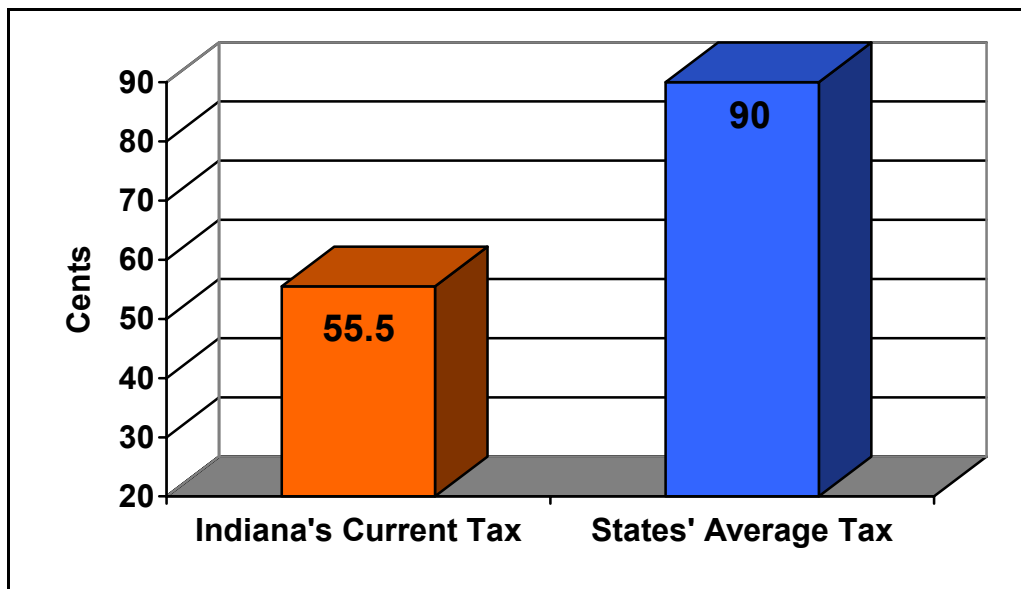


INDIANA'S CIGARETTE TAX IS BELOW AVERAGE

When It Comes to Using Tobacco Taxes to Raise Needed Revenue, Save Lives, Improve Public Health, and Reduce Government and Private Sector Costs, Indiana is Failing to Keep Up with the Rest of the States



A Report By The Campaign for Tobacco-Free Kids

April 25, 2005

The Campaign for Tobacco-Free Kids is an independent, nonprofit organization dedicated to preventing and reducing tobacco use and its harms, especially among youth. The Campaign does not receive or accept any government funding, nor does it receive or accept any funding from the tobacco industry or from the state tobacco lawsuit settlements. To save lives and protect the public health, the Campaign has been supporting efforts to increase state and local tobacco tax rates throughout the country, with a special focus on getting the lower-tax states to increase their cigarette tax rates at least to the expected 2005 year-end nationwide state average. For more information, see www.tobaccofreekids.org.

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Introduction & Summary

Indiana currently has a cigarette tax rate of only 55.5 cents per pack – considerably lower than the projected state average of at least 90 cents per pack expected by the end of 2005.* In fact, state cigarette tax rates currently run as high as \$2.40 and \$2.46 per pack (in New Jersey and Rhode Island, respectively), with 18 states having cigarette tax rates of \$1.00 or higher. In New York City, the combined state-local cigarette tax rate is \$3.00 per pack; and in Chicago the state-local rate is \$2.46 per pack.¹

On the other hand, the U.S. Centers for Disease Control and Prevention (CDC) estimates that smoking-caused health costs and productivity losses in Indiana total \$5.73 per pack sold in the state. Indeed, the toll of tobacco in Indiana remains quite high, with 10,300 adults dying each year from their own smoking.² But state tobacco tax increases could quickly improve this distressing situation.

Cigarette tax increases are one of the most effective ways to reduce smoking, especially among youths, pregnant women, and low-income smokers. Studies have shown that for every 10 percent increase in the price of cigarette, youth smoking declines by approximately 6.5 percent and overall consumption declines by three to five percent.³ Massive amounts of economic research and state experiences have also firmly established that significantly raising state tobacco tax rates will always substantially increase state revenues – despite the smoking declines – thereby reducing the number of people who suffer from smoking-caused disease or die prematurely from their smoking or other tobacco use.⁴ Put simply, the additional revenues the state receives per pack sold after a tobacco tax increase brings in far more revenue than the state loses from the declines in pack sales prompted by the increase.

The reductions in tobacco use levels caused by the tobacco tax increases will directly reduce individual, government, and private sector expenditures and other costs caused by tobacco use.⁵ Not only will smoking-caused health care expenditures decline, but smoking-caused productivity losses and other tobacco-caused costs will shrink, as well. The overall health of the state's citizens will improve, and the productivity of the state's workforce will increase, as well.

Nevertheless, many states, such as Indiana, have failed to take full advantage of the power of tobacco tax increases to benefit the state, its businesses, and its residents.

By increasing its cigarette tax rate by just 35 cents per pack, Indiana would bring its cigarette tax up to the expected year-end statewide average. Using conservative estimates, such an

* As of the date of this report, the average state cigarette tax rate is 85 cents per pack, but cigarette tax increases are being considered in Texas, Iowa, Illinois, and Washington, among other states. Using conservative estimates of the results from these pending state cigarette tax increase proposals, that average is likely to increase to at least 90 cents per pack once the state legislatures have completed their 2005 sessions. According to Wall Street tobacco industry analysts, if all of the currently pending state cigarette tax increases pass into law, the average state cigarette tax will increase to \$1.13 per pack by the end of this year. [Citigroup, Smith Barney, *Tobacco Weekly*, March 28, 2005.]

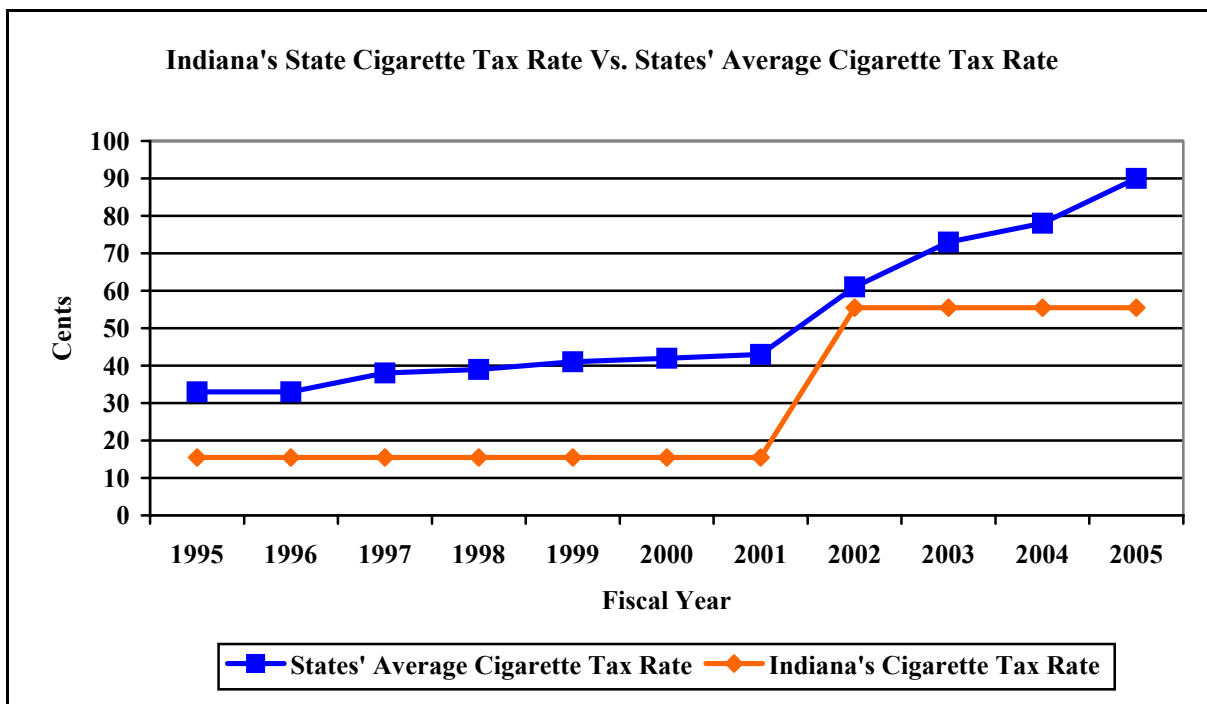
increase would not only bring in \$159.9 in additional new state revenue but also prevent 36,900 kids alive in Indiana today from growing up to become addicted adult smokers, prompt 17,900 current adult smokers to quit for good, save 16,500 Indiana citizens from dying prematurely from smoking, and reduce future state smoking-caused health costs by \$742.2 million.⁶

Indeed, if all of 31 of the states with below average tax rates raised their cigarette tax to 90 cents per pack, those increases would save 485,000 lives, prompt 596,000 adult smokers to quit, prevent 1,029,000 kids from becoming addicted users, reduce future smoking-caused health costs in the country by \$14.9 billion, and bring the states an additional \$4.5 billion in new annual revenues.⁷

Parallel increases to state taxes on other tobacco products, such as smokeless or spit tobacco, would produce additional new state revenues and parallel reductions in the use of these other tobacco products and their related harms and costs. Such complementary increases in these other tobacco taxes would also avoid the problem of addicted smokers switching to cheaper alternative tobacco products instead of quitting – and would make sure that these other tobacco products are not an inexpensive gateway to kids becoming lifelong tobacco addicts.⁸

Indiana's Cigarette Tax Rate is Not Keeping Up with Other States, Cigarette Company Price Increases, or Cigarette Company Marketing

Besides all of the revenue, public health, and cost-savings benefits from a substantial increase in Indiana's cigarette tax rate, such an increase is also necessary for Indiana to keep up with the other states. Compared to states with higher cigarette tax rates, states with lower cigarette tax rates are providing their smokers with larger subsidies, getting fewer tobacco revenues to offset the state's tobacco-caused costs, keeping their public and private sector smoking-caused costs and harms higher, and, overall, leaving themselves at a considerable disadvantage.



Most notably, Indiana's cigarette tax has consistently trailed behind the average state cigarette tax rate and that gap has been increasing sharply since the state's last rate increase in 2002 (see chart, above).

At the same time, Indiana's cigarette tax has failed to keep up with the ongoing increases in cigarette prices in the state. But it does not make sense for the cigarette companies to get increasingly larger revenues and profits per pack while the state's share of cigarette revenues shrinks. Since 1998, the average price of a pack of cigarettes has almost doubled, as the major cigarette companies have used the state tobacco settlements as an excuse for raising the prices they charge by more than \$1.00 per pack (raising their prices more than twice as much as needed to cover all of their settlement-related costs).⁹ While competitive pressure from new, small manufacturers' brands temporarily dampened these major company price hikes in recent years, Philip Morris announced a brand new price increase at the end of last year and Wall Street tobacco industry analysts expect more to come. As a result, Indiana's cigarette tax currently accounts for only 16 percent of the average price of a pack of cigarettes in the state and that percentage is likely to shrink unless the state boosts its rate by more than a token amount.¹⁰ In contrast, the cigarette companies receive about 58 percent of each dollar spent on cigarettes in Indiana.¹¹

The cigarette companies also use a portion of their revenues from Indiana pack sales to increase smoking levels (and related harms and costs) in the state. In the most recent year for which good data is available, 2002, the tobacco companies spent \$449 million on marketing and promotions in Indiana (which is more than 74 cents per pack sold in the state). That represents an increase of 12.9 percent from the prior year (and an 87% increase since 1998).¹² Cigarette company filings with the U.S. Securities and Exchange Commission also indicate that their marketing expenditures have continued to increase sharply since 2002. To offset the impact of the cigarette companies' promotional spending on state smoking levels, Indiana needs to increase its cigarette tax (and, ideally, invest some of the additional new revenues in expanding the state's tobacco prevention efforts).

The Current Tobacco Tax Situation in Indiana

In 2002, Indiana took the productive step of adding 40 cents to its previous, extremely low cigarette tax of 15.5 cents per pack, producing a new state rate of 55.5 cents per pack. That modest increase immediately brought the state \$225 million in additional annual tobacco tax revenues – while also helping to prompt a 17 percent drop in total pack sales in the state.¹³ The 2002 cigarette tax increase was also a key factor (along with the state's tobacco prevention program) in cutting the number of Indiana high school smokers by 32 percent, from 2000 to 2004, and reducing smoking by middle school students by 20 percent. And those smoking declines were secured despite the concurrent increases in spending by the big tobacco companies to market and promote their cigarettes to Indiana residents.¹⁴

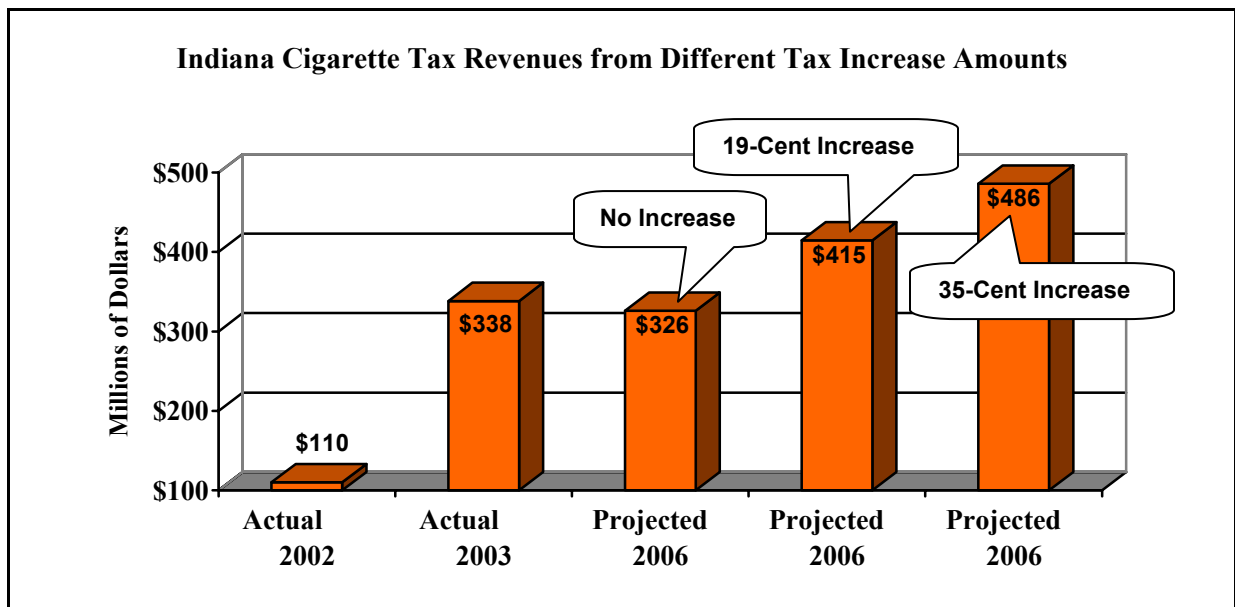
More recently, Indiana state legislators have taken an important first step to build on this past progress by passing a cigarette tax increase of 19 cents per pack. But that small an increase would still leave the state's cigarette tax far short of the average state rate – and would fail to produce the kind of progress the state needs. Simply raising the cigarette tax increase amount to just 35 cents per pack would not only bring Indiana's cigarette tax rate up to the nationwide state average, but would also provide the state with substantial additional new revenues and other additional benefits.

A 35-Cent State Cigarette Tax Increase Does More Good Than a 19-Cent Increase

As detailed below, raising the state's cigarette tax by 35 cents per pack, instead of only 19 cents, would produce \$71 million more per year in additional new revenue, save 7,600 more lives, prompt 8,200 more current adult smokers in the state to quit, prevent 16,900 more kids in the state from becoming addicted adult smokers, and reduce future state smoking-caused health costs by \$339 million.¹⁵

Additional New State Revenues. Every single state that has significantly raised its cigarette tax rate has enjoyed substantial increases to state revenues, despite the fact that cigarette tax increases reduce state smoking levels and despite any related increases in cigarette smuggling or cigarette tax avoidance.¹⁶ These funds have helped states balance budgets and fund essential services like health care, education, and tobacco prevention programs.

As detailed in the graph below conservative estimates show that, with a 19-cent increase, Indiana could expect to collect \$88 million in new revenue, but by increasing the cigarette tax by a full 35 cents, Indiana could expect an additional \$71 million in new revenue.¹⁷



Contrary to tobacco industry arguments, cigarette tax increases are a highly predictable and reliable source of revenue for states. As shown in the above graph, Indiana's annual cigarette tax revenues are expected to decline by only \$12 million, or 3.6 percent, from 2003 to 2006 if there is no state cigarette tax increase, as smoking levels and pack sales continue to gradually shrink. That kind of revenue decline, besides being minimal, is also easy for a state to predict and anticipate based on estimates of ongoing state smoking declines. Moreover, even if state pack sales decline by one-and-a-half percent per year, above and beyond the declines prompted by the cigarette tax increase, itself, the 35-cent increase will bring the state more than \$660 million in additional new revenues over the next ten years compared to a 19-cent increase.

If all or part of the additional revenue were used to avoid cuts in the state Medicaid program or to expand the Medicaid budget (e.g., to cover smoking cessation services), it would also maintain or increase the amount Indiana receives from the federal government through its

Medicaid program reimbursements to the state. For every dollar the state spends on Medicaid, it gets 62 cents back from Uncle Sam.¹⁸

Bigger Declines in Smoking and Related Harms. Tobacco use takes a significant toll on Indiana residents. Just over one out of every four adults in Indiana smokes; and, each year, more than 10,300 more Indiana adults die prematurely from smoking. For every person in Indiana who dies from smoking, approximately 20 more state residents are suffering from serious smoking-caused disease and disability, or other smoking-caused health problems.¹⁹

Currently, more than 45,000 Indiana kids try smoking for the very first time each year; and more than 20,000 kids who have already tried smoking become new regular, daily smokers. Unless these trends change, the U.S. Centers for Disease Control and Prevention (CDC) projects that more than 182,000 kids alive today in Indiana will ultimately die prematurely from smoking.²⁰ Increasing cigarette tax rates is one proven, effective method to change these trends by reducing smoking rates. Even the cigarette companies have repeatedly asserted and acknowledged, both publicly and in internal company documents disclosed in tobacco lawsuits, that raising cigarette prices through state tobacco tax increases or other means significantly reduces smoking, especially among kids.²¹ That fact is also well established by scientific research and by the actual experiences of states that have raised their tax.²²

Cigarette Tax Increases	Kids Alive Today Stopped From Smoking	Kids Saved From Dying From Smoking	Adult Smokers Who Quit	Adults Saved From Dying From Smoking
19 Cents	20,000	6,400	9,700	2,500
35 Cents	36,900	11,800	17,900	4,700
<i>Added Benefits from 35-cent Increase</i>	<i>16,900</i>	<i>5,400</i>	<i>8,200</i>	<i>2,200</i>

As the above chart shows, Indiana would certainly obtain some benefits from a 19-cent tax increase, which would prevent 20,000 kids from becoming addicted adult smokers. But a 35-cent tax increase would stop an additional 16,900 kids from becoming addicted adult smokers. In the same respect, a 19-cent tax increase would save 8,900 Indianans from a smoking-caused death, but 35-cent tax increase would save 7,600 more Indiana lives. Other data indicates that a 35-cent increase would also annually stop 5,800 Indiana kids from becoming new regular, daily smokers (saving an extra 2,700 more than just a 19-cent increase).²³

Bigger Reductions in Smoking-Caused Costs. Tobacco use also takes a substantial monetary toll on the state and its residents. Annual health care expenditures in Indiana directly caused by tobacco use total \$1.91 billion, and an additional \$2.33 billion is lost due to smoking-caused productivity losses from smoking-death-shortened work lives. Tobacco use costs Indiana's Medicaid program \$448.2 million. It is estimated that Indiana residents pay \$552 per household each year in taxes to cover the government's smoking-caused costs. Increasing the cigarette tax is one of the most effective methods to reduce these costs to the state and to the taxpayers and the greater the tax increase, the greater the savings.

As the chart below shows, in the first five years, a 35-cent tax increase would reduce healthcare costs from smoking-caused heart attacks, strokes and smoking-affected births by \$17 million, which is \$7.7 million more than the 19-cent tax increase.²⁴ The pregnancy savings start immediately, as additional pregnant women are prompted not to smoke because of the cigarette tax increase. Heart attack and stroke savings start out small in the first year but increase

sharply each year until peaking in 8 to 10 years and then staying at that high rate thereafter. In addition, these immediate savings represent only the tip of the iceberg for Indiana, as a range of other smoking-caused health costs also decline, as well.

Cigarette Tax Increases	5-Year Heart-Stroke Savings	5-Year Pregnancy Savings	Long-Term Healthcare Savings	Long-Term State Medicaid Savings
19 Cents	\$4.8 mill.	\$4.5 mill.	\$402.3 mill.	\$65.7 mill.
35 Cents	\$8.8 mill.	\$8.2 mill.	\$742.2 mill.	\$121.3 mill.
<i>Added Benefits from 35-cent Increase</i>	<i>\$4.0 mill.</i>	<i>\$3.7 mill.</i>	<i>\$339.9 mill.</i>	<i>\$55.6 mill.</i>

Over the long-term, a 35-cent tax increase would also save \$339.9 million more than a 19-cent increase in overall reductions to smoking-caused health care costs. In addition, all of these savings would help to reduce skyrocketing Medicaid program costs because Medicaid covers approximately 16.3 percent of the state’s total smoking-caused health costs and 50 percent of smoking-caused pregnancy-related health costs in the state.²⁵

Besides Medicaid, Indiana will also see reductions to the smoking-caused health costs and non-health costs in other state or state-funded programs because of the smoking declines prompted by the cigarette tax increase – and private sector and individual smoking-caused costs will also decline.

Bigger Business Savings. The reductions in smoking levels among Indiana workers caused by the 35-cent cigarette tax increase will also improve worker health and reduce smoking-caused productivity losses in the state caused by workers getting sick and dying from smoking before their normal working lives are completed. The U.S. Centers for Disease Control and Prevention (CDC) estimates those productivity losses in Indiana to total \$2.3 billion each year.²⁶ Added to that are productivity losses from smoking employees taking more sick days, taking cigarette breaks when on the job, and being less productive when actually working.

Smoking employees are absent from work on average 6.16 days per year due to illness, whereas nonsmokers are absent on average 3.86 days per year.²⁷ In fact, a report done for the Marion County Health Department determined that in 2000 smoking employees cost businesses in Marion County, Indiana \$260.1 million in increased absenteeism and lost productivity, health insurance premiums, and recruitment and training costs from premature retirement and death.²⁸

By reducing these smoking-caused business costs more sharply and producing greater improvements to the health and productivity of Indiana's workforce, the 35-cent cigarette tax will produce even more additional benefits to Indiana than a 19-cent increase.

Increased Employment. There is also solid evidence that increasing state cigarette tax increases will also increase state employment levels. For example, Economic studies have found that even if smoking were entirely eliminated in the United States, the net economic effect on each state would be positive (except in the few tobacco states with high levels of both tobacco farming and cigarette manufacturing), with more jobs created as well as other increases in productive economic activity.²⁹ More recently, state-specific economic impact studies in New Hampshire, Texas, and even in the tobacco state of Virginia have found that substantial cigarette tax increases in those states would actually increase total state employment – and that reduced cigarette sales have, in the past, been linked with increased state retail employment.³⁰

One way that cigarette tax increases improve economic activity in a state is that smokers who quit or cutback because of the increase will spend or use the money they formerly spent on cigarettes in other ways – and those alternative uses are likely to produce more jobs and more productive economic activity. For example, cigarette manufacturing and distributing is very capital intensive and does not create a lot of jobs for people; and shifts to spending on other goods and services that are more labor intensive will create jobs. In addition, a shift away from spending on a harmful consumable, such as cigarettes, that is linked with large social costs to dramatically less harmful consumables or to increased consumer savings or investments will always be more socially constructive as well as more economically productive.

It is also worth noting that Indiana, like most other states, is exporting a large portion of its own consumers' expenditures on cigarettes to those tobacco states where cigarettes are manufactured and the vast majority of tobacco leaf is grown – which only helps those tobacco states' economies. By shifting consumer expenditures away from cigarettes to other goods and services, the 35-cent cigarette tax increase will tend to keep more of Indiana's consumers' money in the state, where it will generate more new jobs and other beneficial economic activity.

Strong Public Support for Tobacco Tax Increases

Polls conducted in numerous, diverse states throughout the country have consistently shown broad public and voter support for cigarette-tax increases. In more than 35 state polls, a strong majority has been shown to support an increase in the state's cigarette tax, and these polls have found that Democrats, Republicans, men, women, minorities, and both high and low-income groups all strongly support tobacco tax increases – as do significant numbers of smokers.³¹ In a 2001 Indiana poll before the 2002 tax increase of 40 cents per pack was passed, 67 percent of Indiana voters favored an 85-cent state cigarette tax increase.³² Raising the cigarette tax now by another 35-cent would produce a total state cigarette tax increase since 2001 of only 75-cents -- an amount that is still less than the total increase amount that was supported by more than two-thirds of Indiana's voters.

State Cigarette Tax Increases Help Low-Income State Residents

One of the strangest arguments against large cigarette tax increases (frequently made by the big cigarette companies) is that they are somehow unfair to lower-income persons. While it is true that cigarette taxes are, technically, "regressive" – with lower-income smokers paying a larger share of the tax, proportionately, than higher-income smokers – increasing cigarette tax rates actually make the tax less regressive. That happens because lower-income smokers are much more likely to quit or cutback because of a cigarette tax increase than higher-income smokers.³³ As a result, after the impacts of the cigarette tax play out, lower-income smokers will not only be smoking less than they were before but also paying a smaller proportion of the overall cigarette tax, compared to higher-income smokers, than they were previously.

More importantly, the death, harm, disability, and suffering caused by smoking are currently focused much more in lower-income families and communities than among higher income families and communities – both because smoking levels are higher among lower-income than among higher-income persons and because lower-income persons have less access to healthcare, cessation assistance, and other treatment. Cigarette tax increases help to reduce this horrible burden among lower-income families and communities both by prompting current lower-income smokers to quit and by preventing lower-income kids from starting.³⁴

In addition, lower-income smokers who quit or cutback because of a state cigarette tax increase can secure an enormous “tax cut.” A smoker who quits or cutbacks not only avoids the cigarette tax increase on each pack he or she no longer smokes but also avoids the original state tax and saves all the other money previously paid for each pack. In Indiana, a pack-a-day smoker who quits because of a 35-cent cigarette tax increase would save more than \$1,500 per year from no longer buying cigarettes – with additional savings from avoiding other smoking-caused costs.³⁵

Given the consistently strong support for cigarette tax increases among low-income persons and the enormous benefits those tax increases bring to low-income smokers, families, and communities, the big cigarette companies' efforts to “protect” low-income communities from higher cigarette taxes is not only patronizing and misdirected but also hostile to lower-income interests. The cigarette companies' regressivity argument should be seen for exactly what it really is: a self-serving smokescreen designed to keep smoking levels up and protect cigarette company profits.³⁶

Simple Steps States Can Take to Maximize Their Benefits from Tobacco Tax Increases

Increase funding for state tobacco prevention efforts. To maximize the many additional benefits Indiana would receive from a 35-cent instead of a 19-cent cigarette tax increase, the state could invest a small portion of the \$71 million in extra new revenue from the 35-cent increase to fully fund the Indiana Tobacco Prevention and Cessation program (the ITPC). That state program is continuing to do solid and effective work to reduce adult and youth smoking rates in the state, despite having its annual budget cut from \$32.5 million in FY 2003 to \$10.8 million in subsequent years.

Allocating another \$20 million per year to the ITPC from the extra cigarette tax revenues would bring its funding up to prior levels and match the minimum amount recommended by the U.S. Centers for Disease Control and Prevention (CDC). That would enable the state tobacco prevention program to work much more effectively and powerfully to prevent and reducing tobacco use and its harms in the state, perfectly complementing the public health benefits from the cigarette tax increase. In fact, there is evidence that coupling state tobacco tax increases with increased state funding for tobacco prevention efforts is an especially effective strategy for quickly and permanently reducing tobacco's toll in the state. Tobacco tax increases can produce enormous public health benefits; but they are not enough, alone, to get the job done.³⁷

Increase the amount of new revenues by reducing cigarette smuggling and tax evasion. Even with a 35-cent increase to its cigarette tax, cigarette smuggling and other tax evasion by Indiana smokers is not likely to reach significant levels. Nevertheless, the state could take a number of relatively simple and inexpensive measures to minimize any such tax evasion or cigarette smuggling, thereby bringing in even more new revenues from the cigarette tax increase than projected.* Relatively small increases in the amount of state enforcement resources directed at reducing illegal sales of contraband cigarettes by otherwise legally operating retailers could, for example, pay for itself just in the fines and penalties it generates – while simultaneously reducing the amount of state tax revenues lost to such contraband sales

* To be conservative, the formulas used in this report to project the new state revenue amounts from the different cigarette tax increase amounts assume a significant amount of new cigarette smuggling and other smoker tax evasion efforts after the increases go into effect. See Appendix C. If this smuggling and tax evasion does not occur or occurs to a lesser extent, the state would obtain even more new annual revenues than projected herein.

(both directly and by putting other retailers on notice that such contraband sales will be uncovered and prosecuted).

Indiana has already taken a positive step toward reducing smoker tax evasion, when it passed its new law restricting Internet sales of cigarettes to Indiana residents, effective July 1, 2003.³⁸ Such sales are typically made with no payment at all of state taxes, and Internet cigarette sales have been growing steadily in recent years. Indiana's law, however, will make it more difficult for state smokers to shift to Internet purchases after any new cigarette tax increase goes into effect – especially given the states attorneys' general new agreement with the credit card companies. Under that agreement, Indiana's Attorney General may notify the credit card companies about any Internet vendors making sales to Indiana smokers in violation of either Indiana or federal law, and the credit card companies will take away those vendors' credit card rights.³⁹ Without the ability to accept payment by credit card, those Internet vendors will find it difficult if not impossible to stay in business – and that method of smoker tax evasion will be much harder to employ. There are also ways Indiana could strengthen its Internet cigarette sales law to provide additional protections, such as blocking the ability of Internet vendors to have the cigarettes they sell to Indiana smokers delivered by common carriers.⁴⁰

As set forth in Appendix D, there are also a number of additional cost-effective steps Indiana could take to further curtail tobacco tax evasion and cigarette smuggling – thereby increasing the total amount of net new tobacco tax revenues it would obtain from a 35-cent cigarette tax increase. But even without these additional measures, a 35-cent increase would bring Indiana new annual state revenues of more than \$150 million.

Make Parallel Increases to Other State Tobacco Taxes. While this report focuses on the broad range of substantial benefits Indiana would enjoy from raising its cigarette tax by at least 35 cents per pack, the state could protect and expand these benefits by making parallel increases to Indiana's tax rate on other tobacco products, such as cigars and smokeless or spit tobacco. Currently, Indiana's tax on other tobacco products is only 18 percent of the wholesale price, while the state average is roughly 30 percent. Washington State, Massachusetts, and Alaska have the highest taxes of 129.42 percent, 90 percent, and 75 percent of the wholesale or manufactures price, respectively. If Indiana increased its cigarette tax to 90 cents per pack, a parallel tax on smokeless tobacco and other tobacco products would be roughly 40 percent of wholesale price.⁴¹

Increases in the taxes and prices of smokeless tobacco produce the same kinds of reductions to the amounts consumed and the number of people who use smokeless products as cigarette tax and price increases reduce smoking. In addition, if smokeless tobacco taxes and prices are significantly lower than cigarette prices, smokeless tobacco can serve as a cheaper gateway for kids to a lifetime of tobacco addiction.⁴² By increasing its tax on other tobacco products to 40 percent of the wholesale price, Indiana could reduce the number of kids who use smokeless or spit tobacco by approximately 14.3 percent and reduce overall consumption by about 8.8 percent – with corresponding reductions to the death, disease, costs and other harms caused by the use of these other tobacco products.⁴³

Increasing the Indiana tax on other tobacco products to 40 percent of wholesale price would also bring the state at least \$30 million in additional new annual tobacco tax revenues.⁴⁴

Conclusion

Indiana is at a competitive disadvantage in regards to many other states because it has higher levels of smoking, which directly translates into more smoking-caused death, disease and disability, and higher public and private sector smoking-caused expenditures and costs. One of the best ways to reduce smoking-caused harms and costs in Indiana is to raise the state's cigarette tax rate, which will immediately help to reduce existing smoking rates and prevent new youths from becoming addicted smokers. At the very minimum, Indiana should increase its cigarette tax rate to the nationwide state average. That means quickly raising its cigarette tax rate by 35 cents per pack to establish a new state cigarette tax of 90 cents per pack – and then quickly starting to enjoy all the many related benefits. The people, businesses, and taxpayers of Indiana deserve no less.

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Endnotes

¹ Raising state cigarette tax rates to match the state average is always a bit tricky. Using basic math, if a state increases its state tax to the statewide average the statewide average will then increase and the state will still have a slightly below average cigarette tax rate. The likely passage of additional cigarette tax increases by other states just exacerbates the problem. In other words, the state average is a moving target. Accordingly, states which want to bring their cigarette tax rate to the nationwide state average should pass increases that overshoot the current state average and, at a minimum, match or slightly surpass projections of what the state average will be at the end of the current state legislative sessions or at the end of the current calendar year. For Indiana, a 35-cent increase would raise its cigarette tax to the expected year-end state average of 90 cents per pack, with a half a cent to spare.

² For sources and more detail on the toll of tobacco in Indiana, see Appendix A.

³ See, e.g., Chaloupka, F., "Macro-Social Influences: The Effects of Prices and Tobacco Control Policies on the Demand for Tobacco Products," *Nicotine and Tobacco Research*, 1999, and other price studies at <http://tigger.uic.edu/~fjc/>; Tauras, J., "Public Policy and Smoking Cessation Among Young adults in the United States," *Health Policy* 6*: 321-32, 2004; Tauras, J., et al., "Effects of Price and Access Laws on Teenage Smoking Initiation: A National Longitudinal Analysis," Bridging the Gap Research, ImpacTeen, April 24, 2001, and other price studies at <http://www.impactteen.org/researchproducts.htm>. Chaloupka, F. & R. Pacula, *An Examination of Gender and Race Differences in Youth Smoking Responsiveness to Price and Tobacco Control Policies*, National Bureau of Economic Research, Working Paper 6541, April 1998), <http://tigger.uic.edu/~fjc>. Emery, S., et al., "Does Cigarette Price Influence Adolescent Experimentation?," *Journal of Health Economics* 20:261-270, 2001. Evans, W. & L.. Huang, *Cigarette Taxes and Teen Smoking: New Evidence from Panels of Repeated Cross-Sections*, working paper, April 15, 1998, www.bsos.umd.edu/econ/evans/wrkpap.htm. Harris, J. & S. Chan, "The Continuum-of-Addiction: Cigarette Smoking in Relation to Price Among Americans Aged 15-29," *Health Economics Letters* 2(2) 3-12, February 1998, www.mit.edu/people/jeffrey.

⁴ Campaign for Tobacco-Free Kids factsheet, *Raising State Cigarette Taxes Always Increases State Revenues (And Always Reduces Smoking)*, and references cited therein. Available on the Campaign's website at <http://www.tobaccofreekids.org/research/factsheets/pdf/0098.pdf>. See, also, Campaign factsheet, *Raising Cigarette Taxes Reduces Smoking, Especially Among Kids (And the Cigarette Companies Know It)*, <http://www.tobaccofreekids.org/research/factsheets/pdf/0146.pdf>.

⁵ See Appendix B for more detail on the state's benefits and savings from each decline in adult and youth smoking rates.

⁶ See Appendix C for an explanation, with references, of how the projections in this report were made.

⁷ See Appendix C for an explanation, with references, of how the projections in this report were made.

⁸ Campaign for Tobacco-Free Kids factsheet, *Benefits From Increasing Smokeless Tobacco Tax Rates*, <http://tobaccofreekids.org/research/factsheets/pdf/0180.pdf> [and the references cited therein].

⁹ Campaign for Tobacco-Free Kids factsheet, *U.S. Cigarette Companies' Settlement-Related Price Hikes Excessive*, <http://tobaccofreekids.org/research/factsheets/pdf/0071.pdf>.

¹⁰ Orzechowski & Walker, *The Tax Burden on Tobacco* (2004) [industry-funded annual report], with updates to account for announcements of cigarette company price increases.

¹¹ The average price of a pack of cigarettes in Indiana is about \$3.82 after the major cigarette companies most recent price increases. The major cigarette companies price charged to distributor/wholesalers is about \$2.22. Orzechowski & Walker, *The Tax Burden on Tobacco* (2004) [industry-funded annual report]. USDA Economic Research Service, Tobacco Briefing Room, <http://www.ers.usda.gov/briefing/tobacco>. Press reports on cigarette company price increases.

¹² U.S. Federal Trade Commission (FTC), *Cigarette Report for 2002*, October 22, 2004 [data for top six manufacturers only], <http://www.ftc.gov/reports/cigarette/041022cigaretterpt.pdf>; FTC, *Federal Trade Commission Smokeless Tobacco Report for the Years 2000 and 2001, August 2003* <http://www.ftc.gov/os/2003/08/2k2k1smokeless.pdf>. [top five manufacturers]. State total a prorated

estimate based on cigarette pack sales in the state. See, also Campaign fact sheet, *Increased Cigarette Company Marketing Since the Multistate Settlement Agreement Went into Effect*, <http://tobaccofreekids.org/research/factsheets> and *State-Specific Tobacco Company Marketing Expenditures 1998-2002*, <http://www.tobaccofreekids.org/research/factsheets/pdf/0271.pdf>.

¹³ Orzechowski & Walker, *The Tax Burden on Tobacco* (2004) [industry-funded annual report]. Most of the decline in pack sales was from reductions in state smoking levels, but a smaller portion of the reduced pack sales may have been lost to new tax evasion measures by ongoing state smokers, such as buying cigarettes from lower-tax neighboring states or over the Internet. In any case, despite the pack sales declines in Indiana after the cigarette tax increase, the state enjoyed a big boost in cigarette tax revenues.

¹⁴ 2004 Indiana Youth Tobacco Survey. See also, Indiana Tobacco Prevention and Cessation press release at <http://www.in.gov/itpc/newsDetail.asp?NewsID=49>.

¹⁵ For detailed information, and references, regarding how these projections were made, see Appendix C.

¹⁶ Campaign for Tobacco-Free Kids factsheet, *Raising State Cigarette Taxes Always Increases State Revenues (And Always Reduces Smoking)*. Available on the Campaign's website at <http://www.tobaccofreekids.org/research/factsheets/pdf/0098.pdf>.

¹⁷ For detailed information, and references, regarding how these projections were made, see Appendix C.

¹⁸ Office of the Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services, *Federal Medicaid Assistance Percentages*, <http://aspe.os.dhhs.gov/health/fmap.htm>.

¹⁹ For sources and more detail on the toll of tobacco in Indiana, see Appendix A.

²⁰ For sources and more detail on the toll of tobacco in Indiana, see Appendix A.

²¹ Campaign factsheet, *Raising Cigarette Taxes Reduces Smoking, Especially Among Kids (And the Cigarette Companies Know It)*, <http://www.tobaccofreekids.org/research/factsheets/pdf/0146.pdf>.

²² Campaign factsheet, *Raising Cigarette Taxes Reduces Smoking, Especially Among Kids (And the Cigarette Companies Know It)*, <http://www.tobaccofreekids.org/research/factsheets/pdf/0146.pdf>.

²³ For detailed information, and references, regarding how these projections were made, see Appendix C.

²⁴ For detailed information, and references, regarding how these projections were made, see Appendix C.

²⁵ Miller, L, et al., "State Estimates of Total Medical Expenditures Attributable to Smoking, 1993" *Public Health Reports*, September/October 1998.

²⁶ CDC, *Sustaining State Programs for Tobacco Control: Data Highlights 2004*, <http://www.cdc.gov/tobacco/datahighlights/index.htm>. CDC, "Annual Smoking-Attributable Mortality, Years of Potential Life Lost, and Economic Costs -- United States 1995-1999," *Morbidity and Mortality Weekly Report (MMWR)*, April 11, 2002, <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5114a2.htm>.

²⁷ Halpren, M.T. et al. "Impact of smoking status on workplace absenteeism and productivity," *Tobacco Control* 10(3): 233-238, September 2001.

²⁸ Zollinger, T.W. et al. "The economic impact of secondhand smoke on the health of residents and employee smoking on business costs in Marion County, Indiana for 2000," *Marion County Health Department*, February 2002.

²⁹ Warner KE, et al., "Employment implications of declining tobacco product sales for the regional economies of the United States," *JAMA* 275(16):1241-6, April 24, 1996. Warner KE & GA Fulton, "The economic implications of tobacco product sales in a nontobacco state," *JAMA* 271(10):771-6, March 9, 1994. Warner KE, "Implications of a nicotine-free society," *Journal of Substance Abuse* 1(3):359-68, 1989.

³⁰ Gottlob, B., *The Fiscal and Economic Impacts of Increasing the Cigarette Tax in New Hampshire*, PolEcon Research, March 2003. Gottlob, B., *The Fiscal and Economic Impacts of Increasing the*

Cigarette Tax in Texas, PolEcon Research, in press. Gottlob, B., *The Fiscal and Economic Impacts of Increasing the Cigarette Tax in Virginia*, PolEcon Research, April 15, 2004, <http://tobaccofreekids.org/pressoffice/VACigTaxReport.pdf>.

³¹ Campaign for Tobacco-Free Kids, *Voters Across the Country Support Significant Increases in State Cigarette Taxes*, <http://www.tobaccofreekids.org/research/factsheets/pdf/0167.pdf>.

³² Massie, Inc. (Indianapolis), statewide survey of 411 registered Indiana voters (December 6-8, 2001). See, e.g., Campaign for Tobacco Free-Kids, "Indiana Lawmakers Should Quickly Enact a Higher Cigarette Tax," November 16, 2001. Available on the Campaign's website at <http://www.tobaccofreekids.org/Script/DisplayPressRelease.php3?Display=411>

³³ See, e.g., U.S. Centers for Disease Control and Prevention (CDC), "Responses to Cigarette Prices By Race/Ethnicity, Income, and Age Groups – United States 1976-1993," *Morbidity and Mortality Weekly Report (MMWR)* 47(29): 605-609, July 31, 1998 [smokers with family incomes at or below the national median are four times as likely to quit because cigarette price increases as those with higher incomes], <ftp://ftp.cdc.gov/pub/Publications/mmwr/wk/mm4729.pdf>.

³⁴ For more on the many benefits to lower-income persons and families from cigarette tax increases, see the Campaign for Tobacco-Free Kids factsheet, *State Cigarette Tax Increases Benefit Lower-Income Smokers & Families*, <http://tobaccofreekids.org/research/factsheets/pdf/0147.pdf>.

³⁵ The current average price for cigarettes in Indiana is \$3.82 per pack (including sales tax), adding a 35-cent cigarette tax increase will raise that average price to at least \$4.20 per pack (not even accounting for the fact that distributors and retailers typically increase their prices by more than the additional tax increase amount). \$4.20 times 365 days in a year equals \$1,533 in annual savings to a pack-a-day smoker who quits (or to a heavier smoker who reduces his or her consumption by a pack a day).

³⁶ For an analysis of the other self-serving arguments commonly made against tobacco tax increases by the cigarette companies and their allies, see the Campaign for Tobacco-Free Kids factsheet, *Responses to Misleading and Inaccurate Cigarette Company Arguments Against State Tobacco Tax Increases*, <http://tobaccofreekids.org/research/factsheets/pdf/0227.pdf>.

³⁷ See, e.g., the Campaign for Tobacco-Free Kids factsheet, *Tax Increases Are Not Enough - States Must Also Invest in Tobacco Prevention Programs*, <http://tobaccofreekids.org/research/factsheets/pdf/0221.pdf>.

³⁸ Indiana Code 24-3-5.2.

³⁹ See, e.g., Tedeschi, B., "Trouble for Online Vendors of Cigarettes," *New York Times*, April 4, 2005; Michel, L., "Internet cigarette sales take hit: Retailers on Cattaraugus Indian Reservation feeling impact as credit card companies stop participating in transactions," *Buffalo News*, April 4, 2005.

⁴⁰ See Campaign for Tobacco-Free Kids, *Model State Legislation to Restrict Internet & Mail-Order Tobacco Products Sales*, <http://www.tobaccofreekids.org/research/factsheets/pdf/0230.pdf>; Campaign factsheet, *The Critical Importance of a Delivery-List Enforcement Provision in State Internet Tobacco Sales Legislation*, <http://www.tobaccofreekids.org/research/factsheets/pdf/0259.pdf>.

⁴¹ See the Campaign for Tobacco-Free Kids factsheet, *State Excise Tax Rates for Non-Cigarette Tobacco Products*, <http://tobaccofreekids.org/research/factsheets/pdf/0169.pdf>.

⁴² Campaign for Tobacco-Free Kids factsheet, *Benefits From Increasing Smokeless Tobacco Tax Rates*, <http://tobaccofreekids.org/research/factsheets/pdf/0180.pdf> [and the references cited therein].

⁴³ Campaign for Tobacco-Free Kids factsheet, *Benefits From Increasing Smokeless Tobacco Tax Rates*, <http://tobaccofreekids.org/research/factsheets/pdf/0180.pdf> [and the references cited therein].

⁴⁴ Indiana's current revenues from its 18 percent tax on other tobacco products total approximately \$15.5 million each year. Increasing that rate to 40 percent would bring in more than twice as much state revenue per unit sold – and the increase would likely reduce taxable sales by only about nine percent. To be conservative, however, the estimate of \$30 million per year in new revenue assumes a 12 percent decline in state sales of other tobacco products after the tax increase and is rounded down.

APPENDIX A

THE TOLL OF TOBACCO IN INDIANA

Tobacco Use in Indiana

- High school students who smoke: 25.6% [Girls: 25.7% Boys: 25.6%]
- High school males who use smokeless tobacco: 13.1%
- Kids (under 18) who try cigarettes for the first time each year: 45,800
- Additional Kids (under 18) who become new regular, daily smokers each year: 20,900
- Packs of cigarettes bought or smoked by kids in Indiana each year: 22.7 million
- Kids exposed to second hand smoke at home: 420,000
- Adults in Indiana who smoke: 26.1% [Men: 28.6% Women: 23.8% Pregnant Females: 19.1%]

Nationwide, youth smoking has declined recently, but remains at high levels. The 2002 National Youth Tobacco Survey (YTS) found that 22.9% of U.S. high school kids smoke and 10.8% of high school males use spit tobacco. U.S. adult smoking has decreased gradually since the 1980s, and 22.5% of U.S. adults (about 45 million) currently smoke.

Deaths in Indiana From Smoking

- Adults who die each year in Indiana from their own smoking: 10,300
- Annual deaths from others' smoking (secondhand smoke & pregnancy smoking): 950 to 1,690
- Indiana kids who have lost at least one parent to a smoking-caused death: 6,600
- Kids alive in today who will ultimately die from smoking: 182,800 (given current smoking levels)

Smoking kills more people each year than alcohol, AIDS, car crashes, illegal drugs, murders, and suicides combined -- and thousands more die from spit-tobacco use and other tobacco-related causes (but there currently are no good state-specific estimates of these other tobacco deaths). For every person in Indiana who dies from smoking approximately 20 more state residents are suffering from serious smoking-caused disease, disability, or other health problems.

Tobacco-Related Monetary Costs in Indiana

- Annual health care expenditures in the Indiana directly caused by tobacco use: \$1.91 billion
- State Medicaid program's total health expenditures caused by tobacco use: \$448.2 million
- Citizens' state/federal taxes to cover smoking-caused gov't costs: \$1.2 billion (\$552 per household)
- Smoking-caused productivity losses in Indiana: \$2.33 billion
- Smoking-caused health costs and productivity losses per pack sold in Indiana: \$5.73

Other non-health costs caused by tobacco use include direct residential and commercial property losses from smoking-caused fires (about \$400 million nationwide); the costs of the extra cleaning and maintenance made necessary by tobacco smoke and tobacco-related litter (about \$4+ billion per year for commercial establishments alone); and additional work productivity losses from smoking-caused work absences, on-the-job performance declines, and disability during otherwise productive work lives (in the tens of billions nationwide) [productivity loss amount above is from smoking-death-shortened work lives, alone].

Tobacco Industry Advertising and Other Product Promotion

- Annual tobacco industry marketing expenditures nationwide: \$12.7 billion (\$34+ million per day)
- Estimated portion spent in Indiana each year: \$449.0 million

Published research studies have found that kids are three times more sensitive to tobacco advertising than adults and are more likely to be influenced to smoke by cigarette marketing than by peer pressure, and that one-third of underage experimentation with smoking is attributable to tobacco company marketing.

Indiana Government Policies Affecting The Toll of Tobacco in Indiana

- Annual State tobacco prevention spending from tobacco settlement and tax revenues: \$10.8 million [National rank: 26 (with 1 the best)]
- State cigarette tax per pack: \$0.555 [National rank: 31st (with 1 the best)]

Sources For Appendix A

Youth smoking. 2003 Youth Risk Behavior Surveillance (YRBS). A 2002 Youth Tobacco Survey (YTS) found that 23.4% in high school smoked [unweighted], but the YTS and YRBS cannot be compared to show trends because of different methodologies. Current smoking = smoked in past month. The 2003 Youth Risk Behavior Survey (YRBS), with a different methodology than the YTS, found that 21.9% of U.S. high school kids smoke and 11.0% of high school males use spit tobacco. **Male Youth smokeless.** 2003 YRBS Female smokeless use is much lower. **New youth smokers.** Estimate based on U.S. Dept of Health & Human Services (HHS), "Summary Findings from the 2000 National Household Survey on Drug Abuse" (2001), <http://www.samhsa.gov/oas/nhsda.htm>, with the state share of the national number allocated through the formula in CDC, "Projected Smoking-Related Deaths Among Youth -- United States," *Morbidity and Mortality Weekly Report (MMWR)* 45(44): 971-74 (November 8, 1996) [based on state young adult smoking rates, and as updated in CDC, *State Highlights 2004: Sustaining State Programs for Tobacco Control, 2004*, <http://www.cdc.gov/tobacco/datahighlights/index.htm>]. **Smokefree workplaces.** Shopland, D., et al., "State-Specific Trends in Smoke-Free Workplace Policy Coverage: The Current Population Survey Tobacco Use Supplement, 1993 to 1999," *Journal of Occupational & Environmental Medicine* 43(8): 680-86 (August 2001). **Kids exposed to secondhand smoke.** CDC, "State-Specific Prevalence of Cigarette Smoking Among Adults, and Children's and Adolescents' Exposure to Environmental Tobacco Smoke -- United States, 1996," *MMWR* 46(44): 1038-43 (November 7, 1997). **Packs consumed by kids.** Estimated from DiFranza, J. & J. Librett, "State and Federal Revenues from Tobacco Consumed by Minors," *American Journal of Public Health (AJPH)* 89(7): 1106-08 (July 1999) & Cummings, et al., "The Illegal Sale of Cigarettes to US Minors: Estimates by State," *AJPH* 84(2): 300-302 (February 1994), and Indiana's youth population & smoking rates. **Adult smoking.** State: 2003 Behavioral Risk Factor Surveillance System (BRFSS) <http://www.cdc.gov/mmwr/PDF/wk/mm5344.pdf>. National: 2002 National Health Interview Survey (NHIS) <http://www.cdc.gov/mmwr/PDF/wk/mm5240.pdf> **Pregnant Females.** "Smoking During Pregnancy -- United States, 1990-2002, *Morbidity and Mortality Weekly Report (MMWR)* 53(39): 911-15 (October 8, 2004) <http://www.cdc.gov/mmwr/PDF/wk/mm5339.pdf>.

Adult deaths. CDC, *Sustaining State Programs for Tobacco Control: Data Highlights 2004*, <http://www.cdc.gov/tobacco/datahighlights/index.htm>. CDC, "Annual Smoking-Attributable Mortality, Years of Potential Life Lost, and Economic Costs -- United States 1995-1999," *MMWR*, April 11, 2002, <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5114a2.htm>. See also, U.S. General Accounting Office (GAO), "CDC's April 2002 Report on Smoking: Estimates of Selected Health Consequences of Cigarette Smoking Were Reasonable," letter to U.S. Rep. Richard Burr, July 16, 2003, <http://www.gao.gov/new.items/d03942r.pdf>. **Lost Parents.** Leistikow, B., et al., "Estimates of Smoking-Attributable Deaths at Ages 15-54, Motherless or Fatherless Youths, and Resulting Social Security Costs in the United States in 1994," *Preventive Medicine* 30(5): 353-360, May 2000, and state-specific data from author. **Projected youth smoking deaths.** CDC, *State Highlights 2004*. CDC, "Projected Smoking-Related Deaths Among Youth -- United States," *MMWR* 45(44): 971-974, November 11, 1996, www.cdc.gov/mmwr/mmwr_wk.html. **Secondhand smoke deaths.** CDC, *MMWR*, April 11, 2002. National Cancer Institute, *Health effects of exposure to environmental tobacco smoke: the report of the California Environmental Protection Agency, Smoking and Tobacco Control Monograph no. 10*, NIH publication no. 99-4645 (1999), <http://cancercontrol.cancer.gov/tcrb/monographs/10> [California report at http://www.oehha.org/air/environmental_tobacco/].

Health and productivity costs caused by tobacco use. CDC, *Data Highlights 2004*, <http://www.cdc.gov/tobacco/datahighlights/index.htm> [and underlying CDC data and estimates]. CDC, *MMWR*, April 11, 2002, <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5114a2.htm>. GAO, July 16, 2003, <http://www.gao.gov/new.items/d03942r.pdf>. State Medicaid program expenditures are before any federal reimbursement. **State-federal tobacco tax burden.** Equals Indiana residents' federal and state tax payments necessary to cover all state government tobacco-caused costs plus the residents' pro-rata share, based on state populations, of all federal tobacco-caused costs. See above cost sources and Zhang, X et al., "Cost of Smoking to the Medicare Program, 1993," *Health Care Financing Review* 20(4): 1-19, Summer 1999; Office of Management and Budget, *Budget for the United States Government - Fiscal Year 2000*, Table S-8, 1999; Leistikow, B., et al., "Estimates of Smoking-Attributable Deaths at Ages 15-54, Motherless or Fatherless Youths, and Resulting Social Security Costs in the United States in 1994," *Preventive Medicine* 30(5): 353-360, May 2000 -- with other state government tobacco costs taken to be 3% of all state smoking-caused health costs, as in CDC, "Medical Care Expenditures Attributable to Smoking -- United States, 1993," *MMWR* 43(26): 1-4, July 8, 1994. CDC's Data Highlights 2004 provides cost estimates that have been adjusted for inflation and put in 2002 dollars. To make the other cost data similarly current and more comparable, they have also been adjusted for inflation and put in 2002 dollars, using the same CDC methodology. **Other tobacco-related costs.** U.S. Treasury Dept., *Economic Costs of Smoking in the U.S. and the Benefits of Comprehensive Tobacco Legislation*, 1998; Chaloupka, F.J. & K.E. Warner, "The Economics of Smoking," in Culyer, A. & J. Newhouse (eds), *Handbook of Health Economics*, 2000; CDC, *MMWR* 46(44), November 7, 1997; CDC, *Making Your Workplace Smokefree: A Decision Maker's Guide*, 1996; Mudarri, D., U.S. Environmental Protection Agency, *Costs and Benefits of Smoking Restrictions: An Assessment of the Smoke-Free Environment Act of 1993 (H.R. 3434)*, submitted to Subcommittee on Health and the Environment, Committee on Energy and Commerce, U.S. House of Representatives, April 1994; Brigham, P. & A. McGuire, "Progress Toward a Fire-Safe Cigarette," *Journal of Public Health Policy* 16(4): 433-439, 1995; Hall, J.R. Jr., National Fire Protection Association, *The Smoking-Material Fire Problem*, November 2004..

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Indiana spending to reduce tobacco use and ranking. Campaign for Tobacco-Free Kids, et al., *A Broken Promise To Our Children: The 1998 State Tobacco Settlement Six Years Later* (December 2, 2004), <http://tobaccofreekids.org/reports/settlements>. **Indiana cigarette tax and rank.** Orzechowski & Walker, *The Tax Burden on Tobacco* (2003) [industry-funded annual report], with updates from state agencies and media reports.

APPENDIX B

BENEFITS & SAVINGS FROM EACH ONE PERCENTAGE POINT DECLINE IN INDIANA SMOKING RATES

The following estimates show the benefits and savings that are obtained in Indiana for each one percentage point decline in adult and youth smoking rates in the state (e.g., from new state investments in tobacco prevention). They can also be switched around to show what harms and costs Indiana would suffer from each one percentage point increase to its smoking rates or from each one percentage point reduction the State fails to obtain (e.g., from cutting state tobacco prevention funding).

Fewer Smokers

Fewer current adult smokers: 45,900
Fewer current pregnant smokers: 870
Fewer current high school smokers: 3,500
Indiana kids alive today who will not become addicted adult smokers: 16,000

Public Health Benefits

Today's adults saved from dying prematurely from smoking: 12,200
Today's high school smokers saved from dying prematurely from smoking: 1,100
Indiana kids alive today who will not die prematurely from smoking: 5,100

	<u>First Year</u>	<u>Over 5 Years</u>
<i>Fewer smoking-affected births:</i>	870	4,330
<i>Fewer smoking-caused heart attacks:</i>	27	345
<i>Fewer smoking-caused strokes:</i>	16	185

[The number of heart attacks and strokes prevented each year by a one-time decline in adult smoking rates of one percentage point starts out small but grows sharply until it peaks and stabilizes after about ten years.]

Monetary Benefits (Reduced Public, Private, and Individual Smoking-Caused Costs)

	<u>First Year</u>	<u>Over 5 Years</u>
<i>Savings from smoking-affected birth reductions</i>	\$1.2 million	\$6.2 million
<i>Savings from heart attack & stroke reductions</i>	\$1.7 million	\$22.6 million

[Annual savings from fewer smoking-caused heart attacks and strokes grows substantially each year as more and more are prevented by the initial one percentage point smoking decline. Savings from prevented smoking-caused cancer are even larger, but do not begin to accrue until several years after the initial smoking decline.]

Reduction to future health costs from adult smoking declines: \$389.2 million
Reduction to future health costs from youth smoking declines: \$256.0 million

[These savings accrue over the lifetimes of the adults who quit and the youth who do not become adult smokers. Roughly 16.3% of smoking-caused healthcare expenditures in Indiana are paid by its Medicaid program.]

For sources and more detail, see the TFK factsheet *Comprehensive State Tobacco-Control Programs Save Money*, <http://tobaccofreekids.org/research/factsheets/pdf/0168.pdf>. And see <http://tobaccofreekids.org/research/factsheets> or <http://tobaccofreekids.org/research/factsheets/index.php?CategoryID=6> for additional related information.

APPENDIX C

EXPLANATIONS AND SOURCES FOR TFK'S PROJECTIONS OF NEW REVENUES & BENEFITS FROM STATE CIGARETTE TAX INCREASES

The Campaign for Tobacco-Free Kids (TFK) projections of increased state revenues and other benefits from raising state cigarette tax rates reflect the basic fact that cigarette tax increases both boost state cigarette tax revenues and reduce smoking because the increased tax per pack brings in more new revenue than is lost from the declines in pack sales caused by consumption declines or increased smoker tax avoidance prompted by the price increase.

These projections are based, in part, on research findings that a 10% cigarette price increase, if maintained against inflation, reduces youth smoking rates by 6.5% or more, adult rates by 2%, and total consumption by 4%. [See, e.g. Chaloupka, F. J., "Macro-Social Influences: The Effects of Prices and Tobacco Control Policies on the Demand for Tobacco Products," *Nicotine & Tobacco Research* (2000), and other price studies at <http://tigger.uic.edu/~fjc>; Tauras, J., et al., "Effects of Price and Access Laws on Teenage Smoking Initiation: A National Longitudinal Analysis," Bridging the Gap Research, ImpacTeen, April 24, 2001, and other price studies at www.uic.edu/orgs/impacteen.] But these elasticity findings are adjusted downward to be conservative and to account for some smokers avoiding the price increases through a range of tax evasion strategies. Despite such tax evasion, cigarette tax increases reduce smoking rates, which, in turn, reduces smoking caused disease, death, and economic costs. Parallel increases to state excise taxes on other tobacco products would similarly provide additional new state excise tax and sale tax revenue -- while also reducing the use of these products in the state, and reducing related harms and healthcare costs.

These projections are fiscally conservative because they include generous adjustments for lost state pack sales (and reduced state revenue gains) caused by new tax avoidance efforts by continuing in-state smokers and, where applicable, fewer in-state cigarette sales to supply smokers from other states, informal smugglers, criminal smuggling organizations, or multistate internet sellers. [See, e.g., Farrelly, M. et al., "Cigarette Smuggling Revisited," U.S. Centers for Disease Control & Prevention (CDC), in press, and Farrelly, M. et al., *State Cigarette Excise Taxes: Implications for Revenue and Tax Evasion*, RTI International, 2003, http://www.rti.org/pubs/8742_Excise_Taxes_FR_5-03.pdf.] To account for possible additional declines in state cigarette sales and revenues from other factors -- such as state tobacco prevention investments, other public and private tobacco prevention efforts, federal cigarette tax changes, cigarette company or other increases to cigarette prices, etc. -- these projections also assume a background year-to-year decline in consumption of 1.5 percent. To be even more conservative, the projected amounts have also been rounded down.*

Despite all of these conservative adjustments, the projections still show that non-trivial state cigarette tax increases will both significantly reduce smoking levels and substantially increase state revenues. The increased tax per pack will still bring in more new state revenue than is lost from the decrease in the number of packs sold caused by the tax increase from either consumption declines, tax avoidance, or smuggling. And that is exactly what has happened in every state that has significantly increased its cigarette tax rates. [See, e.g., TFK factsheet, *Raising State Cigarette Taxes Always Increases State Revenues (and Always Reduces Smoking)*, <http://tobaccofreekids.org/research/factsheets/pdf/0098.pdf>.]

In those states that apply their sales tax percentage to the total retail price of a pack of cigarettes (including the state cigarette tax amount), a cigarette tax increase will raise state sales tax revenues per pack, which will offset sales tax revenue losses from fewer packs being sold. In addition, smokers who quit or cut back will likely spend the money they previously spent on cigarettes largely on other goods on which sales tax is collected, which further increases state sales tax revenues.

These projections assume that the tax increase is fully passed on in higher prices, and keeps up with inflation over time. The starting price per pack (before the proposed cigarette tax increase) used in these projections

* Cigarette company price cuts and other factors could also work to increase cigarette consumption and/or sales in the state, which would increase state cigarette tax revenues beyond the projected amounts.

includes all federal and statewide excise and sales taxes but not any purely local taxes, and is based on data from *The Tax Burden on Tobacco*, 2004, reports of state cigarette tax increases, and USDA Economic Research Service, Tobacco Briefing Room, <http://www.ers.usda.gov/briefing/tobacco>.

The projections for youths stopped from becoming smokers and avoided premature youth and adult deaths are calculated by applying the above findings regarding the effects of tax and price increases to the number of current adult smokers in each state and to estimates the U.S. Centers for Disease Control and Prevention (CDC) of the number of kids alive today in each state who will become adult smokers and the number projected to die from smoking. [CDC, *State Sustaining State Programs for Tobacco Control: Data Highlights 2004*, <http://www.cdc.gov/tobacco/datahighlights/Page4.htm>. For an explanation of how CDC makes these youth projections, see CDC, "Projected Smoking-Related Deaths Among Youth -- United States," *MMWR* 45(44): 971-974, <http://www.cdc.gov/mmwr/preview/mmwrhtml/00044348.htm>, November 11, 1996.

Because of research and data limitations, it is not yet possible to estimate health savings in each year following a cigarette tax increase, or even provide reasonable estimates of the total health care savings over the first five or ten years. Although smoking-caused healthcare cost savings from a cigarette tax increase will be relatively small in the first year after an increase, they grow quickly. The listed 5-Year savings from fewer smoking-caused heart attacks and strokes and from fewer smoking-affected pregnancies and related birth complications show just some of the many substantial savings from the smoking reductions prompted by a tax increase that begin to accrue immediately.

The projected healthcare savings from reducing the number of future youth and current adult smokers accrue over the lifetimes of kids alive in the state today who quit or don't start because of tax increase and over the lifetimes of those current adult smokers who quit because of the tax increase. Smokers' lifetime healthcare costs average at least \$16,000 higher than nonsmokers (in 2002 dollars), despite shorter life spans; but the savings per each adult quitter are less than that because adult smokers have already been significantly harmed by their smoking and have already incurred or locked-in extra, smoking-caused health costs. [Hodgson, T.A., "Cigarette Smoking and Lifetime Medical Expenditures," *The Millbank Quarterly* 70(1), 1992. See, also, Nusselder, W., et al., "Smoking and the Compression of Morbidity," *Epidemiology & Community Health*, 2000; Warner, K., et al., "Medical Costs of Smoking in the United States: Estimates, Their Validity, and Their Implications," *Tobacco Control* 8(3): 290-300, <http://tc.bmjournals.com/content/vol8/issue3/index.shtml>, Autumn 1999. CDC, "Projected Smoking-Related Deaths Among Youth -- United States," *MMWR* 45(44): 971-974, November 8, 1996, <http://www.cdc.gov/mmwr/preview/mmwrhtml/00044348.htm>. See, also, "Annual Smoking-Attributable Mortality, Years of Potential Life Lose, and Economic Costs -- United States 1995-1999," *MMWR*, April 11, 2002, www.cdc.gov/mmwr/preview/mmwrhtml/mm5114a2.htm.]

5-Year Heart & Stroke Savings projections show the estimated reductions in smoking-caused healthcare expenditures within first five years after the tax increase from reduced smoking-caused heart attacks and strokes, based on Lightwood & Glantz, "Short-Term Economic and Health Benefits of Smoking Cessation -- Myocardial Infarction and Stroke," *Circulation* 96(4), August 19, 1997. These savings will increase steadily in subsequent years. The projected 5-Year Smoking Births Savings accrue from declines in smoking among pregnant women and corresponding reductions in smoking-caused birth complications and related first-year health costs. [Miller, D. et al., "Birth and First-Year Costs for Mothers and Infants Attributable to Maternal Smoking," *Nicotine & Tobacco Research* 3:25-35, 2001; and state pregnancy-smoking and births data.]

All projected savings have been adjusted to 2002 dollars using the same methodology the U.S. Centers for Disease Control and Prevention has used to update its data on state smoking-caused costs. The projected savings amounts would be larger if put in 2004 dollars, but using the CDC methodology to put them in 2002 dollars makes the projections more conservative and reliable and makes them comparable to the CDC's estimates of smoking-caused state costs. [See CDC, *Sustaining State Programs for Tobacco Control: Data Highlights 2004*, <http://www.cdc.gov/tobacco/datahighlights/index.htm>.] These projections do not include a range of additional short and long-term savings from other declines in smoking-caused health problems and other smoking-caused costs. [See, e.g., U.S. Department of the Treasury, *The Economic Costs of Smoking in the U.S. and the Benefits of Comprehensive Tobacco Legislation*, 1998.]

APPENDIX D

STATE OPTIONS TO PREVENT AND REDUCE CIGARETTE SMUGGLING AND BLOCK OTHER ILLEGAL STATE TOBACCO TAX EVASION

To try to block or reduce state tobacco tax increases, the major U.S. cigarette companies regularly overstate the amount of cigarette smuggling and tax-avoidance prompted by differences among different states' cigarette tax rates. In fact, every state that has increased its cigarette tax rate significantly has enjoyed substantial revenue increases despite declining smoking levels and pack sales.¹ At the same time, recent research indicates that the highest- tax states could increase their tobacco tax revenues by five or ten percent if they implemented effective measures to reduce sharply both organized cigarette smuggling (which accounts for the majority of untaxed sales) and smoker tax avoidance.² New revenue aside, states should not tolerate illegal tobacco smuggling or any other tobacco-related crimes, especially if done by criminal organizations. Fortunately, there are a number of relatively simple and inexpensive measures that states could implement to minimize such smuggling and tobacco tax avoidance.

Measures to Make Smuggling & Tobacco Tax Avoidance More Difficult[†]

1. ***Improve state tobacco tax stamps.*** The few states that do not have tax stamps (NC, SC, and ND) should require them; and all states should take advantage of available new technologies to make their tax stamps larger, highly visible, easy to distinguish from other states' tax stamps, harder to counterfeit, and placed on two sides of the packages and under any cellophane wrapper – with the tax stamp coding providing information on each pack re what retailer or wholesaler originally purchased it from which distributor or manufacturer. California, for example, has passed a law calling for new high-tech tax stamps that can be read by a scanning device (like a bar code reader) to provide encrypted information, including the identity of the distributor affixing the tax stamp and the tax stamp date and value.³ Tax stamps on non-cigarette tobacco products should also be established or improved. Tax stamps could also provide a phone number or email address for reporting suspected illegal sales, smuggling, or tax evasion, with rewards for tips that lead to arrests (and new stamps could also include a quitline phone number for smokers who want to quit).
2. ***Require State tax-exempt stamps on all cigarettes and other tobacco products sold in state that are not subject to the state's tobacco taxes.*** Require distributors selling cigarettes to Indian Tribes and others that make legal cigarette sales within the state's borders free from state tax to stamp those cigarettes with special state tax-exempt stamps – and to report all such sales, including amounts sold to whom, to state tax collection officials. The stamps could state “for legal tax-exempt sales only.” These stamps would make it more difficult to illegally divert tax-exempt cigarettes into non-tax-exempt sales and would provide state officials with important data on the extent of tax-exempt sales and illegal diversion within the state. Several states already have such tax-exempt stamping requirements.⁴
3. ***Forbid the sale, purchase, or possession in the state of any tobacco products that are not marked with state tobacco tax stamps or other state tax-payment indicia establishing that all applicable state tobacco taxes have already been paid*** – other than small personal-use amounts and those held by or transported between licensed cigarette manufacturers, distributor/wholesalers, retailers or other

¹ U.S. interstate cigarette smuggling typically occurs when smugglers purchase cigarettes in a low-tax state or other low-tax or no-tax jurisdiction (such as Indian Tribal lands) and then illegally smuggle them into a high-tax state for illegal resale to otherwise-legal retailers. Otherwise legal retailers then purchase the cigarettes from the smugglers at prices that reflect the avoided state cigarette taxes, and the retailers subsequently sell the cigarettes to unknowing consumers. Through this process, the retailers and the smugglers, and not the smokers, enjoy the lion's share of the tax-avoidance “savings.” In some cases, the cigarettes smuggled from the low-tax jurisdiction are sold directly to final customers via black-market sales, but these black-market sales are quite small compared to the sales through otherwise legal retailers. Some smokers also avoid paying the cigarette tax in their state by purchasing their cigarettes in a nearby lower-tax state, from stores on nearby military bases or Indian Lands (which typically do not charge state taxes), or from the Internet (where sales of cigarettes from Tribal lands and low-tax states are common).

[†] Although many of these measures refer only to cigarettes, they could be applied to other tobacco products, as well.

licensed tobacco product businesses. This catch-all requirement prohibits all sorts of cigarette smuggling and tax avoidance, mandates tax payments, and facilitates enforcement by establishing that any significant amount of tobacco products found in the state without the appropriate tax stamp or tax-payment indicia are illegal goods (unless in the possession of licensed tobacco product businesses or their delivery services).

4. **Require better record keeping by distributor/wholesalers.** Require distributors and wholesalers selling cigarettes to retailers (which, in turn, sell them to state residents) to keep and maintain records of amounts sold, to whom, tax-stamp status, etc., and to regularly provide this information to state officials.
5. **Require better record keeping by retailers.** Require all retailers that sell cigarettes in the state to keep and retain accurate records regarding: a) their receipt of cigarettes from others (including date, quantity, from whom received, etc.); b) their total cigarette sales in the state (with monthly totals); and c) their sale of any cigarettes in quantities exceeding 2,000 cigarettes, or 10 cartons (including date, quantity, description, to whom sold, etc.).
6. **Block retail sales clearly not for personal use.** Place a maximum sale amount of 2,000 cigarettes (10 cartons) for any single sale to a consumer in the state – with parallel limits for the sales of other tobacco products.
7. **Educate smokers about existing state laws restricting smuggling and tax avoidance.** Most states already have laws that prohibit state smokers from bringing more than two cartons of cigarettes (or some other maximum amount) into the state from any other jurisdiction (including nearby states, Tribal lands, military bases, and duty-free shops) – and states that do not have any such laws should pass them. While enforcing such laws is difficult, many smokers do not even know they exist – and some would stop going to other jurisdictions to buy cheaper cigarettes (or at least reduce the size of their purchases) if they did know about these laws. Similarly, many smokers do not know that it is against state law to avoid paying state cigarette taxes by purchasing them over the Internet from website sellers that do not collect or pay the tax owed to the state. To educate smokers about existing laws prohibiting tax avoidance the State could post the information on various state website pages, issue related press releases, run related public education announcements, and require retailers to post notices or include notices with each tobacco product sale they make. Making periodic highly publicized "stings" to catch some of the cross-border or Internet shoppers who are illegally evading the state cigarette tax might be an even more effective way to dampen many smokers' enthusiasm for these tax avoidance strategies.
8. **Publicize toll-free hot lines to encourage reports of smuggling or tax-avoidance activities.** Require state-based wholesalers, distributors, importers, exporters, and retailers of tobacco products to post prominent signs that provide a toll-free number and email address for reporting anyone suspected of smuggling tobacco products or buying or selling smuggled tobacco products. These or other signs could also provide information on how to identify legal versus smuggled cigarettes, notify smokers and others of the existing laws and penalties re buying smuggled cigarettes, bringing cigarettes into the state from other jurisdictions, etc., and inform employees of existing whistleblower protections. The toll-free number could also be included on the state tax stamps placed on tobacco products.
9. **Protect "Whistleblowers."** To encourage the reporting of smuggling activities and protect witnesses, states could pass laws to protect the employees of retailers, distributors, wholesalers, importers, exporters, manufacturers, and delivery services from being fired or otherwise penalized by their employers if the employee notifies authorities about their employers' smuggling-related wrongdoing or testifies about it in court.
10. **Work with Neighboring States.** To increase each state's cigarette tax revenues, groups of neighboring states can work together to make their cigarette tax rates equal or similar to each other's (by the lower-tax states raising their rates) and can coordinate and expand their mutual efforts to minimize cigarette smuggling and other tax avoidance through new parallel state laws and coordinated enforcement efforts.
11. **Put pressure on the States with extremely low cigarette tax rates to raise them.** The average state cigarette tax is more than 84 cents per pack, but North Carolina, Kentucky, and South Carolina have tax

rates of only five, three, and seven cents per pack, respectively. These states serve as major suppliers of low-cost cigarettes that are smuggled into higher-tax states (with North and South Carolina cigarettes especially attractive because they have no tax stamps). Even modest cigarette tax increases in those states would help to dampen interstate cigarette smuggling by sharply reducing the available illegal profits. Similarly, very few Indian Tribes have their own Tribal tobacco taxes, and they should be encouraged to establish them (see the next item). States and Tribes with low or no taxes on other tobacco products should also be urged to establish or raise them.

12. ***Enter into treaties with in-state Indian Tribes to eliminate tobacco product price disparities.*** Some smokers and smugglers go onto Tribal lands to purchase cigarettes and other tobacco products free of any state taxes.* To reduce this problem, some states have entered into special compacts or agreements with the Indian Tribes located within the states' borders whereby the Tribe agrees to collect the state's tax (or a similar Tribal tax) on all of cigarette or other tobacco product sales on the Tribe's lands (whether sold to Tribal members or nonmembers) – thereby making the Tribal prices comparable to the prices charged elsewhere in the state – and the state agrees that the Tribe can keep all of the revenues it raises from charging the state (or Tribal) tax. These kinds of state-Tribal agreements are necessary because, otherwise, when a Tribe establishes a Tribal cigarette tax it is legally required to collect that Tribal tax on top of any state cigarette tax in all sales to non-tribal members, which produces an odd double-taxation problem.⁵
13. ***Support Federal Anti-Smuggling Legislation.*** While each state can do a lot, the federal government can do more. Most notably, the federal government could require all states to put tax stamps on their cigarettes, thereby stopping the sale in some low-tax states of blank packs that can easily be used for smuggling – and could require special tax stamps or restricted-sale notices on all tobacco products sold free of state taxes on Indian reservations, military bases, and duty-free shops. The federal government can also create nationwide standards for tax stamps; cigarette labeling (e.g., requiring unique serial numbers or markings indicating where packs may be legally sold); record keeping by manufacturers, wholesalers, and retailers; maximum sales amounts; and the like.⁶ Federal legislation could also block tax-avoidance via Internet sales (see below).

Special Measures to Stop Illegal Tax-Free Internet & Mail Order Sales of Cigarettes

The federal Jenkins Act requires all Internet sellers to provide each state with monthly reports listing state residents who have purchased cigarettes from the Internet sellers (including the quantities sold to each and the residents' mailing addresses), thereby enabling states to go after the in-state consumers to collect state taxes owed on the sales. The vast majority of Internet sellers, however, do not make the required Jenkins Act reports to the states, and federal officials rarely enforce the Act.⁷ Some states have marginally increased the Internet sellers' compliance rate simply by contacting them and demanding the reports, and a few states have initiated lawsuits against some Internet sellers to try to force compliance, but overall compliance rates remain low. While these state efforts could be expanded, they are ultimately of limited value given the large number of Internet sellers and the ability of customers to find new non-complying vendors quickly and easily on the Internet. Even when Internet vendors comply with the Jenkins Act and provide the states with the customer information, going after each individual customer to collect owed taxes is an inevitably time consuming and ineffective process. Accordingly, states that wish to minimize Internet-based tobacco tax evasion must go beyond trying to enforce the Jenkins Act and also establish more effective tax collection strategies.

- ***Implement new State laws banning or restricting Internet tobacco product sales.*** New York State has a law in place that prohibits Internet or mail order sales of cigarettes into the state – and the courts have upheld that law against cigarette company and Internet vendor attacks.⁸ To minimize Internet sales that avoid paying state taxes, a state could pass a ban similar to the New York law.⁹ Alternatively, a state could establish laws – such as those in Maine, California, Texas and other states -- placing new

* Retailers on Indian Lands are allowed to sell tobacco products to members of the same Tribe free of state tobacco taxes but are not allowed (unless expressly authorized by a state) to sell state-tax-free cigarettes to anyone who is not a Tribal member. However, a state's ability to take enforcement action against Indian Tribes that fail to collect and remit state taxes on sales to non-members of the Tribe are severely limited because of Indian Tribes' sovereign immunity (e.g., states cannot bring Tribes into state court to enforce state tax collection laws).

requirements on all Internet and mail-order sales of any tobacco products to any state residents.¹⁰ To be effective, any such law must provide some way of interrupting illegal Internet sales without the state having to try to find and bring every one of the hundreds of active illegal internet sellers into court. One good way to do that is through blocking the Internet vendors' ability to accept payment by credit card, which is now being done through the new agreement between the credit card companies and the state attorneys general. A necessary supplement is to block the illegal Internet sellers' deliveries to their customers in the state by instructing common carriers and other delivery services operating in the state not to make any deliveries for Internet sellers that are breaking state laws.¹¹

- **Support new federal laws to minimize Internet-based tobacco tax evasion.** As with smuggling in general, new federal laws can more effectively restrict Internet-based tobacco tax evasion than state laws because the federal government has nationwide authority, can restrict interstate commerce in ways that states cannot, and can restrict U.S. Postal Service deliveries of illegally sold or contraband tobacco products. One effective federal bill to reduce tobacco tax evasion by restricting Internet tobacco product sales, strengthening the federal laws against contraband tobacco products, and through other means is the Prevent All Contraband Tobacco Act, known as the PACT Act (S. 1117), which passed the Senate in the 2003-2004 legislative session.¹²
- **Subject Internet and other mail-order sellers of tobacco products to the same anti-smuggling measures and other state laws that apply to regular in-state retailers of tobacco products.** To create a more level playing field and reduce the unfair cost and price advantage of Internet tobacco product sellers (which underlies Internet-based tax evasion), make sure all anti-smuggling provisions and other state laws that apply to in-state retail sellers of tobacco products also apply to Internet or mail-order companies that sell tobacco products to persons in the state, including record-keeping requirements, applicable penalties, etc., with adjustments made to the requirements placed on in-state retailers, as necessary, to apply them in ways that account for the unique character of Internet sales.

Stronger Disincentives and Punishments for Smuggling

- **Expand definition of illegal smuggling subject to state prosecution and penalties.** To reach more illegal smuggling and tax avoidance through state law enforcement, reduce the minimum number of cartons/packs/cigarettes that trigger smuggling violations or major smuggling penalties. Establish or fortify penalties for the manufacture, possession, or sale of counterfeit tobacco tax stamps or counterfeit tobacco products.
- **Increase existing fines for cigarette or other tobacco product smuggling.** Increase the minimum dollar amounts of existing fines and have no maximum amount so that meaningful fines can be levied against large economic entities involved in smuggling.
- **Seize vehicles and properties used in cigarette or other tobacco product smuggling.** Establish new provisions to allow for the state's seizure of vehicles used in cigarette smuggling, putting liens on property for the value of smuggled goods, etc. (as with state laws pertaining to illegal drug trafficking).
- **Withdraw right to sell tobacco products from retailers involved in smuggling.** State anti-smuggling laws could ensure that retail outlets in the state that buy smuggled cigarettes or knowingly sell smuggled cigarettes will lose their right to sell any cigarettes in the state for some period of time (e.g., from one to ten years depending on the severity of the violation).
- **Include jail or prison time for guilty large-scale smugglers or repeat offenders.** Going beyond just fines and other economic disincentives, state laws could call for jail or prison sentences for persons participating in large smuggling efforts or who are guilty of repeatedly violating the states anti-smuggling or tax-avoidance laws.

Endnotes for Appendix D

¹ Farrelly, M., et al., *State Cigarette Excise Taxes: Implications for Revenue and Tax Evasion*, Research Triangle International, May 2003, http://www.rti.org/pubs/8742_Excise_Taxes_FR_5-03.pdf. See, also, Campaign for Tobacco-Free Kids (TFK), *Raising State Tobacco Taxes Always Increases State Revenues & Always Reduces Tobacco Use*, <http://tobaccofreekids.org/research/factsheets/pdf/0098.pdf>.

Endnotes for Appendix D (continued)

² Yurekli, A. & P. Zhang, "The Impact of Clean Indoor-Air Laws and Cigarette Smuggling on Demand for Cigarettes: An Empirical Model," *Health Economics* 9:159-170, 2000; Farrelly, M. et al., "Cigarette Smuggling Revisited," U.S. Centers for Disease Control & Prevention (CDC), in press. See, also, the references listed in endnote 1.

³ California Revenue and Taxation Code Section 30162, <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=rtc&group=30001-31000&file=30161-30165>. For the underlying legislation, see http://www.leginfo.ca.gov/pub/01-02/bill/sen/sb_1701-1750/sb_1701_bill_20020926_chaptered.pdf.

⁴ See, e.g., Arizona's separate tobacco tax, with tax stamps, on Tribal sales, with the revenues remitted to the Tribes. AZ Revised Statutes, 42-3301 to 42-3307, <http://www.azleg.state.az.us/ars/42/title42.htm>.

⁵ See above note re AZ. For examples of State-Tribal tobacco tax compacts, National Congress of American Indians, http://www.ncai.org/main/pages/issues/governance/agreements/tax_agreements.asp.

⁶ For a list of effective federal anti-smuggling provisions, see American Cancer Society, et al., *Proposed Federal Measures to Reduce Cigarette Smuggling and Protect Federal and State Tobacco Tax Revenues*, January 2003, <http://tobaccofreekids.org/research/factsheets/pdf/0226.pdf>.

⁷ See, e.g., U.S. General Accounting Office, *Internet Cigarette Sales: Giving ATF Investigative Authority May Improve Reporting and Enforcement*, August 9, 2002, <http://www.gao.gov/new.items/d02743.pdf>.

^{*} New York Public Health Article 13F, Section 1399-II, <http://assembly.state.ny.us/leg/?cl=91&a=71>. *Brown & Williamson Tobacco Corp. v. Pataki*, U.S. Court of Appeals for the Second Circuit, Docket Nos. 01-7806, 01-7813, February 13, 2003, <http://tobacco.neu.edu/Internet/CCA2ruling.pdf>.

⁸ For model legislation, see <http://tobaccofreekids.org/research/factsheets/index.php?CategoryID=29>.

⁹ For model legislation, see <http://tobaccofreekids.org/research/factsheets/pdf/0230.pdf>.

¹⁰ For more information on blocking Internet deliveries, see the provisions in the above cited model statutes and the Campaign factsheet at <http://tobaccofreekids.org/research/factsheets/pdf/0259.pdf>. More on how to address Internet tobacco product sale is at <http://tobaccofreekids.org/reports/Internet> and <http://tobaccofreekids.org/research/factsheets/index.php?CategoryID=29>.

¹¹ For more information on the PACT Act, see <http://tobaccofreekids.org/reports/Internet>.