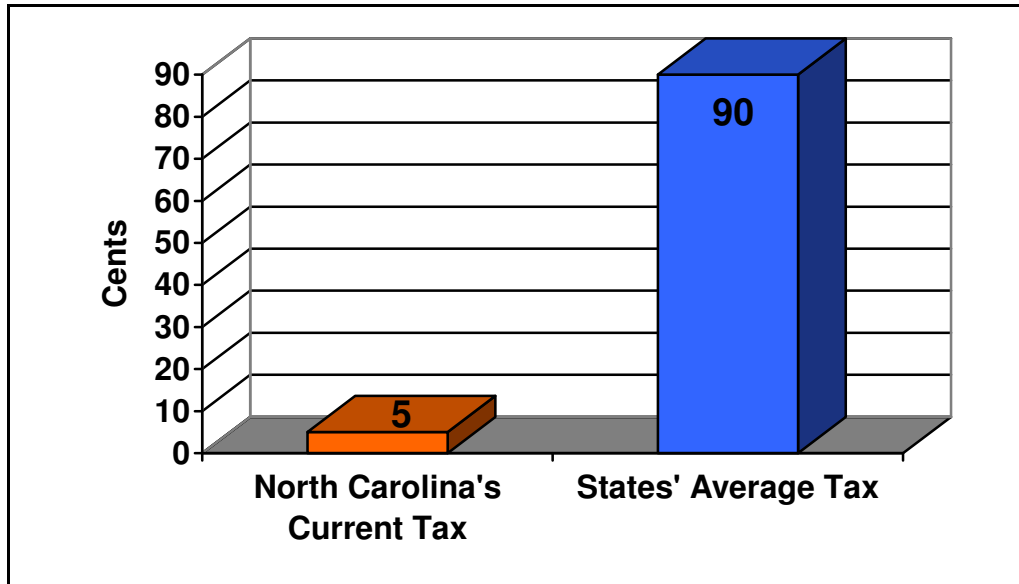


NORTH CAROLINA'S CIGARETTE TAX IS WAY BELOW AVERAGE (THE LOWEST IN THE NATION)

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



A Special Report By The Campaign for Tobacco-Free Kids

June 8, 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.

Additional copies of this special report can be obtained from the

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Introduction & Executive Summary

North Carolina currently has a cigarette tax rate of only 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 North Carolina total \$6.59 per pack sold in the state. Indeed, the toll of tobacco in North Carolina remains quite high, with 11,900 adults dying each year from their own smoking.² State tobacco tax increases could quickly improve this distressing situation.

Increasing North Carolina's cigarette tax rate by 85 cents per pack would bring its cigarette tax up to the year-end state average. Using conservative estimates, such an increase would bring North Carolina \$380.1 million in additional new annual state revenue.

An 85-cent increase would also:

- Prevent 115,100 state kids alive today from growing up to become addicted adult smokers.
- Prompt 64,200 current adult smokers to quit for good
- Save 53,800 North Carolina citizens from dying prematurely from smoking
- Reduce future state smoking-caused health costs by \$2.4 billion – including a reduction in future smoking-caused state Medicaid program costs of \$294 million.³

With an 85-cent increase, not only will smoking-caused health care expenditures in North Carolina 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.⁴

North Carolina could increase the enormous benefits from a substantial increase to its cigarette tax by simultaneously making a parallel increase to the state's tax rate on smokeless tobacco and other tobacco products. Such an increase – from two to forty percent of wholesale price – would bring North Carolina another \$60 million in additional new state revenues, with parallel

* 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 a number of 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, for example, if all of the currently pending state cigarette tax increases pass into law, the average state cigarette tax will increase to \$1.21 per pack by the end of this year. [Citigroup, Smith Barney, *Tobacco Weekly*, May 31, 2005.]

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.⁵

While there is some evidence that North Carolina might finally increase its incredibly low tax rates on cigarettes, the state needs to do much more to keep up with the rest of the country and take full advantage of the power of tobacco tax increases to benefit the state, its businesses, and its residents. Current proposals for a 35-cent increase to the state cigarette tax rate simply would not produce anything close to the revenues, public health benefits, and reductions in future smoking-caused healthcare and other costs that an 85-cent increase would provide.

Cigarette Tax Increases	New State Revenue	Kids Alive Today Stopped From Smoking	Adult Smokers Who Quit	People Saved From Dying From Smoking	Reduced Future Health Costs
35 Cents	\$185 million	47,400	26,400	22,000	\$982 million
85 Cents	\$380 million	115,100	64,200	53,800	\$2.4 billion
<i>Added Benefits from 85-cent Increase</i>	<i>\$195 million</i>	<i>67,700</i>	<i>37,800</i>	<i>31,800</i>	<i>\$1.4 billion</i>

The additional \$1.4 billion reduction in future smoking-caused healthcare costs from the 85-cent increase will accrue over the lifetimes of those persons who quit or do not start smoking because of the cigarette tax increase. More immediately, the 85-cent increase will produce smoking-caused healthcare savings of well over \$60 million in the following five years (\$40 million more than a 35-cent increase) – with those savings growing sharply and steadily in the following years. These additional reductions to smoking-caused healthcare costs will also save the state Medicaid program more than \$7.5 million in just the next five years, with the savings growing to \$294 million over the lifetimes of those who quit or do not start because of the 85-cent increase (\$173 million more in Medicaid savings than from the 35-cent increase).

As detailed in the full report, an 85-cent cigarette tax increase to bring North Carolina’s tax rate up to the nationwide state average will also substantially cut smoking-caused business costs, boost employment, and strengthen the state economy.

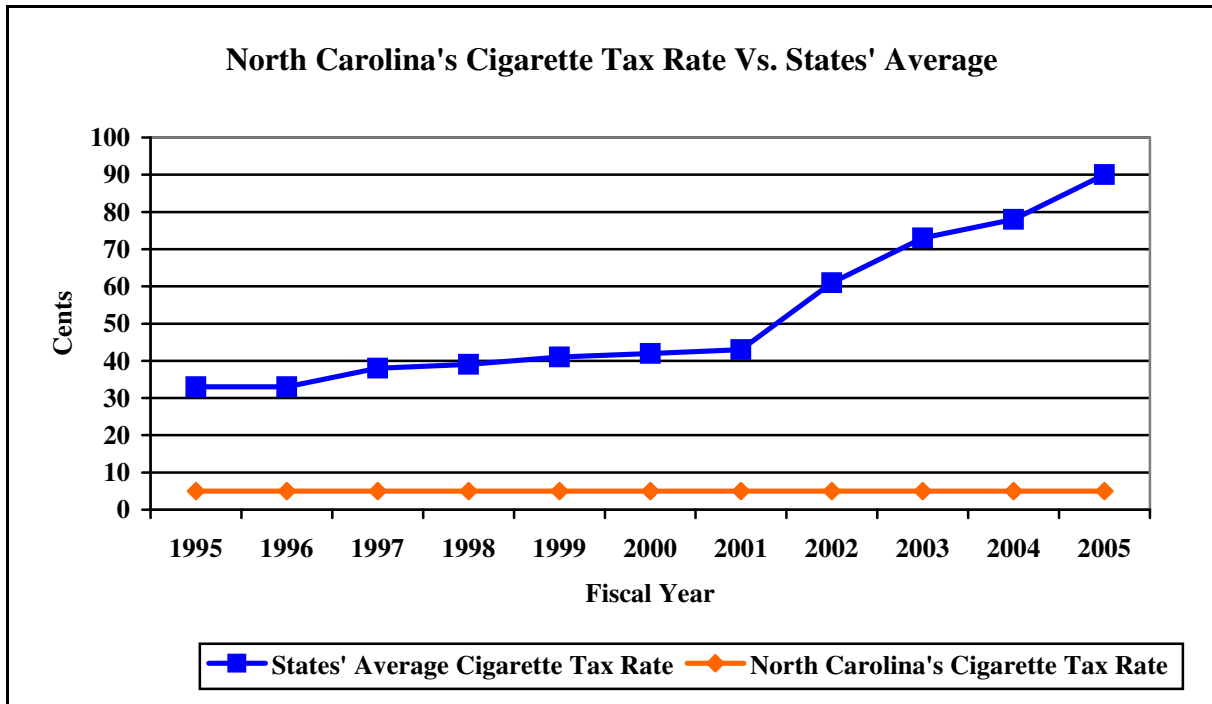
Among the largest individual beneficiaries from the tax will be low-income families, which currently suffer disproportionately from smoking and smoking-caused disease and costs. In addition, more lower-income than higher-income smokers will quit in response to a substantial cigarette tax increase; so more lower-income than higher income folks will benefit.

Not surprisingly, support for a substantial increase to the state’s cigarette tax is high among a diverse cross-section of North Carolina adults and, especially voters.

By substantially raising its cigarette tax (and establishing a tax stamp), North Carolina could also get out of the business of supplying criminal syndicates and terrorist organizations that raise illegal revenue through buying cigarettes in North Carolina to smuggle and sell in higher-tax states. On the other hand, by simply increasing its cigarette tax to the nationwide state average, North Carolina would not, itself, become a target for cigarette smuggling or contraband sales – and there are numerous simple steps the state could take to minimize any efforts by continuing smokers to evade the higher rate through cross-border or Internet purchases.

North Carolina'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 North Carolina's cigarette tax rate, such an increase is also necessary for North Carolina to keep up with the other states. Compared to states with higher cigarette tax rates, North Carolina is providing its 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 itself at a considerable public health and competitive disadvantage.



Most notably, North Carolina's cigarette tax has consistently trailed behind the average state cigarette tax rate and that gap has been increasing sharply (see chart, above).

At the same time, North Carolina'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).⁶ 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. North Carolina's cigarette tax currently accounts for less than two 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.⁷ In contrast, the cigarette companies receive about 58 percent of the money spent on cigarettes in North Carolina.⁸

The cigarette companies also use a portion of their revenues from North Carolina 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 \$488 million on marketing and promotions in North Carolina (which is more than 60 cents per pack sold in the state). That represents an increase of 12.9 percent from the prior year -- and an 87% increase just since 1998.⁹ 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, North Carolina 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 North Carolina

North Carolina has not increased its cigarette tax since 1991, and even then it was only increased by 3 cents. More recently, North Carolina state legislators have taken an important first step to build on this past progress by passing a cigarette tax increase of 35 cents per pack in the state Senate. Raising the state cigarette tax by 35 cents would be a solid step forward. 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 85 cents per pack would not only bring North Carolina's cigarette tax rate up to the nationwide state average, but would also provide the state with substantial additional new revenues and enormous additional benefits.

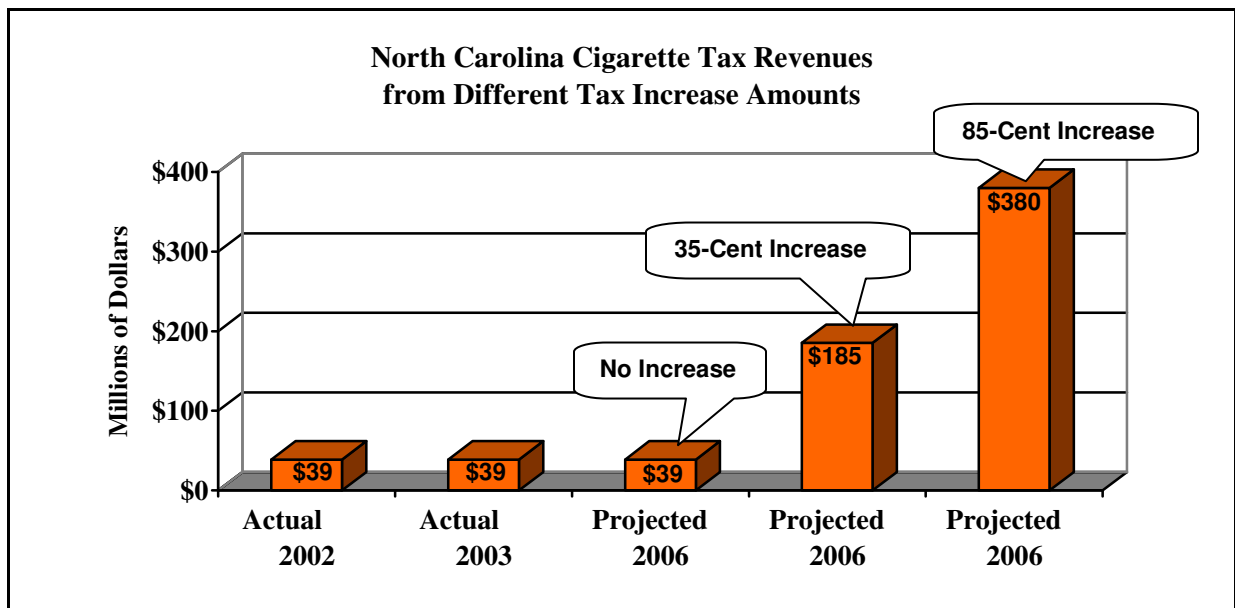
A 85-Cent State Cigarette Tax Increase Does More Good Than a 35-Cent Increase

As detailed below, raising the state's cigarette tax by 85 cents per pack, instead of only 35 cents, would produce \$195 million more per year in additional new revenue, save 31,800 more lives, prompt 37,800 more current adult smokers in the state to quit, prevent 67,700 more kids in the state from becoming addicted adult smokers, and reduce future state smoking-caused health costs by \$1.4 billion.¹⁰

Additional New State Revenues. Massive amounts of economic research and state experiences have 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.¹¹ 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.

In fact, every single state that has significantly raised its cigarette tax rate has enjoyed substantial increases to state revenues, despite the related declines in state smoking levels and despite any related increases in cigarette smuggling or cigarette tax avoidance.¹² 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 35-cent increase, North Carolina could expect to collect \$185 million in new revenue, but by increasing the cigarette tax by a full 85 cents, North Carolina could expect an additional \$195 million in new revenue -- or about \$380.1 in annual new revenues.¹³



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, North Carolina's annual cigarette tax revenues are expected to decline by only \$1.7 million, or 4.4 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 85-cent increase will bring the state more than \$1.5 billion in additional new revenues over the next ten years compared to a 35-cent increase.

The state could multiply its public health and budgetary benefits by investing all or part of the additional revenue either to avoid cuts in the state Medicaid program or to expand the services it provides (e.g., to cover smoking cessation services and to otherwise increase health care access). Such investments of new state funds would not only improve public health in the state but would also increase the amount of money North Carolina would receive from the federal government through its Medicaid program reimbursements to the state. For every dollar the state spends on Medicaid, it gets a bit more than 63 cents back from Uncle Sam; so allocating \$100 million per year of the additional new cigarette tax revenues from an 85-cent increase to the state Medicaid program would actually cost the state only \$47 million per year (while still providing the state \$100 million worth of additional Medicaid coverage and benefits).¹⁴

Bigger Declines in State Smoking and Related Harms. Tobacco use takes a significant toll on North Carolina residents. Approximately one out of every four adults in North Carolina smokes; and, each year, more than 11,900 more North Carolina adults die prematurely from smoking. For every person in North Carolina who dies from smoking, approximately 20 more state residents are suffering from serious smoking-caused disease and disability, or other smoking-caused health problems.¹⁵

In addition, more than 52,000 North Carolina kids currently 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 207,500 kids alive today in North Carolina will ultimately die prematurely from smoking.¹⁶

Tobacco tax increases are one of the most effective ways to change these trends by sharply reducing smoking and other tobacco use, 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.¹⁷ 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.¹⁸ That fact is also well established by scientific research and by the actual experiences of states that have raised their tax.¹⁹

Cigarette Tax Increase Amount	Kids Alive Today Stopped From Smoking	Kids Saved From Dying From Smoking	Adult Smokers Who Quit	Adults Saved From Dying From Smoking
35 Cents	47,400	15,100	26,400	6,900
85 Cents	115,100	36,800	64,200	17,000
Added Benefits from 85-cents:	67,700	21,700	37,800	10,100

As the above chart shows, North Carolina would certainly obtain some benefits from a 35-cent tax increase, which would prevent 47,400 kids from becoming addicted adult smokers. But an 85-cent tax increase would stop an additional 67,700 kids from becoming addicted adult smokers. In the same respect, a 35-cent tax increase would save 22,000 North Carolinians from a smoking-caused death, but 85-cent tax increase would save 31,800 more North Carolina lives. Other data indicates that a 85-cent increase would also, each year, stop 51,300 North Carolina kids from becoming new regular, daily smokers (annually saving an extra 30,200 kids from tobacco addiction compared to just a 35-cent increase).²⁰

Bigger Reductions in State Smoking-Caused Costs. Tobacco use also takes a substantial monetary toll on the state and its residents. Annual health care expenditures in North Carolina directly caused by tobacco use total \$2.26 billion, and an additional \$3.04 billion is lost due to smoking-caused productivity losses from smoking-death-shortened work lives. Tobacco use costs North Carolina’s Medicaid program \$707.8 million. It is estimated that North Carolina residents pay \$556 per household each year in federal and state taxes to cover smoking-caused government costs. Increasing the cigarette tax is one of the most effective methods to reduce these costs to the state and its taxpayers -- and the larger the cigarette tax increase, the greater these broader savings will be.

Cigarette Tax Increase Amount	5-Year Heart-Stroke Savings	5-Year Pregnancy Savings	Long-Term Healthcare Savings	Long-Term State Medicaid Savings
35 Cents	\$12.3 million	\$8.8 million	\$982.3 million	\$121.0 million
85 Cents	\$29.8 million	\$21.3 million	\$2.4 billion	\$294.0 million
Added Benefits from 85-cents:	\$17.5 million	\$12.5 million.	\$1.4 billion	\$173.0 million

As the above chart shows, in the first five years, an 85-cent tax increase would reduce healthcare costs from smoking-caused heart attacks, strokes and smoking-affected births by \$51.1 million, which is \$30 million more than the 35-cent tax increase.²¹ 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 North Carolina, as a range of other smoking-caused health costs also decline, as well.

Over the long-term, a 85-cent tax increase would also save \$1.41 billion more than a 35-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 12.3 percent of the state's total smoking-caused health costs and 50 percent of smoking-caused pregnancy-related health costs in the state.²²

Besides Medicaid, North Carolina 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 State Business Savings. The reductions in smoking levels among North Carolina workers caused by the 85-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 North Carolina to total \$3.04 billion each year.²³ 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.

A recent study found that 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.²⁴ Similarly, a study done for the Indiana Health Department determined that the cost of smoking employees to businesses in just a single Indiana county totalled \$260.1 million per year from increased absenteeism and lost productivity, higher health insurance premiums, and increased recruitment and training costs from smoking employees' premature retirement and death.²⁵

Compared to a 35-cent cigarette tax increase, an 85-cent increase will do far more to reduce these smoking-caused costs to the state's businesses and produce far greater improvements to the health and productivity of North Carolina's workforce. These improvements will not only help existing state businesses but will also make North Carolina more attractive to businesses thinking about possibly relocating to the state.

Increased State Employment and a Stronger State Economy. There is also solid evidence that increasing state cigarette tax increases will also increase state employment levels – even in states with tobacco farming and cigarette manufacturing. 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, with more jobs created as well as other increases in productive economic activity.²⁶ More recently, state-specific economic impact studies in New Hampshire, Texas, and even in the tobacco-farming and cigarette-manufacturing 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.²⁷

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.

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.²⁸ As a result, after the impacts of the cigarette tax increase 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.²⁹

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 North Carolina, a pack-a-day smoker who quits because of a 85-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.³⁰

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.³¹

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.³² In North Carolina, a February 2005 poll found that more than 63 percent of adults supported a cigarette tax increase to balance the state budget.³³ Similarly, a 2002 North Carolina poll, 62 percent of North Carolina voters favored a state cigarette tax increase,

including 60 percent of Republicans, 65 percent of Democrats, and 66 percent of independents.³⁴ That survey also found that North Carolina voters would look favorably on a candidate for state office who supports a tobacco tax over one who opposes it by a margin of 55 percent to 28 percent.

Maximize State Health Benefits & Cost Savings By Investing in Tobacco Control

To maximize the many additional benefits North Carolina would receive from a 85-cent instead of a 35-cent cigarette tax increase, the state could invest a small portion of the \$195 million in extra new revenue from the 85-cent increase to fully fund the state tobacco prevention program run by the North Carolina Health and Wellness Trust Fund Commission. A recent evaluation study found that the program's youth tobacco prevention advertising campaign, Tobacco Reality Unfiltered (TRU), is helping to reduce youth smoking by reaching an estimated 439,000 kids in North Carolina.

But TRU's effectiveness is compromised by the fact that North Carolina still falls far short of even the minimum amount recommended by the U.S. Centers for Disease Control and Prevention's (CDC) for state tobacco prevention spending: \$42.6 million per year. In fiscal year 2005, North Carolina originally set aside only \$15 million to tobacco prevention. But just seven cents of the proposed 85-cent cigarette tax increase would generate enough revenue for North Carolina to fully fund the state tobacco prevention program at the CDC recommended minimum for years to come.

That increased funding would enable the state tobacco prevention program to work much more effectively and powerfully to prevent and reduce tobacco use and its harms in the state, perfectly complementing the substantial 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 state tobacco-caused harms and costs. Tobacco tax increases can produce enormous public health benefits; but they are not enough, alone, to get the job done.³⁵

Maximize New State Revenues By Establishing a State Cigarette Tax Stamp

North Carolina currently is one of only three states that does not have a tax stamp to mark packs of cigarettes on which the state cigarette tax has been paid. Initiating such a tax stamp, along with any state cigarette tax increase, would make it much easier for state enforcement officials to find and stop untaxed cigarettes from being smuggled into North Carolina and illegally resold. For example, in 1999, Michigan, one of the states with the highest cigarette tax rates – and the only one without a tax stamp -- instituted a state cigarette tax stamp for the first time, and its cigarette tax revenues immediately increased by more than twenty percent.³⁶ It is also important to note, however, that despite not having a tax stamp Michigan had still enjoyed enormous increases in new cigarette tax revenue when it had increased its cigarette tax rate by 50 cents per pack a few years earlier. By reducing cigarette smuggling, the new tax stamp simply increased the already substantial amount of new revenues the state was receiving from its cigarette tax increase.

Alaska recently initiated its first tax stamp requirement to protect and increase the new revenues it is receiving from its new 60-cent increase, to \$1.60 per pack.³⁷ Going further, California is taking advantage of new technologies to improve its cigarette tax stamps so that they will be harder to counterfeit and will contain a range of encrypted information that enforcement officials can readily access through hand-held scanners to make it easy to spot fakes and catch smugglers.³⁸ By similarly initiating a cigarette tax stamp, North Carolina could protect and

increase the substantial new revenues it will obtain from raising its cigarette tax – while also helping to fight terrorism and organized crime (see below).

Ways to Further Reduce Cigarette Smuggling and Tax Evasion (and Increase Revenues)

With a new state tax stamp, even an 85-cent increase to North Carolina's cigarette tax is not likely to spark substantial amounts of new cigarette smuggling in the state (there are much more profitable markets for smugglers in the many other higher-tax states and cities). But a substantial cigarette tax increase could prompt a rise in cigarette tax evasion by continuing North Carolina smokers. To minimize any such tax evasion (and further deter any new cigarette smuggling), the state could take a number of relatively simple and inexpensive measures -- thereby bringing in even more new revenues from the cigarette tax increase than projected.*

Simply establishing a hotline that people can call to report illegal smuggling activity or contraband sales can be quite productive – especially if all retailers, distributors, and manufacturers are required to post the hotline number prominently in all their business locations. Similarly, 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 themselves just in the fines and penalties they generate – while simultaneously reducing the amount of state tax revenues lost to such contraband sales (both directly and by putting other retailers on notice that such contraband sales will be uncovered and prosecuted).

Another productive step would be to pass a strong new law, as many other states have done, to prohibit or restrict Internet and other mail-order sales of cigarettes and other tobacco products to state residents.³⁹ Such sales are typically made with no payment at all of state taxes (and with no protections against sales to kids), and Internet cigarette sales have been growing steadily in recent years, with corresponding reductions to state tobacco tax revenues.⁴⁰ A tough new state law, however, would 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, North Carolina's Attorney General may notify the credit card companies about any Internet vendors making sales to Indiana smokers in violation of either federal or state law (which is another reason why the state should pass its own Internet tobacco law), and the credit card companies will take away those vendors' credit card rights.⁴¹ 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.

A strong new state Internet tobacco law would not only provide North Carolina with a more direct way to take advantage of the new agreement with the credit card companies but could also put other obstacles in the way of illegal Internet sellers efforts to sell contraband cigarettes to North Carolina smokers – for example, by blocking the ability of Internet vendors to have the cigarettes they sell to Indiana smokers delivered by common carriers.⁴²

* 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 (as well as substantial pack sales declines from North Carolina no longer serving as a major supplier to criminal smuggling organizations). See Appendix C. If the new smuggling and tax evasion assumed in these formulas does not occur or occurs to a lesser extent, the state would obtain even more new annual revenues than projected in this report. Appendix D lists the many steps the state could take to minimize such smuggling and tax evasion and maximize new revenues.

As set forth in Appendix D, there are many other cost-effective steps North Carolina 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 an 85-cent cigarette tax increase. But even without these additional measures, an 85-cent increase would bring North Carolina new annual state revenues of more than \$380 million.

Stop Helping Criminals and Terrorists

Another reason for North Carolina to establish a tax stamp and increase its cigarette tax rate is so that the state will no longer serve as a supplier of cheap, easy-to-smuggle cigarettes for criminal syndicates and even terrorist organizations.⁴³ The cheap, stamp-free cigarette packs North Carolina offers to cigarette traffickers makes it much easier for them to smuggle the packs into high-tax jurisdictions for illegal resale. As a U.S. General Accounting Office report recently stated, “Terrorists have earned assets through the highly profitable illicit trade in cigarettes. According to officials from the ATF [U.S. Bureau of Alcohol, Tobacco, Firearms & Explosives], Hizballah, HAMAS, and al Qaeda have earned assets through trafficking in contraband cigarettes.”⁴⁴

Going on, the GAO report cited the following example: “during 2002, an ATF investigation revealed a conspiracy where the defendants were illegally trafficking cigarettes from 1996 to 2000 between North Carolina, a low tax state, and Michigan, a high tax state, and funneling some of the illegal proceeds back to the Hizballah.” The seized assets, alone, in that North Carolina terrorist smuggling case were worth \$1.5 million, and the ATF investigation resulted in at least two convictions for cigarette trafficking, money laundering, and supporting terrorist organizations.⁴⁵

By substantially raising its cigarette tax and establishing a tax stamp, North Carolina could get out of the business of supplying criminal syndicates and terrorist organizations.

Make Parallel Increases to Other State Tobacco Taxes.

While this report focuses on the broad range of substantial benefits North Carolina would enjoy from raising its cigarette tax by at least 85 cents per pack, the state could protect and expand these benefits by making parallel increases to North Carolina’s tax rate on other tobacco products, such as cigars and smokeless or spit tobacco. Right now, North Carolina’s tax on tobacco products other than cigarettes is only two percent of the wholesale price, the lowest in the country among those states that tax other tobacco products as a percentage of wholesale price. 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.

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.⁴⁶

If North Carolina increased its cigarette tax to 90 cents per pack, the parallel tax on smokeless tobacco and other tobacco products would be roughly 40 percent of wholesale price.⁴⁷ Such an increase would reduce the number of kids who use smokeless or spit tobacco by approximately 24.7 percent and reduce overall consumption by about 13.3 percent – with corresponding

reductions to the death, disease, costs and other harms caused by the use of these other tobacco products.⁴⁸

Increasing the North Carolina tax on other tobacco products to 40 percent of wholesale price would also bring the state roughly \$60 million in additional new annual tobacco tax revenues.⁴⁹

Conclusion

North Carolina 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 North Carolina 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, North Carolina should increase its cigarette tax rate to the nationwide state average. That means quickly raising its cigarette tax rate by 85 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 North Carolina 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 North Carolina, an 85-cent increase would raise its cigarette tax to the expected year-end state average of 90 cents per pack.

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

³ See Appendix C for an explanation, with references, of how the projections in this report were made.

⁴ See Appendix B for more detail on the state's benefits and savings from each decline in adult and youth smoking rates.

⁵ 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].

⁶ Campaign for Tobacco-Free Kids factsheet, *U.S. Cigarette Companies' Settlement-Related Price Hikes Excessive*, <http://tobaccofreekids.org/research/factsheets/pdf/0071.pdf>.

⁷ Orzechowski & Walker, *The Tax Burden on Tobacco* (2004) [industry-funded annual report], with updates to account for announcements of cigarette company price increases.

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⁹ 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>.

¹⁰ For detailed information, and references, regarding how these projections were made, see Appendix C.

¹¹ 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>.

¹² 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>.

¹³ For detailed information, and references, regarding how these projections were made, see Appendix C.

¹⁴ 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>.

¹⁵ For sources and more detail on the toll of tobacco in Indiana, see Appendix A.

¹⁶ For sources and more detail on the toll of tobacco in Indiana, see Appendix A.

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- ¹⁷ 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/wrkwppap.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.
- ¹⁸ 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>.
- ¹⁹ 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>.
- ²⁰ For detailed information, and references, regarding how these projections were made, see Appendix C.
- ²¹ For detailed information, and references, regarding how these projections were made, see Appendix C.
- ²² Miller, L, et al., "State Estimates of Total Medical Expenditures Attributable to Smoking, 1993" *Public Health Reports*, September/October 1998.
- ²³ 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>.
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²⁹ 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>.

³⁰ The current average price for cigarettes in North Carolina is \$3.33 per pack (including sales tax), adding a 85-cent cigarette tax increase will raise that average price to at least \$4.29 per pack (not even accounting for the fact that distributors and retailers typically increase their prices by more than the additional tax increase amount). \$4.29 times 365 days in a year equals \$1,565 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).

³¹ 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>.

³² 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>.

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³⁹ For model legislation, and additional information, see the Campaign for Tobacco-Free Kids website at <http://tobaccofreekids.org/research/factsheets/index.php?CategoryID=29>. For examples of other state laws and legislation to prohibit or restrict Internet tobacco product sales, see the Campaign website at <http://tobaccofreekids.org/reports/internet/resources.php#4>.

⁴⁰ See, e.g., the Campaign for Tobacco-Free Kids factsheet, *Internet Sales of Tobacco Products: Reaching Kids & Evading Taxes*, <http://tobaccofreekids.org/research/factsheets/pdf/0213.pdf>.

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⁴² 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>.

⁴³ See, e.g., Frazier, E. & GL Wright, "Charlotte on legal forefront of terror fight: Smuggling case reflects intrigue of tracking terrorist supporters," *Charlotte Observer*, October 14, 2001.

⁴⁴ U.S. General Accounting Office, *Terrorist Financing: U.S. Agencies Should Systematically Assess Terrorists' Use of Alternative Financing Mechanisms*, GAO-04-163, November 2003, page 11, <http://www.gao.gov/new.items/d04163.pdf>.

⁴⁵ U.S. General Accounting Office, *Terrorist Financing: U.S. Agencies Should Systematically Assess Terrorists' Use of Alternative Financing Mechanisms*, GAO-04-163, November 2003, at page 12-13, <http://www.gao.gov/new.items/d04163.pdf>.

⁴⁶ 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].

⁴⁷ 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>.

⁴⁸ 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].

⁴⁹ North Carolina's current revenues from its 2 percent tax on other tobacco products total approximately \$3.5 million each year. Increasing that rate to 40 percent would bring in more than ten times as much state revenue per unit sold – and the increase would likely reduce taxable sales by only about fifteen percent. To be conservative, however, the estimate of \$50 million per year in new revenue assumes a 25 percent decline in state sales of other tobacco products after the tax increase and is rounded down.

For more information on state tobacco tax increases and the many benefits they produce, see the Campaign for Tobacco-Free Kids website at <http://tobaccofreekids.org/reports/prices> and <http://tobaccofreekids.org/research/factsheets/index.php?CategoryID=18>.

APPENDIX A

THE TOLL OF TOBACCO IN NORTH CAROLINA

Tobacco Use in North Carolina

- High school students who smoke: 24.8% [Girls: 23.3% Boys: 26.3%]
- High school males who use smokeless tobacco: 15.2%
- Kids (under 18) who try cigarettes for the first time each year: 52,000
- Additional Kids (under 18) who become new regular, daily smokers each year: 23,700
- Packs of cigarettes bought or smoked by kids in North Carolina each year: 27.5 million
- Kids exposed to second hand smoke at home: 416,000
- Adults in North Carolina who smoke: 24.8% [Men: 28.0% Women: 21.9% Pregnant Females: 13.2%]

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 North Carolina From Smoking

- Adults who die each year in North Carolina from their own smoking: 11,900
- Annual deaths in state from others' smoking (secondhand smoke & pregnancy smoking): 1,240 to 2,210
- North Carolina kids who have lost at least one parent to a smoking-caused death: 9,000
- Kids alive in today who will ultimately die from smoking: 207,500 (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 North Carolina who dies from smoking approximately 20 more state residents are suffering from serious smoking-caused disease and disability, or other smoking-caused health problems.

Tobacco-Related Monetary Costs in North Carolina

- Annual health care expenditures in the North Carolina directly caused by tobacco use: \$2.26 billion
- State medicaid program's total health expenditures caused by tobacco use: \$707.8 million
- Citizens' state/federal taxes to cover smoking-caused gov't costs: \$1.8 billion (\$556 per household)
- Smoking-caused productivity losses in North Carolina: \$3.04 billion
- Smoking-caused health costs and productivity losses per pack sold in North Carolina: \$6.59

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 North Carolina each year: \$488.0 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.

North Carolina Government Policies Affecting The Toll of Tobacco in North Carolina

- Annual State tobacco prevention spending from tobacco settlement and tax revenues: \$15.0 million [National rank: 21 (with 1 the best)]
- State cigarette tax per pack: \$0.05 [National rank: 50th (average state tax is \$0.84 per pack)]

Sources

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APPENDIX B

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

The following estimates show the benefits and savings that are obtained in North Carolina 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 North Carolina 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: 63,100

Fewer current pregnant smokers: 1,200

Fewer current high school smokers: 4,400

North Carolina kids alive today who will not become addicted adult smokers: 20,800

Public Health Benefits

Today's adults saved from dying prematurely from smoking: 16,700

Today's high school smokers saved from dying prematurely from smoking: 1,400

North Carolina kids alive today who will not die prematurely from smoking: 6,700

	<u>First Year</u>	<u>Over 5 Years</u>
<i>Fewer smoking-affected births:</i>	1,200	5,920
<i>Fewer smoking-caused heart attacks:</i>	35	449
<i>Fewer smoking-caused strokes:</i>	20	241

[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>	\$1.7 million	\$8.4 million
<i>Savings from heart attack & stroke reductions</i>	\$2.2 million	\$29.3 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: \$535.1 million

Reduction to future health costs from youth smoking declines: \$332.8 million

[These savings accrue over the lifetimes of the adults who quit and the youth who do not become adult smokers. Roughly 12.3% of smoking-caused healthcare expenditures in North Carolina 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

^{*} 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.⁵ 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

⁵ 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>.

⁸ 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>.

⁹ 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>.

