers, the Washington Medical Association, Washington State COPPS, and Victim's Advocates. Initiative 601 passed with 51.2 percent of the vote. Initiative 602 did not pass. Only 44.6 percent voted in favor of Initiative 602.

### **Tobacco Industry Contributions to Other Political Organizations**

Another way the tobacco industry can influence the political process in the state of Washington is to support other political organizations that have a "pro-business" philosophy. Table A-18 lists tobacco industry contributions to political organizations other than political parties. These organizations tend to be political organizations or political action committees that favor or support candidates that have a "pro-business" philosophy. Among these organizations, the largest recipient of tobacco industry contributions is United for Washington, an organization that supports candidates with a "pro-business" philosophy [14]. United for Washington has received \$40,000 from Philip Morris since 1990. Other "pro-business" groups include the Association for Washington Business (AWB) Caucus Ticket Fund and the AWB Legislative Ticket Fund and the Ballot Issues Analysis Committee. The tobacco industry has also provided financial support to anti-tax groups such as Taxpayers Against Campaign Subsidies and the Accountability Project. The Capitol Fund and the Alumni Fund are fundraising organizations that the tobacco industry has also supported. The Liability Reform Coalition PAC supports Supreme Court candidates that have a "laissez faire" philosophy on business matters. In light of the current wave of litigation surrounding tobacco issues -- including in the State of Washington -- enacting laws limiting the tobacco industry's liability for the disease and death it causes is a particularly high priority. While most of these organizations tend to support Republican or conservative candidates, the Friends of Good Government, a committee started by former legislator Joe King, raises money for Democratic candidates. The tobacco industry also supports other organizations and PACs that are involved in the retail sector of the economy, such as the Washington Retail Association, the Washington State Food Dealers Association, the Retail Action Council and the Northwest Automatic Vending Association (NAVA) PAC. These organizations oppose meaningful restrictions on marketing tobacco products to children.

### **THE RELATIONSHIP BETWEEN CAMPAIGN CONTRIBUTIONS AND LEGISLATIVE POLICYMAKING**

There is a statistical relationship between tobacco industry campaign contributions and the tobacco

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\*Total Contributions and Expenditures for Initiative 601 and 602 were not available from the Public Disclosure Commission.

policy scores, with both the campaign contributions and the tobacco policy scores affecting each other. Campaign contributions sway many legislators to either be sympathetic toward or actively promote the tobacco industry's point of view. On the other hand, the tobacco industry rewards those legislators that have helped the tobacco industry in the past. Simultaneous equations regression using ordinary least squares was used to test the hypothesis that campaign contributions were affecting legislative behavior simultaneously with behavior affecting contributions [2-5].

The simultaneous equation regression model contains two equations. One equation predicts the 1993-1994 tobacco policy score (dependent variable) from the amount of campaign contributions in that election cycle (independent variable). The second equation predicts campaign contributions (dependent variable) from the tobacco policy scores and a variable representing legislative leaders to allow for the possibility that legislative leaders received greater campaign contributions than members in general.

Table 9 presents the results of this analysis. For every \$1000 a legislator received, his or her tobacco policy score dropped (i.e., became more pro-tobacco industry) by an average of -3.26. Also, Republican legislators tended to have tobacco policy scores that were -1.4 points lower than Democratic legislators for the same amount of tobacco industry funds. In other words, assuming a Republican and a Democrat received the same amount of money from the tobacco industry, the Republican would likely have a lower score than the Democrat. At the same time, for every one point reduction in the tobacco policy score, campaign contributions from the tobacco industry increase by an average of \$314.6. In addition, for a given tobacco policy score, Democratic party members received an average of \$459 more than Republicans with the same tobacco policy score. So even though the tobacco industry contributed significant sums in 1994 to help Republican candidates, they still contributed to incumbent Democratic legislators.

<b>TABLE 9. SIMULTANEOUS EQUATIONS RESULTS FOR TOBACCO POLICY SCORES AND 1993-1994 CAMPAIGN CONTRIBUTIONS</b>				
Dependent Variable = Tobacco Policy Score				
<b>Variable</b>	<b>Coefficient</b>	<b>St. Error</b>	<b>t</b>	<b>p</b>
Contributions (in thousands of dollars)	-3.26	.94	-3.47	< .001
Republican Legislators	-1.40	.36	-3.93	< .001
Intercept	7.34			
Dependent Variable = Campaign Contributions (in dollars)				
Tobacco Policy Score	-314.6	97.1	-3.24	< .001
Majority Party (Democrats)	459.2	210.6	2.18	.03
Intercept	1848			
n = 144				
R <sup>2</sup> = .21 for tobacco policy score; R <sup>2</sup> = .07 for campaign contributions.				

These results are comparable to previous findings of the effects of tobacco industry campaign contributions on the California legislature and the Colorado legislature [2, 3]. These studies also found a simultaneous relationship between tobacco policy scores and tobacco industry campaign contributions, although the effects of money appear greater in Washington than in Colorado and California. In California, a \$1000 contribution only reduced the tobacco control policy score by an average of -0.11. In Colorado, a \$1000 contribution reduced the tobacco policy score to -2.3 (compared to 3.3 in Washington). Per dollar, tobacco industry campaign contributions are having a greater impact in Washington than in Colorado or California.

## **LOCAL TOBACCO POLICY MAKING IN WASHINGTON**

The first city in Washington to enact a clean air ordinance was Seattle, Washington's largest city, in 1983 (Table 8). The ordinance pertained to both public and private workplaces, but allowed exceptions for designated areas. The ordinance also applied to retail and grocery stores, health facilities, public transportation, schools and restaurants that seat over 75 people. King County, which incorporates the city of Seattle, enacted an ordinance in 1986. This ordinance only applied to public workplaces. Pierce County passed a clean indoor air ordinance in 1984, the year after Seattle did. Pierce County is south of King County and has a population of 586,000. The city of Tacoma is located in Pierce County. The ordinance applied to all public and private workplaces, public transportation, retail and grocery stores, schools, health facilities and restaurants. Kennewick's clean air ordinance, which passed in 1985 did not affect public or private workplaces, but did apply to retail and grocery stores, health facilities, public transportation, schools, and restaurants.

Spurred by this local activity, the state legislature enacted the 1985 Washington Clean Indoor Air Act which mandated smoking and non-smoking areas in restaurants. In 1988 former Governor Booth Gardner (D) issued an executive order to make all government workplaces smoke free. Washington is one of only nine states where government work sites are completely smoke free or require designated smoking areas with separate ventilation. The other states are California, Idaho, Utah, Colorado, Wyoming, South Dakota, Michigan and Ohio [15].

Activity on local clean indoor air ordinances died out after 1986 and was replaced with local ordinance activity designed to limit youth access to tobacco products. In the late 1980s and early 1990s, seven Washington localities passed ordinances that limited the placement of tobacco vending machines. The first locality to pass a vending machine ordinance was King County in 1988. The other six communities were Lynnwood (1989), Vancouver (1989), Everett (1990), Mountlake Terrace (1991), Seattle (1991), and Snohomish County (1991). None of these cities or counties have enacted a total ban of vending machines. They all exempt bars or other places where children are excluded from law. Lynnwood accepted a further tobacco industry compromise by requiring a locking device on vending machines rather than restricting machine placement. Such locking devices are not effective in preventing children from buying cigarettes [16].

With the exception of Lynnwood, all the localities that restrict access to vending machines have enacted other measures that restrict access of tobacco products to children. Five localities (Everett, King County, Mountlake Terrace, Seattle, Snohomish County) required retailers to have a license (which can be revoked or licensed) to sell tobacco products. Three localities (King County, Seattle and Snohomish County) limit or ban free distribution of tobacco products. These measures are relatively strong measures that led to a successful effort (discussed below) by the tobacco industry to preempt local ordinances to restrict youth access to tobacco products.

### **Puyallup: A Public Health Failure**

The city of Puyallup, a small city of 27,000 in Pierce County, passed one of the strongest local clean indoor air ordinances in the state of Washington in 1994. This ordinance was the first in Washington to make all restaurants smoke free and could have signaled a resurgence of local clean indoor air ordinance activity in Washington. The tobacco industry, however, successfully used the threat of litigation, nominally by restaurant owners, to force the city to rescind the ordinance before it was implemented. The failure of the public health community to provide the support necessary to defend Puyallup's ordinance allowed the tobacco industry to stifle local clean indoor air ordinances throughout the state.

Shortly after being inaugurated as Mayor of Puyallup in January 1994, Mike Deal proposed an ordinance to make all restaurants in the city of Puyallup smoke free. This ordinance would have been the first one in the state of Washington to make restaurants completely smoke free. Despite the relatively small size of Puyallup, it would have been the first city in Washington to have a smoke free restaurant ordinance and other Washington cities might follow Puyallup's example. The ordinance only applied to restaurants; bars, taverns and cocktail lounges were excluded. The mayor had informally discussed the possibility of a smoke free restaurant ordinance with the six other members of the city council\* and all members initially supported the ordinance [17]. After the informal discussions with members of the city council, the ordinance was formally proposed in June 1994.

Before an ordinance is passed, there are three readings of the proposed ordinance at which the Council votes on the proposed ordinance. At all three meetings, there was substantial public testimony supporting and opposing the proposed ordinance. The American Cancer Society, Pierce County Health Department, some restaurant owners and managers, and individual physicians and nurses favored the proposed ordinance. Some restaurant owners, a smokers' rights group (formed by RJ Reynolds after the ordinance was proposed) [17] and some individual citizens opposed the ordinance.

As the tobacco industry had done in other states [18, 19], it used public relations firms to organize opposition to ordinances while attempting to remain out of the public eye. In particular, RJ Reynolds provided assistance in organizing several restaurant owners to oppose the proposed ordinance [17, 20]. One way RJ Reynolds generated negative publicity over the ordinance was to distribute a video that purported the negative effects of smoke free restaurant ordinances in other cities or states. The video contained individuals who claimed that their businesses were suffering because of their city's restaurant ordinance. RJ Reynolds also hired a roving camera crew that interviewed restaurant patrons in Puyallup who claimed that they would no longer dine in Puyallup once the smoke free ordinance went into effect [17]. This video was also distributed to restaurant owners.

At the first reading in June, the Council passed the ordinance by a vote of 4 to 3. The RJ Reynolds campaign was achieving some success. Three members who had initially supported the bill changed their minds and voted against it because of concerns that it might hurt local businesses. The council members remained consistent in their voting patterns at the second and third readings and the ordinance was enacted in August, 1994. Normally, in Puyallup, an ordinance is implemented five days after it had passed. In this case, however, the effective date of the ordinance was delayed 4 months, until January 1, 1995, so that city staff could assist restaurant owners in adjusting to the smoke free ordinance.

In November, 1994, nine Puyallup restaurant owners, with the financial assistance of RJ Reynolds [17], filed a lawsuit in Pierce County Superior Court against the City of Puyallup, the City Council, and

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\* The Puyallup city council consists of seven voting members, including the mayor.

Mayor Michael Deal. The Seattle law firm of Byrnes and Keller represented the restaurant owners (Byrnes and Keller is also the law firm that represents Stuart Cloud, in filing the complaint against the state Department of Health and Project ASSIST, discussed below). The restaurant owners argued that the 1985 Clean Indoor Air Act preempted localities from passing more stringent local ordinances than the 1985 state law. The City Attorney researched the law and believed that the 1985 law was not preemptive. According to the City Attorney's opinion, the state law required smoking and non-smoking sections in restaurants, but did not preempt local authority to establish stricter standards in restaurants [17].

Despite the City Attorney's opinion that the 1985 state law was not preemptive, the Council members that voted for the ordinance worried that successfully defending the ordinance in court in the face of a tobacco industry-financed challenge would be too expensive for a city of 27,000 to handle. In contrast to most potential plaintiffs, who require a reasonable probability of success before bringing a suit, the tobacco industry was viewed as willing to expend large sums of money bringing a suit and appealing the results even if the long term potential for success in the courts was low. The Council members worried that even if the city of Puyallup would win in Superior Court, the tobacco industry would appeal the case. The Council was concerned that the legal department in Puyallup, which consists of two attorneys and a paralegal, would not have been able to handle their day to day duties, while litigating against the tobacco industry and that retaining a law firm would have been too expensive for the city. Some also argued that it would be difficult to justify the expensive litigation process when the council was divided about the ordinance. In December, 1994, the Council voted six to one to rescind the ordinance rather than defend it. (Council member Donald Malloy voted not to rescind).

The plaintiffs added another stipulation in order to drop their lawsuit against the city. In addition to rescinding the ordinance, the restaurant owners and the City of Puyallup agreed that if the City of Puyallup would pass a similar ordinance in the future, and it was ruled unconstitutional; then the City of Puyallup would have to repay the restaurant owners for all previous legal expenses related to the lawsuit [21].

There are two interrelated consequences to Puyallup's decision to rescind the ordinance. First, it created confusion about whether the 1985 Clean Indoor Air Act is preemptive among other localities and made it easier for the tobacco industry to argue that the state law was preemptive even though the Centers for Disease Control does not include Washington as a state with pre-emptive clean air legislation [15]. This confusion of whether the state law is preemptive is probably preventing other localities from passing new, stronger clean indoor air laws [21]. Second, the capitulation of Puyallup has raised concerns in other communities that they too would pass an expensive and lengthy legal battle with the tobacco industry if they were to pass such an ordinance. The confusion over the state law, and the reluctance of any community to be the test case for the law has prevented any locality in Washington state from passing clean indoor air ordinances since Puyallup. The Puyallup case also highlights a failure of the public health community to develop the resources necessary to support ground breaking communities like Puyallup in the face of legal intimidation by the tobacco industry.

## **STATE TOBACCO POLICY MAKING**

### **Tobacco Taxes**

The Washington state cigarette tax of 82.5 cents per pack is the highest cigarette tax in the nation in 1996, a dramatic increase since 1993, when it was only 34 cents per pack. (The average state tax in the United States at the end of 1995 was 32.7 cents per pack [15].) The first increase came in July, 1993 when the cigarette tax increased by 20 cents (from 34 cents to 54 cents). The cigarette tax increased

again in July, 1994 by 2.5 cents, July, 1995 by 17.5 cents, and in July 1996 by 1 cent. Most of these increases in the cigarette tax were enacted as part of the Washington Health Services Act of 1993, a bill to help provide health services to the uninsured. Despite these cigarette tax increases, none of the money raised from the cigarette tax has been earmarked for tobacco prevention or cessation programs. The Health Services Account, which funds indigent care, receives approximately half of the funds (41 cents) raised by the cigarette tax. Twenty-three cents is earmarked for the general fund, 8 cents is allocated to the water quality account and 3 cents is designated for drug enforcement and education.

In addition to the increases mandated by the Washington health Services Act, Washington voters approved Referendum 43 in November, 1994 to increase the cigarette tax 7.5 cents starting in July 1995, with the revenues earmarked for drug enforcement and violence reduction.

The smokeless tobacco tax in Washington is 74.9 percent of the wholesale price. This tax is the highest smokeless tobacco tax rate in the nation [15]. Revenues generated from the smokeless tobacco tax is divided into three accounts: 48.15 percent is allocated to the general fund, 16.75 percent is dedicated to the water quality account, and 10 percent is earmarked for the Health Services Account.

There were some attempts during the 1995-96 legislative session to reduce the tobacco tax. In February, 1995, Representative John Pennington (R-Carrols) proposed to eliminate the 17.5 cent increase in the tobacco tax that would be allocated for Health Services (HB 1817). Rep. Pennington has received \$1,350 from the tobacco industry during the 1995-1996 electoral cycle. The bill was referred to the Rules Committee, but never considered. The bill was reintroduced again in January, 1996 and referred to the Finance Committee, where it died in committee.

Also in February, 1995, Representative Philip Dyer (R-Issaquah) proposed in HB 1732 that would have eliminated the future tax increases on cigarettes, beer and liquor called for by the Washington health Services Act of 1993 until a study on the effect of volume-based taxes could be done. The bill's sponsors were concerned that the higher taxes on these products would be an unstable source of income and may have an adverse impact on those who are employed in the manufacturing, distributing or selling of cigarettes, beer and liquor. Dyer received \$1,000 from the tobacco industry and had a tobacco policy score of 3.8 (leaning pro-tobacco industry). This bill would have prevented the July 1, 1995 cigarette tax increase of 17.5 cents and the 1 cent cigarette tax increase scheduled for July 1, 1996.

The bill passed the House Finance and the House Transportation Committee in 1995 and was referred to the Rules Committee, which did not release it for consideration by the entire House. HB 1732 was reintroduced in January 1996, but died in the Transportation committee. While health and tobacco control organizations such as the American Cancer Society, the American Lung Association, Washington DOC, and FANS did not believe the legislature would consider serious tobacco control legislation, these groups were able to convince legislators not to reduce the current level of tobacco taxes [22, 23].

### **State Regulations Requiring Clean Indoor Air in Private Offices and Government Workplaces**

The state Department of Labor and Industries adopted strong indoor air quality regulations in October, 1994 requiring that all private offices and adjacent rooms such as restrooms, meeting rooms and cafeterias smokefree [24]. The only exception to the indoor air quality regulations is designated smoking rooms with strict ventilation standards. This ruling exempts manufacturing facilities, bars, taverns, restaurants, bowling alleys and bingo parlors. The regulations do not preempt localities from enacting tougher restrictions than the state regulations.

Several factors provided the impetus for the State Department of Labor and Industry (L&I) to

eliminate second hand tobacco smoke in private offices. In the late 1980s, many businesses were concerned about the quality of clean indoor air and the problem of “sick building syndrome.” In response to these concerns, in 1988, Governor Booth Gardner (Democrat) initiated an Indoor Air Quality Interagency Task Force to address the problems in offices only. The Department of Labor and Industry, the Department of Health, the Department of Ecology, and the Washington State Energy Office participated in the task force. In addition, the legislature passed the Indoor Air Quality in Public Buildings Act in 1989 (Revised Code of Washington 70.162). This legislation ordered L&I to “recommend stronger workplace regulation of indoor air quality under the Washington Industrial Safety and Health Act...” and “recommend to the Legislature measures to implement the recommendations...” (RCW 70.162.020 (2) , and (5)).

In 1990, the task force submitted a report to the state legislature on indoor air quality, including recommendations on control of second hand tobacco smoke, as well as ventilation systems and ventilation requirements for manufacturing and production facilities. The legislature made no response, either positive or negative, to the report [25].

Faced with increasing evidence that second hand smoke was dangerous, in 1991, the State Department of Labor and Industries’ prepared proposed rules that would make private offices smoke free and create other air quality regulations affecting the manufacturing and commercial processes and held administrative hearings on them. During 1992 and 1993, L&I met with a 27 member advisory committee met to review and revise the proposed indoor air quality rules. Members of this advisory committee consisted of professional organizations representing building owners and ventilation systems maintenance, labor unions, health advocacy organizations, public health officials, business representatives, and state agencies [26]. Public meetings were held around the state to acquire input regarding the proposed regulation. Building owners and employers participated in these meetings, but tobacco companies did not. Building owners and employers were most concerned about the expense of proposed ventilation standards for manufacturing and production areas. There was little discussion of secondhand smoke because employers could send employees outside to smoke [25].

When the final proposal for indoor air quality rules were announced in December 1993, the tobacco industry intervened heavily in the process. During these hearings, Philip Morris and the Tobacco Institute argued that environmental tobacco smoke was not a “significant risk” as defined by the U.S. Supreme Court decision *Industrial Union Department, AFL-CIO v. American Petroleum Institute, 1980* (commonly referred to as the Benzene case). In the Benzene Case, the U.S. Supreme Court stated that for a federal Occupational Safety and Health Agency rule to be issued, there has to be proof that the substance in question poses a “significant risk” in workplaces. L&I argued that the environmental tobacco smoke was not necessary to the workplace and is not a substantial burden to industry; hence, it was not necessary to provide a high degree of proof [25]. The tobacco industry also criticized the Department’s reliance on the the 1986 Surgeon General’s report, *The Health Consequences of Involuntary Smoking* [27], the 1992 EPA report, *Respiratory Health Effects of Passive Smoking: Lung Cancer and other Disorders* [28], and the 1991 National Institute of Occupational Safety and Health report, *Environmental tobacco smoke in the workplace: Lung cancer and other health effects* [29]. The tobacco industry was especially critical of the methodology of the EPA report. The tobacco industry also argued that L&I did not seriously consider research that was supported by the tobacco industry [25].

In support of the rule, the Washington State Health Department, the American Lung Association, the Fred Hutchinson Cancer Institute, Fresh Air for Non-Smokers (FANS), a local grassroots nonsmokers’ rights group, and several individual physicians expressed support for the regulation. A statewide business group, the Association of Washington Businesses (AWB), proposed that there be

exposure limits to secondhand smoke rather than a requirement of smokefree private workplaces. As mentioned previously, the Association of Washington Businesses (AWB) has received financial support from the tobacco industry in the past. In 1990 Philip Morris contributed \$1,000 to the AWBs' Legislative Ticket Fund in 1990 and \$2,250 AWBs' the Legislative Ticket Fund and Caucus Ticket Fund in 1992.

After these hearings, the Department of Labor and Industries finalized its indoor air quality rule, which was signed by the Director of Labor and Industries, Marc Brown, on March 16, 1994. This rule made offices in private workplaces smokefree, including offices and spaces that office workers utilize such as cafeterias, meeting rooms, restrooms, hallways, and elevators. Designated smoking rooms were permitted with ventilation rates of at least 60 cubic feet per minute per smoker, with a separate exhaust system that would direct the smoke outside and prevent it from being mixed with the building's general ventilation system (Washington Administrative Code (WAC) 296-62-12000 -- 12009). The regulations were to take effect September 1, 1994.

In June 1994, Philip Morris went to the Legislature in an effort to stop the L&I rule. Philip Morris convinced the Joint Administrative Rules and Review Committee to rule that the L&I rule violated state administrative law. The chair of the committee was Senator Curtis Ludwig and the Vice Chair was Representative Ron Meyers. Other members included Senators McCaslin, Smith (Adam), and West and Representatives Foreman, Johanson and Thomas. These members received \$3,071 in 1993-1994 and had an average tobacco policy score of 4.7. While the Committee's declaration was non-binding, its finding received considerable attention in the media [25] and led to considerable confusion among the public and employers about whether the rule would be implemented [25]. In response to this confusion, the Department of Labor and Industries delayed implementation of the regulations for one more month (to October 1) to notify employers that the rule was still going into effect.

In September, 1995, five tobacco companies and three local businesses filed suit in Superior Court against the Department of Labor and Industries and Marc Brown, the Director of the Department of Labor and Industries. The local plaintiffs were Aviation West Corporation, Competition Specialties, Inc., Computer Group Inc., together with five tobacco companies, American Tobacco Company, Brown & Williamson Tobacco Corporation, Lorillard Tobacco Company, R.J. Reynolds Tobacco Company, and Philip Morris Inc. The local firms were included to provide the appearance that it was just not tobacco companies that were suing the L&I. The presence of small businesses located in Washington also allowed lawyers to argue for a "stay" (to keep things the same) because the rules would directly affect businesses in Washington. The plaintiffs were represented by the law firms of Covington and Burling of Washington DC and Heller, Ehrman and White of San Francisco, CA. (Covington and Burling represents the Tobacco Institute in many cases with political and public policy implications.)

The plaintiffs challenged the L & I rule on several grounds. First, they argued that secondhand smoke was not a significant risk in the workplace. Second, they challenged whether the state had complied with all procedures necessary to issue the rules according to Washington State Administrative Law. Third, they argued that it was not reasonable for the State Labor Department to rely upon Federal reports such as the Surgeon General's report, EPA Report and the NIOSH report. The tobacco industry alleged that the scientific standards in these reports were not sufficient for an agency to rely upon. They argued that many of the studies on secondhand smoke were studies of the effects of second hand smoke on spouses of smokers, rather than studies of second hand smoke in workplaces, and so these studies were not relevant to workplaces. Fourth, the tobacco industry argued that the state did not file enough documents to state exactly what the reasoning process was that lead to the rule.

The industry sought a "stay" of the implementation of the L&I rule to prevent it from going into

force pending the outcome of its law suit against the Department. On September 28, 1994, Superior Court Judge Richard Strophy ruled that the rules were not “obviously” invalid and refused to grant a “stay” to delay the implementation of the rules. However, he did delay implementation of the rules until October 8, 1994, to allow the tobacco industry enough time to file an appeal. The rules went into force on October 8, 1994. Both the Court of Appeals in October, 1994, and the State Supreme Court in November, 1994, upheld the the Superior Court ruling not to grant the “stay” to delay implementation.

Judge Richard Strophy presided over the trial on the merits, which started in February 1996. Judge Strophy ruled in the state’s favor on every issue on April 22, 1996 [30]. He accepted the State’s argument that regulating second hand smoke was different from regulating other substances in the workplace. Since second hand smoke is not a necessary substance in the workplace, and eliminating it did not impose substantial burdens on employers, the state did not need to provide a high degree of proof that second hand smoke is a significant risk. The judge also ruled that it was reasonable for a state agency to rely more heavily on the federal reports than industry-generated documents. It is likely that the tobacco industry will appeal the case to either the State Court of Appeals or the State Supreme Court.

### **Youth Access Legislation**

While the Department of Labor and Industries’ regulations on clean indoor air are not preemptive, the Minors’ Access to Tobacco Act (H.B. 2071) passed in 1993, preempts local ordinances restricting minor’s access to tobacco products. The law was partially a response to the Synar amendment -- federal legislation passed in 1992 that mandates states to institute measures designed to reduce minors’ access to tobacco products. The Washington law requires retailers to post signs stating that the sale of tobacco products to minor is illegal. The law also requires retailers to be licensed to sell tobacco products and require retailers to request photo identification of purchasers of tobacco products. The license fee was increased from ten dollars to ninety-three dollars. The law also prohibits distributing tobacco product samples in public places and places where persons under 18 years old are located. Vending machines are limited to areas where children are prohibited or not employed. Retailers who violate the law may be fined and have their licenses suspended or revoked. This law also establishes a fund (into which fines are deposited) to support local agencies that implement youth tobacco prevention and intervention programs. The only exception to the state preemption is that localities that passed their own ordinances forbidding tobacco sampling prior to January 1, 1993 may continue enforcing their own ordinances.

The bill was sponsored by Rep. Linda Johnson (D-King) and introduced on March 3, 1993. The original bill did not contain a clause to preempt local ordinances from passing stronger ordinances than the statewide law. It was referred to the Health Care Committee. Two weeks after the bill was introduced, Linda Johnson and Rep. Clyde Ballard (R-East Wenatchee) replaced the bill with a substitute bill that contained a preemption clause. The inclusion of preemption in the bill divided many of the health organizations. The substitute bill, with the preemption clause, was supported by the tobacco industry, and the Department of Health, and Group Health (the state’s largest insurance company). The bill was opposed by the American Lung Association, the American Cancer Society, Washington DOC, an anti-tobacco activist group of physicians, and FANS, a grassroots nonsmokers’ rights group. The Health Care Committee passed the substitute bill. It was then referred to the Revenue committee and to the Rules committee where the bill was accepted also. The bill passed the House on a 97 to 0 vote (one absent). The Senate also passed the bill 42 to 3 (4 absent).

H.B. 2071 was modified in 1994 to allow for an exception to the placement of vending machines.

S.B. 6356 (sponsored by Quigley) permits a vending machine to be located less than 10 feet from an entrance or exit if it is “architecturally impractical” to place a vending machine beyond 10 feet.

## **PROJECT ASSIST IN WASHINGTON**

Project ASSIST (American Stop Smoking Intervention Study) is a seven year project funded by the National Cancer Institute (NCI) that began in 1991 and will end in September, 1998. ASSIST is being implemented in seventeen states, including Washington. The goals of ASSIST is to reduce the adult smoking prevalence to 17% or less by 1998 and to reduce the youth smoking initiation rate. ASSIST seeks to change the public acceptance of tobacco use. ASSIST also works on the development and involvement of community tobacco control coalitions, through schools, work sites, community groups, health care organizations and the community. The objectives of ASSIST in the state of Washington are [31]

1. Work to pass the Department of Labor and Industries’ regulations on eliminating Environmental Tobacco Smoke in offices, and work to extend the ban to all workplaces.
2. Raise public and legislative concern about clean indoor air and Environmental Tobacco Smoke to further eliminate ETS from public places.
3. Advocate for enhancing and/or strengthening local voluntary and governmental action restricting smoking in public places.
4. Increase the number of health care providers providing smoking cessation information to patients.
5. Build capacity within ethnically diverse populations to address the tobacco impact within their communities.
6. Mobilize and empower four local youth coalitions to encourage youth to become educators and advocates on the tobacco issue.
7. Launch a counter-advertising campaign to reduce the amount of Environmental Tobacco Advertising (ETA) in the community.
8. Educate retailers and the public on current youth access laws.
9. Promote utilization of existing tobacco-related curricula to all public schools statewide.
10. Hold a strategy session on policy and media advocacy focusing on the relationship between Tobacco Free Washington Coalition and the Tri-Agency Coalition.
11. Train and prepare coalition members to interact with policymakers, the media, and the public on tobacco issues.
12. Increase and improve inter-coalition communication and organization.
13. Prepare for and conduct planned and opportunistic media advocacy events and activities.

The three organizations that are working with project ASSIST are the Department of Health, the Tobacco Free Washington Coalition (TFWC), and the American Cancer Society.

The Department of Health is the administrative body and recipient of all federal funds for project ASSIST. The Department is responsible for hiring staff and carrying out the terms and conditions of the ASSIST contract with NCI. All staff and subcontractors of the Washington ASSIST project are federally funded. The Department reviews all subcontracts to ensure that the sub-contracts meet and do not exceed the prescribed use of ASSIST funds.

The Tobacco Free Washington Coalition (TFWC) is an independent, voluntary group of community organizations, schools, businesses, health care organizations, public agencies and individuals interested in tobacco control. The coalition was formed in 1987 to promote legislation to control tobacco. In 1991, the Coalition formerly approved an agreement with ASSIST to be the ‘umbrella’ organization for ASSIST and expand the Coalition’s activities to include tobacco use prevention and education. While the Tobacco Free Washington Coalition works with ASSIST, it is not funded by ASSIST and does not directly receive federal money. The Coalition and its members have its own tobacco control agenda. Many of the organizations have full-time or part-time lobbyists that may work on tobacco control issues independent of ASSIST..

The American Cancer Society, Washington Division (ACS) is a planing and managing partner of the ASSIST project. It does not receive federal funds to participate in ASSIST; instead ACS contributes

approximately \$180,000 per year for in-kind and other support of the ASSIST project. The in-kind support is in the form of a full-time ASSIST manager who works with Coalition committees and task forces. Other ACS support includes conducting tobacco control activities that the Coalition plans, in parallel with activities of Project ASSIST. For instance, the Coalition suggested the need for a legislative action alert system. ACS created and maintains the legislative action alert system.

One advantage of the ASSIST project in Washington is that it has expanded the number of organizations in the state that are involved in tobacco control. Participation in ASSIST was not universal among tobacco control groups in Washington. Because the American Cancer Society in Washington became the partner with ASSIST and the Department of Health, the other major voluntaries, in particular the American Lung Association and the American Heart Association, felt left out [32]. In addition, the American Lung Association did not become involved with ASSIST because they feared that they may be restricted from legislative lobbying [32]. While the three major voluntary organizations have many of the same legislative goals, they sometimes do not cooperate with one another [22].

### **Freedom of Information Act Requests and Lobbying Charges by the Tobacco Industry**

The fact that the ASSIST project is federally funded through the state Department of Health provided an opening for the tobacco industry to create controversy about the ASSIST project. In particular, while it is clearly understood that the Tobacco Free Washington coalition cannot use federal funds for lobbying purposes, the Coalition and its constituent organizations remained free to use funds raised independent of ASSIST for such activities [32, 33]. In Washington, as in other states [34], the tobacco industry has tried to blur the distinction between private activities of coalition members and the publicly funded activities of ASSIST and the state health department, then attack individuals and organizations concerned with tobacco control with violating laws against use of government funds for lobbying.

The first step in this process is the pepper government agencies with freedom of information act requests. Between March 1, 1995 and October 10, 1995, the law firm of Byrnes and Keller sent three letters for requests and two letters of clarifications of requests to the Washington State Department of Health, nominally on behalf of Stuart Cloud, the Vice President of Stank Inc., a chain of smoke shops in the Seattle area. The health department learned that the real client was the Tobacco Institute from the courier order to pick up the requested documents from the department (Figure 6). The letters made 49 separate requests that included requests for contracts, meeting minutes, memoranda, correspondences. In addition, some of the requests asked for funding and activities of specific individuals such as Dr. Robert Jaffe and Dr. Dennis Biggs. The Washington State Health Department produced 5,000 pages of documents and spent \$6,000 in labor costs to produce the request [35].

On November 9, 1995 Stuart Cloud filed a complaint with the Public Disclosure Commission, charging that Project ASSIST, through the Tobacco Free Washington Coalition, used public funds to lobby government officials for tougher tobacco control policies [36]. The complaint cites Tobacco Free Washington documents that describe activities such as "...meet with legislators to educate at appropriate times on tobacco issues," "Develop a letter writing campaign to the director of Labor and Industries to develop regulations that ban smoking in the worksite," "...advocat(ing) for enhancing and/or strengthening local ... governmental action restricting tobacco advertising and promotion," and "... we are asking electoral candidates to give us their views on tobacco control policies in order to help us better educate the public." [36]. The 425 page complaint was prepared by the Seattle law firm of

Byrnes and Keller, and was filed in November, 1995, with the Public Disclosure Commission. The law firm was paid partly by Cloud and partly by the Tobacco Institute [37-39]. Members of the Tobacco Free Washington Coalition and the Department of Health have vigorously disputed the claims of lobbying by Stuart Cloud and had argued that this was a scheme by the tobacco industry to harass and intimidate [37-39]. The Public Disclosure Commission has not made a ruling over the complaints filed by Byrnes and Keller.

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## SPECIAL MESSENGER SLIP

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CASE NAME Tobacco Institute CASE NO. \_\_\_\_\_  
DOCUMENTS Boxes of documents  
The boxes will be ready by 4:00pm 10/2/95

<input type="checkbox"/> DELIVERY	<input type="checkbox"/> RETURN MESSENGER SLIP STAMPED	<input type="checkbox"/> RETURN EXTRA SET OF COPIES STAMPED	<input type="checkbox"/> OBTAIN SIGNATURE	<input type="checkbox"/> RETURN ORIGINAL	<input checked="" type="checkbox"/> AROUNDTRIP	<input checked="" type="checkbox"/> PICKUP
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DEADLINE \_\_\_\_\_ CONFIRMATION CALL: YES  NO  RECEIVED BY \_\_\_\_\_ TIME \_\_\_\_\_

Please pick up documents at below address and deliver the attached check to:  
Kim Dalthora  
Washington State Dept. of Health  
Airdustrial Park, Bldg 10  
Tumwater, WA 98502

return documents to Byrnes + Keller on 10/3/95 - a.m.  
*Jhako*

COUNTY	SUPERIOR COURT	DISTRICT COURT (INDICATE)	AUDITOR	APPEALS COURT		FEDERAL COURT		SEA	TAC	AFFIDAVIT OF SERVICE REQUIRED
				I-(SEA)	II-(TAC)	CIVIL	BANKRUPT			

**Figure 6.** Freedom of Information Requests made to the Washington Department of Health were nominally made by Stuart Cloud. The real client was the Tobacco Institute.

Regardless of the decision of the Public Disclosure Commission, the controversy the tobacco industry has created has had a chilling effect on tobacco control activities in Washington. The industry has succeeded in making members of the Coalition fearful of becoming involved in advocacy or discussing tobacco control issues with public officials. While the Tobacco Free Washington Coalition cannot lobby as a group, individual member organizations of the coalition may lobby as representatives of their own organization [40]. However, the tobacco industry is trying to define "lobbying" as broadly as possible, in order to limit discussion on tobacco control issues by public health authorities.

### WASHINGTON'S LAWSUIT AGAINST THE TOBACCO INDUSTRY

On June 5, 1996, Attorney General Christine Gregoire (Democrat) announced that the state of Washington would become the ninth state\* in the nation to file a lawsuit against the tobacco industry in order to recover health and medical costs the state has spent on tobacco related illnesses over the last four decades. The lawsuit was filed on the same day. In Washington, the estimated annual direct medical costs related to smoking is \$706 million [41]. In addition, between 1980 and 1993,

\* The eight states that had previously filed lawsuits against the tobacco industry are Florida, Louisiana, Massachusetts, Minnesota, Mississippi, Texas, West Virginia, and Maryland. As of October 25, 1996, eight more states (Connecticut, Kansas, Alabama, Arizona, Michigan, Oklahoma, New Jersey and Utah) and three cities and counties (San Francisco, Los Angeles, and New York City) had filed similar suits.

Washington's Medicaid expenses associated tobacco related illnesses totaled more than \$ 1.1 billion [41].

The Attorney's General office cited three violations of Washington law as the legal basis for their lawsuit. The first charge is "unfair and deceptive marketing targeting minors" (RCW 19.86.020). The Attorney General asserts that recent marketing practices by the tobacco industry has "the capacity and tendency to deceive a substantial portion of the public, particularly young people under the age of eighteen" [41]. Some examples of unfair targeting include the "Joe Camel" cartoon campaign, promotions in *Rolling Stone* magazine, the "Marlboro Unlimited" program, and advertisements at sporting events and concerts.

The second charge is "affirmative misrepresentation of material facts" (RCW 19.86.020). The Attorney General's office claims that the tobacco industry has purposely misrepresented information about the addictiveness of nicotine and the health consequences of tobacco use.

The third charge is "conspiracy in restraint of trade" (RCW 19.86.030). The Attorney General is arguing that tobacco companies has acted in concert with each other in concealing health research and preventing the development, production and marketing of "safer" cigarettes.

The lawsuit seeks both monetary and non-monetary awards. The state of Washington has asked the court for reimbursement of of Medicaid costs and health and insurance costs related to tobacco use. The state will also seek a return of all profits they have made through illegal tobacco sales to minors. Of the non-monetary awards, the state will ask the court to order the tobacco industry to stop "deceptive and unfair advertising," disclose research related to tobacco use, provide funding for a public education campaign related to health and tobacco use (to be administered by an independent third party), and to dissolve the Council for Tobacco Research and the Tobacco Institute [41].

The Attorney's General Office has received letters of support from the African-American Community Health Network, the Washington Affiliates of the American Lung and Heart Association, the Washington State Association of Community Action Agencies, the Washington Dental Association, Washington DOC, the Washington State Hospital Association, the Washington State Medical Association, the Washington PTA, the Sisters of Providence Health System, Tobacco Free Washington, the Virginia Mason Medical Center, the Department of Health, the Department of Labor and Industries, and the Washington Liquor Control Board [41].

## **CONCLUSION**

The tobacco industry has used several tactics to slow the amount of tobacco control activity in the state of Washington. Because of tobacco industry campaign contributions and lobbying activity, tobacco control advocates have had to spend more time protecting gains from being overturned, such as tobacco taxes and the Department of Labor and Industries' clean indoor air regulations, instead of encouraging more smoke-free environments at the state and local level. Tobacco control efforts also has been slowed by lawsuits supported by the tobacco industry to prevent strong local ordinances from being passed and creating an atmosphere of fear and confusion among tobacco control advocates. Since the tobacco industry is very influential in the state legislature, public health professionals may need to focus their efforts at the local level or with other institutions in government such as the courts or the administrative process.

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