

Good Start Out of the Gate: Tobacco Industry Political Influence and Tobacco Policymaking in Kentucky 1936-2012

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Executive Summary

- Kentucky, a leading tobacco producing state in the U.S. and home to Brown and Williamson and Commonwealth Brands tobacco companies, has a significant historic, economic, and social heritage tied to tobacco. Until 2004 tobacco was grown in all but one county in the state, mostly on small family farms. The significant tobacco industry presence created a historical resistance to tobacco control efforts.
- To influence policymakers, between 1994 and 2010 the tobacco industry contributed \$311,614 to Kentucky political parties and individual candidates running for state-level offices, focusing contributions around pivotal elections, with candidates for governor and key legislative leadership being the largest recipients. Additionally, between 1993 and 2012, the tobacco industry spent \$9.7 million in lobbying expenditures.
- In 1988, the first statewide tobacco control coalition focused their initial efforts on youth as a noncontroversial strategy to introduce tobacco control issues in the tobacco growing state. Beginning in 1994 state tobacco control advocates worked with state policymakers and tobacco farmers to create the Coalition for Health and Agricultural Development. The coalition set a statewide and national precedent for tobacco control advocates and tobacco farmers working together to address tobacco-related health and economic issues.
- In 1994, the tobacco industry used efforts by tobacco control advocates to reduce youth smoking by passing a state law prohibiting youth access to tobacco products as an effective medium to lobby for the enactment of a weak youth access law that included state preemption to prohibit community-level activity to limit youth access to tobacco products. The 1994 legislation also included a provision that required designated smoking areas in government buildings where smoking was restricted. Later, this requirement would dissuade local governments from covering workplaces since government workplaces would be exempt or forced to install expensive ventilation equipment.
- Since 1997, the prevalence of youth tobacco use in Kentucky has declined. In 2011, the youth tobacco use rate was 24.1 percent, a decrease from 26.1 percent in 2009. However, in 2011, the prevalence of youth tobacco use in Kentucky (24.1 percent) was still higher than the national average (19.5 percent) and Kentucky was ranked 1st for the highest youth tobacco use rates. Between 2001 and 2010 there were increases in smokeless tobacco use among youth and adults, and in cigarette smoking rates among low socio-economic status adults.
- The 1998 Master Settlement Agreement was an important event for tobacco prevention and control in the tobacco growing state. Tobacco farmers in Kentucky had a shift in attitude and were more receptive and willing to work with state tobacco control advocates to use a portion of the state's Master Settlement Agreement monies for tobacco control programming.
- In 2000, state tobacco control advocates secured 2.5 percent (\$5.5 million for the first biennium 2001-2002) of the state's Master Settlement Agreement monies for tobacco prevention and control programming, with most of the funding going to build policymaking capacity at the local level. The local health department tobacco control programs worked to create awareness about tobacco use issues that synergistically worked with state tobacco control advocacy efforts on smoke-free air policies.
- Between 1971 and 2012, the state tobacco excise tax had only been raised twice from 3-cents to 30-cents in 2005 and from 30 cents to 60 cents in 2009. While state tobacco control

advocates wanted to increase the tobacco excise tax to reduce youth tobacco use, the state tobacco excise tax increase was used to mitigate significant state budget shortfalls.

- Between 2000 and 2012, the state program worked with local health department programs and state agencies, and used contracts with the University of Kentucky and University of Louisville to provide technical assistance in achieving the local program goals and objectives. The state program experienced success in reducing exposure to secondhand smoke through local communities working to achieve smokefree air.
- In 2004, state tobacco control advocates successfully enacted the first local smoke-free air ordinance in the state in Lexington-Fayette. The tobacco industry unsuccessfully tried to overturn the law through litigation, and by state legislation to preempt local smokefree air policies.
- State tobacco control advocates used the Smoke-Free Lexington-Fayette campaign as a model to garner public support to protect workers and public health through additional local smoke-free air policies throughout the state.
- Between 2005 and 2012, state tobacco control advocates, led by the University of Kentucky Center for Smoke-free Policy (KCSP) successfully enacted 35 smokefree policies (22 were comprehensive) to protect 34.1 percent of the state's population.
- In 2006, state tobacco control advocates successfully pushed for legislation to allow local governments to prohibit smoking in local government buildings without being required to assign designated smoking areas, which allowed state tobacco control advocates to begin strengthening local smoke-free measures to include all workplaces. Local governments had been reluctant to include workplaces in smokefree ordinances since it could not include local government workplaces. In addition, Governor Fletcher issued an Executive Order to prohibit indoor smoking in state government buildings controlled by the Executive Branch. For the first time in the history of the state, smoking was prohibited in most state government buildings.
- In 2010, state tobacco control advocates implemented the Smoke-Free Kentucky campaign and five-year plan to advocate for a statewide smoke-free air law. In 2012, the smokefree air legislation was voted out of the House Health and Welfare Committee, which represented a significant step forward since previous efforts did not pass in committee.
- Tobacco control advocates should continue to work to protect, strengthen, and pass local smokefree air policies and other tobacco control policies, advocating for the repeal of preemption of local control for youth access, and for increases in tobacco excise taxes.
- State tobacco control advocates can further strengthen their efforts by exposing the tobacco manufacturer ties, through campaign contributions and lobbying expenditures, to legislators who propose to threaten the advances that have been made in tobacco control.
- State tobacco control advocates should continue to seek higher tobacco excise taxes and for increased tobacco control funding for a sustained tobacco prevention media campaign.
- State tobacco control advocates should build on their successful track record by giving priority to continuing to protect, strengthen, and pass local smokefree air policies and 100% tobacco free schools.
- Recognizing the politically hostile environment in tobacco growing state legislatures, state tobacco control advocates should take a strong public position that state preemption of local smokefree air policies is a “deal breaker” for any state smokefree law and pledge to work to kill any such law, regardless of the other provisions.

Chapter I: Introduction

- *Despite being a tobacco growing state, Kentucky made progress on smokefree air tobacco control policies and was catching up with the nation to protect the population from exposure to secondhand smoke by 2012.*
- *Although there have been successes around smokefree air, youth and adult tobacco use rates remained a problem in the state. In 2012, Kentucky ranked 2nd in the nation for adult smoking prevalence and 1st in the nation for youth smoking prevalence.*

Background

Kentucky is the thirty-sixth most populous State in the U.S., with 42 percent of the state population residing in the rural areas of the state. In 2011, Kentucky was the second largest tobacco growing state behind North Carolina, and, as of 2012, tobacco remained a cultural icon. The cultural construct of being a tobacco growing state has created a barrier for tobacco control in Kentucky, but in recent years, that barrier has begun to recede.

Status of Tobacco Control Policies and Tobacco Use in Kentucky as of 2012

Comprehensive tobacco control policies, including 100 percent tobacco-free and smoke-free workplaces and public places tobacco excise taxes, and large scale tobacco control programs can reduce tobacco-related morbidity and mortality, long-term health consequences for tobacco use, and the socio-economic burden of tobacco use. Despite being a major tobacco growing state, beginning in 2004 Kentucky has made progress in local tobacco prevention and control policies; by 2012, 34.1 percent of the state was covered by strong local smokefree laws. While this progress began to change the policy dynamic around tobacco issues, tobacco industry interests continued to dominate state policy making.

Smoke-Free Air

Beginning in 2006, state law prohibited indoor smoking in state owned or operated buildings and required schools to adopt smoking policies. However, under the 2006 law, state owned or operated buildings and schools were still allowed to assign designated smoking areas. The 2006 state law also gave local governments the authority to prohibit indoor smoking in local government buildings. In addition, a 2006 executive order prohibited indoor smoking in all executive branch buildings. In 2012, legislation was introduced in the Kentucky General Assembly to enact a statewide comprehensive smoke-free air law to end smoking (including e-cigarettes) in public places including restaurants and bars, and workplaces. (As of January 2012, 23 states, along with Puerto Rico, the U.S. Virgin Islands, and Washington D.C., had smoke-free air laws that required public and private non-hospitality workplaces, restaurants and bars to be 100 percent smoke-free²⁵) The 2012 statewide smokefree air legislation died in committee with the adjournment of the legislative session.

Kentucky law does not preempt the passage of local smoke-free air laws. Between 2003 and 2012, state tobacco control advocates, led by the University of Kentucky Center for Smoke-Free Policy, worked to successfully enact 32 local smoke-free air laws and 3 smoke-free air regulations in communities, including Lexington, Louisville, and the state capital Frankfort. Of

By 2012, 34.1 percent of the Kentucky population was covered by a 100 percent smoke-free workplace law or regulation, compared to 48.6 percent of the U.S. population.²⁵

the 35 local smoke-free air policies, 22 were comprehensive and required enclosed indoor areas of public places, including restaurants and bars, and workplaces to be 100 percent smoke-free, three required enclosed indoor public places to be 100 percent smoke-free, and nine included exemptions to allow smoking in places that prohibited minors under the age of 18 years old. As defined by Americans for Nonsmokers' Rights in 2012, 100 percent smoke-free means laws, ordinances

or regulations that include all workplaces (including restaurants and bars), both public, private, and hospitality workplaces that do not allow smoking in attached bars or separately ventilated rooms and do not include workplace size exemptions.²⁵ By 2012, 34.1 percent of the Kentucky population was covered by a 100 percent smoke-free workplace law or regulation, compared to 48.6 percent of the U.S. population.²⁵

Youth Access

Since 2000, state law prohibited the sale of tobacco products to minors under age 18, required signage and included a progressive fine for retailers who violate the law from \$100 to \$1,000 for first and subsequent retail violations. The law also prohibited the purchase, receipt and possession of tobacco products by minors, punishable by a progressive fine of \$50 to \$200 and 20 to 40 hours of community service for first and subsequent violations. The 2000 state law designated the Department of Alcoholic Beverage Control and the Department of Agriculture, not the Department of Public Health, to enforce the youth access law by conducting annual inspections. In 2000, the Department of Agriculture implemented the *Teen and Tobacco* program to create awareness among youth about the state law. Since 2000, the state has remained in compliance with federal requirements to maintain a retailer violation rate of 20 percent or less. In 2012, the state reported a noncompliance rate of 5.7 percent.²⁷

Tobacco Taxes

All of the tobacco excise tax goes to the general fund, with the exception of one-half cent of the cigarette excise tax which goes to the Tobacco Research Trust Fund to fund the Tobacco Research and Development Center at the University of Kentucky.

In 2012, Kentucky ranked 40th for cigarette excises taxes. In 2009, Kentucky increased the cigarette excise tax from 30 cents to 60 cents to help address the state's budget shortfall. In addition to increasing the cigarette excise tax in 2009, a 19 cent per unit (hard container up to 1.5 ounces) of smokeless tobacco was enacted, and 15 percent of the wholesale price of all other tobacco products, the first time that that Kentucky taxed other tobacco products. All of the tobacco excise tax goes to the general fund, with the exception of one-half cent of the cigarette excise tax

which goes to the Tobacco Research Trust Fund to fund the Tobacco Research and Development Center at the University of Kentucky.

Tobacco Control Funding

Comprehensive tobacco prevention and control programs prevent initiation among youth and young adults, promote quitting among youth and adults, reduce exposure to secondhand smoke and identify and eliminate tobacco-related disparities among population groups. Adequately funded programs save states money by reducing the socio-economic burden of tobacco-related chronic diseases.

In 2012, Kentucky ranked 36th for tobacco control spending. Since 1999, the CDC has provided an average of \$1.3M for tobacco control programming in Kentucky through its national Tobacco Control Program. In 2000, the Kentucky General Assembly allocated 2.5 percent (\$5.5 million for Fiscal Year 2000-2001) of the state's Master Settlement Agreement monies to tobacco control programming. The allocated resources were an important change in Kentucky because they created tobacco control programs at each of the local health departments throughout the state.

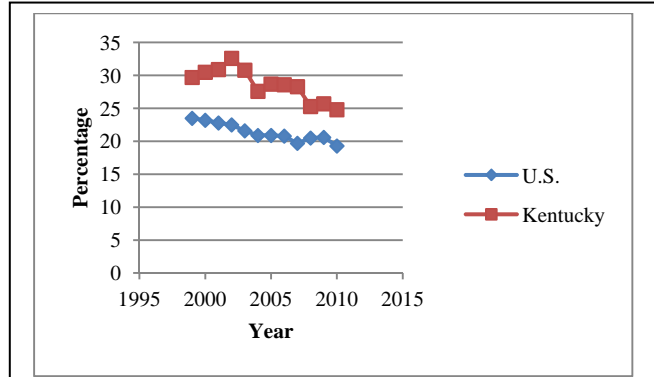


Figure 1: Adult Cigarette Smoking Prevalence U.S. and KY, 2010 BRFSS³³

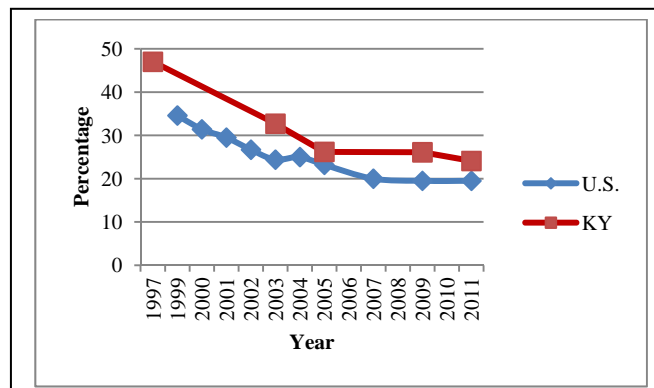


Figure 2: Youth Cigarette Smoking Prevalence U.S. and KY, 2009 YRBSS³³

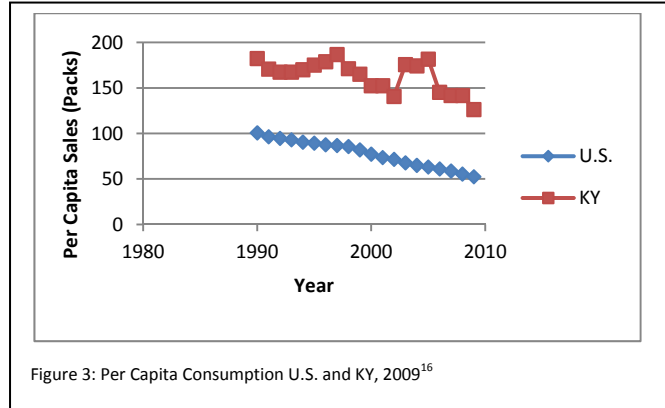
Tobacco Use

Historically, both adult and youth cigarette smoking prevalence rates and per capita consumption in Kentucky have consistently been higher than the U.S. national average. The first youth cigarette smoking prevalence rate in Kentucky was recorded at an astonishing 47.0 percent in 1997, and Kentucky was ranked 1st for youth smoking prevalence consistently since 1997.⁴⁷ In 2010, Kentucky ranked second for the highest adult cigarette smoking prevalence (25.6%) in the nation (Figure 1). In addition, in 2011 Kentucky also ranked first in the nation in youth cigarette smoking prevalence rates at 24.1 percent (Figure 2). Smoking attributable expenditures cost Kentucky \$1.5 billion annually.⁴⁷

Despite high smoking rates among youth and adults in Kentucky, the state achieved declines in tobacco use rates between 2001 and 2011. In 2000, the state Cabinet for Health and Family Services reported that 30.5 percent of adults, 37 percent of high school students and 22 percent of middle school students in Kentucky smoked cigarettes compared to 2011 when it was reported that 25 percent of adults, 24 percent of high school students and 9 percent of middle school students smoked cigarettes in

Despite high smoking rates among youth and adults in Kentucky, the state achieved declines in tobacco use rates between 2001 and 2011.

Kentucky.⁴⁸ In addition, a Cabinet for Health and Family Services Kentucky Department for Public Health Tobacco Prevention and Cessation Program Tobacco Prevention and 2005 report concluded that the most significant decreases in tobacco use occurred among seventh graders from 28 percent in 2000 to 17 percent in 2002; among white middle school students from 22 percent in 2000 to 14 percent in 2002; and a decrease among high school students from 37 percent in 2000 to 35 percent in 2002.⁴⁹



In 2011, U.S per capita consumption was 48.5 packs, compared to 103.7 packs for Kentucky (Figure 3).¹⁶

Conclusions

Despite being a tobacco growing state, Kentucky made notable progress on smoke-free air tobacco control policies and began to catch up with the nation to protect the population from exposure to secondhand smoke. However, in 2012, high rates of youth and adult tobacco use remained a problem in the state. If tobacco control advocates in Kentucky continue to work together to achieve comprehensive smoke-free air measures, higher tobacco excises taxes and adequately funded comprehensive tobacco control programming, continued success on tobacco control policies and tobacco use rates should be forthcoming.

Chapter II: Tobacco Industry Influence

- *As a leading tobacco growing state where all segments of the tobacco industry are present, Kentucky has had a significant tobacco industry presence and influence for years, amplified by the number of small family tobacco farms widely dispersed around the state.*
- *In addition to the significant tobacco growing presence in the state, the tobacco industry has made political campaign contributions and spent more than \$9 million between 1993 and 2012 in lobbying expenditures to influence policy.*
- *The tobacco industry expenditures to influence political policy far exceed that of the tobacco control advocates, which may have allowed the tobacco industry interest to dominate state level tobacco control policy through 2012.*

Tobacco Production

All segments of the tobacco industry exist in Kentucky, and in particular tobacco growing historically has had a significant presence throughout the state. In 2011, Kentucky was the second largest tobacco producing state in the U.S. behind North Carolina, with tobacco grown in 83 of the 120 Kentucky counties.¹⁷ (Until the 2004 Tobacco Quota Buyout [discussed below] tobacco was grown in 119 of the state's 120 counties.¹⁸) Both burley and dark fire-cured tobaccos are grown in Kentucky. Burley tobacco is primarily used for cigarettes, while dark fire-cured tobacco is used for moist and dry snuff.⁵⁰ In 1866, the first year for which records are available from the U.S. Department of Agriculture, 142,000 acres in Kentucky were planted in tobacco, yielding 885 pounds per acre of tobacco.¹⁷ In 1997, acres planted in tobacco peaked at 250,500 acres, yielding 1,988 pounds per acre.¹⁷ In 2011, a record low of 77,500 acres were planted in tobacco yielding 2,221 pounds per acre.¹⁷ Despite the substantial decline in acres harvested between 1866 and 2011, Kentucky produced 251 percent more tobacco in 2011 than in 1866 because of the increased yield per acre.

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In 1933, the U.S. Department of Agriculture developed the Tobacco Price Support Program. The program was established to improve tobacco producers' income through control of supplies, as well as to protect the market from manipulation by tobacco manufacturers trying to keep prices low as the manufactures had under the auction system prior to 1933. The program included two primary components: 1) an acreage allotment and an annually-set poundage quota for tobacco growing based on demand from tobacco product manufacturers, and 2) a price support system guaranteeing a minimum price for tobacco grown within the quota system not purchased at auction.⁵¹ This system created tobacco quota holders who had the exclusive right to grow tobacco; they could also lease that right to other farmers.⁵¹ The Tobacco Price Support Program continued until the Quota Buyout in 2004 that ended the Tobacco Price Support Program.⁵²

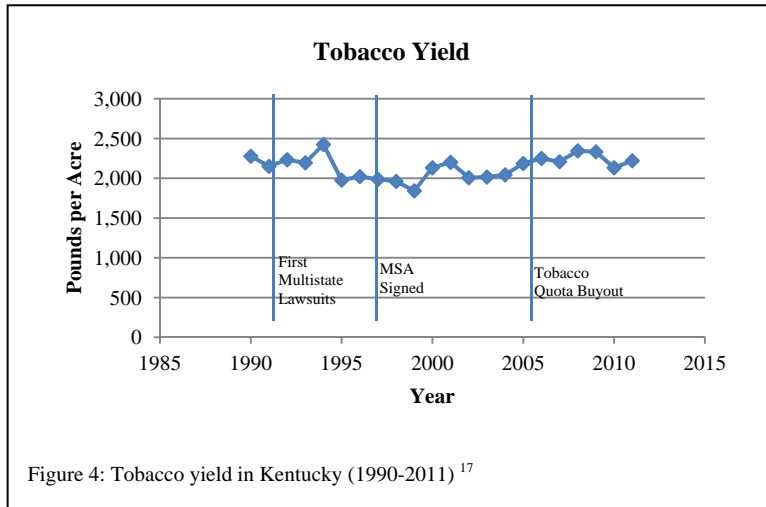


Figure 4: Tobacco yield in Kentucky (1990-2011)¹⁷

Although acreage of harvested tobacco has decreased throughout the twentieth century, tobacco yields improved and farmers became more efficient, resulting in substantial amounts of production in later years on less land (Figure 4). The increase in tobacco yield over time has been attributed to technology improvements; reductions in acreage also tend to increase yields because more marginal acreage tends to be taken out of production first while more productive areas

for tobacco growing remain in production, pulling up the statewide average yield.⁵³ The increased production in Kentucky was used for tobacco exports.²⁶

Like other tobacco growing states, production began to decrease steadily after 1997 and 2005 as a result of the tobacco manufacturers' increase in purchases of foreign-grown tobacco, the steady decline in U.S. tobacco consumption, and the 2004 Tobacco Quota Buyout, when acreage devoted to growing tobacco declined to 79,500 acres in 2005 (Figure 5).^{12-14, 17} During the mid-

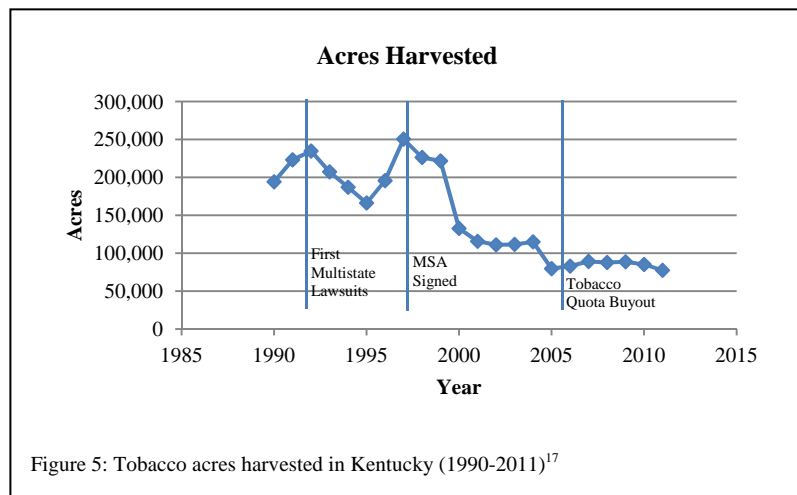


Figure 5: Tobacco acres harvested in Kentucky (1990-2011)¹⁷

1990s, tobacco manufacturers began to use less U.S. grown tobacco in favor of cheaper imported tobacco. Correspondingly, poundage quotas established by the federal government began to decrease because these quotas were set based on expected domestic purchases reported by the manufacturers, who were purchasing more imported tobacco by that time.⁵³ In

response, tobacco grower organizations began to support eliminating the quota system due to the increasing loss in income. Growers argued that the quota system put U.S. growers at a competitive disadvantage because of the costs associated with leasing quotas to separate growers, that the price support system could be manipulated by tobacco manufacturers...

Growers argued that the quota system put U.S. growers at a competitive disadvantage because of the costs associated with leasing quotas to separate growers, that the price support system could be manipulated by tobacco manufacturers and that the acreage quota locked growers into producing tobacco with land on which an alternative crop might have been more profitable in a given year.^{18, 54-57}

Nationally in 2011, cash receipts from tobacco production totaled \$331 million, 8 percent of the \$4.2 billion total cash receipts from all farm commodities statewide, behind broiler chickens (\$806 million), horses (\$700 million), cattle and calves (\$615 million), corn (\$603 million), and soy beans (\$583 million) (Table 1). In comparison, Kentucky, cash receipts for tobacco ranked 1st among the top commodities from 1959 through 1989. After a 40 year period, in 1999, cash receipts for tobacco lost its 1st place ranking and moved down to 2nd, dropping to 6th among all commodities in 2010. Between 1999 and 2010, cash receipts from tobacco in Kentucky dropped 55 percent, from \$737 million to \$331 million.

Commodity	2010	1999	1989	1979	1959
1. Broilers	\$806 (1)	\$363 (4)	\$3 (14)	\$3 (15)	\$9 (7)
2. Horses	\$700 (2)	\$920 (1)	\$524 (3)	\$230 (5)	N/A
3. Cattle and Calves	\$615 (3)	\$555 (3)	\$614 (2)	\$454 (2)	\$105 (2)
4. Corn	\$603 (4)	\$228 (6)	\$202 (5)	\$190 (6)	\$22 (5)
5. Soy Beans	\$583 (5)	\$151 (7)	\$190 (6)	\$275 (3)	\$7 (9)
6. Tobacco	\$331 (6)	\$737 (2)	\$638 (1)	\$549 (1)	\$224 (1)
7. Dairy	\$204 (7)	\$249 (5)	\$297 (4)	\$247 (4)	\$81 (3)
8. Hay	\$125 (8)	\$46 (11)	\$62 (9)	\$12 (10)	\$6(11)
9. Hogs	\$107 (9)	\$78 (8)	\$186 (7)	\$164 (7)	\$58 (4)
10. Chicken Eggs	\$101 (10)	\$60 (9)	\$22 (11)	\$26 (9)	\$19 (6)
All Commodities Total	\$4200	\$3100	\$2700	\$2100	\$531
*1959 Horses were not included in the commodities; Wheat was the 10 th ranked commodity at \$6.5 million					

Tobacco Manufacturing

In contrast to the major role tobacco growing has played in the Kentucky economy, tobacco manufacturing has played a much smaller role. From 1927 until 2004, the Brown and Williamson Tobacco Corporation, a subsidiary of British American Tobacco, was the only major tobacco manufacturer headquartered in Kentucky. In 2004, Brown and Williamson was the third largest tobacco manufacturer in the U.S. when it merged with the R.J. Reynolds tobacco to form Reynolds America Inc. During the same year, British American Tobacco acquired 42 percent of Reynolds America Inc. Phillip Morris also had a large cigarette manufacturing plant in Louisville until 2000.⁵⁸

Despite being home to the third largest tobacco company in the U.S., tobacco manufacturing jobs in Kentucky employed just 0.4 percent of the total state manufacturing jobs in 2003.⁵⁹

Tobacco Industry Trade Associations

As throughout the United States, the tobacco industry has been influencing the Kentucky state legislature and the executive branch for decades. The tobacco industry, which included tobacco farmers, manufacturers, distributors, wholesalers, retailers and industry suppliers, began to collectively orchestrate their influence at the national level beginning as early as 1915, when the manufacturer-funded trade organization Tobacco Merchants Association (TMA) was founded. In addition to the TMA trade organization, the tobacco manufacturers also founded and funded the Tobacco Tax Council (TTC) to prevent substantial increases in tobacco excise taxes in 1949 and the Tobacco Institute (TI) in 1958 to lobby for the companies and manage their political and public relations activities. The TTC and the TI were established to operate independently as politically active organizations until they merged operations in 1982.

The Tobacco Institute in Washington, D.C. coordinated the tobacco industry's political and public relations activities across the U.S. from its inception in 1958, until it was dissolved in 1998 as a result of state lawsuits against the major cigarette companies and the Tobacco Institute. In 1977, the TI established the Tobacco Action Network (TAN) to develop the industry's grassroots network. In each state TAN consisted of a state director who worked with the TI and a state TAN advisory committee comprised of tobacco growers, wholesalers, retailers, vendors, industry representatives and the TI's state legislative counsel.^{12-14, 60-62}

Tobacco Grower's and Growers' Associations in Kentucky

In tobacco growing states, tobacco farmers have maintained a powerful influence over state and local governing bodies, portrayed tobacco as a family tradition and source of jobs, and have historically opposed state and local tobacco control measures.^{12-14, 63} In 1981, TTC identified that their most meaningful argument against increased tobacco excise taxes would be

In tobacco growing states, tobacco farmers have maintained a powerful influence over state and local governing bodies, portrayed tobacco as a family tradition and source of jobs, and have historically opposed state and local tobacco control measures.

the detrimental impact it would have on growers, an argument that was relevant in Kentucky until 2000, when tobacco growers began to advocate for a portion of the Master Settlement Agreement (MSA), which resolved state lawsuits against the industry for tobacco-related healthcare costs incurred by the states, to be allocated to supplement and support farmer diversification out of tobacco. This also represented the first time that farmers and state tobacco control advocates worked collaboratively on a legislative initiative in Kentucky.¹⁸

In Kentucky, the tobacco growers organized into two primary associations: the Kentucky Farm Bureau established in 1919, and the Burley Tobacco Growers Cooperative established in 1921. Both organizations were prominent lobbying groups in the Kentucky General Assembly.

In 2012, the Kentucky Farm Bureau (KFB) was headquartered in Louisville, Kentucky with membership totaling more than 500,000 Kentucky farm families and allies, and claimed to be in the top state farm bureaus nationally.⁶⁴ Since its inception, the KFB was dedicated to serving as the voice of agriculture by identifying problems, developing solutions and taking actions to improve net farm income, achieve better economic opportunities and enhance the quality of life for all.⁶⁴ In 2012, the KFB did not take a position on the Smokefree Air legislation (HB 289) sponsored by Representative Susan Westrom (D, Lexington, Total Tobacco Industry-Related Political Campaign Contributions (1994-2010) \$0). The KFB made a total of \$6,725 in political campaign contributions during the 2010 election cycle.²¹ The fact that the KFB did not initiate an organized opposition on the statewide smokefree air legislation represented a significant change that occurred overtime from its historical position to oppose tobacco control measures.

In 2012, the Burley Tobacco Growers Cooperative Association (BTGCA), whose "major goal is to improve profitability and stability for our members, while maintaining or increasing production market share,"⁶⁵ was headquartered in Lexington, KY. The organization did not

exclusively represent tobacco growers in Kentucky; membership extended to burley tobacco growers in Indiana, Missouri, Ohio, and West Virginia. Since its inception, the primary purpose of the BTGCA was to work on behalf of its members to promote, foster and encourage the business of marketing tobacco, to minimize speculation and waste in the production and marketing of tobacco, to stabilize tobacco markets, and to handle cooperatively and collectively the problems of tobacco growers. Through 2012, the BTGCA remained a respected organization in the tobacco growing state. Like the Kentucky Farm Bureau, in 2012, the Burley Tobacco Growers Cooperative Association did not initiate an organized opposition to the statewide smokefree air legislation. The lack of opposition from both the Kentucky Farm Bureau and the Burley Tobacco Growers' Cooperative Association on the 2012 Smokefree Air legislation represented a significant change from tobacco growers' historical position to side with tobacco manufacturers and oppose tobacco control measures.

The change from an organized opposition to lack of opposition on tobacco control measures was perpetuated by a culmination of events in which tobacco manufacturers and tobacco farmers splintered over tobacco trade agreements, such as the federal tobacco price support program. In a 2012 interview, Ellen Hahn, director of the Kentucky Center for Smoke-free Policy, shared that "the growers' co-op in recent years has remained quiet, has not come out in tobacco industry front groups and has been quiet around local smokefree air policies, as the majority of tobacco grown in the state has increasingly been used for export."²⁶ The Burley Tobacco Growers Cooperative Association made a total of \$200 in political campaign contributions between 1994 and 2010.²¹ As tobacco farmers became less resistant to tobacco control measures the progression of tobacco control measures advanced in tobacco growing states.

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The Kentucky Tobacco and Candy Association

The Kentucky Tobacco & Candy Association (KTCA) was formed in 1972 to seek improvement of the distribution industry in Kentucky and to lend its strength nationally.⁶⁶ Like other tobacco and candy associations in other states, the Kentucky Tobacco and Candy Association membership included wholesalers, manufacturers, brokers and vendors.

The Tobacco Institute forged early links between the cigarette manufacturers and tobacco product distributors and vendors, including a strong working relationship between the Tobacco Institute and the KTCA. For example, in 1989, the Tobacco Institute reported in an *Wholesalers Association 1989 Evaluations 1990 Recommendations* report, prepared for member companies of the Tobacco Institute to assess relationships with advocacy allies, that the KTCA was very appreciative of the Institute's annual \$17,000 contribution.⁶⁷ The same 1989 report, the Tobacco Institute noted that Ernie Sears, director of the KTCA, "delivers all possible legislative support...and calls the TI office regularly to see if his or the associations assistance is needed...and reports information as if he were a personal employee."⁶⁷

The KTCA used its lobbying influence help to keep the cigarette excise tax low in Kentucky. The KTCA members believed that being surrounded by states with higher tobacco excises taxes was beneficial to their sales, a sentiment shared in the Kentucky General Assembly as recently as 2009, when the cigarette excise tax increase was minimal to remain well below the national average and lower than surrounding states and only raised from 30 cents to 60 cents.⁶⁸ The KTCA did not make political campaign contributions, except in 2004 when it gave \$2,500 to the Democratic Party. Correspondingly, in 2004, the tobacco industry and its allies unsuccessfully lobbied for legislation to preempt and dismantle the state’s first local smokefree ordinance in Lexington, Kentucky.

Tobacco Area Legislators

Traditionally, tobacco growing area legislators were considered strong allies of the tobacco farmers and manufacturers. Tobacco growing area legislators represented the majority (83 counties in 2011) of the 120 counties. The strong tobacco grower presence in the state gave the tobacco industry little reason to worry about tobacco control legislation having any success at the state level for many years.⁶⁹

Table 2: 1984 Tobacco Task Force Membership
Representative Ward Burnette, Chair
Representative Adrian Arnold
Senator Fred Bradley
Representative Mark Farrow
Senator Ed Ford
Senator Helen Garrett
Representative Donnie Gedling
Representative June D. Lyne
Senator Pat McCuiston
Representative Harry Moberly
Senator Doug Moseley
Representative Lonnie Napier
Representative Charles L. Siler
Senator John “Eck” Rose
Representative Pete Worthington

In 1984 the Kentucky General Assembly Legislative Research Commission authorized the creation of Tobacco Task Force to address challenges that threatened the federal tobacco price support program.⁷⁰ The Tobacco Task Force was made up of eighteen state elected officials and chaired by Representative Ward Burnette (D, Fulton) (Table 2). The Tobacco Task Force held meetings and public hearings to evaluate the problems that plagued the states tobacco program and tobacco farmers. In 1985 the Tobacco Task Force concluded that Kentucky’s billion dollar tobacco industry was essential to the state’s economy and made a conscious effort to protect its asset.⁷¹ For example, in an effort to protect the state’s tobacco program from imports, the Tobacco Task Force rendered testimony to the International Trade Commission regarding imports and recommended that the President take immediate action to reduce tobacco imports as they were a threat to the program.⁷¹ Still operative at the time of this report

in 2012, following the 2004 Tobacco Quota Buyout, which eliminated the federal tobacco price support system, the Tobacco Task Force continued to focus on issues that threatened the viability of tobacco farming, such as the decline in the number of tobacco farms, world marketplace exports, and regulation of tobacco products by the US Food and Drug Administration.⁷²

...in 1998, 35 percent of Kentucky legislators used tobacco products, substantially higher than the 30.8 percent of Kentucky adults that did so...
--

A 1998 study on attitudes and beliefs of Kentucky legislators, conducted by Ellen Hahn, Director of the Kentucky Center for Smoke-free Policy at the University of Kentucky, showed that, in 1998, 35 percent of Kentucky legislators used tobacco products, substantially higher than the 30.8 percent of Kentucky

adults that did so.^{33, 73} Legislators' opinions on tobacco policies from smoking restrictions in restaurants to cigarette taxes, however, were shaped more by whether they owned tobacco allotments than whether they smoked.^{33, 73, 74}

In 2000, Hahn et al compared Kentucky legislator and public opinions on tobacco control policy; legislator and public support for an increase in the cigarette excise tax was similar (44 percent of legislators vs. 46 percent of public), however, Kentucky legislators were far less likely than the public to support workplace (78 percent of legislators vs. 95 percent of public) or restaurant smoking restrictions (45 percent of legislators vs. 95 percent of public).⁷⁵ Hahn, et al suggested that state tobacco control advocates and allied health professional organizations should work together to educate policymakers about public support for tobacco control policy.⁷⁵

Total Tobacco Industry Campaign Contributions

The tobacco industry has used political campaign contributions to strengthen their influence among policymakers in Kentucky. (Public health groups active in tobacco control did not report making any contributions to candidates or political parties in Kentucky during this period and instead relied on grassroots advocacy and Coalition building to make significant changes on tobacco control policies.) Campaign contribution data from 1994 through 2010 were collected from the National Institute on Money in State Politics from the filings of candidates and political parties which obtained them from Kentucky Legislative Ethics Commission.²¹ Contributions from tobacco companies, tobacco trade organizations, lobbyists and other employees of tobacco companies, as well as tobacco warehouses and tobacco growers were considered to be tobacco-related contributions and were included. Details of tobacco industry campaign contributions by candidate are in Appendix A, by contributor in Appendix B and by political party in Appendix C.

In Kentucky, elections are held every year on the first Tuesday in November. Statewide officers are elected every four years, with the most recent being in 2011. Members of the Legislature stand for election in even-numbered years, with Senators serving four-year terms and members of the House serving two-year terms. The political campaign contribution limit is \$1,000 to candidate or slate of candidates (i.e. governor and lieutenant governor) per year, and \$1,500 to political action committees per year.⁷⁶ In addition \$2,500 political campaign contributions may be made to either a political party Executive Committee or a political party Caucus campaign committee per year.⁷⁶ In general, political party Executive Committees and Caucuses are made up of political party leaders, members, and supporters to advance political agendas and political candidates.

Between 1994 and 2010, the tobacco industry as a whole contributed \$311,614, to Kentucky political parties and individual candidates for state-level office. The total tobacco industry contributions came directly from the tobacco manufacturing, production, distribution, and trade companies listed in Table 3. The tobacco manufacturing companies made the majority of tobacco industry-related political campaign contributions between 1994 and 2010, followed by the tobacco production and agriculture sector of the tobacco industry (Figure 6). Tobacco manufacturing companies have traditionally made more political campaign contributions than other sectors of the tobacco of the tobacco industry in tobacco growing states to influence policy.^{12-14, 61}

Tobacco industry political campaign contributions peaked in 2000 and increased again in 2003 and 2004 as illustrated in Figure 7. The increases during these time periods may have been related gubernatorial elections in 2000 and 2004, as well as tobacco-related legislation introduced during the subsequent sessions, including the allotment of the Master Settlement Agreement payments to tobacco growers (2000), preempting local smokefree air laws (2004), restricting smoking to designated smoking areas in government owned and leased buildings (2006), and allowing local governments to prohibit smoking in local government buildings (2006).

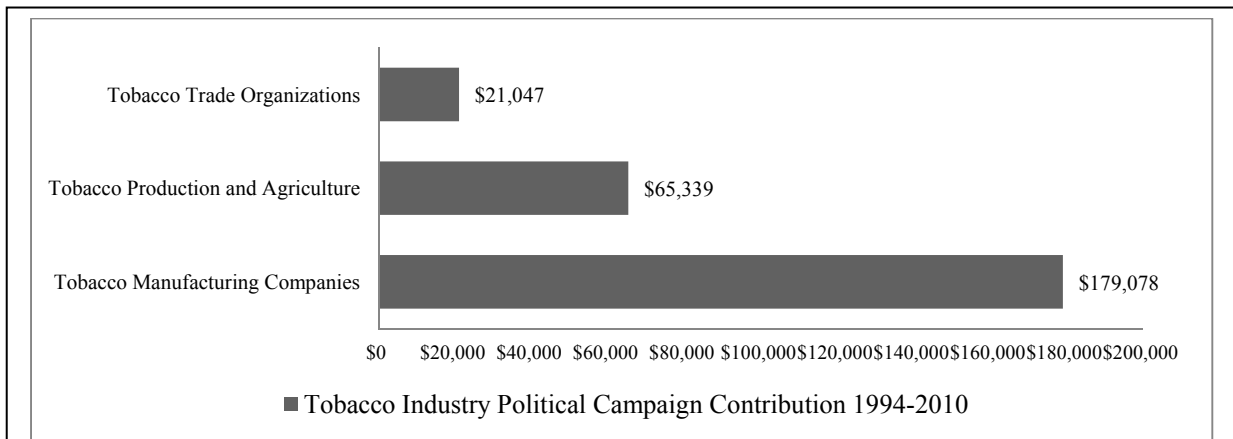


Figure 6: Tobacco Industry Political Campaign Contribution 1994-2010²¹

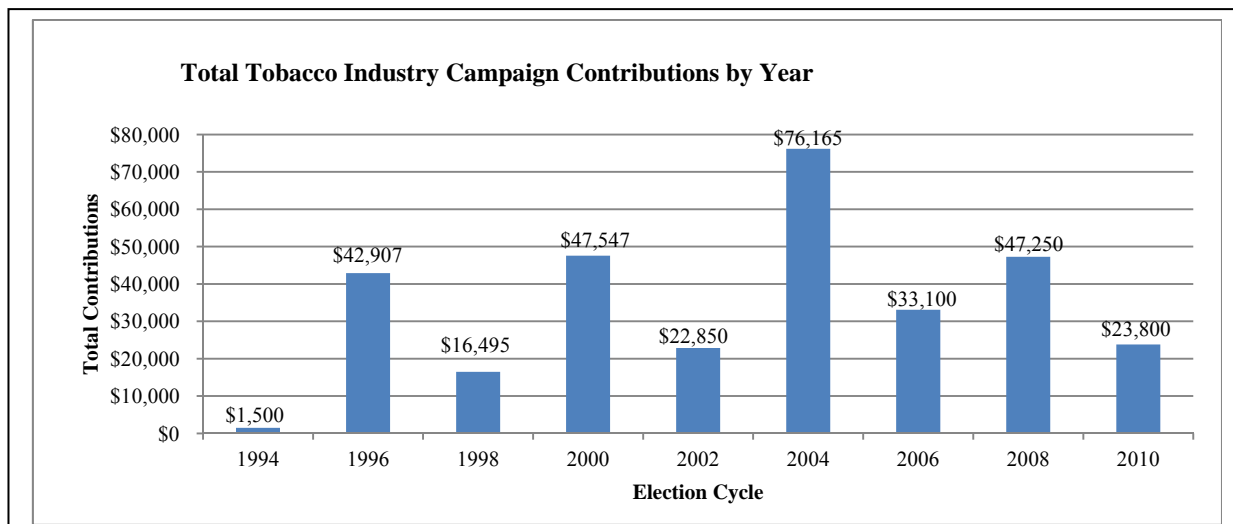


Figure 7: Total Tobacco Industry Campaign Contributions by Year²¹

The tobacco manufacturers consistently gave more political campaign contributions and far exceeded the other tobacco industry sectors political campaign contributions. Altria/Philip Morris made the largest tobacco industry campaign contributions in the state from 1994 to 2010, contributing \$66,270, followed by a cigarette manufacturing company Commonwealth Brands based in Bowling Green Kentucky, \$26,750, Brown and Williamson, \$18,715, and RJ Reynolds, \$12,050.²¹

Table 3: Summary of Tobacco Industry Contributions by Election Cycle ²¹

	1994	1995	1996	1998	1999	2000	2002	2003	2004	2006	2008	2010	Total
Tobacco Companies													
A&H TOBACCO CO		\$200					\$500		\$2,200				\$2,900
ALLIANCE TOBACCO							\$1,000	\$2,000					\$3,000
AMERICAN TOBACCO			\$500	\$546		\$1,000	\$3,650						\$5,696
BROWN & WILLIAMSON	\$500	\$250	\$1,300		\$1,000	\$2,000		\$3,240	\$10,425				\$18,715
CAMPBELL TOBACCO CO									\$250				\$250
CARDINAL TOBACCO COMPANY		\$250											\$250
CARROLLTON TOBACCO WAREHOUSE INC		\$250											\$250
CHINN TOBACCO		\$400											\$400
CLM DISCOUNT TOBACCO								\$1,500	\$1,000	\$1,250			\$3,750
COMMONWEALTH BRANDS										\$24,250	\$9,000	\$2,500	\$26,750
DOSAL TOBACCO CORP										\$1,000	\$2,750		\$1,000
FARMERS TOBACCO CO								\$1,000	\$3,000				\$4,000
GF VAUGHAN TOBACCO CO		\$2,000	\$1,000		\$1,947		\$2,500	\$4,400	\$2,000				\$13,847
LLL TOBACCO CO							\$250	\$250					\$500
LORILLARD TOBACCO							\$1,000						\$1,000
ALTIRA / PHILIP MORRIS		\$2,000	\$3,720	\$8,950		\$20,250	\$9,100	\$4,650	\$1,500	\$1,000	\$3,000	\$15,100	\$66,270
PINKERSTON TOBACCO CO							\$250	\$1,000					\$1,250
RIDGEWAY BRANDS TOBACCO CO									\$500				\$500
RJ REYNOLDS								\$100	\$1,250	\$3,000		\$7,700	\$12,050
S&M BRANDS									\$1,000				\$1,000
STANDARD TOBACCO CO			\$250										\$250
TANTUS TOBACCO LLC								\$1,000	\$250				\$1,250
US SMOKELESS TOBACCO		\$300				\$5,000	\$3,000	\$1,000	\$3,650	\$1,250	\$9,500		\$14,200
Tobacco Trade Organizations													
AXTON CANDY & TOBACCO CO									\$2,500				\$2,500
BLUEGRASS TOBACCO OUTLET STORES									\$1,000				\$1,000
BRANNEN TOBACCO SALES								\$500					\$500
CLAY ENTERPRISES		\$1,848		\$2,399	\$1,000	\$1,000							\$6,247
CROSLIN TOBACCO STORE							\$250						\$250
DIRT CHEAP TOBACCO SHOP									\$1,000				\$1,000
DISCOUNT TOBACCO SHOP				\$300	\$100				\$1,100				\$1,500
DWI LLC									\$500				\$500
FARMER INVESTMENT CO								\$2,000					\$2,000
HARRODSBURG CANDY & TOBACCO					\$300			\$500					\$800
HUGHES CANDY & TOBACCO CO								\$2,000					\$2,000
KENTUCKY TOBACCO & CANDY ASSOC									\$2,500				\$2,500
MUNCYS AUTO PARTS		\$250	\$500										\$250
Tobacco Production and Agriculture													
BALDEN TOBACCO WAREHOUSE		\$1,300											\$1,300
BALE TOBACCO WAREHOUSE		\$4,500	\$3,000		\$1,000	\$4,250	\$200	\$3,000					\$15,950
BALEE TOBACCO WAREHOUSE			\$500										\$500
BIG SHELBY WAREHOUSE		\$300											\$300
BOONE KENTON TOBACCO WAREHOUSE	\$500												\$500
BURLEY TOBACCO CO OP							\$200						\$200
CAMPBELL TOBACCO REHANDLING CO									\$650				\$650
CRAIN TOBACCO WAREHOUSE		\$300		\$150	\$200	\$200	\$250						\$1,100
DOUBLE M DIXIE FARM			\$500										\$500
DUKE TOBACCO WAREHOUSE					\$1,000	\$1,000	\$500						\$2,500
DYKES TOBACCO WAREHOUSE			\$500										\$500
FARMERS & UNITED TOBACCO WAREHOUSE		\$200						\$500					\$700
FARMERS TOBACCO WAREHOUSE		\$200			\$1,000	\$1,000		\$1,500					\$3,700
FARMERS TOBACCO WAREHOUSE OF HOPKINSVILLE								\$300					\$300
FLORENCE TOBACCO WAREHOUSE		\$250											\$250
FOURTH STREET TOBACCO WAREHOUSE		\$700						\$850	\$200				\$1,750
FREEMANS TOBACCO WAREHOUSE		\$764											\$764
GOLDEN LEAF FARMS									\$500				\$500
GRAIN & TOBACCO FARMS								\$250					\$250
HAMILTON TOBACCO OUTLET						\$500							\$500
HANDORF TOBACCO SHOP									\$250				\$250
HARRISON TOBACCO WAREHOUSE								\$1,000					\$1,000
HARTON TOBACCO WAREHOUSE		\$500											\$500
HAYNES TOBACCO WAREHOUSE		\$300											\$300
HINTON & SONS								\$1,000					\$1,000
HOME TOBACCO WAREHOUSE		\$750		\$2,500									\$3,250
HORN BROTHERS FARM						\$200							\$200
JC TOBACCO OUTLETS									\$1,000	\$1,100			\$2,200
KENTUCKY BURLEY TOBACCO CORP		\$500											\$500
KENTUCKY KING TOBACCO WAREHOUSE		\$500											\$500
KENTUCKY WHOLESAL TOBACCO										\$250			\$250
KUNKEL FARM				\$400	\$500								\$900
KY-ANA TOBACCO WAREHOUSE								\$500					\$500
LEXINGTON LOOSE LEAF TOBACCO		\$500		\$500		\$1,000							\$2,000
MELTON WHOLESAL TOBACCO						\$2,000							\$2,000
MILLS TOBACCO FARM								\$500					\$500
MULLINS TOBACCO WAREHOUSE		\$4,000	\$2,500										\$6,500
POTEET FARMS			\$200				\$200						\$400
POTENTION TOBACCO								\$1,000					\$1,000
SCRANTON TOBACCO WAREHOUSE		\$500											\$500
SKEES FARM			\$150										\$150
SOMINO FARMS								\$400					\$400
SOUTHWESTERN TOBACCO		\$1,125											\$1,125
STOP AND SHOP TOBACCO		\$800											\$800
TOBACCO PATCH								\$2,000					\$2,000
TOBACCO WAREHOUSE ASSOCIATION			\$200										\$200
TURNER TOBACCO WAREHOUSE		\$150											\$150
WILKERSON FARM		\$1,500	\$700										\$2,200
WINCHESTER WAREHOUSE				\$750									\$750
WOOD TOBACCO WAREHOUSE	\$500				\$100								\$600
Total:	\$1,500	\$27,387	\$15,520	\$16,495	\$8,147	\$39,400	\$22,850	\$37,940	\$38,225	\$33,100	\$24,250	\$25,300	\$265,864

The tobacco manufacturer political campaign contributions were relatively small compared to contributions from other business industry sectors. For example, in 2010 Altria/Philip Morris contributed \$15,100, Commonwealth Brands contributed \$2,500, and RJ Reynolds contributed \$7,700, to give the only tobacco industry-related political campaign contributions which totaled \$25,300 collectively and made up only .13 percent of all political campaign contributions (\$16.5 million) during the 2010 election cycle.²¹ In comparison, during the 2010 election cycle the percentage of tobacco industry-related political campaign contributions (.13 percent) was much lower than other general business related sectors. The beer, wine, and liquor industry-related political campaign contributions totaled \$105,225 to make up .64 percent of the total political campaign contributions, and gaming industry-related political campaign contributions totaled \$129,350 to make up .78 percent of the total contributions and more than quadrupled the tobacco-industry related political campaign contributions.²¹ The status and social construct of being a tobacco growing state has allowed tobacco industry to make less tobacco industry-related political campaign contributions than other general business sectors.

There were no tobacco trade organizations or tobacco production and agriculture political campaign contributions made after 2008.

Total contributions to Democrat candidates and party organizations outweighed those made to Republicans. Democrats received more than 76 percent of total tobacco industry contributions between 1994 and 2010, with \$202,624 in contributions compared to \$63,240 to Republican candidates and party organizations (Figures 8). In 2012, Democrats made up 59 percent of Kentucky state legislators and controlled the House of Representatives in the state Legislature. In contrast, Republicans have controlled the Senate in the Kentucky Legislature since 2000.

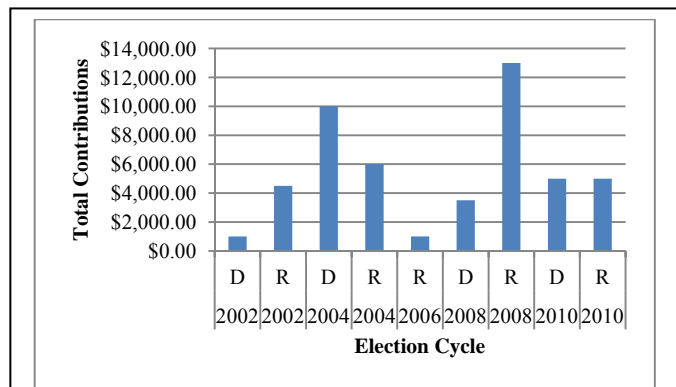


Figure 8: Total Tobacco Industry Campaign Contributions by Political Party 2002-2010²¹

Tobacco Industry Contributions to Political Parties

Tobacco industry contributions to political parties and party organizations in the state were consistently higher for Democrats than Republicans between 2002 and 2010. The Democratic organizations received 58 percent of all contributions made to political parties in Kentucky (Figure 9). Together, the two dominant political parties received over \$34,000 in tobacco industry-

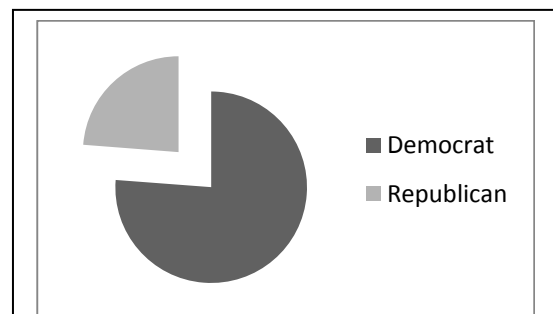


Figure 9: Total Tobacco Industry Contributions by Party Affiliations 1994-2010²¹

related political campaign contributions over an eight year period. Again, the tobacco manufacturing sector of the tobacco industry gave the most in political campaign contributions to political parties

It is unclear why no tobacco industry-related political campaign contributions to political party organizations or committees were reported prior to 2002. In Kentucky, political campaign contributions to a candidate or a slate of candidates from political parties or political action committees are limited to 50 percent of the candidates' total contributions or \$10,000, whichever is greater.⁷⁶ A detailed breakdown of tobacco industry contributions to political parties appears in Appendix C.

Tobacco Industry Contributions to Legislative Candidates

The Kentucky Legislature is made up of the Senate (38 members) and the House of Representatives (100 members). The members of the Senate are elected to four-year terms, and the members of the House are elected to two-year terms. The Legislature meets annually for 30 days (first Tuesday after the first Monday in January through March 30th) during odd numbered years and 60 days during even numbered years (the first Tuesday after the first Monday in January through April 15). Tobacco-related contributions over the sixteen year period from 1994 to 2010 were made to both Democratic and Republican candidates.

From 1994 to 2010 there were a total of 28 individual legislators who received at least \$1,500 in total campaign contributions from the tobacco industry (Table 4). The individual legislator with the largest amount of total campaign contributions from the tobacco industry was Senator Ed Worley (D, Richmond, Total Tobacco Industry Campaign Contributions \$6,650), a construction business owner who served as a state Senator starting in 1999. Worley served as the Democratic floor leader for eight years beginning in 2002 before resigning in 2010 to focus on his family, business, and health.⁷⁷

Recipient	Party	Office	District / Residence	Amount
WORLEY, ED	D	S	34 / Richmond	\$6,650
PENDLETON, JOEY	D	S	3 / Hopkinsville	\$4,500
FLETCHER, BEN	R	S	3 / Hopkinsville	\$4,000
ADKINS, ROCKY	D	H	99 / Sandy Hook	\$4,000
STUMBO, GREGORY D	D	H	95 / Prestonsburg	\$4,000
WILLIAMS, DAVID L	R	S	16 / Burkesville	\$3,500
DAMRON, ROBERT R	D	H	39 / Nicholasville	\$3,350
WILKEY, ROB	D	H	22 / Scottsville	\$3,350
MEADE, CHARLES	D	H	95 / Oil Springs	\$2,850
KAREM, DAVID K	D	S	35 / Louisville	\$2,800
MILLER, CHARLES W	D	H	28 / Louisville	\$2,800
LEEPER, ROBERT J	IND	S	2 / Paducah	\$2,700
BRUCE, JAMES E	D	H	9 / Hopkinsville	\$2,600
WORTHINGTON, PETE	D	H	70 / Washington	\$2,600
MOORE, VIRGIL	R	S	5 / Leitchfield	\$2,350
ARNOLD, ADRIAN K	D	H	74 / Mount Sterling	\$2,300
MCKEE, THOMAS M	D	H	78 / Cynthiana	\$2,300
SIMS, DOTTIE J	D	H	19 / Horse Cave	\$2,300
UPCHURCH, KEN	R	H	52 / Monticello	\$2,200
SANDERS, RICHARD JR	R	S	9 / Smiths Grove	\$2,150
TAPP, GARY	R	S	20 / Shelbyville	\$2,100
WEBB, ROBIN L	D	H	96 / Grayson	\$2,100
CORUM, BILL	D	S	5 / Brandenburg	\$2,000
SANDERS JR, RICHIE	R	S	9 / Smiths Grove	\$2,000
KERR, ALICE FORGY	R	S	12 / Lexington	\$1,850
TORI, ELIZABETH	R	S	10 / Elizabethtown	\$1,750
WALTON, CHARLIE	R	S	11 / Burlington	\$1,750
KELLY, DAN	R	S	14 / Morgantown	\$1,550
SHAUGHNESSY, TIM	D	S	19 / Louisville	\$1,500

Senator Joey Pendleton (D, Hopkinsville, Total Tobacco Industry Campaign Contributions \$4,500), a dairy and cattle farm owner, was the second highest tobacco industry

campaign contribution recipient form 1994 to 2010. Pendleton was chairman of the legislature’s Tobacco Task Force since 1993 and was continuing in 2012. The Tobacco Task Force was originally commissioned by the state legislature in 1984 to address problems that threaten the viability of tobacco as a cash crop.^{70, 72}

During the 2010 election cycle, only three state legislators received at least \$1,000 in campaign contributions from the tobacco industry. The 2012 House Majority Leader Rocky Adkins (D, Sandy Hook) received \$2,500 during the 2010 campaign election cycle. The 2012 chair of the Senate Appropriations and Revenue Committee Senator Robert Leeper (I, Paducah) received \$1,500 during the 2010 election cycle, and the 2012 Speaker of the House Representative Greg Stumbo (D, Prestonsburg) received \$1,000 during the 2010 election cycle. In addition, during the 2010 election cycle, the tobacco industry campaign contributions were concentrated in legislative leadership positions and the Appropriations and Revenue Committee (Table 5). The Appropriations and Revenue Committee presides over the state budget and state monies, including tax levies. The tobacco industry has traditionally contributed higher political campaign contributions in key legislative committees such as this to influence tobacco excise tax increases and tobacco prevention and control spending allocations.^{78, 79}

Table 5: Tobacco Industry Contributions to 2012 Legislative Leadership

Year	Legislator	Party	Office	Position and Relevant Committee	Total
2010	ADKINS, ROCKY	D	H	House Majority Leader	\$2,500
2010	BELL, JOHNNY W	D	H	Vice Chair, House Budget Review Subcommittee on Justice and Judiciary	\$500
2010	CARPENTER, JARED K	R	S	Member, Senate Appropriations and Revenue Committee	\$500
2010	HARRIS, ERNIE	R	S	Member, Senate Appropriations and Revenue Committee	\$500
2010	HORNBACK, PAUL	R	S	Member, Senate Appropriations and Revenue Committee	\$500
2010	KERR, ALICE FORGY	R	S	Member, Senate Appropriations and Revenue Committee	\$300
2010	KING, MARTHA JANE	D	H	Vice Chair, House Budget Review Subcommittee on Justice and Judiciary	\$300
2010	LEEPER, ROBERT J	IND	S	Chair, Senate Appropriations and Revenue Committee	\$1,500
2010	MCKEE, THOMAS M	D	H	Tobacco Master Settlement Agreement Oversight Committee	\$500
2010	RAND, RICK W	D	H	Co-chair, House Appropriations and Revenue Committee	\$300
2010	STUMBO, GREGORY D	D	H	Speaker of the House	\$1,000
2010	THOMPSON, TOMMY	D	H	Majority Whip	\$500
2010	WILSON, MIKE	R	S	Member, Senate Appropriations and Revenue Committee	\$500

Tobacco Industry Contributions to Constitutional Officer Candidates

Since 2002 Kentucky law has required candidates for Governor and Lieutenant Governor to run together as a slate of candidates.⁸⁰ Between 1995 and 2007 the tobacco industry contributed a total of \$66,463 to Gubernatorial and Lieutenant Gubernatorial candidates (Table 6). In 2003, Gubernatorial and Lieutenant Gubernatorial candidates doubled, congruent with the year that Lexington-Fayette passed the first local smokefree air ordinance. The tobacco industry tried to rescind the state’s first local smokefree air ordinance during the following legislative session in 2004 discussed later in this report. Governor Ernie Fletcher (R, 2003-2007, Mount Sterling) and Lieutenant Governor Stephen Pence (R, 2003-2007, Louisville) received the highest tobacco industry-related campaign contributions (\$17,000 during the 2003 election cycle) among all candidates for the highest offices.

Year	Party	Candidate	Office	Won/Lost	Contribution in the Election Cycle	Cumulative Contributions 1995-2011
1995	D	Bob Babbage	G	Lost	\$500	\$500
1995	R	Larry Fargy	G	Lost	\$8,225	\$8,225
1995	D	Paul Patton	G	Won	\$3,348	\$12,348
1995	D	John Rose	G	Lost	\$3,350	\$3,350
1999	Reform	Gatewood Galbraith	G	Lost	\$500	\$500
1999	D	Paul Patton	G	Won	\$5,400	\$5,400
2003	D	Ben Chandler, Charlie Owen	G/LTG	Lost	\$9,000	\$9,000
2003	R	Ernie Fletcher, Stephen Pence	G/LTG	Won	\$17,000	\$17,000
2003	R	Rebecca Jackson, Robbie Rudolph	G/LTG	Lost	\$750	\$750
2003	R	Steve Nunn, Bob Heleringer	G/LTG	Lost	\$1,000	\$1,000
2003	D	Jodi Richards, Tony Miller	G/LTG	Lost	\$2,390	\$2,390
2007	D	Steven Beshear, Daniel Mongiardo	G/LTG	Won	\$6,500	\$6,500
2007	R	Ernie Fletcher, Robert Rudolph	G/LTG	Lost	\$6,000	\$23,000
2007	D	Jonathan Miller, Irv Maze	G/LTG	Lost	\$500	\$2,900
2007	D	Jody Richards, John Brown III	G/LTG	Lost	\$2,000	\$4,390
2011	R	David Williams, Richie Farmer	G/LTG	Lost	\$2,000	\$7000
2011	I	Gatewood Galbraith, Dea Riley	G/LTG	Lost	\$200	\$700

In addition to the Governor and Lieutenant Governor candidates, the tobacco industry also made political campaign contributions to candidates competing for five other statewide offices, the state Attorney General, the Secretary of State, the Commissioner of Agriculture, the State Treasurer, and the State Auditor between 1995 and 2007 (Tables 7-9).

Year	Party	Candidate	Won/Lost	Contribution in Election Cycle	Cumulative Contributions 1995-2011
1995	D	Ben Chandler	Won	\$3,214	\$3,214
2003	D	Chris Gorman	Lost	\$1,000	\$1,000
2003	D	Ed Hatchett	Lost	\$100	\$1,600
2003	D	Greg Stumbo	Won	\$2,000	\$4,000
2003	D	Jack Wood	Lost	\$1,000	\$1,000
2007	D	Jack Conway	Won	\$6,000	\$6,000
2011	D	Jack Conway	Won	\$2,000	\$8,000

The state office of Attorney General is of relevance to the tobacco industry due to its responsibility for pursuing and subsequently monitoring the Master Settlement Agreement (MSA). State Attorney General Ben Chandler (D, Versailles) received the highest tobacco industry-related political campaign contributions

Year	Party	Candidate	Won/Lost	Contribution in Election Cycle	Cumulative Contributions 1995-2011
1995	R	Woody Allen	Lost	\$300	\$800
1995	D	Billy Ray Smith	Won	\$4,400	\$4,700
1999	D	Billy Ray Smith	Won	\$300	\$4,700
2003	D	Alice Woods Baesler	Lost	\$1,700	\$1,700
2003	R	Richie Farmer	Won	\$500	\$500
2003	D	Joey Pendleton	Lost	\$1,100	\$4,500
2007	R	Richie Farmer	Won	\$1,000	\$1,500
2011	D	Robert Farmer	Lost	\$650	\$650
2011	D	B D Wilson	Lost	\$200	\$200

(\$3,214) between 1995 and 2007. Chandler was followed by Greg Stumbo (D, Prestonburg), who received \$2,000 in tobacco industry-related political campaign contributions in 2003. Stumbo had also served as a Representative in the Kentucky General Assembly, and received a total of \$4,000 in tobacco industry-related campaign contributions (Table 7).

Between 1995 and 2007, candidates for other constitutional offices' received tobacco industry-related political campaign contributions (Table 9). State Treasurer Jonathan Miller (D, Lexington, Total Tobacco Industry-Related Political Campaign Contributions 1995-2007, \$2,900) received the highest (\$2,400) tobacco industry-related political campaign contributions between 1995 and 2007. The State Treasurer is responsible for managing the states assets and

receives the state Master Settlement Agreement monies before disbursing them as directed by the General Assembly.

Tobacco Industry Lobbying Expenditures

The tobacco industry employed

lobbyists to influence legislation in Kentucky. The Kentucky Legislative Ethics Commission (<http://klec.ky.gov/>) maintains a searchable data base of lobbying expenditures data beginning in 1993.⁸¹ The data includes amounts paid to lobbyists as well as expenditures to influence legislators, such as meals. Table 10 shows tobacco industry lobbyist and lobbying expenditures from 1993 through the First Quarter of 2012.

Year	Party	Candidate	Office	Won/Lost	Contribution in Election Cycle	Cumulative Contributions 1995-2011
1995	D	Ed Hatchett	State Auditor	Won	\$1,500	\$1,600
1995	D	John Brown	Secretary of State	Won	\$500	\$500
1995	D	Ed Logsdon	Secretary of State	Lost	\$2,050	\$2,050
1999	D	Jonathan Miller	State Treasurer	Won	\$2,000	\$2,400
2003	D	Jonathan Miller	State Treasurer	Won	\$400	\$2,400
2007	R	Ken Upchurch	State Treasurer	Lost	\$1,000	\$3,200
2011	D	L J Hollenbach	State Treasurer	Won	\$250	\$250
2011	D	Alison Lundergran Grimes	Secretary of State	Won	\$450	\$450

Between 1993 and 2012, the tobacco industry spent \$9.7 million on lobbying expenses which included lobbyist compensation and expenses. The tobacco industry lobbying expenditures were a striking contrast from the political campaign contributions which totaled \$265,864 between 1994 and 2010. The tobacco industry lobbying expenditures were the highest in 2010 and totaled \$913,730. Concurrent with the first time that statewide smokefree air legislation was introduced in the 2010 legislative session.

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Between 1993 and 2012, cigarette manufacturing company Altria/Philip Morris, spent the most (\$2.9 million) on lobbying expenses, followed by the Kentucky Farm Bureau Federation which spent \$1.6

million. In comparison, Altria/Philip Morris spent \$66,270 on political campaign contributions between 1994 and 2010, whereas the Kentucky Farm Bureau Federation did not make any political campaign contributions during the same time period.

The vast difference in lobbying expenditures and political campaign contributions may be attributed to the campaign contribution limits regulated by the state law. Nevertheless, the tobacco industry has spent considerable amounts to protect their interest through the influence legislation.

In contrast, between 1993 and 2012, the tobacco control advocacy groups which included, the American Cancer Society Cancer Action Network (\$64,000), American Cancer Society-Mid-South Division (\$233,512), American Heart Association (\$371,854), American Lung Association of Kentucky (\$83,039), and Campaign for Tobacco Free Kids (\$9,697), collectively spent a total of \$762,102 on lobbying expenditures, a fraction of the tobacco industry lobbying expenditures.

Organization	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
All American Cigarette Wholesale, LLC										
Altria Client Services Inc., and its Affiliates	\$33,242	\$24,253	\$51,824	\$92,721	\$87,953	\$103,019	\$110,566	\$124,379	\$145,983	\$209,018
Brown & Williamson Tobacco Corporation			\$2,250	\$12,500	\$32,983	\$75,668	\$44,662	\$13,488	\$71,765	\$91,574
Burley Tobacco Growers Coop. Assn. Inc.						\$72,664	\$63,837	\$5,166	\$12,935	\$13,908
Cigar Association of America, Inc.						\$32,083	\$33,000	\$38,000	\$43,000	\$46,000
Conwood Company LP										
Council of Ind. Tobacco Manuf. of America										\$40,000
KY Farm Bureau Federation	\$69,153	\$53,501	\$69,390	\$40,465	\$74,861	\$53,826	\$95,278	\$67,321	\$82,650	\$60,934
KY Tobacco & Candy Assn. Inc.	\$13,023	\$0	\$25,000	\$0	\$0	\$0	\$14,395	\$5,735	\$12,855	\$11,988
Lorillard Tobacco Company						\$10,000	\$40,555	\$47,717	\$47,957	\$50,887
National Smokers Alliance		\$7,630								
National Tobacco Company										
RAI Services Company									\$16,670	\$37,916
S & M Brands, Inc.										
Smokeless Tobacco Council, Inc.	\$2,500	\$0	\$7,583	\$0	\$15,900	\$11,667	\$17,500	\$18,000	\$18,997	\$24,000
Super Smokes, Inc.							\$18,000			
Swedish Match North America Inc.							\$15,655			
Swisher International, Inc.										
Tantus Tobacco										
Tobacco Institute	\$28,087	\$9,700	\$12,172	\$6,783	\$14,739	\$3,333				
UST Public Affairs				\$20,375	\$24,063	\$8,001	\$24,000	\$27,200	\$34,000	\$30,000
Vaughan Tobacco Company										
Grand Total	\$146,005	\$95,083	\$168,220	\$172,844	\$250,499	\$370,261	\$477,447	\$347,007	\$486,812	\$616,225

Organization	2004	2005	2006	2007	2008	2009	2010	2011	2012	Grand Total
All American Cigarette Wholesale, LLC			\$4,858	\$0						\$4,858
Altria Client Services Inc., and Its Affiliates	\$166,186	\$169,801	\$250,898	\$187,594	\$199,752	\$195,985	\$357,433	\$304,257	\$104,729	\$2,942,896
Brown & Williamson Tobacco Corporation	\$42,372									\$387,261
Burley Tobacco Growers Coop. Assn. Inc.	\$19,500	\$12,000	\$0	\$0	\$10,000	\$20,000	\$0			\$230,010
Cigar Association of America, Inc.	\$46,350	\$44,000	\$45,855	\$51,000	\$51,000	\$51,998	\$51,998	\$52,248	\$17,332	\$603,844
Conwood Company LP	\$7,975	\$7,812	\$20,710							\$36,497
Council of Ind. Tobacco Manuf. of America	\$44,287	\$12,832	\$51,001	\$26,000	\$26,000	\$8,000				\$208,120
KY Farm Bureau Federation	\$112,273	\$97,793	\$135,492	\$80,471	\$118,769	\$109,279	\$109,373	\$81,753	\$64,401	\$1,588,507
KY Tobacco & Candy Assn. Inc.	\$23,638	\$57,893	\$16,569	\$17,503	\$24,880	\$8,723	\$18,829	\$19,265	\$8,062	\$278,919
Lorillard Tobacco Company	\$54,694	\$63,934								\$315,744
National Smokers Alliance										\$7,630
National Tobacco Company	\$55,149	\$64,648	\$89,934	\$75,000	\$90,145	\$90,313	\$90,323	\$90,236	\$30,000	\$675,748
RAI Services Company	\$106,974	\$107,269	\$50,046	\$29,033	\$107,614	\$89,541	\$50,162	\$26,800	\$26,922	\$648,946
S & M Brands, Inc.					\$25,185	\$25,288	\$38,194	\$12,000		\$100,666
Smokeless Tobacco Council, Inc.										\$116,397
Super Smokes, Inc.										\$18,000
Swedish Match North America Inc.	\$10,250	\$13,174	\$26,330	\$51,750	\$37,122	\$46,012	\$86,407	\$86,625	\$30,521	\$403,845
Swisher International, Inc.	\$10,000	\$11,000	\$33,350	\$33,000	\$33,663	\$35,163	\$39,998	\$39,998	\$13,332	\$249,504
Tantus Tobacco				\$7,000	\$12,000	\$23,066	\$71,015	\$62,813	\$18,875	\$194,770
Tobacco Institute										\$78,376
UST Public Affairs	\$88,538	\$99,705	\$67,730	\$81,400	\$80,000	\$52,000				\$637,012
Vaughan Tobacco Company			\$2,738							\$2,738
Grand Total	\$788,184	\$761,862	\$795,491	\$639,750	\$816,129	\$755,367	\$913,731	\$775,996	\$314,174	\$9,730,287

Conclusions

Kentucky, as a leading tobacco growing state for many years, has had a significant tobacco industry political presence. The strong presence of tobacco farming and the number of tobacco farms has yielded to the considerable tobacco industry influence the state. Until 2004 tobacco was grown in all but one county in the state on a number of small family farms. The significant presence of tobacco farming has created a tradition and social construct of being a tobacco growing state which has created a barrier for tobacco control.

In addition to the significant tobacco growing and farming presence, the tobacco industry has made political campaign contributions and spent considerable amounts on lobbying expenditures to lend to its presence and influence policy. The tobacco industry lobbying expenditures far exceed the tobacco industry political campaign contributions. Tobacco manufacturer Altria/Philip Morris was a leading tobacco industry contributor, spending the most in lobbying expenditures and contributing the most in political campaign contributions.

The tobacco industry presence has far outweighed the tobacco control presence in Kentucky. The tobacco industry campaign contributions and lobbying expenditures far exceeded that of tobacco control groups. The tobacco control groups have only spent a fraction of the tobacco industry has spent on lobbying expenditures, which may have allowed the tobacco industry interest to dominate tobacco control policy through 2012.

Chapter III: Early Tobacco Control Movement

- *The first statewide tobacco control coalitions focused their efforts on youth as a strategy to introduce and discuss tobacco control issues in the tobacco growing state.*
- *State tobacco control advocates worked with policy makers and tobacco farmers to create the Coalition for Health and Agricultural Development. The coalition set a national precedent for tobacco control advocates and tobacco farmers working together to address tobacco-related health and economic issues.*
- *During the early tobacco control movement in Kentucky the tobacco industry also used youth to implement weak pro-tobacco industry tobacco control policies at the state level.*

1988: Tobacco-Free Young Kentuckians

In 1988, the three local chapters of voluntary agencies, American Cancer, Heart, and Lung joined together to create the Tobacco-Free Young Kentuckians coalition.^{18, 82} The tri-agency collaborative was the first tobacco prevention and control coalition in this tobacco growing state. The Coalition strategically selected the name to incorporate youth to help ease contention around tobacco prevention in a tobacco growing state. In a 2012 interview, Julie Brackett, Vice President of Advocacy, American Heart Association Great Rivers Affiliate recalled, “We felt it was important back then to include ‘young’ since no one could argue with protecting children from tobacco addiction.”¹⁸ The Coalition was chaired by Dr. Barbara Phillips, a pulmonologist at the University of Kentucky Chandler Medical Center.⁸²

The Coalition was primarily formed to implement the national tri-agency Smoke-Free Class of 2000 program in Kentucky.^{18, 82} The Smoke-Free Class of 2000 program was a 12-year program designed specifically to target children in the first grade in 1988, with a with tobacco prevention, awareness and education, in an effort to prevent youth smoking.^{83, 84} The tobacco industry monitored the activities of the national program and used the program activities to develop arguments to oppose advertising restrictions in 1998 by claiming that youth were well aware about the dangers of smoking as a result of the national Smoke-free Class of 2000 program.^{85, 86} The program was created by the tri-agencies to help fulfill then-Surgeon General C. Everett Koop’s desire for a smoke-free society by the year 2000.⁸⁴

In Kentucky, the Smoke-Free Class of 2000 project began in August of 1989 with a direct budget of \$3,000 provided by the Coalition agencies.⁸² The budget was used for educational kits, T-shirts and buttons.⁸² The tri-agencies also provided in-kind support such as staff time, postage and telephones.⁸² The program had a low-level impact and did little to prevent or reduce the historically high cigarette smoking rates among youth in Kentucky. However, the implementation of the program was the first initiative to create a tobacco prevention intervention in the state, which received media coverage and began the conversation about tobacco use prevention among youth in the tobacco growing state

The tobacco industry efforts in Kentucky were a part of a larger national tobacco industry strategic effort to protect smokers’ rights and limit minimum purchase age requirements to encourage and sustain the use of tobacco products.

In response to the efforts to prevent youth smoking through Smoke-free Class of 2000 program, in 1990, the tobacco industry successfully backed legislation to set the minimum age to purchase tobacco at 16 years old.⁸⁷ In addition, the tobacco industry successfully used the 1990 legislation to include a provision that protected smokers and tobacco users from discrimination by establishing smokers as a protected class under state discrimination law.⁸⁷ The tobacco industry efforts in Kentucky were a part of a larger national tobacco industry strategic effort to protect smokers' rights and limit minimum purchase age requirements to encourage and sustain the use of tobacco products.⁸⁸⁻⁹¹

State tobacco control advocates, led by the Tobacco-Free Young Kentuckians coalition, saw the legislation as a deceptive tactic of the tobacco industry to create and establish smokers as a protected class in the state. However, state tobacco control advocates were supportive of establishing a minimum age required to purchase tobacco products in the state. In the *Louisville Courier Journal*, Dr. Phillips explained, “[T]he bill is a sham...this is not a bill that has been introduced with the health of our children in mind. It has been introduced at the behest of the tobacco industry...the real reason House Bill 628 was proposed was that it included a provision prohibiting employers from discriminating against smokers...what the anti-discrimination section of House Bill 628 does is to elevate smokers to a protected class and trivialize the concept of civil rights....”⁹² The Coalition also developed talking points and testified to advocate passing the legislation without the smoker's rights provisions.⁹³ There was very little support to remove the smoker's rights provision from HB 628. In a 2012 interview state tobacco control advocate Julie Brackett recalled, “when we testified for the legislation while it was in the in the Senate Agriculture Committee, many of the committee members blew cigarette smoke in our face.”¹⁸

Given that the legislation established a minimum age to purchase tobacco products in the state, it created a tough challenge for state tobacco control advocates to oppose. In the *Louisville Courier Journal*, the bill sponsor, Representative Donnie Gedling (D, Cloverport) stated, “[T]he only way that someone would be against this bill was if they believed someone under 16 years old should be able to buy cigarettes....”⁹² Gedling's argument used the state tobacco control advocates strategy to use youth to implement a tobacco control intervention, because no one would argue with preventing children from using tobacco was used against them, likewise no one would argue against preventing a 16 year old from purchasing cigarettes, and in particular when there was no standard set at that time.

The Tobacco-Free Young Kentuckians Coalition had very few resources to advocate for tobacco control and implement tobacco prevention programming in the state.¹⁸ However, in 1994 the Coalition had the opportunity to expand its focus to include more tobacco control policy advocacy efforts, such as increasing the state excise tax, and changed its name to Kentucky ACTION (Alliance to Control Tobacco in Our Neighborhoods) after receiving funding from the American Medical Association's Robert Wood Johnson Foundation Smokeless States Grant.¹⁸ (The RWJF SmokeLess States Grant was a program created to fund nongovernmental statewide community-based organizations to develop coalitions and community capacity to advocate for tobacco policy change.)

1994: Kentucky ACTION receives Robert Wood Johnson Foundation Smokeless States Grant

In 1994, the Kentucky ACTION received a \$200,000 capacity building grant from the Robert Wood Johnson Foundation (RWJF) SmokeLess States program to support the coalition's efforts to initiate policy change around tobacco use prevention.^{26, 94-96} The American Lung Association served as the first fiscal agent for the grant that was primarily implemented by the American Heart Association (AHA), the American Lung Association (ALA), and the American Cancer Society (ACS), as the prominent partners in Kentucky ACTION.¹⁸ The RWJF SmokeLess States program was created to fund nongovernmental organizations to develop statewide coalitions that advocated for tobacco policy change through public education campaigns, and strengthening the tobacco use prevention and treatment capacity, for the program's three primary objectives: 1) reduce the number of children and young people who start using tobacco; 2) reduce the number of people who continue using tobacco; and 3) increase the public's awareness that reducing tobacco use is an important component of any major effort at health care reform.⁹⁴ The Kentucky ACTION coalition received grant funding during each of the three phases in the program that ran from 1994 through 2004.⁹⁴

Kentucky was one of nineteen states to receive a grant through the RWJF SmokeLess States program.^{94, 96} The SmokeLess States grant created the second statewide tobacco control Coalition in Kentucky. The Kentucky ACTION Coalition was made up of 120 individuals and agencies "committed to implementing healthy change with regard to tobacco."⁹⁵ The Kentucky ACTION Coalition focused on involving youth as a first step to create public awareness around tobacco issues and to advocate for policy change. The Coalition initially directed their efforts at preventing youth tobacco use as a means of easing into the politically hostile environment for tobacco control in the tobacco growing state, continuing the strategy of the Tobacco-Free Young Kentuckians coalition.

The initial activities of the Kentucky ACTION Coalition included developing mini-grants in 1994 to fund local high schools to conduct tobacco use studies led by youth. Contrary to what ACTION expected when it decided to focus on youth, the mini-grants program was contentious with tobacco farmers and parents in the state, who did not want their local high schools to be what they describe as "anti-smoking laboratories".^{96, 97} Lynn Carol Birgmann, chair of the Kentucky ACTION coalition, commented to the *Lexington Herald Leader* that the small number of applicants reflected the controversy over tobacco education in Kentucky, especially in rural areas where many families' income depended heavily on the burley crop.⁹⁶ There was no evidence that the tobacco companies (or any other tobacco interest) was involved in stirring up this opposition. In the *Lexington Herald Leader*, John Cesler, a high school English teacher who wrote the successful application for a Kentucky ACTION mini-grant for Warren County's Greenwood High School, also explained "[a]nytime you mention tobacco in the state of Kentucky, people are pretty sensitive about it...especially when you have the word 'anti' in front of it."⁹⁶ In the *Lexington Herald Leader*, Donnie Shaw, a tobacco grower in Metcalfe County stated "[I] think this should be like religion and left out of schools."⁹⁶ This sentiment was echoed by the 1994 Burley Farmers Advisory Council president, and Fayette County tobacco grower, John Fritz Jr., who stated "I've never been one to say tobacco is the healthiest thing in the world, but the drug problem is a whole lot more critical to pursue than smoking."⁹⁶

However, the Kentucky Farm Bureau did not oppose the Kentucky ACTION high school mini-grant program as long as it focused on youth tobacco use; in the *Lexington Herald Leader*, a Kentucky Farm Bureau spokesman stated "[w]e would strongly oppose any attempt to use school programs to intrude on adults who chose to smoke or to implement restrictions on adult access to tobacco products."⁹⁶

Only twelve of the state's 401 high schools applied for the Kentucky ACTION Coalition mini-grants.⁹⁶ The small number of applicants was related to the contentiousness of the mini-grants program in a tobacco growing state. Eight schools received mini-grants of \$10,000 each

...the Kentucky Farm Bureau did not oppose the Kentucky ACTION high school mini-grant program as long as it focused on youth tobacco use.

to develop teams of students to collect and review data about tobacco use among their peers.⁹⁵ The schools' core teams of students attended a retreat to learn about tobacco control issues conducted by the coalition.⁹⁵ The idea behind having the students gather and analyze the data on cigarette and smokeless tobacco use in their schools was the hope that new strategies would emerge

on how to prevent smoking among youth.⁹⁵ There was no evidence of organized opposition from the tobacco industry against the Kentucky ACTION mini-grant program. However, a number of tobacco farmers were very vocal against the activity.

The Kentucky ACTION high school mini-grant program was only implemented once, in 1994, and resulted in low-impact tobacco use prevention activities such as a poster contest.⁹⁷ However, state tobacco control advocates used this opportunity to begin building community capacity for tobacco control and to begin laying the groundwork to advocate for tobacco excise tax increases because it perpetuated the conversation about tobacco prevention and control in the tobacco growing state.⁹⁷

1994: State Tobacco Control Advocates Shape Policy Agenda Using Policy Delphi Study

In 1994, state tobacco control advocates commissioned Dr. Ellen Hahn to conduct a pilot policy Delphi study by interviewing 30 former Kentucky legislators to develop a subsequent Delphi study questionnaire to educate and create consensus among sitting legislators in the Kentucky General Assembly and to determine the desirability and feasibility of tobacco control policies in the tobacco growing state.^{98,99} (The Delphi method is a multistage structured communication process in which a panel of subject matter experts are interviewed to measure opinions, after which, the opinions are analyzed and used to develop a new questionnaire and share new information with the succeeding participants. The process can be repeated until consensus is reached or saturation of opinion occurs.⁹⁸) A subsequent policy Delphi study was completed by interviewing 116 sitting Kentucky legislators in 1997 and 1998.⁹⁹ The American Lung Association of Kentucky funded the study and the study was conducted by University of Kentucky professors. The results of the study were used to gauge support among policymakers for tobacco control, and to help shape the policy agenda for tobacco control in the tobacco growing state.

Both studies concluded that the former and sitting legislators in the culturally and economically dependent tobacco growing state were more supportive of tobacco control policies

than expected.^{98, 99} The study found that the former legislators were most supportive of economic policies related to tobacco production, such as tobacco farm diversification and support for tobacco farmers, this was important because as tobacco farmers diversified into other crops they became less resistant to tobacco control policies^{100, 101} followed by key tobacco control policies such as clean indoor air, access to smoking cessation treatment, youth access, and excise tax increases respectively.⁹⁸ All of the study participants in both studies believed that the state should improve the agricultural infrastructure by supporting the production of other commodities, as well as the development of alternative agricultural enterprises; the majority of the participants agreed that the state General Assembly should allocate general funds for agricultural infrastructure and farm diversification (87.9 percent of sitting legislators and 80 percent former legislators).^{98, 99} In regard to clean indoor air policies, a strong majority (77.6 percent of sitting legislators and 77 percent of former legislators) agreed smoking should be restricted in public workplaces and places frequented by children, but believed it was unlikely that the state Assembly would enact legislation to restrict smoking.^{98, 99} In regard to other tobacco control policies, strong majorities (83.5 percent of sitting legislators and 90 percent of former legislators) agreed that the state should increase access to effective smoking cessation programs, 72 percent of sitting legislators and 100 percent of former legislators agreed that the state should strengthen youth access laws; 88 percent of sitting legislators and 76 percent of former legislators agreed that the state tobacco excise tax should be increased to support tobacco farm diversification, 66 percent of both sitting and former legislators agreed that all tobacco products should be taxed at the same rate, however 89 percent of sitting legislators and 93 percent of former legislators agreed that that the state General Assembly would not be likely to raise the cigarette tax to the national average.^{98, 99}

The state tobacco control advocates used the results of the study as a guideline to shape the policy agenda of tobacco control efforts in the state moving forward, and began to work on the things with the most support such as tobacco farm diversification and youth access, and continued to work on building support for the less supported tobacco control activities such as tobacco tax increases.

1994: Coalition for Health and Agricultural Development

In 1994, after identifying that there was a consensus among former state legislators about agricultural infrastructure and tobacco farm diversification, state tobacco control advocates created the Coalition for Health and Agricultural Development (CHAD). State tobacco control advocates, listed in Table 11, worked with Representative Anne Meagher Northup (Louisville, R, 1987-1996) to create the coalition. The Coalition was committed to educating the public

<p>Table 11: Kentucky Coalition for Health and Agricultural Development^{42, 43} Kentucky General Assembly – Representative Anne Northup Meagher American Heart Association – Julie Brackett American Cancer Society – Cindy Adams American Lung Association – Mike Kuntz, Barbara Phillips, MD Burley Tobacco Growers Cooperative – Danny McKinney, Sara Dryden, Rod Kuegel Campaign for Tobacco Free Kids – Amy Barkley Commodity Growers Cooperative Association- Karen Armstrong-Cummings Council for Burley Tobacco – Dean Wallace Farmers – Curtis Kirk, Hoppy Henton Kentucky Tobacco Growers Association – Ann Bell Kentucky Department of Agriculture – Alice Baesler Kentucky Network for Sustainable Agriculture _ Hunter Purdy, RN HNC Kentucky ACTION Kentucky Agency for Substance Abuse Policy (KY-ASAP) – Larry Carrico, Karen Jones Kentucky Medical Association and Partners for Family Farms – John Patterson, MD Purchase of Agricultural Conservation Easements – Libby Jones Kentucky General Assembly - Senator Joey Pendleton University of Kentucky, Cooperative Extension Service – Curtis Absher</p>
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about the economic risks related to health caused from tobacco use and tobacco farming.⁴³ Meager and state tobacco control advocates wanted to address the issues together in the tobacco growing state by fostering buy-in from tobacco farmers and creating an alliance to help facilitate changes around tobacco control.

...as your future seems to include less tobacco from our tobacco farmers, I wonder if you would be motivated from a social responsibility perspective to be very forthright with those farmers in what their long-range indications are and whether you have any interest in helping make a transition in alternative crops...

Representative Northup was committed to the tobacco-related issues that faced the tobacco growing state, and demonstrated her commitment by advocating to protect the future of tobacco farmers, which was being manipulated by the tobacco companies. For example, during a Philip Morris Annual Meeting of Stock Holders in 1993 Question and Answer Period, Representative Northup demonstrated her concern about the tobacco companies manipulating the federal tobacco quota program by buying more less expensive foreign grown tobacco, than domestic tobacco grown by tobacco farmers in Kentucky, by participating and asking Michael Miles, Philip Morris Board Chairman,

about the company's intention to work with tobacco farmers, Northup questioned:

[M]r. Miles...I'm a state legislator from Louisville, Kentucky, and I'm here to ask you questions on behalf of the farmer...I was appreciative of your remarks... that you are concerned about farmers' in Kentucky. I also am concerned about them...Now that foreign imports have grown to 32 percent, the quotas for our farmers dropped 7 percent last year, 10 percent in the coming year, and they are predicted to be high as a drop as 28 percent next year, since the 10 percent limit is no longer in effect. This will have a profound influence on many of our rural communities in Kentucky and North Carolina and Virginia and other southern States. Unfortunately, Philip Morris has not been very forthcoming in conveying to the farmers what their future is in tobacco...I appreciate that you have the brightest minds working for the future of Philip Morris, but as your future seems to include less tobacco from our tobacco farmers, I wonder if you would be motivated from a social responsibility perspective to be very forthright with those farmers in what their long-range indications are and whether you have any interest in helping make a transition in alternative crops. And as a corollary to that question, I would like to point out that as recently as March 1, 1993, in the Louisville paper, your Corporate Affairs Manager, Dan Ison, wrote a piece on the editorial page implying that our farmers would have a higher number of pounds and higher price for tobacco far into the future, and we all know that with the evidence before us today, that is not true. So we are very concerned about...your willingness to be forthright with these communities, with these many communities that depend on tobacco, be interested in helping transition over perhaps by putting food processing plants, prioritizing these communities for those, and helping use the brilliance that is available in tobacco promotion to help our farmers.¹⁰²

To which Miles responded on behalf of Philip Morris:

Thank you very much for your question. As I think you know, Philip Morris is now by far the largest purchaser of domestic tobacco... We realize, and I hope the farmers realize, that the processors and the farmers need each other. We believe that the industry will be around in this country for a very long time, and in order for us to be successful, for the processors to be successful, we need the farmers to be successful as well. So the issue you raise is a very important issue to us. Unfortunately, in the circumstances that we are in, a number of our competitors, who are pushing very low-priced cigarettes, are going offshore for tobacco to use in those very low priced cigarettes because offshore is less expensive. We are working both with farmer organizations and with interested parties on Capitol Hill to try to find a solution to this problem. It's a very difficult problem, and there are no easy answers, but we are doing the very best we can in this area. We are hopeful of making some progress this year, because we know that it's important that tobacco farmers do well in this country in order for the industry to do well in this country. I wish I had a quick, magic bullet solution for you this morning on this... I don't, but I want you to know that the best minds that we have available are working on this issue.¹⁰²

In addition, to protecting farmers from manipulation by the tobacco companies, Representative Northup was equally committed to growing the Coalition capacity and membership to address the health-related tobacco issues. In a 1994 fundraising letter to potential donors and Coalition members Northup explained:

[O]ur state has the highest percentage of smokers, the highest per capita consumption of cigarettes and not surprisingly the highest death rate associated with tobacco use. The average age people begin smoking is twelve years old in part because of the political and agricultural leadership in the state. It is almost considered patriotic to be a smoker, which is a terrible message being sent to our children... Because 60,000 family farms depend on tobacco in order to pay their bills, pay taxes, buy new farm equipment and simply survive financially, it has previously been impossible to raise issues regarding health and tobacco. In this state it is considered political suicide to take any stand regarding tobacco different from the position of the tobacco industry.⁴³

Representative Northup's strong record of support for tobacco farmers yielded public support for Kentucky Coalition for Health and Agricultural Development and the membership of tobacco farmers in the statewide coalition. For the first time, state tobacco control advocates and tobacco farmers began to discuss tobacco and health issues together.

The Kentucky Health and Agricultural Development Coalition set the precedent for the 1997 Robert Wood Johnson "Southern Communities Tobacco Project" completed in 2001. The project resulted in health advocates and tobacco farmers from the southern region tobacco-growing states (Georgia, Kentucky, North Carolina, South Carolina, Tennessee, and Virginia), developing a Core Principles document, and began to work together and become allies working on the tobacco-related economic health and tobacco farming issues.¹⁰³ In the Core Principles document health advocates and tobacco farmers agreed to "actively work together to accomplish two goals: first, to reduce tobacco use in this country, especially among children and adolescents; and second, to stabilize the tobacco producers' communities as consumption declines into the

21st century.”¹⁰³ Ultimately, these efforts led to tobacco farmers becoming less resistant to tobacco control policies.

1996: Kentucky ACTION Fights for First Smoke-free Policies in the University of Kentucky Rupp Arena

In 1996, Kentucky ACTION began to advocate for smoke-free policies in public places using the 1990 federal Americans with Disabilities Act.¹⁰⁴⁻¹⁰⁶ Kentucky ACTION began to push for the right to breathe clean air after a patient of Dr. Jim Roach, president of Kentucky ACTION, suffered a severe asthma attack while attending an event at the University of Kentucky (UK) Rupp Arena in November 1996. Dr. Roach and the Kentucky ACTION Coalition successfully filed a complaint with the Rupp Arena under the federal Americans with Disabilities Act to end cigarette smoking at during UK basketball games and other events.¹⁰⁴ In 1996, Dr. Roach explained in the *Lexington Herald Leader*,

[a] public facility also could be guilty of discrimination under the law if people with respiratory or cardiovascular disabilities can't enter them because of tobacco smoke...if a person with a severe respiratory problem can't go to a restaurant or other facility because of tobacco smoke, the person would get a letter documenting the medical problem from his or her physician. The documentation would then be given to the restaurant and, citing the disabilities act, changes would be requested. That could mean either creation of a smoke-free area, or an outright smoking ban. A public facility would have to accommodate the disabled person's need for smoke-free air...we're concerned about the malls; it's a problem in Rupp Arena; it's a problem at the Kentucky football stadium, at the high school stadiums...people have a right to breathe clean air...that's the bottom line.^{105, 106}

In 1996, when the complaint was filed, smoking was allowed on the concourse during at the discretion of the event organizers leasing the arena for events.¹⁰⁴ For example, in 1997, the Kentucky Boys' State Basketball Tournament required the Rupp Arena to be totally smoke-free when the tournament was held there, but the UK and the Thoroughblades hockey team allowed smoking on the concourse during their specific events.¹⁰⁴

The Lexington Center Corporation managers, which operated the Rupp Arena, restricted smoking to designated areas in 1997 as a result of the efforts of the Kentucky ACTION coalition.¹⁰⁷

Conclusions

The first statewide tobacco control coalitions focused their initial efforts on youth as a strategy to introduce and discuss tobacco control issues in the tobacco growing state. The Coalition efforts were the beginning of state tobacco control advocates mobilizing and identifying strategies to address tobacco issues. The Coalition efforts had a practical impact on tobacco because they initiated the first conversations for tobacco control efforts moving forward.

The Coalition for Health and Agricultural Development was also equally as important in the tobacco growing state because it set a statewide and national precedent for public health and

tobacco control advocates and tobacco farmers working together to address tobacco-related health and economic issues.

Kentucky ACTION began to build the state's capacity for tobacco control advocacy and to educate with the public about the dangers of tobacco use. Between 1995 and 2012, The Kentucky ACTION Coalition continued to participate in tobacco prevention and control activities in the state.

Chapter IV: Youth Access

- *In 1994, the tobacco industry used youth and youth access to tobacco products as an effective medium to lobby for the enactment of a weak youth access law and to preempt local youth access law, and require designated smoking areas in government buildings.*
- *The 1994 youth access law was ineffective; state tobacco control advocates efforts to strengthen the youth access laws were also ineffective and collectively resulted in high youth tobacco use rates.*
- *Through 2012, Kentucky ranked 1st in the nation for youth smoking prevalence.*

In 1992, Congress passed the federal Alcohol, Drug Abuse and Mental Health Administration (ADAMHA) Reorganization Act including the Synar Amendment named for its sponsor Congressman Mike Synar (D, OK). The Synar Amendment required states to enforce, and document enforcement of, youth tobacco access laws. In order to be eligible for federal Substance Abuse Prevention and Treatment funds, states were required by the regulations issued pursuant to the Synar Amendment to keep violations of youth access laws 20 percent or less. The Tobacco Institute (TI) used the Synar Amendment to promote its agenda of state tobacco control preemption. TI misrepresented requirements of the Synar Amendment to convince some state legislatures¹² that the Synar Amendment required the state to pass additional youth access laws and ensure a uniform statewide youth access code to create an opportunity for the state to preempt local youth access activity.¹⁰⁸

In fact, the Synar Amendment required neither uniform application of youth access laws nor passage of additional state legislation as long as the state had a law prohibiting the sale of tobacco products to persons under age 18. In the case of Kentucky, the 1990 law set the minimum purchase age to 16 therefore the state needed to act. The tobacco industry used Synar to pass youth access law preemption in Kentucky.

In 1994 the tobacco industry lobbied to pass Senate Bill 318, sponsored by Senator David Boswell (D, Sorgho, Total Tobacco Industry-Related Political Campaign Contributions (1994-2010) \$675), a pro-tobacco industry tobacco control law under the guise of complying with the Synar Amendment. SB 318 prohibited the sale to and purchase of tobacco products by minors under the age of 18, with a retailer fine of \$10 - \$25, required tobacco retailers to sign a statement acknowledging the law, designated the Department of Agriculture (rather than the state Department of Public Health) to enforce the provisions of the minor access law; and preempted existing and subsequently adopted local limitations on sale or distribution of tobacco products.¹⁰⁹

In addition, SB 318 also required state and local government offices, with the exception of state universities, hospitals and nursing homes, to include accessible designated indoor smoking areas if a smoking policy was adopted to otherwise restrict smoking,



Figure 10: Kentucky State Department of Agriculture Teens & Tobacco Program¹⁹

State tobacco control advocates were aware of the tobacco industry efforts and the underlying implications to hurt tobacco control included in SB 318. In an unsuccessful attempt to counter the tobacco industry backed legislation, Kentucky ACTION worked with Representative Tom Riner (D, Louisville, Total Tobacco Industry-Related Political Campaign Contributions (1994-2010) \$0) to amend SB 318 while the legislation was in the House Local Government Committee to designate the state Department of Public Health to enforce the minor access law, without addressing the other pro-tobacco provisions, such as the minimal retailer fine. The advocates also tried to fight the provision for preemption in SB 318 by arguing for local option during bill hearings. However, in 1994 Kentucky ACTION was still in the infancy stages of development and did not have enough political support or capacity to outmaneuver the tobacco industry on the SB 318 proceedings.²⁶ The Department of Agriculture remained the enforcement designee and preemption was intact when Senate Bill 318 was enacted by the Kentucky legislature and signed into law by Governor Brereton Jones (D, 1991-1995, Total Tobacco Industry-Related Political Campaign Contributions (1994-2010) \$0).¹⁰⁹

The 1994 legislation was ineffective in preventing youth access to tobacco products.

The 1994 legislation was ineffective in preventing youth access to tobacco products. Concurrent with its high school mini-grant project, the Coalition also organized several youth tobacco buying sting operations in 1995 to demonstrate the need for stronger enforcement of the youth

access laws.¹¹⁰ Kentucky ACTION randomly selected 245 business and 41 vending machines in 14 cities (Bowling Green, Burlington, Florence, Frankfort, Georgetown, Hebron, Henderson, Lexington, Louisville, Nicholasville, Paris, Richmond, Versailles and Winchester) to attempt illegal youth tobacco purchases.¹¹⁰ Thirty-seven Kentucky ACTION Coalition youth volunteers aged 12 to 17 were able to purchase tobacco products in 139 (56.7 percent) of the stores and 40 (97.5 percent) of the vending machines.¹¹⁰

Kentucky ACTION used these results to advocate for stronger enforcement of the youth access law. In 1995, the Coalition issued a press release stating “in most places youth could buy cigarettes and chewing tobacco as easily as a bag of potato chips or a candy bar” to create public awareness.¹¹⁰ In the *Lexington Herald Leader*, Steve Watkins, Kentucky ACTION chairman and Louisville attorney, explained, “[t]he law banning tobacco sales to those under 18 simply needs to be enforced... our merchants aren't to blame... we're not pointing fingers... Kentucky's problem with youths using tobacco can be attributed to bad laws, poor enforcement and bad attitude... when it comes to tobacco control efforts and our kids' health, Kentucky is appropriately the poster child state....”¹¹⁰

In addition to the youth buying stings, Kentucky ACTION worked with the University of Kentucky Center for Prevention Research to conduct a survey in 1995 on youth tobacco use.¹¹¹ The survey results were released in a 1996 report that concluded that, although tobacco sales to minors were illegal, 29,500 Kentucky students in grades 6 through 12 purchased an estimated \$11.6 million worth of cigarettes in 1995; in addition, 93 percent of Kentucky adults surveyed wanted tobacco sales to be limited to adults 18 years and older.^{111, 112} In addition to releasing the poll to the press, they shared the report with elected officials and policymakers to demonstrate the need and public support for stronger youth access laws. The efforts of the Kentucky ACTION made Kentucky's political leaders well aware of youth tobacco use issue in the state.¹¹²

In response to the Kentucky ACTION efforts to advocate for stronger youth access law, in 1996, the legislature approved Senate Bill 137, sponsored by Senator Joey Pendleton (D, Hopkinsville, Total Tobacco Industry-Related Political Campaign Contributions (1994-2010) \$4,500) to ostensibly strengthen the youth access law. The bill was written by the Kentucky Farm Bureau, a powerful tobacco industry ally.¹¹³ As approved, the provisions of SB 137 required signage to be placed at tobacco retail establishments stating that “it is illegal to sell tobacco products to persons under the age of 18 years old,” required proof of age to be shown at the time of tobacco purchase; prohibited giving tobacco samples to minors, increased the fine for persons who illegally sell tobacco products to minors to \$50 and 20 hours of community service for a first offense and \$200 and 40 hours of community service for a second or subsequent offense within a 1-year period and \$1,000 to \$2,500 for any wholesaler, manufacturer, or retailer; and allocated \$500,000 annually to the state Department of Agriculture to strengthen enforcement of the law and implement a youth tobacco prevention program.¹¹³⁻¹¹⁵ In 1996, State tobacco control advocates believed that the Department of Agriculture did not have the interest or capacity to enforce the law. According to a Louisville *Courier Journal* editorial, between 1994 when the youth access law was first enacted and 1996 when the youth access law was revised, no retailer had been prosecuted for violating the law.¹¹⁶

State tobacco control advocates did not believe SB 137 did enough to discourage youth smoking.¹¹⁶ In an unsuccessful attempt to strengthen SB 137, Representatives Tom Riner (D, Louisville) and Larry Brandstetter (R-Lexington, Total Tobacco Industry-Related Political Campaign Contributions (1994-2010) \$0) sponsored floor amendments to strengthen the law. The amendments included repealing preemption to allow local governments to pass stronger youth access laws and increase restrictions on vending machines as well as make it illegal for minors to possess tobacco products, and fine police officers who failed to enforce the law.¹¹³ Research suggests that youth access laws that criminalize minors youth are supported by the tobacco companies because they divert the attention away from tobacco industry marketing practices.^{90, 117} The amendments to strengthen the 1996 youth access legislation were endorsed by Governor Paul Patton (D, 1995-2003, Total Tobacco Industry-Related Political Campaign Contributions \$12,348) because he believed provisions for enforcement were an improvement from the existing 1994 youth access law. The House overwhelmingly defeated all six amendments to strengthen SB 137.¹¹³

Senator Pendleton and the Kentucky Farm Bureau, which authored the bill, did not want to make any changes to SB 137. In the *Lexington Herald Leader*, Ronnie Pryor, the lobbyist for the Kentucky Farm Bureau stated, “[W]e think we’re taking some strong, positive steps to curb teen-age use of tobacco products.”¹¹³ Governor Patton, who originally endorsed the amendments to strengthen SB 137 reversed his position and stated in the *Lexington Herald Leader* that, “[W]e decided that the best thing to do was to pass this bill and look at doing some other things down the road.” The legislation remained relatively weak because of the state Department of Agriculture remained the enforcement agency and because of the provision to preempt local governments from strengthening youth access laws, passed unanimously in the state Senate and House, and was signed into law by Governor Paul Patton.

The state Department of Agriculture developed the *Teens & Tobacco Program* to create public awareness and strengthen enforcement of the youth access law (Figure 10). The program

was adopted in 1996 following the passage of SB 137 and fulfilled the signage requirement of SB 137. In addition, both the Department of Agriculture and the Department of Alcohol Beverage Control inspectors worked together to carry out annually conducted, random, unannounced inspections of retail establishments where tobacco products were sold or distributed for the purpose of enforcing the provisions of the youth access restrictions in “wet” and “dry” counties.^{19, 115} The distinction was made for “wet” counties, meaning counties that permit the sale of alcohol, and “dry” counties, meaning counties that do not permit the sale of alcohol, because the Department of Alcohol and Beverage Control only inspects in “wet” counties.

Miss Kentucky was a spokesperson for the Kentucky Department of Agriculture's Teen and Tobacco program. Miss Kentucky traveled all over the Bluegrass State speaking to students about the laws and penalties pertaining to tobacco use and possession by minors.¹⁹ The program was continuing in 2012.

Since 2000, the state has remained in compliance with federal requirements to maintain a retailer violation rate of 20 percent or less.²⁷ However, the prevalence of youth tobacco use in Kentucky has consistently remained higher than the national average as discussed earlier in this report.

Since 2000, the state has remained in compliance with federal requirements to maintain a retailer violation rate of 20 percent or less.²⁷ However, the prevalence of youth tobacco use in Kentucky has consistently remained higher than the national average.

In 2000, Kentucky ACTION, worked with Representative Steve Nunn (R, Glasgow, Total Tobacco Industry-Related Political Campaign Contributions (1994-2010) \$2,100), to strengthen the youth access law by making it illegal for minors to use or possess tobacco products.¹¹⁸ Representative Nunn’s introduction of House Bill 10 during the 2000 legislative session represented the state tobacco control advocates third attempt to strengthen the youth access law. At the time it was not illegal for youth to possess tobacco products; it was only illegal for youth to

purchase and merchants to sell tobacco products to youth.

House Bill 10 consisted of a total of five lines, leaving little to debate:^{118, 119} In the *Owensboro Inquirer* Nunn stated,

[K]entucky leads the nation in youth smoking...part of that is we haven't made a statement saying we don't want them smoking...we've said we don't want them to buy them...this law requires law enforcement officers to confiscate the cigarettes if they see a minor smoking...there are no penalties, and no names are to be taken....¹¹⁹

However, without penalties for youth or stronger measures to enforce the youth access law, some state legislators believed HB 10 would not be enough to reduce youth tobacco use. In the *Owensboro Inquirer*, Senator Elizabeth Tori (R, Radcliff, Total Tobacco Industry-Related Political Campaign Contributions (1994-2010) \$) stated “[N]unn's effort was admirable but I do not think it would affect the teen smoking...I think it is a feel good law.”¹¹⁹ In the *Owensboro*

Inquirer, Senator Lindy Casebier (R-Louisville, Total Tobacco Industry-Related Political Campaign Contributions (1994-2010) \$650) stated “I appreciated what Nunn was doing [by introducing HB 10] and as a former school teacher I know there it a problem. But it is one that goes beyond what the bill does...I once caught a high-school freshman smoking and asked what her mother would think, only to find out the mother bought the cigarettes for the teen...it's an educational process, not just with kids but with parents....”¹¹⁹

While HB 10 was in the House Committee on Health and Welfare, state tobacco control advocates worked with Nunn to address the lack of penalties issues. State tobacco control advocates successfully advocated strengthening HB 10 by requiring enforcement officers to cite youth with disorderly conduct if they resisted confiscation, the courts to notify the parents or legal guardian, and require subsequent violators to attend a smoking education and cessation program.¹¹⁸ House Bill 10 passed the House (79-14) and Senate (80-9) with strong majorities and was signed into law by the Governor.¹¹⁸

In 2000, youth tobacco use was a hot topic because state tobacco control advocates also successfully lobbied the legislature to allocate \$5.5 million from the first phase of the state’s Master Settlement Agreement dollars for tobacco prevention and cessation programming to reduce and prevent smoking. The issue of youth tobacco use in the tobacco growing state was used as a strategic advocacy tool in getting the funding because no one wanted youth to smoke and no one would ever openly oppose a youth access measure that prevented youth tobacco use.

In a 2007 case study, Hahn et al.¹¹⁵ found that youth access laws were not being enforced in Kentucky. They concluded that the youth access laws in Kentucky might be more effective if they were enforced strictly with a meaningful penalty and a clear enforcement strategy. The study found that the four Kentucky communities studied did not perceive the enforcement of the youth access law as a priority, and were unaware of the enforcement authority.

Conclusions

The tobacco industry used youth and youth access to tobacco products as an effective medium to lobby for the enactment a law with weak youth access measures and, more important, to enact broad state preemption, which inhibited community-level activity to limit youth access to tobacco products. Designating the Department of Agriculture to implement and enforce the youth access legislation created a clear conflict of interest and helped to make the legislation ineffective. The departments of agriculture in tobacco growing states have traditionally been an ally of the tobacco industry and have lobbied against effective tobacco control measures.

The tobacco industry also used the same bill to enact a provision requiring designated smoking areas in government buildings that restricted smoking, which created an additional challenge for state tobacco control advocates.

State tobacco control advocates experienced varied success in their efforts to strengthen the youth access legislation. The advocates unsuccessfully attempted to strengthen the youth access law by advocating designating the state Department of Public Health as the state agency to enforce the youth law. However, state tobacco control advocates were successful in

strengthening the youth access law by making it illegal for youth to be in possession of tobacco products

Since 1997, the prevalence of youth tobacco use in Kentucky has declined (Figure 2). In 2011, the youth tobacco use rate was 24.1 percent a decrease from 26.1 percent in 2009. However in 2011, the prevalence of youth tobacco use in Kentucky (24.1 percent) was still higher than the national average (19.5 percent) and Kentucky was ranked 1st for the highest youth tobacco use rates.

Chapter V: 1998 Kentucky Signs the Master Settlement Agreement

- *The Master Settlement Agreement was an important event for tobacco prevention and control in the tobacco growing state. State tobacco control advocates and tobacco farmers worked together to advocate for a portion of the MSA monies to be used to help tobacco farmers and for tobacco control programming.*
- *In 2000, the state legislature allocated 2.5 percent of the state MSA monies to tobacco prevention and cessation programming in the state to create programming at the local health departments.*
- *Although the allocation for tobacco control programming was far below the 1999 CDC recommendation, it was the first time that the state legislature allocated funding for tobacco control.*

In 1994, the Attorneys General of Mississippi and Minnesota, followed shortly by Florida and Texas,^{61, 120-122} sued the six major cigarette companies (Brown & Williamson, Lorillard, Philip Morris, RJR, Liggett Group Inc., and Commonwealth Brands Inc.) to recoup costs incurred by their states' Medicaid programs as the result of tobacco-related illnesses and to change tobacco industry practices, particularly regarding industry targeting of youth. These four early suits were settled individually between the suing states and the tobacco companies in 1997 for increasing monetary damages, restrictions on tobacco marketing and money for state anti-smoking education programs. Massachusetts, West Virginia and many other states also sued, and by November 1998, 42 additional states -- all but Virginia, Kentucky, North Carolina, and Tennessee -- had filed suits against the industry leading to the Master Settlement Agreement¹²³ (MSA) which, like the individual settlements, provided money to the states (using a formula based on tobacco-induced Medicaid costs and national cigarette sales with a bonus for the leading states) and some restrictions on cigarette company marketing to youth.¹²⁴ The Master Settlement Agreement required tobacco industry payments to states in perpetuity (totaling more than \$260 billion through 2025), in addition to restricting targeted youth industry promotion, in exchange for states dropping current and any future lawsuits for health care costs related to tobacco-induced disease.¹²⁵

The MSA gave the four non-suing states a 30 day window of opportunity to file a suit and sign on to the multi-state settlement by December 22, 1998.

Kentucky, represented by Attorney General Ben Chandler (D, 1995-2003, Total Tobacco Industry Campaign Contributions (1995-2003) \$3,214), signed on to the Master Settlement Agreement on December 19, 1998.¹²⁶ Chandler explained in the *Lexington Herald Leader* that "he joined the agreement because Kentucky probably wouldn't win if it sued tobacco companies on its own - the only other option besides doing nothing...this is the best alternative Kentucky has, under the circumstances."¹²⁶

In addition, Governor Paul Patton (D, 1995-2003, Total Tobacco Industry Campaign Contributions \$12,348) shared the same sentiment as the Attorney General and echoed in the *Lexington Herald Leader*, "[f]or Kentucky not to claim its portion when the other states are would not be in the best interest of our citizens."¹²⁶ Kentucky's share of the Master Settlement

Agreement was estimated to be \$3.4 billion through 2025, an estimated average of \$138 million a year.¹²⁶⁻¹²⁸

State tobacco control advocates originally wanted Chandler to take file a separate suit against the tobacco companies, but understood his position. Lynn Carol Birgman, the 1998 executive director of the Kentucky ACTION coalition, stated in the *Lexington Herald Leader* that,

[s]he had been pushing Chandler to take the companies to court...but came to realize that Kentucky, with its long ties to the tobacco industry, would be one of the toughest places in the country to win such a suit...health advocates may now have more success pushing to make sure the money goes to reduce smoking rates... We need to make it clear ... that much, much more needs to be done -- both for farmers and public health...¹²⁶

In 1998, the Burley Tobacco Growers Cooperative also supported allocating the settlement monies to support farmer and public health, running a radio ad campaign showcasing the cooperation between health organizations and growers to garner public support for the state Master Settlement Agreement to be allocated to tobacco farmers and health.

In 1998, the Burley Tobacco Growers Cooperative also supported allocating the settlement monies to support farmer and public health, running a radio ad campaign showcasing the cooperation between health organizations and growers to garner public support for the state Master Settlement Agreement to be allocated to tobacco farmers and health, after the state signed on to the Master Settlement Agreement and discussions were beginning about how to use the new state revenue. The radio ad campaign was a result of the efforts of the Coalition for Health and Agricultural Development (CHAD), which included tobacco grower groups and health groups, working together on health and economic tobacco issues.

Before specific allocations or plans for the proceeds from Master Settlement Agreement were in place, Governor Patton and Attorney General Chandler vowed that the proceeds would go to public health and helping tobacco farmers.¹²⁶ Like other states receiving Master Settlement Agreement dollars, there was a lot of competition for the money. For example, Governor Patton also wanted to use a portion of the settlement money for early childhood development programs and health insurance for the uninsured.¹²⁸ The League of Cities lobbied Governor Patton, asking that he get aid for communities that could be hurt by loss of tobacco income, and called for economic development grants and programs to help workers who work in warehousing and processing tobacco.¹²⁶ The Kentucky Farm Bureau wanted tens of millions of dollars for farm-related programs, and the state tobacco control advocates, led by Kentucky ACTION, advocated that 14 percent -- \$21 million for the first year based on the US Centers for Disease Control and Prevention, *Best Practices for Comprehensive Tobacco Control Programs* -- be spent to help reduce tobacco use among youth.^{128, 129}

Kentucky ACTION developed a plan, following the US Centers for Disease Control and Prevention *Best Practices for Comprehensive Tobacco Control Programs*,¹³⁰ to create a statewide tobacco control program. The plan was released in 1999 will discussions were going on about how the legislature would allocate the state Master Settlement Agreement revenue during the 2000 legislative session. The plan was significant because it is the first detailed plan

for how state tobacco control advocates wanted to see the state spend money for tobacco control.¹²⁸ In *The Kentucky Post*, Lynn Carol Birgmann, the 1999 executive director of Kentucky ACTION, stated that "This money will provide us with a unique opportunity to do what's right."¹²⁸

Kentucky ACTION wanted the statewide tobacco control program to include anti-smoking programs in school activities, such as pledge cards against smoking that students would sign and use for discounts at stores, enforcement of laws prohibiting underage tobacco sales, anti-tobacco advertising, smoking cessation programs and research, and grants to local health departments to implement tobacco control programming.^{128, 129} Birgmann believed that youth smoking was a particular problem that Kentucky needed to tackle.¹²⁸ In 1999, Kentucky led the nation in youth tobacco use. According to the Centers for Disease Control and Prevention 1997 Youth Tobacco Use survey results, forty-seven percent of high school students reported smoking at least once in the last month, and 29 percent used smokeless tobacco.¹²⁸

The Coalition gathered grassroots support through earned media for the statewide comprehensive tobacco control program proposal. Lynn Carol Birgmann, stated in the *Lexington Herald Leader* that she "[d]idn't think the proposal would be an easy sell in Frankfort," and that she "[a]nticipated a battle ahead of us."¹²⁹

In 1999, the Burley Tobacco Growers Cooperative passed a resolution endorsing the principle that some MSA funds be used to reduce youth smoking.¹³¹ The Burley Tobacco Growers Cooperative resolution supported "a comprehensive plan focused on youth prevention and cessation of tobacco use"; however the group never stated an amount that they were willing to support, and they did not agree with the \$21 million amount the state tobacco control advocates were seeking.^{26, 131} The Burley Tobacco Growers Cooperative endorsement was a result of a pact made during the 1997 Robert Wood Johnson Foundation "Southern Communities Tobacco Project" (SCTP)¹³² that resulted in the Core Principles Agreement⁴⁵ that committed the signatories to support use of MSA money for both tobacco community revitalization and prevention on youth tobacco use.

State tobacco control advocates were happy to have the support of the Burley Tobacco Growers Cooperative. In the *Lexington Herald Leader*, Birgmann, stated:

[H]aving the burley growers' support a youth tobacco prevention and cessation campaign is very powerful...because the legislature in Kentucky is primarily rural, public health advocates - on tobacco issues -- have historically not had great success...the endorsement could change that...the burley growers and agriculture members have agreed that we need to give money, time and attention to funding a youth campaign statewide.¹³¹

The mutual support between state tobacco control advocates and tobacco farmers was consistent with the Core Principles agreement.^{44, 45}

In exchange for the Burley Tobacco Growers Cooperative support, Kentucky ACTION supported the farmers' proposal that \$85 million of MSA money be allocated to innovative agriculture farm programs.¹³¹ The mutual support between state tobacco control advocates and tobacco farmers was consistent with the

Core Principles agreement.^{44, 45} In *The Kentucky Post*, Birgmann explained, "[w]e understand that tobacco will always be grown in Kentucky; nobody's trying to ban tobacco...but we need to do everything we can to wean farmers off their over-dependence on one crop."¹³¹

When the Kentucky General Assembly Legislative Session began in January 2000, three bills were introduced to appropriate the state's Master Settlement Agreement monies. The first bill, House Bill 617, sponsored by the 2000 House Majority Leader Greg Stumbo (D, Prestonsburg, Total Tobacco Industry Campaign Contributions (1995-2003) \$4,000), represented Governor Patton's plan to allocate 70 percent to the new Kentucky Health Care Improvement Authority agency program titled Kentucky Access to provide health insurance to underinsured; 20 percent to a collaborative partnership between the University of Louisville and the University of Kentucky dedicated to lung cancer research; and 10 percent to discourage the use of harmful substances by minors, of which \$2.5 million in the fiscal year 2001 and \$3 million in 2002 would be used for tobacco control and prevention programs.¹³³ This was a far cry from the 1999 CDC's *Best Practices for Comprehensive Tobacco Control Programs* that recommended a minimum \$25.1 million for Kentucky.¹³⁰

The second bill, Senate Bill 274, sponsored by state Senator Joey Pendleton (D, Hopkinsville, Total Tobacco Industry Campaign Contributions (1995-2003) \$4,500), would have dedicated \$20 million in both fiscal years 2001 and 2002 to implement youth and pregnant women tobacco control programming that was "culturally sensitive to Kentucky, whose rural culture is steeped in the traditions of tobacco farming" and require all programming activities exceeding more than \$5,000 be approved by an oversight committee of designated legislative appointees. The legislation also gave the committee authority to advise against paying for programs it found objectionable.¹³³

The third bill, Senate Bill 293 was sponsored by the 2000 Senate President David Williams (R, Burksville, Total Tobacco Industry Campaign Contributions (1995-2003) \$3,500), to create the Kentucky Agency for Substance Abuse Policy for substance abuse and tobacco prevention and control programming controlled by an advisory board and appropriate \$20 million in fiscal years 2000 and 2001 to it. The Williams bill did not include a provision for tobacco farm diversification programs.^{133, 134} The Williams bill did not make it out of the Senate Appropriations and Revenue Committee and died with the adjournment of the legislative session.

The majority of the Kentucky ACTION Coalition members were supportive of Pendleton's, SB 274 Bill over Stumbo's HB 617 because it provided more money for tobacco control programming, even with the program targeting youth and pregnant women. In the *Lexington Herald Leader*, Birgmann, of Kentucky ACTION, reasoned,

[w]e've focused mainly on youth and pregnant women because we felt it would be more palatable with the General Assembly...but that certainly doesn't mean that we don't care about adults. We applaud the governor for at least putting tobacco control on his radar screen...our position is that \$5.5 million over two years will not get the job done....¹³³

While Kentucky ACTION and the Burley Tobacco Growers Cooperative were supportive of a youth and pregnant women tobacco prevention and control program, state tobacco control

advocate and Kentucky ACTION member Dr. Ellen Hahn, University of Kentucky College of Nursing and Public Professor and long-time tobacco control activist and leader, was not in agreement with a targeted youth and pregnant women program. Dr. Hahn advocated keeping the tobacco control program comprehensive and population-based and to prevent and reduce tobacco use across all populations, even if it meant the state tobacco control program would get a smaller allocation.¹³³ The friction within the Kentucky ACTION state tobacco control Coalition prevented it from presenting a united front and splintered the coalition. In the *Lexington Herald Leader*, Hahn explained that

[f]ears that the tobacco industry could use its influence to cajole the committee into blocking programs it didn't like [in the Pendleton and Williams bills]...and preferred Governor Patton's proposal to spend just \$5.5 million over the same two-year period because it allowed programs to cover all smokers. I would rather have a comprehensive, evidence-based tobacco program led by people who know what they're doing, versus a lot of money that might have strings attached to it.¹³³

In addition, Dr. Rice Leach, Commissioner of the state Department of Public Health in 2000, echoed Dr. Hahn's sentiment stating,

[a]ny statewide plan should keep kids from smoking, reduce exposure to secondhand smoke, help people to quit and close the gap between populations where there are higher chances of disease from tobacco use. The plan will be comprehensive and based on the federal Centers for Disease Control and Prevention's guidelines...any money provided by the legislature would be used to "leverage" more money from other sources. If we start out with \$2.5 million, we'll have a template to work from. If in the course of negotiations it gets bigger, we'll go from there...I think the main thing is that a lot of legislators are saying it's time. And it is time ...to at least get something started.¹³³

The state tobacco control advocates through Kentucky ACTION and the Coalition for Health and Agricultural Development conducted grassroots advocacy, issued action alerts to supporters and worked to generate earned media in their effort to secure funding for tobacco control and tobacco farm diversification in Kentucky.

In 2000, the state Department for Public Health received the \$5.5 million for the 2001-2002 biennium (July 1, 2001 to June 30, 2002) from the state Master Settlement Agreement allocation and used it to create tobacco control programs in all of the local health departments in the state to provide tobacco prevention and cessation services.

In the end, Stumbo's bill HB 617 was the only bill to move forward in the 2000 legislative session with final passage 37 to 0 in the Senate and 89 to 5 in the House, and was signed by Governor Patton on April 26, 2000.¹³⁵ In the final bill, the Kentucky Master Settlement Agreement funds (an estimated \$3.4 billion through 2025), were allocated by the Kentucky General Assembly to spend 50 percent on tobacco growers and rural development initiatives, 25 percent on comprehensive early childhood development programs and 25 percent on public health initiatives, such as healthcare coverage and lung cancer research, of which only 2.5 percent (\$5.5 million for the first biennium) was

allocated to comprehensive tobacco and substance abuse prevention programs.

In 2000, the state Department for Public Health received the \$5.5 million for the 2001-2002 biennium (July 1, 2001 to June 30, 2002) from the state Master Settlement Agreement allocation and used it to create tobacco control programs in all of the local health departments in the state to provide tobacco prevention and cessation services. The resulting local health department tobacco control programs (discussed in Chapter VI) contributed to the subsequent success of local smoke-free air campaigns, beginning with Lexington-Fayette in 2003, by creating public awareness about tobacco issues.¹³⁶

Master Settlement Agreement Phase II

There were no specific provisions in the Master Settlement Agreement protecting tobacco growers or tobacco quota holders from possible revenue loss due to the MSA, other than a provision in the MSA in which the participating companies:

Recognize the concern of the tobacco grower community that it may be adversely affected by the potential reduction in tobacco consumption resulting from this settlement, reaffirm their commitment to work cooperatively to address concerns about the potential adverse economic impact on such community, and will, within 30 days after the MSA Execution Date, meet with the political leadership of States with grower communities to address these economic concerns.¹³⁷

The result was the National Tobacco Growers Settlement Trust Agreement negotiated by tobacco grower organizations, state commissioners of agriculture, state attorneys general and governors of 14 tobacco growing states with the six major cigarette companies (Philip Morris, RJR, Lorillard and Brown & Williamson, Liggett Group Inc., and Commonwealth Brands Inc.) to set up a \$5.15 billion private trust fund to be distributed among the states' farmers and quota holders over 12 years (known as "Phase II" payments).^{138, 139} Phase II of the tobacco settlement, negotiated in 1999, was aimed exclusively at the tobacco-growing states.

Kentucky, the nation's second-largest tobacco producer, was represented in the negotiations by Governor Paul Patton (D), Attorney General Ben Chandler (D) and Agriculture Commissioner Billy Ray Smith.¹²⁶ In 1998 in the *Lexington Herald Leader*, Patton estimated that Kentucky's 60,000 tobacco-farming families and their local communities would need \$2.2 billion to compensate drop in income, while some farm leaders believed \$1.6 billion might be more realistic.¹²⁶

The tobacco growers in Kentucky trusted the Kentucky representation at the Phase II negotiations. In the *Lexington Herald Leader*, Rod Kuegel, president of the Burley Tobacco Growers Cooperative, stated "we would like to be invited, but the Master Settlement Agreement doesn't call for us to be invited...I have confidence the Kentucky officials will get for us the maximum that will be on the table...."¹²⁶

Tobacco companies paid annually into the trust fund according to their relative market shares.¹³⁹ Between 1999 and 2005, Kentucky more than 167,000 tobacco quota holders and tobacco producers²³ received annual Phase II payments totaling \$1.5 billion.⁴⁰

The state legislature created the Kentucky Tobacco Settlement Trust Corporation to issue direct cash payments to tobacco quota holders and tobacco producers.^{23, 140, 141} The payments were divided equally into thirds between the quota owner, the individual or entity that controlled the land, and the individual or entity that provided the labor to produce the burley tobacco.¹⁴¹ The compensation was based on the United States Department of Agriculture (USDA) Farm Serial Number burley tobacco crop year.^{23, 140, 141}

Between 1999 and 2005, Kentucky more than 167,000 tobacco quota holders and tobacco producers²³ received annual Phase II payments totaling \$1.5 billion.⁴⁰

The Phase II agreement also included a provision that if the federal government imposed any new or increased financial obligations on the cigarette companies explicitly including “federal or state excise tax on cigarettes, or any other tax, fee assessment, or financial obligation of any kind” and “a change that alters the methodology for calculating marketing assessments on the purchase of tobacco,” the amount the companies were required to pay to the trust fund would decline on a dollar-for-dollar basis.^{139, 142} Under this provision, the 2004 multibillion dollar national buyout of the tobacco quota system, paid for by tobacco manufacturers as discussed later in this report, ended the companies’ obligations to make these payments. The final distribution of Phase II tobacco settlement payments for certified Kentucky recipients was made at the end of December 2005.

Despite the end of Phase II payments in 2012, tobacco growers in Kentucky continued to benefit from 50 percent allocation of the state’s Phase I Master Settlement Agreement dollars for tobacco farm diversification and agricultural development that began in 2001.¹³⁵

Conclusions

The Master Settlement Agreement was an important event for tobacco prevention and control in the tobacco growing state. Tobacco farmers in Kentucky had a shift in attitude and were more receptive and willing to work with state tobacco control advocates to use a portion of the state’s Master Settlement Agreement monies for tobacco control programming.

State tobacco control advocates successfully secured 2.5 percent (\$5.5 million for the first biennium 2001-2002) of the state’s Master Settlement Agreement monies for tobacco prevention and control programming, though this was far below the recommended minimum funding for Kentucky in the 1999 CDC’s *Best Practices for Comprehensive Control Programs* of \$25.1 million per year. Nevertheless, this funding was a shift for tobacco control in the state because it allowed the state Department of Public Health to establish tobacco control programs at each of the local health departments. The local health department tobacco control programs worked to create awareness about tobacco use issues that synergistically worked with state tobacco control advocacy efforts on smoke-free air policies.

Chapter VI: 1994-2012 State Tobacco Prevention and Cessation Program

- *Between 1994 and 2000 the state Tobacco Prevention and Cessation Program worked with the statewide tobacco prevention coalition to help secure a portion of the state Master Settlement Agreement monies for tobacco control programming.*
- *Between 2000 through 2012, the state Tobacco Prevention and Cessation program worked with local health department programs and state agencies, and relied on contracts with state universities to provide technical assistance in achieving program goals and objectives.*
- *The state program has achieved success in reducing exposure to secondhand smoke.*
- *More comprehensive programming is needed to achieve success in reducing tobacco use rates.*

In 1994, the Centers for Disease Control and Prevention (CDC) Office on Smoking and Health (OSH) began providing funding to the Kentucky Department of Public Health to create a state Tobacco Prevention and Cessation Program, through the CDC's Initiative to Mobilize for the Prevention and Control of Tobacco Use (IMPACT) program. Thirty-two states received funding from the CDC IMPACT program, which was focused on building tobacco control capacity as an agent for policy change at the state and local levels.^{143, 144} (Up until that time, the state government had not had an organized tobacco control program.) Seventeen other states received National Cancer Institute (NCI) ASSIST funding to begin developing tobacco prevention and control programming.¹⁴³⁻¹⁴⁵ The NCI-ASSIST program was a eight year (1991-1998) program that was created to study the effect of a comprehensive tobacco prevention and control intervention that included a focus on policy change and community-based interventions to reduce tobacco use.¹⁴⁵ (California, which already had a well-funded state program,¹⁴⁶ and Washington, D.C. were not funded by IMPACT or ASSIST.)

The CDC IMPACT and NCI ASSIST programs were closely monitored by the tobacco industry. Indeed, the tobacco industry launched a concerted effort to disrupt the programs across the U.S. to limit the reach and effectiveness of the tobacco control programs.^{31, 143, 144, 146-148} For example, the tobacco industry created front groups such as smoker's rights groups to contest tobacco control programs efforts restrict public smoking,³¹ and brought litigation against tobacco control program media campaign efforts that were effective in denormalizing the tobacco industry and smoking.¹⁴⁸

The Kentucky Department of Public Health received a \$90,000 planning grant from CDC IMPACT to create a tobacco control program for Kentucky and establish the first tobacco control position in the state.¹⁴⁹ The state Department of Public Health contracted with the Lexington Department of Health, which hired Todd Warnick who was assigned full-time to the state Department of Public Health as the state's first Tobacco Prevention and Cessation Program Coordinator.¹⁴⁹ In a 2012 interview, Warnick recalled, "in 1994, the state Department of Public Health did not want a tobacco prevention and control position in the tobacco growing state, at the state and opted to house the position at the local Lexington-Fayette Health Department."²⁴

As the state Tobacco Prevention and Cessation Program Coordinator, one of the first priorities Todd Warnick planned to focus on was ending the sale of cigarettes and smokeless

tobacco to youth. A 1994 CDC Youth Behavioral Risk Survey reported that, when asked about the use of cigarettes or smokeless tobacco products in the last month, 34.1 percent of students in grades nine through 12 reported using of cigarettes, and 19.7 percent reported using smokeless tobacco.¹⁴⁹ In addition, when Kentucky high school students were asked in one survey if it would be difficult for them to obtain cigarettes, 82 percent said no.¹⁴⁹ In *The Kentucky Post*, Warnick explained that, despite being a leading tobacco growing state, “[E]ven people who smoke don't want to see their children smoke...the laws simply are not enforced...they (youth) feel the ease of access is one of the main reasons why you have such prevalence of use....”¹⁴⁹

Warnick worked with state tobacco control advocates, led by Kentucky ACTION, in the unsuccessful 1994 and 1996 attempts to strengthen the enforcement of the youth access laws by designating the Kentucky Department of Public Health to enforce the youth access law. Despite these efforts, both the 1994 and 1996 attempts resulted in the Kentucky Department of Agriculture remaining the designated agency to enforce the law and implement the ineffective “Teens & Tobacco” program, as evidenced by the high prevalence of youth tobacco use in the state, discussed earlier in this report.

Between 1994 and 1999, the state Tobacco Prevention and Cessation program also worked with state tobacco control advocates in their efforts in securing state tobacco Master Settlement Agreement funds for statewide tobacco prevention and cessation programming. Warnick actively provided technical assistance and participated in the statewide Kentucky Coalition for Health and Agricultural Development and Kentucky ACTION Coalition activities, such as the youth buying operations. This five-year period represented the early building stages of the program and there was little capacity to initiate statewide programming.¹⁵⁰

In 2011, Kentucky ranked 40th in the nation on tobacco prevention spending, allocating just \$3.7 million in state funds (6.5 percent of CDC recommended spending of \$57.2 million to have an effective and comprehensive tobacco prevention program) in FY2009 and \$3.9 million in FY2010 (6.9 percent of CDC recommended spending).³⁶

In 1999, as ASSIST was ending, the CDC Office on Smoking and Health formed the National Tobacco Control Program (NTCP), based on the CDC IMPACT and the NCI ASSIST programs, which began providing funding to the Kentucky Department of Public Health (KDPH) state Tobacco Prevention and Cessation Program (TPCP). The CDC-funded program emphasized many of the same components as IMPACT and ASSIST, with increased emphasis on the development of a state infrastructure on tobacco control and added cessation elements to its funding requirements. The CDC National Tobacco Control Program provided an average of \$1.2 million annually to the Kentucky Department of Public Health Tobacco

Prevention and Cessation Program. The CDC grant, renewed every five years, continuing to be a consistent source of funding to the KDPH Tobacco Prevention and Cessation Program in 2012 (Table 12).

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The State's First "Quit and Win" Smoking Cessation Contest

In 2001, Todd Warnick piloted the state's first Blue Grass Region "Quit and Win" smoking cessation contest. The idea for the "Quit and Win" contest originated from the World Health Organization and a quit and win contest in Ontario, Canada, organized by Robin Holmes.¹⁵¹ The contest was implemented in the Lexington-Fayette area of Kentucky in 2001, overall the contest was an effective cessation intervention. Warnick contracted with Dr. Ellen Hahn at the University of Kentucky College of Nursing to create a research design that employed a treatment and control group to test the effect of a multi-component statewide cessation contest to examine the relationship between age, gender, cigarettes smoked per day, perceived harmfulness of tobacco, stage of change, nicotine dependence, and social support and quit rates among all study participants in both treatment and control groups, and explore the utilization of contest components, extent of media exposure, and buddy characteristics reported by contest participants.^{151, 152}

The quit and win contest started on September 10, 2001 and ended on October 9, 2001 (30 days). Only regular tobacco users (age 18 or older) who had smoked cigarettes or used some other form of tobacco in the past 30 days at the time of entry were eligible for the contest. There were 879 participants in 2001.¹⁵¹ Contest participants also had to seek the support of a non-tobacco using buddy. Successful participants who had quit for 30 days were eligible for a \$2,500 grand prize or five \$500 runner-up prizes.¹⁵² The cash prizes (\$5,000) were donated by a coalition for health care centers in Fayette County.¹⁵¹ The winners were selected by drawing after a self report 30 day quit by confirmed by urine cotinine.¹⁵² The Bluegrass "Quit and Win" Contest used a multi-component campaign that included on-line registration and quit assistance (www.quitandwin2001.com), one-on-one telephone quit assistance through a toll-free number (800-422-6237) provided by the National Cancer Institute's Cancer Information Service smoking cessation call centers, paid billboard and radio advertisements, weekly motivational postcards mailed to contest participants, registration brochures and promotional flyers, newspaper/magazine registration, restaurant/bar table top advertisements, and discount coupon advertisements.¹⁵²

Hahn et al. concluded that, overall, the 2001 Blue Grass Region "Quit and Win" was effective.¹⁵² The treatment group participants were significantly more likely than controls to experience quitting during the 1-year follow-up, as determined by both self-report and urine cotinine confirmation; the treatment group were 2.6 times more likely to report quitting in the post-intervention period and 5.3 times more likely to experience quitting confirmed by urine cotinine, relative to controls; women, minorities, and low-income tobacco users had equal rates of quitting as men, whites, and those with higher incomes; and the contest was minimally intensive and yielded a relatively high quit rate, and demonstrated the potential effectiveness of the intervention.¹⁵²

Despite the success of the "Quit and Win" contest, the program did not continue in the same capacity as a result of Warnick's absence.

The State Tobacco Prevention and Cessation Program receives MSA funding

In 2001, the state Tobacco Prevention and Cessation Program (TPCP) began receiving funding from state Master Settlement Agreement monies to create tobacco control programs at each of the local health departments throughout the state. In a 2012 interview, Todd Warnick recalled, “we wanted the money to go to the local health departments as a way to protect the funding, because the legislators want money going to their communities.”²⁴

As stipulation of the money going to the local health departments, the contract for the Tobacco Prevention and Cessation Program Coordinator, filled by Todd Warnick with the Lexington-Fayette Health Department was terminated, and the position was moved to the state

... “we wanted the money to go to the local health departments as a way to protect the funding, because the legislators want money going to their communities.”²⁴

Department of Public Health to give the state more control over the position. Todd Warnick, along with Ellen Hahn, had been one of the state tobacco control advocates who believed that receiving a smaller allocation of the state’s Master Settlement Agreement (MSA) monies to implement comprehensive tobacco

control programming would be more effective than receiving a larger allocation to implement youth-only tobacco prevention control program. This philosophical difference between Warnick and other state tobacco control advocates led by Kentucky ACTION created a rift among state tobacco control advocates and prevented them from presenting a united public front to the policymakers and public around MSA allocations. Warnick also believed that a number of the state legislators did not like him because his efforts to help strengthen the youth access laws, fund comprehensive tobacco control programs, and implement the first population-based intervention with the “Quit and Win” contest “rocked the boat” and he became a target.²⁴ In an online tobacco control blog *Rendezvous* interview in 2002, Warnick explained:

[I] have good reason to believe the tobacco industry, along with health allies aligning themselves with tobacco farming interests, targeted me because of my resistance to "youth only" tobacco control programs. In 2000, the state was deciding Master Settlement Agreement (MSA) allocations and many state/national health organizations wanted MSA funding, and (in my opinion) knowingly conspired with the tobacco industry to acquire funding by advocating for ineffective "youth only" tobacco control MSA funding allocations. In 2000, the contractual arrangement between the state health department and local health department was "terminated."¹⁵¹

In 2001, Warnick was replaced by Linda Dunn, as the program manager. As a result of the restructuring with the additional resources from the state Master Settlement Agreement revenue, Dunn’s position was held at the state Department of Public Health as opposed to the local Lexington-Fayette Department of Health, where Warnick’s position was housed. In 2002, Irene Centers became the Tobacco Prevention and Cessation Program Manager, replacing Linda Dunn.¹⁵⁰

In 2003, the state Tobacco Prevention and Cessation Program created a five-year strategic plan,²⁷ based on the *2003 CDC Guide to Community Preventive Services*¹⁵³ (GCPS) released in 2003, as a guide to address tobacco control in Kentucky. The strategic plan

incorporated input from public and private health agencies throughout the state. The three primary goals of the plan were to: reduce youth initiation, decrease the effects of secondhand smoke, and assist with smoking cessation from a population orientation. In 2008, the strategic plan was updated to incorporate the five overarching recommendations of *2007 CDC Best Practices for Comprehensive Tobacco Control Programs*³⁶ which included: state and community interventions, health communications interventions, cessation interventions, surveillance and evaluation, and Administration and Management, and the additional goal of identifying and eliminating the disparities related to tobacco and its effects on different population groups.²⁷

Between 2003 and 2008 the primary program goals did not change; however, in 2008 *SMART* (specific, measurable, attainable, realistic, and timed) objectives were added as well as additional strategies to reduce and prevent tobacco use and exposure (Table 12). In 2008, the addition of SMART objectives to the strategic plan gave the state program more direction in achieving the overarching goals to prevent and reduce tobacco use and exposure.

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In addition, since the 2000-2001 Fiscal Year (FY), local health departments received state Master Settlement Agreement funds to reduce tobacco use in their counties. Each year the local health departments submitted a plan and budget proposal to the state Tobacco Prevention and Cessation Program. The state program provided training on evidence-based programming that ranged from youth education programs to adult cessation. The local health department staff(s) has taught prevention education in schools, provided smoking cessation programs, conducted community assessments, offered technical assistance to schools and businesses, and developed coalitions to promote and provide community interventions related to tobacco use. In addition to the MSA funds, the state program offers competitive grants (federal funds) that range from \$5,000 to \$20,000 to local health departments for policy and environmental change projects such as building capacity for a local smokefree law implementation.²⁸ These activities assist in helping the state program achieve its goals and objectives listed in Table 12.

The state program made every effort to bring in state and national experts to provide guidance and insight on tobacco control and implement evidence based strategies to the local health department programs.²⁸ The state tobacco program kept local health departments (and partners) informed through weekly listserv, monthly conference calls and/or webinars, and sponsored training/conferences held annually.

Additionally, the Tobacco Program relied on contracts with the University of Kentucky, the University of Louisville, Regional Prevention Centers, and partnerships with state programs and agencies (Substance Abuse, Asthma, COPD, Diabetes, Healthy Communities, Heart Disease & Stroke), and partner organizations such as Kentucky Cancer Consortium and Kentucky Medical Association, to assist in meeting goals and objectives as well.²⁸

In 2010, we requested tobacco prevention and cessation expenditure data from the State Tobacco Prevention and Cessation Program. Through 2012, we have received limited information (Table 13) and were unable to complete an analysis of the state program expenditures.

Table 12: Side by Side Comparison of Kentucky Tobacco Prevention and Cessation Program 2003 and 2008 Goals, (Objectives), and *Strategies ^{27, 154}	
2003	
<p>Goal 1: To reduce youth initiation</p> <p>(a) Increase the unit price for tobacco products, particularly through raising state and federal excise taxes, and</p> <p>(b) Develop extensive and extended mass media campaigns particularly when they are the center pieces along with other strategies.</p>	<p>Goal 1: Prevent Youth Initiation of Tobacco Use</p> <p>(1.1) By 2013, decrease the percentage of middle school students (grades 6 to 8) who report smoking cigarettes on one or more of the previous 30 days to 10% or less [2006 baseline 12.1%]</p> <p>(1.2) By 2013, decrease the percentage of high school students (grades 9 to 12) who report smoking cigarettes on one or more of the previous 30 days to 20% or less [2006 baseline is 24.5%]</p> <p>(1.3) By 2013, decrease the percentage of middle school students who have used smokeless tobacco on one or more of the past 30 days from 8.1% to 7.3% [10% reduction from 2006 baseline]</p> <p>(1.4) By 2013, decrease the percentage of high school students who have used smokeless tobacco on one or more of the past 30 days from 13.5% to 12.2% [10% reduction from 2006 baseline]</p>
<p>Goal 2: To decrease the effects of secondhand smoke</p> <p>(a) Develop laws and regulations to restrict or ban tobacco consumption in workplaces and general areas used by the public.</p>	<p>Goal 2: Promote Youth and Adult Cessation</p> <p>(1.5) Reduce the proportion of adults age 19 and older who smoke from 28.2% to 25%, and the proportion of those who use smokeless tobacco from 5% to 4.5%.</p> <p>(1.6) By 2013, decrease, the percentage of current smoking among low-income adult (defined as 2008 federal poverty guidelines) to 32%.</p> <p>(1.7) By 2013, decrease the percentage of current smoking among African-American adults to 24%</p> <p>(1.8) By 2013, decrease the percentage of current smoking among Hispanic/Latino adults to 10%</p> <p>(1.9) Reduce smoking among pregnant women to 20% by 2013.</p>
<p>Goal 3: To assist with smoking cessation from a population orientation</p> <p>(a) Using broadcast and print media to encourage people to “quit” along with other strategies,</p> <p>(b) Increasing the unit price for tobacco products,</p> <p>(c) Using provider education and</p>	<p>Goal 3: Reduce exposure to Secondhand Smoke</p> <p>(1.10) By 2013, Kentucky will have enacted a comprehensive smoke-free law according to Fundamentals of Smoke-Free Workplace Law recommendations.</p> <p>(1.11) By 2012, all state buildings will be smoke-free.</p>
<p>2008</p> <p><i>Strategies to Reduce tobacco use Initiation</i></p> <ul style="list-style-type: none"> *Promote the use of evidence-based strategies and best practices for youth tobacco prevention. *Integrate evidence and research based tobacco use prevention into the school curriculum at all grade levels. *Support the increase or establishment of an excise tax for all tobacco products. *Increase the unit price for tobacco products *Eliminate promotion of tobacco products *Promote youth engagement in tobacco prevention education and advocacy. *Engage the education community to support a comprehensive tobacco-free environment policy, promoting school/community forums *Raise youth awareness through the media. *Distribute prevention messages through existing youth-oriented community-based channels, such as youth sports, Scouts, 4-H Clubs, youth recreational organizations, YMCA/YWCA, and church groups. *Conduct mass media education campaigns along with other interventions. *Establish community-level youth advocacy groups statewide that engage youth in developing and implementing tobacco control interventions and include teacher training and parental involvement. <p><i>Strategies to restrict minors' access to tobacco products</i></p> <ul style="list-style-type: none"> *Promote governmental and voluntary policies to restrict youth access to tobacco products, and strengthen enforcement of laws prohibiting the sale of tobacco products to minors. *Mobilize the community through community-wide interventions aimed at focusing public attention on the issue of youth access to tobacco products, and mobilize community support for the efforts to reduce that access while conducting additional interventions. *Conduct community education about youth access to tobacco products. *Pass sales law directed at retailers. *Actively enforce sales laws directed at retailers when used alone. *Educate retailers within and/or without reinforcement and information on health consequences. *Pass laws directed at minors' purchase, possession, or use of tobacco products. <p><i>Strategies to increase smoking cessation</i></p> <ul style="list-style-type: none"> *Increase the unit price for tobacco products. *Conduct mass media campaigns combined with additional interventions. *Conduct a series of mass media segments to recruit, inform, and motivate tobacco users to quit. *Conduct tobacco cessation contests that use mass media to promote the event, recruit participants, and motivate them to commit to quitting on a target date or during a specific period. *Reduce client out of pocket costs for cessation therapies *Conduct multi-component interventions that include telephone support. *Increase availability and access to cessation resources for adults and youth including components targeting diverse/special populations. *Provide culturally competent evidence-based smoking prevention and cessation interventions for African-American and Hispanic/Latino communities, the low SES population, women of childbearing age, and pregnant women. *Increase public awareness of evidence based smoking cessation services available in the community <p><i>Strategies utilizing businesses to increase smoking cessation</i></p> <ul style="list-style-type: none"> *Utilize incentives and competitions to increase smoking cessation when combined with additional interventions. *Increase number of businesses which prohibit use of tobacco on premises. *Increase the number of employers and businesses that offer no-cost cessation and support programs. *Encourage businesses to train facilitators and conduct Cooper/Clayton Method to Stop Smoking classes. 	

<p>having providers implement self-reminder systems to ensure that this issue is raised during the clinical examinations, and (d) Providing telephone counseling and support along with other strategies.</p>	<p>Category: Funding (1.12) By 2013, increase direct funding for statewide comprehensive tobacco prevention and control series to \$13.59 per capita (the lower CDC recommended level for KY)[2007 baseline \$0.85 per capita]</p> <p>Category: Infrastructure (1.13) By 2013, create a sustainable infrastructure to increase coordination and collaboration of tobacco control efforts on local, regional and state levels.</p>	<p><i>Strategies utilizing insurers to increase smoking cessation</i></p> <ul style="list-style-type: none"> * Increase private insurance coverage (including Medicaid) for smoking cessation counseling and pharmacotherapy. * Reduce the cost of insurance premiums for people who do not use tobacco. <p><i>Strategies utilizing providers to increase smoking cessation</i></p> <ul style="list-style-type: none"> * Utilize provider reminder systems used either alone or with provider education. * Educate providers * Organize opportunities for provider assessment and feedback. * Identify health care professionals, organizations and agencies that represent the interest of pregnant women and encourage them to participate in tobacco prevention and cessation efforts. * Encourage health care providers to expand the definition of tobacco use to include smokeless and spit tobacco in patient health assessments. * Encourage pediatric health care providers to assess exposure to secondhand smoke and encourage parents/family members to quit and/or "take it outside." * Educate health care providers on evidence-based strategies for treating tobacco use dependence. * Establish partnership between providers and the tobacco quit line that includes enhancement of services, such as free or low cost NRT and other pharmaceuticals for tobacco cessation. <p><i>Strategies to reduce exposure to secondhand smoke</i></p> <ul style="list-style-type: none"> * Enact smoking bans and restrictions. * Conduct community education to reduce exposure to ETS in the home. * Educate the public on overall dangers of secondhand smoke. * Encourage, educate and assist implementation of tobacco-free policies in work places, day care facilities, schools and other public locations. * Enforce existing laws related to smoke free environments. * Mandate that schools and all school-sponsored events be tobacco free campus-wide for faculty, staff and students. * Mobilize agencies and organizations to adopt or strengthen secondhand smoke policies. * Promote state and local policies, including voluntary ones that restrict smoking in all public places. * Encourage advocacy groups and communities to support passage of Kentucky smoke-free law and eliminate exemptions (comprehensive statewide CIA Act) * Encourage health care providers to assess and educate patients/clients on health effects of exposure to secondhand smoke and interventions to establish smoke-free homes. * Implement a social marketing campaign designed to decrease percentage of children exposed to tobacco smoke. <p>* Promote adoption of smoke-free policies to reduce tobacco use among workers.</p> <p><i>Strategies to increase funding</i></p> <ul style="list-style-type: none"> * Disseminate tobacco use data to Kentucky legislators including but not limited to cost benefit analysis examining smoking; attributable cost; health care cost; tobacco prevention and control cost. * Launch a legislative and public advocacy campaign to mobilize support for increasing funding to expand and enhance the state quitline (1-800-Quit-Now). <p><i>Strategies to sustain infrastructure</i></p> <ul style="list-style-type: none"> * Increase the number of partner organizations that endorse and/or support the state strategic plan for tobacco control. * Support local health departments with technical assistance for promulgating and enforcing local, comprehensive clean indoor air act. * Participate in individual one-on-one meetings with key "grass-tops" to discuss current tobacco prevention and control issues. * Develop an external communication system to disseminate information, share resources, and recruit other organizations within the state tobacco control program as partners.
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Table 13: Tobacco Prevention and Cessation Program Expenditures												
Fiscal Year	FY01	FY02	FY03	FY04	FY05	FY06	FY07	FY08	FY09	FY10	FY11	FY12
Tobacco Generated Revenues (Taxes and Settlement)											\$270,015,864	\$101,792,942
State Resources Available for Tobacco Control											\$270,015,864	\$101,792,942
State funds												
Dedicated taxes												
MSA (dedicated)	\$2,527,500	\$3,040,000	\$3,140,000	\$2,727,500	\$2,715,600	\$2,710,600	\$2,671,021	\$2,356,000	\$2,793,000	\$2,463,663	\$2,583,500	\$2,368,800
Federal funds												
CDC - NTCP	\$1,159,713	\$1,354,963	\$1,104,913	\$1,063,424	\$1,071,663	\$1,002,085	\$1,020,895	\$939,064	\$1,139,397	\$1,139,397	\$1,139,397	\$1,139,397
Other - NATC Contract (BecomeAnEX)										\$68,691		
Total Available Funds	\$3,687,213	\$4,394,963	\$4,244,913	\$3,790,924	\$3,787,233	\$3,712,685	\$3,691,916	\$3,295,064	\$3,932,397	\$3,671,751	\$3,722,897	\$3,508,197
State Tobacco Control Expenditures												
State Health Department												
State and Community Interventions									\$3,306,514	\$3,039,881	\$2,748,576	
Health Communications									\$458,106	-0-	\$158,050	
Cessation									\$385,731	\$701,144	\$669,351	
Surveillance and Evaluation									\$109,000	\$124,000	\$155,100	
Administration and Management									\$355,231	\$352,231	\$596,206	
Total Health Department									\$4,614,582	\$4,217,256	\$4,327,283	
Total State Tobacco Control Expenditures									\$5,464,543	\$5,394,631	\$5,747,940	
Unexpended Funds (typically carried over to next year)												

Prevent the Initiation of Tobacco Use among Young People

The state Tobacco Prevention and Cessation Program (TPCP) implemented activities to work towards the goals of the strategic plan. To address the first goal of the TPCP strategic plan to prevent and reduce tobacco use and exposure, the TPCP worked with the Department of Public Health and the Kentucky Department for Education to develop a school-based resource guide on physical activity, nutrition, tobacco and asthma (PANTA) to assist schools in voluntarily designing and implementing policies that encouraged environmental change, and promoted health of students, staff and the school community.²⁷ In regard to tobacco prevention and cessation, the PANTA guide encouraged the implementation of voluntary 100 percent tobacco-free policies, and included a step by step guide to facilitate policy change. The first PANTA guide was issued in 2006 and still being distributed to schools throughout the state in 2012. By 2012, 23 out of 174 school districts had implemented 100 percent tobacco-free school policies.²⁸

In 2005, the TPCP implemented a youth advocacy program titled H.O.T. in Kentucky (Helping Overcome Tobacco in Kentucky) to create a statewide youth-led tobacco prevention movement.²⁷ The program activities included regional youth tobacco conferences across Kentucky, in 2006, 2009, and 2010, with an average attendance rate of 1134 participants per year.²⁷ During the conferences, the youth learned about the dangerous effects of smoking and chewing tobacco, and participated in presentations and skits to demonstrate their knowledge about the dangers of tobacco use.¹⁵⁵ In 2012, local health departments continued to implement the H.O.T. conferences with funds from the state Master Settlement Agreement, and Kentucky Agency for Substance Abuse Policy (KY-ASAP), created in 2000 to develop a strategic plan to reduce the prevalence of alcohol, tobacco and other drug use among youth and adult populations in Kentucky and coordinate efforts among state and local agencies in the area of substance abuse prevention.^{28, 156}

In addition to holding youth conferences, the H.O.T. program organized youth members to advocate for stronger tobacco control measures. For example, in 2008, H.O.T. held a news conference and displayed 642 pairs of shoes on the steps of the Capitol to represent the number of Kentuckians who died each month of 2008 from tobacco use and exposure to secondhand smoke, and to highlight the tobacco use problem in state.²⁷ This activity in particular was used to advocate for a tobacco excise tax increase to help prevent and reduce youth tobacco use, and was a part of a larger tobacco control statewide effort which increased the tobacco excise tax from 30 cents to 60 cents in 2009. The program also included a web-based media component and recruited youth to participate in events social-norming events to help prevent youth tobacco use.¹⁵⁷

In a 2012 interview, Irene Centers, Health Promotion Branch Manager for the state Tobacco Prevention and Cessation Program explained, “The intent [of the H.O.T program] was to hold regional meetings to train youth to become advocates for tobacco control. To assist the youth, stipends were provided to school sponsors as well as some funds for activities.”¹⁵⁰ Students who participated in the H.O.T. trainings became spokespersons for 100% Tobacco Free School policies program and local smokefree air ordinances through 2012 discussed later in this report.²⁸

Tobacco free policies help reduce the initiation and prevalence of tobacco use. The PANTA and H.O.T. programs implemented by the TPCP helped the program work toward preventing and reducing tobacco use among youth, because they encouraged tobacco free policies. By 2012, the TPCP met two of the four goals to reduce the prevalence of tobacco use among youth in Kentucky by reducing the prevalence cigarette use among middle school student from 12.1 percent in 2006 to 9.0 percent in 2011, and reducing the prevalence of smokeless tobacco among middle school students from 8.1 percent in 2006 to 7.3 percent in 2011. In 2012, the TPCP continued to work to reduce the prevalence of tobacco use high school students to 20 percent or less (cigarettes) and 12.2 percent (smokeless).²⁸

Promote Quitting Among Young People and Adults

To address the second goal of promoting youth and adult cessation, the TPCP promoted the Kentucky Quit Line, which was funded by the CDC and worked with local health departments to implement *The Cooper/Clayton Method to Stop Smoking*, a 12-week support-group based behavioral smoking cessation program. The Quit line promotion included posters, and radio, medical publications, and television ads.²⁸ For example, the TPCP implemented a “Reverse the Damage” television ad campaign to promote the Quit line from December 2011 through January 2012.²⁸ The ad campaign included 282, 15 second Broadcast TV spots, 400, 15 second local cable area, and ads during the college football bowl games aired on ESPN, to reach 72 percent of the state’s adult (18 and over) population. The television campaign ad delivered approximately 85,498 million impressions for \$115,000.²⁸

In addition, the Tobacco Program contracted with the University of Louisville to provide professional education and training on treating patients’ tobacco use and dependence in both outpatient and inpatient settings through 2012. The contract included: a 2-year pilot to increase in-patient tobacco cessation counseling and pharmacotherapy through system changes; web-based training “Treating Tobacco Use and Dependence in Kentucky Hospitals” to all Kentucky hospitals and to individual nurses, physicians, respiratory practitioners, pharmacists, and other clinicians; and *Providers Practice Prevention; and Treating Tobacco Use and Dependence (TTUD)* didactic trainings to dental and pharmacy professional groups and students.²⁸ As of June 2012, 1250 clinicians completed the online module.²⁸

In 2006, the state Tobacco Program staff provided technical assistance to the Office of Health Policy to develop a nicotine replacement therapy (NRT) benefit for the State Employee Health Plan.²⁸ Since 2006, NRT was offered to participants who enrolled in counseling through The Cooper/Clayton Method to Stop Smoking or Kentucky’s Tobacco Quit Line.²⁸

In addition to the smoking cessation programs, the TPCP implemented the “No Spit” project to target high school boys’ baseball teams to prevent smokeless tobacco use by having baseball players sign a No Spit pledge to be eligible to win “player of the week” and “player of the year” (at the end of the season) recognition on The Sports Flash Radio Network.²⁷ However, the prevalence of smokeless tobacco use among high school students increased from 13.5 percent in 2006 to 16.9 percent in 2011.²⁸

Eliminating Exposure to Secondhand Smoke

To address the third goal of reducing exposure to secondhand smoke, the TPCP contracted with the Kentucky Center for Smoke-free Policy to provide technical assistance and guidance to local governments, health departments and coalitions, and workplaces working to enact smoke-free air policies.^{27, 28} The collaborative effort provided direct technical assistance tobacco control advocates through communities throughout the state, through the University of Kentucky, Center for Smoke-free Policy, Clean Indoor Air Partnership (CIAP) Program. The CIAP program technical assistance included activities such as ‘Hot Topics’ conference calls, monthly E-newsletters, Secondhand Smoke and Smoke-Free Policy handbook for local tobacco control advocates and policymakers, informational fact sheets and video vignettes titled *Voices for Smoke-free Communities* which featured local policymakers sharing anecdotal experiences about enacting smoke-free air policies, bi-annual statewide Kentucky Center for Smoke-Free Policy Conferences for local tobacco control advocates and policymakers and a website with readily available resources. Between 2004 when this collaboration started and 2012, 35 local smoke-free air measures were enacted throughout Kentucky to protect 34.1 percent of the population from exposure to secondhand smoke.

...TPCP contracted with the Kentucky Center for Smoke-free Policy to provide technical assistance and guidance to local governments, health departments and coalitions, and workplaces working to enact smoke-free air policies.^{27, 28}

In 2009, the state TPCP implemented the statewide tobacco *100% Tobacco-Free School* program. The campaign was a collaborative effort between Coordinated School Health, Asthma Partnership, American Lung Association (ALA), and the state TPCP.¹⁵⁰ The statewide collaborative modeled the successful North Carolina Tobacco Prevention and Control Branch 100% Tobacco-Free Schools program.^{13, 150} The central goal of the program was to achieve 100 percent tobacco-free schools throughout the state. Since 1999 the state TPCP had contracted with the Professor Hahn at the University of Kentucky (and the Kentucky Center for Smoke Free Policy in 2004) to monitor and conduct surveillance on school tobacco policies. In 2005, Hahn et al. reported that, when a cross-section of Kentucky schools were surveyed (n=691), only 20 percent of Kentucky schools reported comprehensive tobacco-free policies, and urban area schools were nearly twice as likely to have a tobacco-free campus as rural schools.¹⁵⁸ The monitoring and surveillance activities were the catalyst to initiate the statewide 100% Tobacco-Free school program.

Like the North Carolina program, the Kentucky program worked with each of the 174 school districts across the 120 counties to adopt a local 24 hours a day seven days a week 100 percent tobacco-free school policy. In 2011, the Kentucky Public Health Commissioner Dr. William D. Hacker and Education Commissioner Terry Holliday, Ph.D. sent a letter to every school superintendent to encourage the school superintendents to adopt and implement a comprehensive tobacco-free policy.⁴⁸

By 2012, there were 23 school districts covering 124 schools, with a 100 percent tobacco-free school policy, and the program continued to work with local school districts.²⁸

By 2012, there were 23 school districts covering 124 schools, with a 100 percent tobacco-free school policy, and the program continued to work with local school districts.²⁸

In addition to these activities, in 2012 the state TPCP implemented a statewide media campaign to create awareness about the health effects of secondhand smoke. The “Secondhand smoke is 100% unsafe, 100% of the time” media campaign was created to work synergistically with the state tobacco control advocates to enact a statewide law to end smoking in all enclosed areas of public places. The tag line to the ads was “secondhand smoke is 100% unsafe, 100% of the time.” The total cost of the media campaign was \$300,000 and included 15-second bookend broadcast television and cable ads, and radio and outdoor billboard ads that ran from December 19, 2011 to April 30, 2012. The highlights of the media campaign included 1700 clicks to web landing page in one month, over 71,000 minutes of video commercial views, and more than 40 million total impressions.²⁸

Through 2012, the efforts of the TPCP were working to reduce exposure to secondhand smoke. In 2012, legislation was introduced in the Kentucky General Assembly to end smoking in all enclosed public places, but it died, as discussed later in this report. However, local smoke-free air ordinance continued to be adopted, and by June 2012 there were 35 local smoke-free air measures to protect 34.1 percent of the population.¹⁵⁹ In addition, only 26 percent of adults reported being exposed to secondhand smoke in workplaces.²⁸

Identifying and Eliminating Tobacco-Related Disparities among Population Groups

In 2006, the TPCP received an *Identifying and Eliminating Tobacco-Related Disparities* grant from the CDC to receive training and technical assistance, provided by the CDC, to form workgroups and identify and create a plan to address tobacco-related disparities among population groups in Kentucky. The grant was a supplement to the TPCP core grant from CDC.²⁸ The TPCP achieved the grant deliverables by forming a leadership team, workgroups, identifying tobacco-related disparities, and developing a strategic framework to address tobacco related disparities in the state. The strategic framework included implementing education and awareness programs for disparate populations, identifying opportunities for funding to continue to address tobacco-related disparities, and educating legislators, and policy and decisions makers on tobacco related disparities.²⁸

The Kentucky Disparities Workgroup identified three subpopulations based on data and anecdotal stories that were disparately affected by tobacco use in the state: African Americans, active duty military and veterans, and persons of low socioeconomic status (SES) (as identified by household income and education level attained), and created target population sub-workgroups.²⁸ The Disparities Workgroup also identified the need for additional data collection in other specific sub-population groups such as LGBT, active duty military and veterans, and migrant farm workers.²⁸ The TPCP incorporated “providing culturally appropriate competent evidence- based smoking prevention and cessation interventions for the African American, activity duty military and veterans and low SES populations” to reduce the prevalence of tobacco use among these subgroups, as a strategies in their updated five year strategic plan in 2008 (Table 12).²⁷

The African American sub-workgroup went a step beyond the *Identifying and Eliminating Tobacco-Related Disparities* grant deliverables and put the strategic framework in to action to promote cessation and reduce the prevalence of smoking among the adult African American subpopulation. The sub-workgroup developed an additional group with community leaders and stakeholders and created three additional workgroups: one to work with the Louisville African American Think Tank's Health Summit, one to plan activities for National Health Disparities Month, and one to research best practices to reduce smoking among African Americans, and implemented a project in a selected African American Community.²⁸ The efforts of the Disparities Workgroup, the African American sub-workgroup, and the additional workgroups created by the sub-workgroup, worked synergistically to reduce the 2001 baseline measure of 36.3 percent of African Americans who smoke to 25.7 percent in 2010.²⁸ In 2012, the TPCP continued to work to reduce the percent of African Americans who smoke to 24 percent by 2013. In comparison, the 2001 baseline smoking prevalence for the adult low SES subpopulation was 37.6 percent and increased to 41.2 percent in 2010. In 2012, the TPCP continued to work to reduce the prevalence of low SES smokers. There was not a baseline or current measure for the prevalence of active duty military and veterans in 2012 and the TPCP was working to collect this data.²⁸

...the Disparities Workgroup, the African American sub-workgroup, and the additional workgroups created by the sub-workgroup, worked synergistically to reduce the 2001 baseline measure of 36.3 percent of African Americans who smoke to 25.7 percent in 2010

Decline in Smoking Rates

Between 2000 and 2011, Kentucky saw declines in adult and youth smoking prevalence rates, even though Kentucky still consistently ranked among the top states for the highest tobacco use rates.

In 2005, the state Tobacco Prevention and Cessation Program released a report on tobacco use in Kentucky. The report outlined the cost of tobacco use in the state, which was estimated to total \$3 billion in smoking-attributable health care costs and lost family income as a result of premature smoking related death and disease.⁴⁹ The report also highlighted the progress around the tobacco use. The 2005 report concluded that the most significant decreases in tobacco use occurred among seventh graders from 28 percent in 2000 to 17 percent in 2002; among white middle school students from 22 percent in 2000 to 14 percent in 2002; and a decrease among high school students from 37 percent in 2000 to 35 percent in 2002.⁴⁹ The 2005 report identified strategies, such as increasing the cigarette excise tax that would help the continuing decline in tobacco use rates. In 2005, the report was used as an awareness tool to educate the policymakers about the importance of increasing the state excise tax during the state tobacco control advocates successful effort to increase the state cigarette excise tax from 3 cent to 30 cents.

In 2011, Representative Brent Yonts (D, Greenville, Total Tobacco Industry-Related Political Campaign Contributions \$500) supported tobacco control efforts and smokefree policies shared in the *Journal Enterprise* that, in 2000, the state Cabinet for Health and Family Services reported that 30.5 percent of adults, 37 percent of high school students and 22 percent of middle

school students in Kentucky smoked cigarettes compared to 2011 when it was reported that 24.8 percent of adults, 24.1 percent of high school students and 9 percent of middle school student smoked cigarettes in Kentucky.⁴⁸ Yonts attributed the decline in smoking rates to pro-health tobacco control policies, such as the increasing number of communities enacting smoke-free policies in public places and workplaces (31 communities had enacted smoke-free policies by 2011), and the 57 cent increase in the state tobacco excise tax since 2005.⁴⁸

Conclusions

The state tobacco prevention and cessation program has been active since 1994. Between 1994 and 2000 the program achieved success with the state's first "*Quit and Win*" tobacco cessation program. The state program was created the same year (1994) that the state tobacco control coalition Kentucky ACTION received funding from the Robert Wood Johnson Foundation to build state capacity for tobacco control. The first state tobacco prevention and cessation coordinator was held by Todd Warnick at the Lexington-Fayette Department of Health through 2001. The state program and the tobacco prevention and cessation coordinator worked with state tobacco control advocates led by Kentucky ACTION, on efforts to strengthen the youth access laws and secure state Master Settlement Agreement funding to establish tobacco control programs in the local health departments throughout the state.

The state programs goals were developed based on the CDC's *Best Practices for Comprehensive Tobacco Control Programs*. Through 2012, the state program has worked with local health department programs and state agencies, and relied on contracts with the University of Kentucky and University of Louisville to assist in achieving the program goals and objectives. The state program has experienced success in reducing exposure to secondhand smoke by contracting with the University of Kentucky to provide technical assistance to communities working to achieve smokefree air, and declines in cigarette tobacco use rates. However, between 2001 and 2010 there were increases in smokeless tobacco use among youth and adults and cigarette smoking rates among low socio-economic status adults.

Chapter VII: 2002-2004 Tobacco Control Movement

- *In 2002 state tobacco control advocates received funding from the Robert Wood Johnson Foundation to work on the tobacco control policy priorities to increase tobacco excise taxes and adopt smokefree air laws.*
- *State tobacco control advocates initiated campaigns to increase the state tobacco excise tax in 2002 however the state tobacco excise tax was not increased from 3 cents until 2005 when it was increased to 30 cents.*
- *In 2004, state tobacco control advocates successfully enacted and upheld the first local smoke-free air ordinance in the state in Lexington-Fayette Kentucky.*

Following the Master Settlement Agreement, two important Kentucky organizations worked with the state tobacco prevention and cessation programming to continue to make progress on tobacco prevention and control: Kentucky ACTION, created in 1994 and the University Kentucky Center for Smoke-Free Policy, created in 2004. The Robert Wood Johnson Foundation was an instrumental resource for both of these organizations.

In 2002, Kentucky ACTION was funded to participate in the Robert Wood Johnson Foundation the Southern Neighbors Collaborative. Kentucky was one of seven states, along with Georgia, North Carolina, South Carolina, Tennessee, Virginia and West Virginia, to participate in the collaborative and to receive a grant to work on tobacco control policy priorities.¹⁶⁰ The policy priorities were to increase the state tobacco excise tax and to adopt smoke-free air laws.¹⁶⁰

In addition, in 2004, the University of Kentucky Center of Smoke-free Policy received funding from the Robert Wood Johnson Foundation to create the Kentucky Center for Smoke-free Policy (KCSP). The KCSP has led the effort to achieve smokefree policies in local communities throughout the state.

2002: Kentucky ACTION receives Robert Wood Johnson Foundation Southern Neighbors Collaborative Funding

The Kentucky ACTION Coalition was enhanced as a result of receiving funding for the Robert Wood Johnson Southern Neighbors Collaborative in 2002.⁹⁷ Kentucky ACTION grew and reestablished membership of public health organizations throughout the state, such as the state Department of Public Health, the voluntary health organizations, American Cancer, Heart and Lung, and the Kentucky Cancer Program, and began advocacy work on the tobacco control policy priorities to reduce tobacco use.¹⁶¹

The Kentucky ACTION advocacy activities included holding statewide youth summits to train youth tobacco control advocates. For example, in 2002 Kentucky ACTION worked with the state Department of Public Health and Coalition members, such as the voluntary health organizations, to sponsor a 2002 *Kentucky Youth Tobacco-Control Summit* in the state capitol, Frankfort.¹⁶² The Kentucky Youth Tobacco Control Summit was planned and paid for by the Department of Public Health Tobacco Prevention and Cessation Program with input from Kentucky ACTION members.²⁸ The youth summit brought together youth representing local health departments across the state to educate, inspire and motivate young people and their

mentors to be active tobacco control advocates in their communities.¹⁶² During the youth summit, teens were challenged to go back to their communities and share information with their peers and family, and plan to work with their local tobacco coalitions on summer projects, such as secondhand smoke campaigns in public buildings and restaurants.¹⁶² The *Lexington Herald Leader* reported that “one teen wrote on the summit evaluation: ‘It really made me aware of the consequences that smoking causes. Also I learned slowly but surely I can make a difference!’”¹⁶² The youth summit speakers included Amy Barkley, Director with the Campaign for Tobacco-Free Kids, and Rick Bender, a speaker who is also known as the “man without a face” and traveled nationally to tell his story of spit-tobacco addiction and oral cancer.^{162, 163} The youth advocacy training and development efforts would played an important role in the local smoke-free air movement that began to make headway in Lexington in 2003 because the youth participated in the advocacy efforts.

In addition to the youth advocacy summits, Kentucky ACTION initiated the *Kentucky Health Investment for Kids* campaign in 2002 to create and demonstrate public support for tobacco excise tax increases. The Coalition used the funding from the Robert Wood Johnson Foundation grant to implement the campaign. The *Kentucky Health Investment for Kids Campaign* included paid media (Figure 11) to create awareness about the need to increase the state cigarette excise tax to 75 cents. State tobacco control advocates, led by Kentucky ACTION, continued to build grassroots support to increase the cigarette excise tax by presenting it to groups with similar interests, such as the Citizens Health Care Advocates coalition, which primarily advocated for access to health care in Kentucky, as a way to prevent and reduce tobacco use.³⁵

A *Kentucky Health Investment for Kids* campaign opinion poll conducted in 2002 found that six out of 10 Kentucky voters favored a 75-cent per pack increase in the state's cigarette excise tax.³⁵ State tobacco control advocates also used Kentucky's high

youth tobacco use statistics and the high cost of cigarette smoking in their advocacy. In the *Lexington Herald Leader*, Carol Roberts, the 2002 executive director for Kentucky ACTION, stated “[h]ealth is the No.1 issue...there's no doubt that smoking is harmful and no doubt that it leads to high health costs... we have to prevent smoking from the start. We're putting a lot of time, effort and expense in hoping the tax increase might move.”¹⁶⁴

If this child needed your help, wouldn't you take action?

Of course you would help. Most people would do anything to save the life of a child. Now what if you could help thousands of kids, wouldn't you want to try? All we need to do is raise the price of cigarettes.

Raising the price of cigarettes by just 75 cents will mean:

- 26,000 fewer youth smokers in Kentucky.
- 28,000 Kentuckians saved from smoking-related deaths.
- \$9.6 million in state Medicaid savings and \$49 million in health care savings over the next five years.
- Over \$265 million in new state revenue the first year alone!
- Extra funding for important programs like Medicaid, prescription drugs, and youth smoking prevention.

Call KHJK, Kentucky Health Investment for Kids, today and find out how you can take action.

1-877-KY4-KIDS www.khjk.org

Neighboring States Already Benefiting From Increased Cigarette Revenue

Illinois	94c
Indiana	55c
Ohio	55c
Kentucky	34c

The national average is 58c. Kentucky is 2nd lowest in the U.S. — just 34c.

Kentucky Health Investment for Kids

In Our Kids You'll Pay the Price

Figure 11: A 2002 Kentucky Health Investment for Kids Campaign to Increase the Tobacco Excise Tax Print Ad¹⁸

Kentucky ACTION used \$200,000 from the Robert Wood Johnson Southern Neighbors Collaborative grant to fund a television and radio ad campaign in support of a tobacco tax increase during the 2003 legislative session.¹⁶⁴ The Coalition advocated for a tobacco tax increase as a solution for the state budget, health problems and to help reduce tobacco use, without any specific earmarks or allocation for the tobacco tax increase revenue.¹⁶⁴

Kentucky ACTION's efforts even attracted support from the Burley Tobacco Cooperative. Rod Kuegel, a Daviess County tobacco farmer, and former executive director of the Burley Tobacco Grower's Cooperative, worked with Kentucky ACTION in 2003 to get the Burley Tobacco Grower's Cooperative to adopt a resolution in support of a tobacco excise tax increase.³⁵ In the *Owensboro Messenger*, Kuegel stated

[T]wo years ago it would have been impossible to have an endorsement from farmers that the excise tax needed to be considered. But last month, the co-op made a resolution to do just that. Increasing the excise tax won't hurt Kentucky farmers. More than half of the tobacco in a cigarette - 55 percent - is grown overseas. Even if every smoker in Kentucky quit, the demand for the state's burley would drop by only 2 percent.³⁵

Kuegel had been appointed by President Clinton to the 2000 Commission on Improving Economic Opportunity in Communities Dependent on Tobacco Production While Protecting Public Health, which was charged with developing a plan to protect tobacco farmers while promoting public health.³⁵ This Commission was a culmination of the alliance between public health advocates fostered with the Kentucky Coalition for Health and Agricultural Development/Forum, public health advocates and tobacco farmers developing the Core Principles document in 1998 in which the alliance agreed to work together to prevent youth smoking and stabilize the tobacco farm communities, and the 1997-2001 Robert Wood Johnson Foundation Southern Tobacco Communities Project discussed earlier in this report. Collectively these efforts contributed to tobacco farmers becoming less resistant to tobacco control policies to progressive tobacco control efforts in tobacco growing states including Kentucky.

Willingness to work with tobacco control advocates was not shared by all tobacco farmer organizations in Kentucky. The Kentucky Farm Bureau took a hard stand against any increase in the tobacco excise tax if it was not funneled to the farmers.¹⁶⁴ In the *Lexington Herald Leader*, Sam Moore, president of the Kentucky Farm Bureau Federation, stated "A lot of cigarettes in Kentucky are sold for the fact that we do have lower taxes...it might be the case where you could triple the excise tax and still lose money because sales would drop."¹⁶⁴ This was common tobacco industry rhetoric.

In 2002, the tobacco industry contributed a total \$22,850 in political campaign contributions. In addition, between 2002 and 2003 the tobacco industry

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spent \$1.1 million in lobbying expenditures. Collectively, the tobacco industry political campaign contribution and lobbying expenditures indicate that the tobacco industry was working in the shadows to prevent a tobacco tax increase in the tobacco growing state. In contrast, between 2002 and 2003 the tobacco control advocates spent a total \$108,374 in lobbying expenditures.

Kentucky ACTION was encouraged by the fact that there was even a conversation about increasing the state cigarette excise tax. In the *Owensboro Messenger*, Paul Kiser, manager of advocacy and education with Kentucky ACTION, stated "[t]wo or three years ago, you couldn't even sit down and have this conversation...."³⁵ However, the state legislature did not increase the tobacco excise tax until 2005 from 3 cents to 30 cents.

2004: University of Kentucky Center for Smoke-free Policy

In 2004, the University of Kentucky received funding from the Robert Wood Johnson Foundation to create the Kentucky Center for Smoke-free Policy (KCSP) "To provide rural and urban communities across Kentucky with science-based strategies for advancing smoke-free policies on the local level and educating citizens and policymakers about the importance of smoke-free environments."¹⁵⁹

The Kentucky Center for Smoke-free Policy was an expansion of the earlier work of Dr. Ellen J. Hahn. Dr. Hahn was one of the four original members of Kentucky ACTION when it was funded in 1994 from the Robert Wood Johnson Foundation (RWJF) SmokeLess States Grant. Under the SmokeLess States grant, Dr. Hahn led the efforts of state tobacco control advocates to successfully enact, uphold the ordinance from the legal challenge to repeal the law in 2003, and implement the first local smoke-free air ordinance in Lexington-Fayette, Kentucky. The 2003 Lexington-Fayette smoke-free air ordinance became a landmark event in tobacco-growing states as well as Kentucky and an example for tobacco control advocates who wanted to accomplish smoke-free air in their communities.¹³⁶ The Lexington-Fayette smokefree air ordinance was an example because it was the first of its kind in a tobacco growing state, it withstood legal challenges, and it proved that it could be done.

When the RWJF Smokeless States grant ended in 2004, Dr. Hahn wanted to continue her work in helping communities enact protective smoke-free air measures to prevent disease, and successfully wrote the grant application to the Robert Wood Johnson Foundation to create the Kentucky Center for Smoke-free Policy beginning in 2004.²⁶

Under the direction of Dr. Hahn, the Kentucky Center for Smoke-free Policy led the effort on local smoke-free air activities throughout the state through the Center's Clean Indoor Air Partnership (CIAP) program. Between 2004 and 2012, the program activities included studying and publishing the effects of smoke-free policies in local Kentucky communities on health improvements and economic vitality to businesses,^{8-11, 165-167} providing direct technical assistance and 'Hot Topics' conference calls, monthly E-newsletters, and developing tools and resources such as the Secondhand Smoke and Smoke-Free Policy handbook for local tobacco control advocates and policymakers, informational fact sheets and video vignettes titled *Voices for Smoke-free Communities* which featured local policymakers sharing anecdotal experiences

about enacting smoke-free air policies, bi-annual statewide Kentucky Center for Smoke-Free Policy Conferences local tobacco control advocates and policymakers and a website with readily available resources. These tools were designed for state tobacco control advocates continuing to advocate for smoke-free air policies in their communities.¹⁵⁹

Additionally, through the Clean Indoor Air Partnership (CIAP), the KCSP provided technical assistance to the state Department of Public Health Tobacco Prevention and Cessation Program (TPCP) and the local health departments. The CIAP program was funded through grants from Robert Wood Foundation, and the state TPCP. The state TPCP contracted with the KCSP to collect, analyze, and create reports on tobacco use, cessation, and voluntary school and workplace smoke-free policy surveillance data, and to provide technical assistance to local health departments and coalitions working to enact smokefree policies. For example, between 2000 and 2009 the state TPCP contracted with the University of Kentucky and the KCSP to assess the number of smoke-free school and workplace policies throughout the state by collecting data from school districts and manufacturing workplaces with 50 or more employees in each of the 120 counties throughout the state.¹⁵⁹ Collectively, the *Kentucky Data Reports* were accessible through the KCSP website.¹⁵⁹ These reports were an important tool to provide strategic direction for tobacco prevention and control. The reports provided strategic direction because they assessed level of readiness and determined where more resources were needed to achieve smokefree policies.

In 2007, the KCSP received funding from the National Institutes of Health to implement the Rural Smoke-free Communities Research Project (RSCRCP), while the Clean Indoor Air Partnership program continued. The aim of the new research project was test the effects of community intervention on smokefree policy outcomes in rural underserved communities.¹⁵⁹ In 2007, 42 percent of Kentucky's population resided in rural areas. The project worked with 40 randomly chosen rural Kentucky communities to build community capacity and engage local advocates to drive smoke-free policy efforts. Through the project, the Center provided technical assistance and worked to identify the factors that affected smoke-free policy development in rural areas of the state.¹⁵⁹ The technical assistance that the Center provided included community readiness assessments and reports to determine resources, leadership, knowledge, community and political climate, and existing policies, and to outline strategies to achieve smoke-free policies.¹⁵⁹ Twenty-two of the communities worked actively and directly with a Community Advisor from the KCSP to receive technical assistance, while all 40 communities had the option to receive technical assistance from the KCSP.¹⁵⁹ This project helped promote smoke-free policy diffusion throughout the state.

From its inception in 2004, the Center successfully partnered with communities and state tobacco control advocates to enact and protect 35 smoke-free ordinances between 2004 and 2012, which protected a total of 34.1 percent of Kentuckians from exposure to second hand smoke throughout the state.

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smoke throughout the state (discussed in greater detail in Chapter X). In 2012, the Center was continuing to sustain its activities through funding from research grants, the State Department of Public Health Tobacco Prevention and Cessation Program and the Foundation for a Healthy Kentucky. The Foundation for a Healthy Kentucky was created in 1999 as a result of a settlement agreement between Anthem and the state. Attorney General Albert Chandler (D, 1995-2003) pursued the settlement in which Anthem agreed to pay \$45 million to establish the statewide charitable foundation after the misuse of charitable funds.

Conclusions

Following the 1998 Master Settlement Agreement, the state's capacity to address tobacco control through policy changes were further enhanced by additional resources. State tobacco control advocates led by Kentucky ACTION were successful in securing additional resources from the Robert Wood Johnson Foundation to implement the *Kentucky Health Investment for Kids Campaign* statewide campaign to increase the state tobacco excise tax. In addition the Kentucky Center for Smoke-free Policy received a grant from the Robert Wood Johnson Foundation to establish the center and provide technical assistance to communities working to achieve smokefree air policies.

Between 2002 and 2005 the Kentucky ACTION Coalition activities laid the groundwork for future tobacco excise tax increases in the state, by creating awareness in the community through the media campaign, garnering support from tobacco farmers for a tobacco excise tax increase, and initiating the conversation with state legislators. These were important steps in the Coalition efforts because they were being outspent 10-1 by the tobacco industry in campaign contributions and lobbying expenditures.

Through 2012, the Kentucky Center for Smoke-free Policy (KCSP) at the University of Kentucky has been instrumental in helping local communities throughout the state achieve smokefree air policies. The KCSP Clean Indoor Air Partnership (CIAP) program has provided technical assistance and resources to communities throughout the state to implement 35 smokefree air policies and protect more than one-third of the state's population from exposure to secondhand smoke in public places and workplaces.

Chapter VIII: The 2004 Tobacco Quota Buyout

- *The federal Tobacco Quota Buyout was an important event for tobacco farming and tobacco control in the tobacco growing state. The regulation of the tobacco market created a rift between tobacco growers and tobacco manufacturers.*
- *The 2004 buyout ended the federal price support program and shifted the alliance between tobacco manufacturers and tobacco farmers, resulting in tobacco farmers becoming less resistant to tobacco control policies in tobacco growing states.*

In the late 1990s, motivated by the decline in the purchase of domestic tobacco grown in the United States, several proposals began circulating in the federal government to eliminate the Tobacco Price Support Program quota system that was initiated in 1933⁵¹; all included a “quota buyout” to compensate existing tobacco quota holders. The quota was set based on expected domestic purchases reported by the manufacturers, who were increasingly purchasing more imported tobacco. Tobacco manufacturers preferred to maintain the quota and price support systems because the system gave them considerable flexibility and control over the market with the fall back of the price support system for growers. Tobacco manufacturers argued that the cost of eliminating the program and compensating quota holders would have exceeded the amount gained by manufacturers due to lower prices achieved without a price support system.

Tobacco manufacturers preferred to maintain the quota and price support systems because the system gave them considerable flexibility and control over the market with the fall back of the price support system for growers. Tobacco manufacturers argued that the cost of eliminating the program and compensating quota holders would have exceeded the amount gained by manufacturers due to lower prices achieved without a price support system.

While tobacco growers supported eliminating the quota system due to the increasing loss in income and argued that the price support system set up to lease quotas to separate growers could be manipulated by tobacco manufactures and that the acreage quota locked growers into producing tobacco with land that could be used for other crops as discussed earlier in this report. The diverging positions of growers and manufacturers over the regulation of the tobacco market was rooted in a series of conflicts between 1997 and 2004 which separated tobacco companies from their traditional grower allies.¹²

The first serious consideration of a tobacco quota buyout took place within the context of the 1997 proposed “global tobacco settlement” of state and private lawsuits against the tobacco companies seeking compensation for Medicaid and private expenditures for tobacco-related illnesses. This “global tobacco settlement” took the form of the U.S. Senate’s consideration of the controversial “McCain Bill” that traded de facto immunity from future lawsuits against the tobacco manufacturers for cash payouts, some restrictions on tobacco advertising to youth and FDA regulation of tobacco.¹⁶⁸ The McCain bill also included a quota buyout plan. While originally supporting the bill, the manufacturers turned against the McCain bill after the immunity provision was removed. The companies secured the support of many tobacco growing organizations in opposing the McCain bill promising a \$28 billion payout to growers under a separate settlement agreement.¹⁰¹

The McCain bill failed in April 1998 and was replaced by the more limited Master Settlement Agreement (MSA) signed by 46 states and the six major tobacco manufacturers in November 1998.¹⁶⁸ As discussed earlier, the MSA was followed by a separate agreement between manufacturers and tobacco growers, known as Phase II, to compensate growers for potential loss of revenue associated with the MSA's provisions. The companies' Phase II payments to tobacco growers totaled only \$5.2 billion, not the \$28 billion promised in 1998 in exchange for opposition to the McCain legislation. This failure by tobacco manufacturers to stand by their agreement with growers represented the first major break of the manufacturer-grower organization alliance.

The changing attitudes of tobacco growers in Kentucky and neighboring tobacco growing states¹²⁻¹⁴ also resulted from the 1997 formation of the Robert Wood Johnson Foundation "Southern Communities Tobacco Project" (SCTP), which was preceded by the Kentucky Coalition for Health and Agricultural Forum discussed earlier. The SCTP program operated across the six major tobacco-growing states (Georgia, Kentucky, North Carolina, South Carolina, Tennessee, and Virginia) through 2001 and facilitated bringing public health and grower groups together for a dialogue over the financial concerns of tobacco-growing communities while exploring alternative ways to strengthen tobacco communities and protect the health of the public through tobacco control measures.¹³² This dialogue led to an understanding between farmers and advocates that MSA money would be spent both on tobacco community revitalization and restrictions on youth access to tobacco.

Simultaneously, health groups nationwide continued pushing for the inclusion of tobacco within the regulatory purview of the federal Food and Drug Administration (FDA) and to capitalize on the growing divergence between tobacco growers and manufacturers over quota buyouts. Health groups, particularly the Washington DC-based Campaign for Tobacco-Free Kids (CTFK) and the voluntary health organizations, leveraged the growing distance between tobacco growers and tobacco manufacturers over a quota buyout to gain growers' support for FDA regulation of tobacco products in exchange for support of a quota buyout.¹⁰³ By building tobacco control alliances with growers, the health groups created awareness among tobacco growers that their interests were not the same as those of the manufacturers.¹⁶⁹ The SCTP developed the March 1998 Core Principles document⁴⁵ that was agreed to and signed by prominent grower and public health organizations¹⁰³ that identified ways to limit youth smoking while stabilizing tobacco producing communities.¹⁰³ This document was used as an advocacy tool to create awareness about tobacco use among youth and the threats to the tobacco farming community to advocate for policy changes to prevent and reduce youth tobacco use and stabilize the tobacco farm community.¹⁰³

In December 1999, tobacco farmers filed a class-action lawsuit on behalf of 175,000 farmers against cigarette manufacturers, *DeLoach et al. vs. Philip Morris et al.*,¹⁷⁰ alleging that the tobacco companies misled farmers when they encouraged them to oppose the removal of the quota system proposed in the 1998 McCain legislation and accused the manufacturers of conspiring to fix tobacco prices at U.S. auction houses between 1996 and 2001 to cause a reduction of quotas in the federal price support system and keep prices low.¹⁷¹ This suit was settled by Philip Morris and most other major tobacco companies in 2003 and by RJR in 2004

for approximately of \$254 million to those growers (an average of \$1,451 per farmer), well below the \$28 billion the manufacturers promised in the McCain Bill negotiations.¹⁷²

In March 2000, Philip Morris intensified existing tensions with growers by announcing that it had developed a direct contract system for purchasing burley tobacco, under which it would arrange to buy a set amount of tobacco from a specific grower at a set price, circumventing the Tobacco Price Support Program by setting the price and purchasing the tobacco prior to the tobacco reaching federally controlled auctions.¹⁷³ The direct contract system provided little protection and high risks for farmers compared with the federal tobacco program. This expansion of the direct contract system would undermine the quota and price support system further by manipulating both supply and demand outside the system. Philip Morris began executing this system during 2000 despite opposition by most growers and grower organizations.¹⁰¹

The direct contract system provided little protection and high risks for farmers compared with the federal tobacco program. This expansion of the direct contract system would undermine the quota and price support system further by manipulating both supply and demand outside the system. Philip Morris began executing this system during 2000...

Faced with the increasing need to diversify state revenue generated by tobacco growing, the Kentucky General Assembly in 2000 allocated fifty percent of Kentucky's MSA monies to tobacco crop diversification and rural development through the Kentucky Agriculture Development Fund (KADF). The KADF created the Kentucky Proud campaign to share the costs of projects to improve agricultural operations and find new markets for farm products. A 2008 report released by the University of Kentucky concluded that grants for individual agricultural development projects yielded \$1.87 in new income to farmers for every \$1 invested.¹⁷⁴ By January 2010, the state had invested more than \$300 million of tobacco settlement money into the KADF projects.¹⁷⁴ The state investment has helped Kentucky farmers diversify their operations and make the transition from tobacco into other products.

The Kentucky Agriculture Development Fund expenditures shortly after the 1999 Phase II MSA payments to tobacco growing states began, which were projected to provide an additional estimated \$ 2.0 billion¹⁴² over a 12 year period dedicated to taking care of the tobacco farmers diversifying out of tobacco in Kentucky.

Before the U.S. tobacco buyout passed in October 2004, the Kentucky Farm Bureau supported Governor Steve Beshear's (D) proposal to increase the state cigarette excise tax from 3 cents to 31 cents.^{175, 176} Beshear's proposal was less than the state tobacco control advocates led by Kentucky ACTION advocating to increase the state cigarette excise tax to 75 cents in 2002. The Kentucky Farm Bureau advocated allocating the proceeds of the cigarette tax increase to tobacco farmers to compensate for the quota undermining by manufactures and related revenue lost. The state cigarette excise tax was increased to 30 cents in 2005 to compensate for budget shortfalls in the state general fund with none of the new revenue going to tobacco farmers.

Meanwhile, in 2004, a bill that would end the federal tobacco program made significant headway in Congress. The tobacco quota buyout campaign gained momentum after farmers were joined by public health advocates, as well as Philip Morris USA, seeking new authority for the Food and Drug Administration (FDA) to regulate tobacco products, as a broader effort to improve the company's public image.^{177, 178} In 2004, Philip Morris's position on the FDA regulation on tobacco products was a switch from its historical position in 1995, when the tobacco company partnered with Citizens for a Sound Economy (a third party conservative political group) in an effort to divest the authority of the FDA congressionally, through a publicized attack on the many failings of the FDA to discredit the administrative body. In 2004, the FDA authority was introduced as S. 2461 (DeWine-Kennedy) and H.R. 4433 (Tom Davis-Waxman) in the 108th Congress. Legislative conferees on H.R. 4520 did not adopt the FDA provisions, though the provisions had been included in the Senate version of the bill. There was opposition from some cigarette manufacturers to the FDA provisions and from those in Congress opposed to giving the federal government expanded regulatory authority over private businesses.¹⁷⁷

The final version of the federal tobacco quota buyout passed (without the FDA provision) as an amendment in the American Jobs Creation Act in October 2004. It dismantled the 70-year-old price support, tobacco quota and allotment system. In exchange, quota holders received \$10 per pound of their 2002 quota, with \$7 to quota holders and \$3 to growers if the allotment had been leased. Of the national total of \$10.1 billion,¹⁷⁹ \$2.5 billion was for Kentucky quota holders and growers.⁵⁶

In the Russellville *Democrat News & Leader*, Will Snell, a tobacco policy specialist with the University of Kentucky College of Agriculture stated "[t]he tobacco quota buyout is probably the most significant policy event that has happened in our state since the development of the tobacco program in the 1930s. The buyout will inject millions of dollars into local and rural economies throughout Kentucky annually, but it also will change the landscape of the Kentucky tobacco economy forever."⁵⁶

The 2004 tobacco quota buyout significantly changed the alliance between tobacco growers and manufacturers. The buyout was funded by tobacco manufacturers and importers based on their share of the U.S. tobacco market at \$10.1 billion, of which \$9.6 billion was paid to growers and quota owners over 10 years, with the remaining \$500 million being utilized to dispose of tobacco manufacturer stocks held by grower groups and financial institutions.¹⁷⁹

Together, the buyout and the Kentucky state government commitment to crop diversification led to fewer, larger tobacco farms. At the same time, tobacco growers and growers' associations became less resistant to tobacco control measures, such as tobacco excise tax increases,^{180, 181} and weakened the tobacco industry lobby's influence in Kentucky. Tobacco farmers' perceived public health and tobacco control efforts were 7.5 times less threatening in 2005 and decreasingly associated tobacco companies' interests with their own, while they increasingly perceived a risk from foreign tobacco production.¹⁸⁰

Conclusions

The Tobacco Quota Buy-out was an important event for tobacco control in the tobacco growing state. In the 1990s, proposals to end the federal tobacco price support system began to circulate. The contrasting positions of growers and manufacturers over the regulation of the tobacco market was the root of a series of conflicts between 1997 and 2004 which separated tobacco companies from their traditional grower allies.

Tobacco control advocates used the distancing between tobacco farmers and manufacturers to create a nontraditional alliance with tobacco farmers. In Kentucky, the Coalition for Health and Agricultural Development (CHAD) Coalition led state tobacco control advocates to create an alliance with tobacco farmers in the state. This alliance helped to facilitate tobacco farmers and tobacco control advocates supporting state Tobacco Master Settlement agreement funds for tobacco farm diversification and tobacco prevention programming.

In 2004 Tobacco Quota Buy-out made its way through Congress and significantly changed the alliance between tobacco grower and manufacturers. The Buy-Out was funded by tobacco manufacturers and importers based on their share of the U.S. tobacco market. Subsequently, tobacco farmers became less resistant to tobacco control measures. The tobacco farmers' new position on tobacco control measures weakened the tobacco manufacturer influence in Kentucky.

Chapter IX: Tobacco Excise Taxes in Kentucky

- *Through 2012 state tobacco excise taxes have remained low in the tobacco growing state.*
- *Between 1971 and 2012 the state tobacco excise tax has only been raised twice from 3-cents to 30-cents in 2005 and from 30-cents to 60-cents in 2009.*
- *State tobacco control advocates initiated a campaign and demonstrated public support for an increase the state tobacco excise tax in 2002 to help reduce the high rates of youth tobacco use. Even with strong public support the state legislature did not increase the tobacco excise tax until 2005.*
- *The state tobacco excise tax was increased in 2005 and 2009 to mitigate the state's budget deficits.*

Cigarette excise taxes reduce smoking prevalence, reduce long-term health consequences of tobacco use, and can provide sustainable funding for tobacco control programming.¹⁸²⁻¹⁸⁵ For every 10 percent increase in the price of cigarettes, there is a 4 percent decrease overall in smoking and, by some estimates, a 7 percent decrease among youth.¹⁸² In addition, taxing other tobacco products, such as smokeless tobacco, helps to prevent initiation of tobacco use. It is important to raise tobacco excise tax rates on all tobacco products to prevent switching to a lower taxed and lower priced tobacco products for tobacco use initiation.¹⁸³

Through 2012, the four leading states in terms of tobacco production and relative dependence on the tobacco crop were North Carolina, Kentucky, Virginia, and South Carolina.¹²⁻¹⁴ In these states, the cultural construct of being a tobacco growing state helped the tobacco industry maintain a strong political influence. The tobacco industry has historically encouraged tobacco allies and farmers to be militant in their efforts to prevent cigarette excise tax increases in tobacco growing states.¹⁸⁶

As a result of the tobacco heritage and tobacco industry influence, the Kentucky tobacco excise tax remained relatively low for decades. The first Kentucky cigarette excise tax was enacted in 1936 at 3 cents per pack of 20 cigarettes, which it remained at for 25 years until 1961, when the cigarette excise tax was decreased to 2.5 cents per pack.¹⁶ In the history of U.S. cigarette taxation, Kentucky and Virginia have been the only two states to decrease their taxes with the reduction being .5 cents (from 3 cents to 2.5 cents) in 1960 and 1961, respectively.¹⁸⁷

In 1971, Kentucky reinstated the cigarette excise tax to 3 cents per pack, which it retained for thirty years. The state cigarette excise tax was used for the sole purpose of generating revenue for the state. During the early instances of the state cigarette excise tax enactment and increase, state tobacco control advocates did not exist. By 2002, Kentucky tobacco control advocates had set their sights on tobacco excise tax increases. In 2005, the state cigarette excise tax increased to 30 cents per pack, and for the first time .095 cents per unit of smokeless tobacco and 7.5 percent of the wholesale price of tobacco products. In 2009 the cigarette excise tax was raised again to 60 cents per pack of cigarettes, 19 cent tax per unit of smokeless tobacco product and 15 percent of the wholesale price of all other tobacco products was enacted.¹⁸⁸

2003: Excise Tax Increase Campaign

By February 2003, state tobacco control advocates, led by Kentucky ACTION, had garnered more than 215 signatures from an array of diverse statewide community and faith-based organizations supporting increasing the cigarette excise tax through the *Kentucky Health Investment for Kids (KHIC)* campaign initiated in 2002.¹⁸⁹ State tobacco control advocates worked with Representative Jon Draud (R, Crestview Hills, Total Tobacco Industry-Related Campaign Contributions (1994-2010) \$250) to pre-file and introduce HB 107 to increase the cigarette excise tax from 3 cents to 75 cents, and enact a 32 percent tax on the wholesale of smokeless tobacco, cigars, loose tobacco, and pipe tobacco (which were not being taxed in 2003).^{190, 191} In *The Kentucky Post* Representative Draud stated, "this is more than a revenue issue, it's also a health issue. There needs to be a public discussion about the health issues involved in smoking...the state also has the country's highest rates of lung cancer deaths and highest percentage of adult smokers."¹⁹⁰ The legislation to increase the cigarette excise tax and enact a wholesale tobacco tax included provisions to allocate one-third of the revenue generated to Medicaid, one-third to the Department of Education's Support Education Excellence in Kentucky (SEEK) program, and to divide the remaining funds among several programs, including mental health and substance abuse services which included tobacco prevention and cessation, veterans' nursing homes, cancer research, the University of Kentucky and University of Louisville, the children's dental care fund, and the general fund.^{190, 191}

The Kentucky Legislative Research Commission estimated that the proposed 75 cent tax would generate \$278 million annually, which would have helped the state to address the projected \$250-\$500 million deficit in the 2002-2004 biennial budget.¹⁹⁰ However, the legislation was never considered by the House Appropriations Committee. *The Kentucky Post* speculated that "the tobacco tax was a sacred cow in Kentucky, a state that also raises the most burley tobacco in the nation and is home to 45,000 tobacco farmers...though the tobacco tax measure received considerable press and public attention...the bill never made it out of committee."¹⁹⁰

Despite the strong and increasing public support demonstrated by the Kentucky ACTION public poll and the Kentucky Health Investment for Kids advocacy campaign, the state cigarette excise taxes were not increased. The sentiment to increase the state cigarette excise tax did not penetrate the state legislature.

Despite the strong and increasing public support demonstrated by the Kentucky ACTION public poll and the Kentucky Health Investment for Kids advocacy campaign, the state cigarette excise taxes were not increased. The sentiment to increase the state cigarette excise tax did not penetrate the state legislature. The 2003 Majority Floor Leader Greg Stumbo (D, Prestonsburg) said "the effort by health advocates was 'worthy and noble' however the state has been leery of a cigarette tax for so long because some argue it would put a burden on tobacco farmers."^{35, 164}

Between 2002 and 2003, the tobacco industry contributed a total of \$22,850 in political campaign contributions and spent \$1.1 million in lobbying expenditures, which indicates that the industry was invested in preventing an increase in the state excise tobacco tax.

The 2003 Senate Majority Leader Dan Kelly (R, Springfield) said in the *Lexington Herald Leader* “[t]here "isn't a great deal of sentiment for any tax increase...people don't want to send more money to Frankfort...they want us to live within our means and focus on controlling our spending within current revenues”¹⁶⁴

Although the Kentucky ACTION coalition’s initial efforts under the Southern Neighbors Collaborative to increase the state cigarette excise tax were unsuccessful in 2002 as discussed earlier in this report, the coalition’s advocacy efforts laid the groundwork for a cigarette tobacco tax increase from 3 cents to 30 cents per pack of cigarettes in 2005, and an increase in 2009 from 30 cents to 60 cents per pack of cigarettes and, for the first time, 19 cents per unit of smokeless tobacco and 13 percent of the wholesale price of all other tobacco products.

2005: The Cigarette Excise Tax is increased to 30 cents

In 2005, Kentucky's cigarette excise tax was the lowest in the nation at 3 cents per pack of cigarettes, and there was not excise tax on smokeless or other tobacco products.¹⁷⁵ Like many other states, Kentucky was facing a budget deficit in 2005, primarily due to a significant \$700 million shortfall in the state Medicaid program.¹⁹² Governor Ernie Fletcher (R, 2003-2007) proposed a tax modernization plan which included an increase in the cigarette excise tax from 3 cents per pack to 31 cents per pack to generate revenue and address the state’s budget deficit.¹⁹³

State tobacco control advocates saw the Fletcher’s proposal as a new opportunity to advocate for an increased cigarette excise tax as a tobacco control measure to help reduce tobacco use. State tobacco control advocates wanted a more substantial increase to 75 cents to save lives, but would have been happy with a 31 cent increase as it would be an improvement from 3 cents and would signal a change in the tobacco growing state.

In addition to state tobacco control advocates and the Burley Tobacco Growers Cooperative support for a tobacco excise tax increase, the Kentucky Farm Bureau was also supportive of a tobacco tax increase for the first time in the history of the state.^{175, 176} The Kentucky Farm Bureau saw a tobacco tax increase as an opportunity to subsidize farmers for Phase II and Tobacco Quota Buy-out payments from tobacco manufacturers. Kentucky farmers were expecting about \$124 million between 1999 and 2005 from tobacco companies as part of the Phase II that grew out of the Master Settlement Agreement.¹⁷⁶ In the *Lexington Herald Leader*, Farm Bureau President Sam Moore confirmed,

[a] tobacco tax increase is inevitable and the Farm Bureau will reverse its longstanding position. Our organization has opposed these types of proposals from its earliest days. The organization will throw its considerable influence behind an increase in the tax on tobacco products...the increase should not make Kentucky's cigarette tax higher than the average of the adjacent states, which is 41 cents or 46 cents, depending on how it is calculated...and some of the proceeds should go to make payments farmers were expecting from tobacco manufacturers.¹⁷⁶

A similar dynamic occurred in North Carolina where tobacco farmers supported a tax increase in 2005. State tobacco control advocates created an alliance with the North Carolina

Tobacco Growers Association to work together to advocate for tobacco excise tax increases.¹³ North Carolina tobacco farmers even advocated to allocate a portion (25 percent) of the proceeds generated from the tobacco excise tax increase to state tobacco control programming.¹³ However, when the Kentucky Farm Bureau supported a tobacco tax increase in 2005, it was solely interested in subsidizing tobacco farmers, and not as a collaborative effort with state tobacco control advocates.

A 2005 *Lexington Herald Leader* opinion editorial urged Governor Ernie Fletcher and the state legislature to remain vigilant of the Kentucky Farm Bureau and other agriculture groups intent on gaining proceeds from any increase in the tobacco tax for themselves. The *Lexington Herald Leader* argued that “[i]nstead of looking to taxpayers to make farmers whole, Kentucky and other tobacco states should keep up the legal pressure on cigarette-makers....”⁴¹ During Phase I of the national Master Settlement Agreement, state tobacco control advocates and taxpayer organizations were in support of agricultural diversification and the state's efforts to help small farms and rural economies stabilize and overcome their long dependence on tobacco and to sow new economic opportunities.⁴¹ According to the *Lexington Herald Leader* opinion editorial, taxpayers wanted a tobacco tax increase to be used for education, healthcare, and to help reduce tobacco use.⁴¹

In 2005, Kentucky had both the highest lung cancer rate and the highest adult tobacco use in the nation.^{33, 41} The *Lexington Herald Leader* editorial urged “[t]he cigarette tax is long overdue for an increase, to reduce smoking rates if nothing else. Farmers should understand that they're nowhere near first in line for the proceeds.”⁴¹

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Even with the support of the Governor, the Burley Tobacco Growers Cooperative, the Kentucky Farm Bureau, and state tobacco control advocates there was still opposition among some legislators and cigarette retailers to a tobacco excise tax increase. For example, Representative Lonnie Napier (R, Lancaster)

did not believe that there was a consensus among tobacco farmers on a tobacco excise tax increase. In *The Covington Post*, Napier contended, “[a] lot of farmers don't feel like you should raise the cigarette tax.”¹⁷⁵

Between 2004 and 2005, the tobacco industry contributed a total of \$76,165 (higher than any other year (Figure 7) in political campaign contributions, and spent a total of \$1.6 million on lobbying expenditures (Table 10), to minimize any increase in the state tobacco excise tax.

Proponents and opponents of the cigarette tax increase provided testimony during House and Senate Appropriations Budget Committee hearings on the tax reform proposals which included increasing the cigarette excise tax.

The Kentucky Candy and Tobacco Association and cigarette retailers used standard tobacco industry arguments about the detriment to small business owners, and particularly the businesses along the border that would lose business to surrounding states with lower taxes, and urged delaying implementation of the tax increase measure.^{193, 194} In the *Owensboro Messenger Inquirer*, Richard Brislin, president of First Stop, an Ashland shop that sold tobacco products, stated:

[T]he thing the governor is proposing will technically, by the end of the year, put me out of business...the tax increase would raise the price of a carton of cigarettes by "\$3 or \$4," which would make Kentucky noncompetitive with adjacent states. Eighty percent of my customers come from Ohio. The small businessman should be able to do business without having to worry about going out of business because of a tax increase....¹⁹⁴

Charles Casper, Jr., who owned stores that sold tobacco products in Owensboro and in other parts of the state, asked during a Senate hearing on the tax plan if it would be possible to spread the cigarette tax increase out over a two-year period.¹⁹⁴

Tony Gholson, a 2005 factory manager for Swedish Match North America, (a subsidiary of Swedish Match AB of Sweden) in Owensboro, argued in the *Owensboro Messenger Inquirer*:

[B]oth the increase in taxes on tobacco products besides cigarettes, and proposed changes in corporate taxes, would hurt the company. The Owensboro facility has an annual payroll of \$16 million, with workers receiving an average of \$60,000 annually, including benefits. Swedish Match has always been prepared to pay their fair share. The combination of new tobacco taxes and corporate taxes would be a double hit on our company, our employees and their families.¹⁹⁴

During House and Senate Appropriations and Revenue Committee hearings, state tobacco control advocates continued to argue for a higher tobacco excise tax increase. Tonya Chang, advocacy director for the Ohio Valley Affiliate of the American Heart Association stated, "[t]he tax has not been raised in my lifetime...we encourage you to take a second look at the option of raising cigarette taxes more...."¹⁹⁴

In addition to providing testimony to legislative committees, state tobacco control advocates led by Kentucky ACTION implemented a grassroots advocacy campaign that included action alerts and earned media with a modified, simpler message to "raise tax for kids".⁹⁷

In the end, the House budget plan included an increase to 26 cents per pack of cigarettes, while the state Senate stood firm with an increase to 30 cents per pack, the proposal also included a 7.5 percent of wholesale tobacco and .095 cents per unit of smokeless tobacco.^{194, 195} In the end, modeling Governor Fletcher's proposal, the state House and Senate agreed on a compromise tax plan that included a cigarette excise increase tax increase to 30 cents, 7.5 percent of wholesale tobacco and \$.095 per unit of smokeless tobacco, and earmarked 1 cent (\$7.53 million in 2005)¹⁶ of the cigarette tax increase to fund cancer research centers at the University of Kentucky and the University of Louisville.¹⁹⁵ Nothing was included for tobacco

control activities. The tax reform plan passed unanimously in the Senate and by a 96-3 vote in the House.^{192, 195}

In 2005, the Kentucky legislature used a “relative risk taxes” rationale to enact varying levels of excise taxes on tobacco products based on the level of risk associated with the product. The 2005 excise tax legislation included the following language:

[T]he General Assembly recognizes that increasing taxes on tobacco products should reduce consumption, and therefore result in healthier lifestyles for Kentuckians. The relative taxes on tobacco products proposed in this section reflect the growing data from scientific studies suggesting that although smokeless tobacco poses smoke risks, those health risks are significantly less than the risks posed by other forms of tobacco products. Moreover, the General Assembly acknowledges that some in the public health community recognize that tobacco harm reduction should be a complementary public health strategy regarding tobacco products. Taxing tobacco products according to relative risk is a rational tax policy and may well serve the public health goal of reducing smoking-related mortality and morbidity and lowering health care costs associated with tobacco-related diseases.

Kentucky was the first state to include this language in the state’s tobacco excise tax legislation, which Bill Rodu, a Professor of Medicine at University of Louisville whose research is supported by tobacco manufacturers, believed was a landmark event. In Rodu’s May 25th, 2011 *Tobacco Truth* website blog post, Rodu commended Kentucky and Indiana (the second state to include this language in the state excise tax legislation) stating “these events set the stage...to develop a rational excise tax policy for tobacco products”.¹⁹⁶ Rodu has advocated for so-called rational excise tax policies that “tax smokeless and tobacco products and cigarettes according to risk incentive for smokers to transition from high risk/high tax cigarettes to very low risk / low tax smokeless products,¹⁹⁶ despite the fact that smokeless tobacco products are harmful and often used to initiate and addict youth and new users to tobacco products.¹⁹⁷⁻¹⁹⁹

Despite being increased to only 30 cents in 2005, the increase approved by the Legislature still represented the state's first cigarette tax increase and first excise tax on other tobacco products in more than three decades. In *The Covington Post*, Governor Fletcher praised the tenfold increase in the tax that legislators approved as a monumental event, particularly in a tobacco-producing state that has long opposed such measures and stated, “[t]he 30 cents-per-pack levy up from 3 cents still could grow”,¹⁹² meaning there was still room to increase the excise cigarette tax in later years.

In 2007, the Kentucky Youth Advocacy (KYA) group conducted a two-year policy follow-up to determine if the increase to 30 cents per pack was detrimental to the cigarette retailers, to test the tobacco manufacturer argument in contesting the cigarette excise tax increase, because people would go to other states to purchase cigarettes. After gathering pricing data on both sides of Kentucky borders with, Missouri, Tennessee, Virginia, West Virginia, Indiana, Illinois, and Ohio, KYA found that overall sales of cigarettes in Kentucky had remained essentially steady over the two-year period after the excise tax increase, that the pricing of cigarettes was not solely influenced by changes to state excise tax rates as the regional pricing

data, along with state tax receipt data, indicated that retailers were able to make price adjustments to keep their prices sufficiently competitive to maintain the level of sales experienced before the excise tax increase, and concluded that policymakers should not assume that increased excise taxes will necessarily result in fewer in-state cigarette sales.¹⁹³ The KYA policy brief help to set the stage as state tobacco control advocates moved forward to advocate for tobacco excise tax increases in 2009.

2009: 60-cents Per Pack of Cigarettes; First-Time Tax on Smokeless and other Tobacco Products

In 2009, like much of the nation, Kentucky was facing a dismal economic forecast; the 2009-2010 biennial budget shortfall was estimated to be \$900 million.²⁰⁰ The state's budget shortfall was a culmination of declining tax revenues and soaring expenses in the state Medicaid program and the state's prison system. The state Medicaid program provided health insurance coverage for more than 722,000 low-income and disabled Kentuckians in 2009.²⁰⁰

Governor Steve Beshear (D, 2007- 2015), who until 2009 opposed raising taxes to mitigate Kentucky's fiscal woes, called for the General Assembly to approve a 70 cent per pack increase on cigarettes from the 30 cents per pack to \$1, both to help decrease the state's budget shortfall and to discourage smoking and its costly health effects.²⁰¹ Beshear proposed raising \$81.5 million in new revenue through the proposed 70-cent tax increase on cigarettes, an increase in taxes on other tobacco products and snuff and revenue from floor stock taxes and extra collections as part of his budget plan as an addendum to the state budget contingency plan (which also included cutting 4 percent across the board to save an estimated total of \$147 million in spending).²⁰²

At a 2009 Capitol news conference, Beshear stated that "[t]he revenue generated from the tax hike could help the state government avoid making drastic funding cuts to education and other public programs. As governor I've got a responsibility to step up and to propose things that are going to protect our kids and protect our citizens and give them the kind of services they need. The proceeds from the tax increase will be used to leverage bonds and raise about \$800 million in money to cover the next two fiscal years. The state could perhaps pay off the 20-year bonds in 12 years by dedicating money from the cigarette tax to pay down the debt."²⁰⁰ The proposal did not include an allocation for tobacco prevention.

Beshear's proposal to increase the cigarette tax by 70 cents attracted resistance from many lawmakers.²⁰³ House Speaker Jody Richards (D, Bowling Green) confirmed that the Democrat controlled House would be willing to endorse a less expensive cigarette tax increase, and House leaders were working on a separate plan, without a tobacco excise tax increase, to raise \$800 million over the next biennium.²⁰⁰ In addition, House Minority Leader Jeff Hoover (R, Jamestown) was surprised that Beshear changed his position on taxes, and argued that House Republicans were not likely to support raising any taxes.²⁰⁰

President of the Kentucky Senate, Senator David Williams (R, Burkesville), was also opposed to another cigarette excise tax increase and called for a statewide smoking ban for all public buildings in Kentucky, including restaurants, bars, and government buildings in lieu of a

cigarette excise tax increase.²⁰¹ The Henderson, Kentucky *Gleaner* speculated that “Williams’ motives behind his suggestion for a statewide smokefree air law were a smokescreen to manipulate and decrease the likelihood of a cigarette excise tax increase being approved in the legislature.”²⁰¹ In addition, in the Henderson, Kentucky *Gleaner*, Williams stated, “[l]egislators if you're really concerned about health, just vote for a statewide ban.”²⁰¹ Williams’ proposal for a statewide smoking ban was not comprehensive because it did not include workplaces, it only proposed to end smoking in public buildings, and restaurants and bars only.²⁰¹

In the Henderson *Gleaner*, Beshear “[a]nswered that he'd support Senator Williams' proposed statewide ban for its positive impact on Kentuckians' health, but the tax hike is still needed” to help balance the state general budget deficit.²⁰¹ While state tobacco control advocates agreed to support an increase in the state tobacco excise tax to prevent youth tobacco use, the state tobacco control advocates only agreed to support a comprehensive statewide smokefree air law to end smoking in all public places and workplaces.²⁰¹

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In February 2009, state tobacco control advocates, led by Kentucky ACTION, implemented a grass roots advocacy campaign to support a tobacco excise tax increase. The efforts included issuing action alerts to urge their constituencies to contact their elected officials, conducting opinion polls and using the survey results to demonstrate support for tobacco excise tax increases. The opinion poll of 500 voters conducted in December 2008 prior to the 2009 legislative session found that 69 percent of supported a 70 cent cigarette tax increase (to \$1).^{34, 161, 201} The state tobacco control advocates used the survey results to launch a campaign to create awareness among policymakers that there was public support for a tobacco excise tax increase.²⁰⁰

State tobacco control advocates also praised Beshear’s proposal to increase the tax and use the money to help balance the general fund while preventing youth smoking.²⁰⁰ In *WKYT New First* Tonya Chang, Kentucky Director of Government Relations for the American Heart Association in Kentucky, stated "we think it's the right thing for him to do. It shows tremendous courage and true leadership on his part...raising the tax an additional 70 cents will cause some smokers to give up cigarettes. That's critical in Kentucky, which has the highest smoking rates in the nation....”²⁰⁰

During weeks of talks, Senate President David Williams (R, Burkesville) and House Speaker Greg Stumbo (D, Prestonburg) slashed Beshear's initial proposal for a 70-cent cigarette tax increase to 30 cents and added an alcohol tax increase to make up the lost revenues?²⁰⁴ The *Lexington Herald Leader* speculated that the cigarette tax increase was settled at 30 cents (to a total of 60 cents) because legislators from border counties, like Stumbo, were committed to

keeping the cost of cigarettes close to that of border states, including Tennessee (62 cents) and West Virginia (57 cents).²⁰⁵

Speaker Stumbo sponsored HB 144, which included the negotiated provisions to increase the tobacco excise tax by 30 cents to 60 cents per pack of cigarettes, enact 19 cents per unit to smokeless tobacco products and 15 percent of the wholesale price of other tobacco products -- and apply a 6 percent retail sales tax to alcohol which was taxed 11 percent at the wholesale level.²⁰⁶ During the House floor introduction of HB 144, Stumbo stated "it may not be perfect... It is just a first step. It is a beginning, but a very, very significant beginning,"²⁰⁴ to help balance the general fund and a step toward preventing youth smoking.

The remainder of the state budget shortfall was addressed in a separate measure that was expected to be filled by \$219 million from the state's rainy day fund, money transferred from other accounts in state government and Beshear cutting \$137 million from state agencies and \$10 million from the judicial and legislative branches.^{204, 207}

Sixty votes are needed to pass a tax increase in the House during odd-year sessions.²⁰⁴ House Bill 144, received six Republican votes and wide support from Democrats, including liberal House lawmakers who had threatened to oppose it because they said it did not go far enough to address Kentucky's long-term budget woes.²⁰⁴ Democratic leaders gained their members' votes by promising to later consider broader tax reforms.²⁰⁴

The *Lexington Herald Leader* reported that Beshear had spoken with more than 20 lawmakers about the bill, both Republicans and Democrats.²⁰⁴ The six Republicans who supported the HB 144 bill were Republican Floor Leader Jeff Hoover (Jamestown), Representative Bob DeWeese (Louisville), Representative Charlie Siler (Corbin), Representative Jim Steward (Flat Lick), Representative Danny Ford (Mt. Vernon) and Representative Lonnie Napier (Lancaster).²⁰⁴

The measure passed the Senate 24-12 and the House 66-34, with six Republicans joining 60 Democrats in support of it.²⁰³ A number of senators explained their positions, like Senator Charlie Borders, (R, Grayson) chairman of the Senate Budget Committee, who *The Lexington Herald Leader* reported as stating "some would say this is a tough vote... I would say these are tough times that make this an easy vote."²⁰³ Senator Brandon Smith (R, Hazard) decided to support the bill after expressing opposition and explained to *The Lexington Herald Leader* "[h]e did so to prevent cuts to his area's school districts. I don't think I'm not being true to my principles... this is an extraordinary time."²⁰³

Governor Beshear signed the measure into law on the same day, doubling the cigarette excise tax from 30 cents to 60 cents, and taxing smokeless and other tobacco, effective April 1, 2009.²⁰³ Beshear praised the legislators for "stepping up to do the right thing" in a bipartisan way to help balance the budget in 2009.²⁰³ However, Beshear conceded that the tax increases were only a temporary fix to the state's financial problems with the economy mired in recession.²⁰³ The 2009 tobacco and alcohol excise taxes were estimated to raise \$52 million by July 2009, and were the centerpiece of a patchwork plan that also included several hundred million dollars in state fund transfers and some cuts to agencies.²⁰³ The additional tax revenue

State tobacco control advocates were disappointed that the increase was held again to 30 cents in 2009, and argued in a press release that Kentucky legislators missed an important opportunity to improve the physical and financial health of the state.³⁴ Kentucky's tax of 60 cents per pack remained well below the national average state cigarette tax of \$1.19 per pack in 2009.³⁴

enabled the state to avoid cuts to key programs, such as school districts, the prison system and the state Medicaid program.²⁰³ In addition to the state tobacco excise tax increase, federal government also increased the cigarette and all other tobacco products excise tax to \$1.01 under the Obama administration in 2009.^{201, 203}

State tobacco control advocates were disappointed that the increase was held again to 30 cents in 2009, and argued in a press release that Kentucky legislators missed an important opportunity to improve the physical and financial health of the state.³⁴ Kentucky's tax of 60 cents per pack remained well below the national average state cigarette tax of \$1.19 per pack in 2009.³⁴

Conclusions

Although progress has been made, tobacco excise taxes have remained relatively low and well below the national average in the tobacco growing state. Between 1971 and 2012, the state tobacco excise tax has only been raised twice from 3-cents to 30-cents in 2005 and from 30 cents to 60 cents 2009. While state tobacco control advocates wanted to increase the tobacco excise tax to reduce youth tobacco use, the state tobacco excise tax increase was used to mitigate significant state budget shortfalls.

State tobacco control advocates led by Kentucky ACTION, implemented campaigns to increase the state tobacco excise tax to help prevent youth smoking. The state tobacco control efforts were dominated by the pro-tobacco industry politics in the state, despite the fact that there was public support to increase the tobacco excise tax, and the fact that the tobacco industry did not launch an organized opposition to defeat a tobacco excise tax increase.

State tobacco control advocates will have to continue to work towards enacting higher tobacco excise taxes to effectively impact tobacco use rates among youth and adults in Kentucky.

Chapter X: Smoke-free Air

- *Between 2004 and 2012, state tobacco control advocates, led by the University of Kentucky Center for Smoke-free Policy enacted 35 smokefree policies to protect 34.1 percent of the state’s population.*
- *The state Tobacco Prevention and Cessation Program contracts with the University of Kentucky Center for Smoke-free Policy to provide technical assistance to communities working to achieve smokefree air.*
- *Between 2010 and 2011, and for the first time in the state, the tobacco industry organized opposition through the Northern Kentucky CHOICE and Bullitt County CHOICE to oppose local smokefree air policies. The tobacco industry resorted to these tactics as smokefree policies became increasingly popular across the state and the possibility of a statewide smokefree air law neared in 2010.*

Success at the Local Level

Beginning in 2003, state tobacco control advocates in Kentucky have achieved success around smoke-free air at the local level in each of the state’s four geographic regions identified in Figure 12. The majority of Kentucky consists of politically conservative Democrats. The Northern region of Kentucky is known as the “Bluegrass Region” used to describe the presence of fertile soil known for being used to breed high quality livestock.²⁰ The state’s most populous urban cities-counties, Louisville-Jefferson, and Lexington-Fayette, are located in the Northern region of the state. The Eastern region of the state is made up mostly of rural counties and cities, and includes the Appalachian Mountains and coal fields used for coal mining.²⁰ The Southern region of the state is known for the flat lands, and is the region where the majority of tobacco is grown²⁰ and the most politically conservative.²⁰⁸ Finally, the Western region of the state is known for coal fields and farm land.²⁰

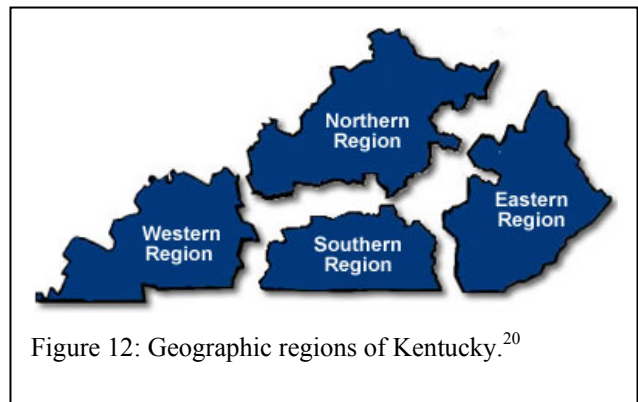


Figure 12: Geographic regions of Kentucky.²⁰

Despite being ranked 37th in the U.S. for size by area, the state of Kentucky has 120 counties and ranks 3rd in the nation (behind Texas 254, and Georgia 159) for the number of counties.^{209, 210} During the early days of unpaved poor roads and horseback transportation, the historic reason behind having a large number of counties in the state was to allow residents of the state to be able to complete round trip travel from their home to the county seat (approximately 30 miles) in one day.²¹⁰ The land that would become Kentucky was a part of Virginia until 1792. After the American Revolution, the area of Virginia west of the Appalachian Mountains became Kentucky County. In 1780, Kentucky County was divided into Fayette, Lincoln, and Jefferson Counties, the first three original counties created in Kentucky. These three counties set a precedent for county proliferation. By 1860, there were 110 counties in Kentucky with a population ranging from of 1,568 to 39,751 at that time.²¹⁰ The dramatic county proliferation was a culmination of home-rule politics, land speculation, and a policy that allowed residents to

secede from a county by petitioning the state legislature to create a new county.²¹⁰ It was not until 1891 that the state constitution limited the ability of the legislature to establish a new county as a result of state residents' complaining about the poor government services and lawlessness resulting from the excessive number of counties.²¹⁰ Since 1891, only McCreary County, located in the Southern region of the state, has been created.

The first local smoke-free ordinance was passed by the Lexington-Fayette Urban County Council in 2003. The campaign for the ordinance started as a local, home-grown effort. Following success in Lexington-Fayette, the activities to promote local smoke-free laws became a statewide effort primarily led by the Kentucky Center for Smoke-free Policy and its Clean Indoor Air Partnership program at the University of Kentucky. In 2004, the University of Kentucky received a Robert Wood Johnson grant to create the Kentucky Center for Smoke-free Policy. Although state tobacco control advocates experienced success passing smoke-free air policies at the local level in the tobacco growing state, the Kentucky movement was met the traditional opposition from tobacco interests.¹²⁻¹⁴ Kentucky advocates also faced the challenge of the number of local policies that would be needed to provide protection to all Kentuckians because there are 120 counties and 418 cities.

In Kentucky, the jurisdictions of county Fiscal Courts and Boards of Health apply to both the unincorporated and incorporated (municipalities) areas of the county, but it would still take affirmative action in all 120 counties to protect all Kentuckians. In Kentucky, the Fiscal Court is the name given to the county governing body, and is made up of the County Judge and three elected commissioners. Boards of Health are an administrative body of the governing body and comprised of appointees. Grassroots advocacy and direct democracy are tools used by public health advocates to get governing bodies to take action.

Throughout this chapter we discuss the first smokefree air policy implemented in each region of Kentucky identified in Figure 12. The smoke-free air movement began in the Northern Region in 2003 before spreading to the Western and Eastern Regions in 2006, with the Southern Region in 2009 being the last region to begin adopting smoke-free air policies with varying levels of protection.

By 2012, there were a total of 35 communities with smoke-free air measures throughout Kentucky. By 2012, the state had 22 local comprehensive smoke-free measures to protect 34.1 percent of the state's population from exposure to secondhand smoke in workplaces, public places, and restaurants and bars.

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Table 14: Local Smoke-Free Air Measures in Kentucky as of 2012

Region	Community	Population est.(2010)	Type	Date Passed	Implementation Date	Type	Exemptions
Northern	Lexington-Fayette County	295,803	City/County Ordinance	2003/2008	2004/2008	100%	
Northern	Louisville-Jefferson County	741,096	City/County Ordinance	2005/2008	2005/2007	100%	
Northern	Georgetown	29,098	City	2005	2005	100%	
Western	Daviess County	96,656	Fiscal Court	12/15/2005	1/1/2006	Partial	Minor Provision
Eastern	Letcher County	24,519	Fiscal Court Ordinance	4/10/2006	7/1/2006	100%	
Northern	Frankfort	25,527	City Commission	7/24/2006	8/22/2006	Partial	Workplaces
Eastern	Morehead	6,845	City Council	6/12/2006	8/1/2006	100%	
Eastern	Ashland	21,684	City Commission	8/24/2006	10/1/2006	100%	
Western	Henderson	28,757	City Ordinance	8/15/2006; 3/13/07	10/1/2006; 3/17/2007	Partial	Bars, Outdoor Stadiums, Charitable Gaming Events and Facilities
Northern	Elizabethtown	28,531	City Ordinance	10/6/2006	12/1/2006	100%	
Eastern	Paintsville	3,459	City Ordinance	12/12/2006	1/3/2007	Partial	Workplaces, Public Places
Western	Paducah	25,024	City Ordinance	9/26/2006	4/1/2007	Partial	Workplaces
Northern	Hardin County	48,811	County Fiscal Court	12/27/2006	4/1/2007	100%	
Northern	Oldham County	60,316	County Fiscal Court	12/5/2006; 4/3/2007	5/1/2007	Partial	Designated Smoking Rooms
Northern	Madison County	82,916	Board of Health Regulation	4/11/2007; 4/6/2011	6/12/2007; 6/5/2011	100%	
Eastern	Pikeville	6,903	City Ordinance	10/9/2007	11/1/2007	Partial	Designated smoking rooms, stand alone bars; bingo parlors
Eastern	Beattyville	1,307	City Ordinance	6/16/2008	8/11/2008	Partial	Designated smoking
Northern	Woodford County	24,939	Board of Health Regulation	6/5/2008	8/4/2008	100%	
Northern	Danville	16,218	City Ordinance	4/28/2008	8/8/2008	100%	
Western	Hopkins County	46,920	Board of Health Regulation then Fiscal Court Ordinance	8/13/2008; 12/17/2008	10/2/2008; 2/3/2009	Partial	Minor Provision
Northern	Clark County	35,613	Board of Health Regulation	11/6/2008	1/12/2009	100%	
Eastern	London	7,993	City Ordinance	8/3/2009	8/10/2009	100%	
Southern	Campbellsville	9,108	City Ordinance	6/1/2009	9/7/2009	100%	
Eastern	Prestonburg	3,255	City Ordinance	8/10/2009	11/1/2009	100%	
Northern	Radcliff	21,622	City Ordinance	12/17/2009	4/1/2010	100%	
Northern	Bardstown	11,700	City Ordinance	3/9/2010	6/17/2010	100%	
Southern	Glasgow	14,028	City Ordinance	3/22/2010	6/23/2010	100% + Ecigs	
Southern	Oak Grove	7,489	City Ordinance	1/4/2011	1/4/2011	Partial	Workplaces and Enclosed Public Places
Northern	Kenton County	159,720	Fiscal Court	12/21/2010	4/15/2011	Partial	Adult bars, private clubs
Southern	Bowling Green	58,067	City Ordinance	1/24/2011	4/28/2011	100%	
Northern	Bullitt County*	74,319	Board of Health Regulation	3/22/11	(9/1/2011)	100% + ecigs	
Eastern	Corbin	7,304	Fiscal Court Ordinance	11/23/2011	(?)	100%	
Eastern	Somerset	11,196	City Ordinance	11/30/2011	1/29/2012	100%	
Southern	Manchester	19,143	City Ordinance	1/9/2012	1/29/2012	100%	
Northern	Franklin	48,183	County Ordinance (unincorporated areas only)	4/12/2012	5/4/2012	Partial	Indoor smoking areas are allowed in government buildings and private workplaces
Total	35 communities		8 county; 2 city-county; 4 BOH; 21 city			22 100%; 13 partial	

Smoke-free Air in the Northern Kentucky Region

Lexington-Fayette Kentucky

The City of Lexington and environs is the second largest metropolitan area in the state, as well as the county seat of Fayette County, located in Kentucky's Northern region. It is also the home of the University of Kentucky. In 1974, the City of Lexington and the Fayette County merged local governments to create the combined Lexington-Fayette Urban County governing entity.²¹¹

In 2001, Terry Burkhart, president of the Lexington United economic development agency identified the health care industry as a growing economic force in the Lexington-Fayette metropolitan area, and, as a result, created the Lexington Health United coalition.³²

There were a number of significant events that contributed to the Lexington-Fayette Urban County Council passing the first smoke-free public places ordinance in 2003 and implementing it in 2004. In 2001, Terry Burkhart, president of the Lexington United economic development agency identified the health care industry as a growing economic force in the Lexington-Fayette metropolitan area, and, as a result, created the Lexington Health United coalition.³² The Lexington Health United Coalition was a community group made

up of health care providers, hospitals, health-insurance providers, and the Greater Lexington Chamber of Commerce created to enhance health industry growth, promote the health of Lexington residents, and maintain and enhance standards of care.^{32, 212, 213} The Coalition was co-chaired by Dr. Emery Wilson, Dean of the University of Kentucky College of Medicine (1999-2010), and Dr. James Bean, a physician, who was also a Lexington-Fayette Urban County Council member.^{32, 136, 212}

The Lexington Health United Coalition identified tobacco use as a significant community health problem that it could address and, as a result, created a strategic plan in 2002 to promote its Smoke-free Lexington Campaign.¹³⁶ In the *Lexington Herald*, Dr. Wilson, co-chair of Lexington Health United, asserted that the campaign for smoke-free air "helped Lexington Health United members find common ground and start thinking as a group."³² The strategic plan included creating awareness and educating the public and policymakers about the harm from secondhand smoke and to demonstrate the benefit of and need for smoke-free laws. The Coalition also used data such as health improvements and the sustained business revenue from other states with smoke-free laws, such as California and Delaware, to inform the policy development process in Lexington with strategies for demonstrating the need for action, garnering public support, and identifying a political champion.^{136, 214-217}

In December 2001, the Lexington Health United Coalition collaborated with the Lexington-Fayette County Health Department, the Bluegrass Regional Prevention Center, the Kentucky Public Health Association, the University of Kentucky College of Nursing, the University of Kentucky Prevention Research Center and the National Association of City and County Health Officials and Kentucky ACTION, to hold a two-day statewide conference "Clearing the Air: A Case for Clean Indoor Air Laws."¹³⁶ The Coalition supported and organized the statewide conference and invited elected officials and policymakers as a strategy to

begin advocacy efforts for smoke-free air policies. The conference included a summary of the scientific evidence on the health effects of exposure to secondhand smoke, and a presentation by the attorney for the Lexington-Fayette Health Department, Phillip Scott, who concluded the local governments in Kentucky indeed had the authority to enact laws that prohibited indoor smoking.¹³⁶ Following the conference to educate policymakers about the importance and benefits of smoke-free air and their duty and ability to enact local legislation, the state tobacco control advocates' focus shifted to passing local laws protecting workers and public health.¹³⁶

The Lexington-Fayette Department of Public Health was able to strengthen the community mobilization efforts of the Smoke-Free Lexington Campaign after the Department of Public Health began to receive sustained funding for tobacco prevention and cessation services in 2002 from the Kentucky Department for Public Health. In 2002, the Kentucky Department for Public Health Tobacco Prevention and Cessation Program received a \$5.5 million dollar allocation from the state Master Settlement Agreement monies to fund tobacco prevention and cessation services at each local health department.¹³⁶ The creation and sustainability of funded tobacco use prevention and cessation programming at each local health department was not only an important change in Lexington-Fayette, but it was also an important change for localities throughout the rest of Kentucky as well.

The Lexington-Fayette Department of Public Health was able to strengthen the community mobilization efforts of the Smoke-Free Lexington Campaign after the Department of Public Health began to receive sustained funding for tobacco prevention and cessation services in 2002 from the Kentucky Department for Public Health.

Concurrently with the Smoke-free Lexington Campaign and state tobacco control advocates statewide activities continuing to create awareness about the dangers of secondhand smoke and the benefits of smoke-free laws through editorials and radio and print ads, and working with local restaurants to adopt voluntary smokefree policies, the Lexington Health United Coalition asked the Urban County Council to study the feasibility of a smoke-free air ordinance.¹³⁶ As a result, the state tobacco control advocates efforts the vice mayor of the Lexington-Fayette Urban County Council appointed a 17 member task force to address the request of the Lexington Health United Coalition.¹³⁶ The task force membership was made up of a group of diverse stakeholders. The Taskforce was chaired by the Council smoke-free champion, Dr. James Bean, and included Urban County Council members, the attorneys for the City of Lexington, and the Health Department, a Lexington Health United representative, the commissioner of the local health department, the chair of the Lexington-Fayette Board of Health, the tobacco control manager at the local health department, a University of Kentucky College of Nursing researcher, the chair of Bluegrass ACTION for a Smoke-Free Community, Heather Wehrheim, the police and fire chiefs, an Alcoholic Beverage Control officer, a Fayette County Farm Bureau representative, a Burley Tobacco Growers Co-Operative representative, the local Bluegrass restaurant association president, and restaurant owners.^{136, 218} The Bluegrass restaurant association took a tobacco industry position and wanted the restaurant owners to have the choice to allow or prohibit smoking. The tobacco control advocates were initially concerned about the tobacco industry allies' involvement in the task-force; however, the tobacco control

expertise in the group neutralized the opposition and resulted in an evidence-based final product.¹³⁶

All the taskforce members agreed that secondhand smoke was a significant public health problem and the majority of the task force members believed that the Urban County Council needed to pass a smoke-free law, and approved 8 to 7 to move forward with the efforts towards creating a smokefree policy to prohibit smoking in public places including restaurants and bars.

The taskforce studied and presented its findings on the dangers of secondhand smoke, worker health, ventilation standards, and the economic and public health impact of smoke-free laws to the Urban County Council on November 26, 2002.^{136, 219, 220} All the taskforce members agreed that secondhand smoke was a significant public health problem and the majority of the task force members believed that the Urban County Council needed to pass a smoke-free law, and approved 8 to 7 to move forward with the efforts towards creating a smokefree policy to prohibit smoking in public places including restaurants and bars.^{219, 221} Proponents on the Taskforce and Council, which included Dr. James Bean, argued that this was the city's chance to enact progressive safeguards to protect non-smokers who

made up three-fourths of the county, while opponents such as Councilman Scott Crosbie urged the other Taskforce and Council members to consider the legal and economic ramifications, during a debate before the vote.²²¹ In addition, Taskforce member Bob Megazzini, president of the Bluegrass chapter of the Kentucky Restaurant Association, preferred that private business owners have the choice to end smoking in their establishments, while Taskforce member and restaurant owner Mike Scanlon preferred a level playing field through a restaurant and bar smokefree law adopted through a city-county referendum.²¹⁹ A ballot referendum would have required approval from the State Legislature.²²¹

Despite the majority of the Taskforce being in support of a smoke-free ordinance, Taskforce member and tobacco farmer Frank Penn believed an ordinance would be a contradiction to the tobacco heritage in the tobacco growing state, even though he agreed that cigarette smoking was not healthy. In the *Lexington Herald Leader*, Frank Penn stated:

[T]he tobacco farmers would not suffer any blow to the consumption of tobacco if Lexington clamped down on restaurant smoking...but it is symbolic...to prohibit smoking in a county that used to house the biggest burley auction in the world...the Fayette County Farm Bureau will never tell you smoking is good for you; it is not...but tobacco is a legal product, and it's been an integral part of our livelihood for 60 years or more.²¹⁹

Even with the opposition from farmers, who argued a smoke-free law would be a contradiction to the tobacco heritage and tradition, and a group of local small business bar and restaurant owners, who argued that a smoke-free law would hurt their business, support for the local smoke-free law moved forward with policy arguments based on three key facts: secondhand smoke is an occupational health hazard for hospitality workers, ventilation systems cannot to adequately decrease levels of secondhand smoke particulate matter, and local government is responsible to protect public health.¹³⁶

On November 27, 2002, 8 of the 15 Urban County Council members voted to begin drafting an ordinance that would end smoking in all restaurants, bars and taverns.²²¹ Workplaces were not included because, in 1994, the Kentucky General Assembly adopted youth access legislation that included a provision to require local governments to designate smoking areas in government buildings where smoking was restricted. Because of this requirement, state tobacco control advocates did not want to advocate for workplaces to be smoke-free without including government workplaces, and decided to revisit workplaces at a later date when all workplaces including government workplaces could be smoke-free after amending the state law.

The Lexington Health United Coalition advocated passing a smoke-free ordinance by December 12, 2002, for two reasons. First, they did not want to take the chance of the State Legislature passing preemptive legislation during the upcoming 2003 Legislative Session beginning in January.²²¹ Second, they did not want to lose support for the ordinance because two of the Urban County Council members who supported the ordinance would not be returning after January 2003 due to term limits.²²¹

In parallel with the Urban County Council deliberations, on April 15, 2003 the Lexington-Fayette Board of Health unanimously adopted a resolution in support of the Urban County Council adopting a smoke-free ordinance. In addition to the resolution, the Lexington-Fayette Board of Health drafted a smoke-free board of health regulation as an alternative in case the Council failed to pass an ordinance.^{136, 222-224} The Board of Health took these actions to add pressure to the Urban County Council to pass a smokefree policy.¹³⁶

Shortly after the Lexington-Fayette Board of Health unanimously passed its resolution to support the smoke-free ordinance, the Lexington Food and Beverage Association (LFBA) was formed as a front group for the tobacco industry.¹³⁶ The tobacco industry created a front group restaurant and bar organization because there was not a consensus among the members of the legitimate Kentucky Restaurant Association. Some restaurant owners wanted a choice while others wanted a level playing field. The tobacco industry has a long history of creating front groups that are nominally food and beverage associations to lend credibility in opposing and legally challenging local and statewide smoke-free laws while allowing the cigarette companies to remain out of public view.^{5, 29, 225} The LFBA group was primarily composed of a tobacco industry lobbyist, beer distributors, the Kentucky Beer Wholesalers Association lobbyist and attorneys, as well as few restaurant and bar owners.¹³⁶ Following well-established tobacco industry rhetoric,²⁹⁻³¹ the LFBA argued that the policy would be unenforceable and create economic loss, and worked to weaken the policy with provisions for separately ventilated smoking areas, exemptions for establishments that did not allow minors, and to delay the policy by proposing a referendum and threatening litigation against a local smoke-free ordinance or regulation.¹³⁶ The LFBA initiated rallies and concerts to raise money for the threatened lawsuits.¹³⁶

One week after voting 8 to 7 to draft a smoke-free air ordinance on November 27, 2002, the Urban City Council voted 6 to 5 on December 4, 2002 to table the smoke-free air ordinance to prohibit smoking in bars and restaurants for 60 days to continue studying the proposal.^{222, 226} The reversal was a result of two council members, Dick Decamp and Fred Brown, who changed their vote from approving drafting an ordinance to tabling the ordinance a week later. Decamp

told the *Lexington Herald Leader*, “we’ve got too many question marks here...this is an issue that needs our attention, but needs a lot more study,” while Council member Richard Moloney, who also originally voted to draft the smoke-free air ordinance a week earlier left the meeting early and without voting on December 4.²²⁶ The decision to table the ordinance came after concerns raised during public hearings. During the hearings, small restaurant and bar owners, like Sandy Fields who testified “[p]lease don’t put us out of business...we will become a black hole,” continued to argue that the smoke-free ordinance would hurt their businesses.²²⁶ In addition, the Chamber of Commerce urged the Council members in an e-mail to study whether a smoke-free air ordinance would affect the local economy and weaken Lexington’s power to attract equestrian shows and conventions.²²⁶ Health proponents’ testimony included bar and restaurant employees concerned for their health based on occupational exposure to secondhand smoke, despite the opposition from restaurant and bar owners.¹³⁶

Mr. McLean created doubt around the Urban County Council and Lexington-Fayette Board of Health’s power to mandate smoke-free restaurants and bars in the Lexington-Fayette metropolitan area.

In December 2002, while the Smoke-free Lexington Campaign and the debate over the smoke-free ordinance continued, the Urban County Council elections took place, resulting in a new mayor and vice mayor and new three council members (out of the total of 15 council members).^{136, 227} Due to the newly elected officials, there were only four council members known to support some form of smoke-free law air law immediately after the 2002 elections.¹³⁶ Additionally

the tobacco industry front group Lexington-Fayette Food and Beverage Association hired alcohol lobbyist Gene McLean to represent the organization. We did not find a prior connection between Gene McLean and the tobacco industry. Mr. McLean created doubt around the Urban County Council and Lexington-Fayette Board of Health’s power to mandate smoke-free restaurants and bars in the Lexington-Fayette metropolitan area. During separate Council and Board of Health hearings, held on the same day, January 13, 2003, LFBA lobbyist McLean argued “we have serious, obvious legal questions...state law prohibits any local smoking ban”.²²⁴ The tobacco industry often fought Board of Health regulations claiming that these boards had no authority to regulate smoking.^{225, 228} The tobacco industry uses doubt as a mechanism to create fear among policymaking bodies as a tactic to stall and prevent action on legislation that impacts the consumption of tobacco products.

A few short weeks later, on September 5, 2003, Senator Dan Seum (R, Louisville, Total Tobacco Industry-Related Political Campaign Contributions (1994-2010) \$1,600) proposed an amendment to a pesticide bill to attempt to preempt local governments from adopting smoke-free laws. The amendment was ruled void as not germane purpose of the bill.⁹⁷ This ruling thwarted the attempts of the tobacco industry to preempt local smoke-free laws in the 2003 legislative session.¹³⁶

McLean’s assertions led members of both the Urban County Council and the Board of Health to have additional questions and additional hearings about the smokefree air ordinance. Lexington-Fayette County Health Department attorney Phillip Scott continued to advise the Board of Health that it did have the authority to mandate smoke-free public places, “[b]ut a health board regulation might be open to legal challenges more than a council ordinance would

be.”²²⁹ The Urban County Council held a total of five public hearings between February and March 2003 to continue the public debate about a smokefree ordinance.¹³⁶ Additionally, the *Lexington Herald Leader* reported, “[c]ity council members who want a ban agree that they are scattered in their support...some favor an across-the-board prohibition in all public places, some want only smoke-free restaurants and bars...some favor exemptions for businesses that separately ventilate their smoking areas, and others shudder at the idea...”²²⁹

Meanwhile, the Lexington-Fayette County Board of Health continued to move forward with adopting a smoke-free regulation by setting a date of May 12, 2003 to vote on a regulation.²²⁹ At the same time the Board of Health began to seek a health tax on taxable real and personal property from the Urban County Council to offset budget cuts.²²⁹ The 2003 budget cuts were the beginning of the national economic recession in which many states began to cut spending as a result of the culmination of the War on Terrorism.²⁶ The health tax became a political bargaining tool that the newly elected Vice Mayor of the Council Mike Scanlon used to pressure the Board of Health Commissioner Dr. John Poundstone to reconsider and delay the passage of a smoke-free regulation by threatening the health tax.^{136, 229} The *Lexington Herald Leader* reported:

During his [Mike Scanlon’s] conversation with Poundstone, the vice mayor said he good-naturedly dangled another reason for the health board to stay quiet...a health tax being explored by the health department would need approval from the council...the health department is coming to the council asking for teamwork for building this new revenue source, and at the same time criticizing us for not acting fast enough...to which Poundstone did adhere and agree that the Council and Board of Health needed to work together.²²⁹

Vice Mayor Scanlon and other Council members were adamant about exercising their elected authority to pass a smoke-free indoor air ordinance to protect the health of the community.¹³⁶ Scanlon and the supporting council members were invested and took ownership of the measure because they believed it was the right thing to do and that it was their responsibility.²⁶ An ad hoc committee of seven Council members, supportive of a smokefree ordinance, agreed to work with the Taskforce and craft the ideal ordinance, or reject the ban altogether, within two months.^{227, 229, 230} After the council made its final decision the Board of health would have been free to act.

The Council ad hoc committee and Taskforce proponents continued to frame the issue as a workplace health issue for employees being exposed to secondhand smoke to gain support from the Council members who were wavering.¹³⁶ However, some Urban County Council members and ad hoc committee members, including ad hoc committee chairman Dick Decamp and member Chuck Ellinger, remained concerned about the possible financial effects on businesses from the potential loss of business from customers who smoke, as a more important consideration.²³⁰

Newly elected Vice Mayor Mike Scanlon, a restaurant and bar owner, was originally a member of the tobacco industry front group Lexington-Fayette Food and Beverage Association, was instrumental in gaining support and eventual passage of the ordinance by discrediting the

standard tobacco industry claim that smoke-free ordinances hurt the restaurant business. After becoming Vice Mayor in 2003, he compiled sales data from 12 of his Arizona restaurants that had been mandated to be smoke-free through local ordinances and found no negative impact after going smoke-free and became a proponent of a smoke-free ordinance to end smoking in public places.^{136, 230, 231} In 2003, Scanlon's findings became a part of the final Taskforce report.¹³⁶ Adding to his economic findings, Scanlon also argued that the 25 percent of the people who smoked in the Lexington-Fayette metropolitan should not be able to force everyone else in a public place to smoke.²³⁰

Throughout the entire process, Smoke-Free Lexington campaign advocates continued to lead grassroots advocates and add persistent pressure to the Urban County Council members through editorials, action alerts for letter writing and public hearing attendance, monitoring Council votes, and organizing speakers, such as asthmatics, cancer survivors, health care practitioners, hospitality workers, and citizen activists, to speak at public hearings.¹³⁶

Two-and-a-half years after the Smoke-Free Lexington campaign began in December 2001, in July 2003, the Lexington-Fayette Urban County Council voted 11-3 to pass Kentucky's first local smoke-free law to end smoking in most public places, including restaurants and bars. (The law did not include workplaces because of the issue with the state law mandating smoking in government workplaces and exempted retail tobacco stores, tobacco warehouses, private organizations, clubs and civic organizations.) The ordinance included a provision that the Lexington-Fayette County Health Department would enforce the law.^{3, 136} The ordinance, was scheduled to go into effect on September 29, 2003, 90 days after passing.

...the Urban County Council vote was "[a]nother sign of the lack of influence of tobacco, even in tobacco country...it has more to do with changing times" referencing both local and statewide restrictions that were being enacted throughout the country.³

Chuck Ellinger, a restaurant owner, was the only Urban County Council member to abstain from voting. Ellinger's decision to recuse his vote was based on his claim that his restaurant was frequented by employees of tobacco warehouses.³ Councilman Al Mitchell, who voted against the ordinance, called it "illegal" and an "infringement of business."³

Some tobacco farmers, such as former Lexington Mayor Pam Miller, said the Urban County Council vote was "[a]nother sign of the lack of influence of tobacco, even in tobacco country...it has more to do with changing times" referencing both local and statewide restrictions that were being enacted throughout the country.³ Danny McKinney, the chief executive officer of the Burley Tobacco Growers' Co-op Association in Lexington stated:

[t]he ban won't affect Kentucky tobacco farmers in the short term... the tobacco is grown here in a way doesn't have anything to do with the situation if smoking is banned all over the world, sure, it will affect us...but if it's only banned in Lexington, then we see little effect toward us at this time....³

To tobacco farmers position was significant because of their powerful influence in the tobacco growing state, which they have traditionally used to thwart tobacco control policies in tobacco growing states.

Collectively, the creation of the Lexington Health United Coalition and the Smoke-Free Lexington Campaign to organize and implement the advocacy and education plan, the relatively low adult smoking prevalence and high socio-economic status of residents, and the high percentage of food service establishments that were already smoke-free, created a window of opportunity for tobacco control advocates to pass a Lexington-Fayette County smoke-free law.¹³⁶ For example, in 2002, the Lexington-Fayette County population had lower cigarette smoking prevalence and higher socio-economic indicators than Kentucky as a whole. From 2000 to 2002, the 26.1 percentage of adult smokers in Lexington-Fayette was significantly lower than the state prevalence of 32.6 percent. In addition, according to the 2000 U.S. Census Bureau, 36 percent of the Lexington-Fayette County population had a bachelor's degree or higher compared to 17 percent in Kentucky and 24 percent in the U.S.¹³⁶ Likewise in 2003 56 percent of the Lexington-Fayette population supported a smoke-free air ordinance.¹¹ Socio-economic indicators such as educational level, measures of household wealth and occupational class have strong associations with smoking outcomes.²³² The Smoke-free Lexington tobacco control advocates presented these statistics as leverage to indicate community readiness to advance smoke-free public policy.¹³⁶

The Seven-Month Delay in Implementing Kentucky's First Local Smoke-Free Law

Scheduled to be implemented on September 29, 2003, the ordinance was not implemented until April 27, 2004 as a result of a seven month delay caused by a legal challenge.^{3, 11, 136, 233, 234} The tobacco industry front group Lexington-Fayette Food and Beverage Association, which received a \$15,000 "donation" from Louisville, Kentucky based cigarette manufacturer Brown and Williamson,^{136, 235} filed suit against the Urban City Council eighteen days before the ordinance was scheduled to take effect.⁷ Such lawsuits are a common tobacco industry tactic used to delay and to try to overturn smoke-free legislation.^{225, 236}

The Association sought a temporary injunction to delay the implementation of the smoke-free ordinance until the court ruled on the legality of the ordinance, arguing that the ban would adversely affect restaurant and bar owners and infringe on personal freedoms, that the city was preempted from regulating the use of tobacco, and that only the State Legislature had the authority to implement measures that regulate the use of tobacco.^{7, 212, 237} In the *Lexington Herald Leader*, attorney John Walters, representing the Lexington-Fayette Food and Beverage association, stated "[I]t's our belief that the city council has overstepped its legal bounds."⁷

Tobacco control advocates were confident that the city's smoke-free ordinance would withstand the legal challenge. In the *Lexington Herald Leader*, Ellen Hahn, tobacco control advocate, called the timing of the tobacco industry backed suit on September 11, 2003 an inappropriate "publicity stunt."⁷

Tobacco control advocates were confident that the city's smoke-free ordinance would withstand the legal challenge. In the *Lexington Herald Leader*, Ellen Hahn, tobacco control advocate, called the timing of the tobacco industry backed suit on September 11, 2003 an inappropriate "publicity stunt."⁷ The plaintiff's arguments in the lawsuit had been debated and quickly dismissed by the City and Health Department attorneys during the public hearings held by the Lexington-Fayette Urban City Council before adopting the law.⁷ In the *Lexington Herald Leader*, Phil Scott, an attorney for the Health Department, stated, "[T]here is nothing in there [the lawsuit] that has surprised us in respect to what they've argued before."⁷

The request for a temporary injunction was scheduled to be heard by Judge Laurance VanMeter in the Fayette Circuit Court on September 23, 2003, just six days prior to the implementation date.^{7, 233} The Lexington-Fayette smokefree air ordinance adopted by the Urban City Council was upheld and the opposition's request for a temporary injunction to delay its implementation was denied by Judge VanMeter in his same day ruling. After hearing the oral arguments, VanMeter agreed that the Lexington-Fayette Urban County Council acted within its rights under state law when it passed the law.^{233, 238} Furthermore, VanMeter's order stated that the ordinance was "[d]irectly related to public health, and is not an unreasonable exercise" of the city's power to safeguard public health.²³³ The ordinance was on track to begin after VanMeter denied the request by the Lexington-Fayette Food and Beverage alliance of bar and restaurant owners to halt it.^{239, 240}

Following VanMeter's ruling, the Lexington-Fayette County Food and Beverage Association requested that the State Court of Appeals overrule VanMeter and grant a temporary injunction to postpone the Lexington-Fayette smoke-free ordinance scheduled to begin in just six days. Walters, the attorney representing the Lexington-Fayette Food and Beverage Association, stated in the Covington *Kentucky Post* that "[t]he plaintiffs will file an appeal today [September 24] with the Kentucky Court of Appeals in Frankfort."²³⁸ On September 26, 2003 a three judge panel of the appeals court, which included judges Sara Combs of Stanton, Robert Dyche III of London and Wilfrid Schroder of Crestview Hills, reversed the lower court decision of VanMeter on the temporary injunction.^{233, 239, 240} The Court of Appeals decision stated:

VanMeter agreed that the bar and restaurant group would 'suffer immediate and irreparable injury' if the ban were not postponed, while the local government would not suffer if an injunction were imposed. Nonetheless, the circuit court denied relief ... this court holds that it is equitable and judicious to preserve the current 'status quo' while it [the court] reviews whether the restaurant group has a case.^{239, 240}

The three judge panel of the Kentucky Court of Appeals delayed implementation of the smoke-free law by issuing a temporary injunction.

Phil Scott, an attorney representing the Lexington-Fayette County Health Department and Urban County Council, filed a motion with the Kentucky Supreme Court to overrule the appellate court decision that granted the temporary injunction.²⁴⁰ In the *Lexington Herald Leader*, Scott stated, "[t]he appeals court didn't state how VanMeter erred in his ruling or address the merits of the restaurant group's case, as it should do when overturning a lower court's decision on injunctions."²⁴⁰ Walter contended in the *Lexington Herald Leader* that "[V]anMeter

erred by imposing a heavier burden than what was required on the restaurant association to prove its case for a trial.”²³¹ The Kentucky Supreme Court denied Scott’s motion on behalf of the Health Department and City Council to step in, citing that the defendant failed to “show any extraordinary cause” to overturn the injunction.^{239, 240}

Within two weeks, on October 6, 2003, the state Court of Appeals heard arguments for and against a longer injunction to delay the implementation on the law. The Court of Appeals extended the injunction and sent the case back to the circuit court for Judge VanMeter to consider the merits of the litigation that challenged the city’s smoke-free ordinance.²³³

The trial challenging the city’s smoke-free ordinance was set for October 17, 2003.²⁴¹ While the enforcement of the smoke-free ordinance continued to be delayed during the trial, Judge VanMeter asked the plaintiff and defendant attorneys Walters and Scott to consider several court cases before he made a final decision on whether to dismiss the suit, instead of giving a ruling on the same day of the hearing as he had previously done.²⁴¹ VanMeter gave the attorneys a 15-day deadline to file their responses.²⁴¹ It was speculated by the *Lexington Herald Leader* that VanMeter ostensibly did not rule because he was up for election to the Kentucky Court of Appeals and deadline he gave to the attorneys to file the responses was one day before the 2003 election.²⁴¹

On November 21, 2003, VanMeter upheld the law and dismissed the lawsuit that challenged Kentucky’s first local county-wide smoke-free ordinance, after being elected to the appellate court.^{1, 2} Following VanMeter’s ruling, the opposition immediately filed a motion for an injunction with the appellate court. The Court of Appeals denied the request to grant an injunction on December 10, 2003 and the state’s first local smoke-free ordinance was scheduled to take effect on December 11, 2003.^{1, 237} However, the Kentucky Supreme voted unanimously to stay the smoke-free ordinance while it studied the appeal and set a hearing for March 10, 2004.^{234, 242}

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Scott wanted to move the lawsuit that challenged the smoke-free ordinance to the Kentucky Supreme Court to speed up the process of judicial review.²⁴³ However, Scott filed the motion to move the case to the Supreme Court four days before the appellate court ruled 2-1 to uphold the ordinance.²⁴³ Walter filed a motion with the Supreme Court to appeal the appellate court ruling and to further delay the enactment of the smoke-free ordinance.

The March 10, 2004 hearing date in the Supreme Court also created concern among tobacco control advocates, and rightfully so, as three preemption bills had been introduced when the 2004 Legislative Session started on January 6, 2004.^{212, 234} The hearing date created a three-month delay that gave the State Legislature a window of opportunity to implement preemption legislation that would ultimately end the adoption of local smoke-free ordinances, including overturning the Lexington-Fayetteville ordinance.

At the beginning of the 2004 Legislative Session, Senator Dan Seum (R, Louisville, Total Tobacco Industry Campaign Contributions (1994-2010) \$1,600) Representative J.R. Gray (D, Benton, Total Tobacco Industry Campaign Contributions (1994-2010) \$0), and Representative Dottie Sims (D-Horse Cave Total Tobacco Industry Campaign Contributions (1994-2010) \$2,300), each filed separate bills to prevent the adoption of local ordinances to restrict public smoking.²¹² In 2003, Seum unsuccessfully sponsored an amendment that was not germane to preempt local smokefree air ordinances as discussed above. The bills were filed with the intent to void the Urban County Council's public indoor smoke-free air ordinance and to prevent any other local public smoking ordinances from being enacted in Kentucky.²¹² Senate Bill 81 sponsored by Senator Dan Seum to preempt local smoke-free laws was the only bill to have a hearing and passed unanimously in the Agriculture Committee. Seum's bill was the only bill to move forward.

During the Agriculture Committee hearing, state tobacco control advocates and local officials testified against the bill. Lexington-Fayette Urban County Council vice Mayor Mike Scanlon presented to the Senate Agriculture Committee the data that he collected on his restaurants which showed no negative impact after going smoke-free. All three of the preemption bills introduced during the 2004 session ultimately died.¹³⁶ Even with the tobacco industry-related political campaign contributions totaling \$37,940, representing the third highest year for political campaign contributions from the tobacco industry (Figure 7) the bills still failed. These attempts to preempt smoke-free legislation would have been politically unpopular in a state that values "home rule," the power of local governments to enact laws.¹³⁶

State tobacco control advocates continued to create public awareness about this tobacco industry strategy and involvement in the litigation and legislative process. More than three-quarters of Kentucky adults believed that local governments should have the ability to pass laws related to tobacco prevention.⁷³ State tobacco control advocates used this information to mobilize opposition through earned media such as media editorials. In a 2004 *Lexington Herald Leader* editorial, state tobacco control advocate Dr. James Bean, Vice Chairman of Lexington Health United Coalition and Urban County Council member-at-large, advocated against the preemption bills that were introduced in 2004 and explained...

[T]o be valid, each instance of pre-emption must satisfy three conditions: Provide a broad and defined public benefit. Include an assumption by higher governmental authority of responsibility for ensuring and standardizing the public benefit. Ensure equal protection for all by pre-empting any lower level authority's legal right to reduce the public benefit. The pre-emption bills filed by Seum, Gray and Sims fail on all three conditions. The bills obstruct a defined public benefit (protection from secondhand smoke) rather than provide one. They fail to assume the responsibility at the state level for ensuring and standardizing the benefit pre-empted from local authority. And they fail to provide equal protection for all. In fact, these bills reduce the public benefit provided at the local level...The strategy behind the bills is clear: Use the preemption device not to achieve public protection, the goal for which it is designed, but to thwart it. With no state-authorized public benefit ensured and locally authorized public benefit denied, Big Tobacco's forces win, and the people of Kentucky lose.²¹²

As the Kentucky Supreme Court heard oral argument over the legality of the state's first countywide public smoking ban, the justices questioned whether existing state law prohibited such local ordinances.²³⁷ The opposition continued to contend that state government, and not a local community, had sole authority to regulate health and safety at food-service establishments, including tobacco use, to which Justice Donald Wintersheimer asked then “[w]hy have state legislators in recent months filed a flurry of bills that would pre-empt local smoking bans...why would they enact this legislation if this is already covered?”²³⁷

In 1994, the Kentucky General Assembly enacted tobacco industry-backed youth access legislation which preempted local governments from enacting youth access laws that were more stringent. Additionally, the 1994 youth access law included a provision that required local governments to designate smoking rooms in government buildings where smoking was otherwise prohibited. That law, however, did not preempt other smoking restrictions.

In the *Lexington Herald Leader* Phil Scott, attorney for the health department and council, explained, “[t]he statute pertains to youth smoking, it neither contradicts nor pre-empts the local smoking ban...is there a clear contradiction between the two...or ‘can they live in harmony?’”²³⁷ During the hearing, the court also accepted "friend of the court" briefs filed by a group of public health associations, the Kentucky League of Cities and Lexington Health United.²³⁷ All three briefs were proponents of the authority of local communities to legislate on public smoking.²³⁷

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On April 22, 2004, the Kentucky Supreme Court held that the Lexington-Fayette smoke-free ordinance was not preempted by state law and was not an improper infringement upon property rights.²⁴⁴ This decision has broad reaching effects because it provided legal support for all communities in Kentucky to enact smoke-free laws.

2008: Local Tobacco Advocates work to Strengthen the Lexington-Fayette Law to Include Workplaces

By the time tobacco control advocates in Lexington-Fayette worked to strengthen the Urban County Council smoke-free ordinance in 2008, there were a total of 14 local measures to restrict public smoking throughout Kentucky, six of which were comprehensive in that they prohibited smoking in restaurants, bars, and workplaces (Table 14).

As discussed earlier, in 2006, the Kentucky General Assembly enacted legislation that gave local governments the option to restrict smoking in government buildings without requiring designated smoking rooms.²⁴⁵ Until 2006, local governments were required by the 1994 youth access legislation to designate smoking rooms in government buildings where smoking was

otherwise restricted.¹⁰⁹ In addition to the new option to restrict smoking in government buildings, state tobacco control advocates used the fact that the new 2006 U.S. Surgeon General Report, *The Health Consequences of Involuntary Exposure to Tobacco Smoke*²⁴⁶ concluded that there is no level of safe exposure to secondhand smoke, and the fact that six other communities throughout the state, including Louisville, Georgetown, Morehead, Ashland, Elizabethtown, and Hardin County, had comprehensive legislation to protect the public and workers from exposure to secondhand smoke by 2007, to persuade the Lexington-Fayette Urban County Council to revisit the four-year old smoke-free ordinance. Another impetus for strengthening the smoke-free law was the impending departure of clean-air champion Dr. David Stevens from the council. Stevens, who supported the Lexington-Fayette smokefree ordinance, was scheduled to retire from the council in the upcoming year, and he wanted to leave the ordinance in good stead.²⁴⁷

State tobacco control advocates, led by the Kentucky Center for Smoke-free Policy, worked to demonstrate the positive impact and effects of the smoke-free air ordinances through a battery of studies on air quality, health outcomes, economic impact, and the increased public support for smoke-free air.⁸⁻¹¹ These studies were important because they supported the importance and the effectiveness of smoke-free air policies, countered the tobacco industry rhetoric on the negative economic impact, and continued to generate public support among constituents and policymakers.

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On October 7, 2008, the Urban County Council ad hoc committee approved amendments to strengthen the Lexington-Fayette smoke-free law by ending smoking in all workplaces on September 1, 2008²⁴⁸ Councilman Dick Decamp was the only council member to vote against the amendments because he favored airport smoking lounges. Following the ad hoc committee's approval, a public hearing of the Council followed, where opposition to strengthening the law was expressed by the Blue Grass Airport and bingo

halls.²⁴⁷⁻²⁴⁹ The airport wanted an exemption to keep smoking lounges, and the bingo halls argued that there would be a negative economic impact.^{247, 248, 250} Local tobacco control advocates, led by Lexington Health United, countered that closed smoking lounges did not eliminate exposure to secondhand smoke, and that in other communities in Kentucky that prohibited smoking in bingo halls they did not experience a loss in revenue.^{247, 248}

On Thursday November 6, 2008, the Lexington-Fayette Urban County Council unanimously approved the amendments to strengthen and make the county-wide smoke-free ordinance comprehensive. The changes went into effect immediately to end smoking in all workplaces, restaurants and bars in Lexington-Fayette Kentucky. Councilman Stevens expressed his gratitude of the council's resounding approval and affirmed in the *Lexington Herald Leader* that, "[i]t represents what the people in our community want."²⁴⁹

Louisville: Churchill Downs

On August 17, 2005, Louisville, the largest city in Kentucky, was the second metropolitan area in the state, behind Lexington-Fayette to adopt a smokefree air ordinance. The Louisville Metro smokefree air ordinance was a result of work by tobacco control advocates led by the Smoke Free Louisville coalition and the Louisville Metro Health Department advocating for the ordinance. The Smoke Free Louisville coalition was made up of the three voluntary agencies (American Heart, Lung, and Cancer) and supported by a portion of the Robert Wood Johnson Foundation Smokeless States grant (1994-2004) to initiate the Smoke Free Louisville campaign in 2003. The Smoke Free Louisville campaign created awareness about the importance of smokefree air initiated advocacy for a local smokefree air law by initiating the Smoke Free Louisville campaign. The Smoke Free Louisville campaign deployed grassroots advocacy strategies such as identifying and grouping opinion poll supporters and targeting the campaign messaging based on the constituents' level of support. For example, in 2004, constituents of the Louisville Metro Council President Kelly Downard were strong supporters of a smokefree air ordinance, and the Smoke Free Louisville campaign used this information to recruit volunteers and distribute call to action mailers and door tags to urge the constituents to give public comments during Metro Council meeting and to contact Councilman Downard to tell him to support a local smokefree air ordinance.¹⁸

State tobacco control advocates worked with Louisville Metro Council Member George Melton to champion the legislation, and the 26-member Louisville Metro Council to pass the smokefree air ordinance 21-5.²⁵¹ In 2005, the smokefree air ordinance ended smoking in most public workplaces including restaurants, with the exception of restaurants with alcohol licenses that derive less than 75 percent of their gross receipts from food eaten on site, retail tobacco stores, facilities operated by private organizations, such as Churchill Downs, a thoroughbred racetrack and home to the Kentucky Derby, buildings with fully enclosed smoking areas and free-standing bars that did not serve food.^{251, 252} The Louisville Metro smokefree air ordinance was implemented on November 15, 2005. While state tobacco control advocates did advocate for a comprehensive smokefree air ordinance without exemptions, Louisville Metro Council members Melton and Mayor Jerry Abramson believed a stronger ordinance did not have enough support to pass.²⁵¹ The smokefree air ordinance was opposed by the Kentucky Charitable Gaming Association (a group of bingo halls), and the Metro Louisville Hospitality Coalition comprised of a group of bar and restaurant owners who believed the smokefree air ordinance was unconstitutional and unfair because of the exemption for Churchill Downs.^{251, 253, 254}

On October 13, 2006, the Louisville Metro Council voted 19 to 5 (with one abstention) to strengthen the Louisville smokefree air ordinance and eliminate all exemptions from the 2005 smokefree air ordinance with the exception of Churchill Downs and tobacco manufacturing warehouse facilities.²⁵⁵ The Louisville Metro Council's reasoning behind continuing to exempt Churchill Downs was that it did not compete with the city's bars and restaurants for business.²⁵⁵ In addition there was a consensus among the majority of council members that Churchill Downs also needed the exemption to be able to compete with other forms of gaming such as the Indiana gaming boats.^{255, 256} Furthermore the city officials believed that the Churchill Downs race track was governed by the state Kentucky Horse Racing Authority and outside of their jurisdiction.²⁵⁷ The 2006 ordinance was implemented on July 1, 2007. The strengthened 2006 smokefree air

ordinance came as a surprise to both state tobacco control advocates, led by Smoke Free Louisville, and to the opposition, led by the Louisville Hospitality Coalition.²⁵² Louisville Metro Council member Ken Fleming (R) sponsored the legislation because he believed it was time and he wanted to protect health.²⁵² However, in the *Lexington Herald Leader* it was speculated by Flemings opponent in the upcoming November 2006 election that Fleming was sponsoring the proposal as a political ploy to gain votes.²⁵² In 2006, Fleming was being challenged for his seat on the Louisville Metro Council and his opponent Neville Blakemore III (D) accused Fleming of failing to show leadership on the smoking ban and other issues.²⁵² State tobacco control advocates had wanted to wait until after the November elections to work on strengthening the smokefree air ordinance; however, they fully endorsed Flemings' efforts to strengthen the measure.²⁵²

In 2006, both, the Kentucky Charitable Gaming Association and the Metro Louisville Hospitality Coalition each filed suit against the Louisville Metro Council and contended that the smokefree air ordinance was unconstitutional, that the exemption for Churchill Downs violated the equal protection and due process clauses of the U.S. Constitution, and the ordinance deprived owners of their property without compensation.²⁵³ The lawsuits also claimed that the smokefree air ordinance violated the state constitution ban on "special legislation" intended to help or protect a specific entity or person.²⁵³ The opposition wanted the 2006 smokefree air ordinance to be overturned before it took effect in July 2007.²⁵⁶ While the Louisville Metro smokefree air ordinance was in litigation, state tobacco control advocates led by the Smoke Free Louisville coalition continued to work behind the scenes to maintain and sustain support among the Louisville Metro Council members.¹⁸ State tobacco control advocates were aware that in the event the smokefree air ordinance was overturned, the council members could either repeal the smokefree air ordinance all together or strengthen the smokefree air ordinance to eliminate the exemption for Churchill Downs, and worked towards the latter by persuading the Mayor to firmly and publically support a comprehensive local smokefree air ordinance.¹⁸

On June 25, 2007 Jefferson County Circuit Judge Denise Clayton did not believe the businesses could show irreparable harm by allowing the smokefree air ordinance to stay in place until the lawsuit was heard and denied the request of the plaintiffs to place an injunction on the Louisville smokefree air ordinance until the lawsuits were resolved.^{254, 258, 259} In addition, on July 10, the State Court of Appeals Judge Thomas Wine denied an appeal from the plaintiffs to place an injunction on the smokefree air ordinance and refused to overturn the ruling of Judge Clayton based on the same finding.^{254, 257} In the Covington *Kentucky Post*, Judge Clayton stated "...the plaintiffs may ultimately prevail on the merits...the city's reasoning for exempting Churchill Downs may be problematic...secondhand smoke at the track is just as harmful as it is at any bar or bingo hall"²⁵⁷ and furthermore, "the businesses cannot show irreparable harm by allowing the ban to stay in place before the lawsuit is heard."²⁵⁴

On November 5, 2007 Jefferson County Circuit Judge Denise Clayton struck down the Louisville Metro smokefree air ordinance exemption for Churchill Downs.^{259, 260} Clayton's ruling stated "there is no logical basis for the exemption...while it is true that horse racing is an important industry in the state so is the hospitality industry...to hold one out as important above the other is simple not a rational basis for exemption."²⁵⁹ Clayton' ruling required the Louisville Metro Council to adopt a new smokefree air ordinance without the exemption for Churchill

Downs. However the Louisville Metro Council failed to act quickly, which allowed a window of opportunity for the opponents of the smokefree air ordinance to file suit against the council again. On December 21, 2007 Jefferson Circuit Court Judge Steven Ryan struck down the entire Louisville smokefree air ordinance to prevent the ordinance from being enforced because the Louisville Metro Council still needed to remove the exemption for Churchill Downs.²⁶⁰

On January 11, 2008 the Louisville Metro City Council voted to remove the Churchill Downs exemption from the smokefree air ordinance and adopted and enacted a comprehensive 100 percent smokefree air ordinance, while still exempting tobacco manufacturing facilities. The Louisville smokefree air ordinance and Churchill Downs experience became an example for communities in Kentucky working to achieve smokefree air policies to pass policies without exemptions.

Board of Health Regulations

Boards of health in many states, including Kentucky, have the authority to issue regulations that protect public health independent of legislative approval. Local boards of health consist of appointed officials to create insulation from the political pressures faced by legislative and locally elected officials. The make-up and insulation of boards of health helps to create and ensure unbiased politically neutral decisions on issues of public health.²⁶¹ Furthermore, the jurisdiction of local boards of health is usually county-wide to encompass both incorporated (municipalities) and unincorporated areas. These factors make local boards of health ideal and logical venues to adopt public health measures, so long as they do so carefully.^{228, 261}

By 2012, there were four local Boards of Health smoke-free air regulations in Kentucky. The, Madison County, Woodford County, Clark County, and Bullitt County Boards of Health smoke-free-air regulations were located in the Northern region of Kentucky, the same region where the smoke-free air movement began in Lexington-Fayette.

By 2012, there were four local Boards of Health smoke-free air regulations in Kentucky (Table 14). The, Madison County, Woodford County, Clark County, and Bullitt County Boards of Health smoke-free-air regulations were located in the Northern region of Kentucky, the same region where the smoke-free air movement began in Lexington-Fayette. Each Board of Health cited KRS 212.230, which gives boards of health the authority to adopt, implement and enforce regulations necessary to protect public health, as its authority to enact comprehensive smoke-free air measures that ended smoking in public places and workplaces.²⁶²

Madison County Board of Health Smoke-Free Air Regulation

In April 2007, the Madison County Board of Health became the first board of health in Kentucky to pass a county-wide smoke-free regulation. The smoke-free air regulation was approved 7 to 1 to end smoking in all enclosed public places including restaurants and bars and places of employment by June 2007.²⁶³ Madison County was the 13th locality in the state to impose tougher restrictions on smoking after Lexington-Fayette began enforcing its ordinance three years earlier.²⁶² The Madison County Board of Health consumer member, Michael Oliver,

was the only member to oppose the regulation because he believed the Board did not have the “right” to pass the legislation.²⁶²

However Jim Rousey, Madison County Health Department, Public Health Director, stated in *The Richmond Register* that:

[a] state attorney with the Office of Legal Services for the Cabinet for Health and Family Services had issued a legal opinion that the board did in fact have the authority...the attorney advised that the board ‘has the authority to adopt administrative regulations not in conflict with the administrative regulations of the Cabinet ... necessary to protect the health of the people,’ so that question (of legality) has been settled.²⁶²

The Board of Health regulation was championed by the Public Health Director, Jim Rousey. Rousey and the Board of Health originally considered a regulation that would have been the toughest in the state by including outdoor patios and decks of restaurants and bars as additional public spaces where smoking would not be allowed.²⁶³ Rousey shared the reasoning of including all public areas including outdoor patios as “[r]eally looking for a level playing field...” in the *Lexington Herald Leader*.²⁶⁴

However, the Board of Health members decided against the stricter regulation that included outdoor patios and decks during its February 7, 2007 meeting.²⁶³ Rousey explained:

[T]he board received 63 letters and e-mails from citizens regarding the smoking ban...49 people were in favor of a ban, while 14 wrote in opposition...but a significant portion of those in opposition were not against implementing a ban, they just disagreed with some portions of the ban, such as restricting smoking in outdoor seating areas.²⁶⁴

For example, the opposition included Charles Fields, an Eastern Kentucky University professor and co-owner of the Paddy Wagon Irish Pub in downtown Richmond, who told Board members that “[h]is bar has gone through considerable time and effort to provide an outdoor seating area, in part for smokers...and asked that the board at least consider changing the ban to allow smoking on the outdoor seating areas...”²⁶⁵ The outdoor patio argument seemed to be the only argument in opposition that was given credence by the Madison County Board of Health.

Through 2011, the Madison County Board of Health regulation had not been challenged in court.²⁶² In 2011, Nancy Crewe, the Madison County Public Health Director, stated to *The Richmond Register* that “[n]o formal complaints about the county smoking ban have been registered, and that the Madison County Health Department is not aware of any business that could directly attribute declining sales to the Clean Indoor Air Regulation.”²⁶² In 2011, the smoke-free air regulation was strengthened to also end smoking in retail tobacco stores, and to prohibit electronic cigarettes and hookahs from being used in public places and workplaces.²⁶²

The Board of Health Lawsuit in Bullitt County

The Bullitt County Board of Health adopted a comprehensive Smoke-Free Air Regulation in March 2011. State tobacco control advocates worked with the Bullitt County Health Department to demonstrate the need and public support for a smoke-free air regulation.

A survey administered by the Bullitt County Health Department in 2009 showed that 60 percent of Bullitt County residents strongly favored a 100% smoke-free policy in public places including restaurants and bars.²⁶⁶⁻²⁶⁸ The Bullitt County Board of Health smoke-free air regulation was championed by the Health Department Director, Dr. Swannie Jett, to end smoking in all public places and workplaces, and also included e-cigarettes.²⁶⁹

From 2007 through 2012, the Bullitt County Board of Health Smoke-free Air regulation was the only Board of Health regulation in Kentucky to be legally challenged and overturned in the Circuit Court. All eight of the county's municipalities, did not believe the Board of Health had the authority to enact a smokefree air regulation, and financed the case along with the Bullitt County Choice group, to jointly file a suit in state court to stop the smoke-free air regulation from being implemented.^{266, 270}

The Bullitt County Choice group was a Coalition of business owners, consumers and residents concerned about the impact of regulations that restrict smoking that was formed by its member organizations in 2011.²² Through 2011, this was the first group of its type to appear in Kentucky. The member organizations were not listed on the Bullitt County Choice Coalition website,²² which is common for front groups created by the cigarette companies.²⁹⁻³¹ The tobacco companies have historically created front groups to create organized opposition to tobacco control measures.²⁹⁻³¹ In addition to the suit filed in the Circuit Court, the Bullitt County Choice group also filed a suit in federal court alleging that the Board of Health exceeded its authority that was ongoing as of June 2012.²⁶⁶

Through 2011, this was the first group of its type to appear in Kentucky. The member organizations were not listed on the Bullitt County Choice Coalition website,²² which is common for front groups created by the cigarette companies.²⁹⁻³¹

The Bullitt County Fiscal Court agreed that there was a problem with secondhand smoke, but had an issue with the Board of Health adopting a smokefree air regulation, and preferred that a measure to restrict smoking be adopted via popular vote through areferendum.²⁶⁷ The plaintiffs argued that under Kentucky law, only legislative bodies (such as elected officials), are authorized to enact smoke-free regulations, and that by passing a smoke-free measure, the Board of Health overstepped their authority.²⁶⁶ This was a standard industry argument.²²⁸

Historically, the tobacco industry has backed front groups to sue both legislative and administrative governing bodies to overturn and delay the implementation of measures that restrict smoking in public places. The tobacco industry has successfully used the argument that local boards of health of do not have the authority to adopt and implement regulations in New York and North Carolina, and have won either because the board of health made exemptions based on facts other than health to allow smoking in some public places, or because the elected county government officials did not support the local county boards of health through the litigation process.^{13, 271} However, neither of these circumstances held true in this case. The Bullitt County Smoke-Free Air Regulation was comprehensive, and included all restaurants, bars, and workplaces, without exception.

Bullitt County Circuit Judge Rodney Burress overturned the Board of Health Smoke-Free Air Regulation four days before it was set to take effect on September 19, 2011.^{267, 272, 273} Burress ruled that the Board of Health did not have the right to pass the regulation, and declared the regulation void and unlawful,^{268, 272} despite the fact that KRS 212.230, gives health boards the authority to adopt, implement and enforce regulations necessary to protect public health, and four other local board of health in the state adopted and implemented smoke-free air regulations under this statute (Table 14). The Louisville *Courier Journal* reported that Judge Burress stated, "[t]his court does not believe that type of 'Big Brother' conduct was anticipated by the Kentucky state legislature in its grant of power and authority to boards of health," in the reasoning behind his ruling.^{267, 272}

The fact that the Bullitt County Fiscal Court was the governing body of Bullitt County, which in suing the Bullitt County Health Department created an unusual dynamic with one unit of local government suing another unit of local government, leaving the 2011 Bullitt County Attorney Monica Robinson to represent the Fiscal Court.²⁶⁷ In 2011, the Bullitt County Health Department was represented by Margaret "Peggy" Miller of Greenebaum Doll & McDonald.²⁶ Greenebaum Doll & McDonald was the same law firm that represented Lexington in 2004 to uphold the state's first local smoke-free air ordinance.²⁶

In a Wave 3 News interview, the Bullitt County Health Department Director Dr. Swannie Jett revealed that he was not surprised by the ruling. County Attorney Robinson stated "our whole issue the entire time has been who can make the law...the lawsuit was filed by Bullitt Fiscal Court and the eight cities not as an attack on the Health Department, but because it is our position that only legislative bodies, not administrative bodies, can create law."²⁶⁷

Judge Burress' ruling was worrisome for state tobacco control advocates because of the implications it could have on the other four smoke-free board of health regulations in the state if upheld in the Kentucky Appellate and Supreme courts.²⁶² For this reason state tobacco advocates banded together to support the Bullitt County Health Department's decision to appeal the Circuit Court ruling. For example, the Clark County Board of Health, which successfully adopted and implemented a comprehensive smoke-free air regulation two years prior in 2009, provided technical assistance and \$5,000 in financial support to the Bullitt County Health Department as it worked to appeal the Circuit Court decision.²⁷³ The \$5,000 that the Clark County Health Department used to provide financial support to the Bullitt County Health Department was money received from the University of Kentucky for consulting services provided by Health Department Director Scott Lockard to the Bullitt County Health Department.²⁷³

As of August 2012, Judge Burress' Circuit Court order was waiting for a ruling in the Kentucky Court of Appeals.²⁷³

The First Repealed Local Smoke-free Air Ordinance – Campbell County

In 2008, the Kentucky Center for Smoke-free Policy (KCSP), worked with state tobacco control advocates in three adjoining Northern Kentucky counties, Kenton, Boone, and Campbell to form the Northern Kentucky ACTION Coalition under the University of Kentucky KCSP

Clean Indoor Air Partnership Program. The State Tobacco Prevention and Cessation Program contracted with the KCSP CIAP program to provide technical assistance to communities working to achieve smokefree air policies. These three counties comprise a very large urban area across the Ohio River from Cincinnati and north of the Lexington-Fayette metropolitan. The Northern Kentucky ACTION Coalition membership included organizations such as the Campaign for Tobacco Free Kids, the American Cancer Society, the American Lung Association, the American Heart Association, The Northern Kentucky Health Department, St. Elizabeth Medical Center and St. Luke Hospital.²⁷⁴

The three adjoining Northern Kentucky counties were one of the last areas in the Northern Region (Figure 12) enact a local smoke-free air ordinance. It was important to the statewide smoke-free air movement for the three counties to enact local smoke-free air measures because the three counties would help solidify statewide support for a statewide smoke-free air law.²⁶

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In 2008, Campaign for Tobacco Free Kids surveyed 750 Boone, Kenton, and Campbell county voters, and found that 65 percent were in favor of a smoke-free workplace while 35 percent were against it.²⁷⁵ Between 2008 and 2010, the Coalition advocated for a local smoke-free air ordinance to end smoking in all public places by demonstrating the need through air quality studies, and demonstrating public support and readiness through public opinion polls.^{274, 276}

In the *Lexington Herald Leader* and the *Covington Kentucky Post*, Linda Vogelpohl, the Northern Kentucky Coalition chair, stated,

[E]veryone has the right to breathe clean air at work and in public places... This is the right thing to do, and it's the right time to do it. We've seen Cincinnati, Ashland, Louisville, and Lexington all promote and pass ordinances for smoke-free air. We believe it's time for Northern Kentucky to do that....^{274, 275}

The Northern Kentucky ACTION Coalition worked with Fiscal Court Judges from the Boone, Kenton, and Campbell County Fiscal Courts to champion a smoke-free ordinance that all three adjoining counties could support.²⁷⁶ Campbell Judge-Executive Steve Pendery was the most supportive official. In the Fiscal Court governing body, the Judge-Executive holds the primary responsibility for the administrative affairs. In the *Lexington Herald Leader*, Pendery predicted that the "officials would develop an ordinance that all three counties can support".²⁷⁶ Kenton County Judge-Executive Ralph Drees was also supportive and stated in the *Lexington Herald Leader* that, "[a] majority of Kenton Fiscal Court supports a smoke-free ordinance."²⁷⁶ Boone County Judge-Executive Gary Moore stated in the *Lexington Herald Leader* that "he

wanted to see a final smoke-free ordinance before deciding how to vote on it...he doesn't think the government body currently has the votes to pass it."²⁷⁶

The Northern Kentucky CHOICE Group Coalition opposed local smoke-free air laws in the three northern counties. The Coalition was made up of residents, consumers, and business owners who believed that smoke-free air ordinances would create a loss of personal and economic freedom.²⁷⁷ The member organizations were not listed on the Coalition website, which indicates that the tobacco industry was most likely involved and used the Coalition as a front group. Furthermore, in 2012, the Northern Kentucky CHOICE Group Coalition was not formally incorporated or registered with the Internal Revenue Service as a charitable organization. Following standard tobacco industry rhetoric, they argued that the bans would be an infringement on personal rights and that taxpayer dollars were being used to promote local smoke-free air laws.²⁷⁷ The same arguments were used by the tobacco industry smoker's rights front groups throughout the 1990's.²⁷⁸ These arguments created contention within the community around the efforts to enact local smoke-free air laws.

The Boone County Fiscal Court decided not to vote on the local smoke-free air ordinance, while Kenton enacted on December 21, 2010 a partial local smoke-free air ordinance to end smoking in public places (including restaurants) and places of employment, with the exception of bars that prohibit minors under 18 years of age.¹⁵⁹ The Campbell County Fiscal

The Campbell County ordinance adopted in 2010 was repealed on February 16, 2011 as a result of the efforts of the Northern Kentucky CHOICE tobacco industry front group. The Northern Kentucky CHOICE group worked very hard to get their people elected to the Fiscal Court in 2010.²⁶ In February 2011, the newly elected Campbell County Fiscal Court voted 3 to 1 to repeal the countywide ordinance that prohibited smoking in public places, adopted in December 2010.

Court enacted a comprehensive 100 percent smoke-free air ordinance that ended smoking in all public places, restaurants, bars, and workplaces in December 2010.²⁷⁹

The Campbell County ordinance adopted in 2010 was repealed on February 16, 2011 as a result of the efforts of the Northern Kentucky CHOICE tobacco industry front group. The Northern Kentucky CHOICE group worked very hard to get their people elected to the Fiscal Court in 2010.²⁶ In February 2011, the newly elected Campbell County Fiscal Court voted 3 to 1 to repeal the countywide ordinance that prohibited smoking in public places, adopted in December 2010.²⁷⁹

The health groups were involved and worked with the Northern Kentucky ACTION coalition in an effort to save the Campbell County Smokefree Ordinance. For example, the American Lung Association sent out an action alert to tobacco control advocates in Campbell County and urged them to contact the Fiscal Court Commissioners to tell them not to repeal the smokefree air ordinance, and urged them to attend the Fiscal Court meetings to show support for the new law.

Campbell County Judge-executive Steve Pendery cast the only vote to keep the ordinance in place, and suggested allowing smoking only in establishments that serve only people 21 or older, as opposed to prohibiting smoking in all public places, in an effort to save the smokefree

air ordinance. Commissioner Ken Rehtin, who voted against the ban in December, voted against the ordinance again in February, and requested that the Judge-Executives of Campbell, Kenton, Boone and Grant counties consider requiring that all restaurants and bars post signs telling customers whether they allow smoking inside as a consumer protection.²⁷⁹ Rehtin's suggestion was a standard industry fall-back position called red light/green light (a variant of accommodation). The Red Light/Green Light policy was a program developed by Philip Morris to provide red stickers to indicate a smoking establishment, yellow stickers to indicate both smoking and non-smoking areas are available and green stickers for smoke-free establishments.²⁷¹ The newly seated Campbell County commissioners Pete Garrett and Brian Painter kept campaign promises to his constituency and mentioned the importance of business liberties, and joined Rehtin to repeal the ordinance.²⁷⁹ Since 2012, the Campbell smoke-free air ordinance was the first and only local ordinance to be repealed in Kentucky.

State tobacco control advocates led by Northern Kentucky ACTION were outmaneuvered by the opposition. Many of the local advocates who agreed to provide testimony during the council hearings were intimidated by the large presence and threatening environment created by the opposition during the council hearings, and often times backed out of speaking.²⁶ In addition to being intimidated by the opposition, political pressure manifested behind the scenes from elected officials caused the Northern Kentucky Board of Health to prevent the local health department tobacco prevention and cessation program employees from creating awareness about the importance and need for smoke-free air measures and building the local capacity to address the issue.^{26, 97}

The Kenton County Fiscal Court local smokefree air ordinance remained intact despite efforts by the Northern Kentucky CHOICE Coalition to repeal it along with repealing the Campbell County smokefree air ordinance. The vote to repeal the ordinance failed 2-2 in February 2011. In 2012, The Northern Kentucky CHOICE Coalition vowed to continue their efforts to repeal the Kenton County smokefree air ordinance.

Smoke-free Air in the Western Kentucky Region: Daviess County

On December 15, 2005, Daviess County, which includes Owensboro, the third largest city in the state,²⁸⁰ became the fourth community in Kentucky and the first community in the Western Region to adopt a local smoke-free air ordinance (Table 14).

The idea of an ordinance ending smoking in public places got off the ground after Lexington implemented a smoke-free ordinance in 2004, making smoking in most public places smoke-free.²⁸¹ A *Owensboro Messenger Inquirer* editorial stated that “[t]he local group ‘ODC [Owensboro Daviess County] Smoke-Free,’ was proposing a Lexington-style smoke-free ordinance for all of Daviess County. The ordinance will likely contain exceptions for certain establishments that specialize in tobacco products, which isn't unreasonable.”²⁸¹ The efforts of tobacco control advocates were led by the Owensboro Daviess County (ODC) Smoke-Free Volunteers, a grassroots Coalition made up of local community members with technical assistance from the Green River District Health Department and support from the state chapter of the American Cancer Society and Kentucky Center for Smoke-Free Policy.²⁸¹ The Green River District Health Department, like other local health departments throughout Kentucky, was able to

create a Tobacco Control Program after receiving funding from the State Department of Public Health MSA funds in 2002.¹³⁶ The movement to end smoking in public places across Daviess County began with open public forums convened by state tobacco control advocates to discuss the issue of public smoking, a petition of signatures collected from local voters in support of a county-wide smoke-free ordinance, and surveys conducted by state tobacco control advocates to demonstrate public support and show that the majority of the constituency supported a local smoke-free ordinance.

The ODC Smoke-Free Coalition public forum participants included an array of community officials, leaders and business owners included in Table 15. The forum agreed that smoking regulations were feasible in the changing times; however, there was not a consensus on how a smoke-free ordinance should be adopted.²⁸² Some elected officials were supportive of adopting an ordinance, while other elected officials believed restaurants and bars needed to implement voluntary measures. For example, in 2004, in the *Owensboro Messenger Inquirer* Daviess Fiscal Court Judge-Executive Reid Haire stated:

<p>Table 15: Owensboro Daviess County Smoke-free Coalition Members</p> <p>David Fowler, <i>Owensboro City Attorney</i> Tony Gholson, <i>local employer plant manager</i> Judge-Executive Reid Haire Becky Horn, <i>Daviess County senior health educator for Tobacco Control Coalition for Green River District Health Department</i> Beverly Howard, <i>counselor at Owensboro Catholic High School and adviser to Green River Youth Advocacy Council</i> Rod Kuegel, <i>Daviess County tobacco farmer</i> Dr. David Lippman, <i>McAuley Clinic physician</i> Carole MacQuarrie, <i>co-owner of Colby's Fine Foods and Spirits</i> Debby Neel, <i>vice president of Owensboro Medical Health System HealthPark</i> Jenny Pearson, <i>co-owner of Jack & Jenny's Diner</i> Gerry Roerty, <i>general counsel for Swedish Match North America Inc.</i> Mike Sullivan, <i>chairman of Greater Owensboro Chamber of Commerce</i> Dale Taylor, <i>chairman of Citizens Health Care Advocate</i></p>
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[I]t stumps me that we keep putting the burden of living and making rules on local government officials. I have been in a restaurant -- one time when I smoked -- and I didn't have to worry about a government official coming in there and telling me not to smoke. I had four or five patrons coming over and telling me to put that cigarette out. George Skiadas with The Bistro has just made the decision ... he is a smoker, and he has made the decision that he wants a smoke-free restaurant. I don't see many people running away from his restaurant on principle because he is smoke-free. The responsibility for some of these actions should not be the burden of government alone to input a law or enforce a law...to prohibit these activities. If the community feels like that it needs to be done, then there should be not just a run on the government officials to make some law and create a controversy and be in the middle to take the heat. There should be that same pressure upon restaurant owners, and if restaurant owners believe that the bottom line will be impacted in one way or the other, then that is the action that they need to take.²⁸²

The ODC Smoke-Free Coalition continued to work to demonstrate support for a smoke-free air ordinance and circulated a petition asking the public to support a "smoke-free community that would protect employees, patrons and the public from health risks resulting from secondhand smoke," in Owensboro and Daviess County before a specific proposal was put fort.²⁸³ Don Crask, Green River District Health Department tobacco educator, stated in the *Owensboro Messenger Inquirer* that "[a]lthough there are no proposals in stone, the group will probably ask for a ban similar to one in Lexington, where smoking was illegal in most public places...."²⁸³ The ODC Smoke-Free Coalition collected 1,000 to 1,200 petition signatures,

signed by residents and city restaurant owners urging the Fiscal Court to enact a smokefree air ordinance.²⁸⁴

The Green River District Health Department and River Valley Behavioral Health conducted a survey in 2005 that determined 28 percent of Daviess County residents were occasional or regular tobacco users, 55 percent of whom favored of a local ordinance making all public buildings including restaurants, bars and workplaces smoke-free; and 64 percent of nonsmokers favored an ordinance.²⁸³ In 2005, a separate telephone survey of 401 Daviess County residents conducted by the Opinion Research Associates Inc. of Little Rock, AR, on behalf of ODC Smoke-Free coalition, also found that 65 percent of respondents favored an ordinance that made all public buildings, restaurants, bars and workplaces smoke-free, with just 35 percent strongly or somewhat opposed.²⁸⁵ The survey also found that 82 percent of never smokers and 68 percent of former smokers favored a smoke-free law, while 59 percent of smokers opposed it. Ninety-two percent of all respondents considered secondhand smoke a health hazard and 82 percent believed that the government was responsible for protecting citizens' health. The survey results were consistent, regardless of age, political affiliation or education level. The survey results demonstrated strong community support and encouraged the ODC Smoke-free Coalition to continue to pursue a smoke-free air ordinance.²⁸⁵

The ODC Smoke-Free Coalition used the demonstrated support to request that the Daviess Fiscal Court enact a smoke-free ordinance. Despite the presentation of strong support for a smoke-free air ordinance, the Coalition received mixed reactions from the four members of the Daviess Fiscal Court.²⁸⁴ Fiscal Court Judge-Executive Reid Haire supported a restaurant only smoke-free ordinance if the majority of restaurant owners were in favor, County Commissioners Bruce Kunze and Jim Lambert favored a comprehensive ordinance to end smoking in all businesses and public buildings, and Commissioner Mike Riney opposed any restrictions.^{284, 286} In the *Owensboro Messenger Inquirer*, Haire agreed that the presentation of the need and support for a smoke-free air law by state tobacco control advocates “[s]tarts the discussion at the elected officials' level...I don't think anybody can dispute the harmful effects of second-hand smoke,” and vowed to work with commissioners on an ordinance that the officials could agree on.²⁸⁴

Melanie Ellingsworth, communications director for the Kentucky affiliate of the American Cancer Society in 2005, stated in the *Owensboro Messenger Inquirer*, “[t]he Cancer Society would like Daviess County and Owensboro officials to adopt an ordinance that would cover workplaces, public buildings and bars as well as restaurants...what we are asking [for] is a comprehensive ordinance...we wouldn't be [addressing] it from this direction if we didn't feel it's the local government's duty to protect public health.”²⁸⁵

There was little publicly visible organized opposition to the tobacco control advocates' efforts for a smoke-free air ordinance. However, Jim Water, the director of policy and communications for the Bowling Green-based Bluegrass Institute for Public Policy Solutions, a Republican and Libertarian think tank that represents itself as an "independent, nonpartisan association of writers, speakers and thinkers who analyzed state and local public policy in Kentucky,”²⁸³ argued against the adoption of a Daviess County Fiscal Court smoke-free air ordinance in an editorial repeated standard tobacco industry rhetoric in an opinion editorial in the *Owensboro Messenger Inquirer*:

[T]he answer to this is not to trample on the constitutional rights of private property owners...that's not going to take care of the health issue...we don't need the heavy hand of government involved...I hate smoking, I dislike it, I'm not a smoker...but I dislike government taking away private property owners' rights even more than I dislike smoking ...that is bad government policy.²⁸³

Despite the strong documented public support for a law, the Daviess County Fiscal Court only approved a partial smoke-free air ordinance 3 to 1 that ended smoking only in public places that allowed minors. In the *Lexington Herald Leader*, Judge Executive Reid Haire explained:

[T]he ordinance was drafted that way to ease concerns about infringing on people's rights...the only segment that does not have that right to choose [where they are taken] are those under age 18...that is as far as I could go with this ordinance...business owners can decide for themselves whether to let employees smoke in work places.²⁸⁰

Commissioner Bruce Kunze, who voted in favor of the ordinance, also explained his support for the compromise in the *Lexington Herald Leader*, saying "[i]f there is anything we can do to improve the health of this community, we need to do that."²⁸⁰

Commissioner Mike Riney, the lone vote against the ordinance, argued in the *Lexington Herald Leader* that, "it was a government intrusion into how a business is run, and I philosophically disagree with that...the county should not regulate smoking because that is the job of the federal government...it's just not something local government should be regulating."²⁸⁰

The Daviess County Fiscal Court ordinance to end smoking in public establishments (including restaurants and workplaces) that allowed minors, effectively excluding bars and

The partial local smoke-free measures became the ok pattern in the Western Region of the state. By 2012, there were five local partial smoke-free ordinances in Daviess County, the City of Henderson, the city of Paducah, Hopkins County, and the city of Oak Grove (Table 14). However, the smokefree air laws in Henderson, Paducah and Oak Grove did not include a minors' exemption.

allowing smoking in any establishment that claimed not to allow minors.²⁸⁰ The tobacco industry will accept measures with such "minors provisions" as in Daviess County, because they keep smoking in bars, which the tobacco companies use to promote their products,^{287, 288} and are less effective than comprehensive policies on reducing tobacco use.²⁸⁹⁻²⁹⁵

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Smoke-free Air in the Eastern Kentucky Region:

Letcher County

In April 2006, Letcher County became the fifth community in the state, and first community in the Eastern Region to enact a local countywide smoke-free air ordinance (Table 14), when the Letcher County Fiscal Court voted 4-2 to end smoking in all public places, including restaurants, bars and workplaces effective July 1, 2006.²⁹⁶⁻²⁹⁸ The ordinance included enforcement measures such as a graduated fine beginning at \$100 for businesses that allowed smoking, and increasing to \$250 and \$500 for the second and subsequent violations.^{297, 298} The ordinance allowed people who refused to stop smoking in prohibited areas to be prosecuted for trespassing.²⁹⁷

The Letcher County Smoke-Free Air ordinance was top down effort championed by Letcher County Fiscal Court Judge-Executive Carroll Smith, who approached the University of Kentucky Center for Smoke-free Policy (KCSP) to receive technical assistance to implement a smokefree air policy.²⁹⁸ In *The Kentucky Post*, Smith stated that “[t]he ban is a part of his duty to protect the public.”²⁹⁸ State tobacco control advocates, led by the KCSP, through the Clean Indoor Air Partnership program (CIAP), contracted through the state Tobacco Prevention and Cessation Program, demonstrated the need for an ordinance by conducting air quality studies in public environments, showed public support by gathering signatures for a smoke-free air measures, and worked with Smith to write and pass the legislation. The activities were a part of the KCSP CIAP program, implemented in communities working to achieve smokefree air policies.

The Letcher County Smoke-Free Air ordinance was approved despite at least two petitions presented to the Fiscal Court circulated by a group of local business owners in opposition to the ordinance with hundreds of signatures.^{297, 298} The opposition petitions and arguments during a nearly three hour heated debate over the smoke-free air ordinance did little to influence the Letcher County Fiscal Court leadership. Local citizens Will and Teresa Collins, of Citizens for Rural Strategies, represented state tobacco control advocates and provided testimony during the heated debates.²⁶ Letcher County Fiscal Court Judge-Executive Carroll Smith, who was up for reelection one month after he voted to pass the ordinance in May, explained his support for the ordinance in the *Lexington Herald Leader*:

[I] would guess I've alienated some people...but I think it's a public health issue, and part of my duties is to protect the public...some polls show that 75 percent of Americans support smoking in public places...in Kentucky, the percentage is 72 percent, and in Eastern Kentucky, the percentage against smoking in public buildings is 70 percent...I'll take a 70-30 majority any time, politically.²⁹⁷

Magistrate Tray Narramore, who originally opposed the ordinance, had a change in heart after eating out in cigarette smoke-filled restaurants.²⁴⁶ *The Kentucky Post* reported Narramore “[c]hanged his mind as he noticed that even when restaurants had smoking sections, he'd leave stinking of tobacco smoke. He thought about how the stuff that was sticking to his clothes was affecting workers in smoke-filled areas.”²⁹⁶ Before the Fiscal Court vote in May 2006,

Narramore, after sharing his experience in a cigarette smoke-filled restaurant, explained to his fellow Fiscal Court magistrates:

[i]t seemed unfair because people still had to breathe smoke...nothing in this ordinance will cause a great hardship to smokers...I have a right to breathe clean air, too...it is a health issue, and it is our responsibility to consider the health and welfare of the people in Letcher County.²⁹⁶

In a 2012 interview, Hahn recalled “the Letcher County ordinance was a top down effort. Carroll Smith was a good, solid, well respected influential leader who made it happen.”²⁶

By the end of 2012, there were ten communities in the Eastern Region of Kentucky with a local smoke-free air policy; seven (Letcher County, and the cities of Morehead, Ashland, London, Prestonburg, Manchester and Corbin) were 100 percent comprehensive and prohibited smoking in all public places, including restaurants, bars, and workplaces (Table 14). The other three Eastern Region smokefree air policies in Paintsville, Pikeville, and Beattyville allowed designated smoking areas.

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Smoke-free Air in the Southern Kentucky Region:

Campbellsville

The Southern region of Kentucky was the last region of the state in which a community enacted a local smoke-free air ordinance, perhaps because the Southern Region was a traditional tobacco-growing

region with a more conservative political landscape, than the urban metropolitan areas of the state.²⁹⁹ The push for smoke-free air ordinances in the Southern Region of the state was a part of the larger movement of state tobacco control advocates led by the Kentucky Center for Smoke-Free Policy pushing for smoke-free air in local communities throughout Kentucky.²⁹⁹

State tobacco control advocates worked with the Kentucky Center for Smoke-free Policy (KCSP) to demonstrate the need for a smoke-free air ordinance in Campbellsville (population 11,266) by conducting air quality studies and showing public support by gathering signatures. David Nunery, a Campbellsville Council member and attorney, led local advocacy efforts by reaching out to KCSP for technical assistance and guidance to pass the local ordinance. The KCSP met with Council Member Nunery and Mayor Brenda Allen, and engaged the local health department to build community capacity by creating public awareness primarily through earned media.

Mayor Allen, who grew up on a tobacco farm, challenged the Southern Region opposition to smoke-free air rooted in the Region's longtime reliance on tobacco as a cash crop. In the *Lexington Herald Leader*, Allen stated:

[T]here's just still a lot of the people that feel like we're betraying the farmers by advocating no smoking in public places...it's not that we're trying to keep people from smoking where other people wouldn't be exposed...we're trying to make sure that the air people breathe is clean... smoke-free laws help accomplish that, studies show...no matter how careful you are about segregating it...with non-smoking areas...you're still getting that smoke it is clear that workers and patrons at businesses that allow smoking are exposed to secondhand smoke.^{299, 300}

In a 2012 interview, Hahn recalled, “the Campbellsville smoke-free air ordinance was another example of a top-down approach. The local leaders reached out to the Kentucky Center for Smoke-Free Air policy and the center provided technical assistance and engaged the local health department to create awareness and build community capacity. The smoke-free air ordinance was enacted because courageous local leaders wanted it to happen.”²⁶

On June 1, 2009, nearly 6 years after Lexington-Fayette adopted the first local smokefree ordinance in 2003, Campbellsville became the 22nd community in the state and first community in the Southern region of the state to adopt a comprehensive smoke-free air ordinance to end smoking in all public places, including restaurants, bars, and workplaces (Table 14).²⁹⁹⁻³⁰¹

By the end of 2012, there were five smoke-free air ordinances in the Southern Region of Kentucky; four were 100 percent smoke-free air policies that prohibited smoking in all public places, including restaurants, bars, and workplaces (Table 14) and one that only prohibited smoking in restaurants.

Conclusion

Between 2004 and 2012, state tobacco control advocates, led by the University of Kentucky Center for Smoke-free Policy (KCSP) have successfully enacted 35 smokefree policies to protect 34.1 percent of the state's population. The KCSP has led the efforts to achieve smokefree policy in the state by providing technical assistance through the Clean Indoor Air Partnership (CIAP) program to communities working to achieve smokefree air policies. The state Tobacco Prevention and Cessation Program contracts with the KCSP to implement the CIAP program which includes tools and surveys designed to create awareness and foster public support to achieve policy change.

In 2004, state tobacco control advocates successfully enacted the first local smoke-free air ordinance in the state in Lexington-Fayette. The Lexington-Fayette metropolitan is the second largest urban area in the state behind Louisville. The tobacco industry unsuccessfully tried to overturn the law through litigation alleging that the local Lexington-Fayette Urban County Council did not have the authority to enact a smokefree air policy, and state legislation in an attempt to preempt local smokefree air policies. The state tobacco control advocates were able to defeat the tobacco industry because they were aware of the tobacco industry tactics in

other states. The state tobacco control advocates used their knowledge to protect and strengthen the state's first smokefree air ordinance, and mobilize advocacy efforts to diffuse smokefree policy across the state. The state tobacco control advocates used the Smoke-Free Lexington-Fayette campaign as a model to garner public support to protect workers and public health through additional local smoke-free air policies throughout the state.

Beginning in 2010, and for the first time in the state, in 2011, the tobacco industry organized opposition to local smokefree air laws through the Bullitt County CHOICE and Northern Kentucky CHOICE Coalitions, which ostensibly was made up of local business owners and citizens concerned with protecting their right to choose. These pro-tobacco industry coalitions were perpetuated by the growing extreme right Tea Party Political Party movement in Kentucky, and used militant tactics to intimidate state tobacco control advocates and disrupt smokefree air policies in Bullitt County, and Campbell County Kentucky through 2012. The tobacco industry resorted to these tactics as smokefree policy diffusion became increasingly popular across the state and the possibility of a comprehensive statewide smokefree law neared in 2010.

Chapter XI: State Level Smoke-Free Activity

- *Between 2004 and 2012, state tobacco control advocates achieved success around smokefree air policies by protecting local tobacco control from preemption, and by implementing 35 local smokefree air measure.*
- *In 2006, the state tobacco control advocates successfully pushed for legislation that allowed local governments to end smoking in local government buildings. The 2006 legislation reversed the 1994 legislation that required designated smoking areas in government buildings where smoking was otherwise prohibited, and allowed state tobacco control advocates to strengthen local smokefree air measures by including all workplaces.*
- *In 2010, state tobacco control advocates led by the Smoke-free Kentucky coalition, initiated a campaign and five-year strategic plan to achieve a statewide smokefree air law. Legislation was introduced in 2011 and 2012 to educate legislators about the importance of a statewide smokefree air law.*

While almost all tobacco policy activity in the Kentucky General Assembly was pro-tobacco through 2012, state tobacco control advocates, led by Kentucky ACTION and working with the Campaign for Tobacco-free Kids and the voluntary health organizations, were strategically working to urge the state legislators to protect the progress and successes being made on local smoke-free air laws and regulations throughout the state. Between 2004 and 2010, state tobacco control advocates lobbied the Kentucky Legislature to maintain local control, while the Kentucky Center for Smoke-free Policy continued to build statewide capacity for a statewide smoke-free air law by continuing to pass local smoke-free air measures. The state tobacco control advocates efforts worked synergistically to combat the social construct of being a tobacco growing state and strategically delayed the development of a comprehensive statewide smoke-free air law.

2004 - 2006: Government Buildings - Designated Smoking Areas

As discussed earlier, while state tobacco control advocates successfully defended in the Kentucky Supreme Court in 2004 the local Lexington-Fayette Smoke-Free Air ordinance to end smoking in most public places, there were three bills filed in an unsuccessful attempt by the tobacco industry to preempt local governments from enacting legislation to restrict or prohibit public smoking.

In 2004, Senator Ernie Harris (R, Crestwood, Total Tobacco Industry-Related Political Campaign Contributions (1994-2010) \$1,450) chairman of the Senate Natural Resources and Agriculture Committee, and House Speaker Jody Richards (D,

Between 2004 and 2010, state tobacco control advocates lobbied the Kentucky Legislature to maintain local control, while the Kentucky Center for Smoke-free Policy continued to build statewide capacity for a statewide smoke-free air law by continuing to pass local smoke-free air measures. The state tobacco control advocates efforts worked synergistically to combat the social construct of being a tobacco growing state and strategically delayed the development of a comprehensive statewide smoke-free air law.

Bowling Green, Total Tobacco Industry-Related Political Campaign Contributions (1994-2010) \$2,390), confirmed that the preemption bills had little support in the state Legislature. Harris stated in the *Lexington Herald Leader*:

[T]he smoking ban debate hardly dominated lawmakers' minds and rarely, if ever, came up during GOP caucus meetings...from the beginning, I thought it was important that my committee [Senate Natural Resources and Agriculture Committee] take up the issue...but I wasn't particularly hopeful that a bill would pass...I wanted to give it a public airing...I didn't know if it was going to get anywhere or not. So you just run it up the flagpole and see who shoots at it and who doesn't....³⁰²

Richards confirmed that “[t]he House wouldn't take up the issue because so many members believed in home rule.”³⁰²

The three preemptive bills never made it past committee as discussed earlier in this report. Concurrent with the lack of support for and ultimate death of the three preemptive bills Representative Steve Nunn, (R, Glasgow, Total Tobacco Industry-Related Political Campaign Contributions (1994-1995) \$2,100) introduced a bill introduced to restrict smoking to designated areas of the state Capitol and the state Capitol Annex, and to end smoking in publically shared areas such as hallways, meeting rooms, shared offices, restrooms and cafeteria, moved forward. Representative Steve Nunn introduced HB 493, *An Act relating to nonsmoking in public areas of the Capitol and Capitol Annex*, after growing tired of being in a smoke filled working environment. Explaining his position in the *Lexington Herald Leader*, Nunn stated:

[I] support people's right to smoke...I also believe that nonsmokers have rights...my smoke-filled workplace is a public health hazard... I've had all I can take of it...I like to exercise by climbing the Capitol stairs but I am often greeted at the top by a group of smokers...the General Assembly needs to be more health-conscious ...my idea has nothing to do with other [preemptive] proposals...I want to protect women, children and fellow lawmakers like Robin Webb, D-Grayson, who is allergic to smoke...we [Nunn and Webb] and have unsuccessfully asked members of the Legislative Research Commission to adopt an internal policy that would safeguard the public....³⁰³

Nunn was also sensitive to how short life was at the time he sponsored the bill to restrict smoking in the state Capitol, as his father, former Kentucky Governor Louie Nunn, had recently died from a heart attack.³⁰⁴

State tobacco control advocates, led by the Kentucky Center for Smoke-Free Policy, were supportive of Nunn's legislation because it was a clear illustration of home-rule and local control of a shared environment. State tobacco control advocates used earned media to support the legislation. In the *Lexington Herald Leader*, Center Director Hahn explained “The legislature has taken local control of their own environment...they exercised their right at the local level...because that's where they work...the General Assembly's decision to restrict smoking in the Capitol emphasizes the importance of local control over such issues.”³⁰²

Opponents of the legislation, including Representative Perry Clark (D, Louisville, Total Tobacco Industry-Related Political Campaign Contributions (1994-2010) \$675), believed that Nunn's bill represented a growing number of restrictions against smokers.³⁰⁴ In the *Lexington Herald Leader*, Clark protested against the legislation; "Pretty soon we'll have to leave the Earth to smoke...me and my colleagues already try to be courteous around non-smokers."³⁰⁴

HB 493 was reported favorably from the House State Government Committee and calendared for the second Floor reading on March 3, 2004 and a third reading and debate for passage on March 16, 2004. During the Floor debate of HB 493, two amendments were filed. The first amendment filed by Perry Clark (D, Louisville) was an unsuccessful attempt to require the Master Settlement Agreement monies allocated to Barren County (the County where the state Capitol is located) for tobacco control programming, to be used to establish smoking lounges in the Capitol and Capitol Annex. There was little support for Perry's amendment, and he withdrew it five days after filing it.³⁰⁵ The second amendment was filed by the bill sponsor Nunn and was successful in establishing a clear definition of public areas and specifying that the governing authority of each branch of government may designate smoking areas in the Capitol and Capitol Annex for space allocated to and occupied by the respective branch.³⁰⁵ Smoking was already prohibited in public areas on the first and second floors of the Capitol, which were under the control of the executive and judicial branches. Under Nunn's amendment to the bill, those bodies could also set up designated smoking areas if they chose in the areas that they control. They currently had no such areas, Nunn said.³⁰³ HB 493 passed the state House 72-15 with Nunn's amendment and moved forward to the state Senate.³⁰³

While in the Senate, HB 493 was sponsored by Senator Tom Buford (R, Nicholasville, Total Tobacco Industry-Related Political Campaign Contributions (1994-2010) \$250), who stated in support of HB 493 in the *Lexington Herald Leader* that "[W]e support an individual's right to smoke when they want or need to, but we believe also that non-smokers should have the right to avoid that...the state spends millions of dollars each year to reduce youth smoking but doesn't discourage it as thousands of school children visit the Capitol complex each year."³⁰⁶ HB 493 moved forward seamlessly, and was calendared and passed 31 to 3 on March 25, 2004.³⁰⁵

Governor Ernie Fletcher (R, 2003-2007) signed HB 493 and it went into effect on August 1, 2004.^{303, 306}

2006: HB 55 and Governor Fletcher's Executive Order

In 2006, Representative Steve Nunn (R, Glasgow, Total Tobacco Industry-Related Political Campaign Contributions (1994-2010) \$2,100) successfully continued his efforts to encourage restricted smoking in government-owned buildings and facilities by sponsoring HB 55 *An Act Relating to Smoking*. HB 55 repealed the requirement that smoking areas be provided in government buildings, restricted smoking to outdoor smoking areas of state government buildings, and gave local governments the option to enact smoke-free policies in local government office buildings.²⁴⁵

State tobacco control advocates, led by Kentucky ACTION, supported HB 55 because it gave local governments the authority to prohibit smoking in all workplaces including

government buildings. The legislation was important in the local smoke-free air movement because it reversed 1994 legislation that required local governments to create separately ventilated indoor smoking areas where smoking was restricted.³⁰⁷ State tobacco control advocates worked with Nunn to lobby legislators to support and vote for of HB 55. In addition, state tobacco control advocates implemented grassroots advocacy efforts which included action alerts and earned media.

In the *Owensboro Messenger Inquirer*, Nunn explained following the approval of HB 55: “[T]his is really a public health issue for workers in state government and counties and local government...this has been, since it was enacted, really an unfunded mandate for local governments that they have not followed through with.”³⁰⁷ For example, in 2006 local officials in Owensboro (Davies County), Kentucky were working with state tobacco control advocates to enact a local smoke-free air ordinance to restrict public smoking. However, under the 1994 legislation, the Owensboro city government would have to pay an estimated \$400,000 to create ventilated designated smoking areas to be in compliance with the law.³⁰⁷

There was little publicly visible opposition to the legislation. Representative Jim Gooch (D, Providence), argued against the bill because he believed that “[s]moking policies for local governments should be consistent around the state and not be left up to individual municipalities...I just don't like cities adopting all these little special measures restricting people's rights...they ought to be consistent.”³⁰⁷ With limited opposition, HB 55 passed the House (91-7) and Senate (31-3) with strong majorities.³⁰⁷ Governor Ernie Fletcher signed HB 55 to give the state and local governments, and universities the authority to enact smoking policies.^{15,296} The 1994 requirement for smoking rooms was gone.

Fletcher, a practicing physician before entering politics, explained in the *Lexington Herald Leader* that “[h]e signed the order to create healthier work environments for thousands of state employees, as well as many members of the general public...they no longer will be exposed to secondhand smoke at state offices...noting a U.S. Surgeon General's report last month on the harmful effects of secondhand smoke, including premature disease and death in non-smoking adults and children.”¹⁵

In addition to signing HB 55 into law, Fletcher adopted an executive order to prohibit indoor smoking in state government buildings controlled by the Executive Branch. Fletcher, a practicing physician before entering politics, explained in the *Lexington Herald Leader* that “[h]e signed the order to create healthier work environments for thousands of state employees, as well as many members of the general public...they no longer will be exposed to secondhand smoke at state offices...noting a U.S. Surgeon General's report last month on the harmful effects of secondhand smoke, including premature disease and death in non-smoking adults and children.”¹⁵

In 2006, the state owned 8,500 buildings and leased 800 more.¹⁵ Prior to the executive order, most of the state office buildings had designated smoking rooms. Following the implementation of the

Executive Order on August 1, 2006, smoking was restricted to designated outdoor smoking areas, with the previous smoking rooms being converted to offices or storage space.¹⁵ The only

exceptions to Fletcher's executive order included the Kentucky State Penitentiary in Eddyville, the state's only maximum-security prison, and guest rooms designated for smoking visitors at state parks.¹⁵

The American Cancer Society and the Campaign For Tobacco-Free Kids led the state tobacco control advocates in applauding the action by Governor Fletcher (R).¹⁵ In *The Kentucky Post*, Shannon Pratt, Government Relations Director for the American Cancer Society, said:

[t]he ban is a victory in a nationwide push to protect nonsmokers from secondhand smoke...it's very exciting, and it is monumental in that we were able to achieve this in Kentucky...so far, at least 17 states and more than 400 towns, cities and counties have approved strong no-smoking laws...adding Kentucky, which has one of the highest smoking rates in the nation, was important.³⁰⁸

There was little protest against Fletcher's executive order. For example, in the *Lexington Herald Leader* state employee Linda Lingle explained, "[i]t won't make any difference for us...I think there's [a smoking room] on the fifth floor here, maybe the second. But they take too long to walk to, so it's easier to go outside."¹⁵

Governor Fletcher's Executive Order, and the adoption of HB 55, served as a catalyst for local Kentucky communities to adopt and strengthen local smoke-free air measures. For example, the Lexington-Fayette smoke-free air ordinance adopted by the Urban County Council did not include all workplaces, such as City Hall and other government buildings, until 2008, because until 2006 state law required separately ventilated smoking rooms in government buildings where policies to restrict smoking were in place.

2010: Smoke-free Kentucky

As the diffusion of local smoke-free air policy continued across Kentucky, in January 2010 state tobacco control advocates, led by the American Heart Association, American Lung Association, American Cancer Society, Campaign for Tobacco-Free Kids, Kentucky ACTION, and the Kentucky Center for Smoke-Free Policy, created a statewide Smoke-free Kentucky Coalition to enact a statewide smoke-free air law by 2015. When the Smoke-Free Kentucky campaign was created, there were 27 communities throughout the state with smoke-free air measures that provided varying levels protection. The statewide campaign was created to work in collaboration with the ongoing local activity to help create smoke-free air for everyone.

In a January 2010 Smoke-Free Kentucky Coalition press release, concurrent with the launch of the Smoke-free Kentucky Campaign Amy Barkley, Director of Tobacco States and Mid-Atlantic Region for Campaign for Tobacco Free Kids, and chair of Smoke-free Kentucky, explained:

When the Smoke-Free Kentucky campaign was created, there were 27 communities throughout the state with smoke-free air measures that provided varying levels protection. The statewide campaign was created to work in collaboration with the ongoing local activity to help create smoke-free air for everyone.

[W]e [Smoke-Free Kentucky] encourage Kentucky’s local elected officials to continue to pass laws making workplaces in their communities 100% smoke-free...while we continue that local progress, we’re starting to educate state legislators as well, so that when the time is right, they will pass a comprehensive smoke-free law that covers all workplaces, including restaurants and bars, across the state of Kentucky...these laws are an appropriate response to the overwhelming scientific evidence that secondhand smoke is a serious health hazard that causes heart disease, lung cancer, and other serious illnesses. As smoke-free laws have spread, the evidence has also grown that these laws protect health without harming business in bars, restaurants and other hospitality venues.³⁰⁹

During the first year of the campaign, Smoke-Free Kentucky conducted a statewide survey of 500 likely voters between December 12 and 14, 2010.³⁰⁹ The 2010 survey documented support for a statewide smoke-free air law. Fifty-nine percent of Kentucky voters favored a statewide smoke-free air law to end smoking in public places including restaurants, bars, and workplaces.³⁰⁹ The survey found strong support across party lines, with 60 percent of Republicans, 55 percent of Independents, and 59 percent of Democrats supporting a law. Seventy-six percent of voters believed that exposure to secondhand smoke was harmful, 67 percent (including 48 percent of smokers) believed the right of customers and employees to breathe clean air in restaurants and bars was more important than the right of smokers to smoke, or owners to allow smoking in these places, and 55 percent of Kentucky voters (with support from a majority of Democrats, Republicans and independents) preferred a candidate for state office who supported a smoke-free law over one who opposes it.³⁰⁹

The Smoke-Free Kentucky Coalition did not believe that the legislation for a statewide smoke-free air law would pass, even though there was clear popular support, because it was the first time in the five-year plan that the legislation was being introduced.⁶

The Smoke-Free Kentucky Coalition did not believe that the legislation for a statewide smoke-free air law would pass, even though there was clear popular support, because it was the first time in the five-year plan that the legislation was being introduced.⁶ The Smoke-Free Kentucky Coalition wanted to introduce the statewide smoke-free air legislation as vehicle to begin to educate legislators and to get the conversation started in the state Assembly about a statewide smoke-free air. State tobacco control advocates used earned

media to push for the legislation and met with legislators individually to foster a relationship, begin to educate them about the importance of the legislation and to garner their support.

The 2010 survey results were not surprising to policymakers who were supportive of smokefree air policies. For example, Representative Brent Yonts (D, Greenville, Total Tobacco Industry-Related Political Campaign Contributions (1994-2010) \$500), was supportive of a statewide smokefree air law, and demonstrated his support through editorials explained in the *Madisonville Journal Enterprise*, “[t]his level of support is not really that surprising, considering that people in over 30 [in 2011] communities in the Commonwealth have some level of protection in public places and/or the private workplaces.”⁴⁸

The Smoke-Free Kentucky Coalition used this demonstration of public support to work with Representative Susan Westrom (D, Lexington, Total Tobacco Industry-Related Political

Campaign Contributions (1994-2010) \$0) to sponsor HB 193, *An Act prohibiting smoking in all public places and places of employment*, during the 2011 Legislative Session.^{309, 310} HB 193 proposed a comprehensive law to prohibit smoking in all enclosed public places and enclosed places of employment, including restaurants and bars, and within a minimum distance outside of public places and workplaces.⁶ The statewide smokefree air legislation was also co-sponsored by House Speaker Stumbo (D, Prestonsburg, Total Tobacco Industry Campaign Contributions (1995-2003) \$4,000), which represented the first time that a leader in the state legislature supported a comprehensive statewide smoke-free indoor air law. At the time that HB 193 was introduced on January 6, 2011, there were 30 communities with smoke-free air measures to protect 32 percent of Kentuckians (Table 14).⁶

In the *Grayson County News Gazette*, state tobacco control advocate and Director of the Kentucky Center for Smoke-Free Policy Ellen Hahn confirmed, “[T]his [HB 193] will get the ball rolling at the state level...we know the best comprehensive laws won't happen overnight...we really need to start somewhere....”⁶ While Hahn did believe that everyone deserves protection from exposure to secondhand smoke, she originally had reservations about initiating the statewide campaign for a smoke-free air law in 2011, and would have like to have waited until the last major urban areas in Kentucky -- Kenton, Campbell (which had repealed its ordinance in 2011), and Boone Counties, across the Ohio River from Cincinnati, Ohio – had enacted smoke-free air measures, because doing so would help to ensure a comprehensive statewide smoke-free air law.

When HB 193 was posted in House Committee on Health and Welfare, two floor amendments were filed by Representative Jim Gooch Jr. (D, Providence, Total Tobacco Industry-Related Political Campaign Contributions (1994-2010) \$0) to weaken the legislation by exempting cigar bars and retail tobacco stores, tobacco-related places of employment, limousines under private hire, and, most important, an exemption for restaurants and bars that do not admit persons less than age 21 years of age and any other place that does not admit persons less than age 21 years of age.³¹⁰ The bill was never heard in committee and the amendments were never voted on, and the legislation died.

State tobacco control advocates did not want any exemptions in the statewide smoke-free air law. Amy Barkley, Director of Tobacco States and Mid-Atlantic Region for Campaign for Tobacco Free Kids, and Chair of Smoke-Free Kentucky explained in the *Grayson County News Gazette* on January 12, 2011 at the beginning of the state legislative session to advocate for comprehensive statewide smokefree air legislation,

[W]e don't want to settle for a half baked law...this is not an area that can be compromised...exemptions to the law lead to complications...first, they mean that certain employees are not protected...if the intent of the bill is to protect people, why are some people more important than others...second, laws with exceptions are more difficult to enforce...with a comprehensive law, everyone knows if you're indoors you can't smoke...these things are very self-enforcing the more clear, concise and comprehensive they are...thirdly, exemptions can result in legal challenges....⁶

The Kentucky Smoke-free Air Act did not advance during the 2011 Legislative Session, as it was overshadowed by a statewide hospital merger and ultimately died with the adjournment of the session. In a 30-day legislative session, often one or two controversial issues can totally overshadow other legislation and limit what gets done.¹⁸

Despite the lack of advancement of HB 193 in 2011, the state tobacco control advocates were still in a good position to move forward with their statewide smoke-free air law efforts by using the time to educate the state legislators. In the *Grayson County News Gazette* Ellen Hahn explained in a media interview in an effort to advocate for a comprehensive statewide smokefree air law,

[i]t takes an average of two and a half to five years for Kentucky communities to pass smoke-free ordinances...as for enacting statewide bans...it really varies across the country...I am willing to wait...we don't want them to do something until they're ready...it's going to take a while for state legislators to study the science...they haven't done it before...we haven't asked them to do it...what's important, is to wait until legislators are ready to pass a comprehensive law, not one subject to exemptions such as private clubs or nightclubs.⁶

In addition to the statewide smoke-free air legislation introduced during the 2011 legislative session, House Speaker Stumbo (D, Prestonsburg, Total Tobacco Industry Campaign Contributions (1995-2003) \$4,000), also sponsored and introduced House Bill 216 to prohibit smoking in cars with children.³¹¹ While the unsuccessful legislation was an attest to his support for smoke-free air the legislation died. State tobacco control advocates did not ask Stumbo to introduce this legislation but they appreciated the intent and support. In 2011, the bill failed to make it past the House Committee on Health and Welfare.

During the 2011 Interim Session of the State Legislature, the Smoke-Free Kentucky Coalition continued to work with Representative Susan Westrom (D, Lexington) to present the statewide smoke-free air legislation to the Interim Joint Committee on Health and Welfare during their October 2011 meeting in anticipation of the 2012 Legislative Session.

Following the 2011 launch of the Smoke-Free Kentucky campaign for a statewide smoke-free air law, there was continued tobacco use prevention media coverage as a result of the campaign's effort. For example, in a 2011 press release, the Radiotherapy Centers of Kentuckiana reminded the local residents about the dangers of smoking. The press release compared the 77 percent of people with lung cancer in Kentucky, caused by smoking and exposure to secondhand smoke, to the 63 percent of people with the disease who died in neighboring state Indiana.³¹² The

continued media coverage created a sustained awareness about the dangers of exposure to secondhand smoke in Kentucky.

During the 2011 Interim Session of the State Legislature, the Smoke-Free Kentucky Coalition continued to work with Representative Susan Westrom (D, Lexington) to present the statewide smoke-free air legislation to the Interim Joint Committee on Health and Welfare during their October 2011 meeting in anticipation of the 2012 Legislative Session. The Interim

Joint Committee on Health and Welfare is made up of State Senate and House elected officials. The committee holds meetings outside of the legislative session to study and recommend legislative action. The Kentucky Chamber of Commerce also supported a statewide smoke-free law and was present during the Interim Joint Committee presentation. In the *Bowling Green Daily News*, Dave Adkisson, president and CEO of the Kentucky Chamber of Commerce stated,

[o]ver the last couple of years, our members have stood firmly behind a statewide smoking law...the attitude in Kentucky is changing toward smoking and the health effects can no longer be ignored...the business community now sees the effects of both smoking and secondhand smoke on our workforces in terms of absenteeism and lost productivity...we also see the effect on our insurance premiums and on our tax bills...smoking is not only killing us, it is bankrupting us both in terms of costs to business and cost of governments....²⁰⁸

The Committee was receptive to the idea of a comprehensive statewide smoke-free law in all indoor workplaces, restaurants and bars in Kentucky.²⁰⁸ In the *Bowling Green Daily News* Representative Jody Richards (D, Bowling Green, Total Tobacco Industry-Related Political Campaign Contributions 1994-2010 \$4,390), stated that “[t]here is no question that it [a statewide smoke-free air law] would save the state money in terms of what it pays out for Medicaid...we certainly are a high-smoking state and that is based on our tobacco-growing tradition...I could support a statewide smoking ban, depending on how it’s written, because I think it’s one of those laws that right now have a patchwork across the state and people don’t know from one community to the next whether they have one.”²⁰⁸

In a October 24, 2011 Smoke-Free Kentucky press release after the Committee hearing, Barkley stated, “[I]t’s time Kentucky joined the growing number of states that have passed smoke-free workplace laws to protect the rights of all workers and the public to be free from exposure to secondhand smoke...the momentum at the local level has created a growing demand for a statewide smoke-free law...we know from experience here in Kentucky and across the nation that smoke-free laws are good for health, good for business and essential to protecting citizens and workers from the proven hazards of secondhand smoke.”²⁰⁸

All the 2011 gubernatorial candidates -- Governor Steve Beshear (D, Total Tobacco Industry-Related Political Campaign Contributions (1994-2010) \$0), Senator David Williams (R, Burkesville, Total Tobacco Industry-Related Political Campaign Contributions (1994-2010) \$3,500), and Gatewood Galbraith (I, Lexington, Total Tobacco Industry-Related Political Campaign Contributions (1994-2010) \$500) -- opposed the statewide smoke-free law.³¹³ In 2009, Beshear had supported a statewide smoke-free air law that did not include all workplaces when he proposed to increase the state tobacco excise tax (discussed earlier in this report). The position to oppose a statewide smoke-free law was also a switch for Senator Williams, who had previously supported the statewide law several months earlier when the legislation was introduced in the 2011 legislative session. Williams’ previous support for a statewide smokefree law turned Republican voters in the Northern Kentucky counties (Campbell, Kenton, and Boone) against him and it was cited as one of the reasons in the *NKY.com Kentucky Politics* blog to cost him the statewide election when Governor Beshear (D) was re-elected by 56 percent.³¹⁴

The Smoke-Free Kentucky Coalition continued working with Representative Susan Westrom to introduce the statewide smoke free-air legislation during the 2012 Legislative Session. She introduced HB 289, *An Act prohibiting smoking in public places and places of employment*, on January 19, 2012 to end smoking, including e-cigarettes, in all workplaces and public places, including restaurants and bars. When HB 289 was introduced in January 2012, there were 34 communities throughout the state with varying levels of protection from exposure to secondhand smoke (Table 14), including 22 comprehensive laws, covering 34 percent of Kentucky’s population.³¹⁵

The legislation was assigned to the House Health and Welfare Committee, chaired by Representative Tom Burch (D, Louisville, Total Tobacco Industry-Related Political Campaign Contributions (1994-2010) \$500). While the legislation was in committee, state tobacco control advocates continued to implement the Smoke-Free Kentucky grassroots advocacy campaign, which included lobbying legislators, utilizing earned media to create public awareness, and issuing action alerts urging constituents to contact their legislators to support the statewide smoke-free air legislation. In addition to state tobacco control advocates grassroots advocacy campaign, the state Tobacco Prevention and Cessation Program implemented its “Unsafe” media campaign to create public awareness about the dangers of exposure to secondhand smoke. The “Unsafe” campaign was a multi-media campaign that included radio, television, and print media. The media campaign started on December 19, 2011 and ran throughout the state legislative session ending April 30, 2012.

On March 13, 2012, the House Health and Welfare Committee voted 10-2, to approve HB 289 without amendment and forward it to House floor.^{37,38} The House Health and Welfare Committee approval came just 32 days prior to the close of the 2012 legislative session on April 15, 2012. House Bill 289 received a calendar date of March 21 to be voted on. When the

On March 13, 2012, the House Health and Welfare Committee voted 10-2, to approve HB 289 without amendment and forward it to House floor.^{37,38} The House Health and Welfare Committee approval came just 32 days prior to the close of the 2012 legislative session on April 15, 2012. House Bill 289 received a calendar date of March 21 to be voted on. When the calendar date was received, Representative Jim DeCesare (R, Rockfield, Total Tobacco Industry-Related Political Campaign Contributions (1994-2010) \$0) filed an amendment to exempt e-cigarettes.⁴⁶

calendar date was received, Representative Jim DeCesare (R, Rockfield, Total Tobacco Industry-Related Political Campaign Contributions (1994-2010) \$0) filed an amendment to exempt e-cigarettes.⁴⁶

Bill sponsor Representative Westrom was skeptical about bringing the legislation to the full House for a vote. On March 23, 2012 Westrom requested that the legislation be removed from the Regular Orders of the Day and be referred back to Committee. Westrom did not believe the legislation would have the support it needed with 100 members of the Kentucky House being up for re-election in 2012.^{37,38} In addition, Westrom and state tobacco control advocates believed that the legislators from the rural areas still needed more education on the importance and benefits of the statewide smoke-free air legislation.^{37,38} Westrom

decided to wait until 2013 to bring the statewide smoke-free air legislation to the House for a vote.

During the 2011 and 2012 there was no visible organized opposition from the tobacco industry to the statewide smokefree air legislation. However, between 2010 and 2012, the tobacco industry spent \$2.0 million on lobbying expenditures. Furthermore, the year 2010 represented the highest year for tobacco industry lobbying expenditures (\$913,730), which was concurrent with the implementation of the Smoke-free Kentucky campaign.

Conclusions

Between 2004 and 2012, state tobacco control advocates in Kentucky achieved success around smoke-free air polices by protecting local tobacco control from preemption, and by implementing 35 local smoke-free air measures throughout the state.

In 2000, state tobacco control advocates began to chip away at the pro-tobacco paradigm by successfully advocating to restrict smoking to designated areas in the state Capitol and Annex. This legislation was important because it further supported local control by legislators taking initiative to control smoking in their own working environment.

In 2006, state tobacco control advocates successfully pushed for legislation to allow local governments to prohibit smoking in local government buildings without being required to assign designated smoking areas. The 2006 legislation was also important because it allowed state tobacco control advocates to begin strengthening local smoke-free measures and include all workplaces and public places. In addition, Governor Fletcher issued an Executive Order to prohibit indoor smoking in state government buildings controlled by the Executive Branch. For the first time in the history of the state, smoking was prohibited in most state government buildings.

In 2010, state tobacco control advocates implemented the Smoke-Free Kentucky campaign and five-year plan to advocate for a statewide smoke-free air law. Statewide smoke-free air legislation was introduced in both the 2011 and 2012 legislative sessions to begin educating state legislators on the importance of protecting citizens from the dangers of secondhand tobacco smoke, and was in line with state tobacco control advocates' five-year plan. Furthermore in 2012, the smokefree air legislation was voted out of the House Health and Welfare Committee, which represented a significant step forward since previous efforts were not granted a vote in committee. If state tobacco control advocates continue the course more success around smokefree air policies should be forthcoming.

Chapter XII: Discussion

- *State tobacco control advocates have implemented local smokefree policies, resulting in protection of more than one-third of the state's population from exposure to second hand smoke.*
- *State tobacco control advocates protected local control and secured a portion of the state's Master Settlement Agreement monies for local tobacco control programming.*
- *State tobacco control advocates must remain vigilant and commit publicly to killing any statewide smokefree air legislation that includes preemption, no matter what other terms are in the law.*

Despite resistance to tobacco control efforts created by heavy tobacco industry presence, state tobacco control advocates in Kentucky have achieved notable success in tobacco prevention and control.

For decades, the influence of tobacco growers and the tobacco manufacturers together created a political climate that allowed the tobacco industry to dominate the tobacco policy agenda in Kentucky: keeping tobacco excises taxes low and limiting restrictions on the where people could smoke. As in other states, the tobacco industry made significant political campaign contributions to elected officials in Kentucky and invested significant amounts in lobbying expenses to influence state tobacco control policy. Between 1994 and 2010 the tobacco industry contributed \$311,614 in campaign contributions to political parties and individual candidates running for state level office, focusing contributions around pivotal elections, with candidates for governor and key legislative leadership being the largest recipients. In addition, between 1994 and 2012 the tobacco industry invested \$9.7 million on lobbying expenditures to influence policy. Finally, through 2012 Kentucky was a major tobacco growing state, where tobacco was grown in 83 of the state's 120 counties, which made tobacco growers a strong cultural and political influence that aligned interests with tobacco manufactures for decades.

Despite the tobacco-dominated environment, the public health infrastructure created by the US Centers for Disease Control and Prevention (CDC) Office on Smoking and Health (OSH) Initiative to Mobilize for the Prevention and Control of Tobacco Use (IMPACT) program (1994-1999), the Robert Wood Johnson Foundation (RWJF) Smokeless States (1994-2004) and Southern Neighbors Collaborative (2002) played important roles in the development of tobacco control programming and advocacy in Kentucky. The CDC IMPACT program funded the state health department to build the state's capacity for policy change around tobacco control at the state and local levels, and the Robert Wood Johnson projects allowed state tobacco control coalitions to build the state's capacity to initiate advocacy for policy change around tobacco use prevention and tobacco control. Beginning in 1994, these resources collectively allowed the state department of health to create Tobacco Prevention and Cessation Program (TPCP), and the statewide tobacco control coalition Kentucky ACTION. In 2000, with limited resources these programs worked together to secure a portion of the state's Master Settlement Agreement monies to be allocated for tobacco prevention and cessation and created tobacco prevention programs in each of the local health departments throughout the state. The statewide tobacco control coalition has successfully advocated to protect local control for smokefree air from preemption in the state legislature through 2012. Kentucky and South Carolina are the only two out of the top five

The statewide tobacco control coalition had successfully advocated to protect local control for smokefree air from preemption in the state legislature through 2012. Kentucky and South Carolina are the only two out of the top five tobacco growing states that do not have preemption; the other tobacco growing states (North Carolina, Virginia, and Tennessee) all have preemption which prohibits localities from adopting more stringent tobacco control policies.¹²⁻¹⁴

tobacco growing states that do not have preemption; the other tobacco growing states (North Carolina, Virginia, and Tennessee) all have preemption which prohibits localities from adopting more stringent tobacco control policies.¹²⁻¹⁴

In addition, resources from the Robert Wood Johnson Foundation and state Tobacco Prevention and Cessation Program allowed state tobacco control advocates to create the University of Kentucky Center for Smoke-free Policy (KCSP), and establish an infrastructure to provide technical assistance to local communities in the state working to achieve smokefree policies through the (KCSP) Clean Indoor Air Partnership program. By 2012, 34.1 percent of the population in Kentucky was protected by comprehensive 100 percent smokefree workplaces restaurant and bar policies. The smokefree air

policies in Kentucky covered the highest percent (34.1%) of the state's population of any tobacco growing state (followed by South Carolina at 27.9%³¹⁶). In 2012, the other tobacco growing states North Carolina, Virginia, and Tennessee did not have smokefree air policies that included workplaces. North Carolina, however, did have a statewide 100 percent smokefree restaurant and bar law to cover 100 percent of the state's population in restaurants and bars,³¹⁶ while Virginia had statewide smokefree a restaurant and bar law with significant exemptions and only protected 3 percent of the state's population,³¹⁶ and Tennessee's statewide smokefree air law also allowed smoking sections.

For years the alliance between tobacco farmers and tobacco manufacturers slowed tobacco control policies in the state, an alliance bolstered by Kentucky's status as a leading tobacco growing state. This alliance began to fray in the mid 1990's...

State tobacco control advocates prioritized tobacco use as an issue and began work on it as early as 1988. State tobacco control advocacy efforts were strengthened in 1994 when advocates began to foster a relationship with tobacco farmers to address the tobacco use issues in the state through the Coalition for Health and Agricultural Development. For years the alliance between tobacco farmers and tobacco manufacturers slowed tobacco control policies in the state, an alliance bolstered by Kentucky's status as a leading tobacco growing state. This alliance began to fray in the mid 1990's. When, encouraged by the cigarette manufacturers (who wanted to cut costs by using more imported tobacco), Congress ended the tobacco price support system in 2004 by "buying out" tobacco

quotas and leaving tobacco leaf prices to be set by market forces. The federal tobacco quota buy-out exacerbated tensions between the tobacco growers and manufacturers just as in North Carolina,¹³ South Carolina¹² and Virginia¹⁴. Communication between tobacco control advocates and tobacco growers also created an awareness among tobacco growers that their interests were not the same as those of the manufacturers.¹⁶⁹ As the interest of the tobacco farmers and tobacco manufacturers increasingly diverged, tobacco farmers became less resistant to tobacco control

policies. Tobacco control advocates used this lack of opposition to begin a push for stronger tobacco control policies.

While Kentucky has made significant progress with smokefree air policies, advocacy regarding tobacco excise taxes has not been as successful. Increases in excise taxes are associated with a decline in tobacco use in youth and adult smoking prevalence rates, and low taxes remain a tobacco control weakness in Kentucky.^{317, 318} Kentucky originally enacted a tobacco excise tax in 1936 at \$.03 where it remained for decades, until 2005 when it increased to \$.30, then to \$.60 in 2009. In each instance the tobacco excise tax was increased to generate revenue for the state during times of fiscal despair and used to offset the state budget deficit. Kentucky, like the other tobacco growing states has consistently ranked among the lowest states with the lowest tobacco excises taxes.

State tobacco control advocates prioritized increasing the tobacco excise tax. In 2002, Kentucky was one of seven states, along with Georgia, North Carolina, South Carolina, Tennessee, Virginia and West Virginia, that participated in the Robert Wood Johnson Foundation the Southern Neighbors Collaborative, to advocate for state tobacco excise tax increases and smokefree air policies.¹⁶⁰ In Kentucky, in 2002, state tobacco control advocates implemented the Kentucky Health Investment for Kids (KHIK), a grassroots advocacy campaign that created awareness and public support for a tobacco excise tax increase, the first failed attempt by state tobacco control advocates to increase the state tobacco excise tax. Between 2002 and 2005 state tobacco control advocates continued to advocate for a tobacco excise tax increase until it was increased to 30 cents in 2005. West Virginia was the only state out of the seven states that participated in the Robert Wood Johnson Southern Neighbors Collaborative to raise its tobacco tax, increasing the cigarette tax from 17 cents to 55 cents a pack in 2003.¹⁶⁰ As of 2012, Kentucky ranked 40th in the amount of tobacco excises taxes levied by the state at \$.60. In comparison to the other leading tobacco growing states, Kentucky was behind Tennessee (39th, \$.62) and ahead of South Carolina (42nd, \$.57) North Carolina (45th, \$.45), Virginia (50th, \$.30).¹⁸³

Although, Kentucky has experienced declines in tobacco use rates, the prevalence of tobacco use among adults and youth in Kentucky has remained high (compared the U.S. as a whole), with Kentucky ranking 2nd in the nation for adult cigarette smoking prevalence and 1st for youth cigarette smoking prevalence. Through 2012, the state Tobacco Prevention and Cessation Program implemented programming to prevent the initiation and reduce the prevalence of smoking in the state, however, the programming has yielded dismal results and in some cases the rates of tobacco use have increased in youth and disparate populations. The increased tobacco use

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rates are a result of a lack of sustained comprehensive tobacco control programming components such as mass media campaigns that denormalize tobacco use.³⁹ In 2009, the state Tobacco Prevention and Cessation program initiated the 100% Tobacco Free Schools program to work

with the 174 school districts to implement voluntary smokefree policies. By 2012, there were 23 school districts throughout the state had 100 percent tobacco free school policies in place. Tobacco free school policies are effective in reducing youth and adult tobacco use.^{185, 319, 320}

With the diffusion of smokefree air policy becoming increasingly popular across the state, in 2010, state tobacco control advocates initiated a five-year Smoke-free Kentucky campaign to advocate for a statewide comprehensive smokefree law to end smoking in all public places including restaurants, bars, and workplaces by 2015. In 2011 and 2012, state tobacco control advocates worked with Representative Susan Westrom (D, Lexington, Total Tobacco Industry-Related Political Campaign Contributions \$500) to sponsor and introduce the legislation in an effort to begin educating state legislators about the importance of a comprehensive statewide smokefree air law. In addition, the state Tobacco Prevention and Cessation Program initiated its first media campaign in 2012 to create awareness about the dangers of exposure to secondhand smoke.

The state legislatures in major tobacco growing states have been politically constrained environments that have been favorable to the tobacco industry and used amendments to weaken statewide smokefree air laws and to enact preemption to prohibit the passage of more stringent local smokefree air laws.

In each legislative session that the statewide smokefree air legislation was introduced, it never reached a floor vote. The state legislatures in major tobacco growing states have been politically constrained environments that have been favorable to the tobacco industry and used amendments to weaken statewide smokefree air laws and to enact preemption to prohibit the passage of more stringent local smokefree air laws.

In South Carolina, clean indoor air legislation to end smoking in restaurants and bars and on school grounds started off as tobacco control favorable bills during the 2007/2008 legislative session. However by the end of 2007 the statewide clean indoor air legislation became co-opted by the tobacco industry in an effort, blocked by tobacco control advocates to enact explicit preemption to prevent the progression of local clean indoor air laws being passed in South Carolina.¹² The weakened legislation was a deal breaker for state tobacco control advocates in South Carolina, who decided to kill the legislation and continue working to achieve smokefree air through the enactment of local laws.¹² In Virginia, the state tobacco control advocates worked for a comprehensive statewide clean indoor air law; however, the legislature adopted a weak statewide smokefree air law that included a pro-industry amendment that allowed exemptions for separately ventilated smoking rooms in restaurants and bars and kept preemption in place.¹⁴ In North Carolina, state tobacco control advocates advocated to enact a comprehensive statewide clean indoor air law to end smoking in all public places including restaurants, bars, and workplaces. The legislation was weakened in the state senate who worked with advocates to remove workplaces as a compromise to pass a statewide 100% smokefree restaurant and bar law and kept preemption in place.¹³

With preemption in place in Virginia and North Carolina, state tobacco control advocates will have to continue to work with state legislatures to strengthen protections from exposure to secondhand smoke. However, in South Carolina and Kentucky, state tobacco control advocates

have experienced success in enact local smokefree air measures and have the opportunity to continue the course that has proven to be more successful in tobacco growing states and work to continue enacting, strengthening and protecting local clean indoor air measures. With the introduction of legislation for a statewide smokefree air law in Kentucky in 2011 and 2012 state tobacco control advocates could be putting the prior success around local activity and local control at risk if the tobacco industry uses this opportunity to co-opt a weak statewide law and add preemption as they unsuccessfully tried to do in South Carolina. State tobacco control advocates must remain vigilant and commit publicly to killing any statewide smokefree air legislation that includes preemption, no matter what other terms are in the law.

Chapter XIII: Conclusions and Recommendations

- *State tobacco control advocates can further strengthen their efforts by exposing the tobacco manufacturer ties, through campaign contributions and lobbying expenditures, to legislators who propose to threaten the advances that have been made in tobacco control.*
- *State tobacco control advocates should continue to seek higher tobacco excise taxes and for increased tobacco control funding for a sustained tobacco prevention media campaign.*
- *State tobacco control advocates should build on their successful track record by giving priority to continuing to protect, strengthen, and pass local smokefree air policies and 100% tobacco free schools.*
- *Recognizing the politically hostile environment in tobacco growing state legislatures, state tobacco control advocates should take a strong public position that state preemption of local smokefree air policies is a “deal breaker” for any state smokefree law and pledge to work to kill any such law, regardless of the other provisions.*

Kentucky represents a case where tobacco control advocates have achieved significant successes around local smokefree air policies despite being a tobacco growing state and having a significant tobacco industry presence in the state. In 2012, Kentucky led the other major tobacco growing states in the percent of the population being protected by comprehensive smokefree air policies because Kentucky has begun to catch up with the national average to protect the state’s population from exposure to secondhand smoke through local measures. A striking contrast to the success around local smokefree air policies in the state are the high rates of youth and adult tobacco use have remained a problem in the state through 2012. In 2012, Kentucky led the other leading tobacco growing states and the nation in youth and adult tobacco use rates. As of 2012

The dynamic in Kentucky highlights the importance of implementing statewide multifaceted comprehensive tobacco control programming. Effective comprehensive tobacco control programs include sustained mass media campaigns that denormalize tobacco use, tax increases on tobacco products, and regulatory initiatives that establish smokefree community-wide and school-based environments to reducing the initiation, prevalence, and intensity of tobacco use among youth and adults.³⁹

Kentucky ranked 2nd in the nation for highest prevalence of adult smoking and 1st in the nation for the highest prevalence of youth smoking. The dynamic in Kentucky highlights the importance of implementing statewide multifaceted comprehensive tobacco control programming. Effective comprehensive tobacco control programs include sustained mass media campaigns that denormalize tobacco use, tax increases on tobacco products, and regulatory initiatives that establish smokefree community-wide and school-based environments to reducing the initiation, prevalence, and intensity of tobacco use among youth and adults.³⁹ In addition to smokefree air policies, sustained tobacco prevention media campaign components of comprehensive tobacco control programming need to be strengthened in Kentucky to reduce the high rates of tobacco use in the state and achieve to greater tobacco control outcomes in the politically constraining environment. If tobacco control advocates in Kentucky continue to work together and model the successes that

have been achieved through the infrastructure established to achieve local comprehensive smokefree air measures to strengthen the efforts to enact 100% tobacco free school policies, and initiate mass media tobacco prevention campaigns as a component of comprehensive tobacco control programming then continued success on tobacco control policies and tobacco use rates should be forthcoming.

State tobacco control advocates have a proven success record at beating the tobacco industry in the tobacco growing state on smokefree air policies at the local level. The tobacco industry is more vulnerable and less influential at the local level.^{4, 5}

State tobacco control advocates have a proven success record at beating the tobacco industry in the tobacco growing state on smokefree air policies at the local level. The tobacco industry is more vulnerable and less influential at the local level.^{4, 5} In Kentucky, the tobacco industry unsuccessfully tried to secure preemption of smokefree air policies at the local level through the 1994 youth access measure and tried to claim implied preemption of tobacco control policies in the state; however the preemption only applied to youth

access. In 1994, the tobacco industry used the federal Synar amendment to enact weak tobacco control policies in states throughout the U.S. In 2003, state tobacco control advocates made history by enacting the first local smokefree air ordinance of its kind in a tobacco growing state in Lexington-Fayette. In 2004, that first local smokefree air policy was upheld after the Kentucky Supreme Court ruled that the preemptive 1994 youth access law did not apply to local smokefree air policies. Through 2012, state tobacco control advocates have capitalized on legislators' protectiveness of home-rule to safeguard local control in the state legislature, and used local control to successfully enact 35 (22 comprehensive) local smokefree air policies.

The strategy of using an incremental approach to smokefree policies aimed at specific communities one at a time, and advocacy for local smokefree policies as the foundation for broader tobacco control efforts, has worked well in Kentucky. These successes meant that more as of 2012 than one-third of the state population (34.1 percent) was protected by a local smokefree air policy by 2012, which is beginning to approach the 48.6 percent of the U.S. population is protected by a smokefree workplace, restaurant, and bar policies.³¹⁶

The State Tobacco Prevention and Cessation Program contracting with the University of Kentucky Center for Smoke-free Policy was key to the gains achieved around smokefree air in Kentucky showing that a collaboration between a state program and a state University to provide technical assistance was important in achieving widespread success. In addition, using a small portion of the state's Master Settlement Agreement monies to fund tobacco prevention programming at the local health departments to build awareness about exposure to secondhand smoke worked synergistically with state tobacco control advocacy efforts on local smoke-free air policies. This steady incremental progress in Kentucky required continued persistence, coordinated collaboration, and technical assistance among tobacco control advocates that the outsourced infrastructure provided.

The local efforts have proven to be effective in achieving smokefree air policies. Local smokefree air policies should continue to be a top priority in the state as resources for tobacco control programming in the state are limited and there is a proven record of success. State tobacco control advocates should encourage expansion of the existing KCSP Clean Indoor Air

Partnership program to include the 100% Tobacco Free School Initiative to triangulate with continuing efforts to achieve local smokefree air policies. 100% tobacco free schools are effective in reducing youth and adult tobacco use^{39, 185, 319, 320} and a component of the leading tobacco growing state North Carolina youth tobacco prevention program that has yielded substantial results in reducing youth smoking.³²¹

There is also a need for a sustained statewide tobacco prevention media campaign to denormalize tobacco use. State tobacco control advocates can also look to leading tobacco growing state North Carolina for sustained media campaigns to prevent tobacco use in financially and politically constraining environments.³²¹ Together, smokefree policies, 100% tobacco free schools, and sustained tobacco prevention media campaign will more effectively reduce tobacco use rates in Kentucky.

Together, smokefree policies, 100% tobacco free schools and sustained tobacco prevention media campaign will more effectively reduce tobacco use rates in Kentucky.

Recognizing the politically hostile environment in tobacco growing state legislatures, state tobacco control advocates should take a strong public position that state preemption of local smokefree air policies is a "deal breaker" for any state smokefree law and pledge publicly to work to kill any such law, regardless of other provisions. State tobacco control advocates should continue to actively campaign to protect local control. Finally, state tobacco control advocates should continue to support local efforts working to achieve smokefree policies and remain engaged in local activity beyond the five-year Smoke-free Kentucky plan.

In conclusion, state tobacco control advocates should continue to work to protect, strengthen, and pass local smokefree air policies and 100% tobacco free schools, continue to advocate to protect local control, to increase the state tobacco excise tax, and for increased tobacco control funding to initiate a sustained tobacco prevention media campaign. . Advocates can achieve this by continuing to leverage the existing divergence between the interests of tobacco manufacturers and growers by promoting alternative crop production and uses for tobacco, coalition building with tobacco farmers to further strengthen the state's local tobacco control policies. In addition, advocates can further strengthen their efforts by exposing the tobacco manufacturer ties, through campaign contributions and lobbying expenditures, to legislators who propose to threaten the advances that have been made in tobacco control.

Advocates have shown the determination to achieve and protect smokefree air policies through 2012, and, if they continue on the course that has proven successful, more tobacco control achievements should be forthcoming in Kentucky.

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Appendices

Appendix A: Tobacco Industry Political Campaign Contributions by Candidate 1994-2011

Recipient	Party	Office	District	Contributor	Year	Amount	Total
ADAMS, RICHARD DICK	D	S	6	PHILIP MORRIS/ALTRIA	1998	\$500	\$500
					1998 Total		\$500
ADAMS, ROYCE W	D	H	61	BROWN & WILLIAMSON	2002	\$100	\$100
					2002 Total		\$100
				COMMONWEALTH BRANDS	2006	\$500	\$500
					2006 Total		\$500
				LEXINGTON LOOSE LEAF TOBACCO	2000	\$500	\$500
					2000 Total		\$500
				PHILIP MORRIS/ALTRIA	1996	\$100	\$100
					1996 Total		\$100
					2000	\$250	\$250
					2000 Total		\$250
ADKINS, ROCKY	D	H	99	BROWN & WILLIAMSON	2004	\$500	\$500
					2004 Total		\$500
				PHILIP MORRIS/ALTRIA	2010	\$2,500	\$2,500
					2010 Total		\$2,500
				RJ REYNOLDS	2006	\$1,000	\$1,000
					2006 Total		\$1,000
ALEXANDER, SCOTT	D	H	84	PHILIP MORRIS/ALTRIA	2000	\$200	\$200
					2000 Total		\$200
ALLEN, WOODY	R	AGRIC	NA	STOP AND SHOP TOBACCO	1995	\$300	\$300
					1995 Total		\$300
				PHILIP MORRIS/ALTRIA	2000	\$500	\$500
					2000 Total		\$500
ALVARADO, RALPH	R	H	73	US SMOKELESS TOBACCO	2004	\$300	\$300
					2004 Total		\$300
				PHILIP MORRIS/ALTRIA	2010	\$500	\$500

ARNOLD JR, JOHN A	D	H	7	BROWN & WILLIAMSON	2010 Total	\$500
					2002	\$100
					2002 Total	\$100
				PHILIP MORRIS/ALTRIA	2000	\$250
					2000 Total	\$250
ARNOLD, ADRIAN K	D	H	74	BROWN & WILLIAMSON	2002	\$100
				CLAY ENTERPRISES	2002 Total	\$100
					1998	\$700
					1998 Total	\$700
					2000	\$1,000
					2000 Total	\$1,000
				PHILIP MORRIS/ALTRIA	2000	\$500
					2000 Total	\$500
ASHLEY, BRIAN PATRICK	D	S	18	AMERICAN TOBACCO	1998	\$546
				CLAY ENTERPRISES	1998 Total	\$546
					1998	\$750
					1998 Total	\$750
				CRAIN TOBACCO WAREHOUSE	1998	\$150
					1998 Total	\$150
AUSMUS, J C III	R	S	17	GF VAUGHAN TOBACCO CO	1996	\$200
					1996 Total	\$200
BABBAGE, BOB	D	G	NA	BALE TOBACCO WAREHOUSE	1995	\$500
					1995 Total	\$500
BAESLER, ALICE WOODS	D	AGRIC	NA	FARMERS & UNITED TOBACCO WAREHOUSE	2003	\$500
				FOURTH STREET TOBACCO WAREHOUSE	2003 Total	\$500
					2003	\$200
				POTENTION TOBACCO	2003 Total	\$200
					2003	\$1,000
					2003 Total	\$1,000
BAILEY, BENNY R	D	S	29	PHILIP MORRIS/ALTRIA	1996	\$150
					1996 Total	\$150

BALLARD, JOSEPH EDDIE	D	H	10	PHILIP MORRIS/ALTRIA	2000	\$200	\$200
					2000 Total	\$200	\$200
BARROWS, JOE	D	H	56	BROWN & WILLIAMSON	2004	\$100	\$100
					2004 Total	\$100	\$100
				PHILIP MORRIS/ALTRIA	1996	\$100	\$100
					1996 Total	\$100	\$100
					1998	\$250	\$250
					1998 Total	\$250	\$250
					2000	\$500	\$500
					2000 Total	\$500	\$500
					1996	\$200	\$200
					1996 Total	\$200	\$200
				PHILIP MORRIS/ALTRIA	2000	\$200	\$200
					2000 Total	\$200	\$200
					2010	\$500	\$500
					2010 Total	\$500	\$500
					2010	\$500	\$500
					2010 Total	\$500	\$500
					2007	\$4,000.00	\$4,000
					2007 Total	\$4,000.00	\$4,000
					2007	\$500.00	\$500
					2007 Total	\$500.00	\$500
					2007	\$1,000.00	\$1,000
					2007 Total	\$1,000.00	\$1,000
					2007	\$1,000.00	\$1,000
					2007 Total	\$1,000.00	\$1,000
					2006	\$750	\$750
					2006 Total	\$750	\$750
					1996	\$100	\$100
					1996 Total	\$100	\$100
					2000	\$1,200	\$1,200
					2000 Total	\$1,200	\$1,200
				TOBACCO WAREHOUSE ASSOCIATION			
BELCHER, LARRY L	D	H	49	PHILIP MORRIS/ALTRIA	2000	\$200	\$200
BELCHER, LINDA HOWLETT	D	H	49	PHILIP MORRIS/ALTRIA	2010	\$500	\$500
BELL, JOHNNY W	D	H	23	PHILIP MORRIS/ALTRIA	2010	\$500	\$500
BESHEAR, STEVEN L & MONGIARDO, DANIEL	D	G/LTG	SW	COMMONWEALTH BRANDS	2007	\$4,000.00	\$4,000
					2007 Total	\$4,000.00	\$4,000
					2007	\$500.00	\$500
					2007 Total	\$500.00	\$500
					2007	\$1,000.00	\$1,000
					2007 Total	\$1,000.00	\$1,000
					2007	\$1,000.00	\$1,000
					2007 Total	\$1,000.00	\$1,000
BLANKENSHIP, RANDY	D	H	69	COMMONWEALTH BRANDS	2006	\$750	\$750
BLEVINS, WALTER	D	S	27	PHILIP MORRIS/ALTRIA	1996	\$100	\$100
					1996 Total	\$100	\$100
					2000	\$1,200	\$1,200
					2000 Total	\$1,200	\$1,200

BORDERS, CHARLES	R	S	18	PHILIP MORRIS/ALTRIA	2000 Total	\$1,200
					1998	\$500
					1998 Total	\$500
					2002	\$0
					2002 Total	\$0
				US SMOKELESS TOBACCO	2002	\$500
					2002 Total	\$500
BOSWELL, DAVID E	D	S	8	BROWN & WILLIAMSON	2002	\$100
					2002 Total	\$100
				RJ REYNOLDS	2010	\$300
					2010 Total	\$300
				US SMOKELESS TOBACCO	2002	\$375
					2002 Total	\$375
BOWLING, JOHN WD	D	H	54	PHILIP MORRIS/ALTRIA	2000	\$200
					2000 Total	\$200
BRATCHER, KEVIN D	R	H	29	PHILIP MORRIS/ALTRIA	2000	\$200
					2000 Total	\$200
BRINKMAN, SCOTT W	R	H	32	BROWN & WILLIAMSON	2002	\$100
					2002 Total	\$100
					2004	\$500
					2004 Total	\$500
				PHILIP MORRIS/ALTRIA	2000	\$200
					2000 Total	\$200
BROWN III, JOHN Y	D	SS	NA	STOP AND SHOP TOBACCO	1995	\$500
					1995 Total	\$500
BROWN, JERRY L	D	H	26	COMMONWEALTH BRANDS	2006	\$1,000
					2006 Total	\$1,000
BRUCE, JAMES E	D	H	9	MULLINS TOBACCO WAREHOUSE	1996	\$1,000
					1996 Total	\$1,000
				PHILIP MORRIS/ALTRIA	1998	\$100
					1998 Total	\$100

BUCKINGHAM, ROBERT (BUDDY)	D	H	5	US SMOKELESS TOBACCO	2000	\$1,000	\$1,000
					2000 Total	\$1,000	\$1,000
					2002	\$500	\$500
					2002 Total	\$500	\$500
					2004	\$500	\$500
					2004 Total	\$500	\$500
BUFORD, TOM	R	S	22	PHILIP MORRIS/ALTRIA	1998	\$250	\$250
					1998 Total	\$250	\$250
BURCH, TOM	D	H	30	COMMONWEALTH BRANDS	2006	\$500	\$500
					2006 Total	\$500	\$500
BUTLER, DENVER	D	H	38	PHILIP MORRIS/ALTRIA	1996	\$150	\$150
					1996 Total	\$150	\$150
					2000	\$700	\$700
					2000 Total	\$700	\$700
CAIN, RODNEY (BIZ)	D	S	24	BOONE KENTON TOBACCO WAREHOUSE	1994	\$500	\$500
					1994 Total	\$500	\$500
CALLAHAN, JIM	D	H	67	PHILIP MORRIS/ALTRIA	2000	\$500	\$500
					2000 Total	\$500	\$500
					2010	\$500	\$500
					2010 Total	\$500	\$500
CARPENTER, JARED K	R	S	34	PHILIP MORRIS/ALTRIA	2004	\$500	\$500
					2004 Total	\$500	\$500
CARROLL, JULIAN M	D	S	7	RIDGEWAY BRANDS TOBACCO CO	1996	\$150	\$150
					1996 Total	\$150	\$150
					2000	\$500	\$500
					2000 Total	\$500	\$500
CASEBIER, LINDA	R	S	7	PHILIP MORRIS/ALTRIA	1995	\$200	\$200
					1995 Total	\$200	\$200
CHANDLER, A B (BEN)	D	AG	NA	AMERICAN TOBACCO	1995	\$500	\$500
				CLAY ENTERPRISES	1995 Total	\$500	\$500
				CRAIN TOBACCO WAREHOUSE	1995	\$300	\$300

							1995 Total		\$300
							1995	\$200	\$200
							1995 Total	\$764	\$200
							1995	\$764	\$764
							1995 Total	\$500	\$764
							1995	\$500	\$500
							1995 Total	\$250	\$500
							1995	\$250	\$250
							1995 Total	\$500	\$250
							1995	\$500	\$500
							1995 Total	\$2,000	\$500
							2003	\$2,000	\$2,000
							2003 Total	\$2,000	\$2,000
							2003	\$2,000	\$2,000
							2003 Total	\$1,000	\$2,000
							2003	\$1,000	\$1,000
							2003 Total	\$1,500	\$1,000
							2003	\$1,500	\$1,500
							2003 Total	\$700	\$1,500
							2003	\$300	\$300
							2003 Total	\$200	\$200
							2003	\$200	\$200
							2003 Total	\$500	\$200
							2003	\$500	\$500
							2003 Total	\$1,500	\$500
							2003	\$1,500	\$1,500
							2003 Total	\$100	\$1,500
							2002	\$100	\$100
							2002 Total	\$1,000	\$100
							2004	\$1,000	\$1,000
							2004 Total	\$700	\$1,000
							2004	\$700	\$700

									2004 Total	\$700
									1998	\$250
								1998 Total	\$250	\$250
								2000	\$500	\$500
								2000 Total	\$500	\$500
								2004	\$125	\$125
								2004 Total	\$125	\$125
								1996	\$100	\$100
								1996 Total	\$100	\$100
								2000	\$200	\$200
								2000 Total	\$200	\$200
								2006	\$250	\$250
								2006 Total	\$250	\$250
								1996	\$100	\$100
								1996 Total	\$100	\$100
								2000	\$200	\$200
								2000 Total	\$200	\$200
								2006	\$1,000	\$1,000
								2006 Total	\$1,000	\$1,000
								2002	\$100	\$100
								2002 Total	\$100	\$100
								2007	\$3,000.00	\$3,000
								2007 Total	\$3,000.00	\$3,000
								2007	\$1,000.00	\$1,000
								2007 Total	\$1,000.00	\$1,000
								2007	\$1,000.00	\$2,000
								2007 Total	\$1,000.00	\$2,000
								2011	\$1,000.00	\$1,000
								2011 Total	\$1,000.00	\$1,000
								2011	\$1,000.00	\$1,000
								2011 Total	\$1,000.00	\$1,000

CORUM, BILL	D	S	5	BALE TOBACCO WAREHOUSE	2000	\$2,000	\$2,000
					2000 Total		\$2,000
COURSEY, WILL R	D	H	6	COMMONWEALTH BRANDS	2008	\$1,000.00	\$1,000
					2008 Total		\$1,000
CRENSHAW, JESSE	D	H	77	COMMONWEALTH BRANDS	2006	\$1,000	\$1,000
					2006 Total		\$1,000
CRIMM, RONALD E	R	H	33	BROWN & WILLIAMSON	2002	\$100	\$100
					2002 Total		\$100
					2004	\$100	\$100
					2004 Total		\$100
			47	PHILIP MORRIS/ALTRIA	1996	\$100	\$100
					1996 Total		\$100
					1998	\$250	\$250
					1998 Total		\$250
DALE, PAT	D	S	28	CLAY ENTERPRISES	1998	\$199	\$199
					1998 Total		\$199
DAMRON, ROBERT R	D	H	39	BROWN & WILLIAMSON	2004	\$250	\$250
					2004 Total		\$250
				COMMONWEALTH BRANDS	2006	\$2,000	\$2,000
					2006 Total		\$2,000
				PHILIP MORRIS/ALTRIA	1996	\$100	\$100
					1996 Total		\$100
					2000	\$200	\$200
					2000 Total		\$200
				RJ REYNOLDS	2006	\$500	\$500
					2006 Total		\$500
					2010	\$300	\$300
					2010 Total		\$300
				RJ REYNOLDS TOBACCO	2008	\$1,000.00	\$1,000
					2008 Total		\$1,000
DENHAM, MITCHEL B (MIKE)	D	H	70	FARMERS TOBACCO CO	2004	\$500	\$500

DENTON, JULIE	R	S	36	BROWN & WILLIAMSON	2004 Total	\$500
					2002	\$100
					2002 Total	\$100
				PHILIP MORRIS/ALTRIA	2002	\$500
					2002 Total	\$500
DERRICKSON, CHARLES	D	S	25	DYKES TOBACCO WAREHOUSE	1996	\$500
				STANDARD TOBACCO CO	1996 Total	\$500
					1996	\$250
					1996 Total	\$250
DRAUD, JONE	R	H	63	PHILIP MORRIS/ALTRIA	2000	\$200
					2000 Total	\$200
EDMONDS, TED (TEDDY)	D	H	91	BROWN & WILLIAMSON	2004	\$100
					2004 Total	\$100
FARMER, RICHIE	R	AGRIC	NA	MILLS TOBACCO FARM	2003	\$500
					2003 Total	\$500
				RJ REYNOLDS TOBACCO	2007	\$1,000.00
					2007 Total	\$1,000
FEELEY, TIMOTHY E	R	H	59	BROWN & WILLIAMSON	2004	\$100
					2004 Total	\$100
FIRKINS, TIM	D	H	38	COMMONWEALTH BRANDS	2006	\$500
					2006 Total	\$500
FLETCHER JR, HAROLD	R	S	7	FOURTH STREET TOBACCO WAREHOUSE	2004	\$200
					2004 Total	\$200
FLETCHER, BEN	R	S	3	US SMOKELESS TOBACCO	2000	\$4,000
					2000 Total	\$4,000
FLETCHER, ERNIE & PENCE, STEPHEN B	R	G/LTG	NA	BALE TOBACCO WAREHOUSE	2003	\$1,000
				FARMER INVESTMENT CO	2003 Total	\$1,000
					2003	\$2,000
					2003 Total	\$2,000
				FOURTH STREET TOBACCO WAREHOUSE	2003	\$250
					2003 Total	\$250

						1995 Total		\$400
						1995	\$250	\$250
						1995 Total		\$250
						1995	\$200	\$200
						1995 Total		\$200
						1995	\$250	\$250
						1995 Total		\$250
						1995	\$500	\$500
						1995 Total		\$500
						1995	\$2,000	\$2,000
						1995 Total		\$2,000
						1995	\$500	\$500
						1995 Total		\$500
						1995	\$500	\$500
						1995 Total		\$500
						1995	\$1,125	\$1,125
						1995 Total		\$1,125
						1995	\$1,500	\$1,500
						1995 Total		\$1,500
						1999	\$500	\$500
						1999 Total		\$500
						2004	\$200	\$200
						2004 Total		\$200
						2006	\$500	\$500
						2006 Total		\$500
						2003	\$1,000	\$1,000
						2003 Total		\$1,000
						2006	\$250	\$250
						2006 Total		\$250
						2006	\$1,000	\$1,000
						2006 Total		\$1,000

GRIMES, ALISON LUNDERGRAN	D	SS	(blank)	RJ REYNOLDS TOBACCO	2011	\$1,000.00	\$1,000
GUTHRIE, BRETT	R	S	32	PHILIP MORRIS/ALTRIA	2011 Total		\$1,000
HAERING, HAROLD	R	H	46	PHILIP MORRIS/ALTRIA	2002	\$1,000	\$1,000
HAMILTON, JOHN KENNEDY	D	TREAS	NA	GF VAUGHAN TOBACCO CO	2002 Total		\$1,000
HARRIS, ERNEST L	R	S	26	BROWN & WILLIAMSON	2000	\$200	\$200
					2000 Total		\$200
					1999	-\$53	-\$53
					1999 Total		-\$53
					2002	\$200	\$200
					2002 Total		\$200
					2004	\$500	\$500
					2004 Total		\$500
				PHILIP MORRIS/ALTRIA	1998	\$250	\$250
					1998 Total		\$250
HARRIS, ERNIE	R	S	26	RJ REYNOLDS	2010	\$500	\$500
HATCHETT, ED	D	AG	NA	BROWN & WILLIAMSON	2010 Total		\$500
					2003	\$100	\$100
					2003 Total		\$100
				BALE TOBACCO WAREHOUSE	1995	\$500	\$500
					1995 Total		\$500
				MULLINS TOBACCO WAREHOUSE	1995	\$1,000	\$1,000
					1995 Total		\$1,000
HELLERINGER, BOB	R	H	33	PHILIP MORRIS/ALTRIA	2000	\$200	\$200
HENDERSON, RICHARD D	D	H	74	COMMONWEALTH BRANDS	2000 Total		\$200
HERRON JR, PAUL	D	S	4	US SMOKELESS TOBACCO	2006	\$500	\$500
					2006 Total		\$500
					2002	\$375	\$375
					2002 Total		\$375
HOFFMAN, CHARLIE	D	H	62	BROWN & WILLIAMSON	2002	\$100	\$100
					2002 Total		\$100
					2004	\$100	\$100

HOLSCLAW, BARBARA	R	S	19	COMMONWEALTH BRANDS	2004 Total	\$100
					2006	\$500
				PHILIP MORRIS/ALTRIA	2006 Total	\$500
					2010	\$500
				GF VAUGHAN TOBACCO CO	2010 Total	\$500
					1996	\$200
				PHILIP MORRIS/ALTRIA	1996 Total	\$200
					1996	\$500
				BROWN & WILLIAMSON	1996 Total	\$500
HOOVER, JEFFREY H	R	H	83		2002	\$100
					2002 Total	\$100
					2004	\$250
				PHILIP MORRIS/ALTRIA	2004 Total	\$250
					2000	\$500
				PHILIP MORRIS/ALTRIA	2000 Total	\$500
					2002	\$100
HORLANDER, DENNIS	D	H	40	BROWN & WILLIAMSON	2002 Total	\$100
					2010	\$500
HORNBACK, PAUL	R	S	20	PHILIP MORRIS/ALTRIA	2010 Total	\$500
					2000	\$1,000
ISAACS, KENNETH	D	S	15	FARMERS TOBACCO WAREHOUSE	2000 Total	\$1,000
					2000	\$500
JACKSON, BOB	D	S	1	US SMOKELESS TOBACCO	2000 Total	\$500
					2003	\$500
JACKSON, REBECCA & RUDOLPH, ROBBIE	R	G/LTG	NA	BROWN & WILLIAMSON	2003 Total	\$500
					2003	\$250
				GRAIN & TOBACCO FARMS	2003 Total	\$250
					2002	\$100
JENKINS, JONI L	D	H	44	BROWN & WILLIAMSON	2002 Total	\$100
					1998	\$250
				PHILIP MORRIS/ALTRIA	1998 Total	\$250

JEWELL, LARRY R	D	H	19	BALE TOBACCO WAREHOUSE	2000	\$500	\$500
					2000 Total		\$500
JOHNS, SUSAN D	D	H	32	PHILIP MORRIS/ALTRIA	1998	\$600	\$600
					1998 Total		\$600
JOHNSON, GARY C	D	S	36	BROWN & WILLIAMSON	1994	\$500	\$500
					1994 Total		\$500
JORDAN, ELEANOR	D	S	31	MUNCYS AUTO PARTS	1996	\$500	\$500
					1996 Total		\$500
KAREM, DAVID K	D	H	42	PHILIP MORRIS/ALTRIA	1996	\$100	\$100
					1996 Total		\$100
	D	S	35	AMERICAN TOBACCO	2000	\$1,000	\$1,000
					2000 Total		\$1,000
				BROWN & WILLIAMSON	1996	\$800	\$800
					1996 Total		\$800
KEENE, DENNIS	D	H	67	RJ REYNOLDS	2000	\$1,000	\$1,000
					2000 Total		\$1,000
KELLY, DAN	R	S	14	BROWN & WILLIAMSON	2010	\$500	\$500
					2010 Total		\$500
					2004	\$750	\$750
					2004 Total		\$750
				PHILIP MORRIS/ALTRIA	1998	\$300	\$300
					1998 Total		\$300
					2002	\$500	\$500
					2002 Total		\$500
KERR, ALICE FORGY	R	S	12	BROWN & WILLIAMSON	2002	\$100	\$100
					2002 Total		\$100
				BURLEY TOBACCO CO OP	2002	\$200	\$200
					2002 Total		\$200
				PHILIP MORRIS/ALTRIA	1998	\$500	\$500
					1998 Total		\$500
					2002	\$500	\$500

							PHILIP MORRIS/ALTRIA		1995	\$250	\$250
									1995 Total		\$250
LONG, MARSHALL		D	S	20			LEXINGTON LOOSE LEAF TOBACCO		1998	\$500	\$500
									1998 Total		\$500
							PHILIP MORRIS/ALTRIA		1998	\$250	\$250
MACDONALD, PETER C		D	H	9			COMMONWEALTH BRANDS		1998 Total		\$250
									2006	\$500	\$500
									2006 Total		\$500
MAGGARD, JIM		D	H	89			PHILIP MORRIS/ALTRIA		1996	\$100	\$100
									1996 Total		\$100
MARCOTTE, PAUL H		R	H	60			PHILIP MORRIS/ALTRIA		1996	\$100	\$100
									1996 Total		\$100
									2002	\$500	\$500
									2002 Total		\$500
MARICLE, ALLEN		R	H	49			PHILIP MORRIS/ALTRIA		1996	\$250	\$250
									1996 Total		\$250
									1998	\$250	\$250
									1998 Total		\$250
MCGAHA, VERNIE		R	S	15			PHILIP MORRIS/ALTRIA		2000	\$500	\$500
									2000 Total		\$500
MCKEE, THOMAS M		D	H	78			BROWN & WILLIAMSON		2002	\$100	\$100
									2002 Total		\$100
									2004	\$200	\$200
									2004 Total		\$200
							DOUBLE M DIXIE FARM		1996	\$500	\$500
									1996 Total		\$500
							FARMERS TOBACCO CO		2004	\$1,000	\$1,000
									2004 Total		\$1,000
							RJ REYNOLDS		2010	\$500	\$500
									2010 Total		\$500
MEADE, CHARLES (CHUCK)		D	H	95			CLM DISCOUNT TOBACCO		2004	\$1,000	\$1,000

MILLER, JONATHAN & MAZE, IRV	D	G/LTG	SW	SWEDISH MATCH	2007	\$500.00	\$500
					2007 Total		\$500
MOBERLY JR, HARRY	D	H	81	HOME TOBACCO WAREHOUSE	1998	\$500	\$500
					1998 Total		\$500
MONTELL, BRAD	R	H	58	PHILIP MORRIS/ALTRIA	2006	\$500	\$500
					2006 Total		\$500
MONTGOMERY, B RUSSELL	D	H	51	PHILIP MORRIS/ALTRIA	1998	\$250	\$250
					1998 Total		\$250
					2000	\$200	\$200
					2000 Total		\$200
MOORE, VIRGIL	R	S	5	BALEE TOBACCO WAREHOUSE	1996	\$500	\$500
					1996 Total		\$500
					2004	\$100	\$100
					2004 Total		\$100
					1996	\$200	\$200
					1996 Total		\$200
					2000	\$1,000	\$1,000
					2000 Total		\$1,000
					2000	\$500	\$500
					2000 Total		\$500
					1996	\$50	\$50
					1996 Total		\$50
NAPIER, LONNIE	R	H	36	A&H TOBACCO CO	2002	\$500	\$500
					2002 Total		\$500
					2002	\$100	\$100
					2002 Total		\$100
					2002	\$250	\$250
					2002 Total		\$250
NEAL, GERALD A	D	S	33	BROWN & WILLIAMSON	2004	\$600	\$600
					2004 Total		\$600
NELSON, KIM L	D	S	6	PHILIP MORRIS/ALTRIA	1998	\$250	\$250

NELSON, RICK	D	H	87	RJ REYNOLDS	1998 Total		\$250
					2006	\$250	\$250
NESLER, FRED	D	H	2	US SMOKELESS TOBACCO	2006 Total		\$250
					2004	\$250	\$250
NUNN, STEPHEN R	R	H	23	BALE TOBACCO WAREHOUSE	2004 Total		\$250
					1996	\$1,000	\$1,000
				PHILIP MORRIS/ALTRIA	1996 Total		\$1,000
					1996	\$100	\$100
NUNN, STEVE & HELENER, BOB	R	G/LTG	NA	BALE TOBACCO WAREHOUSE	1996 Total		\$100
					2003	\$1,000	\$1,000
O'DANIEL, PAUL J	D	H	40	BROWN & WILLIAMSON	2003 Total		\$1,000
					1996	\$500	\$500
OVERLY, SANNIE	D	H	72	COMMONWEALTH BRANDS	1996 Total		\$500
					2008	\$2,000.00	\$2,000
					2008 Total		\$2,000
OWENS, DARRYL T	D	H	43	COMMONWEALTH BRANDS	2008	\$500.00	\$500
					2008 Total		\$500
PALMER II, R J	D	H	73	WINCHESTER WAREHOUSE	2006	\$500	\$500
					2006 Total		\$500
PASLEY, DON	D	H	73	BROWN & WILLIAMSON	1998	\$750	\$750
					1998 Total		\$750
					2002	\$100	\$100
					2002 Total		\$100
					2004	\$200	\$200
					2004 Total		\$200
				COMMONWEALTH BRANDS	2006	\$500	\$500
					2006 Total		\$500
PATTON, PAULE	D	G	NA	BALE TOBACCO WAREHOUSE	1995	\$1,000	\$1,000
					1995 Total		\$1,000
					1999	\$1,000	\$1,000
					1999 Total		\$1,000

BROWN & WILLIAMSON			1999	\$1,000	\$1,000
			1999 Total	\$1,000	\$1,000
CARROLLTON TOBACCO WAREHOUSE INC			1995	\$250	\$250
			1995 Total	\$250	\$250
CLAY ENTERPRISES			1995	\$1,098	\$1,098
			1995 Total	\$1,098	\$1,098
			1999	\$1,000	\$1,000
			1999 Total	\$1,000	\$1,000
CRAIN TOBACCO WAREHOUSE			1999	\$200	\$200
			1999 Total	\$200	\$200
DISCOUNT TOBACCO SHOP			1999	\$100	\$100
			1999 Total	\$100	\$100
DUKE TOBACCO WAREHOUSE			1999	\$1,000	\$1,000
			1999 Total	\$1,000	\$1,000
FARMERS TOBACCO WAREHOUSE			1999	\$1,000	\$1,000
			1999 Total	\$1,000	\$1,000
LEXINGTON LOOSE LEAF TOBACCO			1995	\$500	\$500
			1995 Total	\$500	\$500
MULLINS TOBACCO WAREHOUSE			1995	\$500	\$500
			1995 Total	\$500	\$500
WOOD TOBACCO WAREHOUSE			1999	\$100	\$100
			1999 Total	\$100	\$100
PAYNE, BOB	D	H	14	\$200	\$200
			2000 Total	\$200	\$200
PENDLETON, JOEY	D	AGRIC	NA	\$500	\$500
			2003 Total	\$500	\$500
FOURTH STREET TOBACCO WAREHOUSE			2003	\$200	\$200
			2003 Total	\$200	\$200
SOMINO FARMS			2003	\$400	\$400
			2003 Total	\$400	\$400
BROWN & WILLIAMSON	S		3	\$500	\$500

RICHARDS, JODY & BROWN III, JOHN Y	D	G/LTG	SW	COMMONWEALTH BRANDS	2007	\$2,000.00	\$2,000
					2007 Total		\$2,000
RICHARDS, JODY & MILLER, TONY	D	G/LTG	NA	BROWN & WILLIAMSON	2003	\$140	\$140
					2003 Total		\$140
				PHILIP MORRIS/ALTRIA	2003	\$150	\$150
					2003 Total		\$150
				RJ REYNOLDS	2003	\$100	\$100
					2003 Total		\$100
				TOBACCO PATCH	2003	\$2,000	\$2,000
					2003 Total		\$2,000
RIGGS, STEVE	D	H	31	BROWN & WILLIAMSON	2002	\$100	\$100
					2002 Total		\$100
ROBINSON, ALBERT L	R	S	21	PHILIP MORRIS/ALTRIA	2000	\$500	\$500
					2000 Total		\$500
ROEDING, RICHARD	R	S	11	PHILIP MORRIS/ALTRIA	1996	\$100	\$100
					1996 Total		\$100
					2000	\$500	\$500
					2000 Total		\$500
ROGERS, JOHN	D	H	23	BALE TOBACCO WAREHOUSE	1996	\$500	\$500
					1996 Total		\$500
				MULLINS TOBACCO WAREHOUSE	1996	\$500	\$500
					1996 Total		\$500
ROLLINS II, CARL P	D	H	56	COMMONWEALTH BRANDS	2006	\$1,000	\$1,000
					2006 Total		\$1,000
ROSE, JOHN (ECK)	D	G	NA	BIG SHELBY WAREHOUSE	1995	\$300	\$300
					1995 Total		\$300
				HARTON TOBACCO WAREHOUSE	1995	\$500	\$500
					1995 Total		\$500
				HOME TOBACCO WAREHOUSE	1995	\$250	\$250
					1995 Total		\$250
				MULLINS TOBACCO WAREHOUSE	1995	\$1,000	\$1,000

SCORSONE, ERNESTO	D	S	13	BROWN & WILLIAMSON	2000	\$1,000	\$1,000
					2000 Total	\$1,000	\$1,000
				HORN BROTHERS FARM	2000	\$200	\$200
					2000 Total	\$200	\$200
SEUM, DAN (MALANO)	R	S	38	BROWN & WILLIAMSON	2002	\$100	\$100
				PHILIP MORRIS/ALTRIA	2002 Total	\$500	\$100
				POTEET FARMS	2002	\$200	\$500
					2002 Total	\$200	\$500
SEUM, DAN MALANO	R	S	38	JC TOBACCO OUTLETS	2006	\$500	\$500
				RJ REYNOLDS	2006 Total	\$300	\$500
					2010	\$300	\$300
					2010 Total	\$1,000	\$300
SHAUGHNESSY, TIM	D	S	19	PHILIP MORRIS/ALTRIA	2000	\$1,000	\$1,000
				US SMOKELESS TOBACCO	2000 Total	\$500	\$1,000
					2000	\$500	\$500
					2000 Total	\$750	\$500
SHROUT, DALE	D	S	28	CLAY ENTERPRISES	1998	\$750	\$750
				PHILIP MORRIS/ALTRIA	1998 Total	\$500	\$750
					1998	\$500	\$500
					1998 Total	\$100	\$500
SILER, CHARLES L	R	H	82	PHILIP MORRIS/ALTRIA	1996	\$100	\$100
					1996 Total	\$200	\$100
					2000	\$200	\$200
					2000 Total	\$1,000	\$200
SIMPSON, ARNOLD R	D	H	65	COMMONWEALTH BRANDS	2006	\$1,000	\$1,000
					2006 Total	\$500	\$1,000
SIMS, DOTTIE J	D	H	19	BALE TOBACCO WAREHOUSE	1996	\$500	\$500
					1996 Total	\$250	\$500
					2000	\$250	\$250

SPARROW, DAVID C	D	H	54	COMMONWEALTH BRANDS	2006	\$500	\$500
					2006 Total		\$500
STACY, JOHN WILL	D	H	71	CLM DISCOUNT TOBACCO	2006	\$250	\$250
					2006 Total		\$250
				RJ REYNOLDS	2004	\$500	\$500
STEIN, KATHY W	D	H	75	PHILIP MORRIS/ALTRIA	1996	\$100	\$100
					1996 Total		\$100
STEPHENSON, DANA SEUM	R	H	38	JC TOBACCO OUTLETS	2006	\$350	\$350
					2006 Total		\$350
				JC TOBACCO OUTLETS	2004	\$1,000	\$1,000
					2004 Total		\$1,000
STEVENS, KENT	D	H	55	COMMONWEALTH BRANDS	2006	\$500	\$500
					2006 Total		\$500
				PHILIP MORRIS/ALTRIA	2010	\$500	\$500
					2010 Total		\$500
STEWART, JIM	R	H	86	PHILIP MORRIS/ALTRIA	2000	\$200	\$200
					2000 Total		\$200
STINE, KATIE KRATZ	R	S	24	KUNKEL FARM	1998	\$400	\$400
					1998 Total		\$400
STUMBO, GREGORY D	D	AG	NA	BROWN & WILLIAMSON	2003	\$500	\$500
					2003 Total		\$500
				CLM DISCOUNT TOBACCO	2003	\$500	\$500
					2003 Total		\$500
				PHILIP MORRIS/ALTRIA	2003	\$1,000	\$1,000
					2003 Total		\$1,000
				COMMONWEALTH BRANDS	2008	\$1,000.00	\$1,000
					2008 Total		\$1,000
				PHILIP MORRIS/ALTRIA	2002	\$1,000	\$1,000
					2002 Total		\$1,000
					2010	\$1,000	\$1,000

TAPP, GARY	R	H	58	PHILIP MORRIS/ALTRIA	2010 Total		\$1,000
					1998	\$100	\$100
					1998 Total		\$100
					2002	\$1,000	\$1,000
					2002 Total		\$1,000
					2002	\$500	\$500
					2002 Total		\$500
					2006	\$500	\$500
					2006 Total		\$500
					2004	\$250	\$250
THAYER, DAMON	R	S	17	BROWN & WILLIAMSON	2004 Total		\$250
					2002	\$200	\$200
THOMAS, ROGER	D	H	21	BROWN & WILLIAMSON	2002 Total		\$200
					2004	\$450	\$450
					2004 Total		\$450
					2000	\$500	\$500
					2000 Total		\$500
					2010	\$500	\$500
THOMPSON, TOMMY	D	H	14	RJ REYNOLDS	2010 Total		\$500
					2006	\$500	\$500
TILLEY, JOHN C	D	H	8	COMMONWEALTH BRANDS	2006 Total		\$500
					1998	\$500	\$500
TORI, ELIZABETH	R	S	10	PHILIP MORRIS/ALTRIA	1998 Total		\$500
					2000	\$500	\$500
					2000 Total		\$500
					2002	\$500	\$500
					2002 Total		\$500
					2002	\$250	\$250
					2002 Total		\$250
					2002	\$250	\$250
TREESH, MARK A	R	S	8	PINKERSTON TOBACCO CO	2002 Total		\$250
					2002	\$250	\$250

TURNER, JOHNNY RAY	D	S	29	HAMILTON TOBACCO OUTLET	2000	\$500	\$500
					2000 Total		\$500
				RJ REYNOLDS	2004	\$750	\$750
					2004 Total		\$750
				RJ REYNOLDS TOBACCO	2008	\$500.00	\$500
					2008 Total		\$500
UPCHURCH, KEN	R	H	52	ALLIANCE TOBACCO	2004	\$2,200	\$2,200
					2004 Total		\$2,200
				TANTUS TOBACCO	2007	\$1,000.00	\$1,000
					2007 Total		\$1,000
WALLACE, CLIFF	D	S	17	BLUEGRASS TOBACCO OUTLET STORES	2004	\$1,000	\$1,000
					2004 Total		\$1,000
WALTON, CHARLIE	R	S	11	DIRT CHEAP TOBACCO SHOP	2004	\$500	\$500
					2004 Total		\$500
				DISCOUNT TOBACCO SHOP	2004	\$1,000	\$1,000
					2004 Total		\$1,000
				HANDORF TOBACCO SHOP	2004	\$250	\$250
					2004 Total		\$250
WEAVER, MIKE	D	H	26	PHILIP MORRIS/ALTRIA	2002	\$500	\$500
					2002 Total		\$500
WEBB, ROBIN L	D	H	96	BROWN & WILLIAMSON	2004	\$100	\$100
					2004 Total		\$100
				COMMONWEALTH BRANDS	2006	\$2,000	\$2,000
					2006 Total		\$2,000
WEBB-EDGINGTON, ALECIA	R	H	63	RJ REYNOLDS TOBACCO	2008	\$500.00	\$500
					2008 Total		\$500
WESTWOOD, JACK	R	S	23	BROWN & WILLIAMSON	2004	\$100	\$100
					2004 Total		\$100
WILKEY, ROB	D	H	22	AMERICAN TOBACCO	1996	\$500	\$500
					1996 Total		\$500
					2002	\$1,000	\$1,000

					2004	\$750	\$750
				2004 Total		\$750	
				2006	\$2,000	\$2,000	\$2,000
				2006 Total		\$2,000	
				1998	\$300	\$300	\$300
				1998 Total		\$300	
				2006	\$1,000	\$1,000	\$1,000
				2006 Total		\$1,000	
				1998	\$2,000	\$2,000	\$2,000
				1998 Total		\$2,000	
				1998	\$500	\$500	\$500
				1998 Total		\$500	
				2008	\$1,000.00	\$1,000	\$1,000
				2008 Total		\$1,000	
				2000	\$1,000	\$1,000	\$1,000
				2000 Total		\$1,000	
				2000	\$500	\$500	\$500
				2000 Total		\$500	
				1998	\$600	\$600	\$600
				1998 Total		\$600	
				2000	\$500	\$500	\$500
				2000 Total		\$500	
				2006	\$500	\$500	\$500
				2006 Total		\$500	
				2006	\$500	\$500	\$500
				2006 Total		\$500	
				2006 Total		\$500	
				Grand Total		\$267,864	

APPENDIX B: Tobacco Industry Political Campaign Contributions by Contributor, 1994-2011

Contributor	Year	Recipient	Party	Office	District	Amount
A&H TOBACCO CO	2002	NAPIER, LONNIE	R	H	36	\$500
ALLIANCE TOBACCO	2003	CHANDLER, A B (BEN) & OWEN, CHARLIE	D	G/LTG		\$2,000
	2004	UPCHURCH, KEN	R	H	52	\$2,200
AMERICAN TOBACCO	1995	CHANDLER, A B (BEN)	D	AG		\$200
	1996	WILKEY, ROB	D	H	22	\$500
	1998	ASHLEY, BRIAN PATRICK	D	S	18	\$546
	2000	KAREM, DAVID K	D	S	35	\$1,000
	2002	WILKEY, ROB	D	H	22	\$1,000
BALDEN TOBACCO WAREHOUSE	1995	FORGY, LARRY	R	G		\$1,000
		LOGSDON, ED	D	SS		\$300
BALE TOBACCO WAREHOUSE	1995	BABBAGE, BOB	D	G		\$500
		HATCHETT, ED	D	AUD		\$500
		LOGSDON, ED	D	SS		\$1,000
		PATTON, PAUL E	D	G		\$1,000
		SMITH, BILLY RAY	D	AGRIC		\$1,500
	1996	NUNN, STEPHEN R	R	H	23	\$1,000
		ROGERS, JOHN	D	H	23	\$500
		SANDERS, RICHARD JR	R	S	9	\$1,000
		SIMS, DOTTIE J	D	H	19	\$500
	1999	PATTON, PAUL E	D	G		\$1,000
	2000	CORUM, BILL	D	S	5	\$2,000
		JEWELL, LARRY R	D	H	19	\$500
		SANDERS JR, RICHIE	R	S	9	\$1,500
		SIMS, DOTTIE J	D	H	19	\$250
	2002	LEEPER, ROBERT J	R	S	2	\$200

2003	FLETCHER, ERNIE & PENCE, STEPHEN B	R	G/LTG	\$1,000	
	GORMAN, CHRIS	D	AG	\$1,000	
	NUNN, STEVE & HELERINGER, BOB	R	G/LTG	\$1,000	
1996	MOORE, VIRGIL	R	S	5	\$500
1995	ROSE, JOHN (ECK)	D	G	\$300	
2004	WALLACE, CLIFF	D	S	17	\$1,000
1994	CAIN, RODNEY (BIZ)	D	S	24	\$500
2003	PENDLETON, JOEY	D	AGRIC	\$500	
1994	JOHNS, SUSAN D	D	S	36	\$500
1995	SMITH, BILLY RAY	D	AGRIC	\$250	
1996	KAREM, DAVID K	D	S	35	\$800
	O'DANIEL, PAUL J	D	H	40	\$500
1999	PATTON, PAUL E	D	G	\$1,000	
2000	KAREM, DAVID K	D	S	35	\$1,000
	SCORSONE, ERNESTO	D	S	13	\$1,000
2002	ADAMS, ROYCE W	D	H	61	\$100
	ARNOLD JR, JOHN A	D	H	7	\$100
	ARNOLD, ADRIAN K	D	H	74	\$100
	BOSWELL, DAVID E	D	S	8	\$100
	BRINKMAN, SCOTT W	R	H	32	\$100
	CHERRY, MIKE	D	H	4	\$100
	COMER, JAMES R	R	H	53	\$100
	CRIMM, RONALD E	R	H	33	\$100
	DENTON, JULIE	R	S	36	\$100
	HARRIS, ERNEST L	R	S	26	\$200
	HOFFMAN, CHARLIE	D	H	62	\$100
	HOOVER, JEFFREY H	R	H	83	\$100
	HORLANDER, DENNIS	D	H	40	\$100
	JENKINS, JONIL	D	H	44	\$100
	KERR, ALICE FORGY	R	S	12	\$100
	MCKEE, THOMAS M	D	H	78	\$100

	NAPIER, LONNIE	R	H	36	\$100
	PASLEY, DON	D	H	73	\$100
	RIGGS, STEVE	D	H	31	\$100
	SEUM, DAN (MALANO)	R	S	38	\$100
	SMITH, BRANDON	R	H	84	\$100
	THOMAS, ROGER	D	H	21	\$200
	WOODWARD, VIRGINIA L	D	H	37	\$150
	WORLEY, ED	D	S	34	\$100
2003	CHANDLER, A B (BEN) & OWEN, CHARLIE	D	G/LTG		\$2,000
	HATCHETT, ED	D	AG		\$100
	JACKSON, REBECCA & RUDOLPH, ROBBIE	R	G/LTG		\$500
	RICHARDS, JODY & MILLER, TONY	D	G/LTG		\$140
	STUMBO, GREGORY D	D	AG		\$500
2004	ADKINS, ROCKY	D	H	99	\$500
	BARROWS, JOE	D	H	56	\$100
	BRINKMAN, SCOTT W	R	H	32	\$500
	CLARK, LARRY	D	H	46	\$700
	CLARK, PERRY B	D	H	37	\$125
	CRIMM, RONALD E	R	H	33	\$100
	DAMRON, ROBERT R	D	H	39	\$250
	EDMONDS, TED (TEDDY)	D	H	91	\$100
	FEELEY, TIMOTHY E	R	H	59	\$100
	GEVEDEN, CHARLES	D	H	1	\$200
	HARRIS, ERNEST L	R	S	26	\$500
	HOFFMAN, CHARLIE	D	H	62	\$100
	HOOVER, JEFFREY H	R	H	83	\$250
	KELLY, DAN	R	S	14	\$750
	MCKEE, THOMAS M	D	H	78	\$200
	NEAL, GERALD A	D	S	33	\$600
	PASLEY, DON	D	H	73	\$200
	PENDLETON, JOEY	D	S	3	\$500

	THAYER, DAMON		R	S	17	\$250
	THOMAS, ROGER		D	H	21	\$450
	WEBB, ROBIN L		D	H	96	\$100
	WESTWOOD, JACK		R	S	23	\$100
	WORLEY, ED		D	S	34	\$750
BURLEY TOBACCO CO OP	KERR, ALICE FORGY	2002	R	S	12	\$200
CAMPBELL TOBACCO REHANDLING CO	PETTY JR, GEORGE (BUDDY)	2004	R	H	2	\$250
	WINTERS, KENNETH W		R	S	1	\$650
CARDINAL TOBACCO COMPANY	SMITH, BILLY RAY	1995	D	AGRIC		\$250
CARROLLTON TOBACCO WAREHOUSE INC	PATTON, PAUL E	1995	D	G		\$250
CHINN TOBACCO	FORGY, LARRY	1995	R	G		\$400
CLAY ENTERPRISES	CHANDLER, A B (BEN)	1995	D	AG		\$500
	FORGY, LARRY		R	G		\$250
	PATTON, PAUL E		D	G		\$1,098
	ARNOLD, ADRIAN K	1998	D	H	74	\$700
	ASHLEY, BRIAN PATRICK		D	S	18	\$750
	DALE, PAT		D	S	28	\$199
	SHROUT, DALE		D	S	28	\$750
	PATTON, PAUL E	1999	D	G		\$1,000
	ARNOLD, ADRIAN K	2000	D	H	74	\$1,000
CLM DISCOUNT TOBACCO	CHANDLER, A B (BEN) & OWEN, CHARLIE	2003	D	G/LTG		\$1,000
	STUMBO, GREGORY D		D	AG		\$500
	MEADE, CHARLES (CHUCK)	2004	D	H	95	\$1,000
	MEADE, CHARLES (CHUCK)	2006	D	H	95	\$1,000
	STACY, JOHN WILL		D	H	71	\$250
COMMONWEALTH BRANDS	ADAMS, ROYCE W	2006	D	H	61	\$500
	BLANKENSHIP, RANDY		D	H	69	\$750
	BROWN, JERRY L		D	H	26	\$1,000
	BURCH, TOM		D	H	30	\$500
	COMBS, LESLIE A		D	H	94	\$1,000
	CRENSHAW, JESSE		D	H	77	\$1,000

DAMRON, ROBERT R	D	H	39	\$2,000
FIRKINS, TIM	D	H	38	\$500
GLENN, JIM	D	H	13	\$500
GREER, JEFF	D	H	27	\$1,000
HENDERSON, RICHARD D	D	H	74	\$500
HOFFMAN, CHARLIE	D	H	62	\$500
KLEMBARA, LINDA	D	H	68	\$500
MACDONALD, PETER C	D	H	9	\$500
MILLER, CHARLES W	D	H	28	\$1,500
OWENS, DARRYL T	D	H	43	\$500
PASLEY, DON	D	H	73	\$500
RASCHE, FRANK	D	H	3	\$1,000
ROLLINS II, CARL P	D	H	56	\$1,000
SIMPSON, ARNOLD R	D	H	65	\$1,000
SIMS, DOTTIE J	D	H	19	\$500
SPARROW, DAVID C	D	H	54	\$500
STEVENS, KENT	D	H	55	\$500
TILLEY, JOHN C	D	H	8	\$500
WEBB, ROBIN L	D	H	96	\$2,000
WILLIAMS, DAVID L	R	S	16	\$1,000
WORLEY, ED	D	S	34	\$2,000
YONTS, BRENT	D	H	15	\$500
YOUNG, BILL	D	H	58	\$500
2007	D	G/LTG	SW	\$4,000
BESHEAR, STEVEN L & MONGIARDO, DANIEL	D	G/LTG	SW	\$4,000
CONWAY, JACK	D	AG	SW	\$3,000
FLETCHER, ERNIE & RUDOLPH, ROBERT	R	G/LTG	SW	\$1,000
RICHARDS, JODY & BROWN III, JOHN Y	D	G/LTG	SW	\$2,000
2008	D	H	6	\$500
COURSEY, WILL R	D	H	72	\$2,000
OVERLY, SANNIE	D	H	72	\$2,000
STUMBO, GREGORY D	D	H	95	\$1,000

CRAIN TOBACCO WAREHOUSE	1995	CHANDLER, A B (BEN)	D	AG		\$300
	1998	ASHLEY, BRIAN PATRICK	D	S	18	\$150
	1999	PATTON, PAUL E	D	G		\$200
	2000	PENDLETON, JOEY	D	S	3	\$200
CROSLIN TOBACCO STORE	2002	NAPIER, LONNIE	R	H	36	\$250
DIRT CHEAP TOBACCO SHOP	2004	WALTON, CHARLIE	R	S	11	\$500
DISCOUNT TOBACCO SHOP	1998	WORLEY, ED	D	S	34	\$300
	1999	PATTON, PAUL E	D	G		\$100
	2004	MOORE, VIRGIL	R	S	5	\$100
		WALTON, CHARLIE	R	S	11	\$1,000
DOSAL TOBACCO CORP	2006	WORLEY, ED	D	S	34	\$1,000
DOUBLE M DIXIE FARM	1996	MCKEE, THOMAS M	D	H	78	\$500
DUKE TOBACCO WAREHOUSE	1999	PATTON, PAUL E	D	G		\$1,000
	2000	WORTHINGTON, PETE	D	H	70	\$1,000
DYKES TOBACCO WAREHOUSE	1996	DERRICKSON, CHARLES	D	S	25	\$500
FARMER INVESTMENT CO	2003	FLETCHER, ERNIE & PENCE, STEPHEN B	R	G/LTG		\$2,000
FARMERS & UNITED TOBACCO WAREHOUSE	1995	SMITH, BILLY RAY	D	AGRIC		\$200
	2003	BAESLER, ALICE WOODS	D	AGRIC		\$500
FARMERS TOBACCO CO	2003	WOOD, JACK D	R	AG		\$1,000
	2004	DENHAM, MITCHEL B (MIKE)	D	H	70	\$500
		MCKEE, THOMAS M	D	H	78	\$1,000
		WILKEY, ROB	D	H	22	\$1,000
FARMERS TOBACCO WAREHOUSE	1995	FORGY, LARRY	R	G		\$200
	1999	PATTON, PAUL E	D	G		\$1,000
	2000	ISAACS, KENNETH	D	S	15	\$1,000
	2003	CHANDLER, A B (BEN) & OWEN, CHARLIE	D	G/LTG		\$1,500
FARMERS TOBACCO WAREHOUSE OF HOPKINSVILLE	2003	CHANDLER, A B (BEN) & OWEN, CHARLIE	D	G/LTG		\$300
FLORENCE TOBACCO WAREHOUSE	1995	FORGY, LARRY	R	G		\$250
FOURTH STREET TOBACCO WAREHOUSE	1995	CHANDLER, A B (BEN)	D	AG		\$200
		FORGY, LARRY	R	G		\$500

2003	BAESLER, ALICE WOODS	D	AGRIC		\$200
	CHANDLER, A B (BEN) & OWEN, CHARLIE	D	G/LTG		\$200
	FLETCHER, ERNIE & PENCE, STEPHEN B	R	G/LTG		\$250
	PENDLETON, JOEY	D	AGRIC		\$200
2004	FLETCHER JR, HAROLD	R	S	7	\$200
1995	CHANDLER, A B (BEN)	D	AG		\$764
1995	FORGY, LARRY	R	G		\$2,000
1996	AUSMUS, J C III	R	S	17	\$200
	HOLSCLAW, BARBARA	R	S	19	\$200
	MEADE, N MITCHELL	R	S	13	\$200
	MEMMER, RANDY	R	S	27	\$200
	MOORE, VIRGIL	R	S	5	\$200
1999	HAMILTON, JOHN KENNEDY	D	TREAS		-\$53
	MILLER, JONATHAN	D	TREAS		\$2,000
2003	FLETCHER, ERNIE & PENCE, STEPHEN B	R	G/LTG		\$4,000
	MILLER, JONATHAN	D	TREAS		\$400
2004	CHRISTMAN, RICK	R	H	79	\$1,000
2003	JACKSON, REBECCA & RUDOLPH, ROBBIE	R	G/LTG		\$250
2000	TURNER, JOHNNY RAY	D	S	29	\$500
2004	WALTON, CHARLIE	R	S	11	\$250
2003	FLETCHER, ERNIE & PENCE, STEPHEN B	R	G/LTG		\$1,000
1999	SMITH, BILLY RAY	D	AGRIC		\$300
2003	FLETCHER, ERNIE & PENCE, STEPHEN B	R	G/LTG		\$500
1995	ROSE, JOHN (ECK)	D	G		\$500
1995	SMITH, BILLY RAY	D	AGRIC		\$300
2003	FLETCHER, ERNIE & PENCE, STEPHEN B	R	G/LTG		\$1,000
1995	CHANDLER, A B (BEN)	D	AG		\$500
	ROSE, JOHN (ECK)	D	G		\$250
1998	MOBERLY JR, HARRY	D	H	81	\$500
	WORLEY, ED	D	S	34	\$2,000
2000	SCORSONE, ERNESTO	D	S	13	\$200

FREEMANS TOBACCO WAREHOUSE

GF VAUGHAN TOBACCO CO

GRAIN & TOBACCO FARMS

HAMILTON TOBACCO OUTLET

HANDORF TOBACCO SHOP

HARRISON TOBACCO WAREHOUSE

HARRODSBURG CANDY & TOBACCO

HARTON TOBACCO WAREHOUSE

HAYNES TOBACCO WAREHOUSE

HINTON & SONS

HOME TOBACCO WAREHOUSE

HORN BROTHERS FARM

HUGHES CANDY & TOBACCO CO	2003	FLETCHER, ERNIE & PENCE, STEPHEN B	R	G/LTG	\$2,000
JC TOBACCO OUTLETS	2004	STEPHENSON, DANA SEUM	R	S	\$1,000
	2006	CLARK, PERRY B	D	S	\$250
		SEUM, DAN MALANO	R	S	\$500
		STEPHENSON, DANA SEUM	R	H	\$350
KENTUCKY BURLEY TOBACCO CORP	1995	FORGY, LARRY	R	G	\$500
KENTUCKY KING TOBACCO WAREHOUSE	1995	SMITH, BILLY RAY	D	AGRIC	\$500
KENTUCKY WHOLESALE TOBACCO	2006	MEADE, CHARLES (CHUCK)	D	H	\$250
KUNKEL FARM	1998	STINE, KATIE KRATZ	R	S	\$400
	1999	GALBRAITH, GATEWOOD	REFORM	G	\$500
KY-ANA TOBACCO WAREHOUSE	2003	CHANDLER, A B (BEN) & OWEN, CHARLIE	D	G/LTG	\$500
LEXINGTON LOOSE LEAF TOBACCO	1995	PATTON, PAUL E	D	G	\$500
	1998	LONG, MARSHALL	D	S	\$500
	2000	ADAMS, ROYCE W	D	H	\$500
		WORTHINGTON, PETE	D	H	\$500
LLL TOBACCO CO	2003	FLETCHER, ERNIE & PENCE, STEPHEN B	R	G/LTG	\$250
LORILLARD TOBACCO	2002	TAPP, GARY	R	S	\$1,000
MELTON WHOLESALE TOBACCO	2000	MILLER, CHARLES W	D	H	\$1,000
		MOORE, VIRGIL	R	S	\$1,000
MILLS TOBACCO FARM	2003	FARMER, RICHIE	R	AGRIC	\$500
MULLINS TOBACCO WAREHOUSE	1995	HATCHETT, ED	D	AUD	\$1,000
		LOGSDON, ED	D	SS	\$500
		PATTON, PAUL E	D	G	\$500
		ROSE, JOHN (ECK)	D	G	\$1,000
		SMITH, BILLY RAY	D	AGRIC	\$1,000
	1996	BRUCE, JAMES E	D	H	\$1,000
		PENDLETON, JOEY	D	S	\$1,000
		ROGERS, JOHN	D	H	\$500
MUNCYS AUTO PARTS	1995	CHANDLER, A B (BEN)	D	AG	\$250
	1996	JOHNSON, GARY C	D	S	\$500

PHILIP MORRIS/ALTRIA

1995	CHANDLER, A B (BEN)	D	AG		\$500
	FORGY, LARRY	R	G		\$500
	LOGSDON, ED	D	SS		\$250
	ROSE, JOHN (ECK)	D	G		\$500
	SMITH, BILLY RAY	D	AGRIC		\$250
1996	ADAMS, ROYCE W	D	H	61	\$100
	BAILEY, BENNY R	D	S	29	\$150
	BARROWS, JOE	D	H	56	\$100
	BLEVINS, WALTER	D	S	27	\$100
	BUTLER, DENVER	D	H	38	\$150
	CASEBIER, LINDA	R	S	7	\$150
	CLARK, PERRY B	D	H	37	\$100
	COLLINS, HUBERT	D	H	97	\$100
	CRIMM, RONALD E	R	H	47	\$100
	DAMRON, ROBERT R	D	H	39	\$100
	HOLSCLAW, BARBARA	R	S	19	\$500
	JORDAN, ELEANOR	D	H	42	\$100
	LEE, JIMMIE	D	H	25	\$100
	MAGGARD, JIM	D	H	89	\$100
	MARCOTTE, PAUL H	R	H	60	\$100
	MARICLE, ALLEN	R	H	49	\$250
	MEYER, JOSEPH	D	S	23	\$150
	MILLER, CHARLES	D	S	7	\$120
	NUNN, STEPHEN R	R	H	23	\$100
	PENDLETON, JOEY	D	S	3	\$200
	REINHARDT, JON DAVID	R	H	69	\$100
	ROEDING, RICHARD	R	S	11	\$100
	SANDERS, RICHARD JR	R	S	9	\$150
	SAUNDERS, LARRY	D	S	37	\$300
	SILER, CHARLES L	R	H	82	\$100
	STEIN, KATHY W	D	H	75	\$100

1998	ADAMS, RICHARD DICK	D	S	6	\$500
	BARROWS, JOE	D	H	56	\$250
	BORDERS, CHARLES	R	S	18	\$500
	BRUCE, JAMES E	D	H	9	\$100
	BUFORD, TOM	R	S	22	\$250
	CLARK, LARRY	D	H	46	\$250
	CRIMM, RONALD E	R	H	47	\$250
	HARRIS, ERNEST L	R	S	26	\$250
	JENKINS, JONIL	D	H	44	\$250
	JOHNS, SUSAN D	D	H	32	\$600
	KELLY, DAN	R	S	14	\$300
	KERR, ALICE FORGY	R	S	12	\$500
	LEEPER, ROBERT J	D	S	2	\$250
	LONG, MARSHALL	D	S	20	\$250
	MARICLE, ALLEN	R	H	49	\$250
	MILLER, CHARLES W	D	H	28	\$100
	MONTGOMERY, B RUSSELL	D	H	51	\$250
	NELSON, KIM L	D	S	6	\$250
	POPE, THOMAS R	D	H	88	\$200
	ROSE, JULIE CARMAN	R	S	36	\$750
	SHROUT, DALE	D	S	28	\$500
	SIMS, DOTTIE J	D	H	19	\$100
	TAPP, GARY	R	H	58	\$100
	TORI, ELIZABETH	R	S	10	\$500
	WILKEY, ROB	D	H	22	\$350
	WORLEY, ED	D	S	34	\$500
	WORTHINGTON, PETE	D	H	70	\$600
2000	ADAMS, ROYCE W	D	H	61	\$250
	ALEXANDER, SCOTT	D	H	84	\$200
	ALLEN, WOODY	R	H	17	\$500
	ARNOLD JR, JOHN A	D	H	7	\$250

ARNOLD, ADRIAN K	D	H	H	74	\$500
BALLARD, JOSEPH E EDDIE	D	H	H	10	\$200
BARROWS, JOE	D	H	H	56	\$500
BELCHER, LARRY L	D	H	H	49	\$200
BLEVINS, WALTER	D	S	S	27	\$1,200
BOWLING, JOHN WD	D	H	H	54	\$200
BRATCHER, KEVIN D	R	H	H	29	\$200
BRINKMAN, SCOTT W	R	H	H	32	\$200
BRUCE, JAMES E	D	H	H	9	\$1,000
BUTLER, DENVER	D	H	H	38	\$700
CALLAHAN, JIM	D	H	H	67	\$500
CASEBIER, LINDA	R	S	S	7	\$500
CLARK, LARRY	D	H	H	46	\$500
CLARK, PERRY B	D	H	H	37	\$200
COLLINS, HUBERT	D	H	H	97	\$200
DAMRON, ROBERT R	D	H	H	39	\$200
DRAUD, JON E	R	H	H	63	\$200
FORD, DANNY	R	H	H	80	\$500
HAERING, HAROLD	R	H	H	46	\$200
HELERINGER, BOB	R	H	H	33	\$200
HOOVER, JEFFREY H	R	H	H	83	\$500
LEE, JIMMIE	D	H	H	25	\$200
LEE, STAN	R	H	H	45	\$200
MCGAHA, VERNIE	R	S	S	15	\$500
MILLER, CHARLES W	D	H	H	28	\$200
MONTGOMERY, B RUSSELL	D	H	H	51	\$200
MOORE, VIRGIL	R	S	S	5	\$500
PAYNE, BOB	D	H	H	14	\$200
PENDLETON, JOEY	D	S	S	3	\$1,000
PULLIN, TANYA	D	H	H	98	\$200
RADER, MARIE L	R	H	H	89	\$200

	RATLIFF, CHRIS	R	S	31	\$500
	REINHARDT, JON DAVID	R	H	69	\$250
	ROBINSON, ALBERT L	R	S	21	\$500
	ROEDING, RICHARD	R	S	11	\$500
	SANDERS JR, RICHIE	R	S	9	\$500
	SAUNDERS, LARRY	D	S	37	\$950
	SHAUGHNESSY, TIM	D	S	19	\$1,000
	SILER, CHARLES L	R	H	82	\$200
	SIMS, DOTTIE J	D	H	19	\$450
	STEWART, JIM	R	H	86	\$200
	THOMAS, ROGER	D	H	21	\$500
	TORI, ELIZABETH	R	S	10	\$500
	WILLIAMS, DAVID L	R	S	16	\$500
	WORTHINGTON, PETE	D	H	70	\$500
2002	BORDERS, CHARLES	R	S	18	\$0
	BRUCE, JAMES E	D	H	9	\$500
	DENTON, JULIE	R	S	36	\$500
	GUTHRIE, BRETT	R	S	32	\$1,000
	KELLY, DAN	R	S	14	\$500
	KERR, ALICE FORGY	R	S	12	\$500
	LEEPER, ROBERT J	R	S	2	\$500
	MARCOTTE, PAUL H	R	H	60	\$500
	SANDERSON, LARRY	D	S	2	\$100
	SEUM, DAN (MALANO)	R	S	38	\$500
	STUMBO, GREGORY D	D	H	95	\$1,000
	TAPP, GARY	R	S	20	\$500
	TORI, ELIZABETH	R	S	10	\$500
	WEAVER, MIKE	D	H	26	\$500
	WILLIAMS, DAVID L	R	S	16	\$1,000
2003	CHANDLER, A B (BEN) & OWEN, CHARLIE	D	G/LTG		\$1,500
	FLETCHER, ERNIE & PENCE, STEPHEN B	R	G/LTG		\$2,000

	RICHARDS, JODY & MILLER, TONY		D	G/LTG		\$150
	STUMBO, GREGORY D		D	AG		\$1,000
2006	MONTELL, BRAD		R	H	58	\$500
	TAPP, GARY		R	S	20	\$500
2007	BESHEAR, STEVEN L & MONGIARDO, DANIEL		D	G/LTG	SW	\$500
2010	ADKINS, ROCKY		D	H	99	\$2,500
	ALVARADO, RALPH		R	S	28	\$500
	BELCHER, LINDA HOWLETT		D	H	49	\$500
	BELL, JOHNNY W		D	H	23	\$500
	CARPENTER, JARED K		R	S	34	\$500
	HOFFMAN, CHARLIE		D	H	62	\$500
	HORNBACK, PAUL		R	S	20	\$500
	KERR, ALICE FORGY		R	S	12	\$300
	KING, MARTHA JANE		D	H	16	\$300
	SIMS, DOTTIE J		D	H	19	\$500
	STEVENS, KENT		D	H	55	\$500
	STUMBO, GREGORY D		D	H	95	\$1,000
	WILSON, MIKE		R	S	32	\$500
2011	WILLIAMS, DAVID & FARMER, RICHIE		R	G/LTG		\$1,000
	CONWAY, JACK		D	AG		\$1,000
2002	TREESH, MARK A		R	S	8	\$250
2003	FLETCHER, ERNIE & PENCE, STEPHEN B		R	G/LTG		\$1,000
1996	SANDERS, RICHARD JR		R	S	9	\$200
2002	SEUM, DAN (MALANO)		R	S	38	\$200
2003	BAESLER, ALICE WOODS		D	AGRIC		\$1,000
2004	CARROLL, JULIAN M		D	S	7	\$500
2003	RICHARDS, JODY & MILLER, TONY		D	G/LTG		\$100
2004	STACY, JOHN WILL		D	H	71	\$500
	TURNER, JOHNNY RAY		D	S	29	\$750
2006	ADKINS, ROCKY		D	H	99	\$1,000
	DAMRON, ROBERT R		D	H	39	\$500
	PINKERSTON TOBACCO CO					
	POTEET FARMS					
	POTEET FARMS					
	POTENTION TOBACCO					
	RIDGEWAY BRANDS TOBACCO CO					
	RJ REYNOLDS					

	GRAY, JR	D	H	6	\$250
	NELSON, RICK	D	H	87	\$250
	PENDLETON, JOEY	D	S	3	\$500
	WILKEY, ROB	D	H	22	\$500
2007	CONWAY, JACK	D	AG		\$1,000
	FARMER, RICHIE	R	AGRIC		\$1,000
2008	DAMRON, ROBERT R	D	H	39	\$1,000
	OVERLY, SANNIE	D	H	72	\$500
	SCHICKEL, JOHN	R	S	11	\$1,000
	TURNER, JOHNNY RAY	D	S	29	\$500
	WEBB-EDGINGTON, ALECIA	R	H	63	\$500
2010	BOSWELL, DAVID E	D	S	8	\$300
	DAMRON, ROBERT R	D	H	39	\$300
	HARRIS, ERNIE	R	S	26	\$500
	KEENE, DENNIS	D	H	67	\$500
	LEEPER, ROBERT J	IND	S	2	\$1,500
	MCKEE, THOMAS M	D	H	78	\$500
	RAND, RICK W	D	H	47	\$300
	REYNOLDS, MIKE	D	S	32	\$500
	SEUM, DAN MALANO	R	S	38	\$300
	THOMPSON, TOMMY	D	H	14	\$500
2011	GRIMES, ALISON LUNDERGRAN	D	SS		\$1,000
	WILLIAMS, DAVID & FARMER, RICHIE	R	G/LTG		\$1,000
	CONWAY, JACK	D	AG		\$1,000
1995	ROSE, JOHN (ECK)	D	G		\$500
1996	MOORE, VIRGIL	R	S	5	\$50
1996	SANDERS, RICHARD JR	R	S	9	\$100
2003	PENDLETON, JOEY	D	AGRIC		\$400
1995	FORGY, LARRY	R	G		\$1,125
1996	DERRICKSON, CHARLES	D	S	25	\$250
1995	ALLEN, WOODY	R	AGRIC		\$300
	SCRANTON TOBACCO WAREHOUSE				
	SKEES FARM				
	SOMINO FARMS				
	SOUTHWESTERN TOBACCO				
	STANDARD TOBACCO CO				
	STOP AND SHOP TOBACCO				

	1995	BROWN III, JOHN Y	D	SS		\$500
SWEDISH MATCH	2007	MILLER, JONA THAN & MAZE IRV	D	G/LTG	SW	\$500
TANTUS TOBACCO LLC	2003	FLETCHER, ERNIE & PENCE, STEPHEN B	R	G/LTG		\$1,000
	2004	MEADE, CHARLES (CHUCK)	D	H	95	\$250
	2007	BESHEAR, STEVEN L & MONGIARDO, DANIEL	D	G/LTG	SW	\$1,000
		CONWAY, JACK	D	AG	SW	\$2,000
		UPCHURCH, KEN	R	TREAS	SW	\$1,000
TOBACCO PATCH	2003	RICHARDS, JODY & MILLER, TONY	D	G/LTG		\$2,000
TOBACCO WAREHOUSE ASSOCIATION	1996	BARROWS, JOE	D	H	56	\$200
TURNER TOBACCO WAREHOUSE	1995	SMITH, BILLY RAY	D	AGRIC		\$150
US SMOKELESS TOBACCO	1995	ROSE, JOHN (ECK)	D	G		\$300
	2000	FLETCHER, BEN	R	S	3	\$4,000
		JACKSON, BOB	D	S	1	\$500
		SHAUGHNESSY, TIM	D	S	19	\$500
	2002	BORDERS, CHARLES	R	S	18	\$500
		BOSWELL, DAVID E	D	S	8	\$375
		HERRON JR, PAUL	D	S	4	\$375
		KERR, ALICE FORGY	R	S	12	\$250
		LEEPER, ROBERT J	R	S	2	\$250
		TORI, ELIZABETH	R	S	10	\$250
		WILLIAMS, DAVID L	R	S	16	\$1,000
	2003	FLETCHER, ERNIE & PENCE, STEPHEN B	R	G/LTG		\$1,000
	2004	ALVARADO, RALPH	R	H	73	\$300
		BUCKINGHAM, ROBERT (BUDDY)	D	H	5	\$500
		MEADE, CHARLES (CHUCK)	D	H	95	\$100
		NESLER, FRED	D	H	2	\$250
	2006	MEADE, CHARLES (CHUCK)	D	H	95	\$250
	2007	FLETCHER, ERNIE & RUDOLPH, ROBERT	R	G/LTG	SW	\$2,000
	2008	WORLEY, ED	D	S	34	\$1,000
VAUGHAN TOBACCO	2007	BESHEAR, STEVEN L & MONGIARDO, DANIEL	D	G/LTG	SW	\$1,000
		FLETCHER, ERNIE & RUDOLPH, ROBERT	R	G/LTG	SW	\$3,000

WILKERSON FARM	1995	FORGY, LARRY	R	G		\$1,500
	1996	SANDERS, RICHARD JR	R	S	9	\$700
WINCHESTER WAREHOUSE	1998	PALMER II, R J	D	H	73	\$750
WOOD TOBACCO WAREHOUSE	1994	WOODWARD, MARCUS	D	S	25	\$500
	1999	PATTON, PAUL E	D	G		\$100
GRAND TOTAL						\$267,864

APPENDIX C: Tobacco Industry Contributions to Political Party Organizations, 2002-2011

Contributor	Year	Party	Amount
AXTON CANDY & TOBACCO CO	2004	D	\$2,500
BROWN & WILLIAMSON	2002	R	\$1,000
	2004	D	\$2,000
	2004	R	\$1,000
COMMONWEALTH BRANDS	2008	R	\$5,000
	2010	R	\$2,500
CRAIN TOBACCO WAREHOUSE	2002	D	\$250
DIRT CHEAP TOBACCO SHOP	2004	D	\$500
DUKE TOBACCO WAREHOUSE	2002	D	\$500
DWILL LLC	2004	D	\$500
FARMERS TOBACCO CO	2004	D	\$500
GF VAUGHAN TOBACCO CO	2002	R	\$2,500
	2004	R	\$1,000
GOLDEN LEAF FARMS	2004	D	\$500
KENTUCKY TOBACCO & CANDY ASSOC	2004	D	\$2,500
LLL TOBACCO CO	2002	D	\$250
PHILIP MORRIS/ALTRIA	2002	R	\$1,000
	2004	R	\$1,500
	2008	D	\$1,000
	2008	R	\$2,000
	2010	D	\$4,000
	2010	R	\$2,500
	2011	D	\$2,500
RJ REYNOLDS	2010	D	\$1,000
S&M BRANDS	2004	D	\$1,000
US SMOKELESS TOBACCO	2004	R	\$2,500

2006	R	\$1,000
2008	D	\$2,500
2008	R	\$6,000

GRAND TOTAL

\$51,500