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## EXECUTIVE SUMMARY

- Tobacco policy has been an issue in Indiana since 1893, when the legislature passed a law prohibiting selling tobacco to people under 16.
- Beginning as early as 1969, Indiana General Assembly members and tobacco control advocates launched uncoordinated efforts to pass a law restricting smoking in government buildings.
- The tobacco industry responded with a well-financed and well-connected network of lobbyists, campaign contributions and third-party allies which defeated every statewide clean indoor air proposal from 1969 to 1986.
- In 1986, tobacco control advocates formed the Indiana Campaign for a Tobacco-Free Society and, in 1987, successfully advocated for Indiana's first clean indoor air law that created nonsmoking areas in government-owned buildings.
- Participating in the National Cancer Institute's American Stop Smoking Intervention Study (ASSIST; 1991 to 1999) provided Indiana with its first funded tobacco control local infrastructure, which laid the foundation for future progress.
- In 1997, despite opposition from tobacco control advocates, the Tobacco Institute, the tobacco industry's lobbying organization, convinced the Indiana Legislature to preempt local governments from regulating the sale, distribution or display of tobacco products.
- Between 2000 and 2009, the tobacco industry spent over \$4 million on lobbying.
- From 1994 to 2008, the tobacco industry contributed \$560,884 to elected officials. Nine of the 10 officials who accepted the highest amounts of money held high-ranking leadership positions. Industry contributions were associated with more pro-industry behavior by legislators.
- Tobacco Industry campaign contributions peaked during 1999-2000, when legislators were considering how to spend money from the Master Settlement Agreement (MSA), and during 2003-2004, when legislators cut the state tobacco control budget by 70 percent.
- In 2000, the Legislature created the Indiana Tobacco Use Prevention and Cessation (ITPC) Agency as an independent agency governed by an Executive Board with \$35 million of MSA money for FY 2001, meeting the US Centers for Disease Control and Prevention's minimum funding recommendation.
- The ITPC Executive Board created the *Hoosier Model*, an adaptation of CDC's *Best Practices for Comprehensive Tobacco Control Programs*, with a particularly strong emphasis on community programs.
- In 2002, with active support from tobacco control advocates and ITPC, the Governor proposed and the Legislature enacted a 40¢/pack cigarette tax increase, the first increase since 1987. None of the money went to tobacco control.
- In 2007, again with support from the health advocates and ITPC, the Legislature enacted Governor Mitch Daniels' (R) Healthy Indiana Plan financed by a 44¢/pack cigarette tax increase (to 99.5¢). Only \$1.2 million of the new tax revenues were allocated to ITPC, and even this small amount ended after just one year.
- As of 2010, Indiana's cigarette tax was still 45.5¢ below the national average.
- Bloomington passed Indiana's first comprehensive smokefree ordinance in 2003 which prohibited smoking in public places and enclosed workplaces, followed by bars in 2005.
- Indianapolis-Marion County passed an ordinance in 2005 prohibiting smoking in public places and enclosed workplaces, except for bars and private clubs. Thirty-five local

ordinances passed after the Indianapolis-Marion County ordinance, 21 of which exempted bars and 28 exempted private clubs, mirroring the Indianapolis-Marion County ordinance.

- In 2006, tobacco control advocates adopted statewide “deal breaker” agreements establishing a minimum standard for comprehensive local smokefree ordinances without exemptions. These agreements resulted in fewer but stronger ordinances: from 2003 through 2006, only 5 of 28 ordinances included bars; between 2007 and 2009, 6 of 10 ordinances included bars.
- Decreases in ITPC funding to local communities has made it difficult for local coalitions to maintain staff levels and program efficacy.
- Advocates have been too focused on strengthening the 2005 Indianapolis-Marion County clean indoor air ordinance; advocates should reinvigorate local activity throughout the state to pass comprehensive ordinances in smaller communities.
- In 2009, statewide tobacco control advocates made a strategic error in not actively supporting a non-preemptive clean indoor air bill covering everything but casinos.
- In 2010, in an arrangement with House Speaker B. Patrick Bauer, Representative Charlie Brown (D-Gary) introduced essentially the same bill that the advocates passed on in 2009, which again failed without their support. Tobacco control advocates were divided which weakened their coalition.
- ITPC’s funding was never secure; between FY 2001 and FY 2004, legislators cut ITPC’s funding by 70%. ITPC received \$10.9 million for FY 2010, just 14% of CDC’s recommended level.
- Despite the cuts, ITPC’s programs decreased youth smoking. Between 2000 and 2008, smoking prevalence decreased among high school students by 42 percent, from 31.6 percent to 18.3 percent and among middle school students by 58 percent, from 9.8 percent to 4.1 percent.
- During this period adult smoking prevalence remained stable, while per capita consumption dropped, indicating that smokers were smoking fewer cigarettes.
- The continuing decline in youth smoking while adult prevalence stagnated probably reflected the ITPC Executive Board’s decision to give priority to reducing youth smoking in response to cuts in total funding available.
- State policy makers were correct to establish ITPC as an independent agency and to fund it at CDC-recommended levels.
- In 2010, tobacco control advocates were correct in defeating a proposal to dissolve the ITPC Executive Board and transfer the Agency’s functions to the Indiana State Department of Health. States that have dissolved or transferred their independent tobacco control programs into state health departments have historically raided funds and been left with ineffective programs. ITPC should be maintained as an independent agency.
- If advocates can restore full funding and ITPC broadens its program focus to reintegrate adults it will likely yield rapid decreases in health care costs and other economic losses stemming from tobacco-related illnesses and so contribute not only to the physical health of Hoosiers, but also the fiscal health of their government and businesses.

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## **INTRODUCTION**

Located in the Midwest United States, Indiana, the “Hoosier State” as its residents proudly call it, sits on the fringe of Burley tobacco country, but was never a major tobacco producing state. Indiana reached a historical peak for tobacco growing in the early Twentieth Century, then steadily decreased production over the next one hundred years. By 2010, memory of Indiana as a tobacco producing state had nearly faded, except in the state’s southern districts where the only producers resided. Despite almost disappearing as a crop, tobacco products (mostly cigarettes) maintained a strong presence in Indiana, largely as a result of decades of tobacco industry political activity and spending. Just as in the rest of the United States, the tobacco industry devoted considerable effort to defeat attempts by Indiana tobacco control advocates to pass policies meant to curb smoking rates and protect public health.

The organization of tobacco control efforts evolved considerably from when tobacco control advocates began working on policy issues in the late 1960s and 2010. Despite success increasing the state’s cigarette tax in 2002 and 2007, advocates were unable to get the state to strengthen the state’s weak clean indoor air law that was originally enacted in 1987 and expanded only minimally in the more than 20 years that followed. Indeed, after repeated failed attempts by the Indiana General Assembly to pass a comprehensive smokefree law, Indiana, by 2010, was dubbed by some tobacco control advocates to be the “Ashtray of the Midwest,”<sup>29, 30</sup> partially because of its high smoking rates, but more because of the Legislature’s unwillingness to pass a statewide smokefree law covering all public places and workplaces.

Until 2000, the State of Indiana committed few resources to tobacco control, other than participating in the National Cancer Institute’s ASSIST study from 1991-1999.<sup>31, 32</sup> Despite this weak history, in 2000 Indiana tobacco control advocates were able to convince the Legislature to create and fund the independent Indiana Tobacco Use Prevention and Cessation Agency (ITPC) to create a new, comprehensive tobacco control program to address tobacco use in Indiana (consistently among the highest prevalence rates in the country), and to fully fund the new program with some of the money being paid to the state as a result of the 1998 Master Settlement Agreement with the tobacco industry.

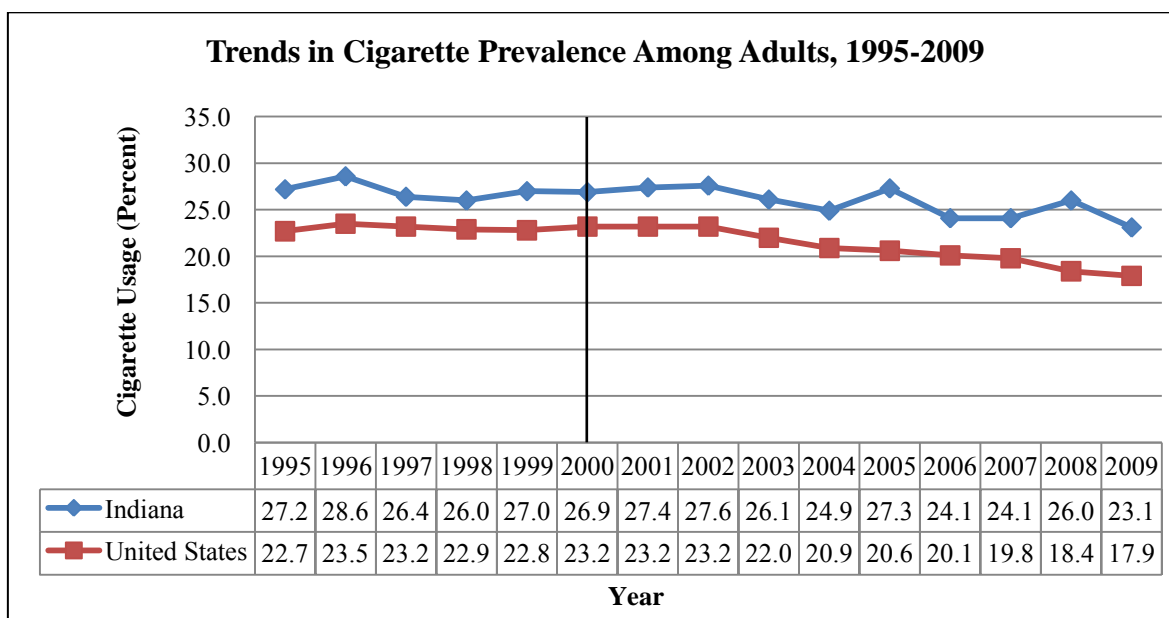
Within two years of formation, ITPC became a galvanizing force for tobacco control throughout the state and was responsible for the formation of local tobacco control movements in each of Indiana’s 92 counties, many of which passed local smokefree ordinances. Probably as a result of this success, the agency frequently faced opposition from statewide elected officials and was subjected to repeated budget decreases and attempts by elected officials to dismantle the program.

## **THE ROLE OF TOBACCO IN INDIANA**

### **Smoking Rates**

Each year in Indiana, tobacco continues to kill 9,800 people and costs more than \$2 billion in health care costs.<sup>12</sup>

In 2009, the U.S. Centers for Disease Control and Prevention (CDC) reported that 23.1 percent of adults in Indiana were current smokers compared to the national prevalence of 17.9 percent. This was the lowest adult smoking rate ever recorded by the CDC's Behavioral Risk Factor Surveillance System (BRFSS) in Indiana (Figure 1), but still the fifth highest in the country.<sup>22</sup> Between 1984 when CDC began collecting data, and 2009, Indiana ranked within the top 10 states for the prevalence of active adult smokers for all but four interspersed years.<sup>33</sup>



**Figure 1:** Adult Cigarette Smoking Prevalence, Indiana and U.S., 1995-2008, BRFSS<sup>22</sup>

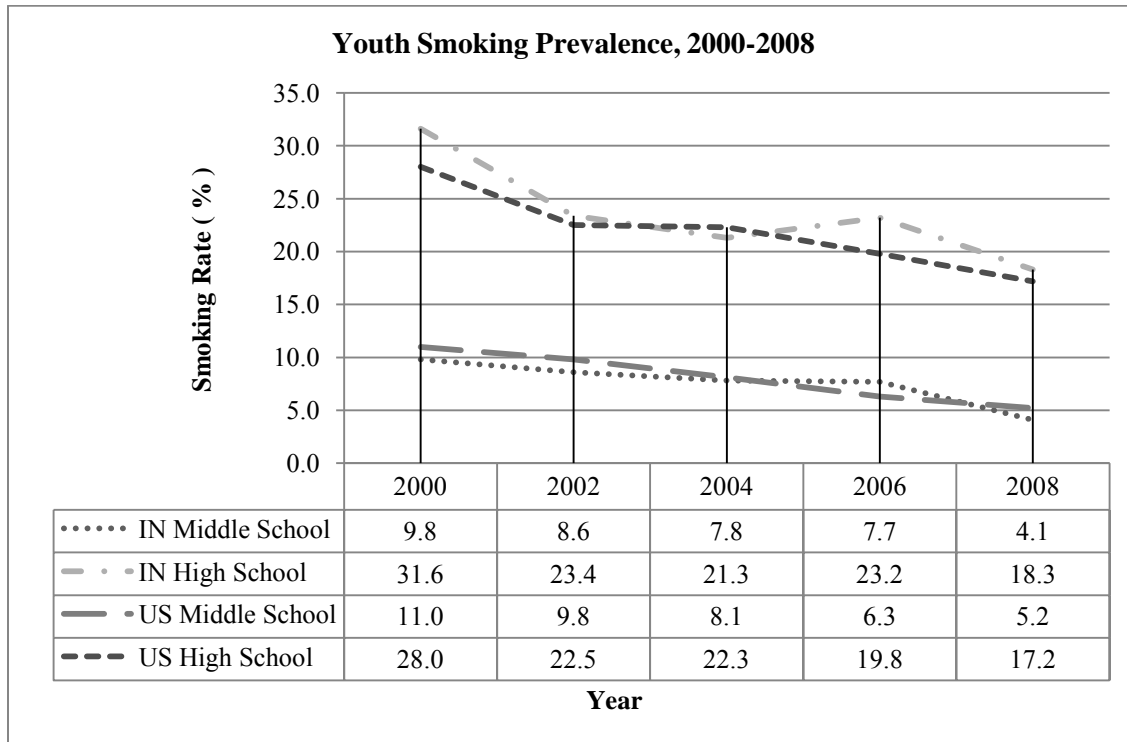
**Note:**

The vertical line indicates the creation of the Indiana Tobacco Prevention and Cessation Agency (ITPC) which was funded at CDC-recommended levels.

Men smoked more than women in Indiana with 28.5 percent of men and 23.9 percent of women being current smokers as of 2008.<sup>33</sup> In 2005, smoking among pregnant women in Indiana was 17 percent, down from 20 percent in 2000, though still much higher than the national average of 10.7 that CDC reported.<sup>34</sup>

Indiana had more success addressing youth smoking rates, which, between 2000 and 2008, decreased from 31.6 percent to 18.3 percent among high school students (a 42 percent relative decline) and among middle school students from 9.8 percent to 4.1 percent (a 58 percent relative decline)<sup>12, 28</sup> (Figure 2) (discussed in later sections).





**Figure 2:** Indiana Youth Smoking Prevalence, Current Smokers, Middle School and High School, 2000-2008, Indiana YTS. Source: <sup>5, 10, 28</sup>

**Notes:**

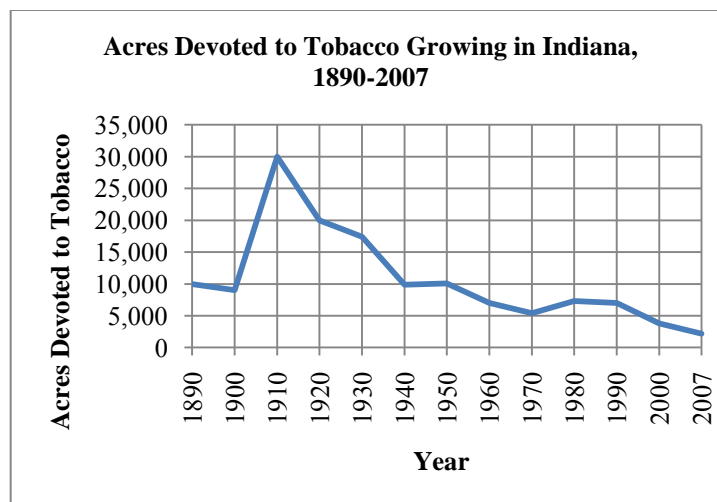
2008 National Youth Tobacco Survey data were not available. The 2008 national data above reflect the 2009 National Youth Tobacco Survey.

In 2000, Indiana created the Indiana Tobacco Prevention and Cessation Agency (ITPC) which was funded at CDC-recommended levels.

## Tobacco Growing in Indiana

As of 2007, Indiana grew Burley tobacco, but at levels well below major tobacco producing states like North Carolina or Kentucky.<sup>27</sup> In 1910, Indiana devoted 30,000 acres to tobacco growing and produced 25 million pounds of tobacco. By 2007, tobacco farming had dropped to 2000 acres (Figure 3)<sup>26</sup> on 267 farms, yielding 5 million pounds of tobacco (For comparison, in 2007, Kentucky devoted 88,000 acres in 8,113 farms growing tobacco producing 196 million pounds).

Despite the tiny scale of tobacco farming in Indiana, tobacco as a crop sometimes played a significant role in the



**Figure 3:** Acres Devoted to Tobacco Growing in Indiana, (1890-2007)<sup>26, 27</sup>

tobacco industry's strategies for opposing tobacco control policy proposals. In the 1980s and 1990s the tobacco industry considered the Indiana Farm Bureau one of its allies in the state. In addition, legislators from southern Indiana (where tobacco is grown), at times working with the tobacco industry, opposed tobacco control measures, arguing that Indiana was a tobacco producing state and the livelihood of farmers depended on the crop.<sup>35</sup> As elsewhere, the tobacco companies' greater reliance on tobacco grown internationally, as well as the tobacco quota program buyout in 2004, played major roles in decreasing tobacco production.<sup>36, 37</sup> Even so, as recently as 2009, southern Indiana legislators continued to argue for the protection of tobacco farmers.<sup>35, 38</sup>

### **Test Marketing Tobacco Products**

The tobacco industry frequently used Indiana as a test market for new products. Tobacco companies tested at least two new "safer" brands there between 2001 and 2010. Brown and Williamson tested *Advance* in 2001 with the slogan "All of the Taste, Less of the Toxins."<sup>39</sup> Liggett Vector Tobacco tested *Quest* in 2003, advertising it as a "nicotine-free."<sup>11, 39</sup> As of 2010, it did not appear that either of these brands were successful.

In addition to "safer" cigarettes, Indiana was a test market for new smokeless products starting with *Ariva*, a dissolvable tablet of tobacco, which Brown and Williamson tested in 2002.<sup>11</sup> Next was Philip Morris' *Taboka* (snus) in 2006 and followed by *Marlboro Snus* in 2008. (Snus is a smokeless product that contains fine ground tobacco in a tea bag-like pouch that can be removed rather than spit, as traditionally practiced with other smokeless tobacco products.) RJ Reynolds began test marketing *Camel Snus* in 2007 around Indianapolis and Central Indiana.<sup>11, 40</sup> Other new products continued to be tested throughout 2009, including RJ Reynolds' smokeless orbs, sticks and dissolvable strips.<sup>41</sup> Young adult age populations in Indiana were targeted as well for new test products with university students receiving direct mailings that marketed new products.<sup>42</sup>

We do not know why the tobacco companies use Indiana as a test market, but many non-tobacco companies also test market in Indiana for a variety of corporate consumer products ranging from restaurant chains to Coca-Cola soft drinks.<sup>43</sup> Indiana is Middle America and considered by advertisers like Harry Davis, former President of MZD Advertising in Indianapolis, to be a microcosm of the United States. Media costs were historically lower than areas in and around large cities like New York City or Chicago. Moreover, because Indiana is in the middle of the country and not in close proximity to many large cities (the closest, Chicago, is almost 200 miles from Indianapolis), marketers were better able to test their products without the competing media markets of other major cities. High smoking rates in Indiana likely contributed to the state's appeal as a test marketing location because it allowed the tobacco industry to test potential major new brands in locations with well-defined preferences to see what their core market base thought of their new products.<sup>43</sup>

State tobacco control advocates were aware of these industry practices and publicized and opposed them. Groups like Smoke Free Indy, a tobacco control advocacy coalition in Indianapolis, spoke out publicly against the introduction of *Taboka* in 2006.<sup>44</sup> During the testing and release of *Taboka* and later with the release of the various snus products, ITPC held press

conferences and released a fact sheet on Indiana being a site for repeated test marketing campaigns, calling the state the tobacco industry's "Guinea Pig."<sup>11</sup> In 2001, ITPC released counter-advertisements showing a dead guinea pig lying on its back next to a cigarette with a caption saying "A Little Less Poison Won't Leave You a Little Less Dead"<sup>45</sup> ITPC designed the advertisements to draw attention to the tobacco industry's test marketing practices and to convey to readers that the industry thought of its consumers as its test subjects, or guinea pigs.<sup>25, 39</sup>

### Protection from Secondhand Smoke

At the conclusion of the 2010 Legislative Session of the Indiana General Assembly, Indiana's statewide clean indoor air law only required nonsmoking sections in government buildings and select other locations (discussed in later sections).

Indiana local governments, however, have the power to pass smoking laws that are stronger than state law. As of 2009, 30.4

percent of Indiana's population was protected by some sort of local clean indoor air law prohibiting smoking in either workplaces, restaurants, bars or private membership clubs, or any combination of these. Of the 38 clean indoor air ordinances in place in Indiana's cities and towns, 11 were comprehensive and covered all enclosed workplaces without exemptions, but protected only 8.5 percent of the population. Nationally, 40.3 percent of the United States population was covered by either a comprehensive statewide or local law.<sup>12</sup> Through a combination of legislation and voluntary action, in 2007, 72.7 percent of indoor workers in Indiana over the age of 18 responded that they were covered by a prohibition of smoking in their workplace which was nearly on par with the national average of 75.1 percent.<sup>46</sup> This high level of workers reporting being covered by a smokefree policy indicates that Indiana has made substantial progress instituting voluntary smokefree policies.



**Figure 4:** Advertisement with dead guinea pig launched by ITPC to draw awareness to test marketing in Indiana<sup>24, 25</sup>

## The Legislative Process in Indiana

The legislative process in Indiana is similar to the federal government and most states (Figure 5) except that it only requires a simple majority for the General Assembly to override a bill veto by the Governor, significantly weakening the Governor's power to check the General Assembly.<sup>47</sup> Indiana Senators serve four year terms and Representatives serve two year terms; there are no term limits.<sup>48</sup> Indiana Governors serve four year terms and cannot serve more than eight years in a 12 year period, essentially meaning that they cannot serve more than two consecutive terms.

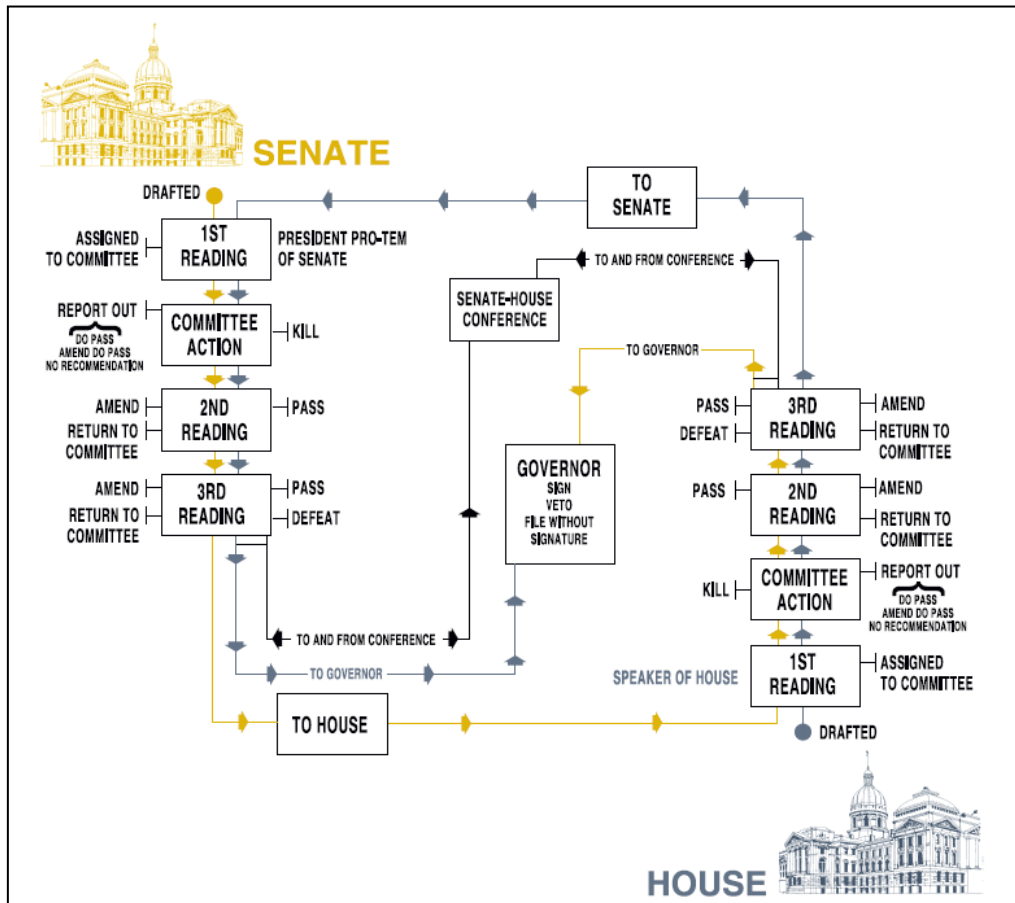


Figure 5: How a bill becomes a law in Indiana<sup>21</sup>

## TOBACCO INDUSTRY POLITICAL INFLUENCE IN INDIANA

Since the early 1970s, the tobacco industry has used campaign contributions, lobbying, industry-funded front organizations, and aggressive public relations and media use to derail the efforts of elected officials and public health advocates seeking to pass effective tobacco control legislation.

## Tobacco Industry Organizations in Indiana

### *Tobacco Institute and the Tobacco Tax Council*

As elsewhere, the Washington, DC-based Tobacco Institute (TI) coordinated industry political and public relations activities in Indiana from its formation in 1958 by the major tobacco companies until it was dissolved in 1998 as part of the settlements of lawsuits against the major cigarette companies.<sup>49</sup> The TI State Activities Department which dealt with tobacco control state legislative measures, including “the identification, recruitment, and provision of guidance and support to state, county, and municipal pro-tobacco support groups”<sup>50</sup> (Figure 6) was most relevant to Indiana.

The Tobacco Tax Council (TTC) was formed in 1949 by tobacco manufacturers to monitor tobacco control legislative efforts and research tobacco interests, particularly cigarette tax increases. Both TI and TTC kept lobbyists on staff and worked independently until merging in 1982.<sup>36</sup> As tobacco control efforts emerged in the early 1970s and state legislators began to introduce tobacco control policy in the Indiana State General Assembly, TI and TTC increased their lobbying and organizing efforts.

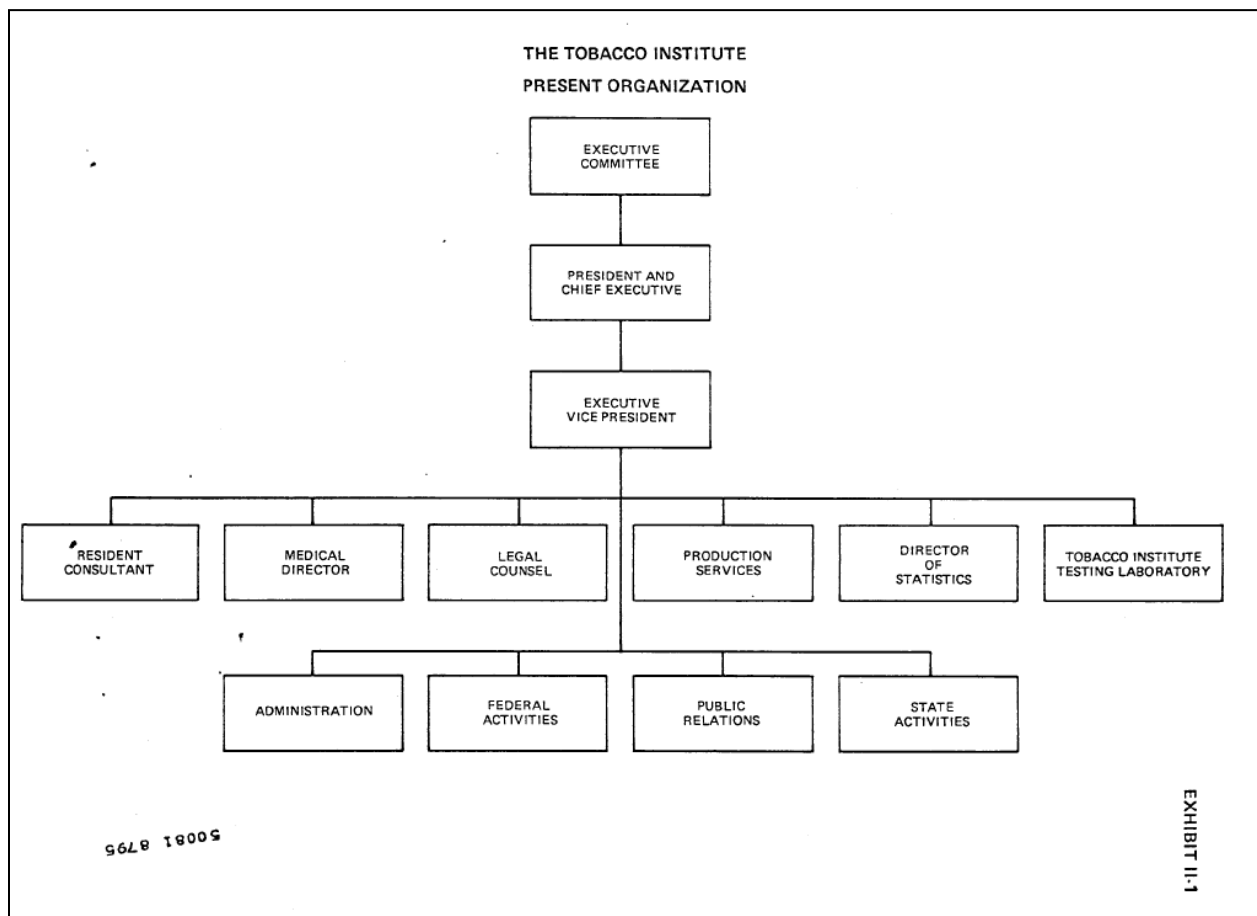


Figure 6: Organization of the Tobacco Institute in 1978<sup>50</sup>

## *Early Tobacco Industry Lobbyists and Tobacco Industry Organizations*

In 1972, TTC increased its annual national budget by 300 percent to \$1.2 million (\$6.3 million in 2010 dollars) to pay for lobbyists, improve tobacco industry public relations, monitor and to report to the cigarette companies on present and emerging threats to the tobacco industry.<sup>51</sup> Reports included daily updates on all national and local legislative activity related to tobacco taxes and provided coverage of all news and events concerning the tobacco industry.

TTC hired Terrence Pehler, an attorney with Kammins, LeMond, Carson, Stewart, Associates in Indianapolis to lobby for it as early as 1972 for the annual fee of \$7,500 per year.<sup>51</sup> TI retained Pehler in 1972, after which he worked for both organizations concurrently.<sup>52</sup> Throughout the 1970s, Pehler lobbied for a variety of tobacco industry-affiliated organizations including the Indiana Tobacco-Candy Distributors and Vendors Association.<sup>53, 54</sup> By the early 1980s, Pehler took on an increasing role as a tobacco industry lobbyist and remained TI's lead Indiana legislative counsel in 1982 when TI and TTC merged. He continued his work with TI into the 1990s.

The tobacco industry has a long history of hiring former Indiana public officials as lobbyists (Table 1). This practice allowed the industry to profit from the strong connections already in place between incumbent policy makers and their former colleagues who had become lobbyists. This transition from legislator to lobbyist was especially common among legislators who held high leadership positions. Rep. Phillip E. Bainbridge (D-Highland), Speaker of the House from 1975-1976 before departing the General Assembly in 1978, became a lobbyist with what eventually became the Baker & Daniels law firm, Philip Morris' longtime representative in Indiana. Bainbridge, as of 2010, was a lobbyist for Centaur, LLC., a major gaming organization in Indiana.<sup>55, 56</sup> Numerous other former members of the legislative leadership, including at least three other former House Speakers, went on to become lobbyists for tobacco industry or the industry's allies.

### *Tobacco Action Network*

TI formed the Tobacco Action Network (TAN) in 1977 as its grassroots organizing arm.<sup>59</sup> According to a 1978 Philip Morris Tobacco Action Program Manual, "[TAN's] purpose is to bring together and coordinate all segments of the tobacco family - growers, manufacturers, wholesalers, retailers, and vendors - as well as our allies."<sup>60</sup> TAN was responsible for mobilizing its members as legislative and other political issues emerged. Though Indiana did not initially have a TAN office, in 1980, TAN expanded from 18 to 41 states, and established an office in Indiana with Bill Trisler, former Indiana Democratic Party State Chairman, as Indiana TAN director.<sup>61-63</sup>

Trisler worked tirelessly as TAN's Director, cultivating existing and potential new organizations as tobacco industry allies to counter the burgeoning tobacco control movement. His daily reports recount in detail the minutiae of his meetings, traveling, and the groups and allies that he and TI lobbyist Terrence Pehler organized. In 1984, Trisler was promoted to Regional Vice President of the Tobacco Institute for Region III which included Indiana.<sup>64</sup>

<b>Table 1: Notable Former Legislators With Leadership Positions Turned Lobbyist for Tobacco Interests</b> <sup>6-8</sup>					
<i>Lobbyist/Former Legislator</i>	<i>Party</i>	<i>Office</i>	<i>Leadership Positions in Legislature</i>	<i>Years in Legislative Leadership</i>	<i>Organizations Lobbied For*</i>
Phillip E. Bainbridge	D	H	Speaker of the House	1975-1976	Baker & Daniels (Philip Morris, Hoosier Beverage Association); Centaur, LLC (Gaming)
Nelson Becker	R	H	Majority Whip	1977-1978	Smokeless Tobacco Council
			Minority Whip	1979-1980	
			Speaker Pro Tem	1981-1984	
Kermit O. Burrous	R	H	Speaker of the House	1977-1980	Tobacco Institute; Indiana Restaurant Association
Thomas E. Fruechtenicht	R	H	Chair, House Public Policy & Veterans' Affairs	1978, 1981-1982	Bose Public Affairs Group (Lorillard, Centaur, LLC, Hoosier Park, National Wine & Spirits Corporation); Smokeless Tobacco Council; Tobacco Institute
Louis J. Mahern	D	S	Chair, Minority Caucus	1979-1980	Anchor Gaming; Reynolds American
			Assistant Minority Floor Leader	1981-1982, 1985-1991	
			Chair, Assistant Majority Caucus	1981-1984	
			Minority Floor Leader	1991-1994	
Paul S. Mannweiler	R	H	Speaker of the House	1987-1990 (Co-Speaker 1989-1990), 1995-1996	Bose Public Affairs Group (Lorillard, Casino Association, Centaur Gaming, Hoosier Park, National Wine & Spirits Corporation)
			Republican Leader	1997-1998	
			Minority Leader	1999-2000	
			Assistant Majority Floor Leader	1995-1996	
Robert L. Meeks	R	S	Chair, Senate Appropriations Committee	2005-2008	Boyle and Associates (Harrah's Operating Company, owner of Horseshoe casinos)
			Minority Floor Leader	1977-1979, 1981-1988	
Michael K. Phillips	D	H	Speaker of the House	1989-1994 (Co-Speaker 1989-1990)	Brown & Williamson; Centaur, LLC; Lorillard; R.J. Reynolds/Reynolds American (Includes Clients of Phillips & Phillips LLC)
			Assistant Minority Caucus Chairman	1997-1998	
Michel D. Smith	R	H	Minority Floor Leader	2001-2002	Casino Association of Indiana
William L. Soards	R	H	Majority Whip	1981-1986	Livengood and Associates (Restaurant & Hospitality Association of Indiana, Indiana Association of Beverage Retailers)

\*Some lobbying firms in Indiana have gone through a convoluted series of mergers and many firms with tobacco interests are affiliated with one another. However, reports submitted to the Indiana Lobby Registration Commission only specify one lobbying firm name. As a result, many of these lobbyists may be affiliated with other tobacco companies and interests in addition to those listed here. Many lobbying firms are multi-issue firms though all listed above represent a major tobacco industry interest.

In 1982, TI hosted an “Indiana Pride in Tobacco Luncheon Meeting” which brought together tobacco interests from all over the state to hear about the work of TI and TAN in prior legislative sessions and to strategize for the future. Speaking at the luncheon were Terrence Pehler, Bill Trisler, Gary Pursifull of the Indiana Farm Bureau, and, notably, Bob Pruett, an Indiana State Representative (R-Madison) whose speech included suggestions on how TAN members could be effective in Indiana state politics.<sup>65</sup> It is unclear if and how much Pruett was paid for his appearance, and what sort of finances the tobacco industry gave him in the years preceding and following. It is clear, however, that TI established relationships with elected officials strategically and that the industry’s relationship with Pruett continued in the years that followed. Pruett left the legislature after the 1982 Legislative Session and in 1987, became the TI Regional Director for Region III.<sup>66</sup>

TI also added Thomas E. Fruechtenicht in 1987 as an additional lobbyist in Indiana.<sup>67</sup> Fruechtenicht was a Republican State Representative from Fort Wayne, like Pruett, until the conclusion of the 1982 Legislative Session. While a member of the General Assembly, Fruechtenicht was the Chair of the House Public Policy and Veterans’ Affairs Committee in 1987 and 1981-1982, and sat on the House Judiciary Committee in 1974 and 1981-1982.<sup>68</sup> In a lobbyist evaluation form, Bill Trisler assessed Fruechtenicht’s level of respect and access among legislative and executive leadership: “Tom, being a former state representative and chairman of the House Public Policy Committee ... has increased our communication with house and senate majority leadership.”<sup>69</sup> Trisler also explained that Fruechtenicht was closely aligned with the Republican Party while Terrence Pehler was more closely aligned with the Democratic Party, reflecting TI’s recognition of the power of having strong working relationships with legislators of both parties.

Charlie Hiltunen, a lobbyist employed by Baker & Daniels, LLP from 1986-1994, who later became a contract lobbyist for the American Cancer Society (ACS), American Heart Association (AHA) and other public health organizations, explained in a 2009 interview that the level of strategy and long term planning that went in to the lobbying activities of the tobacco industry in the 1980s and 1990s was immense. Most important, he said, the tobacco industry was always thinking five years down the road.<sup>70, 71</sup> (A continued discussion of lobbying activities and expenditures is in later sections.)

## ***Tobacco Industry Ally Organizations***

### *The Tobacco Family*

It is well documented and widely studied that the tobacco industry used and continues to use “third party” ally organizations and front groups in virtually every state (and nation) as a key tactic in relationship building, advocacy, and media relations. These tactics allow the industry to disrupt tobacco control policies while minimizing its role in the public debate.<sup>36, 72-74</sup>

TI and the tobacco companies’ early recruitment of allies in Indiana, as in other states, focused on gaining the support of tobacco wholesalers, distributors and vendors and, to a certain degree, farmers that grew tobacco. Tobacco farmers and farmer organizations, such as the Indiana Farm Bureau, were only sporadically involved in policy opposition campaigns, yet TI



was cognizant that the involvement of tobacco farmers could be influential politically.<sup>75</sup> TAN prided itself on its ability to unite the “tobacco family,” encompassing the entire process of tobacco production, from tobacco growing to manufacturing to sales and distribution.<sup>76</sup> The tobacco industry often provided funding to many of its ally organizations (Table 2).

<b>Table 2:</b> Primary "Tobacco Family" described by Bill Trisler in 1984 <sup>77</sup>
Hoosier Bill Board Association
Indiana Bowling Proprietors Association
Indiana Farm Bureau
Indiana Licensed Beverage Association
Indiana Society of Association Executives
Indiana State Chamber of Commerce
Indiana Tobacco-Candy and Vendors Association

TAN convened an Indiana State TAN Advisory Committee by 1980 which was designed to provide a link between TI state offices and TAN volunteers and to encourage active organizations to continue to enroll and organize new volunteers.<sup>76</sup> Membership of the TAN Advisory Committees are a good indicator of the tobacco and ally organizations in Indiana, particularly throughout the 1980s (Tables 3 and 4) In 1980, TAN Advisory Committee Members consisted mainly of tobacco manufacturers and distributors. The tobacco industry provided some financial support to its ally organizations (Table 5).

<b>Table 3:</b> Indiana TAN Advisory Committee Members, 1980 <sup>76</sup>	
<i>Member</i>	<i>Organization</i>
Karen Enright	Brown & Williamson Tobacco Co.
Jack Tinder	General Cigar & Tobacco
Stanley Andrews	Indiana Tobacco Growers
Jerry Reinking	Indiana Tobacco-Candy Distributors and Vendors Association
Paul Scali	Indiana Tobacco-Candy Distributors and Vendors Association
Stanley F. Skawinski, Jr.	Indiana Tobacco-Candy Distributors and Vendors Association
Robert Wiemuth	Indiana Tobacco-Candy Distributors and Vendors Association
Don Hagar	Indiana Vending Council
Charles A. Meadows	Liggett & Myers Tobacco Co.
B. A. Mills	Lorillard Tobacco Co.
Ralph K. Rosenberg	Philip Morris Tobacco Co.
B. L. Sanford	R. J. Reynolds Tobacco Co.
Keen Furlong	Retail Tobacco Dealers of America
Terry Pehler	Tobacco Institute, Tobacco Tax Council, Indiana Tobacco-Candy Distributors and Vendors Assoc.
George M. Lucas	Tobacco Warehouse
D. E. Birdsey	U.S. Tobacco Co.

<b>Table 4: Indiana TAN Advisory Committee Members, 1987<sup>52</sup></b>	
<i>Member</i>	<i>Organization</i>
Larry Dahl	Calderon Bros. Vending
Stanley Skawinski	City Sales, Inc.
Paul Scali	Indiana Tobacco-Candy Distributors and Vendors Association
Charles (Al) Meadows	Liggett & Myers Tobacco Co.
Bob Mills	Lorillard Tobacco Co.
Barney Sanford	R. J. Reynolds Tobacco Co.
Terrence Pehler	Tobacco Institute
Bill Trisler	Tobacco Institute
Thomas Fruechtenicht	Tobacco Institute
Brooke Cheney	Tobacco Institute
Ralph Militello	U.S. Tobacco Company
Bob Wiemuth	Wiemuth & Son. Co., Inc. (Tobacco Wholesaler)

<b>Table 5: Tobacco Industry Contributions to Ally Organizations, 1982-1998<sup>78-87</sup></b>							
	<i>Indiana Grocers Association</i>	<i>Indiana Manufacturers Association</i>	<i>Indiana Oil Marketers Association</i>	<i>Indiana Restaurant Association</i>	<i>Indiana Retail Council</i>	<i>Indiana Tobacco-Candy Distributors and Vendors Association</i>	<i>Indiana Vending Council</i>
1982						\$15,000	
1983						\$17,500	
1984						\$17,500	
1985						\$17,500	
1986						\$17,500	
1987						\$17,500	
1988						\$17,500	
1989						\$17,500	
1990						\$17,500	
1991						\$19,000	\$1,000
1992						\$19,000	\$500
1993						\$5,000	\$500
1994						\$5,000	
1995		\$2,500		\$1,000	\$1,000		
1996	\$500	\$2,500		\$1,500	\$1,500		
1997	\$1,000	\$2,500		\$1,500	\$1,500		
1998	\$2,000	\$2,500	\$1,000	\$2,000	\$3,000		
<b>Total</b>	<b>\$3,500</b>	<b>\$10,000</b>	<b>\$1,000</b>	<b>\$6,000</b>	<b>\$7,000</b>	<b>\$203,000</b>	<b>\$2,000</b>
<b>Note:</b> These numbers reflect the data available though may not reflect actual total contributions to these or other ally organizations; some contributions may be unaccounted for.							

## ***Farm Interests***

Though the Indiana Farm Bureau was active in fighting tobacco control policy proposals at times in the 1980s, there was no record of TI funding tobacco growers found within internal tobacco industry documents. In fact, while TI considered tobacco farmers and the Indiana Farm Bureau to be part of the “tobacco family” in 1984, the involvement of tobacco growers and tobacco growing organizations varied significantly in different periods; tobacco growers were only sporadically aligned with TI legislative strategies. The tobacco companies organized the Indiana Tobacco Growers Association, Inc. in 1997 as a body of tobacco farmers in Indiana that could support the companies’ positions with legislators.<sup>88-92</sup>

Reflecting the growing rift between cigarette manufacturers and farmers, in 2002 the Indiana Farm Bureau publicly supported a cigarette tax increase as part of a tax overhaul proposal from Gov. Frank O’Bannon (D) in exchange for funding allocation for rural development programs. It is unknown if health advocacy groups played a role in obtaining the Farm Bureau’s support. By the 2000s the tobacco industry’s policies favored international tobacco production and price manipulation so that it was less feasible for small farmers to grow tobacco (including Burley tobacco which was still profitable even on small scale) and the result was a separation between the tobacco manufacturers and farmers all over the country.<sup>35, 36</sup>

## ***Tobacco Distributors***

### *Indiana Tobacco-Candy Distributors and Vendors Association*

TI established early links between the tobacco industry and tobacco product distributors and vendors. There was an especially strong early working relationship between the Indiana Tobacco-Candy Distributors and Vendors Association (ITCDVA) and TI by the early 1970s when the organizations shared Terrence Pehler as a lobbyist.<sup>93-96</sup> ITCDVA actively worked alongside TI in the 1980s and 1990s as well and lobbied to defeat numerous clean indoor air and cigarette tax increase proposals.<sup>97-100</sup> ITCDVA’s most active leader was Paul Scali from the 1970s into the 1990s. Scali often appeared as a tobacco spokesman in the media and advocated against increased cigarette taxes as well as the clean indoor air measures being introduced on a yearly basis in the state General Assembly.<sup>101</sup> By 2000, Scali no longer represented ITCDVA, but instead was the Executive Vice President of the Indiana Wholesale Distributors Association, a trade group that listed tobacco and taxation as its only lobbying issues between 2000 and 2009.<sup>56, 102</sup> ITCDVA, as TI’s primary wholesaler ally, received at least \$203,000 from TI from 1982-1994 (Table 5).<sup>81, 82, 84, 85</sup> ITCDVA no longer existed after 1999, changing its name to the Indiana Wholesale Distributors Association. However, Paul Scali and the Indiana Wholesale Distributors Association were less visibly active with tobacco issues than ITCDVA was previously.

### *Other Retail Organizations*

The Indiana Retail Council, a trade organization representing the retail industry, actively opposed tobacco control proposals at the request of TI.<sup>103, 104</sup> Grant Monahan became President of the Indiana Retail Council in 1982 and as of 2010 remained in the same position. The Indiana

Retail Council was active during the clean indoor air and cigarette tax campaigns of the 1980s and actively took a larger role in the anti-tobacco control coalition of the tobacco industry in the middle of the 1990s.<sup>105</sup> The Indiana Retail Council became especially active in the debate about restrictions on youth access to tobacco products and the ability of localities to regulate tobacco sales, which was under consideration by legislators in the mid 1990s.<sup>106, 107</sup> From 1995 until 1998, TI gave the Indiana Retail Council at least \$7,000 (Table 5).<sup>78-80</sup>

Other retail groups were active throughout the 1990s, including the Indiana Retail Grocers Association (later renamed the Indiana Grocers and Convenience Store Association) which was led by President Joseph Lackey, and the Indiana Oil Marketers Association which was led by Executive Director Mike Pitts, both of whom became involved as the tobacco industry's "We Card" program was launched (Figure 7). We Card was a program established by the Coalition for Responsible Tobacco Retailing, a group funded by the tobacco companies,<sup>108</sup> which was nominally a program to decrease illegal youth tobacco sales. We Card provided training to store clerks and store signs to be posted which informed customers of the legal age for purchasing tobacco products. These tobacco industry-sponsored programs were designed to deter real enforcement of youth access laws by replacing enforcement with programs that did not work.<sup>109</sup> These organizations also actively worked with the TI to pass the preemption of local regulations for the sales, distribution and display of tobacco products which was promoted under the guise of a stronger youth access to tobacco law during the 1990s. These organizations were also staunch in their opposition to the activities of the National Cancer Institute-funded ASSIST project between 1991 and 1999 and actively opposed tobacco control policy in the years following (discussed in later sections).<sup>106, 107, 110-114</sup> The Indiana Retail Grocers Association and the Indiana Oil Marketers Association each received at least \$3,500 and \$1,000 respectively from TI between 1996 and 1998 (Table 5).<sup>78, 80, 87</sup>



Figure 7: The tobacco industry's We Card program<sup>20</sup>

### *Hospitality*

Throughout the 1980s, the TI State Activities Division considered the tobacco industry's greatest allies in legislative affairs to be those within the tobacco family. Even in 1981, however, as clean indoor air laws restricting indoor smoking became more of an issue, TI recognized the importance of having the support of the hospitality industry, which then had not been a consistent ally.<sup>52, 115</sup> The tobacco industry understood that the sustained efforts of tobacco control advocates and tobacco control-minded legislators to pass smoking regulations in Indiana that had grown throughout most of the 1970s and 1980s (discussed below) were likely going to continue. The determination of tobacco control advocates to pass a statewide law, along with the release of the 1986 Surgeon General's report on the dangers of secondhand smoke,<sup>116</sup> and the decline of the social acceptability of smoking that emerged in the 1970s, made the tobacco industry aware that some form of smoking regulation would likely be enacted in Indiana.<sup>52, 72</sup>

These factors led to the tobacco industry's development of "accommodation" which sought to preserve smoking through the creation of smoking sections and the support of

expensive air filtration systems which were touted as solutions by tobacco-industry paid consultants.<sup>72, 117</sup> As a result, in 1981, TI sought to identify “elements of the tobacco community” that had not been recruited and find ways to reach those groups and their members. TI specifically targeted the statewide restaurant associations and licensed beverage associations in a variety of states, which, in Indiana were the Indiana Restaurant Association and the Indiana Licensed Beverage Association.<sup>118</sup>

With the support of the hospitality industry for its accommodation program, the tobacco industry’s anti-tobacco control rhetoric worked to secure an indoor place for smoking for the decades that followed. This alliance provided a steady stream of outspoken opponents to smokefree laws who argued that stronger regulations would destroy local businesses and the entire surrounding economy. Arguments that smokefree laws have adverse economic consequences for businesses have been proven unfounded by thorough, peer-reviewed economic analyses.<sup>119</sup> The tobacco industry and its allies regularly claimed that revenues of bars and restaurants would decline by 30 percent following the passage of clean indoor air laws.<sup>120</sup> Privately, the tobacco industry knew this claim to be false: David Laufer of Philip Morris explained in a 1994 presentation that “the economic arguments often used by the industry to scare off smoking ban activity were no longer working, if indeed they ever did. These arguments simply had no credibility with the public, which isn’t surprising when you consider that our dire predictions in the past rarely came true.”<sup>121</sup>

#### *Indiana Restaurant Association*

In 1981, Indiana Restaurant Association (IRA) Executive Vice President Warren Spangle publicly endorsed the work and objectives of TAN, thus linking an important branch of the hospitality industry with the tobacco industry agenda.<sup>115</sup> IRA became active, contributing its support to fight clean indoor air legislation the same year and remaining active and visible throughout the next thirty years.<sup>118, 122</sup> By the late 1980s, IRA had become one of the tobacco industry’s most active allies,<sup>123</sup> providing testimony at legislative hearings and mobilizing its members to contact their legislators during times of threatening tobacco control proposals. John Livengood, the organization’s President and CEO (still in the position in 2010<sup>124</sup>), was the former Chairman of the Indiana Democratic State Central Committee (who accepted a \$600 contribution from the Tobacco Institute in 1987) before he was with IRA.<sup>125</sup> From 1995 to 1998, TI provided the Indiana Restaurant Association with at least \$6,000 for unspecified purposes.<sup>78, 80, 87</sup>

#### *Indiana Licensed Beverage Association*

The Indiana Licensed Beverage Association (ILBA) was a long time ally organization of the tobacco industry in Indiana and one of the few organizations that, as of 2010, was still outspoken in the media against tobacco control policies. A 1983 internal tobacco industry document from then TAN State Director Bill Trisler to Michael J. Kerrigan of TI, reveals that the ILBA was active as early as 1983 when the ILBA Board voted to request that the Tobacco Institute supply a speaker at its annual convention.<sup>126</sup> ILBA began working with TI along with the Indiana Restaurant Association in particular in 1988 when they were recruited by TI as part of the tobacco industry’s growing focus on the hospitality industry.<sup>123</sup>

Leadership of ILBA in changed throughout the 1990s and into the 2000s. The majority of press coverage focused primarily on Mike Jones, President of ILBA in the 1990s and Brad Klopfenstein who led the organization as Executive Director in the 2000s.<sup>127</sup> In 2003, Lou Coulter, President of the ILBA Board, was quoted in the Muncie *Star Press* saying “„Our state organization is in contact with Philip Morris regularly.’ The tavern official said there was nothing sinister about that, however. The groups shared an interest in catering to the wishes of their customers.”<sup>128</sup>

## ***Gaming***

### ***Casino Association of Indiana***

In 1989, Indiana passed legislation creating a lottery and allowing pari-mutuel horse racing facilities.<sup>129</sup> The gaming industry truly came to Indiana, however, when riverboat casinos were legalized in 1993 and became an active corporate lobbying force with statewide policy makers, spending more than \$3.6 million on lobbying activities in Indiana between May 1, 2007 and April 30, 2009.<sup>130</sup> The tobacco industry had recruited casino interests to help it oppose smoking regulations in 1994 to oppose national regulations proposed by the US Occupational Safety and Health Administration; tobacco interests then solidified their relations with gambling interests to oppose local and state smoking restrictions. Similar to its mobilization of the hospitality industry, the tobacco industry mobilized the casino industry to oppose strong clean indoor air standards, often offering accommodation solutions with ventilation instead of meaningful regulations.<sup>131</sup> In 2009, the gaming industry, led primarily by the Casino Association of Indiana, provided much of the opposition to the proposed statewide smokefree law.<sup>132, 133</sup> Casinos were also the most contentious issue during the 2010 statewide clean indoor air bill consideration in the General Assembly.<sup>133</sup>

The casino industry, like other sectors of the hospitality industry, argued that a smokefree law would decrease revenue and in turn, the tax revenues that Indiana took in each year.<sup>134</sup> This was a powerful argument to legislators who had come to depend on casino tax revenue, the third greatest revenue stream for the state behind sales and income taxes.<sup>38</sup> This fear was exploited by casino lobbyists in Indiana (discussed below).

As of 2009, the leader of the Casino Association of Indiana was Michael D. Smith, a former member of the General Assembly (R-Rensselaer, 1995-2002), and the organization represented 11 of the 13 gaming facilities in Indiana.<sup>132, 135</sup> Casino organizations were not allowed to make political campaign contributions but could (and did) finance unlimited lobbying efforts.<sup>130, 136, 137</sup>

### ***Smokers’ Rights Movement Created by the Tobacco Industry***

In order to counter genuine grassroots pressure to restrict smoking, the tobacco industry organized the “smokers’ rights” movement.<sup>138-141</sup> Smokers’ rights arguments presented smokers as victims of discrimination whose rights to smoke were being infringed upon.<sup>142, 143</sup> Some smokers’ rights groups released publications in support of the “rights” of smokers which were designed to refute scientific evidence showing the effects of smoking on health and to discredit

tobacco control advocates that were working to pass regulations.<sup>139</sup> Smokers' rights groups sought to refocus the discussion of tobacco control on the smoker instead of on the health effects of smoking itself or on the tobacco industry. The tobacco industry's ultimate objective was to protect sales and profits.<sup>142</sup>

Philip Morris was active in the smokers' rights movement, organizing tobacco control opponents and issuing materials such as a Bill of Rights for smoking in 1986 that argued that smokers had certain inalienable rights to smoke freely.<sup>144, 145</sup> R.J. Reynolds was also active with smokers' rights campaigns and began working on local smokers' rights issues in 1988 when it formed its allied forces program "RJR Family and Friends."<sup>146</sup> R.J. Reynolds hired Toby Spangler to lead the company's smokers' rights local movement in Indiana. Spangler trained individuals to serve as local organizers and to build a smokers' rights movement throughout the state; Spangler reported to R.J. Reynolds weekly to relay the status of his work.<sup>147</sup> These groups worked collaboratively with other longtime tobacco industry allies such as tobacco wholesaler organizations. By 1995, the smokers' rights groups were integrated into R.J. Reynolds' network of allies and were called upon to advocate as pro-tobacco industry opponents to tobacco control measures.<sup>148-150</sup>

As a result of Spangler's work organizing smokers' rights advocates, one group that emerged was called P.U.F.F. ("Protect Us From Flack") which played a role at times writing letters to policy makers on both the local and national level.<sup>150-152</sup> There were other small groups which were also involved at sporadic times. These groups were more active in the mid 1990s and supported the tobacco companies' positions on national issues such as the federal government's consideration of an increase to the federal tobacco excise tax and attempts by the U.S. Food and Drug Administration to regulate tobacco. These national issues drew loud protests from P.U.F.F. and other smokers' rights groups, especially from the southern regions of Indiana which had tobacco growers.

### ***Smokers' Workplace Rights Legislation***

In 1989, Ford Meter Box Company in Wabash, Indiana, instituted a policy that newly-hired employees could not smoke at any time, either on the job or at home, as part of its attempts to decrease the company's health expenditures. As part of this new policy, Janice Bone, an employee of Ford Meter Box Company, while in the process of being promoted to a new position, was fired after her urine tested positive for nicotine. Bone filed a lawsuit against her former employer in Wabash Circuit Court which alleged: 1) invasion of privacy stemming from an unannounced screening as well as the censure of her activities off duty; 2) intentional infliction of emotional distress as a result of being forced to provide the urine sample immediately while being observed; 3) wrongful discharge which resulted from her termination for violating a rule that did not apply to existing employees and which violated the Indiana Constitution. Bone sought reinstatement to her position as well back wages.<sup>153</sup> Bone's suit failed but her case sparked a statewide discussion regarding smokers' rights.

Bone's case received national attention and was used by the tobacco industry and its supporters to argue in favor of the rights of smokers in the face of what they argued to be discrimination against smokers and punishment as a result of legal behaviors. Notable for its

active role in fighting for smokers' rights in Indiana, as well as nationally, was the AFL-CIO and the American Civil Liberties Union (ACLU).<sup>143</sup> The tobacco industry's strategy of building coalitions with organized labor organizations to support tobacco industry political goals is well documented.<sup>154-158</sup> Indiana AFL-CIO President Charles Deppert supported legislation that would make it illegal for employers to fire employees for smoking while not at work which it considered discrimination for engaging in a legal activity.<sup>159</sup> The ACLU, though not ostensibly active in Indiana in the Bone case, was nationally outspoken in its opposition of what it called "lifestyle discrimination" policies. Beginning in the early 1990s, the ACLU quietly began accepting millions of dollars from the tobacco industry to support smokers' rights and oppose clean indoor air laws and any restrictions on tobacco company advertising and promotion. ACLU National Executive Director Ira Glasser and Lewis Maltby, Director of the ACLU's Workplace Rights Project, were the key figures within the organization involved in the quid pro quo relationship.<sup>160</sup> The ACLU worked for smokers' rights legislation all over the country.

The tobacco industry was successful and as a result of the newfound attention on smokers' rights, the Indiana General Assembly passed HB 1439 in 1991 which prohibited employers from requiring employees or prospective employees to refrain from tobacco use outside of the workplace. HB 1439 was authored by Rep. Vernon Smith (D-Gary) and co-authored by Reps. Charlie Brown (D-Gary), John L. Davis (R-Frankfurt) and Jack Cottey (R-Indianapolis). The Tobacco Institute hired Concepts Marketing Group to produce an advocacy video which discussed the Bone case and supported the passage of HB 1439. Rep. Brown, who would become a champion of tobacco control legislation in the General Assembly in the late 1990s, was quoted in the video calling the practices of regulating employees' out-of-office smoking behavior as "dictatorial."<sup>159</sup> The video was used to convince legislators to vote for the law. The Indiana Tobacco-Candy Distributors and Vendors Association, along with an R.J. Reynolds-organized smokers' rights grassroots group led by Toby Spangler, launched a letter writing campaign among tobacco wholesalers to send letters to Senators and Representatives in support of the law. This was done in conjunction with TI's active lobbying of legislators to support the proposal. Once the bill passed in the General Assembly, the letter writing campaign switched to Governor Evan Bayh (D), who ultimately signed the bill.<sup>161-163</sup> Tobacco control advocates were not visible throughout the General Assembly's discussion of HB 1439, likely because they were in the process of organizing around tobacco policies like clean indoor air, tobacco taxes and youth access restrictions.

### ***Continued Lobbying Activities and Expenditures***

Between 2000 and 2009, the tobacco industry spent \$4,029,262 on lobbying in Indiana (Table 6; details in Appendix A), nearly eight times the \$560,884 that the tobacco industry spent on campaign contributions between 1994 and 2008. Through a broad network of lobbyists, the tobacco industry, along with its ally organizations, continued the work of the Tobacco Institute (TI) (which was disbanded in 1998 as a result of litigation against the major cigarette companies) in lobbying against the passage of strong tobacco control public policies.<sup>56</sup>



<b>Table 6: Tobacco Industry Lobbying Expenditures in the General Assembly, 2000-2009<sup>36</sup></b>											
<b>Company</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2000-2009</b>
	<b>General Assembly</b>	<b>General Assembly</b>	<b>General Assembly</b>	<b>General Assembly</b>	<b>General Assembly</b>	<b>General Assembly</b>	<b>General Assembly</b>	<b>General Assembly</b>	<b>General Assembly</b>	<b>General Assembly</b>	<b>TOTAL</b>
Altria/Philip Morris	\$175,876	\$158,307	\$177,715	\$100,600	\$121,843	\$110,442	\$67,629	\$131,771	\$175,611	\$69,249	\$1,289,043
Brown & Williamson	\$81,450	\$104,739	\$87,326	\$141,867	\$0						\$415,382
Cigar Association of America	\$33,100	\$33,100	\$33,197	\$26,350	\$27,750	\$37,855	\$29,500	\$41,210	\$42,000	\$31,645	\$335,707
Lorillard	\$34,574	\$32,040	\$35,793	\$72,517	\$72,100	\$72,000	\$36,000	\$32,453	\$31,494	\$29,172	\$448,144
Reynolds American								\$99,597	\$180,879	\$115,716	\$396,192
R.J. Reynolds	\$62,352	\$61,799	\$70,857	\$27,112	\$124,885	\$130,926	\$46,328	\$59,047			\$583,306
Smokeless Tobacco Council	\$35,100	\$35,100	\$35,100	\$6,400							\$111,700
US Smokeless Tobacco	\$37,530	\$40,487	\$40,441	\$36,688	\$37,577	\$50,965	\$26,100	\$73,050	\$53,425	\$53,525	\$449,788
										<b>TOTAL</b>	<b>\$4,029,262</b>

Tobacco control advocates spent far less on lobbying than the industry did. For instance, the American Cancer Society (ACS), American Heart Association (AHA), American Lung Association (ALA) and the Campaign for Tobacco-Free Kids (CTFK) spent \$490,626 on lobbying between 2000 and 2009 and listed tobacco as one of their primary lobbying issues. Other groups such as the Indiana Academy of Family Physicians (IAFP), Indiana Hospital Association (IHA), Indiana Minority Health Coalition (IMHC) and Indiana State Medical Association (ISMA) also employed or contracted lobbyists who worked to some degree on tobacco control issues. However, with the exception of CTFK, these were all multi-issue organizations that lobbied on a wide variety of other issues, making it difficult to determine the amount of expenditures exclusively for tobacco control.<sup>56</sup>

### *Conclusions*

The tobacco industry used the Tobacco Institute and the Tobacco Institute's Tobacco Action Network as its primary political action and surveillance organizations between the 1970s and the 1990s. The Tobacco Institute's strongest allies in the 1970s were tobacco wholesalers and distributors, with the Tobacco Institute lobbyists working increasingly closer with the Indiana Tobacco-Candy Vendors and Distributors Association. As early as the 1980s, the Tobacco Institute began to broaden its network of allies, bringing in other retail organizations such as the Indiana Retail Council and the hospitality industry, which was primarily represented by the Indiana Restaurant Association and the Indiana Licensed Beverage Association. Though the hospitality industry was involved in select campaigns in the early 1980s, it was not until the late 1980s when the state General Assembly moved forward with its first statewide clean indoor air law, that TI gave hospitality a greater role, and the Indiana Restaurant Association and the Indiana Licensed Beverage Association became prominent in the tobacco industry's network.

The Smokers' Rights movement emerged as part of the tobacco industry's approach to countering the emerging grassroots tobacco control advocacy movement of the early 1990s. The tobacco industry hired personnel to organize on the local level, galvanize supporters and combat clean indoor air proposals as they appeared. Organizations such as P.U.F.F. organized citizens around the tobacco industry's interests and connected national offices closer with local tobacco control activity so that they could be prepared for action throughout the state. The Tobacco Institute also utilized its extensive network of allies to restrict employers from taking punitive action on employees for smoking, which smokers' rights groups argued was a private right. The tobacco industry was successful in getting the support of the ACLU for legislation in 1991 which made it illegal for employers to restrict employees' usage of tobacco when outside of the workplace.

Throughout the 1990s, as policy makers began focusing more on legislation dealing with tobacco sales and youth access (partially as a result of the tobacco industry's influence), the tobacco industry increasingly enlisted other retail organizations such as the Indiana Retail Grocers Association and the Indiana Oil Marketers Association which advocated for the tobacco industry's programs while maintaining a positive public image and allowing the tobacco industry to remain in the background. These ally organizations worked on behalf of the tobacco industry to oppose tobacco control policy into the 2000s. During the statewide clean indoor air campaigns between 2008 and 2010, the Casino Association of Indiana, took an active role in opposing

comprehensive statewide legislation. This network of ally organizations served the tobacco industry's interests effectively and aided the industry's persistent attempts to disrupt the implementation of strong tobacco control policies.

## **TOBACCO INDUSTRY CAMPAIGN CONTRIBUTIONS**

The tobacco industry and its allies made frequent sizeable contributions to the election campaigns of public officials in Indiana. These contributions have been linked to tobacco control policy making as a way for the tobacco industry to influence the legislative process.<sup>164, 165</sup> The National Institute on Money in State Politics collected campaign contribution data from the Indiana Election Division of the Indiana Secretary of State's Office from 1994-2008 and compiled it in its *Follow the Money* online database to improve the access to public records.<sup>16</sup> The Indiana Election Division also maintains its own database, which as of 2010 was accessible online. We used these sources to collect data on tobacco industry contributions (tobacco companies, tobacco trade organizations such as the Tobacco Institute, and personnel affiliated with those organizations such as lobbyists and employees) for 1994-2008 (years available).

### **Contribution Limits and Restrictions in Indiana**

Indiana's campaign contribution laws restrict corporations and labor organizations in the amounts of their donations to public officials' campaign funds. Over the course of a year, a corporation or labor organization's aggregate donations may not exceed \$5,000 to individual candidates for state offices (such as the Governor) and political party state committees. Contributions may not exceed \$2,000 to individual candidates for seats in the State Senate of the General Assembly, \$2,000 to individual candidates for seats in the State House of Representatives of the General Assembly, regular party committees organized by a legislative caucus of either chamber of the General Assembly, candidates for school board offices and local offices, and all central committees other than state committees.<sup>166</sup>

### ***Limited Liability Organizations***

There are no restrictions on contributions of individuals or non-corporate business organizations such as Limited Liability Partnerships (LLP's) or Limited Liability Companies (LLC's). Partnerships such as law firms and many businesses are therefore free to make unlimited contributions provided that they are organized as limited liability organizations (i.e., not organized as a corporation or labor organization), a major loophole in the state's campaign contribution regulations.<sup>137, 166</sup> Between 2007 and 2008, LLC's contributed \$2.5 million to Indiana campaigns.<sup>167</sup> For example, Baker & Daniels, a Limited Liability Partnership and major corporate law firm in Indianapolis that has been long time legal counsel for Philip Morris as well as other major interests in the state gave a total of \$527,443 in campaign contributions in 2007 and 2008.<sup>167</sup> These contributions dwarfed the direct contributions by the entire tobacco industry during the 2007-2008, \$94,300.<sup>16</sup>

## ***Gaming Industry Contribution Restrictions***

The state political contribution code also restricts anyone holding a gaming license or anyone that had an “interest” in a gaming license or licensee from contributing to “a candidate or a committee during the following periods: (1) The term during which the licensee holds a license. (2) The three years following the final expiration or termination of the licensee's license.” The law applied to all candidates and committees at both the state and local level. A person that had an interest in a license or licensee was one who “holds at least a one percent (1 percent) interest in the licensee. (2) The person is an officer of the licensee. (3) The person is an officer of a person that holds at least a one percent (1 percent) interest in the licensee. (4) The person is a political action committee of the licensee.”<sup>136</sup>

The law, however, does not inhibit lobby expenditures by people affiliated with gaming licenses so likely has little effect on the political influence of casinos in Indiana.<sup>130</sup> The political influence of gaming interests is commonly recognized to intersect the interests of the tobacco industry in Indiana.

Similar to restrictions on contributors with gaming interests, Indiana State Code also provided similar restrictions on any person holding a permit or any person with an interest in a permit from the Indiana Horse Racing Commission, the regulatory agency that oversaw horse racetracks in Indiana that were allowed to have electronic gambling. These “racinos” were also regulated by the Indiana Gaming Commission and represented another type of gaming facility in Indiana that was frequently exempted from proposed statewide clean indoor air legislation between 2008 and 2010.<sup>137</sup>

## **Campaign Contributions**

Between 1994 and 2008, the tobacco industry directly contributed \$560,884 to the election campaigns of statewide politicians and political parties (Table 7). Details of tobacco industry campaign contributions from 1994 to 2008 are located in the following appendices: Appendix B (by candidate); Appendix C (by contributor); and Appendix D (by political party organization). In 2000, tobacco industry contributions reached \$100,935, nearly doubling contribution levels from the 1997-1998 election cycle. The highest point in tobacco industry spending on campaigns was in the 2003-2004 election cycle, \$120,740.

Altria/Philip Morris was consistently the largest contributor each year since 2000 (Figure 8). Philip Morris spent a total of \$233,850 over the eight election cycles reported; just over 40 percent of all industry contributions. Other major contributing tobacco companies and tobacco trade organizations between 1994 and 2008 included Brown & Williamson, King Richards Cigar (a distributor in Indiana, \$49,135 in total contributions), Lorillard, R.J. Reynolds, U.S. Smokeless Tobacco and the Tobacco Institute.

Tobacco companies contributed more money to political campaigns in periods when tobacco control policy threats were being debated, 1999-2000 and 2003-2004 (Figure 9). In 2000, state legislators were deliberating numerous plans to allocate the millions of dollars from the 1998 Master Settlement Agreement (MSA) and there was a strong impetus in the General

<b>Table 7: Summary of Tobacco Industry Contributions by Election Cycle<sup>16</sup></b>									
	<u>1994</u>	<u>1996</u>	<u>1998</u>	<u>2000</u>	<u>2002</u>	<u>2004</u>	<u>2006</u>	<u>2008</u>	<u>Total</u>
<u>Tobacco Companies</u>									
Altria/Philip Morris	\$4,200	\$5,800	\$15,700	\$31,500	\$30,050	\$52,700	\$45,400	\$48,500	\$233,850
Brown & Williamson	\$0	\$250	\$5,800	\$24,500	\$10,800	\$12,300	\$0	\$0	\$53,650
Lorillard	\$0	\$0	\$0	\$12,550	\$4,100	\$19,200	\$18,000	\$5,000	\$58,850
RJ Reynolds	\$6,100	\$5,250	\$12,253	\$11,000	\$4,000	\$21,000	\$14,900	\$18,400	\$92,903
US Smokeless Tobacco	\$1,500	\$1,150	\$1,806	\$4,300	\$0	\$3,640	\$11,500	\$21,500	\$45,396
Other*	\$0	\$0	\$17,600	\$13,885	\$8,100	\$11,100	\$1,000	\$900	\$52,585
<u>Tobacco Trade Organizations</u>									
Tobacco Institute	\$3,800	\$4,550	\$11,100	\$0	\$0	\$0	\$0	\$0	\$19,450
Smokeless Tobacco Council	\$0	\$0	\$0	\$3,200	\$200	\$800	\$0	\$0	\$4,200
<u>Total</u>	\$15,600	\$17,000	\$64,259	\$100,935	\$57,250	\$120,740	\$90,800	\$94,300	\$560,884
<b>Note:</b>									
*Includes: Ceresta USA, Inc., Crown Tobacco, Inc., Indiana's Last Cigarette Sales, King Richards Cigar, Munster Smoke Shop, Smoke Shop V, Smoke Shop VI									

Assembly to dedicate the majority of the money to be spent on tobacco control efforts. The MSA forbade the tobacco industry from lobbying to influence how the money would be spent, but it did not place any restrictions on campaign contributions.

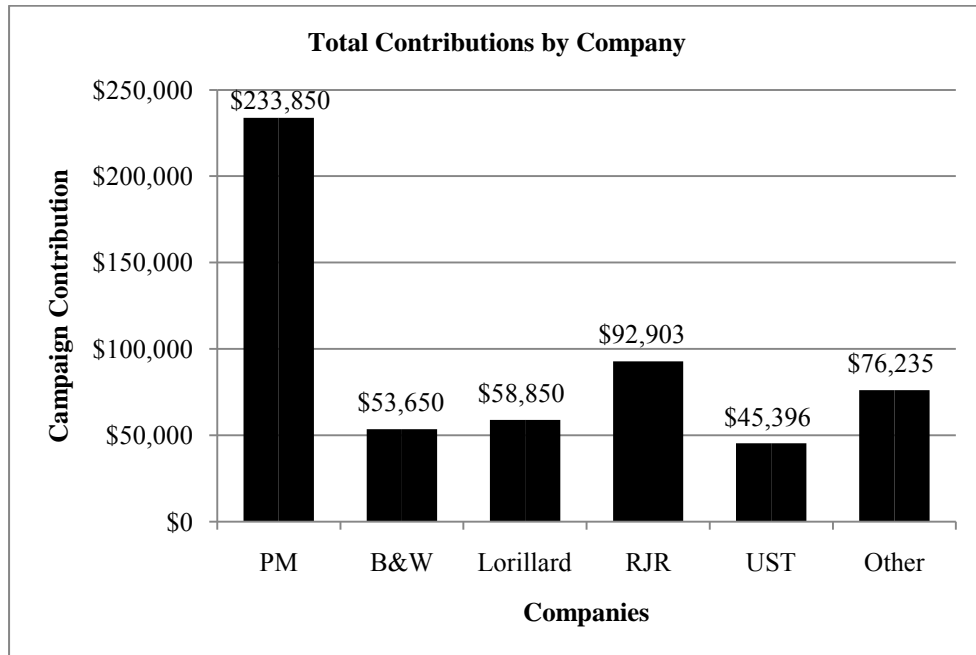


Figure 8: Total Campaign Contributions by Company, 1994-2008<sup>16</sup>

The second period was 2003 when legislators ultimately passed a 40 cent cigarette tax increase and were strongly considering the securitization of Indiana’s MSA payments. Also, in 2003, during this high point in campaign contributions, Indiana policy makers reduced funding to the Indiana Tobacco Use Prevention and Cessation (ITPC) Executive Board, the state tobacco control program, to \$10.8 million, a decrease of nearly 70 percent from \$35 million in FY 2001.

In addition to these direct industry contributions, between 2000 and 2008, Baker & Daniels, the law firm representing Philip Morris as well as other tobacco industry interests contributed \$1,456,332 to candidates and committees, more than two and one half times the total direct tobacco industry contributions between 1994 and 2008.<sup>167</sup>

***Campaign Contributions to Political Party Candidates and Organizations***

The tobacco industry contributed more heavily to the Republican Party between 1994 and 2008, giving a total of \$343,509 to Republican

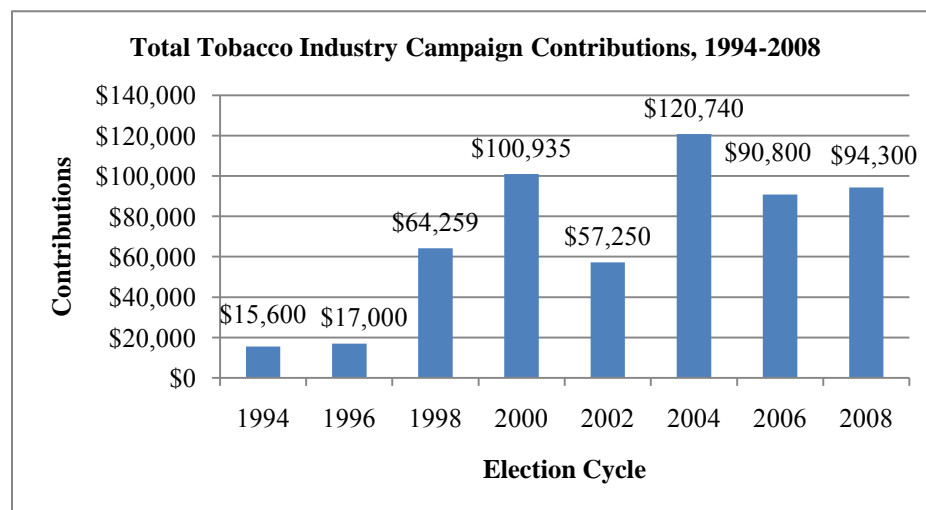
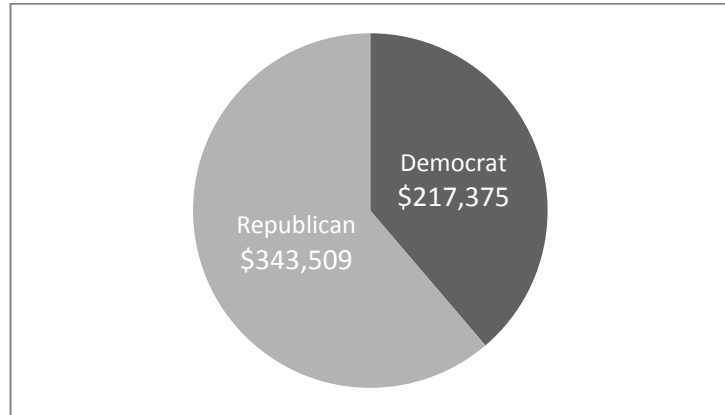


Figure 9: Total Tobacco Industry Contributions by Election Cycle, 1994-2008<sup>16</sup>

candidates and the Indiana Republican Party and \$217,375 to Democrat candidates and the Indiana Democratic Party (Figure 10). During this time, Republicans controlled the Senate by great margins while Democrats often controlled the House by slim margins.

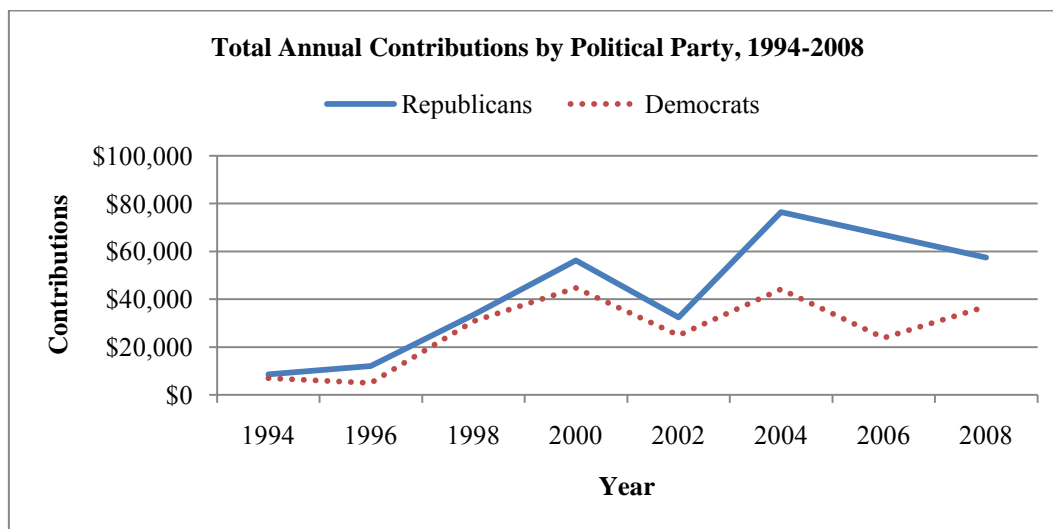


**Figure 10:** Total tobacco industry contributions by political party affiliation, 1994-2008<sup>16</sup>

While Republican legislative and statewide candidates consistently received greater contributions than their

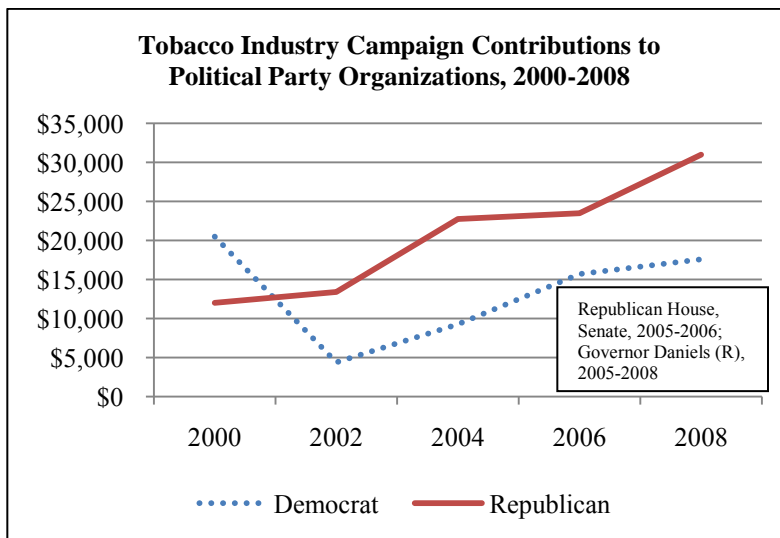
Democratic counterparts, the level of differentiation varied significantly per election cycle. Republican candidates experienced a marked decline (Figure 11) following the 1999-2000 election cycle which could have been for a number of reasons, likely a combination of the re-election of Governor Frank O’Bannon (D, 1997-2003) for his second four year term, and the final passage of legislation allocating the MSA money, which created a model state tobacco control program which the tobacco industry was heavily focused on. While both Republicans and Democrats received progressively fewer contributions between 2000 and 2002, Republican candidates had a sharper decline, suggesting that the tobacco industry felt that contributions were less valuable going to Republicans when they had less political control.

Political party organizations that received campaign contributions included: Indiana Republican Party, House Republican Campaign Committee of Indiana, and the Senate Majority Campaign Committee of Indiana, Indiana Democratic Party, Indiana House Democratic Caucus, Indiana Senate Democratic Committee. Republican Party organizations received \$102,650 while Democrat party organizations received \$67,450 between 2000 and 2008 (Table 8).



**Figure 11:** Total tobacco industry campaign contributions by political party affiliation, 1994-2008<sup>16</sup>

Democrat political party organizations only received higher contributions than Republican political party organizations between 2000 and 2002, during which time, contributions to Democrats steadily declined and contributions to Republicans increased. Democrats, who frequently controlled the House, lost control of the House in the 2004 election, giving Republicans control over both chambers of the General Assembly between 2005 and 2006. In 2005, Republican Governor Mitch Daniels took office, after which, contributions to Republican political party organizations increased and contributions to Democrat political party organizations began to increase at a decreasing rate (Figure 12).



**Figure 12:** Campaign Contributions to Political Party Organizations<sup>16</sup>  
**Note:** Democrats controlled the House every year except from 2005-2006. Republicans controlled the Senate every year from 2000-2008.

	2000	2002	2004	2006	2008	Total
<b>Republican</b>						
Senate Majority Campaign Committee of Indiana	\$2,500	\$2,800	\$7,500	\$8,600	\$10,400	\$31,800
House Republican Campaign Committee of Indiana	\$6,000	\$5,100	\$9,250	\$12,400	\$5,600	\$38,350
Indiana Republican Party	\$3,500	\$5,500	\$6,000	\$2,500	\$15,000	\$32,500
<b>Republican Total</b>	<b>\$12,000</b>	<b>\$13,400</b>	<b>\$22,750</b>	<b>\$23,500</b>	<b>\$31,000</b>	<b>\$102,650</b>
<b>Democrat</b>						
Indiana Democratic Party	\$12,000	\$2,000	\$3,000	\$5,000	\$10,000	\$32,000
Indiana House Democratic Caucus	\$6,000	\$2,000	\$5,250	\$6,000	\$3,800	\$23,050
Indiana Senate Democratic Committee	\$2,500	\$400	\$1,000	\$4,700	\$3,800	\$12,400
<b>Democratic Total</b>	<b>\$20,500</b>	<b>\$4,400</b>	<b>\$9,250</b>	<b>\$15,700</b>	<b>\$17,600</b>	<b>\$67,450</b>



## Legislative Candidates

### Tobacco Policy Scores

In order to assess the relationship between tobacco industry campaign contributions and political behaviors by legislators, “Tobacco Policy Scores” were obtained for each member of the 2009-2010 Indiana General Assembly. These scores were obtained by asking five knowledgeable individuals to anonymously rate each legislator’s receptiveness to tobacco control on a scale of 0 to 10, with 0 being extremely pro-tobacco industry and 10 being extremely pro-tobacco control. A full listing of tobacco policy scores for all members of the 2009-2010 Indiana General Assembly is in Appendix E. Legislators with scores ranging from 0.0 to 3.9 were considered pro-tobacco industry (Table 9) while scores ranging from 4.0 to 6.0 were considered neutral, and scores ranging from 6.1 to 10 were considered pro-tobacco control (Table 10).

The average policy score for all members of the 2009-2010 General Assembly was a neutral 5.3. Twelve of the 15 legislators with the most pro-tobacco industry policy scores (Table 9) were Republicans while 10 of the 15 with the policy scores most favorable to tobacco control were Democrats (Table 10). Seven of those 10 legislators rated as the most favorable to tobacco control never accepted campaign contributions from the tobacco industry between 1994 and 2008.

<i>Name</i>	<i>Party</i>	<i>Office</i>	<i>District</i>	<i>Campaign Contributions (1994-2008)<sup>16</sup></i>	<i>Policy Score</i>
Jerry R. Torr	R	H	39	\$6,500	0.4
Randy L. Borrer*	R	H	84	\$0	1.4
Jeff Espich	R	H	82	\$7,275	2
Trent Van Haaften	D	H	76	\$500	2
David N. Frizzell	R	H	93	\$2,750	2.2
L. Jack Lutz	R	H	35	\$3,850	2.4
Mike Delph	R	S	29	\$800	2.4
Luke Kenley	R	S	20	\$7,650	2.4
Johnny Nugent	R	S	43	\$4,850	2.6
Scott Schneider*	R	S	30	\$0	2.6
Robert W. Behning	R	H	91	\$1,900	2.8
B. Patrick Bauer	D	H	6	\$12,750	3
Matt Bell	R	H	83	\$700	3
Robert J. Bischoff	D	H	68	\$1,750	3
Woody Burton	R	H	58	\$3,350	3.2
*Never received tobacco industry campaign contributions, 1994-2008					

<b>Table 10: Legislators with Most Pro-Tobacco Control Policy Scores (2009-2010 Session)</b>					
<i>Name</i>	<i>Party</i>	<i>Office</i>	<i>District</i>	<i>Campaign Contributions (1994-2008)<sup>16</sup></i>	<i>Policy Score</i>
Peggy Welch*	D	H	60	\$0	9.8
Beverly J. Gard	R	S	28	\$250	9.6
Sue Errington*	D	S	26	\$0	9.4
Charlie Brown	D	H	3	\$1,900	8.8
William A. Crawford	D	H	98	\$2,200	8.8
Gary Doc Dillon*	R	S	17	\$0	8.6
Vi Simpson	D	S	40	\$4,250	8.6
Nancy Michael*	D	H	44	\$0	8.2
Vaneta Becker	R	S	50	\$600	8.2
Dennis T. Avery*	D	H	75	\$0	8.0
John Day*	D	H	100	\$0	8.0
Phil GiaQuinta	D	H	80	\$500	7.8
Thomas J. Wyss	R	S	15	\$300	7.8
Mara Candelaria Reardon*	D	H	12	\$0	7.6
P. Eric Turner	R	H	32	\$4,600	7.4
*Never received tobacco industry campaign contributions, 1994-2008					

### *Contributions to Legislative Candidates*

The tobacco industry contributed heavily to legislative candidates in leadership positions (Table 11). Rep. B. Patrick Bauer (D-South Bend, Policy Score: 3), the Speaker of the House from 2003 to 2004 and from 2007 to the time of this report (2010) accepted \$12,750 from the tobacco industry between 1994 and 2008, the most of any legislator in the General Assembly. Bauer opposed tobacco control policy proposals and repeatedly sent smokefree air bills to the hostile House Public Policy Committee and in 2010 refused to allow a smokefree air bill to be heard unless it was introduced with casino exemptions. Bauer, along with Rep. Jeff Espich (R-Uniondale, Policy Score: 2.0) and Sen. Luke Kenley (R-Noblesville, Policy Score: 2.4), were among the top 10 highest recipients of tobacco industry campaign contributions. Kenley, the Chair of the Senate Appropriations Committee, was the author of SB 298 in the 2010 legislative session which (unsuccessfully) sought to dissolve the Executive Board of the statewide tobacco control agency, the Indiana Tobacco Prevention and Cessation Agency (ITPC), and move the agency into the Indiana State Department of Health, a decision that would have placed the successful program in jeopardy (discussed in later sections).

The second highest recipient of tobacco control campaign funds was Sen. Robert Meeks (R-LaGrange) who received \$12,440 between 1994 and 2008 when he retired from the General Assembly. Meeks, who preceded Sen. Kenley as Chair of the Senate Appropriations committee,

**Table 11: Top 10 Recipients of Tobacco Industry Campaign Contributions, 1994-2008**<sup>16, 58</sup>

<i>Name</i>	<i>Party</i>	<i>Office</i>	<i>District</i>	<i>Total Amount Received</i>	<i>Notable Leadership Positions</i>	<i>Policy Score</i>
B. Patrick Bauer	D	H	6	\$12,750	Speaker of the House, 2003-2004, 2007-2010	3.0
Robert L. Meeks	R	S	13	\$12,440	Chair of Senate Appropriations Committee, 2005-2008	N/A
Paul S. Mannweiler	R	H	87	\$9,720	Speaker of the House, 1995-1996; Republican Leader, 1997-1998; Minority Leader, 1999-2000	N/A
Robert D. Garton	R	S	41	\$9,400	President Pro Tempore, 1981-2006	N/A
Lawrence M. Borst	R	S	36	\$9,350	Chair of Senate Finance Committee, 1975-1976, 1981-1986, 1989, 1996-2004	N/A
Markt L. Lytle	D	H	69	\$8,500		N/A
John R. Gregg	D	H	45	\$8,000	Speaker of the House, 1999-2002.	N/A
Luke Kenley	R	S	20	\$7,650	Chair of Senate Finance Committee, 2009-2010	2.4
Brian C. Bosma	R	H	88	\$7,500	House Republican Leader, 2001-2004, 2007-2010; Speaker of the House, 2005-2006	5.0
Jeff Espich	R	H	82	\$7,275	Chair of the House Labor Committee, 1978-1979; Chair of the House Commerce Committee, 1980-1984; Speaker Pro Tempore, 1985-1990, 1995-1996; House Minority Whip, 1991-1992; House Assistant Minority Leader, 1993-1994; Chair of the House Ways and Means Committee, 1996, 2004-2006	2.0

wielded considerable budget powers from 2005 until 2008. Meeks was commonly regarded as one of the predominant opponents of ITPC and in 2003 slashed the agency’s budget by nearly 70 percent.<sup>70, 133, 168</sup> By focusing on leadership positions when making its highest contributions, the tobacco industry was working to ensure that its funding was as effective as possible. Leadership positions within the legislature have the power to make strong tobacco control bills die or never be heard, and weak tobacco control bills pass quickly, all objectives of the tobacco industry to secure weak standards for tobacco control.

Of the 15 legislative candidates who received the most tobacco control-favorable policy scores (Table 10), seven reported never taking any campaign contributions from the tobacco industry between 1994 and 2008 (Table 12). Among these 15 legislators who were rated favorable to tobacco control with high policy scores, most have been leaders or at least supportive of tobacco control efforts. Rep. Charlie Brown (D-Gary, Policy Score: 8.8) and Sens. Gary Dillon (R-Columbia City, Policy Score: 8.6) and Sue Errington (D-Muncie, Policy Score: 9.4) each authored proposed smokefree air legislation between 2008 and 2010. Additionally, Rep. William Crawford (D-Indianapolis, Policy Score: 8.8), as Chair of the House Ways and

Means Committee, was supportive of efforts to preserve ITPC. Most of the other highly rated legislators were active, either through the authorship or sponsorship of legislation, or through their support in committees and interim study sessions with tobacco control legislation.

<b>Table 12: 2009-2010 Legislators Who Never Accepted Tobacco Industry Campaign Contributions from 1994-2008<sup>16</sup></b>				
<i>Name</i>	<i>Party</i>	<i>Office</i>	<i>District</i>	<i>Policy Score</i>
Jim Arnold	Democrat	Senate	8	4.6
Dennis T. Avery	Democrat	House	75	8.0
Jeb Bardon	Democrat	House	25	5.8
John Barnes	Democrat	House	89	6.2
John Bartlett	Democrat	House	95	5.4
Sandra Blanton	Democrat	House	62	5.6
Randy L. Borrer	Republican	House	84	1.4
John Broden	Democrat	Senate	10	6.6
Jim Buck	Republican	Senate	21	3.6
Ed Charbonneau	Republican	Senate	5	6.4
Jacqueline Clements	Republican	House	38	4.6
Edward Clere	Republican	House	72	5.2
Suzanne Crouch	Republican	House	78	5.6
Wesley Culver	Republican	House	49	5.4
John Day	Democrat	House	100	8.0
Bob Deig	Democrat	Senate	49	5.0
Edward DeLaney	Democrat	House	86	6.0
Nancy Dembowski	Democrat	House	17	6.2
Thomas Dermody	Republican	House	20	4.8
Gary Doc Dillon	Republican	Senate	17	8.6
Richard 'Dick' Dodge	Republican	House	51	6.4
Ryan Dvorak	Democrat	House	8	5.2
Sean Eberhart	Republican	House	57	4.8
Sue Errington	Democrat	Senate	26	9.4
Douglas L. Gutwein	Republican	House	16	4.6
Randy Head	Republican	Senate	18	4.6
Travis Holdman	Republican	Senate	19	5.0
Clyde Kersey	Democrat	House	43	5.5
Sheila J. Klinker	Democrat	House	27	6.8
Dennis Kruse	Republican	Senate	14	5.8
Timothy Lanane	Democrat	Senate	25	5.8
Connie Lawson	Republican	Senate	24	7.2
Don Lehe	Republican	House	15	6.2
Matthew Lehman	Republican	House	79	4.8

<i>Name</i>	<i>Party</i>	<i>Office</i>	<i>District</i>	<i>Policy Score</i>
Jean Leising	Republican	Senate	42	6.8
Mark Messmer	Republican	House	63	5.0
Nancy Michael	Democrat	House	44	8.2
Chuck Moseley	Democrat	House	10	6.8
Cindy Noe	Republican	House	87	3.6
Joseph Pearson	Democrat	House	31	6.6
Phil Pflum	Democrat	House	56	4.4
Matt Pierce	Democrat	House	61	5.6
Cherrish Pryor	Democrat	House	94	6.2
Mara Candelaria Reardon	Democrat	House	12	7.6
Scott Reske	Democrat	House	37	5.8
Gale Riecken	Democrat	House	77	6.0
Scott Schneider	Republican	Senate	30	2.6
Milo Smith	Republican	House	59	4.4
Edmond Soliday	Republican	House	4	5.4
Steve Stemler	Democrat	House	71	6.0
Greg Steuerwald	Republican	House	40	5.2
Mary Ann Sullivan	Democrat	House	97	7.0
Randolph Truitt	Republican	House	26	5.8
Dennis Tyler	Democrat	House	34	5.6
Greg Walker	Republican	Senate	41	4.0
Brent Waltz	Republican	Senate	36	4.4
Peggy Welch	Democrat	House	60	9.8
David Yard II	Republican	House	52	5.2
Carlin Yoder	Republican	Senate	12	5.8
Joseph C. Zakas	Republican	Senate	11	6.0

### ***Relationship of Contributions to Legislative Behavior***

Neither cumulative nor recent (2007-8) campaign contributions varied significantly by party or house of individual current members of the legislature ( $P > 0.75$ ) in a multiple regression analysis. Republicans' policy scores were significantly more pro-tobacco industry (by  $-0.95 \pm 0.24$ ,  $P < 0.005$ ) than were Democrats; greater cumulative and current campaign contributions from the tobacco industry were also associated with lower (more pro-tobacco industry) policy scores (by  $-0.32 \pm 0.06$  per \$1000,  $P < 0.005$  and  $-0.93 \pm 0.24$  per \$1000,  $P < 0.005$ , respectively) points, independent of house (Table 13). Industry contributions were associated with more pro-industry behavior by legislators.

<b>Table 13: Predictors of Campaign Contributions and Tobacco Control Policy Scores for Members of the 2007-2008 Indiana Legislature</b>			
Predictor	Coefficient	Standard Error	P
Dependent variable: Cumulative Campaign Contributions (thousands of dollars)			
Constant	0.859	0.239	<0.0005
Republican Party	0.994	0.310	0.749
Senate	0.299	0.328	0.379
R <sup>2</sup> = 0.007			
Dependent variable: Current (2007-9) Campaign Contributions (thousands of dollars)			
Constant	0.233	0.067	0.001
Republican Party	-0.006	0.087	0.948
Senate	0.001	0.092	0.996
R <sup>2</sup> = 0.000			
Dependent variable: Policy Score			
Constant	6.00	0.20	<0.0005
Republican Party	-0.95	0.24	<0.0005
Senate	0.33	0.24	0.209
Cumulative Campaign Contributions (per \$1000)	-0.32	0.06	<0.0005
R <sup>2</sup> = 0.221			
Dependent variable: Policy Score			
Constant	5.94	0.20	<0.0005
Republican Party	-0.99	0.25	<0.0005
Senate	0.23	0.27	0.382
Recent(2007-8) Campaign Contributions (per \$1000)	-0.93	0.24	<0.0005
R <sup>2</sup> = 0.174			
N=150			

### *Contributions to Gubernatorial and Other Constitutional Officers*

The tobacco industry made large contributions to gubernatorial candidates. In 1998, which was mid-election cycle, Governor Frank L. O'Bannon (D, 1997-2003) reported receiving \$15,850 from the tobacco industry (Table 14). In 1998, Indiana was in the midst of its lawsuit with the tobacco industry to recover money spent on Medicaid as a result of tobacco-related diseases and O'Bannon received pressure from the media to return campaign contributions received from the tobacco industry and to cease accepting future funds. O'Bannon complied with the media's demands though it is unclear which funds were actually returned.<sup>169</sup> Possibly as a result of this promise, O'Bannon only accepted \$150 from the tobacco industry in his successful 2000 gubernatorial re-election bid. His opponent, Republican David McIntosh (who lost the election) received over \$18,000 in campaign contributions.

When incumbent Governor Joseph E. Kernan (D, 2003-2004), who was Lieutenant Governor and became governor in 2003 when O'Bannon died, ran for re-election in 2004, he accepted \$16,500 while Republican opponent Mitch Daniels accepted \$33,500 from the tobacco industry. Daniels won the race and continued accepting high levels of contributions in his 2008 gubernatorial re-election campaign, taking \$16,000 to his Democrat opponent, Jill Long Thompson's \$2,500. Daniels was successfully re-elected.

<i>Year</i>	<i>Recipient</i>	<i>Party</i>	<i>Won/Lost</i>	<i>Contribution in Election Cycle</i>	<i>Cumulative Contributions, 1998-2008</i>
1998	Frank L. O'Bannon	D	Mid-cycle	\$15,850	N/A
2000	David McIntosh	R	Lost	\$18,135	N/A
	Frank L. O'Bannon	D	Won	\$150	\$16,000
2004	Mitch Daniels	R	Won	\$33,500	N/A
	Joseph E. Kernan	D	Lost	\$16,500	N/A
2008	Mitch Daniels	R	Won	\$16,000	\$49,500
	Jill Long Thompson	D	Lost	\$2,500	N/A

The tobacco industry also contributed to Lieutenant Governor campaigns but only one candidate per election cycle reported accepting money (Table 15). Joseph E. Kernan in 2002, then incumbent Lieutenant Governor, accepted \$8,500 from the tobacco industry. In 2002, Kernan was deciding whether to run for Governor in the 2004 election which might explain for the high level of campaign contributions.

<i>Year</i>	<i>Recipient</i>	<i>Party</i>	<i>Amount Received</i>
2000	James Murray Clark	R	\$300.00
2002	Joseph E. Kernan	D	\$8,500.00
2008	Dennie Oxley	D	\$3,000.00

Only one candidate for Attorney General, Stephen Carter, reported accepting money from the tobacco industry (Table 16).

<i>Year</i>	<i>Recipient</i>	<i>Party</i>	<i>Amount Received</i>
2000	Stephen Carter	R	\$500.00
2004			\$1,000.00

## STATE LEVEL TOBACCO CONTROL ADVOCACY EFFORTS

### Early Tobacco Control Advocates

While the tobacco industry's lobbyists and allies became highly organized and effective at defeating tobacco control policy proposals in the 1970s, Indiana tobacco control advocates took longer to organize strong coalitions. Activity among tobacco control advocates in Indiana, although present throughout the 1970s, was loose and disorganized. National public health

organizations actively advocated for tobacco control policies but lacked a cohesive coalition to unify their interests. The National Interagency Council on Smoking and Health was formed in 1964 by the American Cancer Society (ACS), American Heart Association (AHA), and the National Tuberculosis Association (which went on to become the American Lung Association [ALA]).<sup>170</sup> Local units of these national voluntary organizations supported some state and local efforts to promote the passage of tobacco control policy throughout the United States, including in Indiana<sup>171, 172</sup> with the formation of the Indiana Interagency Council on Smoking and Health in the late 1970s.<sup>171</sup>

Most of the early advocacy leadership in the state came out of Indiana University in conjunction with the American Cancer Society (ACS) and the American Lung Association (ALA) and was predominantly focused on statewide policy. Indiana University Professors John Seffrin, Ph.D. (who would go on to become CEO of national ACS in 1992 and was still serving in that role as of 2010) and Eugene Levitt, Ph.D., became involved with the Indiana Interagency Council and worked with legislators in the General Assembly, testified at legislative hearings, and held press conferences to engage the media on the public health side of the tobacco issue. Seffrin was often quoted in the media as an outspoken tobacco control advocate, but there was hardly a mention of a statewide coalition. The voluntary health organizations did not function publicly as an organized lobbying force. Most local tobacco control work was specific to the community and not generally coordinated through a statewide coalition.<sup>171</sup>

In 1983, the National Interagency Council on Smoking and Health funded and published the *Smoking and Health Reporter*, a quarterly publication focused on tobacco control progress and developments throughout the United States that was housed in the Center for Health and Safety Studies at Indiana University. John Seffrin was the Chairman of the Center and Chairman of the Editorial Board for the publication. The editorial board also included Luther Terry, M.D., former United States Surgeon General who released the landmark 1964 report linking smoking and lung cancer.<sup>173</sup> *Smoking and Health Reporter* reported the work of tobacco control advocates throughout the country and was one of the first continuous sources for information about events and developments in the tobacco control community.<sup>174</sup>

### **Early Statewide Clean Indoor Air Attempts**

Beginning as early as 1969, around the same time tobacco control efforts were growing in most other states, Indiana legislators began introducing clean indoor air bills in the General Assembly. The General Assembly had a few strong tobacco control proponents and tobacco control advocates were not visibly involved at the state level in this early period. Much of the proposed legislation during the 1970s and into the 1980s was authored by Rep. Robert J. Ducomb (R-South Bend) who was involved with some form of clean indoor air legislation most years beginning in 1973. Rep. Anthony Pizzo (D-Bloomington) was a physician and an outspoken tobacco control advocate. As a physician, Pizzo's discussions of the diseases caused by tobacco smoke were reportedly effective in at least getting legislation considered.<sup>171</sup> Pizzo later sat on the Bloomington City Council and was influential in passing the city's 2003 smokefree ordinance. Early proposals rarely moved beyond their initial committee assignment, likely as a result of lobbying by the tobacco industry. Despite the support of a few legislators, the majority of the General Assembly did not take smoking regulations seriously.<sup>175</sup>



Most of the clean indoor air proposals throughout the 1970s focused on restricting smoking to designated smoking sections within public buildings. Also included in early attempts at regulation were some public spaces such as public transportation and elevators. At least one bill dealing with smoking was introduced to the General Assembly most years between 1973 and 1987 when Indiana's first statewide clean indoor air law finally passed (discussed below).

By 1977, however, the Tobacco Institute reached a new level of sophistication with its approach to lobbying and attention to statewide tobacco control legislative matters. The tobacco industry's team of lobbyists reported all of their activities and all developments at the state and local level to their superiors in Washington, DC. Additionally, the Tobacco Institute chronicled all legislative activity in each state in meticulous detail, including Indiana, in its Legislative Reports which spanned twenty years from when they were produced in their standardized form in 1977 until 1997.<sup>176-196</sup>

### **Unsuccessful, Yet Notable, Early Statewide Clean Indoor Air Legislation and the Role of the Tobacco Industry**

#### ***HB 1540 in 1979***

In 1979, the Indiana House considered HB 1540, which would have given the State Health Commissioner the power to restrict smoking to designated smoking areas in most government buildings, including publicly owned buildings under private management, and to restrict smoking in government-owned vehicles and elevators.<sup>197, 198</sup> HB 1540 was one of the first proposals in Indiana to receive extensive coverage from the Tobacco Institute. The bill was introduced by Rep. DuComb (R-South Bend) and co-authored by Rep. John Donaldson (R-Lebanon) who chaired the House Judiciary Committee where HB 1540 was heard.

Philip Morris, in its internal communications, listed Thomas Fruechtenicht (R-Fort Wayne) as a "swing vote" for the bill, and a legislator that needed to be given attention in order to sway his vote against the proposed measure.<sup>199</sup> During the 1979-1980 legislative session, Fruechtenicht sat on the House Judiciary Committee and was the chair of the House Public Policy Committee and member of the House Committee on Financial Institutions.<sup>200</sup> Fruechtenicht voted against the measure, though the bill nevertheless passed from committee as well as the House. Fruechtenicht left the General Assembly in 1983 and by 1987 was one of TI's highest level lobbyists in Indiana.<sup>67</sup>

Interagency Council members Eugene Levitt and Lawrence Bates and advocates from ALA testified in support of HB 1540 in the Judiciary Committee hearing. The bill passed the committee despite testimony from TI lobbyist Terrence Pehler, and tobacco industry allies such as the Indiana Farm Bureau, and the Indiana Association of Cities and Towns, possibly because of the support of the Judiciary Committee's chair, and bill co-author, John Donaldson, who was likely influential in getting his bill through.<sup>197</sup>

Stanley S. Scott of Philip Morris sent a letter to Joseph S. Deiss, Philip Morris Manager of Community Relations in Louisville, Kentucky, who was assisting with the tobacco industry's

opposition, explaining that HB 1540 was dead for the year but that legislation of a “limited scope” like HB 1540 was often met with little opposition and stood a good chance of passing and “giving antismoking forces a ‘foot in the door’ to achieve their ultimate goal of banning all smoking in all public places.”<sup>201</sup> HB 1540 was killed in the Senate, according to Scott, by Senate Pro Tempore Martin K. Edwards (R-New Castle), who “didn’t much care for the bill,” along with Senator Ernest Niemeyer (R-Lowell), Chair of the Senate Government Affairs Committee that was hearing HB 1540. After hearing testimony, Sen. Niemeyer refused to allow a committee vote.<sup>202</sup> Scott attributed the killing of the bill to the actions by Deiss and other community volunteers, though it is unclear what those activities were.<sup>203</sup> The Merrillville *Post-Tribune* State Bureau reported that Sen. Niemeyer said the law would have been unenforceable.<sup>204</sup> What was clear from the defeat of HB 1540 was that TI was far more sophisticated in terms of legislative influence at this early stage than the tobacco control advocates.

### ***SB 14 – Smoking in Public Places, 1981***

1981 was another notable year for the defeat of tobacco control policy by the tobacco industry. SB 14, sponsored by Sen. James R. Butcher (R-Kokomo) would have prohibited smoking in elevators in government buildings and restricted smoking within other areas of government buildings to designated smoking sections at the discretion of the State Health Commissioner. The proposed law passed the Senate Civil Law Subcommittee of the Judiciary Committee as well as the full Judiciary Committee, and TI considered the measure a great threat to the industry. Rep. DuComb authored the companion bill to SB 14 in the House, HB 1148, but it gained no traction and eventually died with adjournment.<sup>180</sup>

TI’s opposition to SB 14 was the most extensively organized opposition experienced up to 1981. An internal Tobacco Institute report written by State Director Bill Trisler described in detail which groups and allies the tobacco industry was hoping to utilize in Indiana.<sup>122, 205</sup> Trisler engaged tobacco farmers and tobacco wholesalers and vendors, distributing pamphlets and other anti-tobacco control information to local warehouses and county farm bureau offices. A TAN Action Alert went out to TAN members in the districts of the Judiciary Committee members and to all TAN members throughout the entire state once the bill passed out of committee and onto the full Senate floor. The Indiana Farm Bureau activated its county offices to contact their senators.

Paul Scali with the Indiana Tobacco-Candy Distributors and Vendors Association (ITCDVA) was active as well along with Don Hagar and Gary Wright of the Indiana Vending Council. Tobacco industry representatives Bob Kohl of Philip Morris, Barney Sanford of R.J. Reynolds and Bob Mills of Lorillard Tobacco also mobilized opposition. SB 14 marked the introduction of the Indiana Restaurant Association to the opposition of tobacco control policy who organized its members to make calls and write letters to their senators to oppose the measure.<sup>115, 122</sup>

The most striking example of the tobacco industry’s influence during this legislative session was Bill Trisler’s relationship with Sen. Johnny Nugent (R-Lawrenceburg), whose district included Switzerland County which had one of the highest levels of tobacco crop production in Indiana. Trisler explained in his Bi-Weekly Report to his superiors:

Senator Johnny Nugent (District 43) has run a survey in the Lawrenceburg, IN, newspaper, asking for his constituents' opinions of the no-smoking issue and 61 percent were in favor of passage ... I spent an hour with the Senator, explaining that over 7000 growers lived in the 9<sup>th</sup> U.S. Congressional District ... I was able to change his vote from a yes to a no vote. He then stated that, if I would write the speech for him, he would speak before the full Senate in opposition to Senate Bill 14.<sup>122</sup>

The speech, titled "Written for Senator Johnny Nugent by Bill Trisler," went on to ask, "Can we afford to lose the revenue generated by the tobacco industry?"<sup>206</sup>

The bill was defeated on the Senate floor with a 19-26 vote; there is little information regarding the debate among legislators regarding the merits of the bill. Trisler attributed the defeat of SB14 to Sen. Nugent's tobacco industry-influenced opposition to SB 14 along with testimony from Terrence Pehler of TI and other allies such as the Indiana Restaurant Association citing the claimed economic harm of smoking regulations.<sup>122</sup> Trisler's report to his TI superiors indicated that Sen. Butcher, in supporting his bill, argued there would be no adverse economic impact to farmers as a result of smoking regulation yet no fiscal impact study was conducted by Indiana's state-run Legislative Services Agency (LSA). Trisler and Pehler obtained a copy of a fiscal impact study made by the state of Illinois in its own consideration of a similar bill which they distributed to members of the Indiana General Assembly, arguing that smoking regulations led to decreased revenues throughout the state.<sup>122</sup> Sen. Butcher had physicians and health professionals testifying regarding the health effects of smoking, however, little more is known regarding the tobacco control advocates' activities. Sen. Nugent continued to work with the tobacco industry and was influential in passing a bill in 1997 that preempted the ability of localities to pass laws regulating the sale, distribution or display of tobacco products (discussed in later sections).

The tobacco industry used the early 1980s to continue building alliances and extending the network of individuals and organizations that it could utilize in times of legislative threat to the industry. There was heavy usage of tobacco wholesalers, vendors and distributors such as ITCDVA, the Indiana Vending Council and the Indiana Retail Council as well as help from the Indiana State Farm Bureau, and organizations from the hospitality sectors including the Indiana Restaurant Association. Other notable allies tapped for testimony and member-driven support were the AFL-CIO, Indiana Association of Cities and Towns, the Fraternal Order of Police and Indiana Chamber of Commerce.<sup>171, 207, 208</sup> The tobacco industry continued to utilize the threat that smoking regulation would negatively impact the economy in its arguments of opposition to both clean indoor air regulation and increases in the state cigarette tax.

Tobacco control proponents remained steadfast but not well organized. Rep. DuComb continued to introduce clean indoor air bills, virtually all of which restricted smoking in elevators and sections of government buildings because, according to the TI, DuComb wanted "to protect the health of Hoosiers ... [and] that [those proposed laws would] stop involuntary smoking by non-smokers without infringing on the rights of smokers."<sup>209</sup> Through the early 1980s, tobacco control advocates of the Interagency Council (primarily ACS and ALA) provided testimony and held press conferences to advocate for the adoption of smoking restrictions. Consistently,

advocates such as Dr. John Seffrin were present to testify on the dangers of smoking and secondhand smoke along with Dr. Lawrence Bates, an oncologist, who occasionally appeared at legislative hearings to testify on smoking and its cancer-causing components.<sup>209</sup> However, opposition from the tobacco industry in combination with skepticism from the majority of the Indiana General Assembly regarding the importance and potential health and economic benefits of smoking restrictions led to the consistent rejection of the bills presented each year.

## **Passing a Clean Indoor Air Law (1985-1987)**

### ***1985 – A Stronger Clean Indoor Air Bill***

In the 1985 “State-by-State Analysis” the Tobacco Institute described the organization of tobacco control advocates in Indiana:

While most of the traditional anti-tobacco groups exist in Indiana, the only organized state-wide coalition is the „State Cancer Society”, headquartered in Indianapolis, Marion County. They are becoming more active each year with legislative membership. The Lung Association affiliates have often been at the center of local anti-smoking efforts, even though they frequently work behind the scenes in favor of local smoking legislation. The ALA is not nearly as visible at the state level as has been the American Cancer Society. The ACS does not retain legislative counsel and has lobbied unsuccessfully for eight years for the passage of a state-wide „clean indoor air” bill.<sup>210</sup>

This analysis is consistent with reports from the tobacco control advocates themselves, though advocates described ALA as being as active and publicly present as ACS.<sup>171, 172</sup> The Tobacco Institute predicted its continued success on the statewide clean indoor air front, but acknowledged that tobacco control advocates were becoming more organized and gaining political clout as a lobby.<sup>210</sup>

Between 1985 and 1987, the tobacco control movement in Indiana became more organized and developed higher expectations for a statewide clean indoor air law. In 1985 Rep. Richard Wathen (R-Jeffersonville) emerged as a new tobacco control champion, authoring HB 1135 which emerged as the major clean indoor air bill of the year. HB 1135 was co-authored by Rep. John Donaldson (R-Lebanon) who was already an outspoken tobacco control-minded legislator. HB 1135, stronger than the bills of the previous decade and a half, was written to restrict smoking in public places, including restaurants but exempting bars. The bill did allow the owner or person in control of the building or establishment to designate smoking areas, but there would have to be “physical barriers and ventilation systems ... used to minimize the toxic effect of smoke in adjacent nonsmoking areas ... and care ... taken to ensure that reasonably substantial areas of the public place are not designated as smoking areas” and in a public place consisting of only one room, at least one side of the room would have to be nonsmoking.<sup>211</sup> This proposal represented progress for tobacco control in Indiana as it indicated an expectation for stronger smoking restriction standards.

The tobacco industry was concerned by HB 1135 which they emphasized in their correspondences to TAN allies as “[t]he most restrictive and far reaching anti-smoking ordinance

that has ever been proposed in Indiana [emphasis in original].”<sup>212</sup> In a report of the State Activities Policy Committee to TI Executive Roger Mazingo, TAN wrote: “The Indiana legislature does not have a history of supporting anti-tobacco legislation. However, due to current publicity and well organized groups of proponents, we believe that it will receive more support this year than it has in the past.”<sup>213</sup>

As in earlier years, the tobacco industry lobbied hard to defeat HB 1135 and presented numerous ally organizations for testimony against the measure, this time with even more success in turning out allies because of the wider restrictions written into the bill that would regulate smoking in many places previously excluded from proposed legislation, like restaurants. Typical arguments by the tobacco industry and its allies regarding the degradation of business sales as a result of smoking regulation won out in the House Public Health Committee. Additionally, it was reported in the press that Donald T. Nelson, Chair of the House Public Health Committee was opposed to smoking restrictions passing and was likely influential in the failure of HB 1135 to pass out of committee,<sup>214</sup> which killed it with a 7-3 “no” vote.

The strategy of the tobacco control advocates, Terrence Pehler, lobbyist for TI presumed, was to propose a strong bill with many restrictions and if that bill was defeated, attempt to push through a weakened bill, similar to proposed legislation of previous years that would be more “palatable” to legislators after having seen a stronger proposal.<sup>215</sup> While Pehler’s theorized strategy may not have been the original intent of the tobacco control advocates in 1985, it, in the end, reflected the actual subsequent series of events in 1986. The tobacco control advocates, however, increasingly were more organized and placed a greater emphasis on collaborative advocacy and coalition building.<sup>172</sup>

### ***1986: A Weaker Bill and the Formation of a New Coalition – the Indiana Campaign for a Tobacco-Free Society***

As Pehler predicted, the 1986 proposed law returned to its historically weak provisions. Reps. Wathen and Donaldson came back with a bill, but instead of restricting smoking in public places, HB 1136 would have restricted smoking in public buildings at the discretion of the officials in charge of the building and allowed them to choose to designate a smoking section. HB 1136 passed the House Judiciary Committee with a 10-0 vote, likely as a result of the influence of Rep. John Donaldson, committee chair and long time tobacco control advocate; however, it was killed on the floor of the House with a close 49-51 vote.<sup>185</sup>

Tobacco control advocates testified in support for the bill with the American Cancer Society, the Indiana State Board of Health, Indiana State Medical Association playing public roles advocating for the proposed clean indoor air law but not did not make a strong enough impression to swing the House of Representatives.<sup>216</sup> However, the tobacco control advocates took 1986 as their opportunity to allow their statewide coalition to take root.

Indiana tobacco control advocates formed the Indiana Campaign for a Tobacco-Free Society in 1986 as part of a plan to closely organize and collaborate on tobacco control policy initiatives. The American Lung Association of Indiana, the American Cancer Society, and the American Heart Association responded to a growing emphasis being placed on the coalition

model at both the national level as well as at the local level and focused their efforts on the formation of a formal alliance. Though it was comprised of 20 member organizations, its primary active members were the ALA, ACS, AHA, Indiana Academy of Family Physicians (IAFP) and the Indiana State Medical Association (ISMA) (Table 17). This coalition was significant because of the active role of the physicians associations such as ISMA and IAFP which had been previously inactive on these issues. Having a large, active membership of medical associations and physicians alongside the other public health groups, all under the umbrella of a single organization, improved the political clout of the tobacco control advocates and added emphasis to smoking as a health issue.<sup>217</sup>

The formation of a unified organization of Indiana organizations enabled tobacco control advocates to be referenced publicly at political hearings, in media reports and at press releases.<sup>172</sup> The Interagency Council only consisted of the Indiana chapters of ACS and ALA; the Indiana Campaign for a Tobacco-Free Society was comprised of many additional Indiana public health and medical services organizations.

To garner the political support of Republican Governor Robert Orr, the health groups understood that they needed to bring businesses on board to discredit the claims of economic collapse that the tobacco industry would undoubtedly argue. Dr. Stephen Jay, longtime smokefree advocate and former President of ALA, recalled in a 2009 interview that for the purposes of this coalition, tobacco control advocates began by bringing the hospitals on board. The Indiana Hospital & Health Association (later the Indiana Hospital Association), which included hospitals that were in the process of making voluntary clean indoor air transitions in their own facilities, joined the coalition.<sup>172</sup> This level of business involvement, however, paled in comparison to the organization of the Indiana Restaurant Association and other hospitality organizations that used the threats of economic disaster and sudden industry collapse to oppose tobacco control laws. Nevertheless, the advocates understood that it was necessary to include economic arguments in their lobbying efforts.

Still, despite this progress in coalition building, the Indiana Campaign for a Tobacco-Free Society was loosely organized, was on a shoestring budget and, as a result, lacked a high level of organization and consistent structural support from its members. The coalition had no organizational structure and no bylaws and each group relied on its own individual funding for its participation in the campaigns.<sup>219</sup>

***1987 – The First Statewide Clean Indoor Air Law***

While HB 1136 was the only bill in 1986 dealing with smoking restrictions, there were six clean indoor air bills introduced in the 1987 session, three in the House and three in the Senate. The provisions of these bills ranged in

<b>Table 17:</b> Organizations in the Indiana Campaign for Tobacco-Free Society <sup>172, 217, 218</sup>
American Cancer Society
American Heart Association
American Lung Association of Indiana
Association of Osteopathic Physicians
Indiana Academy of Family Physicians
Indiana Dental Association
Indiana Hospital Association
Indiana Public Health Association
Indiana State Medical Association
Indiana Thoracic Society
Indianapolis Heart Institute
Marion County Health and Hospital Corporation
Marion County Medical Society

scope from restricting smoking in government buildings to restricting smoking in all public places including restaurants.<sup>186</sup> This momentum can be attributed to several factors: The 1986 United States Surgeon General's Report, *The Health Consequences of Involuntary Smoking: A Report of the Surgeon General*,<sup>116</sup> that established the health risks caused by exposure to secondhand smoke had been released the previous year and was covered extensively in the media. This coverage generated a window for legislators to address tobacco control with a newly acquired political viability. The tobacco industry considered the Surgeon General's 1986 report to be "one of the most devastating [sic] we have had" because of its findings on secondhand smoke. "The report itself is designed to add legislative fuel to this overall antismokign [sic] movement by implying that everyone is at risk, no longer just the smoker."<sup>52</sup>

### ***HB 1007***

HB 1007 was the greatest threat to the tobacco industry and the tobacco industry was, as usual, geared up for a battle. As in the several years preceding 1987, Rep. Richard Wathen (R-Jeffersonville) and Rep. John W. Donaldson (R-Lebanon) authored HB 1007. As introduced, HB 1007 would have made it illegal for anyone to smoke in a government building in any area outside of designated smoking areas (Table 18). The power to implement the rules for each building was delegated to the "officials in charge" of the building, but, in the introduced version, no one was required to create a smoking section. The original bill was written so that the officials in charge "may" designate a smoking section, thus leaving the option open for smokefree public buildings if those in control of the building desired. The penalty for violating the law would have been a \$500 fine but the State Board of Health could waive enforcement of the law if "the waiver will not have a significant adverse effect on the health and comfort of nonsmokers."<sup>220</sup>

The Tobacco Institute exerted its influence from the beginning. Before HB 1007 left the Judiciary Committee the Tobacco Institute had secured amendments (that they wrote) changing the option of designating smoking sections to requiring them.<sup>105, 221</sup> The amended language specified that the officials in charge "shall designate nonsmoking and smoking areas in the building" whereas the language, as introduced, merely said that the officials in charge "may designate smoking areas in the building."<sup>222</sup> This added language ensured that there would still be a smoking location inside government buildings. The *Indianapolis Star* reported that this change was made at the request of the Tobacco Institute.<sup>223</sup>

The tobacco industry also succeeded in obtaining another change to protect its interests: preemption of local tobacco control ordinances. Preemptive language in the context of state tobacco control legislation is any language in a state law that restricts the ability of state subdivisions (generally counties, cities and towns) to pass any regulations or regulations stronger than those established by the state.<sup>224</sup> Even though minimal local tobacco control legislation had been passed in Indiana as of 1987, the tobacco industry understood that it was much weaker politically at the local level than at the state level and that public health forces were stronger and growing more organized. The tobacco industry, therefore, gave preemption a high priority and worked to include preemptive language in statewide laws, not only in Indiana but throughout the rest of the U.S. as well.<sup>120, 138, 165, 224</sup> The House Judiciary Committee gave the tobacco industry

	<b>Smoking section</b>	<b>Government Buildings</b>	<b>Public Education Facilities</b>	<b>Health Facilities</b>	<b>Preemption</b>	<b>Enforcement</b>	<b>Maximum Penalty</b>
HB 1007 Introduced	May designate	✓			No	Prosecuting attorney	\$500
HB 1007 Amended in House Judiciary Committee	Shall designate	✓			Yes	Prosecuting attorney	\$500
HB 1007 Amended in Senate Public Policy Committee	May designate	✓	✓	✓	No	Prosecuting attorney	\$500
<b>HB 1007 Final Result</b>	<b>May designate</b>	✓	✓	✓	<b>No</b>	<b>Prosecuting attorney</b>	<b>\$500</b>

what it wanted when it amended HB 1007 to include “A county, city, or town may not adopt ordinances that are inconsistent with this chapter.”<sup>222</sup> This radical bill transformation was made possible by the connections of newly hired TI lobbyist, Thomas Fruechtenicht, former member of the Indiana State House of Representatives and former member of the House Judiciary Committee. TI lobbyist Terrance Pehler also took credit for the amendments in the media.<sup>223</sup>

The Indiana Campaign for a Tobacco-Free Society was not organized to efficiently mobilize the membership bases of its many organizations. The coalition testified during the committee hearings for HB 1007, interacted with the media and released public statements that advocated for HB 1007 and the other clean indoor air legislation before the General Assembly.<sup>172, 223</sup>

### **SB 144**

Concurrent with the debate over HB 1007 in the House, the Senate considered SB 144, introduced by Sen. Patricia Miller (R-Indianapolis) to create nonsmoking sections in government owned buildings and all places where the public was invited, both indoor and outdoor, including restaurants. Rather than seeking to amend SB 144 to turn it into a law that would promote the industry’s interests, the tobacco industry sought to kill SB 144. The tobacco industry thought that HB 1007, which focused on public buildings, would be difficult to kill outright because of the persistence of the health groups and the momentum created by the release of the 1986 Surgeon General’s Report. SB 144 had far reaching provisions and while the tobacco industry feared that it would pass, they believed that if they devoted enough effort towards killing it that they would be successful.<sup>52</sup>

The Tobacco Institute utilized more of their allies in efforts to defeat SB 144 than they did with HB 1007, likely because it contained broader provisions which were a far greater threat to the tobacco industry than the partial regulation of smoking in public buildings in HB 1007. Representatives of the Indiana Retail Council, Indiana Bowling Proprietors, Indiana Farm Bureau, Indiana Convention Center as well as more than 25 mayors were mobilized and submitted testimony against SB 144.<sup>105</sup> Nevertheless, during a conference call among tobacco



company personnel (Charles Meadows of Liggett and Myers Tobacco Company, Bob Mills of Lorillard Tobacco Company, Barney Sanford of R.J. Reynolds Tobacco Company, Ralph Militello of U.S. Tobacco Company), TI lobbyists (Thomas Fruechtenicht, Terrence Pehler, Bill Trisler) and tobacco industry allies (Paul Scali of the Indiana Tobacco-Candy Distributors and Vendors Association), Bill Trisler and Terrence Pehler expressed doubt that the industry allies in the hospitality industry would be an asset in 1987. Trisler and Pehler said that because the major regulatory threat coming from the House was a proposed restriction on smoking in government buildings, they could not depend on the hospitality industry for assistance, which would not be interested in getting involved because the bill did not affect them. Trisler noted, “That is kind of the way it works with us on allies ... They look at a bill and if it doesn’t affect them, they just sort of slip away from you ... so we’re sort of on our own.”<sup>52</sup>

SB 144 was amended on the Senate floor to remove the provisions including public places. The result was that SB 144 was the same as HB 1007, affecting only government workplaces and publicly owned buildings. Though it passed the Senate and went to the House, the House allowed SB 144 to die without further action at adjournment.<sup>186</sup> It is unclear what position advocates took on SB 144.

### ***HB 1007 in the Senate***

Passing the floor of the House with a vote of 81-18 in favor, HB 1007 went to the Senate where it was heard in the Public Policy Committee chaired by Sen. Richard Shank (R-Elkhart). The committee amended HB 1007 to remove the preemption clause, inserting instead that “This chapter does not prohibit a county, city, or town from adopting an ordinance more restrictive than this chapter.”<sup>225</sup> The committee also expanded the provisions of the bill so that, in addition to covering government buildings, HB 1007 also restricted smoking in public schools and other state educational institutions, as well as licensed health facilities, to designated smoking sections. The committee then passed the bill.

On the Senate floor, Sen. Virginia Blankenbaker (R-Indianapolis), co-sponsor of the bill in the Senate and supporter of the tobacco control movement, made a motion to delete the requirement for a smoking section. The motion passed and the bill was passed by the Senate, and subsequently agreed to by the House, stated that “the official in charge of a public building shall designate a nonsmoking area and may designate a smoking area in the building.”<sup>172, 226</sup> These amendments essentially returned the bill to the original proposal introduced in the House except for the inclusion of protections for public education and health facilities that had been added in the Senate Public Policy Committee.

The enrolled version of HB 1007 prohibited anyone from smoking in a public building in any area other than a designated smoking area. The final definition of “public building” was expanded in the Senate and in the enrolled version of HB 1007 to be any enclosed structure or part of an enclosed structure that was occupied by any agency of state or local government, was used as a classroom building at a state educational institution, was used as a public school, or was licensed as a health facility. The State Board of Health also could waive the requirement that the official in charge of the building had to designate a nonsmoking area if there were “compelling reasons to do so” or “the waiver will not affect the health and comfort of

nonsmokers.”<sup>226</sup> The preemption clause that had been amended out remained omitted. There was no known opposition from the executive branch, and Governor Robert Orr (R) signed the bill into law.

### *Perceptions of the Final Result*

Both the tobacco industry and the tobacco control advocates seem to have been satisfied with the final result. Although the key amendments that the Tobacco Institute was successful in adding initially were ultimately removed, a case study of Indiana’s legislative action history from 1988 written for Tobacco Institute lobbying strategist R. William “Bill” Murray noted that the Tobacco Institute’s lobbying efforts and connections with the legislative players was key to their success in getting the original amendments.<sup>221</sup> The weakening amendments were planned out far in advance and the hearings were choreographed to the extent that each motion, each motion’s seconding, and a significant number of the votes were planned and organized in advance in meetings between TI and the chair and other members of the House Judiciary Committee.<sup>221</sup> Tobacco Institute Regional Director Bill Trisler also sent a memorandum to Indiana lobbyists Terrence Pehler and Thomas Fruechtenicht discussing their lobbying successes in getting amendments introduced that severely weakened the bill and thanking them for their hard work and dedication in influencing both HB 1007 and SB 144.<sup>227</sup>

One explanation for this post-session satisfaction is that the tobacco industry did not feel that it could influence the chair of the House Judiciary Committee, Rep. Donaldson, the co-author of HB 1007, enough to kill the bill. At the same time, the tobacco industry was able limit the coverage to public buildings and stave off the regulation of smoking in restaurants and other public places which was a far greater threat. TI officials called the final language in HB 1007 meaningless and difficult to enforce<sup>52, 105</sup> The industry boasted that “ALA, ACS and other artis had no idea what was happening ... we had them set up before they had a chance to react.”<sup>221</sup>

By the end of the session, the tobacco industry attributed the amendments inserted into HB 1007 in the House Judiciary Committee and the death of SB 144 to the mobilization of TAN for a letter writing campaigns and the involvement of the Indiana AFL-CIO, Indiana Farm Bureau, Indiana Restaurant Association, Indiana Manufacturers Association, Indiana Convention Center, Indiana Retail Grocers Association, Indiana Tobacco and Candy Distributors, Vendors Association, Smokeless Tobacco Council and other industry allies.<sup>221</sup> David Weeks, a physician from Boise, Idaho who the industry flew around the country testifying against clean indoor air laws, was also brought in to provide testimony (written by the Tobacco Institute) that the evidence for health effects of secondhand smoke was inconclusive.<sup>52, 228, 229</sup>

The tobacco control advocates recognized that although the bill was weak it was an actual law and something concrete to show for their hard work. After attempting to pass such legislation nearly every year since 1973, Indiana had a statewide law with clean indoor air regulations. Moreover, they had managed to remove the amendments containing preemption of local ordinances and mandatory smoking sections. Nevertheless, health advocates acknowledged that the bill could have been stronger. ISMA believed that the law did not go far enough by only regulating clean indoor air in government buildings and HB 1007’s author Richard Wathen (D-Jeffersonville) said that it was a “very mild bill.”<sup>230, 231</sup> The majority of locations remained

unprotected by legislation. But Dr. Stephen Jay, who was President of ALA of Indiana in 1987, recalled in 2010 that “Our idea was just to try to get something going at that time ... we [the coalition] weren't sophisticated in countering the tobacco industry's tactics.”<sup>232</sup>

As of 2010, except for several minor additions in the 1990s (discussed below), Indiana's statewide clean indoor air legislation was the same as that established under HB 1007 in 1987. There were many attempts by legislators throughout the rest of the 1980s and 1990s to strengthen the statewide Clean Indoor Air law. These attempts often focused on extending protections to all indoor public places and places of employment and created penalties for smoking in such locations when nonsmoking signs were posted. These bills rarely passed out of committee, and inevitably died with adjournment of the legislature.<sup>187-191</sup>

## **EARLY TOBACCO TAXES**

### **1947-1993**

Indiana's first state cigarette tax, 3 cents/pack, was implemented July 1, 1947. (Localities in Indiana do not have the authority to tax cigarettes.) Between 1947 and 1978, Indiana's cigarette tax increased three times but reached only 10.5 cents/pack.<sup>15</sup> Historically these taxes went to the Cigarette Tax Fund (for the Department of Natural Resources and local governments for capital improvements), pension relief fund, mental health, and the general fund.<sup>233, 234</sup> Proposals in the 1980s to increase the state tobacco taxes were most often introduced with the intent to provide greater funding to these funds or other specific recipients such as health care for children and police and fire department pension funds.<sup>235</sup> There was no focus on tobacco control and implementing cessation and intervention programs.

Cigarette and other tobacco product taxes are a proven tool for decreasing tobacco consumption and, as it became clear by the late 1970s that this form of tobacco control policy was gaining momentum, the tobacco industry became increasingly concerned and devoted more of its efforts toward tracking and blocking tax increase proposals.<sup>2, 235</sup> In the 1983 Legislative Session there were five bills introduced which would have increased taxes on cigarettes.<sup>182</sup> The same year TI drafted “A State Tax Plan” which outlined the threat of tobacco tax increases in Indiana in 1983 and projected threats for the 1984 session as well as short term (pre-session) and long term (the next legislative session) strategies for addressing potential tobacco tax increases.<sup>235</sup>

In its 1983 “A State Tax Plan,” TI identified the support sectors which made the defeat of cigarette tax increases possible. TI's staff and research team emphasized that the team should work with the state's Legislative Services Division and with the administrator of the tobacco tax in Indiana to develop connections within the government that could provide support to TI's lobbyists. The tobacco companies and their subsidiaries were a second asset to TI in its anti-tax campaigns. Organizations such as the Indiana insurance lobby, retail organizations, business organizations including Chambers of Commerce, the Indiana Manufacturers' Association and the agriculture community were significant assets for the industry, as well as the Tobacco Action Network (TAN).<sup>235</sup> John Seffrin, an active tobacco control advocate at the state level in the 1970s and 1980s, recalled in a 2010 interview that the tobacco control advocates were not asking

for tobacco tax increases but instead focusing their attention on clean indoor air laws. The tobacco taxes were a result of legislators seeking revenue.<sup>171</sup>

TI wrote in 1983 that when dealing with tax proposals “the lobbyist should be prepared for the worst to start with, and proceed on the theory of trying to kill the bill before the hearing.”<sup>235</sup> It was necessary to assume that there would be a hearing and to prepare for the hearing by recruiting a diverse group of allies to testify, including wholesale tobacco distributors, vendors and convenience store owners, each of whom would provide supportive testimony from different angles. Lobbyists were also to follow a number of other guidelines, including the usage of statistical and economic evaluations of tobacco tax increases in their arguments. As a result of powerful tobacco industry lobbyists and unengaged tobacco control advocates, the cigarette tax increase proposals usually failed.<sup>235</sup>

One of the primary imperatives of TI’s strategy was to form relationships with legislators in leadership positions on committees. Cigarette taxes were sent first to the House Ways and Means Committee, which made it a primary focus for TI. When it appeared that Rep. Patrick Kiely (R-Anderson), the chair of the House Ways and Means Committee, was going to lose his seat, TI lobbyists began courting Rep. Bill Long (R-Lafayette), Kiely’s likely successor. The defeat of the tax bills in 1983 was largely attributed to the close working relationship TI lobbyist Terrence Pehler formed with the Chair of the House Ways and Means Committee.<sup>235</sup>

In 1985, the tobacco industry’s primary concern in Indiana remained cigarette taxes. The Tobacco Institute concluded in its 1985 “State-by-State Analysis” that, while clean indoor air legislation was under control because of the increased grassroots organization of pro-tobacco interests, preventing an increase to Indiana’s cigarette tax would be much more difficult.<sup>210</sup> Indiana’s tax was 10.5 cents/pack and had not been raised since 1977. Additionally, Illinois had recently increased its cigarette tax to 20 cents, making Indiana comparatively low, putting pressure on the Indiana Legislature to capitalize on the potential increase in revenue that a higher cigarette tax would bring.<sup>210</sup> As it turned out, Indiana’s cigarette tax increase and the passage of the statewide Clean Indoor Air Law both took place in 1987.

One of the common arguments of the tobacco industry and its allies when opposing tobacco taxes was the adverse economic effect that the taxes would have on tobacco farmers in southern Indiana who would lose income from the decreased consumption of the crop. The tobacco industry often organized farmers in conjunction with the Indiana Farm Bureau to attend hearings and testify against proposed taxes. Indiana legislators from the southern parts of the state, such as Senator Johnny Nugent (R-Lawrenceburg), actively opposed such taxes.<sup>236</sup>

### ***1987 Tobacco Tax Increase***

In addition passing Indiana’s first statewide clean indoor air law and a youth access law (discussed below), 1987 also saw tobacco taxes increase. The state’s cigarette tax going into the 1987 Legislative Session was 10.5 cents/pack and there was no tax on non-cigarette tobacco products such as cigars, and smokeless tobacco. Indiana ranked 43<sup>rd</sup> in the U.S. for the amount of its cigarette tax.<sup>233, 237</sup> In 1987, five tobacco tax bills were introduced with cigarette tax increases ranging from 1 to 25 cents/pack.<sup>186</sup> The Indiana State General Assembly passed, and Governor

Robert Orr (R, 1981-1989) signed, HB 1533 which increased the cigarette tax by five cents, from 10.5 cents to 15.5 cents/pack and instituted a 15 percent tax on the wholesale price of other tobacco products.

The tobacco industry, represented by TI, actively sought to remove the cigarette tax from HB 1533 and weaken the bill in any other way possible. Bill Trisler wrote to TI state legislative counsels Thomas Fruechtenicht and Terrence Pehler in 1987 explaining, “we are getting down to ... the issue that hurts our industry the most. That of course is taxes. This issue will demand all of your direct lobbying efforts and the strengths you have shown within the Senate Assembly.”<sup>238</sup> There was not a visible presence by tobacco control advocates on the tax issue, possibly because they were pre-occupied with the proposal to limit smoking in government buildings.

By the late 1980s, increasing tobacco taxes became a viable tobacco control policy strategy for decreasing smoking and other tobacco use and funding tobacco control programs, not just in Indiana but all over the U.S. as well. California’s passage of Proposition 99 in 1988, which increased the state’s cigarette tax by 25 cents/pack and allocated 5 cents to tobacco control, became the model for tobacco control advocates throughout the country.<sup>120</sup>

### ***Indiana Tax Equity Coalition and the Tax Research Analysis Center***

Beginning in the early 1980s, the tobacco industry built coalitions throughout the U.S. with organized labor and other progressive groups that could publicly oppose cigarette tax increases and allow the tobacco industry to remain less visible. The tobacco industry, which was losing public favor, sought alignments with credible organizations from outside the corporate world, some of which that had formed around broad progressive issues, including tax policy. These organizations that joined coalitions with the tobacco industry not because they had historically focused on cigarette excise taxes but because of the money the tobacco industry could provide.<sup>156, 157</sup> The strategy of the tobacco industry was to ensure that cigarette excise taxes were not considered separately, but rather were included in a broader discussion of consumer excise taxes that included alcohol and gasoline.<sup>158</sup> These coalitions argued that such excise taxes were regressive and placed an unjust burden on low income populations.<sup>156</sup> By framing the argument around social and economic justice issues, the tobacco industry and the issue of cigarette sales (which was the concern of the tobacco industry) remained hidden.

In the early 1990s, as part of the tobacco industry’s attempts to derail tobacco tax increase proposals in Indiana, the tobacco industry and its allies funded the work of the Indiana Tax Equity Coalition (I-TEC) which publicly opposed tobacco taxes, and the Tax Research Analysis Center (TRAC), which functioned as the research arm for I-TEC and released reports arguing against taxes that I-TEC used in its campaigns.<sup>239</sup> These organizations released recommendations on tax policies in Indiana, which often dealt with excise taxes on a variety of goods (including cigarettes), as well as property taxes. In a letter from Garry Petersen, Vice Chairman of TRAC in 1992 to the I-TEC Executive Committee and Board of Directors, Petersen wrote, “We have the opportunity to build coalitions ... to facilitate the argument that regressive taxes are simply wrong. The economic arguments are there to support this position whether the product is cigarettes, alcohol, or gasoline.”<sup>240</sup> In addition to arguing that cigarette excise taxes

were regressive and inherently unfair to lower income consumers, I-TEC, using the reports released by TRAC, argued that higher tobacco taxes would hurt tobacco retailers on the outer edges of the state. They argued that consumers would flee to neighboring states for cheaper cigarettes.

Reports released and promoted by I-TEC and TRAC listed Philip Morris, the Indiana Tobacco and Candy Distributors and Vendors, the Indiana Restaurant and Hospitality Association, and the Wine and Spirits Wholesalers of Indiana as funders.<sup>239</sup> Garry Petersen of TRAC and I-TEC also wrote to Hurst Marshall, Regional Director of State Government Relations for R.J. Reynolds, in 1994 asking for funding and indicating that Philip Morris was interested in supporting the organization at an equal level to what R.J. Reynolds contributed.<sup>241</sup> Expenditure reports show that the Tobacco Institute contributed at least \$2,500 to I-TEC in 1993, the same year as a major cigarette tax campaign from Governor Evan Bayh's (D) office (discussed below), and payments of as much as \$2,000 throughout the mid 1990s to fund economic studies.<sup>80, 242</sup> The Tobacco Industry Labor Management Committee, which the industry created to form alliances with organized labor groups,<sup>156</sup> contributed \$15,000 to a local Indiana excise tax coalition in 1992 and 1993 which was likely I-TEC.<sup>243</sup>

The groups that formed I-TEC and TRAC were mostly the same organizations and individuals that were longtime active supporters of the tobacco industry's agenda. The I-TEC Board of Directors included John Livengood, leader of the Indiana Restaurant Association and long time ally of the tobacco industry.<sup>244</sup> Charles Deppert, President of the Indiana American Federation of Labor-Congress of Industrial Organizations (AFL-CIO) was also active in I-TEC.<sup>245</sup> Deppert also worked with the group Taxpayers for a Better Indiana (TBI) which made many of the same arguments as I-TEC, including that cigarette taxes were unfairly regressive.<sup>246</sup> The AFL-CIO was sporadically involved with the tobacco industry on state issues in Indiana and other states as well as nationally.<sup>156, 157</sup>

### **1993: Governor Evan Bayh's Cigarette Tax Push**

Governor Evan Bayh (D, 1989-1997) pledged that there would be "no new taxes" during his first term.<sup>247</sup> However, the state was required to pass a balanced biennial budget in odd-numbered years, and in 1993 the state needed money for its portion of Medicaid and public schools.<sup>248, 249</sup> Despite his pledge, Bayh proposed a one percent tax on hospital revenue to pay for Medicaid. Republicans vehemently opposed the tax on hospital revenue along with the Indiana Hospital Association and Methodist Hospitals.<sup>250, 251</sup> They instead proposed that the state use reserve funds to balance the budget.

When the hospital revenue tax failed to receive support, Bayh proposed an amendment to the budget bill that would have increased the cigarette tax by 17.5 cents which Senate Republicans defeated on the Senate floor. The hospitals, which were opposed to taxing their revenues, supported the cigarette tax.<sup>250, 252</sup> The state had to find the funds to balance the budget and Bayh opposed tapping the state's reserve funds.<sup>253</sup>

With both initial tax proposals defeated, Bayh called a special session of the General Assembly to complete the state's budget (HB 1001); in addition to several other taxes, Bayh

proposed an 18 cent cigarette tax increase (from 15.5 to 35.5 cents) to pay for Medicaid and help balance the budget. The budget bill also increased the tax on other tobacco products from 15 percent to 17 percent of wholesale price.<sup>192, 254</sup>

The Senate and House each passed versions of HB 1001 eventually concurring in Conference Committee to pass the budget *without* any new taxes. Governor Bayh vetoed the bill because the cigarette tax provisions had been removed. The General Assembly voted to override the veto.<sup>255</sup> (Indiana only requires a simple majority of both legislative chambers for a veto override making a veto essentially meaningless.) The budget was balanced with approximately \$200 million from the state's reserve funds. In addition to the industry-funded research released by I-TEC and TRAC, Hurst Marshall, Vice President of the Tobacco Institute reported in a memorandum to Roger Mazingo of TI that RJ Reynolds and TI lobbyists were the key to maintaining the support of the Senate Republicans who opposed the bill, which led to the ultimate defeat of the cigarette tax in 1993. The smokers' rights group Protect Us From Flak (P.U.F.F.) also actively opposed the tax.<sup>256</sup>

### ***Tobacco Control Advocates' Activities During the 1993 Tax Campaign***

Tobacco control organizations acted independently of a coalition throughout much of the tobacco tax consideration in 1993. (Although established in 1991, the National Cancer Institute's ASSIST project, which was designed to evaluate policy-based interventions to reduce tobacco use, was just entering the implementation phase of its grant and was focusing on coalition building and outreach to youth through school programs.<sup>257</sup>) Once the Special Session began, the American Heart Association and the American Lung Association actively supported increasing the cigarette tax. Bruce Melchert, Vice President of Government affairs for Methodist Hospitals and member of the AHA Public Affairs Committee, led some of AHA's efforts by contacting legislators and advocating for the passage of the tax. AHA mobilized its members, sending out alerts to its chapters throughout Indiana and asking for them to contact their legislators. David R. Richards, the Chair of AHA's Public Affairs Committee, also sent letters to key members of the legislature and wrote letters to the editor to key newspapers in Indiana, including the *Indianapolis Star*, supporting the Governor's proposal.

Dr. Stephen Jay, then Vice President of Academic and Medical Affairs for Methodist Hospital, joined Governor Bayh at a press conference and spoke on behalf of ALA in support of the cigarette tax increase.<sup>258, 259</sup> Jay also corresponded with key legislators including Senate President Pro Tempore Robert D. Garton (R-Columbus), who was influential in the defeat of the cigarette tax, and advocated throughout the Special Session and post-Special Session in favor of the tax. Joe Caparo, then Smoking, Environmental and Legislative Activities Manager for ALA, was also a vocal supporter of the tax and was quoted in the media throughout the state.<sup>232, 260</sup> While the academic medical community supported tobacco control policies such as tobacco tax increases, they did not succeed in increasing the cigarette tax until 2002.

## AMERICAN STOP SMOKING INTERVENTION STUDY (ASSIST)

### Creation of ASSIST

The National Cancer Institute (NCI), in collaboration with the American Cancer Society, created and funded the American Stop Smoking Intervention Study (ASSIST) to evaluate the efficacy of public policy interventions to reduce tobacco use.<sup>31</sup> As opposed to the individualized smoking cessation programs, NCI in the early 1980s began focusing on large scale, community-based intervention studies. ASSIST was a follow-up to the Community Intervention Trial for Smoking Cessation (COMMIT) which NCI implemented from 1986 until 1992 to evaluate the abilities of community intervention at behavioral and institutional level to promote smoking cessation. (Indiana did not have a COMMIT project.<sup>31</sup>)

COMMIT only found small effects, which NCI attributed to its small scale and focus on smoking cessation as opposed to community-level policy change. To ensure that a thorough, community-based focus took root, NCI partnered with ACS, which had extensive local chapters throughout the country that provided an established infrastructure for organizing communities. ACS signed a memorandum of understanding with NCI to contribute 15 percent of the amount NCI funded each ASSIST state with annually and agreed to participate in the study for seven years, an unprecedented scope for a tobacco control program.<sup>31</sup>

Thirty five states submitted applications to NCI and 17 were awarded ASSIST contracts.<sup>31</sup> Each of the 17 states was required to establish a formal public-private relationship between the state health department and their state ACS chapter. The state health departments were the recipients of the grants and (Table 19) and implementation of the program. ASSIST formally began in 1991 and was divided into a planning phase for the first two years followed by an implementation phase for the following five years. The planning phase was a time for the states to plan comprehensive programs and to galvanize coalitions.<sup>31</sup>

The Indiana State Department of Health (ISDH) submitted a successful application. ASSIST was initially housed in the ISDH Division of Health Education, which was directed by Roger McClain who served as the initial ASSIST Project Director. Kelly Alley, also of the Division of Health Education, served as the Project Manager and was intimately involved in planning and implementing the program. McClain and Alley co-wrote the application to NCI for the Indiana ASSIST project and procured letters of support from public health and community organizations from throughout the state (Table 20).<sup>261</sup> Marie Crist was the first ACS coordinator for the ASSIST project (supervised by Rick Whitten, also of ACS). ISDH received the NCI grant and distributed grants to the statewide and local coalitions.<sup>262</sup>

**Table 19:** Annual NCI Funding to Indiana ASSIST<sup>263</sup>

	1991	1992	1993	1994	1995	1996	1997	1998*	Total, 1991-1998
Available Funding (Grant + Carryover)	\$432,043	\$443,431	\$757,105	\$1,106,536	\$1,524,265	\$1,571,806	\$1,799,602	\$1,237,358	\$8,872,146
Spent by IN ASSIST	\$58,452	\$208,779	\$392,607	\$725,605	\$963,529	\$972,169	\$1,084,263	-	\$4,405,404

\*ASSIST was only planned through 1997 originally but NCI extended funding for one additional year. Amount expended in 1998 was not available.



***The ASSIST Coalitions***

A primary facet of ASSIST was the mobilization of localities around tobacco control policymaking. ASSIST focused on coalition building across a wide array of groups which included hospitals, schools, faith-based groups, cultural organizations and neighborhood associations.<sup>264</sup> The ASSIST team at ISDH, along with ACS, formed five coalitions in different regions of the state based on the following criteria: The most populous regions in the state; minority population levels which were disproportionately affected by tobacco use; preexisting health coalition infrastructure (though none of these regions had notable tobacco control organization at the time of ASSIST’s inception); and geographic location. Coalitions were established in Allen County (Northeast), Lake County (Northwest), Elkhart County (North Central), Vanderburgh County (Southwest), Marion County (Central) which contained the capital, Indianapolis. An executive committee made up of members of each coalition as well as ISDH and ACS governed each coalition. Each of the regional coalitions were united under a statewide coalition based in ISDH, which held statewide meetings so that each of the regional coalitions were in communication with each other and with the state coalition.<sup>261</sup>

**Table 20: Partners and Collaborators of Indiana ASSIST<sup>112, 261</sup>**

American Heart Association, Indiana Affiliate (AHA)
American Lung Association of Indiana (ALA)
American Red Cross , Indianapolis Area Chapter
Evansville-Vanderburgh County Health Department
Goshen Community Smoking Awareness Project
Healthy Cities Indiana
Indiana Association of Health Educators
Indiana Federation of Communities for Drug Free Youth, Inc.
Indiana Hospital Association
Indiana Planned Approach to Community Health (PATCH)
Indiana State Medical Association (ISMA)
Indiana Teen Institute (ITI)
Indianapolis Alliance for Health Promotion (IAHP)

The ASSIST coalition became the major organizational foundation for tobacco control work in Indiana in the 1990s, beginning with a 1991-1993 planning and organizing stage. ASSIST marked the first establishment of real working coordinated tobacco control coalitions throughout the state, united by funding and a common mission. The ASSIST coalition structure was the natural evolution of the 1987 Indiana Campaign for a Tobacco-Free Society which advocated for clean indoor air law. Indeed, the ASSIST project and the tobacco control coalition that emerged at times used the name the Indiana Campaign for Tobacco-Free Communities. Kelly Alley recalled in a 2009 interview, “there was nothing like that prior to the ASSIST project, nothing. The voluntaries [ACS, AHA, ALA] were doing their parts individually related to tobacco control, but ... prior to ASSIST, there was not a state-level coalition and there were not regional coalitions organized to work on policy. And, I think the regional coalitions were incredibly powerful.”<sup>112</sup> With ASSIST came the necessity of learning to work together. From the outset of ASSIST, ACS actively served in a leadership role (as was required because ACS was a national partner with NCI). ALA was an active participant from the beginning as well. AHA became heavily involved toward the end of the 1990s at the time of the Master Settlement Agreement.<sup>112</sup>

## ***ASSIST Goals***

ASSIST's goals were: 1) promoting smoke-free environments; 2) countering tobacco advertising; 3) limiting tobacco access and availability; 4) increasing tobacco prices through new excise taxes.<sup>265</sup> One of ASSIST's goals specific to Indiana was to reduce smoking prevalence from 31.0 percent to 17.7 percent between 1991 and 1998 (ASSIST's planned duration).<sup>266</sup>

In 1995, Indiana native Karla Sneegas, who had been Project Manager for South Carolina ASSIST and the Executive Director of the Alliance for a Smoke-Free South Carolina, returned home to chair the Indiana ASSIST State Steering Committee, becoming one of the lead figures in the state. In addition to the programmatic leadership from Project Manager Kelley Alley, the Steering Committee included representatives of the other groups active in the statewide coalition (Table 21).

## ***Key Activities***

Much of ASSIST in Indiana revolved around preventing youth access to tobacco products in the hopes that doing so would deter youth from starting to smoke by focusing on schools and universities. In 1993, the ASSIST coalitions began to assess school policies to determine which schools allowed smoking areas and which schools were smokefree. The Northwest ASSIST coalition in Lake County targeted 24 of 46 schools there through direct contact with school boards from coalition leaders as well as organizing youth around smokefree issues, to go make their schools smokefree for both faculty and students.<sup>268, 269</sup> The Fort Wayne-based coalition organized youth to publicly pledge that they would not smoke if they were offered cigarettes in efforts to curb the appeal of smoking among youth.<sup>270</sup>

ASSIST organized multi-cultural conferences on tobacco control such as one in Gary in 1995 that was part of the project's goal of developing diverse coalitions of tobacco control advocates.<sup>271-273</sup> The coalition also used earned media with public activities designed to advocate for voluntary smokefree environments and influence a cultural shift away from tobacco use. In 1995, the Northwest ASSIST coalition organized a mock funeral for tobacco in the form of a New Orleans-styled jazz funeral procession which coincided with the annual World No Tobacco Day and in 1996 the Fort Wayne coalition formed a memorial wall of local people who were killed by tobacco use.<sup>274, 275</sup> Each of these projects, though not directly connected to passing laws, contributed to ASSIST's goal of building coalitions and shifting social norms regarding tobacco use.

Through youth organizations such as ASTING (A Smoking Teen Is Not Good) and Teens Concerned About Tobacco, which were organized by local ASSIST coalitions, teenagers tested the effectiveness of restrictions on youth access to purchasing tobacco products from vending machines and from stores. State law required that cigarette vending machines be placed

**Table 21:** Indiana ASSIST State Steering Committee, 1995<sup>267</sup>

Karla Sneegas, <i>State Chair</i>
Brian Lucas, <i>Vice Chair</i> , Indiana Teen Institute
Connie Malave, <i>Program Services</i> , Indiana University
Joe Caparo, <i>Policy Services</i> , American Lung Association of Indiana
Fran Richards, <i>Media</i> , American Heart Association
Mary Holtsclaw, <i>Secretary</i> , Indiana Prevention Resource Center

in establishments which did not allow the entry of people under 18 years old and over-the-counter sales to anyone under 18 were illegal (discussed in later sections). However, the state often failed to enforce these laws. Youth could often purchase cigarettes and ASSIST used the findings to directly confront the establishments about their violations and used the media to engage the public. These confrontations reportedly led to greater compliance with the state law but also generated greater opposition from the tobacco industry, which sought to shut down independent unannounced inspections of retail establishments with legislation between 1994 and 1997 (discussed below).<sup>276</sup> There is no evidence that ASSIST's operations led the state to enforce the law more vigorously.

These ASSIST-sponsored youth coalitions distributed cigarette box-shaped flyers to provide store managers and their employees with printed reminders that it was illegal to sell tobacco products to people under 18.<sup>277</sup> The coalition also conducted youth access conferences which brought together youth, law enforcement, prosecutors and coalition members to discuss and strategize how to coordinate sting operations and how to minimize youth access to tobacco.<sup>278</sup> It is unknown what substantive results came from these efforts.

ASSIST also held public events in 1996 advocating for a federal law to give the U.S. Food and Drug Administration (FDA) authority to regulate tobacco. ASSIST held rallies throughout Indiana protesting tobacco industry billboard advertisements, including an R.J. Reynolds Camel cigarette advertisement featuring the cartoon Joe Camel they argued targeted youth. The youth at this particular rally were joined by Indiana Attorney General Pamela Carter (D), who spoke against tobacco industry marketing tactics that targeted youth. This event received substantial press coverage for ASSIST and Indiana's growing tobacco control movement.<sup>279, 280</sup>

ASSIST also advocated raising Indiana's cigarette tax and for local clean indoor air ordinances. After a failed attempt at raising Indiana cigarette tax in 1993, ASSIST leadership urged its members and local coalitions in subsequent years to discuss the importance of an increased cigarette tax with legislators and asked local organizations to adopt resolutions on the need for cigarette taxes. The Northeast Coalition was also active in passing the Fort Wayne Clean Indoor Air ordinance in 1997 (discussed below).<sup>281</sup>

### **Tobacco Industry Response to ASSIST**

The tobacco industry was keenly aware of ASSIST and considered it a serious threat well before it was officially launched in 1991.<sup>282</sup> ASSIST was one of the most extensive and highest funded tobacco control programs ever created up to that point and its ultimate objectives were the implementation of tobacco control policy and decreasing smoking rates. The tobacco industry and its allies kept a close watch on ASSIST during the program's planning phase. In particular, ASSIST in Indiana fought hard against the tobacco industry's advocacy for the preemption of localities to pass stronger laws than the state regarding the sales, distribution and display of tobacco products. In response, that the tobacco companies took more aggressive steps to block ASSIST in the mid-1990s when it started actually working to implement tobacco control policies..

The Tobacco Institute led the tobacco industry opposition to ASSIST, with active support from the industry's ally organizations. Joseph Lackey of the Indiana Retail Grocers Association, Mike Pitts of the Indiana Petroleum Marketers and Convenient Stores Association, John Livengood of Indiana Restaurant Association and Grant Monahan of the Indiana Retail Council were among the tobacco industry allies who frequently worked to interfere with the operations of ASSIST.<sup>112</sup>

### *Allegations of “Illegal Lobbying”*

A common tactic used by the tobacco industry to interfere with ASSIST was the use of claims that ASSIST coalitions were involved in “illegal lobbying.”<sup>283-286</sup> The industry and its allies asserted that government employees could not “lobby” and that they were using government funds in their illegal lobbying practices. (This argument ignores the fact that government employees routinely – and legally – must communicate with policy makers to develop and implement every government program, including programs to promote public health by reducing tobacco use.) This was an argument put forth by the tobacco industry and industry allies and front groups in each of the ASSIST states as part of systematic efforts to disrupt the program.<sup>282</sup> For a 1996 Philip Morris conference call, one of the “Key Questions to be discussed was “Have we achieved desired results of putting the anti- [i.e., anti-tobacco forces] on the defensive regarding ASSIST funding to date?”<sup>287</sup> This assault led the ASSIST National Program Office in 1993 to issue guidelines for its local offices that explained acceptable practices for communicating with legislators. The national ASSIST office concluded that state agencies could not use federal funds to lobby Congress but that they were not restricted from lobbying the executive branches of government on any level or the legislative branches of government at the state and local level.<sup>283</sup>

TI continued in its attempts to restrict state ASSIST projects from communicating with policymakers, citing the 1994 Federal Acquisition Streamlining Act legislation that (thanks to industry lobbying) prohibited the use of federal funds from being used to lobby at the local level.<sup>283</sup> The new legislation only affected government contracts issued after October 1, 1995, four years after ASSIST began. ASSIST was free to focus its efforts on influencing policy and encouraging its coalition members to lobby their legislators on particular issues. Moreover, Indiana's lobbying laws do not restrict public employees from lobbying activities as long as those activities are within the scope of their duties, though they cannot be registered lobbyists (Indiana Code 2-7). State employees working for ASSIST were within their established duties while educating policy makers.

Despite the legality of ASSIST's advocacy work, the tobacco industry and its allies continued its attacks on the program, alleging illegal lobbying practices. Kelly Alley recalled in a 2009 interview:

[The tobacco industry-affiliated lobbyists] worked really hard ... to get the ASSIST staff who were affiliated with state government in trouble for being at the State House or for talking to people, and would say that we did things that we didn't do. They ... [would] say we were down at the State House lobbying when we might have been asked to testify... They would feed it to the media and to the folks within our State Health Department, and to the Governor's

office... Somehow it would all get back... I can remember a time sitting in the gallery... talking to a personal friend of mine... on my lunch hour and I got back to work at the Health Department and they said, "You were seen over at the State House."... There were eyes and ears on all of our staff all the time. It was just amazing.<sup>112</sup>

As a result of the onslaught of accusations from the tobacco industry, ASSIST staff, who were state employees, began to focus less on direct advocacy and instead relied more on their coalition members from private organizations to lead the lobbying activities in an effort to avoid allegations of "illegal lobbying."<sup>112</sup>

Despite this pressure from the tobacco industry, the statewide coalition continued to grow and provided the impetus for a greater focus on tobacco control advocacy in Indiana. The state coalition by 1996 often appeared in the media as the Indiana Campaign for Tobacco-Free Communities rather than as ASSIST.

### ***Tobacco Industry Gears Up at the Local Level***

Following ASSIST's launch and tobacco control advocates' efforts to form strong grassroots coalitions for advocacy, the tobacco industry began focusing on developing local forces as well by funneling money to develop their own local coalitions. In 1994, Philip Morris and R.J. Reynolds launched what was briefly referred to as "Plan 1" in an internal memorandum from Kurt L. Malmgren, the Tobacco Institute's Senior Vice President of State Activities, to other state activities personnel such as Roger Mozingo. The principles of Plan 1 were for Philip Morris and R.J. Reynolds to establish field coordinators in conjunction with a TI local coordinator to follow local ordinance proposals and to organize industry resources to fight local battles.<sup>288</sup> TI hired Toby Spangler, R.J. Reynolds' local smokers' rights organizer, to be TI's local coordinator in Indiana and increase the industry's monitoring and involvement in local activity. TI also began budgeting thousands of dollars each year to local activities, further indicating the industry's increasing attention on the local level.

### **The ASSIST Contract Moves to Ball State University**

Although ASSIST was located initially in the Indiana State Department of Health (ISDH), the state agency was not friendly to its mission. The Indiana State Health Commissioner at the time, John (Chris) Bailey, who was reportedly a chain smoker opposed to tobacco control efforts, did not want ISDH talking about tobacco issues. As a result, the ASSIST team often ran into resistance when trying to implement programs. ISDH also resisted hiring employees for the project, which was frequently subjected to hiring freezes even though the money was from the federal National Cancer Institute, not the state of Indiana.<sup>112, 232, 289, 290</sup>

In an effort to continue the ASSIST program in an effective and unrestrained manner, the ASSIST team managed by Kelly Alley, along with the Steering Committee, subcontracted the NCI ASSIST contract to Ball State University beginning in 1997 and established an organizational structure with professors at Ball State providing oversight and guidance for the program.<sup>291, 292</sup> Jim McKenzie, the first Ball State Project Director, was succeeded by Jeffrey Clark in 1999. Alley remained the Managing Director and, as part of an effort to clarify the work

and mission of the organization, ASSIST took the name Smokefree Indiana. The decision to outsource ASSIST allowed the state to continue receiving the NCI grant money and benefiting from the publicity of being a part of the program, and simultaneously freed the organization from the active obstruction from the ISDH, which remained largely uninvolved.<sup>112, 289</sup>

## ***Conclusions***

ASSIST made significant progress developing coalitions which provided the precursor to the high level of local organization following the formation of the Indiana Tobacco Prevention and Cessation Agency (ITPC) in 2000. ASSIST was the first conception of what a large-scale tobacco control program could look like. Indiana's earlier tobacco coalitions had been nominal unfunded collaborations; ASSIST established a new, community and coalition-based model for addressing tobacco use with goals which ultimately were reflected in CDC's 1999 *Best Practices for Comprehensive Tobacco Control Programs*<sup>1</sup> and created the first significant state and local tobacco control coalitions. One of the largest early components of ASSIST's programs in Indiana was focused on youth outreach but throughout the life of the program, the work of the coalitions evolved to other tobacco control issues such as youth access, advertising practices of the tobacco companies and increases to the tobacco tax. Kelly Alley remembered in 2009 that before ASSIST there was little focus on tobacco control within government and a lack of communication between state agencies and legislators regarding effective tobacco control policies. Legislators who introduced tobacco control legislation before ASSIST had little support and few resources from advocates and health agencies in the government.<sup>112</sup> ASSIST changed that situation.

Despite successes with coalition building, ASSIST did not accomplish many tangible successes in passing policy. A major campaign spearheaded by Governor Bayh to increase the state cigarette tax in 1993 failed, possibly as a result of a lack of organization by tobacco control advocates. Indiana's tobacco tax was not increased once during ASSIST's eight years despite being one of the program's goals. The coalitions were also unsuccessful in fighting off a major push from the tobacco industry to get the General Assembly to preempt local regulation of sales, distribution and display of tobacco (discussed later). The only major clean indoor air policy success was in Fort Wayne in 1998 (also discussed later) toward the end of the project and represented a maturing of tobacco control advocates in the state.

## **YOUTH ACCESS LAWS**

### **History of Youth Access Laws**

#### ***Minimum Age***

Indiana began enacting laws to limit youth access to tobacco as early as 1893 when the Indiana General Assembly passed a law that made the sale or distribution of any tobacco product to any person under 16 years old a misdemeanor. Violations of the law carried a fine of between \$10 and \$100 and an imprisonment in county jail for between 10 and 30 days.<sup>293</sup> In conjunction with the temperance movement against alcoholic beverages that emerged in the late nineteenth century as well as the broader Progressive Movement, 15 states, including Indiana, enacted laws

which regulated cigarettes, some of which passed complete prohibitions.<sup>294</sup> Indiana enacted SB 51 in 1905 made it a misdemeanor offense for any person of any age to manufacture, sell, exchange, barter, give away or even possess cigarettes, cigarette papers, or cigarette wrappers and carried a fine of between \$25 and \$50 for first offenses.<sup>295</sup> As historians recount, the law was expected to fail in the House but passed after a dramatic speech by Rep. Ananias Baker who opened a sealed envelope given to him by the Tobacco Trust, the dominant tobacco company of the early twentieth century, with instructions to vote against the bill; the envelope contained a \$100 bill. So as to not appear to be bought out by the tobacco industry, the House instead passed the law.<sup>296</sup>

Many mocked the law; one of the first violators was a Chimpanzee named Jocko Dooley whose gimmick was smoking 200 cigarettes per day.<sup>297</sup> The law, according to newspapers at the time, did not deter smoking because it was unenforced.<sup>298</sup> In 1905 the General Assembly also passed an “Act Defining Delinquency in Children” which made smoking cigarettes a misdemeanor for children under 16.

In 1909, much of the law prohibiting the sale or possession of cigarettes was repealed, leaving only the provisions that applied to the sale of cigarettes to minors slightly altered from the 1893 law. In 1913, the General Assembly went further and enacted SB 372, a supplemental youth access law, which made it illegal for a person under age 21 to purchase or possess cigarettes.<sup>299-301</sup> In 1973 the age restriction on the purchase and sale to minors was reduced from age 21 to age 18 and in 1977 as part of an Indiana State Code re-codification, the legal restrictions regarding sales of cigarettes to minors were dropped entirely.

After three years of attempts to reinstate a youth access law, SB 360 passed in 1980 which made it a crime to knowingly sell tobacco to someone under 13.<sup>179</sup> This law was amended in 1983 when the Legislature made it illegal to sell tobacco to anyone under 16.<sup>300</sup> Finally in 1987, the Indiana General Assembly passed SB 145, authored by Sen. Patricia Miller (R-Indianapolis) which made the legal age for purchasing tobacco products 18 years old and carried a penalty of up to \$500 to the seller for violating the law.<sup>186, 302</sup> AHA and ALA publicly supported the bill. All sworn police officers were authorized to enforce the law but because no specific agency was given the responsibility, the law was rarely enforced.<sup>303</sup>

### ***Sampling***

Although not included in the law, SB 115, as originally introduced by Sen. Miller, Sen. Virginia M. Blankenbaker (R-Indianapolis), at the request of ALA, she introduced an amendment which would have made it illegal to “otherwise distribute” tobacco products to anyone under 18.<sup>304</sup> Blankenbaker’s original version of SB 115 would have prohibited public “sampling” of free tobacco products, promotional sampling that tobacco companies used to generate new business. Bill Trisler of TI reported in a memorandum that although the bill was not defeated, TI was successful because they were able to remove language that would have placed restrictions on sampling.<sup>305, 306</sup>

TI was successful in removing the sampling language from SB 145 in 1987, which established the legal tobacco purchasing age as 18, but restrictions on sampling were an issue

that had support in the legislature and it was not going away. Following the defeat of the sampling language in 1987, Sen. Steven Johnson (R-Kokomo) introduced SB 235 in 1988 to prohibit the distribution of tobacco products to people less than 18 years old.<sup>187</sup> TI was concerned that an amendment restricting the use of vending machines would be added and reported that they were successful in ensuring that such a provision was not introduced.<sup>307</sup> The Smokeless Tobacco Council (STC) created advertisements which carried the slogan “It’s Our Responsibility” and sent them to the members of the Senate Rules Committee that was hearing SB 235 as well as to newspapers in Indianapolis and Gary.<sup>308</sup> STC’s advertising campaign argued that “the home is the place where guidance of youth begins,” not in the legal system.<sup>309</sup> Nevertheless, the Legislature and Governor Orr supported the sampling bill, which was enacted, making free giveaways of tobacco products to anyone under 18 illegal. It is unclear if and how the health groups were involved in advocating for this law.

### ***Vending Machines***

Another youth access restriction effort was a law to restrict the location of cigarette vending machines so that they could not be accessed by those under the legal minimum age for smoking. In 1990, HB 1224 authored by Rep. Donald W. Dean (R-Bloomfield), prohibited cigarette vending machines everywhere except in licensed establishments such as bars that did not permit people under 18 years old to enter, private clubs where membership was restricted to people at least 18, in industrial or office settings only accessible to people at least 18 years old, or in places where the machine was operated by an employee of at least 18 years of age directly or through a remote control.

This bill was supported by the Indiana State Medical Association as well as Woodrow Myers, the Indiana State Health Commissioner.<sup>310</sup> The American Cancer Society, American Heart Association and American Lung Association also supported other similar legislation to restrict the location of vending machines. The Indiana Vending Council, a frequent tobacco industry ally, opposed such legislation.<sup>311</sup> It passed and Governor Orr signed it on March 26, 1990.<sup>189</sup> Despite the successful passage of HB 1224, laws restricting the location and usage of cigarette vending machines were largely ineffective in preventing youth access to cigarettes and were often supported by the tobacco industry because they were ineffective.<sup>312</sup>

### ***The Synar Amendment***

Youth access to tobacco products remained among the top tobacco control issues in Indiana in the early 1990s for both tobacco control advocates and the tobacco industry. This priority of youth access to tobacco was not unique to Indiana. Indeed, most states were concerned with limiting youth access after U.S. Rep. Mike Synar’s (D-OK) provision in the 1992 Alcohol, Drug Abuse and Mental Health Administration (ADAMHA) Reorganization Act, termed the “Synar Amendment,” required each state to enforce laws and compliance standards which prohibited the sale of tobacco products to any person under the age of 18.<sup>313</sup> States were required to conduct random, unannounced inspections of tobacco retailers to ensure their compliance with the sales restrictions. States were to then file those results with the U.S. Department of Health and Human Services (DHHS). The states’ Federal Substance Abuse Prevention and Treatment block grants from the Substance Abuse and Mental Health Services



Administration (SAMHSA) were contingent upon the compliance with the Synar Amendment, which allowed DHHS to reduce SAMHSA grants by up to 40 percent for states that did not comply with the Synar Amendment, creating a powerful incentive to address youth tobacco sales.<sup>314</sup>

Although the Synar Amendment was enacted in 1992, DHHS did not release the implementing regulation specifying what states were required to do until 1996. In 1996, DHHS explained that states were required to have a new or already existing youth access law prohibiting the purchase of tobacco products by people under 18 years old and that states were required to reach a 20 percent compliance rate for unannounced inspections of tobacco products sellers within seven years.<sup>315, 316</sup> The long delay in DHHS's explanation and the ultimately weak regulations were the result of tobacco industry efforts to undermine implementation of the Synar Amendment. The industry exploited this three and a half year period of ambiguity to influence states to pass weak preemptive tobacco control laws in several states, including Indiana.<sup>313, 314, 317</sup>

### ***Youth Access Enforcement***

In 1999, HEA 1104 (P.L. 177) gave the Alcohol and Tobacco Commission (ATC) and its enforcement body, the State Excise Police, the power to investigate and enforce violations of the state youth tobacco sales laws.<sup>318</sup> Previously, ATC was primarily responsible for conducting unannounced inspections of tobacco retailers to test the compliance of the state's youth tobacco sales law (as required by the Synar Amendment). These inspections were conducted on behalf of the Indiana Division of Mental Health (DMH) within the Family Social Services Administration (FSSA) which was given the responsibility of coordinating the unannounced inspections with the enactment of P.L. 256 (SEA 106), in 1996.<sup>319</sup> The compliance data collected was then reported to the federal government as required by the Synar Amendment. In 1999, HEA 1104 gave ATC the power to enforce the law, not simply to inspect for retailers' compliance with the youth tobacco sales laws.

HEA 1104 also established the Youth Tobacco Education and Enforcement Fund (renamed the Richard D. Doyle Youth Tobacco Education and Enforcement Fund in 2003) where funds generated from youth tobacco law violations were deposited for three purposes: One third of the money was to be used for youth smoking prevention education which could be contracted out to either ISDH or the FSSA, one third for educating and training retailers selling the tobacco products regarding the law, and one third for the Alcohol and Tobacco Commission for enforcement.<sup>318</sup>

HEA 1104 also made the owner of establishments liable for violations of the state's restrictions on cigarette vending machines, whereas the earlier law only held the clerk responsible. The law also made it illegal for any youth to enter a store whose sales were primarily from tobacco products, and stated that tobacco billboard advertisements were illegal, an affirmation of the provision the cigarette companies agreed to in the 1998 Master Settlement Agreement.<sup>318, 320</sup>

ACS, AHA, ALA and Smokefree Indiana actively supported the law.<sup>321</sup> Smokefree Indiana in particular continued to make youth access one of its primary issues. ACS and AHA for the first time hired government affairs staffers who registered as lobbyists to work on tobacco control. ACS retained Charlie Hiltunen as a contract lobbyist in 1997 and kept him on retainer to work with legislators to pass HEA 1104. Brad Burk, former Director of Government Relations for Indiana ACS, recalled in 2010 that the use of registered lobbyists (both internal and contract) provided a new and invaluable resource. According to Burk, having lobbyists “brought a day-to-day presence at the capitol, with a working knowledge of the system and advocacy [and] political campaigns.”<sup>321</sup> It was the transition to using lobbyists (discussed in later campaign sections) in conjunction with grassroots advocacy that facilitated passing HEA 1104.

The public health groups wanted ATC, which had the excise police as its enforcement arm, to be the designated enforcement body because they felt that it would provide better enforcement than the Indiana State Department of Health (ISDH). Burk explained that there was also lingering distrust of ISDH after the Department’s prior interference with tobacco control programming during the ASSIST project and tobacco control advocates questioned whether ISDH would actually enforce the law.<sup>322</sup>

In 2003, ATC’s powers were again expanded by HEA 1738 (P.L. 250) which gave ATC the power to regulate the sale, possession and distribution of tobacco products. HEA 1738 required, for the first time, retailers that sold tobacco products be licensed by the state. Selling tobacco products without a certificate became a Class A infraction which carried a penalty of up to \$10,000. ATC had to power to suspend tobacco sales certificates if violators failed to pay their violation penalties, providing a powerful incentive for retailers to follow the law.<sup>5, 323</sup>

Indiana reported that 40.9 percent of youth who tried could buy tobacco products in 1996 in the midst of ASSIST, a time when no agency was directed to enforce the law and it was largely ignored by the state.<sup>303, 324</sup> With ATC as the active enforcement body for Indiana’s youth access law and with ATC’s collaboration with the Indiana Tobacco Prevention and Cessation Agency (ITPC) (which funded ATC’s youth access enforcement from FY 2001 to FY 2009), Indiana decreased its non-compliance rate to 5.6 percent in 2009 (discussed in later sections).<sup>325</sup>

### ***Tobacco Industry Youth Access Programs***

Youth access laws and programs were believed by policy makers and many public health advocates to be an effective method for curbing youth tobacco use. Unfortunately, studies have shown that while stronger youth access laws can decrease the ability of youth to purchase cigarettes, they do not decrease the youth smoking prevalence<sup>109, 326</sup> because youth simply get their cigarettes elsewhere.

To displace aggressive implementation and enforcement of youth access restrictions and tobacco control generally, the industry developed its own “youth smoking prevention” programs, many of which featured nominal efforts to restrict youth access to tobacco products.<sup>327, 328</sup> The tobacco industry introduced these programs in virtually every state; each program was presented as youth smoking prevention but, in reality, sought to prevent the passage of strong policies to reduce youth smoking by making them appear unnecessary.<sup>329</sup> In 1990, the Tobacco Institute

(TI) launched the “It’s The Law” Program in Indiana (and throughout the rest of the U.S.) in what the Indiana Retail Grocers Association called a “new customer/employee awareness program,” which consisted of “colorful blue, orange and white signs, door decals and window displays stating: „It’s The Law: We do not sell tobacco products to persons under 18”” in addition to a brochure for employees to read and an Employee Acknowledgement Form to sign.<sup>330</sup> TI coordinated press conferences for its allies to publicize the new program and issued a draft press release for its members to use.<sup>331</sup> The cosponsors of “It’s The Law” in Indiana were Paul Scali of the Indiana Tobacco-Candy Distributors and Vendors Association, Grant Monahan of the Indiana Retail Council, and Joseph Lackey of the Indiana Retail Grocers Association.<sup>332</sup> “It’s The Law” also served as a tobacco industry ally coalition that could provide the industry with information regarding local policy efforts that the industry might have overlooked.<sup>109</sup> The tobacco industry began dedicating even more efforts to its “youth smoking prevention” programs after the launch of the ASSIST project in 1991.<sup>282</sup>

The tobacco industry launched a variety of similar programs throughout the country, some of which, such as the Philip Morris “We Card” program, reached prominence in Indiana. In 1997, Philip Morris organized the “We Card State Coalition” in Indiana which was comprised of the Indiana Retail Council, Indiana Oil Marketers Association, Indiana Grocers and Convenience Store Association, Indiana Tobacco-Candy Distributors and Vendors and the Indiana Restaurant Association, most of the same major allies of the tobacco industry for the previous twenty years.<sup>333</sup>

In 2000, John S. Keeler, an attorney with Baker & Daniels, the local law firm of Philip Morris, explained in a letter to Derek Crawford, Regional Director of State Government Affairs for Philip Morris that “The advantage of advocating Philip Morris’ position on YSP [Youth Smoking Prevention] and the allocation of MSA dollars was that it put Philip Morris and us, as consultants, in a very positive light and proactive position.”<sup>334</sup> Considering the motivation of the tobacco industry to be viewed positively, compounded by the fact that youth smoking prevention and youth access programs did not decrease youth smoking rates, it is understandable that the tobacco industry was supportive of such routes for implementing tobacco control. However, in 2000 it was not clear that that youth access laws were largely ineffective<sup>109, 326, 327, 335</sup> usages of money and many tobacco control advocates still supported them.

## ***Conclusions***

In the late 1980s and early 1990s, Indiana passed several pieces of legislation to increase the age restrictions on purchasing tobacco products from 16 to 18, to restrict the sampling and distribution of tobacco product samples and promotions to minors, and prohibit the use of cigarette vending machines except in select exempted locations and circumstances. This influx of new legislation was part of the state’s attempts to limit the accessibility of tobacco products to minors and was part of a national trend. The 1992 Synar Amendment, requiring states to have a law prohibiting tobacco purchases to minors, created a national impetus for youth access tobacco control legislation which was exploited by the tobacco industry. The tobacco industry launched its own youth smoking prevention programs throughout the 1990s. In Indiana, programs such as “It’s the Law” and “We Card” were sponsored by the tobacco industry’s front groups which allowed for the tobacco industry to profit from positive media attention and to create distractions

from the growing efforts to pass more aggressive laws to make it difficult for youth to obtain tobacco products and undermine tobacco control programs generally.

## **Preemption Battles Over Tobacco Sales**

### ***The Tobacco Industry Pushes for Preemption, 1994-1995***

In Indiana, as ASSIST became increasingly more organized and focused on restricting youth access to tobacco, the tobacco industry increasingly concentrated its efforts on passing a preemptive statewide law to remove local governments' power to regulate the sales, distribution or display of tobacco products. Beginning in 1994 the tobacco industry began advocating strongly in the Indiana General Assembly for an "ADAMHA" (Alcohol, Drug Abuse and Mental Health Administration Reorganization Act) bill on the (incorrect) grounds that Indiana had to pass legislation to comply with the Synar Amendment. The tobacco industry planned to use such a bill to enact preemption language that would derail ASSIST's local efforts to regulate tobacco. In its "State Activities Division 1995 Action Plan," TI identified Indiana as a target for pushing through ADAMHA preemption language.<sup>336</sup>

The Tobacco Institute had two tobacco industry-endorsed bills in the General Assembly in 1994 (SB 242, HB 1391) which contained preemption of local tobacco sales as well as local smoking restrictions.<sup>337</sup> In a 1994 recap of the legislative session, Hurst Marshall, R.J. Reynolds' lobbyist, write the TI's Roger Mozingo explaining that Governor Evan Bayh (D, 1989-1997), an outspoken opponent of preemption, opposed the industry-endorsed bills and threatened to veto the bill. Marshall indicated that they did not have the support of Democratic leadership in the House which was essential to working with Governor Bayh. Marshall explained that would have been successful in passing SB 242 in the Senate which contained preemption of local restrictions on both tobacco sales and legal smoking locations.<sup>337</sup> Not being able to gain the support of House leadership, both pieces of legislation died in Conference Committee.<sup>193</sup> The tobacco industry failed to get what it wanted; it is unclear what tobacco control advocates and ASSIST were doing during the 1994 session to fight these preemptive proposals.

For the 1995 session, in addition to supporting legislation with preemption, TI used its connections with Senator Johnny Nugent (R-Lawrenceburg), longtime ally who accepted \$1,000 in campaign contributions in the 1993-1994 election cycle, to promote SB 595. Nugent authored SB 595 which introduced smoking restrictions for the dining areas of restaurants and retail areas of grocery and drug stores posted as non-smoking areas, adding minimal areas to the already weak statewide law.<sup>338</sup> SB 595 also gave the Alcohol and Beverage Commission the power to enforce the state's youth access restrictions (there was not yet a designated agency responsible for enforcement).<sup>303</sup> Most important, SB 595 included strong preemptive language; it said the "regulation of the sale, distribution, use, promotion, or display of tobacco product may only be authorized by an act of the general assembly" and that "an ordinance, a bylaw, or a rule of a county, city, or township, or a department, a board, or an agency thereof, or of any other political subdivision or agency of the state ... is void."<sup>338</sup> Repeating a standing tobacco industry justification, Nugent argued that preemption was necessary to enforce uniform law throughout the state to ensure the eligibility of federal funds and grants, i.e., SAMHSA block grants. The

Synar Amendment did not include any such requirement, or even the requirement to enact any legislation.

ASSIST, through its statewide coalition, the Indiana Campaign for Tobacco-Free Communities, actively opposed SB 595.<sup>23, 339</sup> ASSIST held advocacy training sessions in 1995 to teach coalition members how to organize and influence tobacco control policy. One session in April was billed as an opportunity for coalition members to “Identify Policy Opportunities in Your Community. De-mystify How Public Policy is Made. Learn Different Techniques to Change/Create Policy” (Figure 13).<sup>23</sup>

In 1995, a memorandum from TI Regional Director Bob Pruett to fellow TI lobbyist Thomas Fruechtenicht and the tobacco industry ally organization team, which by 1995 included former House Speaker and then-current tobacco industry lobbyist Phil Bainbridge, outlined the industry’s position on SB 595 for the impending committee hearings. Pruett explained that TI and its allies were to argue that “It is a state law and therefore should be enforced with state wide standards not by local community adaptations” and that “By the testimony given by the opponents of this legislation it is obvious they want to be able to use minors in a vigilante type situation to harass Indiana’s businesses [emphasis in original].”<sup>340</sup> Despite TI’s efforts, the Senate did not pass the bill by the deadline to move to the House (known as “crossover”) and the bill died. Pruett, in a memorandum to Michelle Nyman of TI on February 28, 1995, explained that he was

**Indiana ASSIST**  
presents  
**Policy Advocacy Training**

*This training will allow ASSIST coalition members to develop skills and knowledge needed to successfully organize and implement tobacco control policy advocacy.*

**METHODIST OUTPATIENT CENTER**  
Eagle Highlands  
6640 Parkdale Place (38th & 1465)  
Indianapolis, Indiana  
Wednesday, April 26, 1995  
9:00 a.m. - 3:00 p.m.  
Doors open at 8:30 a.m.  
*Lunch will not be provided, however, various restaurants are located on 38th street.*

**Identify Policy Opportunities in Your Community.**

**De-mystify How Public Policy is Made.**

**Learn Different Techniques to Change/Create Policy.**

**REGISTRATION**  
Call Genevieve Charney at  
(317) 541-2084  
Registration closes at 5:00p.m. on  
Tuesday April 25, 1995  
There is no charge for this training.

*Training conducted by Elise Lindborg*

Coalition for a Tobacco-Free Society  
**ASSIST**  
Indiana

2043099934

Figure 13: Indiana ASSIST advocacy training flyer<sup>23</sup>

searching “for a bill that made the crossover to hijack for this purpose.”<sup>341</sup> (“Hijacking” a bill means taking a bill that had passed one house, then amending it in the whole to become a completely new bill, while maintaining the original bill number.)

Once SB 595 was defeated, the tobacco industry started to gather intelligence on what the state was doing to ensure that it was in compliance with the Synar Amendment. Sen. Nugent sent repeated letters to John (Chris) Bailey, Commissioner of Health for the Indiana State Department of Health (ISDH) and to Cheryl Sullivan, Secretary of the Indiana Family and Social Services Administration, the department that received the SAMHSA block grants, at the behest of Philip Morris attorney and lobbyist Phillip Bainbridge.<sup>342-344</sup> Nugent’s letters requested detailed information regarding the use of SAMHSA block grants to conduct unannounced inspections of retailers selling tobacco products, including the disclosure of recipients of SAMHSA funds.

Bainbridge requested copies of Bailey’s response letters from Nugent and offered several suggested follow up letters for Sen. Nugent to send to Bailey and Sullivan.<sup>345</sup> Other tobacco industry allies either wrote or were provided with similar requests to Bailey such as C. Michael (Mike) Pitts of the Indiana Oil Marketers Association, a member of the tobacco industry’s team of tobacco control opponents. These letters seem to have been designed as attempts to make health officials believe that they were not in compliance with Synar and in danger of losing their federal grants.<sup>346, 347</sup> The tobacco industry tried to convince states throughout the U.S. that the Synar Amendment required them to pass new youth access laws (thereby creating an opportunity for the industry to pass a weak preemptive law) or lose their federal funding while, in reality, there was no such requirement.<sup>317</sup>

### ***1996 – SB 106 and HB 1221 – Another Attempt by the Tobacco Industry to Pass Preemption***

Despite its failure to pass preemption, the tobacco industry tried again in 1996. Rep. Jeffrey Linder (R-Waldron), who received \$1,700 in campaign contributions in the 1995-1996 election cycle, introduced HB 1221 which, like the bills introduced in 1995, would have preempted the ability of localities to pass laws restricting the sale, distribution, or display of tobacco products. HB 1221 also would have made it illegal to have the assistance of any person under 18 years of age (minors) in unannounced inspections of tobacco retailers without the accompaniment of a police officer, essentially making it impossible to determine if retailers were selling tobacco to youth. This provision was directly aimed at restricting the ASSIST coalitions which undertook their own organized “sting operations”<sup>348</sup> to document lack of compliance by retailers with youth access laws as a way of building public support for stronger youth access laws and more consistent enforcement of these laws. The tobacco industry labeled these activities “vigilantes.”<sup>349</sup> (In an effort to appear a public health bill, it also contained provisions that would have prohibited smoking in designated non-smoking sections in the retail areas of retail and drug stores or the dining areas of restaurants.) HB 1221 was referred to the House Committee on Commerce and Economic Development.

Sen. Joseph W. Harrison (R-Attica), who received \$4,550 in campaign contributions between 1994 and 2008, authored SB 106. Like HB 1221, SB 106 preempted the ability of localities to pass laws restricting the sale, distribution, or display of tobacco products. SB 106 went beyond HB 1221 by completely prohibiting the involvement of anyone under 18 years of

age in unannounced retail inspections. This provision would have made meaningful compliance checks for merchant compliance with youth access laws impossible. The Division of Mental Health and Addiction within the Family and Social Services Administration (FSSA), not the Department of Health, was to be given the authority to conduct unannounced inspections.<sup>350</sup> This was problematic because the Division of Mental Health and Addiction had no experience enforcing youth access laws and did little such surveillance.<sup>351</sup> SB 106 was heard in the Senate Committee on Agriculture and Small Business chaired by Sen. Johnny Nugent, author of 1995's preemption bill and an established tobacco industry ally. Harrison received a substantial \$2,400 campaign contribution in the following 1997-1998 election cycle. The committee voted "Do Pass" on January 22.

Just under one month earlier, on December 28, 1995, tobacco industry lobbyist Phillip Bainbridge had faxed Scott Fisher of Philip Morris the language for SB 106 that the tobacco industry lobbyists would be supporting, including preemption of local regulation of sale, distribution, use, promotion or display.<sup>352</sup>

Tobacco control advocates in ASSIST advocated against HB 1221 and SB 106. ASSIST received good media coverage of its opposition to the preemption bills, a position many legislators supported. At one point, tobacco control advocates organized about 50 students to protest against preemption at the state capitol.<sup>353</sup> Though SB 106 passed the Senate with no amendments, the House amended SB 106 on February 21, to allow minors to be present in sting operations in the presence of a police officer like HB 1221 provided. The Senate was required to concur with the House amendments for SB 106 to be engrossed and sent to Governor Bayh. The Senate voted against the House amendments to SB 106 31-16 because the majority opposed allowing minors in sting operations.<sup>354</sup> Having passed both houses once, the bill was considered in Conference Committee, where it died.<sup>195</sup>

Tobacco industry lobbyists and front groups, including the Indiana Retail Council and the Indiana Restaurant Association portrayed the bill as necessary to eliminate a "patchwork quilt of local laws," a common tobacco industry argument against local control.<sup>113</sup> Joseph Lackey of the of the Indiana Retail Grocers Association, as part of the national Food Marketing Institute (FMI), co-signed a Tobacco Sales Policy Statement, which offered recommendations for states in regulating youth access to tobacco, in which preemption was listed as the number one characteristic of a good law.<sup>114</sup>

Preemption was unpopular in principle with policy makers because many of their local constituents favored home rule.<sup>355</sup> ASSIST's statewide tobacco control coalition network was vocal in its opposition. Despite the wishes of the health advocates, Governor Bayh hesitated to support the bill with youth involvement in unannounced inspections and preemption, according to Philip Morris lobbyist Philip Bainbridge.<sup>356</sup> According to an email from Scott Fisher to Derek Crawford and several others on the Philip Morris team, the Governor was trying to keep SB 106 away from his desk and that the Attorney General, Pamela Carter (D), was also trying to stop the bill.<sup>355</sup> Cities and towns also vigorously opposed the bill. The industry believed that Governor Bayh was attempting to straddle the issue without taking a definite position. Fisher went on to explain that the tobacco industry had been asked to "give on several issues" in order to get preemption passed: The industry lobbyists would have to agree that "1). No tobacco only stores

(defined by percentage of sales in tobacco) would be permitted within 200' [feet] of any school; 2). Preemption would not be permitted for transient merchants" which were moving vendors not part of stationary stores; "3). No tobacco billboards within 200 feet of schools; and 4). [Maintain] the ability of youth to participate in unannounced inspections of retailers."<sup>355</sup> It is unknown who asked the tobacco industry to "give" on these points and whether tobacco control advocates supported these insubstantial changes.

The Conference Committee left the preemptive language in the bill. The Conference Committee version of SB 106 reflected Scott Fisher's email on which issues they would have to "give on." The changes permitted localities to limit the areas in which "transient merchants" could sell tobacco, prohibited tobacco ads on billboards within 200 feet of a school, and prevented retailers who sold only tobacco from opening new stores within 200 feet of a school. The Conference Committee version of the bill also contained a provision making it a Class C infraction for minors to be in the possession of tobacco products (another provision the tobacco industry supported because it shifted the focus away from the cigarette companies and tobacco retailers and onto youth). The language prohibiting the participation of youth in unannounced inspections was removed.<sup>357, 358</sup>

Although it was not as contentious as preemption, the final version of SB 106 also contained language which expanded the statewide clean indoor air law. The final version of SB 106 made it a Class C Infraction to smoke in "the retail area of a grocery store or drug store that is designated as a nonsmoking area by the store's proprietor; or ... in the dining area of a restaurant that is designated and posted as a the restaurant's nonsmoking area by the restaurant's proprietor."<sup>319</sup> This was a minor extension of the already weak clean indoor air law and there was apparently little disagreement about these clean indoor air provisions. These clean indoor air provisions were possibly added in order to give the bill the appearance of a health bill. In Indiana, once the four member Conference Committee agrees on legislation, the full House and full Senate must each concur with the Committee Report by favorably voting for enrollment. SB 106 passed both chambers of the General Assembly on March 7 and the bill (which became Senate Enrolled Act (SEA) 106) was sent to Governor Bayh.<sup>195</sup>

### ***Governor Bayh Vetoes SB 106***

ASSIST actively encouraged the public to call the Governor to advocate a veto. According to an update written by Shook, Hardy & Bacon, a Kansas City, Missouri law firm representing the tobacco industry, ACS, ALA, and AHA took out advertisements asking members to mobilize and to contact Bayh's office in opposition to preemption. Governor Bayh's office received over 450 calls regarding the bill, most asking for a veto.<sup>359</sup> The tobacco industry's allies continued to push for Bayh to sign the bill into law.

Governor Bayh understood what the preemptive clause of the bill meant to community autonomy, in part because of the public presence of ASSIST communities in opposition to SEA 106. Bayh vetoed SEA 106 to much acclaim from tobacco control advocates. He issued a strongly worded veto message that received national attention and highlighted the elements of the bill that the tobacco industry had attempted to keep in the background.<sup>339, 351</sup> Bayh took on these claims, writing in his veto message:



Clearly, there is more to this than meets the eye ... This bill contains three major substantive provisions the tobacco industry also sought in other states: a ban on cities' and towns' ability to regulate the sale and marketing of tobacco; criminalization of possession of tobacco by minors; and, designation of the Division of Mental Health, an entity with little enforcement experience or capability, to oversee Indiana's efforts to combat teen smoking.<sup>351</sup>

Bayh elaborated on each tenet of his three objections to SEA 106, saying that the preemption of localities in regulating tobacco products was "odd" in that it only restricted one product, questioning if retailers found it difficult to follow varying local rules, why not preempt localities from regulating the sales of all products. Bayh said that he would support the criminalization of possession of tobacco products by minors but not under the shield of a "smoke screen obscuring a very different legislative intent" of protecting tobacco company interests. Bayh also felt that the Indiana State Department of Health should be the enforcement agency for such policy because of its history dealing with inspection and regulation.<sup>351</sup>

Bayh's rationale for veto indicates that tobacco control advocates effectively conveyed these issues to the governor's office. ASSIST honored Governor Bayh with an award in June, 1996 for his veto.<sup>281</sup> SEA 106 returned to the General Assembly where legislators would have the option of letting the bill die or vote to override the veto when it returned in 1997.

### ***The Battle to Uphold Bayh's Veto***

The period between the 1996 and 1997 legislative sessions allowed tobacco control advocates, primarily the statewide ASSIST working through the Indiana Campaign for Tobacco-Free Communities, to mount a campaign to protect Governor Bayh's veto of SEA 106 from a General Assembly override.<sup>339</sup> Several factors put Gov. Bayh's veto at high risk for override. Indiana's constitution required only a simple majority vote for the General Assembly to override a veto (not two-thirds as in most states). 1996 was an election year in Indiana and Gov. Bayh's second term was at an end on January 13, 1997. He could not seek re-election and would be unable to defend his veto in the General Assembly. In addition, because of the elections, there would likely new legislators who had not been present for the 1996 preemption battle who would be deciding the law's ultimate fate in 1997. Moreover, as Bayh noted in his veto message, the power of localities to regulate youth access to tobacco was in question, but local governments had not used that power to date; there were no local laws in place that would be overturned by SEA 106, hurting the tobacco control advocates' arguments that preemption would disrupt local regulation.<sup>339</sup>

The Indiana Campaign for Tobacco-Free Communities mounted a major campaign beginning in September 1996 to protect Bayh's veto. The coalition brought in national advocacy organizations to provide assistance. The newly formed National Center for Tobacco-Free Kids (also known as the Campaign for Tobacco-Free Kids or CTFK) based in Washington, DC (formed with funding from the Robert Wood Johnson Foundation, RWJF) provided funding and technical support to the coalition. In addition, Americans for Nonsmokers' Rights (ANR) based in Berkeley, CA provided access to its Tobacco Industry Tracking Database which allowed Indiana advocates to closely follow the tobacco industry's involvement.<sup>339</sup>

The Indiana Campaign for Tobacco-Free Communities (primarily ASSIST) mobilized tobacco control advocates throughout the state and encouraged members to recruit supporters to strengthen the coalition. Preemption packets were sent to advocates that included the Governor's veto message along with sample petitions for ASSIST members to sign and to be sent to their respective legislators. Advocates also distributed facts about SEA 106 and preemption as well as model resolutions for local governments to pass to manifest a grassroots pressure to preserve local authority over tobacco control.

Lobbyists from ACS, ALA, Indiana State Medical Association (ISMA), Indiana Dental Association, and the Association of Cities and Towns met to establish a cohesive strategic plan for lobbying. The coalition worked to educate media outlets about preemption and the importance of local control of tobacco control. The coalition held press conferences to garner public support for the veto and to expose the involvement of the tobacco industry and its allied front groups from the retail and hospitality industry.<sup>339, 360</sup>

### *The 1997 Legislative Session: The Veto Override*

Approaching the 1997 Legislative Session, the Indiana Campaign for Tobacco-Free Communities challenged legislators to sign a statement pledging “to support local Indiana communities’ rights to regulate tobacco at the local level.”<sup>361, 362</sup> This effort to uphold Gov. Bayh’s veto continued into the 1997 Legislative Session and received support from newly elected Indiana Attorney General Jeff Modisett (D).

Despite this work, the legislature overrode the veto. The tobacco industry’s ally organizations’ lobbyists were out in full force; one anecdote described a health lobbyist talking with an undecided legislator while surrounded by four tobacco industry front group lobbyists, listening and aggressively ready to counter any of the health lobbyist’s comments.<sup>339</sup> Some legislators, particularly the Senate Pro Tempore Robert Garton (R-Columbus), one of the most influential legislators, were particularly supportive of SEA 106. Garton, who received \$9,400 in campaign contributions between 1994 and 2008, was quoted in the Evansville *Courier* saying, “For the first time in our history, we would make possession of tobacco illegal by minors ... I don't understand why the (American) Cancer Society ... and the anti-smoking people want teenagers to be able to possess cigarettes.”<sup>363</sup> Garton used his powerful Senate position to further the preemption agenda, rescheduling the hearing of SEA 106 several times until he secured the necessary override votes.<sup>339</sup> The Senate voted to override on February 12, 1997, followed by the House the following day.

Despite this failure to uphold the preemption veto, this campaign was a turning point in Indiana for tobacco control coalition building. A level of organization among tobacco control advocates on the local, state, and national levels was reached in this anti-preemption campaign that had never been reached before. The ASSIST coalition, which in addition to being adequately funded had gained experience in advocacy and community mobilization in the years since its creation in 1991. The Indiana Campaign for Tobacco-Free Communities had spent time and money reaching out to diverse groups so that they could collaborate in times of policy crisis. This campaign also made use of national advocacy organizations, something that had not been done before. The coalition also had strong leadership from committed tobacco control leaders.

## **Conclusions**

The tobacco industry in the mid-1990s, was focused on passing preemption of local sales, distribution and display of tobacco products in Indiana, and was successful in 1997. Tobacco control advocates, predominantly led by the NCI/ACS ASSIST project, failed to stop preemption despite an organized campaign. However, this failure ultimately provided needed experience to emerging tobacco control advocates that were inexperienced with such campaigns.<sup>70, 339</sup> Whereas earlier advocates were mainly researchers and doctors who sporadically testified and worked with lobbyists and legislators, ASSIST advocates learned how to run a grassroots campaign, recruit members, and communicate with legislators and the public. This experience took time and many active campaigns to accumulate, but by the time of the Master Settlement Agreement in 1998, there was an established tobacco control advocacy coalition in Indiana.

### **CDC's National Tobacco Control Program (NTCP)**

CDC's National Tobacco Control Program (NTCP) was created in 1999 in CDC's Office on Smoking and Health (OSH) and provided annual grants to states to establish coordinated tobacco control programs. Like NCI's ASSIST, CDC NTCP grants were awarded to state health departments. ISDH applied for the NTCP grant in 1999 and was awarded \$824,902 for FY 2000. With the intent of continuing the coalition created under the ASSIST project, ISDH signed another memorandum of understanding with Ball State University to oversee the CDC project, which retained the name Smokefree Indiana.

Coming out of the preemption battles and local clean indoor air work in Fort Wayne which occupied the end of the ASSIST project, Smokefree Indiana's first large campaign as a CDC project coincided with the Master Settlement Agreement (MSA) in 1998. Smokefree Indiana was a co-founder of Tobacco Smart Indiana, the coalition including AHA, ACS, ALA, that advocated for the MSA money to be spent on tobacco control (discussed in later sections). Also as part of the launch of NTCP, CDC's Office on Smoking Health (OSH) in 1999 published its *Best Practices for Comprehensive Tobacco Control Programs*<sup>1</sup> to provide recommended program components and funding models to nascent programs tailored for each state. (CDC released an updated version of *Best Practices* with modified program components and funding levels in 2007.<sup>2</sup>)

### **EARLY LOCAL CLEAN INDOOR AIR POLICY WORK**

While SEA 106 in 1997 preempted local communities from regulating the sale, distribution or display of tobacco products, they remained free to pass smokefree air ordinances stronger than state law. Attempts to pass local ordinances date back to at least 1976, which sought to restrict smoking in elevators and public transportation.<sup>364</sup>

While advocates working at the statewide level came together in an informal coalition, local work was largely uncoordinated.<sup>171</sup> The first clean indoor air ordinance enacted in Indiana was in Bloomington in July 1978. This ordinance prohibited smoking on buses and in elevators and limited smoking in restaurants and grocery stores to designated smoking sections.<sup>365</sup> While there is not a great deal of information available regarding the passage of this ordinance,

Bloomington's ordinance was seen as something of an anomaly throughout the rest of the state. Bloomington, the home of Indiana University, was considered to be "liberal" as compared to the rest of Indiana. This ordinance did not reverberate throughout the state and was not taken to be the beginnings of a public mandate for tobacco control policy.<sup>366</sup>

The tobacco industry remained intimately involved at the local level and actively tracked and opposed proposals throughout Indiana as early as the late 1970s. In January 1981, TI reported in its Tobacco Action Network's Newsletter that, based on a survey conducted by TI, 85 percent of municipalities surveyed in Indiana did not have any sort of restrictions on tobacco use and that there was "very little [emphasis in original]"<sup>115</sup> public demand for such restrictions. TI concluded that their survey results proved that attempts by tobacco control advocates to pass smoking restrictions were not done as a result of a public mandate.

The industry also used its alliances with trade groups and elected officials to influence the outcome of proposals throughout the state. For example, in 1984, TI explained that TAN mobilization and the ability of TI lobbyists to make key contacts on the St. Joseph County Commission allowed the TI's to defeat a proposal to restrict smoking in workplaces.<sup>367</sup> The industry's efforts intensified in the 1990s in response to ASSIST with the intent of increasing industry's coalition base in Indiana.

## **Fort Wayne**

### ***1984-1998***

Fort Wayne, Indiana's second most populous city (after Indianapolis) was the first major Indiana city to adopt a clean indoor air ordinance when, in 1984, the city prohibited smoking in drug stores and grocery stores.<sup>183, 368</sup> In 1986, the Allen County Board of Health (which includes Fort Wayne) passed a resolution calling on the County Commission to pass smoking restrictions for public buildings and sent a copy to the Fort Wayne City Council. By 1988, Allen County had not moved forward with any policy, which, TI Regional Vice President Bill Trisler told Cathey Yoe, of the TI State Activities Division, was a result of his connections with Republican County Council members and the Fort Wayne Mayor, Winfield Moses (later State Rep. Moses, D-Fort Wayne).<sup>369</sup> Nevertheless, the Fort Wayne City Council began working on a city-wide ordinance restricting smoking after Paul Helmke (D) became mayor in 1987.

Fort Wayne Councilmember Donald Schmidt introduced the ordinance on April 12, 1988. Schmidt's ordinance prohibited smoking in grocery stores and drug stores and in restaurants except in smoking areas of up to 50 percent of the dining area designated by the restaurant manager. Restaurants were not required to have a smoking section.

While little is known about what tobacco control advocates did to support the ordinance, the tobacco industry, though not able to derail the ordinance entirely, gutted it. TI's amendment replaced the requirement that at least 50 percent of restaurant dining areas be non-smoking with a "requirement" that restaurant owners set aside space reflecting the needs of the restaurant's customers for non-smoking sections and post a sign announcing their smoking policy, effectively making the ordinance meaningless.<sup>187, 370</sup>

Thomas Fruechtenicht, TI lobbyist and former leader in the State House of Representatives from Fort Wayne, reported that he used his political influence with the Fort Wayne City Attorney to get TI's amendments added.<sup>369, 371</sup> Bill Trisler, Regional Vice President of TI in Indiana, wrote in 1988 in a weekly activities reports that he, Fruechtenicht and Ron Roberts of the Indiana Restaurant Association met to strategize on weakening the Fort Wayne ordinance.<sup>370</sup> The Indiana Restaurant Association also assisted TI by sending out letters to its members and non-members in Fort Wayne promoting the gutted ordinance. The ordinance passed 8-1 and was signed by the mayor.

The public health groups do not appear to have fought for the Fort Wayne ordinance. The tobacco industry in the late 1980s increasingly focused more on organizing on the local level as local ordinances posed a growing threat to the industry. TI began devoting more resources to countering local measures in 1988 when it paid Carroll Soards an estimated \$2,600 to be a local counsel in Indiana, though it is unclear what Soards's responsibilities were. They also continued paid Terry Pehler \$54,000 and Thomas Fruechtenicht \$26,000 as TI's primary legislative counselors.<sup>372</sup>

### ***1998: Revisiting Fort Wayne's Ordinance***

In spring 1998, led by Council member John Crawford (R), the primary tobacco control champion, the Fort Wayne City Council considered two proposals to strengthen the city's ordinance (Table 22), one to prohibit smoking in restaurants (excluding bars and private clubs) and another to prohibit smoking in workplaces and enclosed public places. Workplaces were areas of buildings that employees normally "frequent" during the course of employment which included work areas, restrooms, hallways, cafeterias, employee lounges, stairs, vehicles and enclosed garages. Restaurants were not included because they were addressed in the first bill. The Fire Department was the enforcement agency because they were believed to be the most equipped to respond to complaints.<sup>373</sup> Four of the nine council members supported the ordinance – John Crawford, Rebecca Ravine (R), Don Schmidt (R), who sponsored the ordinance in 1988, and Tom Hayhurst (D)<sup>374</sup> – requiring a fifth vote.

The public health and healthcare community endorsed both proposals that originated with the Council. ASSIST/Smokefree Indiana, ALA, ACS and AHA, as well as Lutheran and Parkview hospitals, St. Joseph Medical Center, Rehabilitation Hospital of Fort Wayne, Cancer Services of Allen County, and Minority Health Coalition of Fort Wayne, publicly supported the ordinances.<sup>374</sup> The health groups and other supporters signed a public pledge to support smokefree places, hoping that this public support would establish lasting support from participating council members. ASSIST canvassed Fort Wayne collecting signatures from the community supporting the ordinances.<sup>375</sup>

On Tuesday, May 26, Smokefree Indiana, along with other groups, organized a rally prior to that evening's City Council meeting to discuss the ordinances and accept public comment.

**Table 22: The evolution of the Fort Wayne ordinances passed in 1998**

	Enclosed Public Places	Workplaces	Restaurants	Specific Exemptions	Enforcement	Violator responsible	Penalty for offense
Restaurants ordinance (introduced)			✓	Bars; private clubs	Fort Wayne Fire Department	Smoker. Establishment not in violation as long as sign posted	\$100 (1st); \$200 (2nd); \$500 (each additional)
Restaurants ordinance (amended and passed)			*	Enclosed smoking rooms; bars; private clubs	Fort Wayne Fire Department	Smoker. Establishment not in violation as long as sign posted	\$100 (1st); \$200 (2nd); \$500 (each additional)
Public and workplaces ordinance (introduced)	✓	✓			Fort Wayne Fire Department	Smoker. Establishment not in violation as long as sign posted	\$100 (1st); \$200 (2nd); \$500 (each additional)
Public and workplaces ordinance (amended and passed)	*	*		Bowling alleys; pool halls; bingo parlors	Fort Wayne Fire Department	Smoker. Establishment not in violation as long as sign posted	\$100 (1st); \$200 (2nd); \$500 (each additional)

\*Location not required to be 100% smokefree  
 ✓Location required to be 100% smokefree

Supporters wore buttons and carried signs supporting strong laws. Of the 58 speakers at the Council meeting, 41 supported the ordinances. This strong support was compared in news reports to the proposal in 1994 when only 22 of the 67 speakers supported the proposed ordinance. This increase in support for smokefree policy potentially represented a cultural shift away from the social acceptability of smoking.<sup>376</sup>

Restaurant and bar owners, the Indiana Bowling Proprietors' Association as well as John Livengood of the Indiana Restaurant Association spoke against the ordinances.<sup>377</sup> Philip Morris was actively involved behind the scenes, organizing the hospitality industry and providing instructional kits on the tobacco industry's accommodation program to hospitality establishments.<sup>378</sup> Philip Morris also distributed talking points, case studies and surveys for smokefree opponents to use arguing that smoking restrictions would hurt hospitality establishments.<sup>379</sup> As usual, because of tobacco's poor public image, the tobacco industry stayed out of the public eye and relied on its front groups to advocate its positions publicly.<sup>378, 379</sup> Philip Morris's Derek Crawford wrote in a 1998 email to other Philip Morris political strategists working in and around Indiana, including Marianne Kiely of Baker & Daniels,<sup>380</sup> outlining the message being scripted for the hospitality opponents to the ordinance: "1) this will harm our businesses; 2) it's unfair for us smokers; & 3) we know our patrons, they want accommodation."<sup>381</sup>

The final version of the restaurant ordinance prohibited smoking in restaurants except in separate enclosed smoking rooms (exempting bars and private clubs). Council members in the week prior to passing the ordinance, removed the language exempting private clubs and smoking rooms for meetings but reportedly, at the suggestion of City Attorney Tim McCaulay, put the

provisions back in before passing the measure.<sup>382</sup> News reports also indicated that McCaulay sent Mayor Paul Helmke a message saying that five or six Council members possibly violated the state's open meetings law by gathering during the recess of a council meeting and that such a violation would "taint both smoking ordinances."<sup>383</sup> McCaulay's motivation in sending this information to the Mayor is unclear, though perhaps it was an attempt to create controversy around the ordinances and to attempt to derail both ordinances if they passed the Council. The tobacco industry had used its relationships with the Fort Wayne City Attorney in 1988 to weaken the provisions of the city's previous clean indoor air ordinance.<sup>369, 370</sup> The second ordinance dealing with workplaces and enclosed public places was amended to exempt bowling alleys, pool halls, and bingo parlors.

The City Council voted on June 9 to pass both ordinances with separate votes of 5-4 votes in favor. Council members Tom Henry (D) and Archie Lunsey (D) told reporters that they voted against both proposals because of the exemption of private clubs and because of McCaulay's suggestion of illegality.<sup>383</sup> The Fort Wayne Fire Department was designated as the agency to respond to complaints and certify compliance after inspections. The Fort Wayne-Allen County Health Department could also certify compliance and likely was meant to during its other routine health inspections of Fort Wayne establishments, with the Fire Department responsible for responding to complaints. Penalties were placed upon the smoker with a fine of \$100 for a first offense and \$200 for a second. Subsequent violation within the same year would carry a fine of up to \$500.<sup>382</sup> Fines against smokers instead of the owners of establishments were historically pro-tobacco industry because there was not an incentive for establishments to ensure that the law was enforced. The owners and operators of the facility were not held responsible for violations of the ordinance as long as signs were posted to inform patrons and employees about the ordinances.<sup>382</sup>

Smokefree Indiana, led by Regional Director Darlene Amstutz, spearheaded the advocacy campaign and worked hard to keep the momentum going, working with Council members to get the ordinances adopted. The coalition ran public service announcements about secondhand smoke on four radio stations in Fort Wayne. When the ordinances were originally introduced, Smokefree Indiana canvassed neighborhoods in Fort Wayne, collecting 1,166 petition signatures supporting the ordinances that were delivered to the Council.<sup>112, 375</sup>

### ***Mayor Helmke Vetoes the Restaurant Ordinance***

Republican Mayor Paul Helmke, considered a "rising star in the state GOP,"<sup>384</sup> and 1998 Indiana Republican candidate for the U.S. Senate,<sup>321</sup> signed the workplace ordinance but vetoed the restaurant ordinance. Following standard tobacco industry rhetoric, Helmke said that he vetoed the restaurant ordinance for three reasons: 1) City government was overstepping its authority by regulating smoking which Helmke said should be regulated by the marketplace, 2) Allen County had no regulations so restaurants in the city would have stronger health standards than those restaurants in other parts of the county, thus putting them at a competitive disadvantage and 3) Restaurants would have been subjected to restrictions that bars and private clubs would not have faced under the ordinance and might not be able to afford to build an enclosed smoking room.<sup>382</sup> While an Allen County smokefree law would have conceivably neutralized arguments of loss of business within the county, County Commissioner Ed Rousseau

did not consider smokefree policy a priority and was, as newspaper articles reported, waiting to see if there was an adverse economic effect on small businesses within Fort Wayne and other cities throughout the state as they passed their own ordinances.<sup>385</sup>

Overriding the veto required six council member votes. Seven members voted to override the veto; council member Lunsey changed his vote to a yes after conversations with fellow Council members and community members. Council member Henry supported the override after Lunsey when it was clear that the override was going to be successful. He told the press that this change was to back the council as a 7-2 vote looked stronger than 6-3.

### ***Hospitality's Lawsuit Against the City of Fort Wayne***

The fight over Fort Wayne's clean indoor air ordinances was not over. The Independent Restaurant Association of Northeastern Indiana and the Fort Wayne Hospitality Association sued the Fort Wayne City Council in December 1998 in the Fort Wayne U.S. District Court seeking an injunction on the enforcement of the ordinances scheduled to begin January 1, 1999.<sup>386</sup> While, the tobacco industry has a well-documented history of creating and funding third party organizations to pursue industry objectives while allowing the industry to remain in the background,<sup>72, 138, 141, 387, 388</sup> we do not know what role the tobacco industry had in this lawsuit.

Following similar suits filed elsewhere,<sup>72, 387, 388</sup> the lawsuit alleged that the City Council violated the Fourteenth Amendment to the United States Constitution. Count one claimed that exemptions for bars, private clubs, and bowling alleys were arbitrary, that the Council had "no medical basis to support the Ordinances which will cause the plaintiffs severe economic dislocation injury," that the ordinances were not related to the promotion of public health, that the Council's citing of "numerous studies" did not provide the appropriate basis for passing such policies, and that the ordinances were unreasonable and therefore a violation of the Fourteenth Amendment of the U.S. Constitution.<sup>389</sup> Count two alleged that the ordinances provided unequal treatment under the law to restaurants and hotels, which were restricted by the ordinances, while allowing bars, taverns, private clubs, bowling alleys, pool halls and bingo halls to continue to allow smoking unrestricted. The suit argued that this was another violation of the Fourteenth Amendment which guaranteed equal protection under the law. Count three alleged that the City Council did not proportionately represent their respective districts in Fort Wayne and therefore violated the "one man, one vote" principle of the Fourteenth Amendment.<sup>389</sup> The representation argument stemmed from the annexation of land by Fort Wayne that the current Council had not yet redistricted for, making one district larger than the others, which the plaintiffs argued was legally invalid at the time of the passage of the ordinances. In February, the hospitality industry added an additional claim that alleged that the City Council violated Indiana's Open Meetings Law when a group of Council members had a discussion during the recess of Council meeting, though at the time, Council member John Crawford (R) explained that the meetings did not violate the law because there were fewer than five members (a majority of the council) as participants.<sup>383</sup>

The City Council sought to have the case dismissed but agreed to delay implementation of the law which was scheduled to begin on January 1, 1999 until the case was resolved.<sup>390</sup> On Wednesday, April 14, U.S. District Judge William C. Lee dismissed the case on the grounds that



it lacked a constitutional basis. Judge Lee ruled that it was an issue that needed be settled in the political process not in the court room.<sup>391</sup>

After losing in federal court, the hospitality industry filed suit again, seeking an injunction in Allen Superior Court on the grounds of the violation of the state's Open Meetings Law. The Allen Superior Court refused to grant an injunction saying that no direct evidence of an illegal meeting was presented, allowing the two ordinances to go into effect on May 14, 1999, nearly one year after they were first introduced.<sup>392</sup>

### *Aftermath of Fort Wayne*

Despite an effort by Council member Tom Henry to pass a weakening ordinance immediately after the long-awaited implementation of Fort Wayne's clean indoor air law the ordinances went into effect as scheduled. Henry introduced amendments in June which would weaken the smoking room requirement, no longer requiring that the room be fully enclosed with walls reaching from the floor to the ceiling, exempt restaurants with fewer than 50 seats, require expanding restaurants to go smokefree or build a separation wall, and require owners to warn customers about the law instead of simply having a no smoking sign posted.<sup>393, 394</sup> The Council elected to keep its new ordinances as passed originally in 1998.

The 1998 Fort Wayne ordinances passed were the first of their kind in Indiana and far surpassed the statewide law at the time. Kelly Alley, the Managing Director of Smokefree Indiana recalled in a 2009 interview, that although Fort Wayne's ordinance was not nearly as strong as the tobacco control advocates would have liked, it was significant positive movement for Indiana which had nothing else as strong at the time.<sup>112</sup>

Fighting preemption to preserve the ability of localities to pass laws regulating the sale, distribution or display of tobacco products and eventually losing in 1997 was in part a result of not having local control established as a priority of the communities in Indiana. Lawmakers were less invested in protecting local tobacco control as there had been little exercise of that right; of the few ordinances that had passed in local governments, most only dealt with smoking in government buildings. Fort Wayne established for Indiana that community ordinances were a viable strategy for implementing tobacco control policies and provided part of the impetus for the rest of the state to organize and move forward with their own clean indoor air policies.

This was the first major ordinance to emerge as a result of the activities of the ASSIST project, but it was not a comprehensive ordinance. The language adopted by Fort Wayne, which contained many exemptions, could be modeled in other cities wishing to move forward with their own ordinances, which is a potential problem in passing ordinances with exemptions. However, Kelley Alley, Project Manager of ASSIST explained in a 2009 interview: "I don't think it led to weaker initiatives. It was definitely not what we wanted. We used that as a sounding board to say why it wasn't the most ideal. But that is truly where the state was at that time ... I think it would have been difficult to get something ... stricter at that time."<sup>112</sup> Fort Wayne did not successfully return to strengthen the ordinance until 2007.

## **Indianapolis-Marion County, 1970-2001**

Beginning in the 1970s, City-County Councillors in Indianapolis-Marion County began a three decade effort to pass tobacco control policies. The City of Indianapolis, the state capital and most populous city, and Marion County, the most populous county, share a governmental system called Unigov that is governed by a 29 member City-County Council and a mayor.<sup>395</sup> Unigov was established in 1970 to unify the suburbs expanding out of Indianapolis and into Marion County. All municipalities with populations smaller than 5,000 people and unincorporated areas were brought under one government. Municipalities with populations above 5,000 people were excluded from the Unigov. Three cities, Beech Grove, Lawrence, Southport, and the town of Speedway were excluded and, as of 2010, had their own partial governments.<sup>396</sup> They were, however, represented on the City-County Council because citizens were still required to pay county-wide taxes and because the Unigov made decisions which affected all residents of the county.<sup>395, 397</sup> The consolidated city-county council was limited in its ability to regulate the excluded cities, however, and could not force them to follow an ordinance such as a smokefree ordinance, which was determined during the passage of the 2005 clean indoor air ordinance (discussed below). The City-County Council was the legislative body of Indianapolis-Marion County and the Mayor of Indianapolis became the executive.

As the state's capital, tobacco control advocates believed that enacting smokefree policies in Indianapolis-Marion County would resonate strongly with the rest of the state and stimulate more localities to pass ordinances. They also thought it would encourage the state General Assembly to consider statewide legislation.<sup>366</sup> Like in every other city in the state, tobacco industry opposition was high and its mobilized hospitality front actively argued that smoke restrictions would hurt the local economy. The Tobacco Institute was often responsible for bringing opponents in to testify against proposals.<sup>398, 399</sup>

Previous attempts at passing ordinances were often only focused on smoking in government buildings. Dr. Cory SerVaas, Indianapolis physician and editor of *The Saturday Evening Post*, was an early advocate for workplaces in Indianapolis-Marion County becoming smokefree, though no successful legislation came from her efforts in this early period.<sup>400</sup> Indianapolis-Marion County passed an ordinance in 1993 which prohibited smoking in public buildings within the county whereas the state law only required smoking to be relegated to smoking sections. The 1993 proposal was sponsored by Councillor Beulah Coughenour, a champion on smoking issues.<sup>401</sup> The public health groups were not involved with the proposal.<sup>321</sup> It does not appear that there was a significant opposing presence by the tobacco industry which makes little mention of the ordinance in its internal documents.<sup>402</sup>

### ***Conclusions***

While Indiana localities were able to pass ordinances regulating clean indoor air, most local ordinances before 1998 expanded on the statewide clean indoor air law (which allowed for smoking sections in government buildings) and made local government buildings smokefree. Although it was not the first city to pass a clean indoor air ordinance in Indiana, Fort Wayne became the flagship clean indoor air ordinance in the state when it passed in 1998. Although the ordinances contained exemptions for smoking rooms, bars and private clubs, Fort Wayne's

ordinances were the strongest that the state had seen so far, and the strongest that many tobacco control advocates believed was possible at the time in Indiana.

Tobacco control advocates in Fort Wayne faced strong opposition in the City Council, in the Mayor's office and from the hospitality industry (orchestrated by the tobacco industry), which took legal action to try to block the ordinances from going into effect. Fort Wayne's ordinances were successfully enacted and implemented as a result of favorable court rulings, a strong tobacco control champion in the Council and dedicated tobacco control advocates, especially those with ASSIST/Smokefree Indiana. Having spent the previous seven years building an extensive tobacco control network, ASSIST/Smokefree Indiana was able to generate strong public support for the ordinances which aided its advocacy campaign as well.

## **MASTER SETTLEMENT AGREEMENT**

The Master Settlement Agreement (MSA) signed on November 23, 1998 between the attorneys general of 46 states and the six major U.S. cigarette companies settled lawsuits brought by the states to recoup the billions of dollars spent on healthcare costs due to tobacco-related illnesses and to seek permanent injunctive relief against industry practices including youth marketing and billboard advertising.<sup>403</sup> (Four states -- Florida, Minnesota, Mississippi, and Texas -- had already settled separately and were not signatories to the MSA.) Each state filed individual lawsuits with slightly different claims but the settlement was a collective agreement.

### **The MSA and Indiana**

On February, 19, 1997, four weeks after taking office, newly-elected Attorney General Jeffrey A. Modisett (D) filed suit in Marion County Superior Court on behalf of Indiana, making Indiana the twenty second state to sue.<sup>404-406</sup> While the courts in each state often struck down one or several of the claims brought against the tobacco companies for individual reasons, in Indiana, Marion County Superior Court Judge Gerald Zore struck down every claim in the lawsuit on July 23, stating that the state could not recover damages from the tobacco industry because it lacked the authority and because the injuries were "derivative and too remote"<sup>407</sup> Indiana appealed. While in the midst of appellate proceedings, the suit was settled by the MSA in November 1998.

As a result of Modisett's role in an unsuccessful negotiation to reach a national "global settlement" of all public and private litigation against the tobacco industry in 1997<sup>408</sup>, (which was highly controversial in the health community because of the effective immunity it grant the tobacco industry and failed in Congress), Modisett was selected by the new eight-state negotiating team to head the Attorneys General Allocation Committee. Modisett and his staff devised the formula (based on estimated of the Medicaid expenses paid by each State attributable to smoking) to determine the division of payments among the 46 settling states.<sup>406, 409</sup> The tobacco companies' payments to individual states were tied to annual sales and would decrease in the event that the participating tobacco companies' shares of the U.S. cigarette market were reduced.<sup>3</sup> Indiana was scheduled to receive about \$4 billion in annual payments over the first 25 years of the agreement (Table 23).<sup>410</sup> There were no provisions in the MSA that required states to spend their funds in any particular way.

## ***Phase II Payments to Tobacco Growers***

The financial impact that decreased tobacco usage would have on tobacco growers was a subject of heavy discussion throughout the MSA negotiations, with Attorneys General from tobacco-producing states strongly advocating that some MSA payments go toward agricultural funding and rural economic development. The MSA required the participating cigarette companies to recognize the concerns of the tobacco growing community and meet with political leaders in tobacco growing states within 30 days of the execution of the MSA to discuss those concerns.<sup>320</sup> These discussions led to a second settlement between 14 tobacco-producing states, including Indiana, and the four participating tobacco companies called the National Tobacco Grower Settlement Trust Agreement.<sup>412</sup>

<i>Fiscal Year</i>	<i>Actual Receipts (in millions)</i>	<i>Projected (in millions)</i>
2000	\$166.9	\$130.7
2001	\$127.7	\$141.2
2002	\$149.2	\$169.5
2003	\$147.9	\$171.1
2004	\$129.8	\$142.8
2005	\$130.0	\$142.8
2006	\$119.3	\$142.8
2007	\$124.9	\$142.8
2008	\$147.4	\$145.3
2009	\$160.9	\$145.0
2010	\$134.7	\$147.2
<b>Total</b>	<b>\$1,539.1</b>	<b>\$1,621.9</b>

Under the National Tobacco Grower Settlement Trust Agreement, the participating companies agreed to pay \$5.15 billion in “Phase II” payments over a 12 year period to compensate farmers for lost revenue due to decreased tobacco usage. These payments would be reduced dollar-for-dollar by new levies on the tobacco industry or other financial obligations. Indiana was scheduled to receive \$59.7 million over 12 years, 1.16 percent of the total payments.<sup>413</sup> Following the 2004 national buyout of the tobacco quota system, in which the federal government paid tobacco farmers for their quotas and dismantled the price support system that had controlled tobacco prices for decades, the obligation for the tobacco companies to continue making these payments ended.<sup>36</sup> Leading up to and after the buyout, the tobacco industry began purchasing tobacco through direct contracts which gave preference to larger, consolidated farms, and which gave the tobacco industry increased leverage over market price.<sup>37</sup> The industry also increasingly relied on international tobacco production.<sup>414</sup> The result in some U.S. states was an increasing divide between tobacco growers and tobacco manufacturers.<sup>36</sup> In Indiana, the Indiana Farm Bureau started to support some tobacco control policies, such as the 2002 cigarette tax (discussed below).

## **The Fight for the Money**

### ***Discussions Begin for MSA Spending Proposals***

As in other states, the avalanche of MSA money led to intense competition from a wide array of interests. In January 1999, Indiana tobacco control advocates, universities, health care provider and medical services organizations formed a large collaborative of about 35 organizations to agree on a collective advocacy strategy and to develop consistent messaging aimed at securing all the MSA money for “health.” The primary groups involved in the meetings were ACS, AHA, ALA, Indiana Hospital and Health Association (later renamed the Indiana Hospital Association, IHA), Indiana State Medical Association (ISMA) as well as the Indiana

Black Expo (IBE), Indiana Minority Health Coalition (IMHC), Indiana Public Health Association (IPHA), Smokefree Indiana, and representatives from the Attorney General's office. Other participating organizations, including the Indiana University School of Medicine, had not been involved in lobbying for tobacco control.<sup>366, 415, 416</sup> When it formed, this broad-based group of organizations did not establish any agreed upon core principles past the need for 100 percent of the MSA money to be used for "health." In a 2009 interview, Lou Belch, a former lobbyist for ISMA noted that, "with the large amount of money that was coming in to say [that it was] a coalition is probably a bit of a misrepresentation. There were a number of meetings going on in a number of different rooms ... with some of the same people and some different people. One of the challenges you had back then was everybody felt that they deserved a piece of the pie ... whether or not they had any direct relationship with tobacco."<sup>415</sup>

As the discussions over earmarking all the MSA money for health evolved and several months, it became clear that the organizations involved in this early collaborative each had different priorities for where the spending should be directed. The public health groups, including ACS, AHA and ALA and Smokefree Indiana, wanted to fully fund a comprehensive tobacco control program. They wanted the collaborative to agree to core principles in support of a spending plan that would contain a large tobacco control component.<sup>416</sup>

While in early meetings the other participating organizations supported funding tobacco control, this support waned as discussions of allocations progressed. Other participants, particularly the healthcare provider organizations and universities, were noncommittal to any formal core principles that involved funding a comprehensive tobacco control program.<sup>416</sup> The Indiana Hospital and Health Association wanted all of the money to go to Medicaid, specifically the Children's Health Insurance Program (CHIP) program.<sup>417</sup> ISMA and the Indiana State Nurses Association, as well as several other healthcare groups, concurred that all of the money should go to health care with an emphasis on increasing federal matching funds for state Medicaid expenditures. ISMA in particular, which had grown increasingly supportive of tobacco control and had formed a Tobacco Control Task Force, prioritized funding medical services over tobacco control.<sup>416, 418</sup>

The universities, in particular the Indiana University School of Medicine, wanted biomedical research funding, and the Dean of the School of Medicine opposed University personnel advocating for tobacco control funding. The broad collaborative continued meeting and working to develop a plan of action for advocating for funding throughout the spring and into the summer; however, neither Governor Frank O'Bannon's office nor the Attorney General's office, had released a spending proposal (which the collaborative was waiting for), and the collaborative began to lose momentum in its planning.<sup>416</sup> In 2010, Jeffrey A. Modisett explained that the Office of the Indiana Attorney General decided not to issue a proposal because it could be seen as overreaching by the Attorney General and upset the Governor and Legislature who were drafting proposals.<sup>406</sup>

Meanwhile, in April 1999, the health care provider groups, the universities, and essentially everyone but the public health groups (who were not invited or informed), began secret meetings with Governor O'Bannon's office to advocate the MSA money to medical services and biomedical research. The public health groups did not learn of these secret meetings

office until October when the health care groups were preparing to issue a spending proposal to the public. In 2009, Brad Burk of ACS explained that the public health groups were likely left out of the conversation with O'Bannon's office because they were not yet strongly organized around tobacco control, their key issue, and had not yet formed a coalition to advocate for MSA money to be used for tobacco control.<sup>321</sup> That coalition (Tobacco Smart Indiana) did not form until late spring 1999. It is unclear if there was a significant benefit to these health care provider organizations and universities from having these meetings. O'Bannon's eventual MSA spending proposal contained a strong funding component for tobacco control, likely as a result of continued advocacy from tobacco control advocates who later developed a public presence in the media (discussed below).

### ***Tobacco Smart Indiana Forms***

The public health groups remained committed to advocating for the MSA money to go to tobacco control and, during conversations with the large collaborative of health-related groups, AHA, ACS, ALA, and Smokefree Indiana formed a new coalition called Tobacco Smart Indiana (TSI) to advocate for the funding a comprehensive tobacco control program. Robbie Barkley, Senior Director of advocacy for AHA's Midwest Affiliate, and Brad Burk, ACS's Director of Government Relations for Indiana, co-chaired the coalition. ACS, which had hired contract lobbyist Charlie Hiltunen in 1997, then of Hiltunen Communications Corporation and later of The Third House Advocacy Group, LLC., kept Hiltunen on retainer to lobby for TSI. AHA also hired Hiltunen as a contract lobbyist.<sup>321</sup> Additionally, the national Campaign for Tobacco-Free Kids supported TSI.<sup>70</sup>

To fund TSI, Robbie Barkley, on behalf of AHA, submitted a successful proposal to the Robert Wood Johnson Foundation (RWJF) for a \$60,000 SmokeLess States "Special Opportunities Tobacco Settlement Grant" in June 1999 which was approved in August 1999. TSI member organizations, primarily AHA and ACS, provided TSI an additional \$45,430.<sup>417</sup> These resources allowed TSI to begin publicly advocating for the state to fund a comprehensive tobacco control program. AHA hired Karla Sneegas, a consultant at the time and Chair of the Steering Committee of the former ASSIST project, to manage the RWJF grant.<sup>321</sup>

While advocating for tobacco control funding, TSI continued to work loosely with the larger collaborative of organizations seeking 100 percent of the MSA for health. TSI's strategy in continuing to meet with the larger group of health-related organizations and universities was based on the belief that if all of the groups remained unified around the goal of funding health, that the allocation of money could later be fine tuned to go to specific interests such as tobacco control.<sup>366</sup>

### ***Divisions in the Larger Collaborative Appear***

TSI's public health groups and the healthcare provider organizations and universities in the larger collaborative attempted to continue meeting through the summer and into fall 1999 but found it increasingly difficult to work together and to agree on consistent messaging because TSI wanted CDC-level funding for tobacco control and the others were only committed to funding medical services, health insurance programs, and research. TSI and the broader collaborative

began to lose momentum as it became clear that their priorities for MSA spending were not the same. A contributing factor to this growing division was the lack of a spending plan from Governor O'Bannon who provided little leadership on the spending of the MSA funds until November 1999. Tobacco control advocates felt that the absence of a spending plan from the Attorney General's office was an obstacle to maintaining momentum, but the Attorney General continued to feel that such a plan would be counterproductive.<sup>406, 416</sup> The 2000 Legislative Session was to be when the major policy plans would be discussed and until the fall 1999, there had not been much public discussion regarding spending plans for the MSA money.

The Indiana Public Health Association (IPHA), which became a nominal leader in the larger collaborative of health-related organizations because of its position as a broad network of health organizations as opposed to being committed to a single health issue, attempted to hold the larger collaborative of organizations together, convening meetings in the later summer and early fall to agree on a public position regarding spending plans.<sup>415, 419</sup> These meetings were not fruitful and the healthcare provider groups refused to sign onto core principles that called for a tobacco control spending.<sup>416</sup>

In October, the healthcare provider organizations and universities prepared to issue proposed spending criteria, and TSI discovered that these organizations from the larger collaborative had been holding secret meetings with the Governor's staff since April to privately advocate to spend MSA money on medical services and research.

The General Assembly's interim Health Finance Commission met in fall 1999 to discuss the MSA and to hear testimony on proposed spending plans. The Commission, chaired by Sen. Patricia Miller (R-Indianapolis), consisted of legislators from health-related standing committees and other legislative leaders. The purpose of the Commission was to meet in between legislative sessions and consider health policy issues and to make policy recommendations to the General Assembly when the legislature returned to session. Interim commissions play an extremely significant role in Indiana policy making; the General Assembly often enacts Commission recommendations.<sup>168, 420</sup> The Commission seemingly met on its own initiative in preparation for the MSA discussions that were going to take place in the 2000 Legislative Session.

At the October 19, 1999 meeting of the Health Finance Commission, Tim Kennedy of the Indiana Hospital and Health Association described the meetings that had been taking place between the Indiana Health and Hospital Association, ISMA, the Indiana University School of Medicine, and the Health Industry Forum and presented their recommendations: that the majority of the funds be allocated toward health care needs; that most, if not all, of the money should be placed in a foundation or trust administered by a governing body with broad representation that included legislators and members of the executive branch; and that the trust set goals and spend the money to achieve those goals. Kennedy also suggested that these funds be used as federal Medicaid matching dollars. According to the meeting minutes, neither Kennedy, nor Jim Zieba, who was present representing ISMA, referred to tobacco control funding.<sup>420</sup>

Some of the leading tobacco control advocates of TSI also attended the hearing. Charlie Hiltunen, Kelly Alley and Karla Sneegas discussed tobacco's toll on health in Indiana and emphasized that \$50 million annually of MSA funds was required to create a comprehensive

program that included public education, school programs, community programs, tobacco cessation assistance, and law enforcement.<sup>420</sup>

There was also a strong showing by organizations representing long term care, adult day services and other health issues for elderly populations, including prescription drug costs. The Indiana Association for Home Care, Indiana Association for Area Agencies for the Aging, and the Indiana Home Care Task Force, which was active in the media, argued that the MSA money should be used for aging populations' healthcare.<sup>420</sup>

The Health Finance Commission ultimately drafted P.D. 3565 which suggested that all MSA funds be deposited into an endowment fund and that the interest generated from the fund should be used to fund health care and tobacco use prevention. (It did not suggest specific allocations.) However, the Commission meeting did not have a quorum and so could not vote to adopt the proposal as an official commission recommendation.<sup>421</sup> The discussions that took place in the Commission influenced legislators as they developed spending plans the following month (Discussed below).

Despite the rift between TSI and the health care providers and universities, TSI member organizations joined the broader collaborative in an October 20 press release from the Indiana Public Health Association presenting three goals for spending the MSA money: allocate 100 percent of the MSA funds to “promote the health of all Hoosiers, young and old”; use all funds on “new” spending rather than shifting the fund source for existing programs; create a foundation made up of government officials, health experts and community partners to develop allocations for tobacco control, minority health initiatives and health issues. These broad principles did not specify an amount of funding for a major tobacco control program.<sup>416, 422</sup> Though TSI participated in the press release and to continue supporting the broad health-related goals specified in the IPHA press release, it continued to advocate for comprehensive tobacco control program.<sup>416, 423</sup>

### ***TSI Activities***

Having received the RWJF SmokeLess States grant in August 1999, TSI established a plan to advocate for a comprehensive tobacco control program despite the lack of support from the broader collaborative of organizations. TSI developed a comprehensive tobacco control plan based on the then-newly released CDC *Best Practices*, building on previous coalition building and advocacy developed under ASSIST. TSI met with legislative leaders in small groups regarding the importance of tobacco control and the necessity of funding a comprehensive program at CDC-recommended levels. CDC's 1999 *Best Practices for Comprehensive Tobacco Control Programs*<sup>1</sup> recommended that Indiana spend between \$34.8 million – \$95.8 million on its tobacco control program (\$45.6 million - \$125.5 million adjusted for inflation in 2010<sup>424</sup>).

TSI was a strong coordinated advocacy campaign in Indiana organized with its own lobbyists.<sup>70</sup> Prior to TSI, tobacco control advocates' level of organization did not approach that of the tobacco industry and its front groups.<sup>339</sup> TSI created outreach kits to teach members about grassroots mobilization and the importance of effectively using the media to gain positive public exposure so that each organization and its members would understand these crucial aspects of the



campaign.<sup>416</sup> TSI also hired Indianapolis public relations firm Borshoff Johnson & Co. to create a media plan to educate citizens on the importance of using MSA money to combat tobacco and tobacco-induced disease. Borshoff Johnson & Co. connected TSI leadership with several major newspaper editorial boards,<sup>416</sup> including the *Indianapolis Star*, Fort Wayne *Sentinel*, Fort Wayne *Journal Gazette*, Lafayette *Journal Courier*, and Kokomo *Herald*, many of which wrote editorials and ran articles supporting funding tobacco control.<sup>321, 416</sup> Media was a large part of TSI's strategy in the MSA funding campaign and the core groups consistently practiced statewide media outreach through direct contact and press conferences. Their efforts were rewarded by the fact that between 1999 and 2000 TSI received good media coverage from major newspapers throughout the state.

### *Funding CHIP*

In the meantime, in the 1999 budget bill, HEA 1001 (P.L. 273), the General Assembly established Indiana Code (IC) 4-12-1-14.3 and created the Indiana Tobacco Master Settlement Agreement Fund for depositing the annual MSA revenue. The General Assembly controlled the Fund, which the state budget agency administered. The state received its first MSA payment in 1999, before but there was a plan for allocating it. The General Assembly allocated this year payment of \$18.8 million entirely to the state Children's Health Insurance Program (CHIP) Assistance program and CHIP Administration.<sup>425</sup> This allocation was ostensibly a temporary solution while policymakers drafted long term spending plans for the MSA money. The healthcare provider organizations, like the Indiana Hospital and Health Association and ISMA, lobbied the General Assembly and Governor O'Bannon strongly to allocate MSA funds to CHIP, and were likely influential in this decision; there does not appear to have been much opposition from other advocates or policy makers, especially because O'Bannon supported funding healthcare programs for children. The public health groups in TSI did not oppose spending MSA funds on health, including CHIP, while remaining focused on funding a comprehensive tobacco control program.<sup>321</sup>

As required by the MSA, Indiana enacted HB 1870, which became P.L. 223, in 1999 to require that all tobacco manufacturers selling cigarettes in Indiana after June 30, 1999 either become a participating party to the MSA or to make annual payments into an escrow account based on their volume of sales.<sup>426</sup>

### **MSA Funding Proposals**

Charlie Hiltunen, in a 2009 interview, explained that prior to any public proposals, the TSI team had crafted their own language to offer to a sponsor in the legislature.<sup>70</sup> It was important to the tobacco control advocates that the money allocated to the new tobacco control program be protected from raids by elected officials and other interests. The solution was to have all allocated funds placed in a trust fund. Once money was placed in a trust fund it could only be removed by the designated controller of the fund. Hiltunen used the Heritage Trust Fund within the Indiana Department of Natural Resources as a template for a tobacco control program functioning as an independent agency funded through a trust fund. The independent board governed the Heritage Trust Fund and was empowered to decide how the money deposited in the Trust Fund should be spent. TSI wanted the new tobacco control program to be established with

a similar independent board that would develop and implement a comprehensive tobacco control program and control the program's money. This board would be made up of knowledgeable, experienced tobacco control professionals that understood the tenets of an effective program.

Learning from the ASSIST experience, tobacco control advocates did not want the new tobacco program to be within the state Department of Health where it would be put at risk if the governor appointed an unsupportive state health commissioner, as happened to the ASSIST project in the 1990s when John (Chris) Bailey was the health commissioner in Governor Evan Bayh's administration (the primary reason for the decision by ASSIST's leadership within ISDH to outsource ASSIST/Smokefree Indiana to Ball State University).<sup>70</sup>

Sen. Lawrence Borst (R-Greenwood), Chair of the Senate Finance Committee, who had not been a tobacco control champion before, supported using MSA money to fund a new tobacco control program and wanted to carry legislation in the 2000 Legislative Session. TSI gave Borst its recommended program structure as he was drafting his proposal.<sup>70</sup> Borst supported TSI's model, specifically, the independent board that was "free of political persuasion."<sup>427</sup> Borst was also committed to funding a comprehensive tobacco control program. Sen. Patricia Miller (R-Indianapolis), Chair of the Health Finance Commission and the Senate Health and Provider Services Committee, also planned to introduce a bill with the goal of funding a comprehensive tobacco control program. Miller allowed Borst to carry the bill as its primary author because, as Chair of the Senate Finance Committee, the proposal stood a better chance of surviving intact if it came from Borst.<sup>427</sup>

Governor Frank O'Bannon (D, 1997-2003) still had not released a proposal. At the start of his first term in 1997 O'Bannon had been reluctant to support tobacco control. After the MSA was signed in November 1998, O'Bannon was slow to offer support for a plan for spending the money, but did indicate that he supported the money being used to fund children's health programs, anti-smoking programs and other public health-focused programs..<sup>416, 428</sup> Despite being cut out of back room discussions between the Governor's office and healthcare provider groups and universities, TSI advocates were optimistic that they would be able to convince the legislature to secure funds for a tobacco control program because the Master Settlement Agreement negotiations had been popular publicly. There was a momentum in the state favorable toward tobacco control.<sup>418, 429</sup>

TSI continued to publicly stress the importance of funding a comprehensive tobacco control program and, in fall 1999, received coverage from the media as a result of the coalition's meetings with newspaper editorial boards throughout the state. Also, by the fall of 1999, Attorney General Modisett, who was already a strong tobacco control advocate, worked with TSI and asked Governor O'Bannon to devote MSA funding to tobacco control.<sup>409</sup> O'Bannon was receptive to spending MSA revenues on tobacco control and other health care programs and was scheduled to release a proposal on November 10, 1999.<sup>427</sup>

Senators Borst and Miller held a press conference on November 9, 1999 (the day before Gov. O'Bannon was scheduled to announce his plan) to announce their intention to author legislation to establish six trust funds for the MSA funds for purposes ranging from tobacco control to biomedical research (Table 23). Borst's plan proposed spending \$511 million over 12

**Table 23: Initial Funding Proposal from Sen. Borst**<sup>416, 430</sup>

<i>Proposed Fund</i>	<i>Funding Amount</i> (projected funding through 2029)
Tobacco Use and Cessation Trust Fund	\$511.0 million (only for 12 years)
Indiana Health Care Trust Fund	\$1.2 billion
Biomedical Research and Technology	\$585.0 million
Indiana County Health Department Trust Fund	\$197.2 million
Education Technology Trust Fund	\$105.5 million
Indiana Elderly Well-being Trust Fund	\$177.4 million
Interest Endowment from investing MSA funds (50% of annual MSA payments received)	\$3.0 billion

years on a new tobacco control program (averaging \$42.5 million annually, but only guaranteed for 12 years). Borst planned to leave half of the MSA money in reserves to be invested, which, with interest, would amount to an estimated \$3 billion after 29 years. Borst proposed that that interest should fund an endowment to be used to fund long term unspecified public health programs.<sup>430</sup> Borst decided to preempt the Governor’s proposal because after the Governor’s announcement, Borst did not believe he would be able to work in some of the specifications to the plan. Borst predicted that the Governor would place the State Health Commissioner in charge of the new tobacco control program, while Borst felt that it should be managed by a board independent of the Department of Health.<sup>427</sup>

The next day, on November 10, Governor O’Bannon announced a two year plan to spend all MSA funds on tobacco control, health care, and medical services. O’Bannon proposed \$40 million annually to a tobacco education prevention and control program, with the rest of the money going to medical services and community health centers (Table 24). O’Bannon’s proposed \$40 million for tobacco control was only for two years and was therefore far less than Borst’s proposal which was spent \$511 million over 12 years. Tobacco control advocates wanted the tobacco control program funded with \$50 million annually, an amount within the recommended range provided by CDC’s 1999 Best Practices<sup>1</sup> (\$34.8 million – \$95.8 million [(45.6 million - \$125.5 million adjusted for inflation in 2010)]<sup>424</sup>). In addition to only including funding for tobacco control for two years, O’Bannon proposed that the new tobacco control branch be under the State Health Commissioner giving the Governor much more control over the program than if it was an independent agency.<sup>427</sup>

O’Bannon also recommended that as much as 50% of future MSA payments (which were estimated to reach \$4.2 billion over the first 25 years) should be securitized to provide the state with a lump sum payment for unspecified spending purposes. Although the securitization component was supported by O’Bannon, it was not included in the initial spending proposal.<sup>18</sup> Securitization proposals involved selling bonds backed by future MSA payments so that the state could take a decreased lump sum payment up front.<sup>431</sup> Securitization was often supported by arguments that if the tobacco companies went bankrupt in the long term, that the state would not receive the full amount of their agreed upon payments anyways so nothing was lost in taking a heavily discounted amount of money now in exchange for giving up the future income stream. The danger of securitization, however, was that it would create a sudden windfall of billions of dollars, and would be used for issues completely unrelated to tobacco control.

<i>Recipient</i>	<i>Proposed Annual Funding (million)</i>
Tobacco education prevention and control	\$40.0
Medical care (Including treatment of smoking-related illnesses for seniors, minorities and youth)	\$30.0
Children's Health Insurance Program (CHIP)	\$28.0
Community health centers in rural or medically underserved area	\$20.0

## The Legislative Session

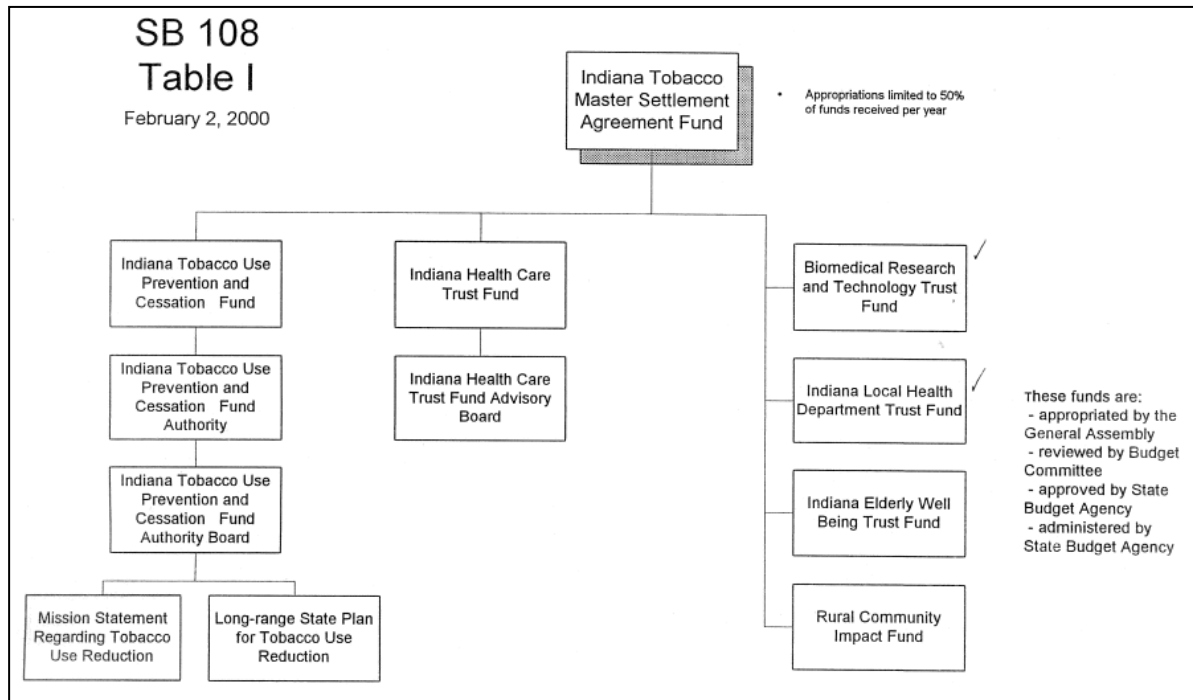
### ***SB 108: Sen. Lawrence Borst's Proposal***

Sen. Borst's bill was introduced as SB 108 on November 18, 1999 as part of a five day convening of the General Assembly which functioned as the precursor to the start of the Legislative Session in January.<sup>432</sup> SB 108 was assigned to the Senate Finance Committee chaired by Borst. Senators Miller along with Steven Johnson (R-Kokomo) and Vi Simpson (D-Ellettsville) were co-authors of the bill. As introduced, SB 108 would have changed the name of the name of the Tobacco Settlement Fund (originally created in 1999 to allocate CHIP funding) to the Indiana Tobacco Master Settlement Agreement Fund and would hold all MSA payments made to the state.<sup>432</sup>

SB 108 would have established the Indiana Tobacco Use Prevention and Cessation Authority and the Indiana Tobacco Use Prevention and Cessation Trust Fund along with five other trust funds: The Indiana Health Care Trust Fund, Biomedical Research and Technology Trust Fund, Indiana Local Health Department Trust Fund, Indiana Education Technology Trust Fund (amended out before leaving the Senate), Indiana Elderly Well Being Trust Fund (Figure 14). The Authority would have been a public agency of the state governed by a Board of Directors appointed by the Governor made up of a mixture of ex-officio members, representatives of health organizations and members based on skill, knowledge and experience in smoking reduction and cessation programs as well as health care services. SB 108 charged the Board with creating and implementing a statewide tobacco control program spanning at least a five year period with specific goals, determined by the Board, for the prevention and reduction of tobacco use in Indiana. SB 108 specified that the Board control the Trust Fund consisting of funds transferred from the Indiana Tobacco Master Settlement Agreement Fund.<sup>432</sup>

SB 108 created a structure for these new programs, but did not establish a long term funding plan for any of the trust funds that the bill created. The bill limited expenditures, transfers, or distributions of MSA funds by the General Assembly to 50 percent of the annual MSA payments after the annual allocation of money to CHIP (as established in 1999 under P.L. 273).<sup>432</sup> The remaining 50 percent of the annual MSA funds received by the state would have been required to remain in the Indiana Tobacco Master Settlement Agreement Fund and accrue interest. Except for the CHIP funds (which were appropriated under earlier legislation), none of the funds could be spent until July 1, 2001. When heard in the Senate Finance Committee, which

Borst chaired, SB 108 was amended to include the Rural Community Impact Fund to develop new agricultural enterprises to replace some of the lost tobacco agriculture from future decreased tobacco product sales. The Committee also removed the Indiana Education Technology Trust Fund. Funding was left for the House to add and for discussions in Conference Committee. SB 108 continued through the Senate which passed in on to the House on February 1, 2000 with a 49-1 vote.



**Figure 14:** Flowchart for structure proposed in SB as passed by the Senate

### HB 1312

Rep. Charlie Brown (D-Gary) introduced HB 1312 on January 10, 2000. The bill was more similar to Governor O'Bannon's proposal, who supported it.<sup>433</sup> HB 1312 would have created a Tobacco Fund Executive Advisory Council to oversee three Tobacco Settlement Fund Programs: The Tobacco Control Advisory Committee, Enhanced Health Planning Advisory Committee, and Prescription Drug Advisory Committee (Figure 15).<sup>434</sup> The Tobacco Control Advisory Committee would have been funded with \$35 million in its first biennial budget period, a significant amount of funding which at the time met the minimum CDC *Best Practices* recommendations.<sup>1</sup> (\$35 million adjusted for inflation in 2010 was \$44.4 million)<sup>424</sup>

While the level of funding met CDC's minimum recommendations, the program structure and the lack of a trust fund could have been detrimental to tobacco control efforts. The Tobacco Control Advisory Committee would have been buried beneath the Tobacco Fund Executive Advisory Council, within a batch of other new programs focused on improving general health and funding prescription drugs, possibly diluting the tobacco control program. Moreover, the Tobacco Control Advisory Committee would be staffed by ISDH and reported to the

Governor.<sup>434</sup> The Governor would have the power to decrease the staff levels of the tobacco control program. Additionally, the funding allocated to the tobacco control program was less secure than in SB 108 because it was not in a trust fund. (Trust funds provide some security from raids because money deposited into a trust fund can only be removed by the authorized controller of the trust fund. Money deposited in regular funds can be rerouted by the State Board of Finance at the behest of the Governor.<sup>435</sup>) With no security for staff levels or funding in HB 1312, it would have been easier for tobacco control opponents to derail the program.<sup>434</sup>

HB 1312 was assigned to the House Public Health Committee, chaired by Rep. Brown, the bill's author. It passed the House without amendments by 85-14. HB 1312 did not survive to be considered in Conference Committee because the key negotiators for the two proposals (Sen. Borst, Rep. Brown, and representatives from the Governor's office) devoted full attention to SB 108 as Conference Committee approached.<sup>427</sup>

**SB 108 in the House**

When SB 108 arrived in the House it was assigned to the House Public Health Committee and then the Ways and Means Committee. The Public Health Committee amended

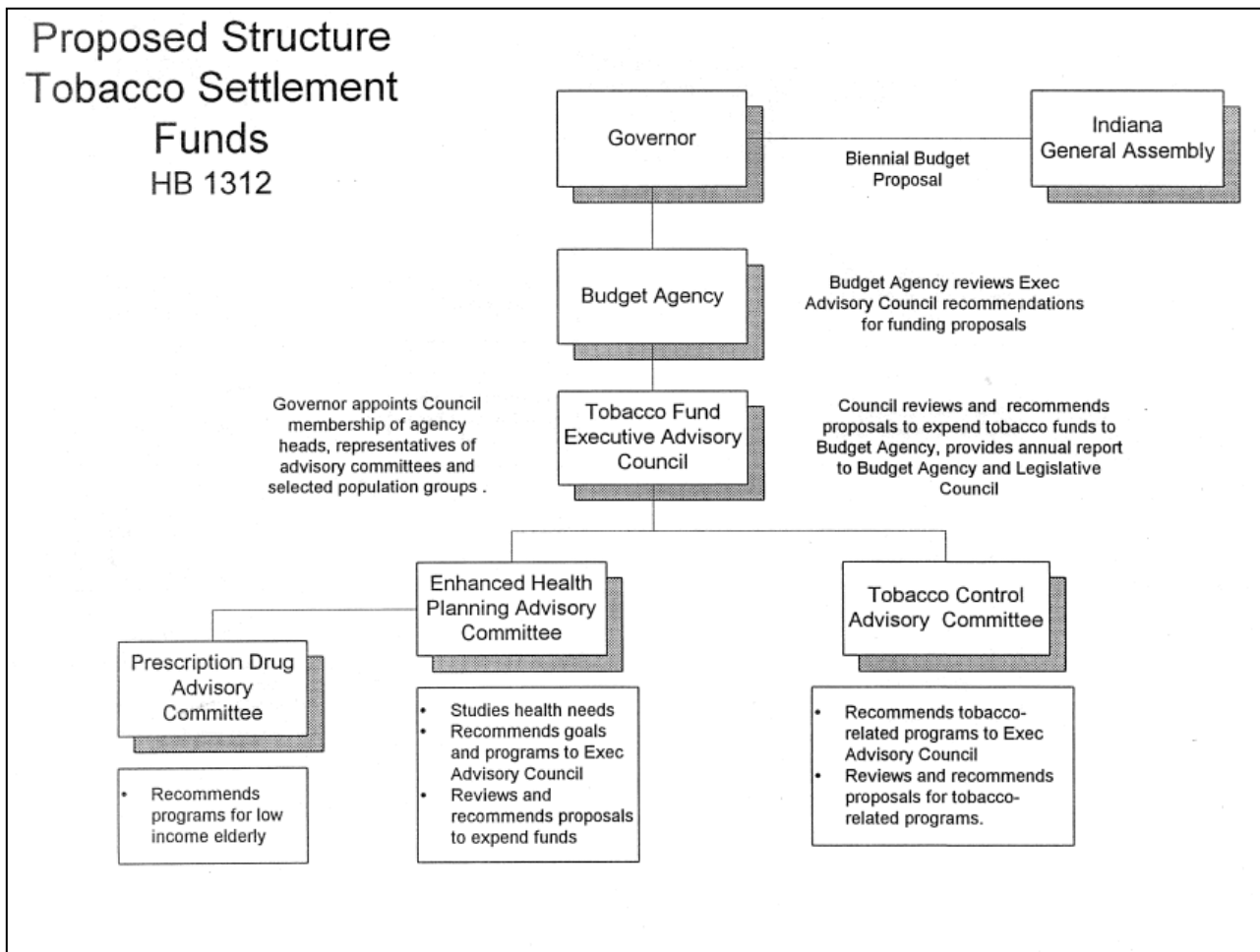


Figure 15: Flow chart for HB 1312 proposal

SB 108, removing the six funds that Borst's original plan created and replacing them with provisions similar to Rep. Charlie Brown's HB 1312 (Figure 15). The Public Health Committee did provide funding for some of the programs whereas the Senate only established a program structure without allocating any funds. The Committee amended SB 108 to fund tobacco education, prevention, and use control, at \$30 million (for one year only), but with an emphasis on mental health addiction treatment and intervention programs. This emphasis on mental health, according to Sen. Borst's autobiography, came from an organized lobby of mental health groups that sought to get as much funding for mental health programs as possible, regardless whether or not the programs had a focus on tobacco control.<sup>427</sup>

Although TSI and the healthcare providers and universities had not formally split in the fall of 1999, during the 2000 Legislative Session, TSI focused primarily on advocating for tobacco control money and less on the broad request for "health" funding. TSI contracted with the Indianapolis firm Massie & Associates, Inc. to poll Indiana residents regarding use of the settlement funds. Seventy-five percent of respondents preferred that the MSA payments be placed in a special trust account separate from the state's general fund; only 14 percent favored placing the MSA funds in the General Fund. Sixty-one percent either "Supported" or "Strongly Supported" using the money for a long-term tobacco control program to reduce tobacco use, especially among youth and teens. Other questions regarding MSA funding allocation also showed support for a variety of issues ranging from health, tax relief, and farmer subsidies.<sup>436</sup> The public opinion poll provided a powerful tool that TSI advocates and lobbyists used in conversations with legislators when advocating for a comprehensive tobacco control program.

TSI also focused on supporting Sen. Borst (whose plan they favored) as well as Rep. Brown and Governor O'Bannon's office who were closely involved in the discussions and championed funding a tobacco control program. Tobacco control advocates pointed to the leadership of these sponsors as one of the most important contributors to the success of tobacco control advocates in the 2000 legislative session.<sup>321</sup> TSI worked to maintain a continued presence in the media and to educate other legislators on the importance of funding a tobacco control program and to increasing support for Borst's plan.<sup>321</sup>

During the week of February 14, as the House Public Health Committee heard SB 108, TSI launched a radio campaign to increase public awareness about Indiana's high smoking rate in an ad saying, "It's not too late for today's kids if our state legislators make the right decision ... Tell them we need at least one-third of the tobacco settlement money committed to tobacco prevention this year. Indiana's kids can't wait."<sup>437</sup> TSI also issued a press release highlighting the public opinion poll.<sup>438</sup>

Tobacco control funding received strong support from the media throughout Indiana because of TSI's active communication with the media, including editorial writers, to ensure that the public debate reflected their vision for tobacco control.<sup>439</sup> TSI also remained in contact with key legislators and worked to keep General Assembly leaders focused on tobacco as the session progressed. TSI sent key legislators an Indiana Tobacco Toll Clock throughout the session. The toll clock (Figure 16) displayed the date and the death toll and cost total from tobacco-related disease "ticking" since the November 1998 MSA.<sup>440</sup> TSI members and national tobacco control advocates like Danny McGoldrick, Director of Research for CTFK, testified during SB 108

hearings in the House Public Health Committee in support of a tobacco control program modeled on CDC's recommendations.<sup>441</sup>

Throughout the Session, the tobacco industry argued that the MSA funds should be dedicated to Youth Smoking Prevention, reflecting the industry's strategy of trying to limit the scope of tobacco control programs to relatively ineffective youth campaigns.<sup>327, 442</sup> Baker & Daniels, a law firm representing Philip Morris, held meetings with Governor O'Bannon's staff and representatives of the Attorney General's office and sent letters to all legislators regarding Philip Morris's support of allocating the MSA funds to address youth smoking (rather than the kind of broad based policy-oriented efforts that TSI wanted). John S. Keeler,

former state representative and then Baker & Daniels attorney, wrote to Derek L. Crawford, Regional Director of State Government Affairs for Philip Morris, that this support of Youth Smoking Prevention "put Philip Morris and us, as consultants, in a very positive light and proactive position ... The disadvantage of this position, if you could call it that, was that some legislators did not believe that Philip Morris and our firm as its consultants were sincere."<sup>334</sup>

The House passed the amended SB 108 by 82-13 on February 23, returning the bill to the Senate which had to concur with the House's amendments. On the same day that the House passed SB 108, TSI released *The Price of Inaction: The Economic Impact of Tobacco Use in Indiana*,<sup>443</sup> an analysis highlighting the economic benefits of decreasing smoking in Indiana. TSI contracted with Patrick Barkey, Ph.D., a Ball State University Professor of Economics and

**Indiana Tobacco TOLL CLOCK**  
 ... Ticking since the Multi-State Settlement with Tobacco Companies was Signed (11/98)

Today's Date: **FEBRUARY 03 2000**

Indiana deaths from smoking-caused illnesses:	<b>12430</b>
Indiana kids who have become new daily smokers:	<b>38360</b>
Indiana's tobacco-related Medicaid costs:	<b>305 MILLION</b>
Indiana's tobacco-related health costs:	<b>187 BILLION</b>

**YOU CAN STOP THE CLOCK FROM TICKING!**

**Indiana's tobacco settlement dollars should fund tobacco prevention and control. Only Indiana legislators can make this happen.**

**It's time to use the tobacco settlement to protect kids from tobacco and save taxpayers' money. If you let the clock run, the tobacco industry wins.**

**Tobacco SMART INDIANA** [www.tobaccosmart.org](http://www.tobaccosmart.org)  
 (317) 876-4850

Tobacco Smart Indiana is a coalition of the American Cancer Society, American Heart Association and the American Lung Association.

Figure 16: Toll clock used by Tobacco Smart Indiana as an advocacy tool



Policy Studies, to prepare this report, which found that Indiana's cost of smoking exceeded \$3.5 billion/year. The Senate did not concur with the House's amendments, and SB 108 was sent to Conference Committee where four committee members, Reps. Charlie Brown and Mike Murphy (R-Indianapolis), and Sens. Lawrence Borst and Vi Simpson met to agreement on language. TSI's commissioned economic study provided an additional tool for TSI to argue for a fully funded tobacco control program as SB 108 transitioned into Conference Committee.

### ***Conference Committee***

Conference Committee hearings were another opportunity for all parties to make public pleas to the General Assembly for MSA funding. TSI arranged for Dr. Gregory Connolly, Director of the Massachusetts Tobacco Control Program, to testify at the committee hearing for SB 108, together with the TSI members who had been active throughout the session. Connolly testified on the necessities of a comprehensive tobacco control program and advocated for CDC recommended funding for the new Indiana program. Bringing in such an experienced outside expert provided significant assistance in the campaign, as evidenced by the fact that the legislators who attended the hearings referenced his testimony several times throughout the MSA legislation debates.<sup>444</sup>

Other groups than the TSI public health groups and healthcare provider groups and universities also testified before the Committee. The American Association of Retired Persons (AARP) supported funding for elderly medical care such as a funded prescription drug plan. The Indiana Farm Bureau made a final request for money to help Indiana's southern tobacco farmers to transition to other crops. Lobbyists for Brown & Williamson, Philip Morris and R.J. Reynolds were present as well to request legislation that would prohibit the sale of "gray market" cigarettes (cigarettes produced domestically for export abroad but smuggled back into the United States to avoid taxes, thus undercutting the domestic prices and the sales of domestic tobacco companies.<sup>445</sup>) This gray market language was eventually included in the enacted law. Reps. Brown and William Crawford (D-Indianapolis) also supported funding programs with a strong focus on minority health and made this large part of the Conference Committee discussions. It appears that there was a high level of agreement among the legislators in the discussions. In fact, Sen. Borst remarked in his autobiography that the final version was reached by Borst, Rep. Brown, and representatives from Gov. O'Bannon's office, and that there was no interference from other members of the General Assembly.<sup>427</sup>

### ***Final Provisions of SEA 108***

The Conference Committee version of SB 108 (SEA 108 once enrolled) was similar to the Senate's original proposal. SEA 108 allowed the General Assembly to allocate funds for the fiscal year beginning July 1, 2000, making the spending of funds possible as early as that summer. The final version of SEA 108 stipulated that in the first year of receiving funding, only 50 percent (minus 1999 levels of CHIP funding, P.L. 223) of the funds could be spent. The other 50 percent was required to remain in the Indiana Tobacco Master Settlement Agreement Fund to accrue interest. Beginning in July 2001 and each year thereafter, SEA 108 allowed the state to spend 60 percent of the annual MSA funds; 40 percent of each payment was required remain in the Indiana Tobacco Master Settlement Agreement Fund and accrue interest.

Six funds similar to those in the Senate were established (not all were trust funds as in SB 108's first pass through the Senate), though the bill only allocated money to the Indiana Tobacco Use Prevention and Cessation Trust Fund, the Indiana Local Health Department Trust Fund and the Indiana Prescription Drug fund for FY 2001 (Table 25). (The other funds were created but not funded; the state provided funding for most, but not all, of the other accounts in the FY 2002-2003 biennial budget. As a result of the 50% cap for FY 2001, the state could not spend any more of the MSA funds that year.<sup>446</sup>)

The Indiana Tobacco Use Prevention and Cessation (ITPC) Trust Fund was funded with \$35 million for FY 2001, meeting CDC's minimum recommendations (\$34.8 million [\$45.6 million adjusted for inflation in 2010])<sup>1</sup> and representing a victory for tobacco control advocates in Indiana (ITPC is discussed in the following section). However, as provided in the SEA 108, the General Assembly was only required to fund the Local Health Department Trust Fund annually, which SEA 108 stipulated was to receive \$3 million annually beginning in 2001. If the state wished to continue funding the other programs, including its new state tobacco control program, it was required to allocate the funds every two years with the passage of the state's biennial budgets.

Governor O'Bannon signed SEA 108 into law on March 13, 2000, creating a well-funded tobacco control program. There was no existing infrastructure for tobacco control in Indiana, so tobacco control advocates felt that this represented a new beginning for a modern tobacco control program in Indiana.<sup>429, 447</sup>

<i>Fund</i>	<i>FY 2001 Funding (in millions)</i>	<i>Purpose</i>
<i>New Funds Established under SEA 108</i>		
Indiana Tobacco Use Prevention and Cessation Trust Fund	\$35.0	Tobacco education, prevention, and use control. \$2,500,000 of this amount must be used to fund minority prevention and intervention programs.
Biomedical Technology and Basic Research Trust Fund	Not Funded	Making distributions to the Indiana Twenty-first Century Research and Technology fund. Support biomedical technology and basic research initiatives.
Indiana Health Care Trust Fund	Not Funded	Broad healthcare and medical service programs
Indiana Local Health Department Trust Fund	3.0 (annual)	Provide funding for services provided by local boards of health in each county based on population.
Indiana Prescription Drug Fund	\$20.0	Pharmaceutical assistance for low income senior citizens.
Tobacco Farmers and Rural Community Impact Fund	Not Funded	Support tobacco farmers transitioning to other crops and other rural agriculture development projects.
<i>Funds to ISDH</i>		
Indiana State Department of Health	\$25.0	Community health centers and primary health care centers for children.
ISDH Local Health Maintenance Fund	\$1.5	Supplemental grants to local health departments.
<b>Note:</b> Funding was a one-time allocation unless noted		

## ***Conclusions***

The Master Settlement Agreement, the advocacy for the allocation of the settlement funds and the tobacco control program SEA 108 created and funded represented major turning points for tobacco control in Indiana. While tobacco control advocates had been active throughout the state in prior years, the level of organization between advocates and registered lobbyists in Tobacco Smart Indiana cemented a small working group of advocates and organizations that remained organized under different coalition names in subsequent years. Tobacco Smart Indiana effectively used the media to mobilize public support in a sophisticated advocacy campaign to convince the Legislature and Governor to fund a new comprehensive tobacco control program at CDC-recommended funding levels.

The high level of tobacco control funding allocated by SEA 108 was a result of effective advocacy and lobbying that supported elected officials who wanted to fund a modern tobacco control program at CDC levels. Sen. Lawrence Borst, who authored SEA 108, was influential in establishing the Indiana Tobacco Use Prevention and Cessation Trust Fund as an independent body instead of as branch of the Indiana State Department of Health, to ensure autonomy and reduce political interference. The support of Sen. Lawrence Borst, Rep. Charlie Brown, and Governor O'Bannon, as well as the other sponsors of the legislation, was another driving force that led to the initial use of the Master Settlement Agreement money entirely for health-related programs.

### **The Creation of the Indiana Tobacco Prevention and Cessation Agency (ITPC)**

#### ***The Indiana Tobacco Use Prevention and Cessation Executive Board and Trust Fund***

SEA 108 created the Indiana Tobacco Use Prevention and Cessation Trust Fund and the Indiana Tobacco Use Prevention and Cessation Executive Board which controlled the funds that the General Assembly allocated from the Indiana Tobacco Master Settlement Agreement Fund.<sup>446</sup> As in Ohio,<sup>448</sup> Minnesota<sup>329</sup> and Mississippi,<sup>449</sup> the MSA money was put into a specific trust fund rather than the general fund in an effort to insulate the money from politics.<sup>284</sup> The Executive Board was required to develop: 1) A mission statement concerning prevention and reduction of the usage of tobacco and tobacco products in Indiana and 2) A long range state plan (for the next 5 years), based on CDC *Best Practices for Tobacco Control Programs*<sup>1</sup> to coordinate state efforts to reduce usage of tobacco and tobacco products.<sup>446</sup> The Executive Board was also empowered to recommend legislation to the Governor and General Assembly.

The Executive Board was established as an independent state agency with the following membership:

- Five ex officio members:
  - Executive Director hired by the Executive Board (Nonvoting member).
  - State Superintendent of Public Instruction, or the State Superintendent's designee.
  - Attorney General, or the Attorney General's designee.
  - Commissioner of the State Health Department, or the Commissioner's designee.

- Secretary of the Family and Social Services Administration or the Secretary's designee.
- Eleven members appointed by the Governor and that have knowledge, skill and experience in smoking reduction and cessation programs, health care services, or preventive health care measures
- Six members appointed by the Governor representing the following organizations:
  - American Cancer Society
  - American Heart Association
  - American Lung Association
  - Indiana Hospital and Health Association
  - Indiana State Medical Association
  - Indiana Council of Community Mental Health Centers

Members who were not in ex-officio positions and not representatives of the six health organizations were appointed to serve four year renewable terms. At the conclusion of their terms, these members continued to serve until replaced by the Governor.<sup>446</sup>

SEA 108 also gave the Governor the authority to appoint the Chairperson of the Board. Gov. Mitchell Daniels (R) interpreted the law to mean any member of the board and, in 2005, named Dr. Judith Monroe, his appointed ISDH State Health Commissioner, as Chair. Several Executive Board members argued to the Governor's office that the legislation intended for the chairperson to be a community public health worker, which included only the appointed members. They argued that making Monroe chair was illegal because the State Health Commissioner was an ex-officio board member and a political appointee of the Governor.<sup>429, 450-452</sup> Having learned from ISDH's interference with ASSIST, some members of the ITPC Executive Board sought to keep ITPC as insulated as possible from political influence.

Once the State allocated funds from the Indiana Tobacco Master Settlement Agreement Fund to the Indiana Tobacco Use Prevention and Cessation Trust Fund (as part of the biennial budget), the Executive Board had the authority to spend the money as it saw fit in order to implement its long range plan addressing tobacco.<sup>446</sup> However, on at least one occasion, the Governor "retained" portions of funds appropriated to the ITPC Trust Fund, as discussed below.<sup>5</sup>

The Executive Board hired an Executive Director to manage day-to-day implementation of the tobacco control program by the new state agency, the Indiana Tobacco Prevention and Cessation Agency (ITPC) (Table 26).<sup>446</sup> SEA 108 also established the Indiana Tobacco Use Prevention and Cessation Advisory Board, chaired by the ITPC Executive Director, to advise the Executive Board on establishing a mission statement and long range plan. The Advisory Board also advised the Executive Board on programmatic spending, particularly the criteria for grant applications. Advisory Board members were required to be individuals "who have knowledge, skill, and experience in smoking reduction and cessation programs, health care services, or preventive health care measures."<sup>446</sup> The Governor appointed the members of the Advisory Board and the initial fifteen-member Advisory Board was comprised of representatives from around Indiana.

<b>Table 26: Membership of the first Indiana Tobacco Use Prevention and Cessation Executive Board<sup>3</sup></b>	
<b><i>Member</i></b>	<b><i>Position Represented</i></b>
Karla Sneegas	ITPC Executive Director
Bain J. Farris	Chair
Gregory A. Wilson, M.D. <i>State Health Commissioner</i>	Vice Chair, Ex Officio Member
Robbie Barkley	American Heart Association
Michael Blood, M.D.	At Large Member
Richard Feldman, M.D.	At Large Member
Patricia Hart	At Large Member
Richard Huber	American Cancer Society
Stephen Jay, M.D.	At Large Member
Steve Carter <i>Attorney General of Indiana</i>	Ex Officio Member
John Hamilton <i>Secretary of Family Social Services Agency</i>	Ex Officio Member
Robert Keen, Ph.D.	Indiana Hospital and Health Association
Frank Kenny	American Lung Association
J. Michael Meyer	At Large Member
Pamela Peterson-Hines	At Large Member
Steve Simpson, M.D.	At Large Member
Alan Snell, M.D.	At Large Member
Mohammad Torabi, Ph.D.	At Large Member
Peggy Voelz	At Large Member
Alice Weathers	At Large Member
Suellen Reed, Ed.D. <i>Superintendent of Public Instructions</i>	Ex Officio Member

The tobacco industry remained optimistic that it could influence the program. John S. Keeler, an attorney with Baker & Daniels which represented Philip Morris, wrote in a 2000 letter to Derek L. Crawford, Regional Director of Philip Morris in Indiana:

We believe there are a number of opportunities to have an impact on the activities of the Executive Board and influence its policies. They include: (1) attempting to influence appointments to the Executive Board and the advisory committee; (2) monitoring and publicly participating in the development of the Executive Board’s long-range plan and mission statement; (3) monitoring and participating in the development of the Executive Board’s guidelines and procedures with regard to the evaluation and assessment components of any particular program; and (4) serving as a resource for both the Executive Board and the

advisory committee with regard to Philip Morris' experience with cessation programs in other states and jurisdictions.<sup>334</sup>

There is no evidence that Philip Morris influenced any of these processes.

### ***Funding the ITPC Trust Fund***

CDC's 1999 *Best Practices for Comprehensive Tobacco Control Programs*<sup>1</sup> which recommended annual funding levels for each state, recommended between \$34.8 and \$95.8 million for Indiana. (Adjusted for inflation, the corresponding amounts for FY 2001 – the first year of the program – were \$36.9 million and \$101.8 million. CDC increased the recommended level to \$78.8 million when it released its updated *Best Practices* in 2007.<sup>2</sup>)

SEA 108 allocated \$35 million to the Indiana Tobacco Use Prevention and Cessation Trust Fund for FY 2001, ITPC's first year, meeting CDC's minimum recommended level (absent inflation) and representing a huge victory for tobacco control (Table 29). In July, 2002, only 16 states, including Indiana, appropriated half or more of CDC's minimum recommended funding.<sup>453</sup>

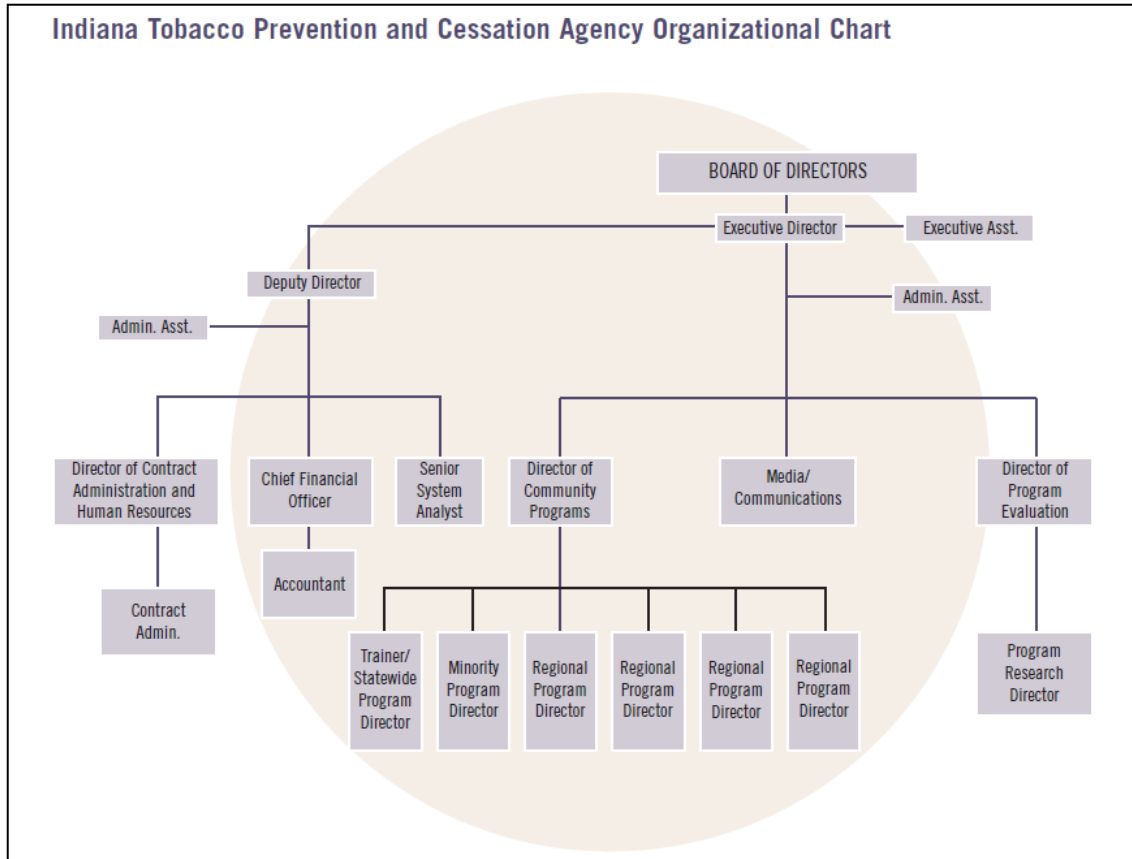
The only limitation on the funding was that the Executive Board ensure that \$2.5 million fund minority organizations, agencies, and businesses to implement minority tobacco prevention and cessation programs.<sup>3</sup> The national Campaign for Tobacco-Free Kids, ACS, AHA, ALA, and RWJF SmokeLess States National Tobacco Policy Initiative Indiana hailed Indiana as an emerging national leader in tobacco control. However, as discussed below, full funding of the program only lasted for one year.

### ***ITPC Staff Structure***

By January 2001, the Indiana Tobacco Use Prevention and Cessation Executive Board selected Karla Sneegas, former ASSIST State Chair and Tobacco Smart Indiana (TSI) co-chair, as ITPC Executive Director. J.D. Lux, a former Deputy Attorney General, who was also considered for Executive Director, was appointed Deputy Director, which tobacco control advocates supported.<sup>429, 447</sup> Sneegas, in collaboration with the Board, established an agency structure which included media and communications, community programs, program evaluation, and administration (Figure 17). The Director of Community Programs oversaw the Regional Program Directors who worked directly with community and minority program grantees throughout the state.

### **The Five Year Objectives and the Hoosier Model for Comprehensive Tobacco Prevention and Cessation**

Indiana political leaders had been reluctant to support health as a priority in the past.<sup>429</sup> It was commonly understood that ITPC's Board and staff needed to quickly implement their new programs and achieve positive results to quash the likely harsh critique of the highly funded program by unfriendly politicians. The Board was careful to allocate its funds to proven-effective programs and to avoid wasting money.<sup>289, 447, 450</sup>



**Figure 17:** Original organizational structure for the Indiana Tobacco Prevention and Cessation Agency<sup>7</sup>

With CDC-recommended funding secured for its first and an Executive Board appointed, the Board set out to develop its five-year plan and a comprehensive program to meet the plan’s objectives, dubbed the “Hoosier Model” for Comprehensive Tobacco Prevention and Cessation (Table 27). The Hoosier Model contained five components: Community Based Programs;

<b>Table 27: The Hoosier Model Compared to CDC Best Practices for Comprehensive Tobacco Control Programs (1999, 2007)<sup>1-3</sup></b>		
<b><i>The Hoosier Model</i></b>	<b><i>1999 CDC Best Practices</i></b>	<b><i>2007 CDC Best Practices</i></b>
Community Based Programs	Community Programs to Reduce Tobacco Use	State and Community Interventions
Statewide Media Campaign	Chronic Disease Programs	Health Communication Interventions
Enforcement	School Programs	Cessation Interventions
Evaluation and Surveillance	Enforcement	Surveillance and Evaluation
Administration and Management	Statewide Programs	Administration and Management
-	Counter-Marketing	-
-	Cessation Programs	-
-	Surveillance and Evaluation	-
-	Administration and Management	-
<b>FY 2001 Funding:</b> \$35.0 <b>FY 2010 Funding:</b> \$10.9	<b>Recommended Funding:</b> \$34.8 - \$95.8	<b>Recommended Funding:</b> \$78.8 Range: \$54.7 - \$121.2

Statewide Media Campaign; Enforcement; Evaluation and Surveillance; and Administration and Management.<sup>5</sup>

In the Hoosier Model, Community Based Programs included cessation, school, and statewide programs which were three other components of CDC's prescribed tobacco control model program.<sup>1, 447</sup> Reflecting the strength of the Hoosier Model, in 2007 CDC revised its *Best Practices* to recommend a similar program structure.<sup>2</sup>

The Hoosier Model emphasized community programs and statewide counter-marketing media. ITPC did not explicitly fund chronic disease programs, a fourth component of CDC's 1999 *Best Practices*, but later initiated collaborations with the Indiana State Department of Health, hospitals and medical providers in order to address CDC's chronic disease program recommendation.<sup>3, 447</sup> While ITPC's first year was focused largely on program design, hiring staff, and implementing early surveys for media campaigns, by late 2001 and into early 2002, it had programs and evaluations in place.

ITPC published annual reports beginning in 2001 submitted to the General Assembly as progress reports.<sup>3-10, 12</sup> These annual reports provided the state tobacco program an opportunity to update the General Assembly on its progress and to make policy recommendations for cigarette tax increases and smokefree legislation.

By 2005, the ITPC Executive Board was pursuing 19 objectives (Table 28) that broadly sought to decrease smoking rates among all age groups, genders and racial and cultural groups with an emphasis on minimizing minority disparities in regards to tobacco use.<sup>3</sup>

### ***Community Programs***

The Hoosier Model prioritized four goals specifically related to community programs: 1) build strong community-based partnerships including diverse partnerships; 2) protect Indiana's population from exposure to secondhand smoke; 3) reduce youth initiation and access to tobacco; 4) promote and use cessation resources. The plan called on ITPC to achieve these goals through diverse activities which included coalition building among diverse groups such as minorities and youth, working with the community and the government to ensure enforcement of laws, encouraging voluntary smokefree policies in areas and establishments not protected by the state's law or a comprehensive local smokefree ordinance, and advocating for the passage of smokefree laws.<sup>5</sup> The Board established three categories of community programs (with corresponding grant programs): Community-based partnerships, Minority-based partnerships and Statewide, regional and pilot partnerships.

Community programs were allocated 57 percent of ITPC's FY 2002 budget with 23 percent of the total budget going to Local Community Based Partnerships, 23 percent going to statewide, regional and partner programs, 8 percent going to minority partners and 3 percent going to emerging programs (Table 29). The community-based programs and minority-based programs were established at the county level with a lead agency (usually the county health department) receiving grants from ITPC and spearheading local coalition building, program



development and implementation. Many counties had both community-based coalitions and minority coalitions which functioned as separate organizations with separate grants. In addition to CDC's *Best Practices*<sup>1</sup>, community based programs were encouraged to use the American Cancer Society's (ACS) *Communities of Excellence*<sup>4,5</sup> guide to coordinate their programs and strategies. The third component of ITPC's community programs was statewide, regional and pilot partnerships. ITPC funded and galvanized statewide partner organizations to form a working coalition that was familiar with different state populations and could collaborate on diverse programs.<sup>3, 4</sup>

*Community-based and Minority-based Partnerships*

By June 30, 2002, just two years after receiving the initial funding, the Board approved funding for 88 of the 92 counties in Indiana for community-based programs, 27 minority based programs, and 20 statewide, regional and pilot programs. By 2003, all 92 counties had tobacco control coalitions with at least one ITPC grant.<sup>4, 5</sup> ITPC reported in its 2002 Annual Report that the coalitions, largely on the community level, that received this initial funding represented 1,200 new tobacco control partners throughout the state.<sup>4</sup> This level of community funding was revolutionary for Indiana which, until that point, had only had the five regional tobacco control coalitions formed during ASSIST/Smokefree Indiana.

Most of the local community-based programs and minority partners were newly formed coalitions, many new to tobacco control. ITPC provided its grantees with training sessions ranging from ITPC's grant application process to mandatory sessions on strategies for building local coalitions. ITPC established clusters of counties and hired regional directors which were responsible for providing direct assistance to the local partners. Regular conference calls were held for all partners throughout the state to ensure that each partner's goals and activities were aligned with ITPC's mission and that each partner was equipped with the necessary resources, if available, for running their campaigns and programs. Conference calls also allowed for information sharing and for strategy sessions with ITPC staff and other partners.<sup>4</sup>

<b>Table 28: ITPC 2005 Objectives<sup>3</sup></b>
<b>Decrease:</b>
Overall smoking rate from 27% to 22%.
Student (9th-12th grade) smoking rate.
Student (6th-8th grade) smoking rate.
Percentage of babies born to smoker mothers from 21% to 15%.
Percentage of children exposed to secondhand smoke in home.
Healthcare expenditures.
<b>Increase:</b>
Number of people with smoking cessation covered in health insurance.
Number of smokers who get cessation counseling at primary care physician visit.
Percentage of retailers in compliance with youth access laws.
Percentage of schools with campuses that have tobacco free policies.
Percentage of colleges and universities with smokefree dormitories and buildings.
Percentage of day care centers that prohibit tobacco products.
Percentage of individuals who work in smokefree environments.
Percentage of restaurants 100% smokefree.
<b>Monitor:</b>
Percentage of people admitted to hospitals for tobacco-related illness.
Tobacco-related deaths.
Tobacco consumption.
Number and type of tobacco-related ordinances.
Knowledge and attitudes related to tobacco.

**Table 29: Tobacco Control Revenues and Expenditures, 2000 - 2009<sup>3-10, 12, 455</sup>**

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010 (Budgeted)
<b>REVENUES</b>											
MSA Allocations to ITPC		35,000,000	5,000,000	15,000,000	10,800,000	10,800,000	10,092,344	10,099,964	16,200,000	15,000,000	10,859,308
Cigarette tax										1,247,272	
Interest		1,966,675	731,297	17,301	927,567	242,515	239,856	328,461	375,652	239,088	
Robert Wood Johnson Foundation								1,250			
American Legacy Foundation									25,000	110,484	
Returned Local Grant Dollars							1,571,272	85,663	213,936	32,657	
Donations			25		100	160			100		
Miscellaneous							750	1,000		2,968	
FY 2010 MSA Advance MSA										7,381,728	
<b>Total ITPC Receipts</b>		36,966,675	5,731,322	15,017,301	11,727,667	11,042,675	11,904,222	10,516,338	16,814,688	25,244,151	10,859,308
Carryover from Prior Year			36,833,189	23,286,291	14,187,436	8,977,110	5,005,731	6,941,673	5,441,212	6,536,049	11,665,498
<b>Total Available from State</b>		<b>36,966,675</b>	<b>42,564,511</b>	<b>38,303,592</b>	<b>25,915,103</b>	<b>20,019,785</b>	<b>16,909,953</b>	<b>17,458,011</b>	<b>22,255,900</b>	<b>31,780,200</b>	<b>22,524,806</b>
CDC Grant	824,902	1,399,979	1,416,111	1,308,417	1,399,979	1,049,985	1,090,167	890,166	890,165		1,037,550
Supplemental Funding						187,500	250,000	250,000	250,000		
Carryover Available			131,014	125,448	378,255	349,994			34,865		
Grant Extension				378,255					1,175,030	855,124	
<b>Total Available from CDC</b>	<b>824,902</b>	<b>1,399,979</b>	<b>1,547,125</b>	<b>1,055,610</b>	<b>1,778,234</b>	<b>1,587,479</b>	<b>1,340,167</b>	<b>1,140,166</b>	<b>1,175,030</b>	<b>855,124</b>	<b>1,037,550</b>
<b>Total Tobacco Control Funds</b>	<b>824,902</b>	<b>38,366,654</b>	<b>44,111,636</b>	<b>39,359,202</b>	<b>27,693,337</b>	<b>21,607,264</b>	<b>18,250,120</b>	<b>18,598,177</b>	<b>23,430,930</b>	<b>32,635,324</b>	<b>23,562,356</b>
<b>EXPENDITURES</b>											
Community Partnership Grants			3,625,814	7,354,980	6,477,849	4,721,936	4,052,899	4,263,523	5,910,010	5,507,272	
Special Opportunity Grants to Local Communities							89,210	427,615	235,657	97,463	
Minority Grants			1,035,668	2,143,899	1,949,726	2,403,248	1,447,031	1,832,969	1,918,808	1,545,893	
State, Regional and Pilot Partnerships Grants			5,326,627	2,992,933	794,950	1,366,743	208,300	496,206	472,685	1,604,053	
Advertising/Public Education			5,327,482	6,537,203	4,423,812	3,957,345	1,156,402	2,300,848	2,494,613	2,131,344	
Enforcement of Youth Access			2,388,581	1,154,066	750,000	500,000	500,000	500,000	500,000	500,000	
Training			64,383	201,726	196,943						

Technical Assistance			3,418	8,412		122,912	156,833	146,879	423,492	628,079
Sponsorships			25,000	41,367	29,000	10,000				
Kickoff Program									223,697	76,303
Health Care Provider Outreach Program										100,000
Statewide Cessation Project										285,337
Indiana Collaborative for Healthier Rural Communities Matching									75,000	
Take Note									24,841	151,868
Clearing House Materials			93,955	636,227	27,605	27,477				
ISDH Health Fair						5,000				
INShape Indiana							358,482	448,595	460,789	43,276
ISDH/CDC OSH Project									469	1,024,841
Quitline & NRT Program									743,980	2,657,178
Voice (e.g., Hubs, Youth Summits)						*	360,000	300,000	420,000	360,000
Emerging Programs			231,667	668,334						
Program Evaluation			282,785	1,319,734	1,267,192	1,011,360	755,163	205,621	637,532	994,132
Mandated Reversions of Cigarette Tax										1,247,272
Administration and Management		133,486	872,839	1,057,276	1,020,917	888,033	884,058	1,094,543	1,178,280	1,110,391
<b>IIPC Total Expenditures</b>		<b>133,486</b>	<b>19,278,220</b>	<b>24,116,156</b>	<b>16,937,993</b>	<b>15,014,054</b>	<b>9,968,378</b>	<b>12,016,799</b>	<b>15,719,851</b>	<b>20,114,702</b>
<b>CDC Grant Expenditures</b>										
Ball State University	748,348	1,220,264	1,346,033	1,052,171	1,132,570	992,931	1,248,737	1,048,346	924,519	
Miscellaneous	540		296	315	298	11,862	11,033	14,370	21,741	1,121
Personnel		2,335	3,123	3,124	3,405	37,872	60,727	62,255	67,696	
Clearwater Research									40,124	
Program Consultant										22,425
<b>CDC Total Expenditures</b>	<b>748,888</b>	<b>1,253,416</b>	<b>1,349,452</b>	<b>1,055,610</b>	<b>1,136,272</b>	<b>1,042,665</b>	<b>1,320,497</b>	<b>1,124,971</b>	<b>1,054,080</b>	<b>23,546</b>
Transfer to IIPC										1,229,954
Unspent CDC Funds	76,014	146,563	197,673		641,962	544,814	19,670	15,195	1,120	22,208
<b>Total Expenditures</b>	<b>748,888</b>	<b>1,386,902</b>	<b>20,627,672</b>	<b>25,171,766</b>	<b>18,074,265</b>	<b>16,056,719</b>	<b>11,288,875</b>	<b>13,141,770</b>	<b>16,773,931</b>	<b>21,113,202</b>
* Included in State, Regional and Pilot Partnerships Grants										

ITPC encouraged community and minority-based coalitions to pursue advocacy activities for stronger tobacco control policies, resulting in numerous coalitions succeeding in enacting local clean indoor air laws (discussed below). As in California,<sup>456</sup> policy-driven tobacco control programs at the local level in states that do not have preemption have made forward strides in tobacco control, effectively decreasing smoking behavior and contributing to changes in social norms regarding tobacco.

### *Statewide, Regional and Pilot Partnerships*

ITPC created statewide, regional and pilot partner programs to implement programs throughout the state with thematic trends and activities addressing tobacco use, often with a broader focus than on an individual community (Table 30). Statewide, regional and pilot partner programs focused on implementing programs that both promoted empowerment of tobacco control advocates and tobacco prevention, either through intervention or education and awareness programs, and expanded the working network of programs throughout the state. Many statewide, regional and pilot partner programs promoted Voice, ITPC's youth tobacco prevention activist network (discussed below). By promoting Voice, partners expanded Indiana's network of advocates while maintaining a strong focus on youth tobacco use. ITPC sponsored trainings on implementing youth programs for all of its partners, emphasizing the agency's commitment to youth empowerment and tobacco use prevention.<sup>5</sup>

### *Voice*

ITPC recruited youth tobacco activists throughout the state to form the ITPC Youth Advisory Board which led campaigns promoting tobacco awareness in Indiana. Following an anti-tobacco teen summit called "That Tobacco Thing," the Youth Advisory Board formed Voice (Figure 18), a youth-led brand designed to recruit and train other youth and to appear in the media as a youth tobacco control organization.<sup>4</sup>



**Figure 18:** ITPC's youth activist group Voice<sup>13</sup>

Voice became Indiana's youth tobacco control network which established local youth-driven coalitions throughout the state, similar to the youth led advocacy initiated under the ASSIST. Voice worked to raise awareness on tobacco issues throughout the state and to develop a public presence, often by coordinating events such as state fairs and teen festivals. Voice's messages often emphasized the tobacco industry's tactics of targeting youth in its marketing.<sup>5</sup> Voice was modeled after Florida's Students Working Against Tobacco (SWAT) program that focused on youth empowerment and which engaged youth through Florida's "truth" media campaign.<sup>457, 458</sup> The Florida programs became national models for successful youth smoking prevention efforts until early 2003 when the Florida legislature and Governor Jeb Bush (R) dismantled the program without any opposition from state health advocates.<sup>459, 460</sup>

By 2006, after massive budget cuts to the agency, the ITPC Executive Board re-prioritized its programmatic focus and increased funding to Voice as its primary vehicle for addressing youth tobacco use. Voice established six Voice Hubs throughout Indiana which connected local Voice coalitions regionally and provided a more effective organizational

**Table 30: Statewide Partners of ITPC and Major Activities<sup>5</sup>**

<b>Statewide Partner</b>	<b>Major Activities</b>
Clarian Health Partners, Inc.	Tobacco Education Group (TEG), Tobacco Awareness Program (TAP), Teens Against Tobacco Use (TATU) for Intervention, and Cessation. Intervention and Cessation training of youth and teens. Nurse-to-Nurse program which sought to recruit medical professionals (Nurses specifically) to encourage them to quit smoking and to learn about providing cessation counseling for others.
Conner Prairie Living History Museum	Tobacco: A Poisonous Practice (Museum history presentation) for awareness.
Future Choices, Inc.	Tobacco awareness and advocacy programs for Hoosiers with disabilities.
Healthy Communities Initiative of St. Joseph County	Tobacco-Free Zone Project: Training of clinic staff, including physicians, in tobacco education and cessation.
Indiana Academy of Family Physicians Foundation	Tar Wars Program. Youth outreach to schools on dangers of tobacco. Medical professionals, health care professionals and community leaders visited fifth grade classes to discuss tobacco.
Indiana Alliance of Boys and Girls Clubs	SMART Moves. Instruction and skill building activities, parental involvement and community support.
Indiana Black Expo (IBE)	Commit 2 Quit campaign. Media placement, event sponsorship and community involvement.
Indiana FFA Organization (FFA)	Youth outreach, Peer mentoring.
Indiana High School Athletic Association (IHSAA)	Communications network to reach student athletes, teachers, coaches and administrative staff with a tobacco free message.
Indiana Latino Institute (ILI)	Coalition building among Latino community. Smokefree advocacy. Training of advocates. Youth intervention and youth organizing around tobacco control.
Indiana Minority Health Coalition (IMHC)	Coalition building, coordination and program development among minority communities. Cultural Competency training.
Indiana Regional Council of Carpenters	Outreach to "blue collar" workers with focus on organized labor. Awareness. Attempts to change cultural acceptability of smoking.
Indiana State Department of Health Prenatal Substance Use Prevention Program (PSUPP)	Outreach to pregnant women on substance use. Training of medical professionals on promoting cessation. Public awareness.
Indiana State Fair Commission	Tobacco Free Kids Day at the Indiana State Fair with appearances from Voice. Public awareness.
Indiana State Medical Association (ISMA)	Outreach to Physicians on cessation counseling their patients.
Indiana Teen Institute (ITI)	Used youth prevention and cessation messages at its annual summer conferences. Training on youth empowerment for tobacco.
Montgomery County AHEAD Coalition	Leadership training a capacity building for Voice.
Moving in the Spirit, Inc	Coordinated Project F.A.I.T.H. (Faith-Communities Addressing Issues of Tobacco and Health). Worked with religious community to implement intervention and cessation programs.
PharmASSIST, Inc.	Cessation training to pharmacists and cessation counseling to smokers in pharmacies and other locations in southwestern Indiana.
Purdue University-School of Nursing	Tobacco User's Cessation Helpline (TOUCH) program. Cessation counseling for Purdue University students, faculty and staff.
Ruth Lilly Health Education Center (RLHEC)	Health education center which targeted 7th grade and high school students to educate on secondhand smoke, smokefree air policies, and other tobacco issues.
The Sanders Group	Multi-media resource project to assist community advocates in working with school systems and developing tobacco free policies.
United Health Services	The Hearing and Speech Center of St. Joseph County developed educational materials regarding the effects of smoke on hearing in young children.

structure for disseminating Voice’s youth empowerment messages. Each local Voice coalition (which in total contained hundreds of individual members) was united under a regional hub. The Voice hubs were not only for youth the Hubs encouraged local adult tobacco control advocates to join. Hubs differed from the other local community-based coalitions being funded in each county because their work was focused on specifically expanding the Voice youth advocacy movement. By 2006, the six Voice Hubs had 53 partner coalitions around the state involved in the six regional Hubs.<sup>8</sup>

These partner coalitions communicated weekly with their respective Regional Hubs.<sup>8</sup> In 2006, ITPC reported that the Hubs unified statewide Voice members and allowed Voice to further organize and train youth and adults on tobacco control advocacy, effective media use, and to develop focused action plans. Voice also held annual summits attended by hundreds of youth that provided an opportunity for Voice members to come together and to learn and strategize on tobacco control issues.<sup>8</sup>

In 2008, Voice launched “Don’t Glam Tobacco,” a public education campaign that highlighted the tobacco industry’s use of movies as product advertisements to children. The campaign’s goals were based on a campaign started by the national Smokefree Movies Action Network at University of California, San Francisco, by Dr. Stanton A. Glantz, a co-author of this report. As part of Don’t Glam Tobacco, Voice activists created a toolkit for educating the public and the media about smoking in movies, circulated petitions and launched letter writing campaigns directed to CEOs of media corporations telling them that they do not want to be targets of the tobacco industry.<sup>12, 461</sup>

## *Media*

In March 2001, the Executive Board directed ITPC to issue a request for proposals for contracts to form a new media and public relations team. Executive Board and Advisory Board members, as well as ITPC staff and external tobacco control experts, comprised the evaluation committee. In July 2001, ITPC selected Indianapolis agency MZD Advertising to implement the first campaign. The MZD team included The Nixon Group (later merged with GolinHarris Public Relations, which worked on the Florida truth campaign), a national public relations agency which specialized in youth coalition building, Promotus Advertising, a second Indiana-based media organization, and Chuck Wolfe, a national consultant who developed the original Florida Tobacco Pilot Project that developed the “truth” campaign (and accompanying SWAT youth empowerment movement) when he worked for Florida Governor Lawton Chiles (D). Between 2000 and 2010, ITPC used several media consultants which frequently included Bingle Research of Indianapolis. MZD and Promotus, however, maintained a consistent presence. The media team, in addition to launching statewide media efforts, held training sessions for ITPC’s community partners and worked with local partners, teaching the best ways to use to media to their coalitions’ advantage.<sup>3, 4</sup>

## *Media Tracking*

ITPC and its media team led by MZD Advertising frequently tracked the reach of its media campaigns with tracking surveys of campaign awareness and the messaging. (ITPC

tracked its media campaigns based on the findings from Florida’s media campaigns and the American Legacy Foundation’s national “truth” campaign which showed that awareness of advertisements led to increased knowledge of tobacco issues, greater understanding of anti-tobacco messages, increased anti-tobacco beliefs, and decreased youth smoking.<sup>462, 463</sup>) By 2003, following the first year of media campaigns, 75 percent of both youth and adults reported being aware of at least one ITPC advertisement.<sup>5</sup> Of those youth that were aware of at least one ITPC television advertisement, 63 percent were more likely to believe that secondhand smoke was a serious problem than those who were not aware of any television ads. Additionally, 55 percent of youth who saw the advertisements were more likely to agree with anti-tobacco industry sentiments than those that did not see the advertisements. For adults, 67 percent of those who reported seeing the television advertisements were more likely to understand the addictive nature of tobacco and the dangers it posed to health and 45 percent were more likely to tell others not to smoke and to participate in tobacco control community events.

### *White Lies*

The statewide media campaign that emerged in 2001 was a mixture of paid state and local media comprised of television, radio, billboards and print advertising. As ITPC’s campaigns gained momentum, ITPC began to utilize earned media generated from events and activities by its burgeoning coalitions.

In October 2001, ITPC aired existing television advertisements shown to be effective in Massachusetts that featured tobacco control advocate Rick Stoddard whose wife died at age 43 from tobacco-caused illness.<sup>4</sup> By March 2002, ITPC and its media team moved forward with a new campaign focused on the tobacco industry’s greed and corporate malfeasance and the costs of tobacco. Portraying the tobacco industry as a perpetrator was an approach used by the “truth” campaign after similar successes in California and Massachusetts using anti-tobacco industry messages. Advertisements that portrayed the tobacco industry’s greed and deception were shown to be more effective than simply telling people not to smoke because it was bad for their health.<sup>464</sup> The campaign, called *WhiteLies.tv*, featured a website, [www.whitelies.tv](http://www.whitelies.tv) (Figure 19), with campaign materials and cessation resources and included television advertisements and radio commercials. ITPC also used print and outdoor materials to address secondhand smoke with the message “Tobacco Hurts Us All” which conveyed the costs of tobacco to everyone, not just the smoker. ITPC and its media team also crafted media messages that targeted minorities with campaigns highlighting the tobacco industry’s marketing practices that focused on minority communities.<sup>4</sup>



**Figure 19:** ITPC’s statewide media campaign<sup>14</sup>

### *Take Note*

The American Legacy Foundation provided a \$25,000 grant to ITPC in FY 2008 and \$110,484 in FY 2009 to create a campaign to make entertainment venues smokefree. ITPC provided \$50,000 in matching funding in FY 2009<sup>11, 12</sup> ITPC enlisted the support of Promotus Advertising which worked with the state-level smokefree advocacy coalition, Indiana Campaign for Smokefree Air. The campaign focused on the health of performers such as musicians, other

entertainers and employees forced to work in smoky environments, and the fans that attended smoky events. Promotus and ITPC framed Take Note as a movement led by workers in the entertainment industry and focused on coalition building, advocacy for compulsory and voluntary smokefree workplaces within the entertainment industry, and education about the health effects of secondhand smoke.<sup>10, 465</sup>

Take Note sponsored local and statewide events to recruit supporters and to generate campaign awareness. Take Note also launched a website to provide easily accessible educational materials on smokefree workplaces and emphasized the importance of smokefree entertainment venues. The campaign also collected data on the number of people affiliated with the entertainment industry in Indiana affected by secondhand smoke to support the argument for smokefree venues and to attract media attention.<sup>10</sup> Between the launch of Take Note's website in January, 2008, and late summer, 2008, there were over 5,500 website visits, often to view the campaign's smokefree entertainment venue guide. As of September 2010, there was no outcome data on the success of Take Note at influencing either voluntary or legislative policy.<sup>10</sup>

### ***Enforcement of Youth Access Laws***

ITPC designed each of these media and public education campaigns to be implemented collaboratively with well-run community based programs and strong enforcement of tobacco laws, particularly the youth access to tobacco laws.<sup>4</sup> All police officers had the power to enforce the state's youth access laws but it was not until 1999 that HEA 1104 gave the Alcohol and Tobacco Commission (ATC) the authority and the responsibility to enforce them (discussed earlier).<sup>318</sup>

ITPC signed a memorandum of understanding with ATC in May 2001 that provided ATC's enforcement body, the Excise Police, with \$2.3 million for FY 2002 to conduct the Tobacco Retailer Inspection Program (TRIP) through unannounced and announced retail inspections. ITPC provided ATC with its primary source of funding for conducting TRIP inspections until FY 2010 (providing a total of \$6.7 million to ATC between FY 2002 and FY 2010) when ITPC's restrained budget could no longer afford to fund ATC. ATC found new funding from the Family Social Services Administration once ITPC's funding ceased.<sup>466</sup>

The Indiana Prevention Resource Center (IPRC) at Indiana University provided logistical support to ATC and TRIP by collecting data and providing ATC with program analysis. With funding from ITPC, ATC hired 13 additional excise officers and kept 12 TRIP officers actively inspecting tobacco retail establishments. ATC also started training tobacco retailers regarding the youth tobacco purchase laws. ATC trained hundreds of law enforcement officers on the state's youth access laws and the requirements for retailers selling tobacco. In 2002, the memorandum of understanding with ITPC required ATC to conduct a minimum of 4500 inspections per year (375 per month); in its first year, ATC conducted around 5000 inspections.<sup>4</sup>

As a result of this program, Indiana met the federal Synar Amendment's requirement that retailer-compliance exceed 80 percent for the first time.<sup>4</sup> With continued funding for TRIP officers, and additional powers granted to ATC to suspend tobacco retailer certificates (passed in 2003 with HEA 1738), compliance rates improved precipitously.<sup>323</sup> By 2009, Indiana's



compliance rate rose to 94.4 percent.<sup>325</sup> Indiana also experienced significant decreases in youth smoking prevalence between 2002 and 2009 while ATC received funding to enforce the state law. These declines in youth smoking rates coincided with the emergence of ITPC as a mature program, which used its programs to attack smoking rates, along with two increases in the state's cigarette tax, which likely affected smoking rates as well.

### ***Evaluation***

ITPC tracked its progress through a surveillance and evaluation system. In 2002, ITPC began conducting the Indiana Adult Tobacco Survey (ATS) which ITPC adapted from CDC. ATS questioned participants about personal smoking behavior, cessation status and support of public policies relating to smokefree air and other tobacco control issues. The agency also conducted the Indiana Youth Tobacco Survey (YTS), a CDC-endorsed survey of middle and high school aged youth.

ITPC used an outside evaluation team led by the American Institutes for Research (AIR), Research Triangle Institute (RTI) and the McCormick Group to assess campaign effectiveness using the ATS and YTS data. ITPC also used the annual CDC Behavior Risk Factor Surveillance Survey (BRFSS) results conducted by ISDH, which contains questions relating to tobacco use to fine-tune its evaluation.

ITPC tracked local coalition activities using summaries its local coalition leaders provided documenting progresses on coalition building, tobacco cessation and advocacy campaigns. ITPC assessed its community and minority-based partnerships specific progress and to strategize for the following year's work. These assessments also allowed ITPC to maintain open lines of communication with its local community grantees.

### ***Transparency***

ITPC expressed a commitment to transparency and understood the importance of accountability. In 2002, ITPC signed a memorandum of understanding with the State Board of Accounts (SBOA), the state agency responsible for the financial accountability of state and local governments, so that the state could review and audit the grants Executive Board awarded to localities and to ensure that the money was being used appropriately.<sup>4, 12</sup>

### ***Administration***

As explained by the CDC in its 2007 edition of *Best Practices for Comprehensive Tobacco Control Programs*,<sup>2</sup> a fully staffed team is necessary in order to successfully implement a comprehensive program that can actually affect tobacco use. *Best Practices* states:

Sufficient capacity enables programs to plan their strategic efforts, provide strong leadership, and foster collaboration between the state and local tobacco control communities. An adequate number of skilled staff is also necessary to provide or facilitate program oversight, technical assistance, and training.<sup>2</sup>

This capacity not only includes the program's management and leadership but also the coordination support required to maintain a multi-faceted program with numerous responsibilities at both the state and local level. ITPC needed sufficient staff to effectively maintain and collaborate with its statewide and local coalitions, manage the agency's finances (including the disbursement of the hundreds of grants approved by the Executive Board), coordinate research and media outreach in order to communicate with the public, and provide administrative support.<sup>2, 5</sup> In 2002, in its infancy stage, ITPC had a 13 member staff with nine vacant positions. After budget cuts in 2003 (Discussed below), ITPC was not able to fill most of those positions, and, at the time of its 2009 annual report, the agency employed a 14 member staff.

Not able to fill its vacant positions, existing ITPC staff had to assume more responsibilities, stretching its resources thin.<sup>6</sup> Some local tobacco control advocates felt that ITPC had to focus more energy on passing a smokefree ordinance in Indianapolis-Marion County as a result of being understaffed and needing to achieve success,<sup>467</sup> and that its regional directors, who were responsible for a large amount of territory, were not always able to provide enough attention to local coalitions.<sup>468</sup> Local coalitions suffered decreases in funding after the FY 2004 funding cuts to ITPC (and never reached 2003 levels again). Coalitions were often unable to hire full time positions which inhibited some community-based partnerships' effectiveness because they were primarily comprised of part time employees and volunteers.<sup>468</sup>

## **The Division of Responsibilities for Tobacco Control Programming**

### ***ITPC and Smokefree Indiana Find Their Niches***

ITPC's formation led to a settling period for tobacco control programming in Indiana and a tenuous period for Smokefree Indiana (the former ASSIST project the CDC funded beginning in 1999). Until 2000, Smokefree Indiana was the state's primary government tobacco control program. Although its budget was limited and its visible successes minimal during ASSIST, Smokefree Indiana's purview prior to the MSA was broad. Smokefree Indiana focused on community programs, youth and adult advocacy, and cessation and prevention programs, which mirrored many of CDC's recommended program components.<sup>1, 469</sup> By FY 2001, Smokefree Indiana's funding consisted only of federal CDC money. It had a budget of \$1.4 million a year (Table 29) and had a staff of five. The ITPC Executive Board, in contrast, received \$35 million from the Master Settlement Agreement for FY 2001 and had a staff of 13 by its second year. For the first time in Indiana, there were two agencies devoted to tobacco issues and it became clear that there was overlap.

Smokefree Indiana and ITPC did not collaborate well in the beginning, leading "growing pains" because of an unclear division of responsibilities. This problem was resolved when the leadership of both agencies recognized that programmatic redundancies were an ineffective use of resources. Ensuring that there was not a duplication of responsibilities was also important for ensuring the continuation of funding to both agencies.<sup>289, 290, 447</sup>

Because ITPC had had far more money than Smokefree Indiana and was investing high levels of funding in the formation of county level tobacco control coalitions, Smokefree Indiana

dropped its regional coalitions. Two of Smokefree Indiana's Regional Directors, Anita Gaillard and Karen O'Brien moved to ITPC; Gaillard became the Director of Community Programs and O'Brien became the Regional Program Director for Southwestern Indiana.<sup>5</sup> Smokefree Indiana began addressing specific populations in its work, targeting young adults of college age, 17-25, and minority populations, and tracked voluntary institutional smokefree policies at colleges and universities throughout the state.

### *Creation of the Indiana Tobacco Quitline*

In FY 2005, Smokefree Indiana (through ISDH) secured \$187,500 in supplemental funding from CDC to launch the Indiana Tobacco Quitline, a program ITPC previously planned but dropped after its funding was cut in FY 2004.<sup>6</sup> In March 2006, Smokefree Indiana officially launched the Quitline<sup>455</sup> and contracted its operation to vendor Free and Clear. In FY 2009, the Quitline received 21,000 calls.<sup>12</sup>

ITPC conducted 7 and 13 month follow-up surveys to evaluate the Indiana State Quitline. ITPC reported in its 2009 Annual Report that 24.7 percent of seven month follow-up respondents reported being tobacco abstinent for seven days or more and 22.5 percent reported being abstinent for 30 days or more. In the 13 month follow up survey, 33 percent of respondents reported being tobacco free for seven days or more and 28 percent had been tobacco free for at least 30 days. Quitline callers who received nicotine replacement therapy (NRT) had more success than callers that did not receive NRT. Moreover, 63 percent of respondents from both studies who were still smoking at the time of the survey had decreased the number of cigarettes smoked each day, with many people decreasing consumption by 14-15 cigarettes per day.<sup>12</sup>

### **Evolving Tobacco Control Coalitions**

In 2001, RWJF awarded Tobacco Smart Indiana (TSI) a one year \$150,000 grant to build increase the capacity of the coalition formed to advocate for MSA money. RWJF funded TSI to work on clean indoor air policy, cigarette taxes and preserving ITPC funding.<sup>321, 322</sup> However, in 2002, TSI was unsuccessful in renewing this funding. According to a report on Indiana's tobacco control program by the Center for Tobacco Policy Research,<sup>447</sup> RWJF did not renew TSI's funding because the coalition had not expanded its membership during the previous funding period, there was a lack of matching funds for the new grant proposal from coalition members and there was a degree of complacency due to receiving the original SmokeLess States grant. In 2010, ACS's Brad Burk explained that the TSI partners did not want to focus their work and funding on clean indoor air and cigarette taxes. The coalition members felt at the time that TSI, which was formed for the exclusive purpose of advocating for a MSA-funded tobacco control program, had served its purpose.<sup>321</sup>

TSI was Indiana's first effectively organized tobacco control advocacy coalition, and tobacco control advocates understood that the recent successes that led to the formation of ITPC were only temporary and that many new legislative battles lay ahead for tobacco control funding and other tobacco control policymaking. The fact that Karla Sneegas, former TSI grant manager, had left to become the Executive Director of ITPC left a leadership vacuum at the top of TSI, which made it difficult for the coalition to remain together and raise funds.<sup>447</sup> The dissolution of

TSI in 2008 and the readjustment period for Smokefree Indiana led to a period of uncertainty for Indiana's tobacco control advocates. While many of the same advocates and lobbyists remained active, there was no formally organized statewide coalition for several years.

With ITPC's leadership and its high level of initial funding, this situation started to change as ITPC galvanized partnerships throughout the state. Some organizations, including the Indiana Academy of Family Physicians, Indiana Black Expo, Indiana Hospital Association, Indiana Minority Health Coalition and Indiana State Medical Association, received grants from ITPC to become statewide partners on tobacco control policy and to be involved in coalition building. The voluntary public health organizations such as ACS and, at times AHA, remained active in the 2000s. ALA, which increased its focus on tobacco control policy around 2008, became active as well. CTFK also became a frequent player in the Indiana's tobacco control coalitions and remained so as of 2010. These organizations supported ITPC, coordinated advocacy efforts, and in some cases, provided technical assistance to local coalitions.<sup>470</sup> Between 2000 and 2010, several new tobacco control coalitions formed to address specific issues including clean indoor air, tobacco taxes, and the preservation of ITPC in its original structure with CDC-recommended funding levels in place. These coalitions (along with organization member lists) are discussed in later sections in the context of specific policy campaigns.

### ***Conclusions***

SEA 108 established the Indiana Tobacco Use Prevention and Cessation Trust Fund and Executive Board and shifted Indiana's trajectory to support tobacco control, allocating \$35 million to the ITPC Trust Fund for first year and meeting CDC's recommended minimum funding level. The Governor appointed a Board with seasoned tobacco control advocates, putting the ingredients in place for a state of the art tobacco control program. The national offices of CTFK, ACS, AHA and ALA hailed Indiana as a leader in tobacco control, which was a rare leap forward for Indiana which was not historically focused on public health. The ITPC Executive Board established the Hoosier Model, an adaptation of the CDC *Best Practices* recommendations, and hired experienced tobacco control leader Karla Sneegas as the ITPC Executive Director. The ITPC Executive Board established 19 objectives to meet by 2005 through five programmatic categories: Community Based Programs, Statewide Media Campaigns, Enforcement, Evaluation and Surveillance, and Administration and Management.

Within two years, ITPC was operational with a statewide media campaign, a growing youth advocacy coalition called Voice, emerging local and minority-based coalitions in 88 of 92 counties, a growing network of statewide partners, an arsenal of surveys and external evaluations, a relationship with the Alcohol Tobacco Commission for youth access law enforcement, and a staff to implement the Board's programs.

ITPC took center stage in Indiana on tobacco issues, primarily because of its substantial initial funding levels and its highly regarded leadership. At the same time, CDC continued funding ISDH for Smokefree Indiana, creating an alternative tobacco control program with the capacity to implement some program work. The two agencies avoided overlap in establishing their programs, with ITPC concentrating on the bulk of the state's programs encompassed in the

Hoosier Model and ISDH concentrating on the Indiana Tobacco Quitline, voluntary institutional smokefree policies at Universities and smoking among college-aged adults.

## **Attacks on the Tobacco Control Funding**

### ***Anticipated Funding Obstacles***

In 2003, the Center for Tobacco Policy Research at Washington University Saint Louis published an analysis of Indiana's tobacco control program<sup>447</sup> that reported that key tobacco control advocates in Indiana (correctly) anticipated problems that would develop between 2003 and 2010. Respondents agreed that the political climate in 2002 had been more favorable to tobacco control than ever before because of Governor O'Bannon and Attorney General Jeff Modisett and several key legislators in the General Assembly, particularly Rep. Charlie Brown (D-Gary) and Sen. Lawrence Borst (R-Greenwood).<sup>447</sup> Modisett left the state for another job in 2000. Gov. O'Bannon's positive stance on tobacco control shifted when the state faced economic hardship and he began pushing (unsuccessfully) to securitize MSA funds, then imposed large funding cuts on ITPC. Sen. Borst also began losing power in the Senate and Sen. Robert Meeks (R-LaGrange), an enemy of ITPC, replaced him.<sup>168</sup>

ITPC staff and other tobacco control advocates agreed that the budget-based funding system for the program would likely become a recurring challenge for the new agency.<sup>447</sup> The ITPC Executive Board had complete control over how it spent its money but the General Assembly and the governor controlled ITPC's appropriation as part of the state's biennial budget. ITPC had a short time to implement programs and obtain positive results for legislators and the governor to see when the ITPC budget was next debated in 2001. One tobacco control advocate noted in 2002 that, "we're in our infancy. We're not going to see prevalence change by January. In fact, what we're going to see is data come out for 2001, which is before we got our programs up and going, that actually shows a slight increase in adult smoking rates. Which we can explain ... but it can so easily get twisted around."<sup>447</sup>

### ***O'Bannon's Securitization Proposal: Energize Indiana Plan***

In 2003, amidst a tense economic recession and an \$850 million deficit, Governor O'Bannon (D) and Lieutenant Governor Joe Kernan (D), the presumptive 2004 Democratic gubernatorial candidate, proposed an economic stimulus program called "Energize Indiana" as part of O'Bannon's budget, which called for large spending cuts and financial transfers. The Governor's budget planned cuts of hundreds of millions of dollars of funding for schools and flat-lined additional grants for school districts (a cut when inflation is considered), significantly cut funding to the Family and Social Services Administration and transferred money from state pension funds to finance General Fund costs.<sup>471</sup> Energize Indiana was to support programs that were seeing major cuts.

The central component of Energize Indiana was securitizing the 40 percent of Master Settlement Agreement funds required by SEA 108 (2000) to remain unspent. Under SEA 108, which established the Indiana Tobacco Master Settlement Agreement Fund as well as ITPC, the maximum amount of expenditures, transfers, or distributions that could be made each year was

from only 60 percent of annual MSA payments. Until 2003, this 60 percent financed the SEA 108 trust funds (including the ITPC Trust Fund) and the Children Health Insurance Program (CHIP). SEA 108 required that the other 40 percent remain in the trust fund to accrue interest and be protected from political looting.<sup>446</sup> There was no specified spending purpose for the 40 percent of reserved MSA funds.

Governor O'Bannon proposed to sell bonds secured by the 40 percent of future tobacco settlement payments together with the unallocated \$195 million remaining in the MSA Fund (from earlier years) as part of a 10 year economic development plan.<sup>472</sup> The bonds would have matured after 35 years.<sup>473</sup> The state would take a large lump sum payment of about \$690 million immediately while reducing available future MSA funds and endangering the state's nationally lauded tobacco control efforts which were just getting off the ground.

O'Bannon presented the proposal as an economic stimulus package to funnel quick cash into programs that would jumpstart the economy, particularly education and technology. In the short term, the state would allocate around \$700 million to create the Indiana Growth Fund to provide extra support to the already existing 21<sup>st</sup> Century Research and Technology Fund. The state would create new technology centers throughout Indiana, re-dedicate millions of dollars to schools, provide funding for rural agricultural development programs, and extend unemployment benefits. The state would also create the Indiana Growth Scholars Program to provide scholarships to students studying life sciences, information technology, high-tech distribution, and advanced manufacturing technology, areas of study known to create jobs and spur economic growth.<sup>474</sup> In total, the program would need \$1.25 billion over 10 years with securitization generating \$690 million in the form of a one-time payment. The fact that these initial finances would be raised from MSA securitization instead of tax increases was a major political driving force because tax increases were not politically popular.<sup>475</sup>

### ***HB 1002***

Early in the session, Speaker B. Patrick Bauer (D-South Bend) divided the Energize Indiana Plan into several different bills that were heard in various committees.<sup>476</sup> The plan's securitization component was formally introduced in the General Assembly as HB 1002 on January 13, 2003 co-authored by Reps. Charlie Brown (D-Gary), Mike Murphy (R-Indianapolis) and Vaneta Becker (R-Evansville). The introduced bill's most significant component was the creation of the Tobacco Settlement Authority which would be given the authority to sell bonds secured by as much as 40 percent of the Master Settlement Agreement revenue. The Tobacco Settlement Authority, controlled by the Governor and his appointees, would "assist in securitizing the revenue stream from the Master Settlement Agreement between the state and tobacco product manufacturers in order to provide a current and reliable source of revenue for the state."<sup>477</sup> The proposed bill pledged only the settlement money, not any general fund revenues, to protect the general fund from making payments to bondholders if the tobacco companies went bankrupt and ceased MSA payments. Brown co-authored the bill in line with O'Bannon's proposal, but Brown was outspoken about the importance of protecting the MSA money funding tobacco control and other health programs.<sup>477</sup>

## ***Reaction to the Proposal***

The General Assembly responded poorly to the Governor's proposal. The Senate was dominated by Republicans who were opposed to what many considered to be unbridled spending. The House was controlled by Democrats by two votes (51-D, 49-R), but expressed only lukewarm support even though the plan came from a Democratic governor. O'Bannon was a lame duck Governor in his second term, and his Lieutenant Governor, Joe Kernan, the proposal's co-sponsor, had decided not to run for governor, further weakening O'Bannon's political stature. (Kernan would later become Governor when O'Bannon died on September, 2003 from a stroke.<sup>478, 479</sup>)

At the same time, Indiana was being showered with praise as a national leader in tobacco control by the American Lung Association, American Heart Association, American Cancer Society, and by the Campaign for Tobacco-Free Kids for its high-level funding commitment to health issues and tobacco control programs.<sup>480</sup>

CTFK, ACS, AHA and ALA used the media to speak out in opposition to using tobacco settlement money for issues not health related.<sup>481, 482</sup> The concern was that health programs, including tobacco control, would become second priority once the legislature had immediate access to hundreds of millions of dollars, especially in the midst of a massive deficit.<sup>481, 483</sup> CTFK, which led the campaign opposing securitization, released reports highlighting the potentially disastrous consequences of securitization in efforts to counter the enticement to securitize and take a lump sum payment.<sup>483, 484</sup>

Tobacco control advocates and lobbyists also worked behind the scenes to educate legislators on the problems with securitization and the threat to the settlement funds. Working with key Republican leadership, tobacco control advocates developed a commitment that securitization would not move forward. Even with the private assurances from lobbyists including Charlie Hiltunen, contract lobbyist for ACS and AHA, that securitization would not survive, many tobacco control advocates continued publicly opposing the bill.<sup>70</sup>

The House Public Health Committee, which Rep. Brown chaired, amended HB 1002 so that only 20 percent of MSA Funds would be available for securitization as opposed to the 40 percent originally proposed and added provisions requiring annual funding allocation to health programs. The ITPC Trust Fund would receive \$35 million annually under the Committee's amendments, which would have secured long term CDC-level funding for tobacco control. Brown and the Public Health Committee also cut the \$195 million that O'Bannon originally requested to be transferred from the Indiana Tobacco Master Settlement Agreement Fund to begin funding the Energize Indiana Plan to \$120 million.<sup>485</sup>

In late February, House Ways and Means Committee Chair Rep. William Crawford (D-Indianapolis) began working to consolidate the components of Energize Indiana, including securitization, that had been divided among many bills, into HB 2008.<sup>486</sup> Tobacco control advocates regarded Crawford as a tobacco control champion in the House. Crawford told reporters that a 20 percent securitization would not be enough to fund the Governor's economic development program and, in committee, proposed an amendment that increased the funds

available for securitization to 35 percent of MSA funds, which passed 17-11.<sup>487, 488</sup> Crawford's support for the securitization of 35 percent of MSA funds was likely a result of pressure from Governor O'Bannon.<sup>489</sup> HB 2008 replaced HB 1002 and passed the House 90-9.

### ***Allies in the Senate Save the MSA Funding***

Securitization did not survive the Republican controlled Senate. Sen. Larry Borst (R-Greenwood), Senate Finance Committee Chair who crafted SEA 108 that originally disbursed MSA dollars, introduced a scaled-down version of Energize Indiana that he dubbed "JOBS" which would use between \$31 and \$37 million over two years instead of \$1.25 billion over 10 years to fund a series of business tax credits and grants to the 21<sup>st</sup> Century Research and Development Fund, the Emerging Technology Grant Fund, and various community economic development offices.<sup>490</sup> This Senate plan removed tobacco settlement securitization completely from the funding source. Borst declared securitization to be a "dead issue."<sup>491</sup>

The Finance Committee's changes passed the Senate without difficulty. The final version of O'Bannon's Energize Indiana plan was combined into the biennial budget bill, HB 1001 and approved in Conference Committee. In the end the legislature earmarked approximately \$75 million for economic development investment from the Indiana Tobacco Master Settlement Agreement Fund and ended the securitization threat.<sup>492</sup>

Tobacco control money was far from safe. Charlie Hiltunen, a contract lobbyist for ACS, AHA and the Indiana Minority Health Coalition, argued in a 2009 interview that tobacco control advocates were too vocal in their continuing opposition to the proposal after advocacy and lobbying had already been effective in defeating securitization and that this continuing opposition angered Governor O'Bannon, who retaliated with severe budget cuts to ITPC in the biennial budget which also passed the legislature in 2003 (discussed below).

### **Re-routing Money**

After receiving \$35 million for FY 2001, ITPC never received funding at CDC-recommended levels again. In Indiana, budgets are drafted biennially in odd-numbered years. Because FY 2001 was in the middle of a biennium, budget allocations for ITPC were scheduled to take place again in FY 2001 for FY 2002 and FY 2003. ITPC expended little of the \$35 million allocated to the Indiana Tobacco Use Prevention and Cessation Trust Fund in its first year (FY 2001) because the programs and grant distribution process were still being established. This sensible management decision left an unexpended balance of \$36.8 million at the end of ITPC's first year (including the interest accrued that year).<sup>3, 450</sup> In the next biennial budget, the General Assembly only allocated \$5 million for FY 2002, and \$25 million for FY 2003 setting a dangerous precedent for underfunding the agency (Table 29).<sup>6, 450</sup> ITPC was able to temporarily compensate for these funding decreases using the unexpended funds.

When the time came for ITPC to receive the \$25 million budgeted for FY 2003, however, the agency only received \$15 million. Before the money was transferred to the ITPC Trust Fund in 2002, the State Budget Agency "retained" \$10 million in the Indiana Tobacco Master



Settlement Agreement Fund<sup>6</sup> at the request of Governor O'Bannon for other unknown purposes.<sup>429</sup>

The Executive Branch is particularly powerful in Indiana regarding finance issues. The State Board of Finance is a body comprised of ex-officio members: The Governor (Frank O'Bannon in 2002), the Indiana State Auditor, and the Indiana State Treasurer, and has the power under IC 4-9.1-1-7 to transfer money between state funds. However, the State Board of Finance explicitly cannot transfer funds out of trust funds such as the Indiana Tobacco Use Prevention and Cessation Trust Fund.<sup>435, 493</sup> Therefore, the approach of "retaining" these funds before they went into the Trust Fund was the only possible way to re-route the \$10 million allocated to ITPC. The reason stated for retaining the funds was that the state was going to be over its 60 percent spending cap and could not legally allocate the funds to ITPC.<sup>5, 494</sup> This reduction came at a pivotal point in the creation and implementation of ITPC's programs and ITPC was going to have difficulty fulfilling its contracts to statewide and local partners.<sup>168, 429</sup>

In response, ACS, AHA, ISMA and CTFK planned an advertisement asking Governor O'Bannon to restore release the \$10 million budgeted to ITPC. (ITPC was only involved in an advisory capacity and not listed as a part of the advertisement.<sup>168, 495</sup>) Before the release of this advertisement, Dr. Richard Feldman, former State Health Commissioner under O'Bannon and an ITPC Executive Board Member, independently<sup>496</sup> sent a handwritten letter to O'Bannon in an attempt to save ITPC's funding and give the Governor the chance to avoid embarrassment. Feldman explained in the letter that ITPC was going to be unable to fulfill its contracts without the funding that it was budgeted. Feldman's letter, in addition to the advertisements, released shortly thereafter, created tensions between the Governor's staff (who blamed Feldman) and ITPC and its Executive Board. The Governor did not return the money.<sup>168, 429</sup>

In a 2010 interview, Dr. Robert Keen, longtime ITPC Executive Board member, expressed the view that policy makers did not understand that the reason for the large unexpended balance was that the ITPC Executive Board was intentionally being prudent with its funding.

What they [legislators] didn't realize was we were ramping up wisely, we were building our programs, and we were not spending any more money than we had to ... in that situation ... we were making sure we spent every dollar wisely and so when they looked at us and saw that surplus, it was like, "well, we don't need to give them as much" and it was like ... we were being penalized for being good stewards ... it was a startup situation that I think people just didn't understand what it took to make it work, and to make it work effectively.<sup>450</sup>

Keen explained that the ITPC Executive Board had not been effective at educating elected officials on the "bottom line benefits" of ITPC's programs and the agency's work. Keen noted that "we have actually talked around what we do, instead of getting directly to the point, which is what a lot of the legislators want ... they want the sound bite, to be honest and we've not been able to get the sound bites to them as effectively as does the tobacco industry."<sup>450</sup> While there may be truth to Keen's assessment, it is also likely that opponents of ITPC used the unspent funds as an excuse to justify dismantling the program.

Despite this setback, the history of tobacco control in Indiana, as recently as the 2010 Legislative Session, has shown that an active ITPC Executive Board is essential to the independent agency's preservation but that this activity can be met with political retribution, as was the case in 2010 (discussed below).

### **2003 Budget Legislation: Massive Funding Cuts**

ITPC was created as an independent, stand alone agency but was not necessarily viewed as independent by the Governor or many legislators once the momentum that led to its creation slowed. ITPC and its board were outspoken on tobacco control policy issues and were active in discussions pertaining to its budget but showed political deference to lawmakers. This deference, however, did not generate legislative support.

While legislators such as Sen. Lawrence Borst (R-Greenwood) who crafted the ITPC Trust Fund and Executive Board, supported a well funded, non-health department based tobacco control program, the independent agency became more susceptible to attacks from opponents when the economic climate shifted downwards. Borst was the longtime Senate Finance Committee Chair, but was beginning to lose power. The Finance Committee's Budget Subcommittee was chaired by Sen. Robert Meeks (R-Lagrange), the Senate leader dealing most directly with the state's budget who was gaining power.<sup>168</sup> Borst lost his Senate seat in the 2004 election, and Meeks was appointed Chair of the new Senate Appropriations Committee (the Senate Finance Committee was separated into the Senate Appropriations Committee and the Senate Tax and Fiscal Policy Committee and the subcommittees were eliminated) beginning in the 2005 legislative session. Meeks, who between 1994 and 2008 accepted \$12,440 from the tobacco industry, was a consistent opponent of ITPC.

Another attempt to divert MSA funds occurred in 2003 when Reps. Jerry Torr (R-Carmel) and Timothy Brown (R-Crawfordsville) introduced HB 1823 to eliminate the ITPC Executive Board, Trust Fund and agency, and other health-related expenditures that SEA 108 established and directed all future MSA payments to the General Fund.<sup>497</sup> The bill had little support, garnered no attention from the media, and died without a hearing.

### ***Drafting the 2003 Biennial Budget***

In 2003, the Indiana General Assembly passed a biennial budget which allocated only \$10.8 million annually to the Indiana Tobacco Use Prevention and Cessation Trust Fund for FY 2004 and FY 2005, cutting funding by nearly 70 percent from the \$35 million allocated for FY 2001 (Tables 29 and 31).<sup>5, 498</sup> The budget bill was drafted in conjunction with O'Bannon's 2003 unsuccessful proposal to pass legislation to securitize 40 percent of annual MSA payments. According to tobacco control advocates, the advocates' and ITPC's involvement in defeating the securitization proposal frayed the relationship between tobacco control advocates and Governor O'Bannon and played a role in the cuts made in the 2003 Legislative Session.<sup>70, 168</sup>

When the budget bill, HB 1001, left the House Ways and Means Committee, chaired by Rep. William Crawford (D-Indianapolis), over \$84 million was earmarked for the General Assembly to divide among the funds created under SEA 108.<sup>499</sup> On the House floor, however,

Crawford, for unknown reasons, offered a successful amendment that deleted allocations of MSA funds.<sup>500</sup> Senate Republicans opposed to high levels of funding for ITPC and with Sen. Robert Meeks (R-LaGrange), a well-known adversary of funding ITPC, as Chair of the Budget Subcommittee of the Senate Finance Committee, perhaps the strategy was to allow the Senate to deal with the tobacco control agency's funding first and then resolve differences in Conference Committee.<sup>70, 168</sup> The bill moved to the Senate where the Budget Subcommittee funded the ITPC Executive Board with only \$10.8 million annually for FY 2004 and FY 2005.<sup>501</sup>

Tobacco control advocates reported that this drastic cut in funding to ITPC was a result of a backroom meeting between Governor O'Bannon, his staff and Sen. Meeks. Meeks found an ally in O'Bannon (or O'Bannon's staff) who was unhappy with the tobacco control advocates for several reasons. One reason was the 2002 advertising pressuring O'Bannon to release ITPC funding. The second reason was the tobacco control advocates' interference with the MSA Securitization plan which was the centerpiece of O'Bannon's Energize Indiana plan. With Meeks as a budget process leader in the Senate, and a strong Senate Republican majority (32-R, 18-D), and without the Governor's support, ITPC and the tobacco control advocates were in a poor position to protect the tobacco control budget. Rep. William Crawford (D-Indianapolis), longtime House Ways and Means Committee Chair, and a powerful supporter of the ITPC Executive Board, was unable to restore funding during the Conference Committee meetings.<sup>70, 168</sup>

In an effort to preserve ITPC funding, ACS, AHA, ALA and CTFK used phone banking to call legislators to express opposition to the budget. The fact that Indiana's General Assembly phone system used telephone operators for multiple legislators rather than direct office lines impeded the phone bank's effectiveness. Phone lines often rang busy so phone bankers could not get through.<sup>168</sup>

Tobacco control advocates created the Campaign for a Tobacco Free Indiana (TFI) in 2004 to preserve ITPC in its originally established independent form, restore its original funding levels and protect the agency from future cuts.<sup>133</sup> TFI was loosely organized and met sporadically as circumstances required to assemble quickly, to strategize and to take action.

Publicly, Senate Republican leaders presented the funding cut as necessary to reduce the state deficit. ITPC was also being called ineffective because smoking rates had not decreased even though its new programs had only been running for one and one half years and many of its local coalitions had been funded for less than a year.<sup>502</sup> (It is common for legislators who oppose a program to ignore the necessity of nascent programs to have development periods.) Charlie Hiltunen, contract lobbyist for ACS, AHA and other health groups, in a 2009 interview, rejected these reasons and saw the budget cuts as retaliation for the tobacco control advocates' interference with O'Bannon's securitization plan: "It was perceived that the advocates went out and killed the Governor's proposal. And he [O'Bannon] returned the favor real shortly. We should have just been quiet." Hiltunen explained that securitization was not going to pass because of tobacco control lobbying and the opposition of Senate Republicans and that the tobacco control advocates' persistence only angered the governor and upset legislators.<sup>70</sup>

Patricia Ells, former ACS lobbyist, agreed with Hiltunen's sentiment in a 2009 interview, but expanded the argument, adding that the budget cuts were a result of a long standing contentious relationship between Indiana's elected officials who viewed ITPC as any other government agency, and ITPC which was separate from the Department of Health and functioned more independently than most other state agencies. Ells explained:

Securitization was a hard issue ... It was a hard issue because I do think that we did the right thing to stop [it] ... unfortunately, it had its price too and it continued to feed the issue that I have consistently seen and been told by legislators of this ... "we're kind of doing our own thing" [mentality] ... They didn't say it was because of securitization. The concept [for the cuts] was ... "ITPC doesn't need that much money."<sup>168</sup>

Ells said that just as tobacco control advocates had predicted, in the 2003 Legislative Session the political tide shifted and there was increasing discussion among legislators regarding the amount of money that ITPC was receiving, whether or not the agency was spending its money effectively, and whether it needed as much money as it was originally allocated.<sup>168</sup>

Despite these explanations for ITPC's budget being slashed in the 2003 Legislative Session, it is significant that this portion of Indiana's story is common. In several other states (including, Minnesota, Mississippi, Ohio<sup>284, 329, 448, 449, 503</sup>) independent tobacco control programs were defunded or dismantled as a way for tobacco control opponents, often aligned with the tobacco industry, to dismantle effective programs.

#### *Other Priorities for Spending MSA Funds*

In the same 2003 budget bill that severely limited the ITPC Trust Fund budget, the state began allocating significant portions of the annual MSA payments to programs previously not funded with MSA payments. One major recipient of MSA funds in the 2003 budget bill was the 21<sup>st</sup> Century and Technology Fund, created by 1999 legislation at Gov. O'Bannon's request, to promote biomedical and other technologies throughout the state. The 21<sup>st</sup> Century and Technology Fund received \$37.5 million along with the Technology Development Grant Fund which received \$4.5 million in the same session, both with MSA funds.<sup>504</sup>

Additionally, the Indiana State Department of Health (ISDH) received significant increases to its funding for a myriad of programs that were not tobacco-related<sup>12</sup> while ITPC and the other funds created in 2000 under SEA 108 were defunded (Figure 20). In fiscal years 2002 and 2003, \$60 million allocated to SEA 108 funds were diverted to the General Fund by the executive branch.<sup>6, 493</sup> While tobacco control advocates, as discussed above, were active trying to get ITPC's FY 2004 and FY 2005 budget restored, it is unclear if they were vocal about these MSA money diversions.

In FY 2008, Indiana's Family Social Services Administration (FSSA), which previously received funding for the state's Children's Health Insurance Program (CHIP), received a significant increase in CHIP funding (increased from \$23.6 million in FY 2007 to \$69.8 million in FY 2008) and an increasing share of MSA funding for the Division on Aging Administration and Residential Services for Developmentally Disabled Persons.<sup>12</sup>

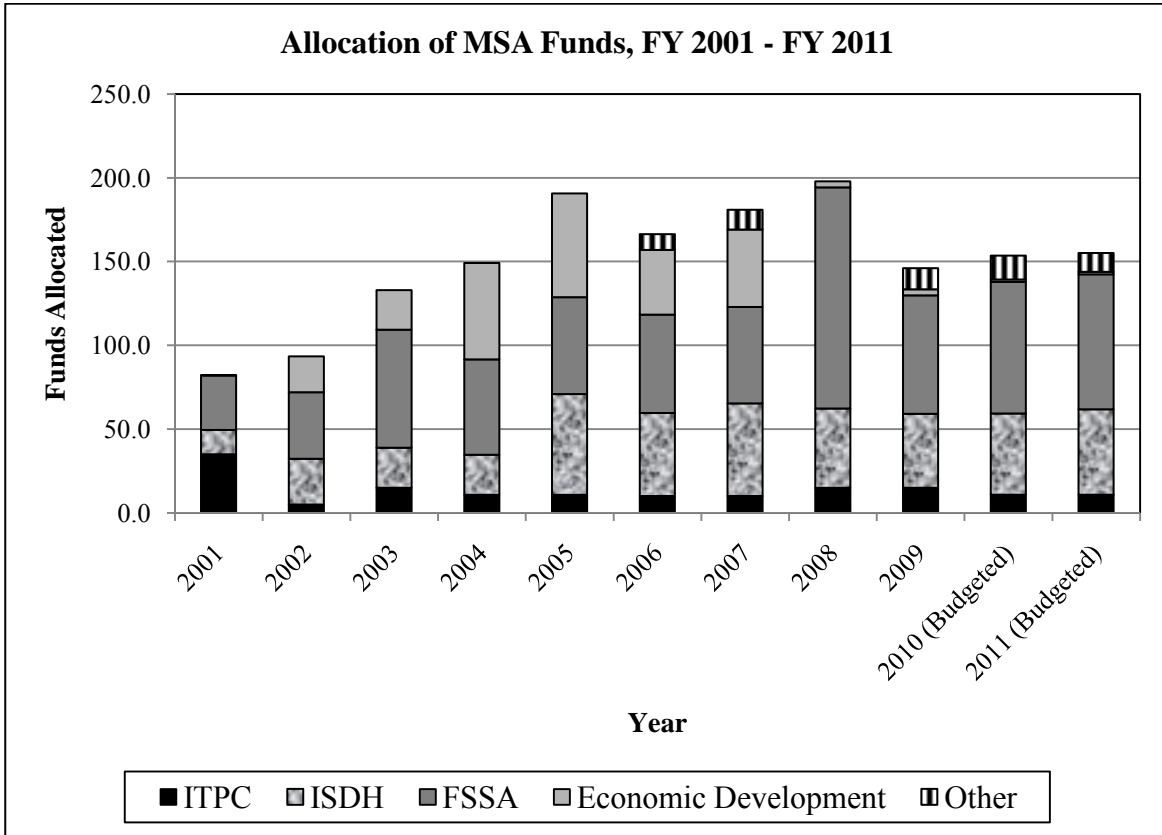


Figure 20: Allocation of ITPC Funds, FY 2001-2010<sup>8, 12</sup>

### Readjusting to New Funding Levels

Receiving only \$10.8 million annually for FY 2004 and FY 2005 (Table 29) forced ITPC to cut programs.<sup>5</sup> At this point, the statewide Quitline for public access to cessation counselors had not yet been launched and plans to implement it were put on hold. ISDH, through Smokefree Indiana, finally established the Quitline in 2006 after securing supplemental funding from CDC (discussed below). Community Programs in each of the 92 counties to implement comprehensive programs and change social norms regarding tobacco were cut by 30 percent and their grants shortened from 24 to 18 months. The scope of the grants were no longer to fund comprehensive local programs but were rather focused on “limited interventions” focusing on building and maintaining coalitions, reducing exposure to secondhand smoke (through ordinances and voluntary smokefree policies), preventing youth initiation and increasing cessation.<sup>7</sup> Counties were not guaranteed grants, which became competitive. Some local grantees had to cut programs and staff which made it impossible to implement their programs as originally planned.<sup>505</sup>

Funding budgeted for statewide, regional and pilot partnership programs was reduced by 50 percent for the 2003-2004 cycle, and programs were told to plan for greater decreases as total funding for statewide programs was reduced from \$7.5 million to \$1.25 million (Table 31). The statewide media campaign budget for FY 2005 was cut by 50 percent. Funding for ATC for enforcement was reduced 63 percent for FY 2004 and by 75 percent for FY 2005 and the

evaluation budget reduced by 60 percent. Actual expenditures early in the life of ITPC did not always reflect the cuts portrayed in the amended budget because of the high carryover of unexpended funds in the first several years of program development. Any additional spending came from ITPC's carryover funds which were declining steadily as its newly established programs became established and reached maturity (Table 29).<sup>5</sup>

Recognizing that ITPC could not implement its programs in their original form, the ITPC Executive Board decided to maintain a strong focus on building and maintaining community based groups and addressing youth tobacco use and initiation through programs such as Voice,<sup>6</sup> while continuing its media programs like whitelies.tv which were gaining recognition throughout the state.<sup>450</sup>

### **Smokefree Indiana is Brought Back into ISDH**

Smokefree Indiana had been outsourced to Ball State University in 1997 to free it from political and administrative opposition in ISDH. Beginning in 2008, ISDH started phasing out its contract with Ball State University and brought the program back into ISDH. Ball State University continued managing the project through the contract's conclusion but was told that the contract would not be renewed in 2009. Smokefree Indiana staff were assigned to three different floors in ISDH's Indianapolis headquarters, effectively fragmenting the staff which had previously worked closely.<sup>290</sup> ISDH told Smokefree Indiana staff that they could apply to ISDH for jobs but that they would not be guaranteed employment. Feeling that this merger was an attempt to dismantle Smokefree Indiana, most staff resigned. Having no one to run the program within ISDH, it offered a nine month extension to Ball State University after which time the entire CDC grant allocation would be overhauled. With most of Smokefree Indiana's staff gone and knowing the level of staffing required to effectively run the tobacco control program, Ball State Project Director Jeffrey Clark declined to accept the contract extension.<sup>290</sup>

Following the ending of the ISDH contract with Ball State University and the dissolution of Smokefree Indiana in 2008, ISDH outsourced the annual CDC NTCP grant that funded Smokefree Indiana's work to ITPC.<sup>10, 455</sup> (ISDH did not have any comprehensive programs or staff addressing tobacco control.) The primary responsibility of Smokefree Indiana that ITPC assumed was the state Quitline's management which ITPC contracted out to Free and Clear, the

**Table 31: Budget Changes Following 2003 ITPC Budget Cuts<sup>5</sup>**

	2003 Budget (in millions)	2004 Budget (in millions)	Percent Decrease from 2003	2005 Budget (in millions)	Percent Decrease from 2003
Local Community Programs	\$7.55	\$5.28	30%	\$2.64	65%
Minority Grants	\$2.50	\$2.50	0%	\$1.25	50%
Statewide, Regional and Pilot Partners	\$7.50	\$1.25	83%	\$0.17	97%
Media / Advertising	\$7.00	\$3.50	50%	\$3.50	50%
Enforcement	\$2.00	\$0.75	63%	\$0.50	75%
Evaluation	\$3.25	\$1.30	60%	\$1.30	60%
Administration	\$1.62	\$1.20	26%	\$1.20	26%
Emerging Programs	\$1.07	-	-	-	-
<b>TOTAL</b>	<b>\$32.50</b>	<b>\$15.78</b>	<b>51%</b>	<b>\$10.57</b>	<b>68%</b>

same vendor Smokefree Indiana had used, following a competitive bidding process. Upon becoming responsible for the CDC grant in 2008, ITPC began to partner more frequently with ISDH, particularly the Division of Chronic Disease Prevention and Control within ISDH, which had supervised Smokefree Indiana.

In FY 2009 ITPC began working with the ISDH Chronic Disease Diabetes Prevention and Control Program on a Healthy Communities Program to address tobacco use and chronic diseases that are often interlinked. ITPC also reported that its staff served as advisors to ISDH programs of the Office of Women's Health Advisory Board, Diabetes Council, Joint Asthma Coalition, Chronic Disease Epidemiology Integration group, Indiana Cancer Consortium, Indiana Coalition to Improve Adolescent Health and the Chronic Disease Integration team to ensure that programs being implemented were sensitive to the effects of tobacco use on health and were addressing tobacco control in their interventions.<sup>12</sup> ITPC also historically provided funding and support for the ISDH Health Prenatal Substance Use Prevention Program (PSUPP) and the ISDH Health Fair. PSUPP funded clinics to provide tobacco education and cessation counseling to pregnant women and other women of childbearing age.<sup>6</sup>

### ***Conclusions***

Since its inception in 2000, ITPC was repeatedly subjected to funding cuts as the state's MSA Funds were re-routed away from health. When SEA 108 was enacted in 2000, Indiana had strong leadership from Governor O'Bannon, Attorney General Jeffrey Modisett, General Assembly leaders including Sen. Lawrence Borst and Rep. Charlie Brown. With Modisett's departure, the decline, the eventual defeat of Borst and the rise of Sen. Robert Meeks in the Senate Appropriations Committee, and O'Bannon's support for securitization programs and a deteriorating working relationship with ITPC, tobacco control lost many of its political allies.

ITPC's Executive Board was forced to adjust the agency's programmatic efforts after a 70 percent budget cut in 2003 and limit its focus to community programs and youth tobacco control efforts while cutting funding for statewide partners and the statewide media campaign.

## **NEW PROGRESS ON LOCAL CLEAN INDOOR AIR LAWS, 2002-2010**

### **2002: Discussions Begin in Indianapolis-Marion County**

With ITPC's formation and the ITPC Executive Board's dedication to funding local tobacco control efforts, in 2002 tobacco control advocates set out to pass a comprehensive city-county smokefree ordinance in Indianapolis-Marion County. As the capital, Indianapolis was seen from all corners of the state as an example. The Marion County Health Department, the Marion County Minority Health Coalition, ACS, Smokefree Indiana, and the Alliance for Health Promotion were active on tobacco control advocacy there and, with the exception of ACS and Smokefree Indiana, were members of the ITPC-funded community and minority-based partnerships funding with an initial \$1.5 million ITPC grant.<sup>4</sup> This group of advocates, calling itself the Marion County Tobacco Control Partnership, asked Councillor Beulah Coughenour, the tobacco control champion on the Indianapolis-Marion County City-County Council since the early 1990s, to introduce an ordinance in 2003. Although there was no signed deal breaker

commitment among the tobacco control advocates, the coalition agreed among themselves to support only a comprehensive ordinance with no exemptions.<sup>402, 506</sup>

In September 2002, the Marion County Tobacco Control Partnership, which occasionally used the name Tobacco Smart Indiana (the statewide coalition that finally dissolved in 2002), commissioned the Indiana University Public Opinion Laboratory to survey Marion County residents; 77 percent of voters supported a policy to prevent exposure to secondhand smoke in indoor workplaces and 66 percent supported smokefree restaurants.<sup>506, 507</sup> ACS polled the Indianapolis-Marion County City-County Council on the ordinance. Of 29 members, only six replied with five opposed.<sup>402</sup> The Marion County Tobacco Control Partnership also commissioned Terrell W. Zollinger and a team of independent researchers to conduct an economic analysis to determine the monetary costs of secondhand smoke and its effects on human health. Zollinger's report estimated that in 2000, healthcare costs and the cost of premature loss of life in Marion County were at least \$56.2 million.<sup>508</sup> Tobacco control advocates used this information to educate Councillors on smokefree policy issues and bolster public support.

### *The 2003 Proposal*

Councillor Coughenour introduced the ordinance in spring 2003. Originally comprehensive, the proposal was amended to allow enclosed smoking rooms, and later in committee, to exempt businesses earning 75 percent of their revenue from alcohol sales, reflecting the Fort Wayne 1998 ordinance.<sup>509</sup> Tobacco control advocates accepted these changes and continued supporting the ordinance which, at the time, was a strong ordinance compared to most of the rest of the cities in Indiana; advocates felt they could return later to strengthen the ordinance and remove smoking rooms.<sup>366, 506, 510</sup>

Sandy Cummings, Chronic Disease Coordinator for the Marion County Health Department recalled in a 2009 interview that the proposal did not receive fair consideration. It was assigned to a Rules and Public Policy Committee and was assigned further to a study committee including bar owners, lobbyists for the restaurant association, and Cummings among others.<sup>506</sup> Cummings also recognized that, although the public polls taken by Indiana University indicated that there was public support for policies that provided protections from secondhand smoke, tobacco control advocates did not effectively mobilize the public to persuade the council to support the proposal.

Although some Councillors indicated that by April 2003 they had heard from many community members who supported the ordinance, it was not enough to sway the Council.<sup>510</sup> This lack of strong visible public support allowed the tobacco industry's historic allies in the hospitality industry, including the Indiana Restaurant Association's John Livengood and Indiana Licensed Beverage Association members, to strongly oppose the ordinance. Both used standard tobacco industry economic, and freedom of choice and self-regulation arguments. The Libertarian Party of Indiana was also active in opposition,<sup>133</sup> and, as discussed in later sections, was a frequent supporter of tobacco industry policies.<sup>74, 511, 512</sup> (The tobacco industry has longstanding ties with the Libertarian movement. Since the early 1990s, Libertarian think tanks like the Cato Institute and the Heartland Institute took funding and collaborated with the tobacco



industry on a variety of issues including smokefree air laws.<sup>513-517</sup>) Without a strong ordinance sponsor and few reliable connections among other Council members, the Council defeated the ordinance.<sup>133, 506</sup>

### ***Bloomington Passes a Comprehensive Ordinance***

Meanwhile, in 2003, the Bloomington City Council considered an ordinance to prohibit smoking in public places and enclosed workplaces including all restaurants and bars, which would have been the first comprehensive law in the state. Anthony Pizzo, former Indiana State Representative and longtime tobacco control advocate, was the Councillor who authored the ordinance.<sup>518, 519</sup>

Pizzo, a physician, actively organized pulmonologists and cardiologists to testify before the Council in support of the ordinance. Pizzo also worked with the local hospitals and gained their endorsement. Despite a strong vocal opposition to the ordinance from local bar owners who argued for smokers' rights and exemptions for facilities with ventilation systems, the Greater Bloomington Chamber of Commerce supported the smokefree ordinance. Pizzo, in a 2010 interview, explained that after he met with the Chamber of Commerce on multiple occasions he was able to secure its support and got its representatives to testify at Council meetings in favor of the ordinance. The Chamber's support was influential because, even though many bar owners opposed the ordinance, the major business organization's endorsement provided momentum and legitimacy to the ordinance.<sup>519</sup> According to Pizzo, local tobacco control advocates were not involved in seeking the ordinance's passage though some individual advocates came down from Indianapolis to testify.<sup>519</sup> Tobacco control advocates do not appear to have conducted any polling, media campaign, or other advocacy work.

Opposition to the ordinance from bar owners was outspoken at the Council meetings and, as Pizzo recalled, tobacco industry-affiliated lobbyists traveled from Indianapolis to lobby the Council to oppose the ordinance. Out-of-town lobbyists took eight of the nine Council members (everyone but Pizzo)<sup>519</sup> out to lunch and provided them with literature arguing for accommodation for ventilation, a known tobacco industry argument.<sup>72, 520</sup> Most Council members supported Pizzo's ordinance as a result of the testimony provided by physicians and the Chamber of Commerce but were hesitant to dismiss the local bar owners' strong opposition.

In an effort to pacify the bar owners, Pizzo and the Council agreed to allow a phase in period for bars (any business not allowing entrance to people under 18 years old) to become smokefree. Under the amended ordinance indoor workplaces and most public places (including outdoor seating at restaurants) would become smokefree August 1, 2003, while private clubs and bars could continue to allow smoking until January 2005, when they had to go smokefree.<sup>521</sup> This phase-in period made it possible to pass the ordinance, which passed with an 8-1 vote on March 26, 2003.

The Council designated the ordinance's enforcement to be on a complaint-based system and that a designee of the mayor's office was responsible for responding to complaints. The penalty for violation was \$100 and both the smoker as well as the establishment owner could be held accountable for violations.<sup>522</sup>

As a part of an agreement between Pizzo and the Monroe County Board of Commissioners (Bloomington is in Monroe County),<sup>519</sup> the Monroe County Board of Commissioners passed an ordinance similar to Bloomington's on May 2, 2003.<sup>364</sup> Monroe County also included a phase in period bars which would not be required to prohibit smoking until January 2005. The Monroe County Health Department was responsible for enforcing the county ordinance.

As discussed previously, decisions in Bloomington did not always resonate throughout the rest of the state due to perceptions of the city's liberal leanings which, policy makers argued, made Bloomington different from the rest of the state, something Jon Macy, Monroe Tobacco Prevention and Cessation Coalition Coordinator in 2010, explained was simply an excuse for inaction.<sup>518</sup> Nevertheless, the enactment of Bloomington's comprehensive law proved that it was possible in Indiana.<sup>523</sup>

### ***Indianapolis-Marion County: Smoke Free Indy Forms***

Following the 2003 defeat of the Indianapolis-Marion County ordinance, in 2004 the Marion County Tobacco Control Partnership changed its name to Smoke Free Indy (SFI) to continue working to pass a clean indoor air ordinance in Indianapolis. SFI was organized as a coalition with each member organization providing a portion of funding. However, what really enabled the campaign was a \$785,234 grant, for January 1, 2004 – June 30, 2005, ITPC awarded the Marion County Health Department as part of ITPC's community grant program. This grant provided the majority of the funding for SFI's new advocacy campaign, with the Marion County Health Department functioning as coalition coordinator.<sup>6</sup>

With SFI's formation and with the 2004 election bringing 16 new members to the 29-member City-County Council, SFI began working with Councillors Angela Mansfield and Greg Bowes, both Democrats and new to the Council, who approached the coalition wanting to support a comprehensive smokefree ordinance. The City-County Council, which was often dominated by Republicans, was replaced by a Democratic majority in 2005 and Councillor Steve Talley (D) became the Council President. Talley supported the ordinance in 2003 and was committed to getting the ordinance through the council.<sup>509, 524</sup>

### ***Smoke Free Indy Gears Up for the 2005 Campaign***

In preparation for the 2005 campaign, SFI held small public forum meetings in and around Indianapolis and Marion County to educate the public and allow community members to discuss and show support for a smokefree ordinance. WIBC 1070 radio station played SFI advertisements which promoted the mounting campaign. Radio advertisements featured sound bites from public forums and referred listeners to online videos for more information on the proposal and the importance of a smokefree policy. There was also an online debate moderated by an ACS representative and Mickey Maurer, longtime tobacco control advocate with Smokefree Indiana in the 1990s and then-newly appointed chairman of the Indiana Economic Development Corporation (IEDC), a public-private partnership in Indiana which promoted economic development throughout the state.<sup>525</sup> Melissa Lewis of the Indiana Academy of Family Physicians recalled in a 2009 interview that these meetings took a great deal of energy on the

part of the growing coalition and sometimes only attracted a small group of supporters.<sup>133</sup> Public polls from two years earlier indicated that the public supported comprehensive protection for both customers and employees.<sup>507</sup> However, there was still not an ordinance to rally supporters around.

### ***General Ordinance Proposal 45***

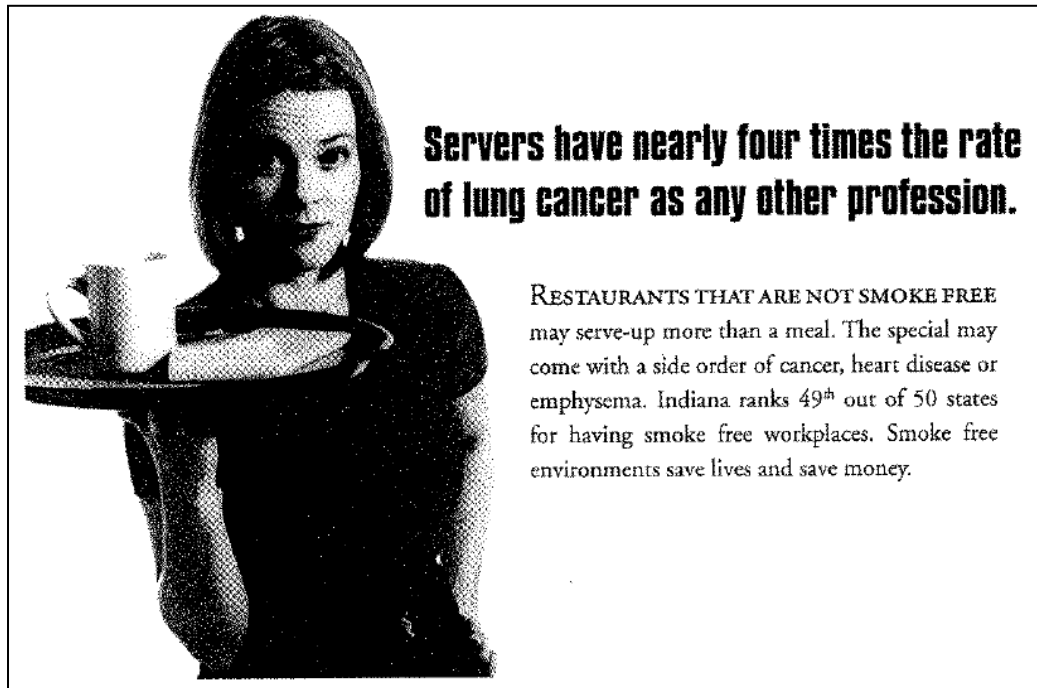
Councillors Mansfield and Bowes introduced General Ordinance Proposal 45 on February 7, 2005. It was assigned to the Children's Health & Environment Committee, a new committee Council President Talley created to hear the smokefree ordinance, with Mansfield as chair and Bowes as vice-chair. (The committee was also created to hear future ordinances for issues such as lead poisoning, rental housing, and juvenile outreach programs.) As introduced, the ordinance prohibited smoking in public places and workplaces including restaurants and bars, as well as outdoor public areas such as city parks, and outdoor seating at restaurants (Table 33).<sup>526</sup> The most notable exemption was for retail tobacco stores. Mansfield and Bowes were joined by Councillors Steve Talley, Scott Keller, and Patrice Abdullah as sponsors.<sup>527</sup>

### ***Tobacco Control Advocacy Activities***

To raise awareness for the proposal and encourage public involvement, Mansfield and Bowes held 10 Children's Health and Environment Committee meetings throughout spring 2005 in the City-County Building and community centers around Indianapolis and throughout Marion County over a seven week period. These meetings provided an opportunity for public comment on the ordinance and provided a forum for SFI to educate the community about the importance of local smokefree ordinances, mobilize members to turn out and show public support for the ordinance. With the newly formed relationship with Councillors Mansfield, Bowes and Council President Steve Talley, SFI adopted a strategy for educating and forming working relationships with other councillors in addition to launching a public education campaign.<sup>528</sup>

SFI gathered community members and local tobacco control advocates, including students and workers, to attend and speak in support of a comprehensive ordinance at these Committee meetings.<sup>527</sup> Bruce Hetrick, a public relations specialist, became an outspoken advocate of smokefree policies when his wife, Pam Klein, died from cancer in 2005 as a result of exposure to secondhand smoke, while General Ordinance Proposal 45 was being considered.<sup>529</sup> Hetrick emerged as a vocal volunteer smokefree advocate, telling his wife's story, which had a powerful impact throughout the state. Mickey Maurer also testified to counter the hospitality industry's economic arguments.<sup>530</sup>

SFI also used its network of organizations and members to hold rallies to generate public awareness and support. SFI used billboards, radio and print ads to educate the public on the health effects of secondhand smoke and the proposed ordinance. The coalition also produced factsheets and post cards (Figure 21) sent Council members that discussed the importance of smokefree workplaces, the necessity of government regulation, along with the problems with ventilation and other accommodation tactics that the tobacco industry supported. The Marion County Health Department spent \$51,000 of their ITPC community grant on advertising and public education on the ordinance throughout the 2005 campaign.<sup>531</sup>



**Figure 21:** Post card sent to Indianapolis-Marion County City-County Council members by Smoke Free Indy members to promote G.O. 45, 2005

### *Scientific Studies as Advocacy Tools*

SFI mobilized a wide array of scientific researchers to support the ordinance. At the Children’s Health and Environment Committee meetings, specialists such as Dr. Stephen Jay, pulmonologist and Professor of Medicine and Public Health at the Indiana University School of Medicine, and Dr. Andrew Hyland of Roswell Park Cancer Institute (in Buffalo, NY) discussed the health effects of secondhand smoke. Hyland released a report, commissioned by SFI, in 2005 that compared the air quality of restaurants and bars in Bloomington, Fort Wayne, and Indianapolis (Bloomington being 100 percent smokefree, Fort Wayne with a partial law, and Indianapolis with no restrictions) that demonstrated that indoor air pollution was 94 percent lower in establishments that were required to be smokefree than where it was permitted.<sup>532</sup> The highest average level of indoor pollution was found in Indianapolis, which was 14 times higher than Bloomington. SFI also commissioned an independent poll by the Indiana University Public Opinion Laboratory that found 88 percent of adults agreed that Marion County workers should be protected from secondhand smoke, 87 percent agreed that establishments would be healthier for their customers and employers if they were smokefree, and two-thirds supported smokefree restaurants.<sup>533</sup> It also predicted a net economic *gain* for the hospitality industry: although 17 percent responded that they would go out less if a smokefree ordinance was passed, 30 percent responded that they would go out more if restaurants and bars were smokefree. Each of these studies added scientific credibility in favor of passing the ordinance.

There was a large, concerted effort by the hospitality industry to defeat the ordinance. A Children's Health and Environment Committee meeting on March 10, 2005, the second hearing in the series of 10 hearings the Committee held, was devoted solely to the public testimony from the hospitality industry. Thirteen speakers -- restaurant and bar owners, the Indiana Restaurant Association's John Livengood and the Marion County Licensed Beverage Association's Mark Webb -- spoke against the ordinance citing fears of economic ruin for their establishments and more often than not, their rights as free American adults to smoke where they chose to. These were arguments created by the tobacco industry in the 1980s as part of its "accommodation" strategy for defeating clean indoor air ordinances.<sup>72, 534</sup> Brad Klopfenstein, then the State Libertarian Party Executive Director (later the Indiana Licensed Beverage Association Executive Director and leader of "Save Indianapolis Bars," a Libertarian-funded opponent of a 2009 Indianapolis-Marion County ordinance) was quoted in the media and called for the defeat of the ordinance as well.<sup>530, 531</sup> The Indianapolis Chamber of Commerce publicly supported a "partial ban" which would have exempted establishments that did not allow people under eighteen years old to enter (a tobacco industry fallback position), private clubs, and retail tobacco stores.<sup>535</sup>

Mayor Bart Peterson, another Democrat, remained neutral throughout most of the Council's ordinance discussions.<sup>506</sup> As the Council was drawing near to a vote on the ordinance, Peterson came out in favor of the ordinance.<sup>536</sup>

### *The Ordinance is Amended*

The Children's Health and Environment Committee decided after weeks of discussion and public testimony to amend the ordinance to obtain the votes necessary for passage. The Committee added exemptions for bars and private clubs as well as several other locations (Table 33). Bars and taverns were defined as any establishment holding a beer, liquor, or wine retailers' permit, did not permit people under age 21 to enter, and did not employ anyone under age 18. (There is no statewide law in Indiana that established a clear definition for a bar.) Under this language, establishments were allowed to choose whether to be considered a bar and limit themselves to customers aged 21 and older, or to be considered a restaurant and to go smokefree.

The Committee also eliminated the language covering outdoor areas such as public parks and ATM machine areas. Establishments were given six months instead of the original 60 days to become smokefree. Both the establishment as well as the smoker could be fined \$100 for first violations and \$200 fines for subsequent violations. The areas still covered by the proposed ordinance were places of employment (except for exempted areas) and public places. Public places were defined as "an enclosed area, whether owned publicly or privately, to which the public is invited or in which the public is permitted" (Table 32).

The ordinance was to be enforced by the Marion County Health Department, the Department of Code Enforcement and the Fire Department (Table 33).<sup>537, 538</sup> Four cities (Beech Grove, Lawrence, Speedway, and Southport) were excluded cities from the Indianapolis City-County Unigov system for having populations of more than 5,000 people but were thought by

<b>Table 32:</b> Locations considered to be Public Places under G.O. 45 <sup>537</sup>
Elevators
Health care facilities
Laundromats
Licensed child care and adult day care facilities
Lobbies, hallways, and enclosed areas in the common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities
Polling places
Public transportation facilities, including, but not limited to, buses and taxicabs under the authority of the city, the county, or the Indianapolis Public Transportation Corporation, and ticket, boarding, and waiting areas of public transit depots
Restrooms, lobbies, reception areas, hallways, and other common-use areas
Shopping malls
Sports arenas

the Council to be under the Marion County Health Department’s purview even though they were not under the Indianapolis-Marion County City County Council’s jurisdiction. They were not covered by the ordinance; as of 2010, SFI was continuing to work to bring the four excluded cities under comprehensive language.<sup>133, 538</sup>

These changes won the Indianapolis Chamber of Commerce’s endorsement and addressed the bar owners’ publicly voiced concerns.<sup>538</sup> SFI supported the law with exemptions and planned to return later to strengthen it. The committee voted to recommend passage 6-2 on May 5, 2005. Council President Steve Talley, saying that there were not the 15 votes to pass the ordinance in the full council, asked for a council vote to send the ordinance back to committee for another hearing. At the hearing on May 19, the ordinance was amended with additional exemptions for bowling alleys. Also, the age limit for bars wishing to remain smoking establishments was lowered from age 21 to 18. These amendments were enough to sway the Council, which passed the ordinance with an 18-9 vote. Mayor Peterson signed the ordinance into law and G.O. 44 (which replaced the Proposal 45) went into effect on March 1, 2006.<sup>539, 540</sup>

***Other Localities Follow Indianapolis***

Policies passed in Indianapolis often reverberate throughout the state at both the local and statewide level. (While Bloomington and Fort Wayne were leading the in the passage of local ordinances, Bloomington’s ordinance being comprehensive once the 2005 bar phase-in took place and Fort Wayne’s 1998 ordinance with many exemptions but some coverage for restaurants, many other localities did not follow their example.) Most other local laws that had been passed before 2005 at the city and the county level just prohibited smoking in local government buildings.<sup>364</sup> Immediately following the Indianapolis-Marion County ordinance in 2005, however, localities began to use Indianapolis-Marion County as a model for their own ordinances and included public places and workplaces, but often exempted bars and private clubs (Table 34).

<b>Table 33: Evolution of General Ordinance 45</b>											
<i>Ordinance version</i>	<i>Public places</i>	<i>Enclosed Workplaces</i>	<i>Restaurants</i>	<i>Bars</i>	<i>Private clubs</i>	<i>Bowling Alleys</i>	<i>Outdoor public areas</i>	<i>Retail Tobacco Stores</i>	<i>Enforcement</i>	<i>Penalty</i>	<i>Violator</i>
General Ordinance 45 (introduced)	✓	✓	✓	✓	✓	✓	✓		Marion County Health Department; Department of code enforcement; Fire department	\$100 (1st); \$200 (subsequent)	Establishment and/or smoker
General Ordinance 45 (amended and passed)	✓	*	✓						Marion County Health Department; Department of code enforcement; Fire department	\$100 (1st); \$200 (subsequent)	Establishment and/or smoker
<b>Note:</b>											
*Coverage for workplaces was not comprehensive due to the exemptions provided											
✓100% Comprehensive Coverage											

The organizations within SFI spent the period between the 2005 ordinance's passage and fall 2008 working to pass smokefree ordinances in the cities and towns surrounding Indianapolis. They believed that if the municipalities surrounding Indianapolis-Marion County were smokefree that it would indicate a widespread level of support and would enable advocates to return and strengthen the Indianapolis-Marion County ordinance.<sup>541</sup> Although advocates were intent on strengthening the Indianapolis ordinance, they worked all over the state with local coalitions established with ITPC funding, and successfully passed new ordinances.

As of June 30, 2006, 23 communities had passed a clean indoor air ordinance; by 2009 this figure had increased to 38 clean indoor air ordinances prohibiting smoking in public places, workplaces, or both, and some included restaurants and bars.<sup>8, 12</sup> In 2007, ITPC was recognized by Americans for Nonsmokers' Rights (ANR) for having the second most clean indoor air ordinances passed nationwide in 2006.<sup>8, 9, 12, 364</sup> Of the 38 ordinances in the state in 2010, 35 passed after Indianapolis-Marion County's 2005 ordinance and of those 35, 21 ordinances exempted bars and 28 exempted private clubs, exemptions that were similar to the ordinance in Indianapolis-Marion County.<sup>364</sup> This surge of local success protected many more people in Indiana but did not provide complete coverage for workplaces because bars and private clubs were workplaces and often exempted.

In 2006, in efforts to improve the quality of ordinances being passed and establish a standard for ordinances throughout the state, statewide tobacco control advocates drafted a set of advocacy deal breakers called the *Fundamentals of Smokefree Air Policy: Development for Hoosier Communities*<sup>542</sup> which was based on the *Fundamentals of Smokefree Workplace Laws*<sup>541, 543</sup> written by ANR and other major national health organizations. *Fundamentals* was an instructional tool for advocates trying to pass smokefree air policy which was written to explain common problems that advocates experience and tactics used by the tobacco industry to interfere with the passage of smokefree laws. *Fundamentals* became the resource in the state which provided model ordinances, showing how to achieve a comprehensive law and what to avoid in the advocacy process. Signatory organizations agreed to support only comprehensive ordinance proposals that included public places and workplaces (with minimal exemptions) as opposed to leaving the creation of ordinance provisions up to each individual community. *Fundamentals* explicitly told advocates to begin with a model ordinance (recommended by ITPC) and not to use the language previously passed by other communities.<sup>544</sup> The initial *Fundamentals* signatories were ACS, AHA, ALA, Hoosier Faith & Health Coalition, Indiana Academy of Family Physicians (IAFP), Indiana Latino Institute (ILI), Indiana Public Health Association (IPHA), and ITPC.

The initiation of *Fundamentals* seems to have affected the quality of ordinances passed. By 2007, localities started to pass ordinances that covered all workplaces including bars and private clubs with greater frequency. However, by 2009, the momentum derived from the formation of ITPC and the Indianapolis-Marion County ordinance's passage seemed to have slowed. In 2009, only two localities passed ordinances (Franklin and Westfield) and only one of those ordinances (Franklin), was a comprehensive ordinance that covered public places and workplaces without exemptions for restaurants, bars or private clubs. This lull in local activity was perhaps a result of tobacco control advocates paying more attention to passing a stronger ordinance in Indianapolis-Marion County to remove exemptions, and with other smaller



**Table 34:** Localities that have passed some sort of smokefree ordinance<sup>364, 545</sup>

<i>Municipality</i>	<i>Date Enacted</i>	<i>Date Effective</i>	<i>Public Places</i>	<i>Workplaces</i>	<i>Restaurants</i>	<i>Bars</i>	<i>Private Clubs</i>	<i>Notes:</i>
Bloomington**	3/27/2003	8/1/2003	✓	✓	✓	✓	✓	Bars effective 01/01/2005
Morgan County	9/3/2004	1/1/2005	*	*	*			Only restaurants; Must either be 100% smokefree, provide smoking rooms with separate air filtration, or not allow people under age 18 to enter
<b>Indianapolis-Marion County</b>	<b>5/26/2005</b>	<b>3/1/2006</b>	✓	✓	✓			
Columbus	8/2/2005	8/2/2005	✓	✓	✓			
Monroe County**	10/14/2005	2/1/2006	✓	✓	✓	✓	✓	2006 law strengthened law to include all workplaces (removed bars); strengthened in 2009 to prohibit smoking in vehicles with people younger than age 13 present
Greenfield	10/27/2005	3/1/2006	✓	✓	✓			
Carmel	11/23/2005	3/5/2006	✓	✓	✓			
Jeffersonville	11/30/2005	5/30/2006	✓	✓	✓			
Delaware County	2/21/2006	6/21/2006	✓	✓	*	*		Smoking rooms in restaurants and bars
Greenwood	3/1/2006	4/22/2006	✓	✓	✓			
St. Joseph County	4/4/2006	4/10/2006	✓	✓	*			Smoking rooms in restaurants
West Lafayette**	4/8/2006	7/1/2007	✓	✓	✓	✓		
Shelbyville	4/17/2006	9/1/2006	✓	✓	*	*		Smoking rooms in restaurants including attached bars
Speedway	4/24/2006	9/1/2006	✓	✓	✓			
Madison	5/16/2006	8/1/2006	✓	✓	✓			
Seymour	5/22/2006	7/21/2006	✓	✓	✓			
Lawrence	6/5/2006	7/1/2006	✓	✓	✓			
Zionsville**	6/5/2006	8/10/2006	✓	✓	✓	✓	✓	
Avon	6/8/2006	9/1/2006	✓	✓	✓			
Vanderburgh County	6/13/2006	1/2/2007	✓	✓	*			Smoking rooms allowed in restaurants
Evansville	6/20/2006	1/2/2007	*	*				Smoking prohibited in public places and workplaces except in smoking areas
Vigo County	6/20/2006	7/1/2007	✓	✓	*			Smoking rooms in restaurants; five year moratorium on revisiting the ordinance
Greensburg	8/7/2006	11/7/2006	✓	✓	✓		✓	
Kokomo	9/6/2006	10/6/2006	✓	✓	✓			
Whitestown	9/11/2006	10/1/2006	✓	✓	✓			
Plainfield**	10/9/2006	2/2/2007	✓	✓	✓	✓	✓	

<i>Municipality</i>	<i>Date Enacted</i>	<i>Date Effective</i>	<i>Public Places</i>	<i>Workplaces</i>	<i>Restaurants</i>	<i>Bars</i>	<i>Private Clubs</i>	<i>Notes:</i>
Valparaiso	12/5/2006	4/1/2007	✓	✓	✓			Restaurants that have bars may apply for exemption
Allen County	12/6/2006	8/1/2007	✓	✓	✓			Smoking prohibited within 20 feet of entrances to public places; Does not cover private clubs or bowling alleys at certain times
Fort Wayne**	1/30/2007	6/1/2007	✓	✓	✓	✓	✓	Tobacco retail stores exempt; strengthened 1998 ordinance which covered public places and some workplaces; restaurants included but smoking rooms allowed
Goshen	4/19/2007	9/1/2007	✓	✓	*			Smoking rooms in restaurants allowed
Greencastle**	5/8/2007	9/1/2007	✓	✓	✓	✓		
Cumberland**	11/21/2007	1/1/2008	✓	✓	✓	✓		
Crown Point	12/17/2007	4/1/2008	✓	✓	✓			
Elkhart**	4/15/2008	5/15/2008	✓	✓	✓	✓		Bars given until 5/15/2009 to comply
Lafayette	5/5/2008	9/1/2008	✓	✓	*	*		Private businesses not admitting people under 21 exempt
Hancock County**	12/15/2008	3/25/2009	✓	✓	✓	✓	✓	
Franklin**	05/08/2009	6/3/2009	✓	✓	✓	✓	✓	Strengthened 2006 law which previously covered public places, workplaces, including restaurants
Westfield	09/14/2009	10/14/2009	✓	✓	*	*		Establishments not admitting people under 21 exempt
<b>Note:</b> * Indicates only a partial law. Not 100% smokefree. **Indicates a comprehensive law covering public places and workplaces including restaurants and bars. ✓Indicates 100% comprehensive provisions.								

localities waiting to see what the capital decided to do; it may also have been related to the decreases in funding to ITPC and as a result, fewer resources available for local coalitions to hire staff and run campaigns. The exemptions contained in Indianapolis-Marion County's ordinance also led the State General Assembly to move forward with a weak statewide clean indoor air law proposal in 2008 (discussed below).

## LOCAL CLEAN INDOOR AIR ORDINANCES REVISITED

### Fort Wayne and Allen County, 2006

Early in 2006, Nelson Peters, 1<sup>st</sup> District County Commissioner for Allen County, which includes Fort Wayne, called Dick Conklin, Executive Director of Tobacco Free Allen County (then Smoke Free Allen County) to say that he wanted to introduce a comprehensive ordinance proposal.<sup>468</sup> Tobacco Free Allen County was formed as a result of receiving a community grant from ITPC in FY 2002, but the coalition was not active in policy campaigns until 2006, when it became clear that the County Commission would be considering an ordinance. The Allen County hospital systems Lutheran Health Network and the Parkview Health System were active participants in Tobacco Free Allen County as well as ACS, AHA, and ALA, Cancer Services of Northeast Indiana, and Allen County's ITPC-Funded Minority tobacco control coalition United Hispanic-Americans, Inc. Tobacco Free Allen County's Executive Director Dick Conklin, a former hospital administrator, led the coalition, which worked to build relationships within the community, mobilize citizens to attend the County Commission meetings and contact the Commission members to support the ordinance.<sup>468</sup> The coalition had a strong working relationship with the Board of County Commissioners, particularly Nelson Peters, as well as with the County Health Commissioner, Dr. Deborah McMahan, and was in a strong position to educate the local policy makers on tobacco control issues.

In Indiana, an elected three member Board of County Commissioners is the executive and legislative authority for most counties. In May, oncologist Dr. John Crawford, Fort Wayne City Council President, and a practicing oncologist, who was influential in the 1998 Fort Wayne ordinance's passage, presented a study he conducted with Joe Steensma, an Environmental and Industrial Health consultant, which measured nicotine levels in nonsmoking sections in Allen County restaurants covered only by the statewide law, and Fort Wayne restaurants covered by a weak ordinance allowing smoking rooms. Not surprisingly, they found higher levels of nicotine in the air of nonsmoking sections in Allen County where the restrictions were weaker. As a result, the Fort Wayne-Allen County Board of Health commissioned a subcommittee to research implementing a clean indoor air ordinance similar to the one in Fort Wayne, despite the exemptions included in Fort Wayne's law.<sup>546</sup>

Peters was skeptical that a comprehensive ordinance could be passed because of strong opposition from the hospitality industry and the fear of adverse economic effects on businesses.<sup>547</sup> Nevertheless, the county hosted an online poll on its website to gauge the level of interest in an ordinance. Of the 2,181 respondents, 1,505 strongly supported a ordinance prohibiting smoking in public places compared to 414 who strongly opposed it.<sup>548, 549</sup>

The Chamber of Commerce remained neutral, as it had been in the 1998 Fort Wayne debate, which helped pass the 1998 ordinance. The Chamber of Commerce's continuing neutrality blunted some of the hospitality industry's influence,<sup>550</sup> which made the usual tobacco industry-inspired arguments.<sup>468, 551</sup>

The final version of the ordinance that the Allen County Commissioners adopted on November 22, 2006 prohibited smoking in most public places (including restaurants). The

ordinance exempted businesses that only admitted people aged 21 and over, bowling alleys from 9 P.M until 3 A.M., retail tobacco stores, 20 percent of hotel rooms and private clubs (Table 35). Even with the exemptions, by covering most public places and workplaces, Allen County's ordinance should have markedly increased the number of people protected by a clean indoor air law. The Fort Wayne-Allen County Health Department, police officers and fire departments enforced the ordinance. Both establishments as well as individuals could be fined for violations of up to \$250 after multiple violations. The law did not supersede any other stronger local ordinances.<sup>552</sup> Commissioner Linda Bloom said after the decision that she did not think the Board of Commissioners could pass a stronger ordinance until Indiana went smokefree statewide.<sup>553</sup>

The Allen County ordinance allowed any municipality to opt out of the ordinance by their respective council passing an ordinance to do so. Six communities in Allen County voted to opt out: Fort Wayne, Grabill, Huntertown, Leo-Cedarville, New Haven and Woodburn. While the majority of communities that opted out did so to avoid instituting smoking regulations, Fort Wayne opted out to pass a stronger, comprehensive ordinance.

### ***Fort Wayne Opts Out***

City Council President John Crawford (R-At Large) introduced a smokefree ordinance in December 2006. Mayor Graham Richard strongly supported the ordinance, instructing the City Attorney Tim Manges to help draft the legislation, and committed to enforcing it. The proposed ordinance prohibited smoking in indoor public places with exemptions for only retail tobacco stores, a percentage of hotel rooms, and private rooms in nursing homes (Table 35). Smoking would also be prohibited outside and within 200 feet of a government building or hospital, and within 20 feet of the doorways of public places.<sup>554</sup>

Prior to the ordinance's passage, Fort Wayne's two major hospital systems, Parkview Health and Lutheran Health Network, collectively decided to make their hospitals and hospital grounds smokefree. This decision affected thousands of employees in the Fort Wayne area and was extremely influential with the City Council, which was debating the importance of a stronger law. ACS and AHA, in their role as members of Tobacco Free Allen County, sponsored a radio advertising campaign to educate the public on the importance of smokefree environments, to inform Fort Wayne citizens about the ordinance proposal and to recruit citizens to attend the meeting to support the ordinance.<sup>555</sup> The City Council meeting on January 9 drew over 60 people who testified for over three hours on their views on smoking. The testimony was mixed between opposition, primarily consisting of bar owners, and support coming from health professionals and other tobacco control advocates.<sup>556</sup>

Only one minor amendment passed, which decreased the outside distance a person could smoke from a public building from 200 feet to 20 feet (except for hospitals, which remained 200 feet). The Fort Wayne Fire Department was the primary enforcement body to respond to complaints but the Fort Wayne-Allen County Health Department and the City Police Department could also enforce the law in their routine inspections of establishments.<sup>557, 558</sup> Both establishments and smokers could be fined for violating the ordinance with establishments facing fines up to \$2,500 per day for violations. The final ordinance passed on Tuesday, January 16,

<b>Table 35: Allen County and Fort Wayne Ordinances</b>											
	<i>Public Places</i>	<i>Workplaces</i>	<i>Restaurants</i>	<i>Bars</i>	<i>Private Clubs</i>	<i>Bowling Alleys</i>	<i>Retail Tobacco Stores</i>	<i>Enforcement</i>	<i>Penalty</i>	<i>Violator</i>	<i>Notes</i>
Allen County (2006)	✓	*	✓	**		*		Fort Wayne-Allen County Health Department; police officers; municipal fire departments	Establishment - \$250/day; individual smoker - \$25 (1st), \$100 (2nd), \$250 each additional violation	Establishment and/or smoker	Lesser municipalities in the county could opt out
Fort Wayne (2007)	✓	✓	✓	✓	✓	✓		Fort Wayne Fire Department; Fort Wayne Allen County Health Department; City Police Department	Establishment - \$2,500/day; individual smoker - \$25 (1st), \$100 (2nd), \$250 each additional violation	Establishment and/or smoker	

**Note:**  
 \*Bowling alleys exempted between the hours of 9:00 p.m. and 3:00 a.m. Sunday through Thursday  
 \*\*Establishments not admitting people under the age of 21 exempt  
 ✓ 100% Comprehensive Coverage

2007 with a 7-1 vote in favor and one abstention.<sup>559</sup> The ordinance expanded Fort Wayne's ordinance by making all public places and workplaces, including restaurants and bars, smokefree. The ordinance made Fort Wayne the second strongest local smokefree law in the state behind Bloomington.

### ***Preparing for Enforcement***

Following the Allen County and Fort Wayne ordinances' enactment, Tobacco Free Allen County set out to ensure that the ordinances would be enforced as the June 1 implementation date approached. The coalition launched a television, radio, billboard and banner advertising campaign that promoted the ordinances. The coalition also began working to educate businesses to ensure a smooth transition to smokefree status once the laws took effect.<sup>560</sup> Tobacco Free Allen County, in collaboration with the Fort Wayne-Allen County Department of Health and the Fort Wayne Chamber of Commerce, released a report *Going Smokefree: A Guide to Creating and Implementing Tobacco Cessation Policies in the Workplace*<sup>558</sup> to guide businesses in their transition to smokefree. (The report was based on CDC's guide for making workplaces smokefree titled *Making Your Workplace Smokefree: A Decision Maker's Guide*.<sup>561</sup>). The coalition also offered youth smoking prevention courses and smoking cessation classes and informed the public on how they could be accessed, some free of charge.

The Fort Wayne-Allen County Department of Health, through a \$39,100 grant from Tobacco Free Allen County and ITPC, hired a coordinator to handle complaints, process fines and create a hotline for the public to file complaints easily. The Allen County ordinance, although in effect as of June 1, ultimately covered few people because so many of the municipalities opted out of the ordinance. The ordinance in the end covered only unincorporated areas and Zanesville, a town that sat in both Allen County and Wells County, which did not opt out. Fort Wayne was the only municipality in the county to enact a strong law which covered most public places.<sup>468, 562, 563</sup>

### ***Legal Opposition Emerges in Fort Wayne***

Mayor Graham Richard signed the ordinance on January 30, 2007 and both the Fort Wayne and Allen County ordinance were set to go into effect June 1, 2007. By the middle of February according to the Fort Wayne *Journal Gazette*, hundreds of bar owners and other opponents gathered in a local bar to discuss filing a legal challenge to the law. It is unclear if this opposition organized as a result of the influence of organized tobacco-industry affiliated groups. However, the longtime tobacco industry ally Indiana Licensed Beverage Association (ILBA) organized bar owners in a protest against the Fort Wayne ordinance in April, before the law took effect.<sup>564</sup> Following common tobacco industry rhetoric,<sup>565</sup> bar owners depicted Fort Wayne Council member John Crawford as a Nazi wearing a mustache in the style that Adolf Hitler wore and compared him further to Saddam Hussein of Iraq, calling the ordinance the "genocide" of citizens' rights. ILBA bought 1,000 of these posters and distributed them to local bar owners and tobacco stores to participate in the protest.<sup>564, 566</sup>

On May 23, just days before the Fort Wayne and Allen County ordinances were to go into effect nearly 20 Fort Wayne businesses filed a lawsuit in Allen County Superior Court

against Fort Wayne. As with many other suits against similar laws,<sup>387</sup> the suit claimed that the ordinance's language was vague and did not fairly inform what was prohibited. Specifically referred to were the lack of details regarding what "smoking paraphernalia" were and what owners were expected to do in order to enforce the law appropriately. The suit claimed that the ordinance was unconstitutional because it violated the Fourteenth Amendment right to Due Process, arguments typically brought in legal challenges to smoking ordinances. Claims of Due Process violations were rejected in 1998 when Fort Wayne's earlier ordinances were challenged in court. The lawsuit sought an injunction against the ordinance's enforcement until the Fort Wayne City Council could re-write language and provide clarification.<sup>567, 568</sup>

Fort Wayne's city attorney Robert T. Keen Jr., requested that the case be moved to a federal court because of the alleged violations to the U.S. Constitution. Moving courts delayed the case and prevented an injunction from being put in place before the June 1 enforcement date.<sup>569, 570</sup> To avoid the lawsuit, the Mayor Graham Richard called a Special Council Session in hopes that the Council could clarify its language.<sup>571</sup> When the Council met on June 5, the ordinance language was amended at the local bar owners' request. The amendments changed "smoking paraphernalia" to "ashtrays" and clarified that the smoke restricted by the ordinance was tobacco smoke. Another amendment allowed smoking on outdoor patios at least eight feet away from the patio door instead of the original 20 feet as long as it was not the public entrance. Following these changes, the bar owners dropped their case.<sup>572, 573</sup>

### ***Economic Growth and Clean Air Following the Ordinance Implementation***

On June 1, 2007, both the Allen County and Fort Wayne ordinances went into effect as scheduled. In the months following the implementation, the Allen County auditor's office reported food and beverage tax collections were 39 percent higher for August 2007 than in August 2006 and 12 percent higher in September of 2007 than in September of 2006.<sup>574, 575</sup>

In addition, the Roswell Park Cancer Institute conducted an air monitoring study in 14 Fort Wayne hospitality venues including bars, restaurants, bowling alleys and pool halls. They found that the average level of fine particle indoor air pollution declined 94 percent after the Fort Wayne ordinance went into effect in those venues that went smokefree as a result of the law. The study concluded, that prior to the law's implementation, employees worked in an environment with unhealthy air according to U.S. EPA guidelines.<sup>576</sup> The ordinances helped the economy, and provided a safe environment for Fort Wayne and Allen County employees and customers.

In 2008, with Mayor Tom Henry in office, the city backed off from enforcing the ordinance.<sup>577</sup> Henry owned a bar called the Green Frog Inn and was not interested in enforcing the city law.<sup>468</sup> Henry was a Fort Wayne City Council member when the city passed its 1998 ordinance. He attempted to amend the provisions of the ordinance immediately after the city prevailed over legal challenge by the hospitality industry. Among other things, Henry wanted to further reduce the requirements for smoking rooms in restaurants so that they would not be required to have enclosed rooms in order to have smoking sections.<sup>393</sup> It is unknown what Fort Wayne tobacco control advocates have done to get the city to enforce the law.

## ***An Attempt to Repeal the Fort Wayne Ordinance in 2009***

In the 2007 election, Council member John Crawford lost his seat, removing the Council's most ardent smokefree supporter. Marty Bender, who was elected in 2007, ran his campaign partially on the promise that he would work to repeal the 2007 smokefree ordinance. Despite objective evidence to the contrary, many hospitality establishments continued to argue that the smoking restrictions were putting them out of business.<sup>468</sup> In January 2008, Bender proposed an ordinance to repeal the 2007 ordinance.<sup>578</sup> Bender's proposal would have amended the law and would have allowed smoking in bowling alleys from 9 P.M. to 3 A.M., pool halls, bingo halls, private clubs, military service clubs, fraternal clubs, bars and casinos or off-track betting parlors.<sup>579</sup>

Tobacco Free Allen County's strategy was to make sure that the City Council knew that Fort Wayne citizens still supported the smokefree ordinance and that they expected it to be preserved. To communicate the widespread support for the ordinance, the coalition created post cards that could be addressed specifically to a person's council member, which created a convenient way for citizens to contact their council member and ask for the ordinance to remain in place (Figure 22). Tobacco Free Allen County attended health fairs and asked the public to fill out their postcards and to write a personal message and even offered to mail them for the respondent. The result was that the City Council received 3,000 post cards; council members indicated to advocates such as Dick Conklin that the coalition's message had been clear.

The initial Council hearing was only to consider sending Bender's proposed ordinance to committee, which required a majority Council vote (5 votes). A Council majority was not interested in reconsidering the 2007 ordinance. Mayor Tom Henry's office deferred to the Council saying that it was a decision for the legislature.<sup>580</sup> With a clear indication that the

**LET YOUR CITY COUNCIL MEMBER KNOW YOU SUPPORT THE SMOKING ORDINANCE!**

Tobacco Free Allen County needs you to call, write or email City Council members and let them know how important this is to all of us. We'll even deliver this card for you if you send it back to us!

WRITE YOUR MESSAGE HERE

Your Name \_\_\_\_\_  
Your Address \_\_\_\_\_  
City \_\_\_\_\_ Zip \_\_\_\_\_

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**Figure 22:** Post card used by Tobacco Free Allen County to get citizens in touch with Council members



community supported the ordinance, and without the necessary votes even to send the proposal to committee, the proposal died.

### ***Conclusions***

In 2006 Allen County passed a clean indoor air ordinance, but allowed for cities to opt out if they chose to, and pass their own laws after opting out. Most cities opted out of Allen County's ordinance in order to maintain the smoking status quo in their cities. The result was that the law ended up doing very little for smokefree policy in Allen County. Fort Wayne also opted out of the county ordinance but did so in order to pass its own comprehensive smokefree air city ordinance. The success of Fort Wayne's 2007 comprehensive smokefree air ordinance was a result of ITPC-funded Tobacco-Free Allen County, combined with strong advocacy from Council member John Crawford, a dedicated smokefree advocate/oncologist

Following passage of both the 1998 and 2007 Fort Wayne ordinances, opponents used the courts in their attempts to deflect the ordinance. Legal challenges to smokefree laws based on due process complaints have been unsuccessful. Still, while Fort Wayne's laws were upheld in 1998, in 2007 the City Council decided to amend the law, providing slight clarifications but also slight weaknesses, in exchange for the hospitality opponents dropping their lawsuit.

### **2009 – Indianapolis-Marion County Revisited**

#### ***Smoke Free Indy Begins Advocacy Campaign for Expanding the 2005 Ordinance***

In November 2008, Smoke Free Indy (SFI) began advocating Indianapolis-Marion County Councillors for a comprehensive ordinance to cover all public places and workplaces with no exemptions for restaurants, bars or private clubs. Early in 2009, Indianapolis Republican Mayor Greg Ballard said that he would not take a position on expanding the ordinance because it was not a priority for him.<sup>581</sup> Meanwhile, beginning in February 2009, SFI coordinated town hall meetings with Council members for a public discussion of the proposed ordinance expansion.<sup>582</sup> During the Council's consideration of the proposal, SFI maintained contact with its member organizations through email databases and social networking tools, including Facebook and Twitter, to continue to pressure the Council,<sup>506</sup> as did opponents.

Before there was even a proposal, the Indiana Licensed Beverage Association (ILBA) began holding meetings to plan its opposition to expansion to the ordinance.<sup>581</sup> The Libertarian Party of Indiana also came out publicly against any comprehensive smokefree proposal that the Council might propose, saying in a press release "The Libertarian Party is a political party dedicated to individual and personal property rights, and opposes smoking bans in any form."<sup>583</sup>

#### ***Scientific Studies Used for Advocacy***

Earlier in 2008, in preparation for the campaign, SFI and ITPC commissioned several reports to assist the coalition with its advocacy efforts. Dr. Mark J. Travers of the Roswell Park Cancer Institute conducted an air monitoring study of ten locations in Indianapolis which allowed smoking. The study found that fine particle air pollution was eleven times higher than

smokefree venues throughout the U.S. and twelve times higher than outdoor pollution levels in Marion County.<sup>584</sup> Dr. Terrell W. Zollinger's research team at the Bowen Research Center at the Indiana University School of Medicine reported that in 2008 the economic cost from health care expenses and premature loss of life due to secondhand smoke in Marion County was \$47.5 million (\$54 for each person in Marion County).<sup>585</sup> SFI also used a literature analysis by Dr. Eric Wright of the Indiana University Center for Health Policy which further emphasized that smokefree laws did not have an adverse effect on the hospitality or casino industry's economic well being in other locales in the U.S.<sup>586</sup> ITPC and ACS commissioned a public opinion survey by Dr. James Wolfe's research team at the Indiana University, Purdue University Indianapolis Survey Research Center that found that 87 percent of Marion County voters thought workers should be protected from secondhand smoke in the workplace, including 68 percent of smokers. The survey also found that 70 percent of Marion County adults would support a comprehensive smokefree ordinance in Indianapolis that covered all restaurants, bars and bowling alleys.<sup>587</sup> These reports conveyed the economic and public health arguments for strengthening the Indianapolis-Marion County ordinance and also that a large public majority supported doing so. SFI used these reports to educate Council members and to get media exposure.

### ***Proposal No. 371 is Introduced***

Public discussion continued over the following months, though the proposed ordinance, Proposal No. 371, did not emerge until October 5, 2009. While the existing 2005 ordinance had been sponsored by Democrats, the 2009 proposed ordinance enjoyed bipartisan sponsorship from Democrat Councillor Angela Mansfield (sponsor in 2005) and Republican Councillor Ben Hunter<sup>588</sup> (Table 35). The introduced version had no major exemptions.

SFI had a good working relationship with both Mansfield and Hunter. Democratic Councillors Jose Evans and Brian Mahern and Republican Councillors Barbara Malone joined Mansfield and Hunter as sponsors; they needed 15 votes to pass the ordinance.<sup>397</sup> Mayor Greg Ballard (R) reportedly supported the proposal privately, but was not willing to support it publicly.<sup>589</sup>

### ***Proposal No. 371 in the Community Affairs Committee***

Proposal No. 371 was assigned to the Community Affairs Committee, which held a public hearing on October 14, 2009. SFI recruited specialists to testify, including the reports' authors to explain their results to the council members. Representatives of the major hospitals in Indianapolis spoke for a comprehensive law, as well representatives of ITPC, ACS, ALA and the Indiana Black Expo (IBE) and many other residents of Indianapolis-Marion County.<sup>590</sup>

Opposition to the ordinance was strong, organized almost entirely by the Libertarian Party of Marion County and the Indiana Licensed Beverage Association. Brad Klopfenstein, former Libertarian Party of Indiana Executive Director and former ILBA Executive Director, formed an organization in collaboration with the Libertarian Party of Indianapolis called Save Indianapolis Bars which was made up of bar owners opposed to the ordinance. They made all the usual arguments: the ordinance would violate smokers' rights and the rights of private businesses

to decide for themselves whether to allow smoking or go smokefree and would hurt Indianapolis businesses.<sup>590, 591</sup>

Several councillors were particularly opposed to the ordinance. Councillor Lincoln Plowman, the Republican Majority Leader on the City-County Council, along with Councillors Ed Coleman, a Libertarian, and Dane Mahern, a Democrat, were outspoken against the ordinance, which they equated to a government intrusion on the private sector.<sup>590, 591</sup> Republican Councillor Christine Scales was also outspoken against the ordinance, arguing that there was no reason that a nonsmoker would have to subject him or herself to a smoking environment unless they chose to. Scales also argued that Indianapolis-Marion County would lose business to surrounding counties.<sup>590, 591</sup> The Committee amended the ordinance to add an exemption for cigar and hookah bars (earning 15 percent or more of their revenue from cigar or hookah sales) (Table 35),<sup>590</sup> then sent it to the full council with a 4-2 vote in favor.<sup>590</sup>

***Proposal No. 371 Goes to the Full Council***

The full Council considered the proposal for the first time on October 26, 2009, and by that time had received the Indianapolis Chamber of Commerce’s endorsement (which in 2005 helped get the exemptions) and the Indiana Black Expo’s endorsement.<sup>592</sup> The full Council did not take testimony but advocates and opponents attended in large numbers. Opponents from Save Indianapolis Bars brandished signs that read “Stop the Farce,” one of the smokers’ rights slogans used by bar owners organized by the Libertarian Party of Marion County and ILBA (Figure 23).

Only 27 members of the 29 member Council were present for the meeting and 15 votes (Council majority) were required to pass the ordinance. Two Councillors abstained from voting. Councillor Dane Mahern was the son of Ed Mahern, a former member of state House of Representatives and a then-current lobbyist for R.J. Reynolds. Dane Mahern held a campaign fundraiser at his tobacco industry lobbyist father’s house on October 21, five days before the

<b>Table 35:</b> Indianapolis-Marion County's 2005 Ordinance and Proposal 371 as Introduced and Amended in 2009			
	2005 Ordinance	Proposal 371 (Introduced)	Proposal 371 (Amended 10/14/2009)
Public places	✓	✓	✓
Workplaces	*	✓	✓
Restaurants	✓	✓	✓
Bars (or establishments for people 18 and older)		✓	✓
Private clubs		✓	✓
Bowling alleys		✓	✓
Retail tobacco stores		✓	✓
Tobacco bars**		✓	
Private Residences			
<b>Note:</b>			
*Not comprehensive provision			
**According to the amended ordinance, a tobacco bar is an establishment that generates 15 percent or more of total income from tobacco product sales; sells alcoholic beverages for on-site consumption; does not hire employees or admit customers under 21 years old			
✓100% Comprehensive Coverage			

scheduled full council ordinance hearing. Many of the contributors at the fundraiser, according to Dane Mahern, were lobbyists “from the big Downtown law firms [that] may represent the bar and tobacco industry.”<sup>593</sup> After this fundraiser was publicly exposed in the *Indianapolis Star*, Mahern decided to abstain from voting. Monroe Gray also asked to abstain (Gray voted to enact the ordinance in 2005) because his wife was part owner of a bar,<sup>594</sup> leaving only 25 voting members present. (Gray later decided to vote on ordinance amendments.)

In efforts to ensure passage, Councillor Hunter, proposal co-sponsor, offered an amendment which would have exempted retail tobacco stores (stores that received at least 85 percent of their revenue from tobacco product sales) and private clubs. This amendment, which was ostensibly an attempt to compromise in exchange for the votes to pass, failed with a 13-13 vote with Mahern abstaining (Gray voted for the amendment).<sup>592, 595</sup>

Following the failed amendment, the proposal went to a full vote in the Council where it was not passed or defeated, with 12 votes in favor and 13 votes opposed (15 votes required to be decisive). Councillor Plowman moved to table the proposal that received a vote of 14-13 in favor that, at the time, the Council leadership said was enough to successfully table the ordinance. The next week, however, the full Council overturned the tabling, ruling instead that the original vote had been indecisive because it did not have the 15 votes needed, and that the proposal should be considered again. The proposal was deemed “Unfinished Business” and reconsidered on November 30, 2009.<sup>592</sup>

On November 30, without the votes to pass or defeat the proposal, the Council sent the ordinance back to the Community Affairs Committee. Acting Chair Ben Hunter, the proposal’s co-sponsor, moved to postpone the committee hearing for the proposal until April 14, 2010<sup>590, 592</sup> to give the sponsors time to educate and negotiate with other Council members and the mayor.

***Mayor Greg Ballard’s Secret Veto Threat***

After months of discussion and planning, Proposal No. 371 failed to pass in the full Council because of a backroom veto threat by Republican Mayor Greg Ballard



Figure 23: Flyer produced by the group Save Indianapolis Bars<sup>17</sup>

minutes before the October 26 Council meeting. Ballard had refused to take a public position on the ordinance since discussion began in December 2008, and also refused to meet with SFI advocates and the proposal’s authors on the Council.<sup>596</sup> Ballard went into the Republican caucus just prior to the beginning of the full Council meeting and told the Republicans, who held the majority, that he would not sign the ordinance if it reached his desk. *The Indianapolis Star’s* Matthew Tully reported that Ballard wanted exemptions for private clubs and private residences (private residences were already exempted from the ordinance). As discussed above, private clubs were part of the amendment offered by Councillor Hunter in an attempt by the proponents of the ordinance to secure the ordinance’s passage. However, Republicans defeated the amendment.<sup>595</sup> Hunter seemingly tried to give the mayor what he wanted though the Mayor still opposed the ordinance for unclear reasons.

Ballard campaigned for mayor as a health-minded candidate. In 2007, candidate Ballard said, “I can assure you that I am a supporter of the smokefree workplace. Secondhand smoke is a proven health hazard, and I would support any legislation to limit the impact of secondhand smoke.”<sup>595</sup> Ballard’s 2008 and 2009 Political Committee’s Report of Receipts and Expenditures reported receiving large campaign contributions from law firms that represented the tobacco industry, the beverage industry and the casino industry (Table 36).

The *Indianapolis Star* and *Indianapolis Business Journal* published strongly worded editorials in late October and early November 2009, calling on Ballard to take a leadership role, to work with the Council and the community to create a stronger ordinance and to publicly discuss any specific problems that he had with the proposal’s provisions.<sup>599</sup> Ballard instead said that residents of Indianapolis-Marion County did not want the ordinance strengthened, despite public opinion surveys that indicated strong support for strengthening the ordinance (70 percent of citizens wanted all workplaces covered).<sup>587</sup>

***Further Libertarian Activity and Allegations of “Illegal Lobbying”***

On November 12, 2009, while the full Council was considering Proposal 371, Indianapolis libertarian radio talk show host and blogger Abdul Hakim-Shabazz posted a blog entry alleging that SFI was engaging in “illegal lobbying” practices as a result of receiving “taxpayer money” and what he described as “politically attacking elected officials and going after political parties rather advocating a smoke free workplace.”<sup>600</sup> The specific activities

**Table 36:** Contributions Mayor Greg Ballard Accepted from Tobacco Industry Allies<sup>56, 597, 598</sup>

<i>Contributor</i>	<i>2008</i>	<i>2009</i>	<i>Total Per Contributor</i>	<i>Companies Represented</i>
Baker & Daniels LLP	\$25,000	\$36,350	\$61,350	Hoosier Beverage Association; MillerCoors LLC; U.S. Smokeless Tobacco Company
Bose McKinney and Evans LLP	\$10,000	\$14,500	\$24,500	Casino Association of Indiana*; Lorillard Tobacco Company*; National Wine & Spirit
Barnes and Thornburg LLP	\$10,000	\$20,500	\$30,500	Distilled Spirits Council of the United States, Inc.; Majestic Star Casino
<b>Total Per Year</b>	<b>\$45,000</b>	<b>\$71,350</b>	<b>\$116,350</b>	

\*Client of the Bose Public Affairs Group, an affiliate of Bose McKinney and Evans

Hakim-Shabazz referred to were a Smoke Free Indy Facebook posting regarding Mayor Ballard's politically opaque actions surrounding the smokefree proposal and a posting on SFI's blog which suggested that the Libertarian Party was violating its own "Statement of Purpose and Principles" by not supporting smokefree policies. Hakim-Shabazz alleged that this was a Hatch Act violation. The Hatch Act is the federal law that prohibits the use of federal funds for lobbying activities and which limits civil servants from participating in partisan political campaigns (to protect them from intimidation by elected officials).<sup>601</sup>

A few days later, on November 16, the Libertarian Party of Marion County (LPMC) directly attacked SFI when Timothy Maguire, the party Chairman held a press conference where he alleged that Smoke Free Indy was involved in "illegal lobbying" practices as a result of receiving "taxpayer money," to fund its activities.<sup>602</sup> Maguire requested that Marion County Prosecutor Carl Brizzi launch an investigation. Maguire also sent a letter to Tammy Baker of the Indiana State Board of Accounts, the state's financial oversight body for state and local government, requesting that the agency investigate any possible improprieties or state law violations of the use of public money, as well as any Hatch Act violations.

In both requests, Maguire referenced Abdul Hakim-Shabazz's allegations as motivating the Libertarian Party's inquiries. Maguire included the professional profile of Lindsay Grace, Smoke Free Indy's Campaign Coordinator (and Indiana Academy of Family Physicians employee) in a press packet that was distributed at a press conference. (The profile was publicly posted on the professional networking website linkedin.com). The Libertarians argued that Grace had been involved with illegal lobbying activity because she was paid indirectly with MSA money and that SFI had violated the Hatch Act.<sup>602</sup>

The tobacco industry uses allegations of "illegal lobbying" as a way to disrupt legitimate public health policy making (tobacco control advocacy) and create distractions.<sup>265, 283, 285, 286</sup> As discussed earlier, the tobacco industry made claims of illegal lobbying practices in the 1990s when ASSIST began to make progress developing coalitions throughout the state. During ASSIST, the tobacco industry successfully deterred the policy efforts of tobacco control public officials in many states when public employees did not fully understand their state's lobbying laws. An analysis of the effects of the tobacco industry's allegations of illegal lobbying during ASSIST found that the industry's claims resulted in decreased activity by public health employees in activities that could be perceived as lobbying.<sup>285</sup> Even when public employees did know the law, public health employees practiced greater "self-censorship"<sup>285</sup> to avoid the costs and administrative work associated with refuting the industry's false claims.

Lobbying, according to Indiana law (IC 2-7-1-9) is "communicating by any means, or paying others to communicate by any means, with any legislative official with the purpose of influencing any legislative action." Public employees are allowed to communicate with legislators when it falls under the scope of their official duties; employees cannot be paid in addition to their normal compensation from the state but they are free to lobby and work on policy issues if it is a part of their job.<sup>603</sup> Regardless, communicating via blog postings<sup>604</sup> and Facebook messages to Smoke Free Indy members could not be construed to be lobbying; it is not communicating with legislative officials but rather with the coalition's membership base. As of

September 2010, nothing had come from the requests made by the Libertarian Party of Marion County for the state to investigate SFI for illegal practices.

Libertarians have frequently aligned with the tobacco industry in its opposition to smoking regulations. This common position stems from libertarian groups being recruited by the tobacco industry<sup>74</sup> and being paid by tobacco industry groups,<sup>511</sup> and from the anti-regulatory political ideology often held by libertarians that the tobacco industry also supports.<sup>512</sup> In Indiana, the Libertarian Party has connections to the Indiana Licensed Beverage Association (both had Brad Klopfenstein as Executive Director) which was a longtime tobacco industry ally.

Despite these distractions, SFI continued to support a comprehensive ordinance, continued working to educate Council members and tried to work with Mayor Ballard's office by actively seeking meetings. SFI held Proposal 371's sponsors in high esteem and maintained their working relationship, keeping the lines of communication open with them. However, much of the public discussion transitioned to internal Council politics.<sup>596, 605</sup>

Indianapolis-Marion County law provides that a committee has six months to act on a proposal. If the committee does not act, the proposal is considered postponed indefinitely and is removed from the calendar.<sup>606</sup> Proposal No. 371 was postponed on December 30, 2009, and again on April 14, 2010. At the time this report was completed, the committee had until October 14, 2010 to resume consideration.<sup>607</sup> As of March 2010, Mayor Ballard still refused to meet with SFI advocates. Despite repeated attempts by SFI to meet with him, Ballard stated on a local radio station that the ordinance supporters had never tried to meet with him.<sup>596</sup> Even following a poll conducted by SFI and CTFK in July 2010 which found that 70 percent of Indianapolis voters favored an expanded smokefree ordinance, Ballard continued to oppose the ordinance and the council remained in standstill.<sup>608</sup>

### ***Conclusions***

Tobacco control advocates were highly organized going into the 2009 Indianapolis-Marion County campaign, with scientific studies and polls showing strong public support among voters. Smoke Free Indy aligned with strong sponsors on the Council and mobilized a large grassroots base, which, going into a vote following passage of committee, made it appear that the City-County ordinance was going to pass despite opposition from the hospitality industry and the Libertarian Party. Mayor Greg Ballard's behind-the-scenes veto threat to the Republican Caucus immediately before the full Council's vote likely influenced the Council's vote. The delay in Indianapolis-Marion County passing a comprehensive ordinance possibly inhibited the State General Assembly's 2010 attempt to pass a statewide clean indoor air law and affected the willingness of other localities to pass comprehensive ordinances. However, this is possibly because tobacco control advocates became too focused on Indianapolis-Marion County and were not prepared for the statewide legislative session when it began (discussed below). The influence of Indianapolis-Marion County on statewide and local policy has been a recurring trend in Indiana with setbacks – in the capital resulting in setbacks across the board.

## **Rural Tobacco Control Policy Making: The Indiana Collaborative for Healthier Rural Communities**

In 2008, the Robert Wood Johnson Foundation (RWJF) began funding the Indiana Rural Health Association to lead an initiative to pass significant tobacco control policy measures and expand healthcare coverage in rural communities. RWJF's new initiative, Tobacco Policy Change: A Collaborative for Healthier Communities and States, was the impetus for the Indiana Rural Health Association (IRHA) and ITPC forming the Indiana Collaborative for Healthier Rural Communities (ICHRC), the working group leading the campaign. RWJF provided IRHA a \$50,000 planning grant in the first half of 2008 followed by an implementation grant of \$155,145. ITPC provided \$75,000 in matching funding.<sup>10, 467</sup> The grants funded programs in five Indiana cities and towns: Bedford, Brazil, Crawfordsville, Decatur and Williamsport. ICHRC worked to pass tobacco control policies in the selected communities and fill the 130,000 health insurance slots created by the Healthy Indiana Plan's (HIP) passage in 2007. HIP was a program funded by a 44 cent cigarette tax increase to provide health insurance to low income populations of Indiana (discussed below).<sup>467</sup>

ICHRC selected these communities for specific reasons: Each community already had a hospital and a network of physicians that could support tobacco control efforts. These five cities were located near other cities or counties that had passed smoking ordinances. For instance, Crawfordsville was approximately thirty miles south of West Lafayette (home of Purdue University), which had a strong ordinance covering all public places and workplaces except for private clubs. Likewise, Bedford was near Bloomington which had a comprehensive law. Because of this proximity, the target communities had already received exposure to clean indoor air issues when their neighboring cities passed their laws and were primed for the discussion. The final criteria for selecting these cities was that each had a tobacco control coalition already established which would allow ICHRC to utilize existing coalition infrastructures to organize local advocates.<sup>467</sup> ICHRC established a steering committee made up of tobacco control advocates and other health professionals that served as an advisor to Miller and the local coalitions (Table 37).

According to Jim Miller, ICHRC Project Director, ICHRC sought to build or expand a large grassroots base in each community to educate the public on smokefree air and tobacco control issues. ICHRC educated the public through paid media advertisements and earned media. Each of the five communities held town hall meetings to discuss the smokefree issue and to organize their communities. Each community also tried to gain the support of the local business community and schools and universities for a smokefree law. Once there was enough support, communities were supposed to approach their city or town legislative body and ask for a smokefree ordinance with an emphasis on smokefree workplaces.

As of June 2010, only Crawfordsville and Williamsport had succeeded in getting an ordinance proposal introduced. Nearly two years into the program, there was little ordinance activity and nothing passed in any of the five communities.<sup>467</sup>

Similar to the rest of the state, as well as the rest of the country, the opposition to passing



smokefree ordinances came from restaurant and bar owners who feared losing revenue from smoking restrictions, and rural libertarian attitudes. Other opposition came from 4-H Fair boards, which in rural communities can be quite influential. The tobacco industry has historically used 4-H to promote its ineffective youth smoking prevention programs that were developed to displace effective programs.<sup>327</sup>

Miller also believed that the passage of an expanded ordinance in Indianapolis-Marion County would help with the passage of local ordinances, and would also, in turn, help with the passage of a statewide smokefree law.<sup>467</sup> This view reflected the sentiments of other tobacco control advocates who felt that Indianapolis-Marion County played an integral role in the spreading of smokefree laws throughout the state, at both the state and local levels.<sup>610</sup> Despite the belief that Indiana needs Indianapolis-Marion County to go smokefree in order for other communities to follow, this has not been the case in other states. In fact, in California, smokefree ordinances first passed in small towns and later in big cities. The first smokefree ordinance that included restaurants passed in Lodi, California in

**Table 37: Steering Committee Members of ICHRC, August 2009<sup>609</sup>**

<i>Name</i>	<i>Organization</i>
Bronson Frick	Americans for Nonsmokers Rights
Kandace Brown	Clay County Tobacco Coalition
Jackie Collier	Precision Medical Billing
Kathy Cook	Affiliated Service Providers of Indiana, Inc.
Sam Denton	American Heart Association, Midwest Affiliate
Aaron Doeppers	Campaign for Tobacco-free Kids
Erin Edwards	Bedford Regional Medical Center
Meredith Edwards	Indiana Academy of Family Physicians
Tina Elliott	Indiana Rural Health Association
Patricia Ells	American Cancer Society, Great Lakes Division
Tim Filler	Indiana Collaborative for Healthier Rural Communities / ITPC
Anita Gaillard	Indiana Tobacco Prevention and Cessation (ITPC)
Bruce Hancock	Butler University College of Pharmacy and Health Sciences
Deborah Hudson	Clarian Health
Jessica Kelly	American Lung Association of Indiana
Don Kelso	Indiana Rural Health Association
Gloria Kirkham	Indiana State Medical Association
Adele Lash	Indiana State Medical Association
Melissa Lewis	Indiana Academy of Family Physicians
Aida McCammon	Indiana Latino Institute, Inc.
Jim Miller	Indiana Collaborative for Healthier Rural Communities
Dave Newgent	Owen County Family YMCA, Owen County Tobacco Prevention and Cessation Owen County Drug Free LLC, and Owen County Systems of Care Organization
Karen O'Brien	Indiana Tobacco Prevention and Cessation (ITPC)
Beth Overmyer	ClaimAid
Danielle Patterson	American Heart Association, Midwest Affiliate
David Roos	Covering Kids & Families Indiana, Inc.
Becky Royer	Health Care Excel, Inc., Medicare Quality Improvement Organization
Karla Sneegas	Indiana Tobacco Prevention and Cessation (ITPC)
Judy Stewart	American Cancer Society, Great Lakes Division
Carol Touloukian	
Pete Townes	Indiana Primary Health Care Association
Kelly Trusty	Tru Tech Design, Inc.
Elaine Williams	Indiana Primary Health Care Association
Karen Zotz	Purdue University
Kitty Jerome	Tobacco Policy Change
Carla Freeman	Tobacco Policy Change
Jessica Love	Spitfire Strategies

November 1990.<sup>120</sup>

## **POST-MSA TAX INCREASES**

### **2002: O'Bannon's 40 Cent Cigarette Tax Increase**

In April 2001, facing an estimated \$923 million revenue shortfall, Governor O'Bannon proposed a 50 cent cigarette tax increase and a suspension of personal property tax credits to balance the biennial budget.<sup>611</sup> Tax increases were politically unpopular, with the legislative leadership. Rep. B. Patrick Bauer (D-South Bend) House Ways and Means Committee Chair (and future House Speaker) and Sen. Lawrence Borst (R-Greenwood), Senate Finance Committee Chair, strongly opposed to such tax increases (despite being a supporter of tobacco control policies).<sup>612</sup> The biennial budget the General Assembly passed in May 2001 did not include a cigarette tax increases or any added revenue to balance the budget. O'Bannon let it become law without his signature.<sup>613, 614</sup>

In fall 2001, however, O'Bannon again offered plans to generate new revenue to avoid inevitable shortfalls. Part of O'Bannon's plan included a 50 cent cigarette tax increase (which would have made the state tax 65.5 cents per pack)<sup>615</sup> as part of a broad tax restructuring proposal. The proposed cigarette tax increase would not fund tobacco control programming; it would balance the budget and avoid greater cuts to public schools, universities and other state programs. However, O'Bannon also proposed transferring MSA Fund money into the General Fund.<sup>616, 617</sup>

Rep. B. Patrick Bauer (D-South Bend), then House Ways and Means Committee Chair, introduced HB 1004, which included O'Bannon's 50 cent cigarette tax increase. HB 1004 also would have removed the 60 percent annual spending cap on the MSA Fund and annually transferred \$90 million from the MSA Fund to the General Fund for health care expenses.<sup>618</sup> ITPC and the Indiana Minority Health Coalition supported the tax increase at the House Ways and Means Committee hearing for HB 1004. Governor O'Bannon also attended the Committee hearing to testify for his proposal.<sup>619</sup> The Committee cut the 50 cent tax increase proposal to 39.5 cents to make it more palatable to House Democrats from southern Indiana counties who opposed the tax because of their tobacco farming constituents.<sup>620</sup>

### ***Tobacco Control Advocates and Other Supporters Get Involved in the Tax Campaign***

Tobacco control advocates consistently supported O'Bannon's proposed cigarette tax.<sup>621</sup> (The health groups did not mount a visible campaign to stop the diversion of MSA Fund money to the General Fund.) Tobacco Smart Indiana commissioned a poll that showed that 70 percent of Indiana registered voters supported a 50 cent increase to the cigarette tax.<sup>622</sup> Additionally, in November, 2001, before the start of the 2002 Legislative Session, the *Indianapolis Star* and Indianapolis television station WTHR commissioned Market Shares Corporation of Mount Prospect, Illinois to conduct a random phone survey of registered voters and found that only 3 percent strongly opposed it.<sup>623, 624</sup>

By February 2002, tobacco control advocates were publicly active in their efforts to draw attention to the cigarette tax proposal, educate the public regarding the benefits to a cigarette tax increase, and show legislators public support for the increase. In a televised forum on February 19, a farmer, educator, legislator, restaurant owner and asthma patient each discussed the issue of tobacco control and agreed that youth smoking was a problem and must be addressed. This event attracted media coverage and provided the opportunity for advocates from Smokefree Indiana and Rep. Brian Hasler (D-Evansville), a major cigarette tax increase supporter, to gain media attention and to speak in favor of the cigarette tax as a strategy for decreasing youth smoking rates.<sup>625</sup>

Surprisingly, in March 2002 the Indiana Farm Bureau came out in support of O'Bannon's tax restructuring proposal, including the tobacco tax increase, because of provisions inserted into the House's bill version to provide property tax relief and create a Rural Development Administration Fund and the Rural Development Administration Advisory Board to assist rural economic development.<sup>620, 626</sup> Even in heavy tobacco producing states such as Virginia and South Carolina, farmer organizations and other traditional tobacco industry allies began to shift away from supporting the tobacco industry as tobacco farming became less profitable and the cigarette manufacturing companies turned to overseas sources for tobacco, which drove down the price of domestic tobacco.<sup>36, 37, 627</sup> It is unknown if the health groups played any role in gaining the tobacco farmers' support.

The Indiana Farm Bureau joined 20 other organizations in a coalition called the Alliance for Indiana's Future, which included the Indiana Chamber of Commerce, United Auto Workers, Indiana Association of Cities and Towns, Indiana Association of Realtors, Indiana Metropolitan Mayors' Alliance, Indiana State Teachers Association, Indiana University and Purdue University (IUPUI).<sup>628</sup> Many of these organizations, particularly the Indiana Farm Bureau, Indiana Chamber of Commerce and Indiana Association of Cities and Towns, had a history of aligning with the tobacco industry.<sup>197, 235</sup> The Alliance spent \$200,000 on television commercials to support the tax restructuring plan, including the 50 cent cigarette tax increase.<sup>627</sup>

### ***The Cigarette Tax Increase in the Special Session***

Republicans controlled the Senate and refused to agree to tax increases, which left the budget deficit unresolved when the legislature adjourned on March 14, 2002.<sup>629</sup> Governor O'Bannon called a Special Session on May 14, 2002 to fix the budget.<sup>630</sup> After remaining in Special Session for the 40 day maximum allowed, Republicans finally agreed to a tax restructuring plan. The General Assembly enacted P.L 192, which, among other things, increased the cigarette tax by 40 cents (bringing it to 55.5 cents per pack) with a three percent increase in other tobacco products taxes (bringing the tax to 18 percent of wholesale price).

The language diverting settlement payments included in HB 1004 during the regular Legislative Session was dropped from the budget bill O'Bannon signed on, July 1, 2002.<sup>631</sup> CTFK credited Sen. Lawrence Borst (R-Greenwood), Republican Senate Finance Committee Chair, with protecting the tobacco control funds, and called Indiana one of "the new national leaders in tobacco prevention."<sup>483, 632</sup> ITPC hailed the cigarette tax increase as a huge step forward for reducing smoking rates in Indiana and increasing revenue to the state. One year later,

in its FY 2003 annual report, ITPC reported that cigarette consumption had decreased by 17 percent and state tobacco tax revenue had increased by 186 percent since the tobacco tax increase went into effect.<sup>5</sup>

### **Governor Daniels' Cigarette Tax Push, 2006-2007**

Republican Governor Mitch Daniels took office in January 2005 facing yet another massive deficit of \$645 million. Governor Daniels was publicly open to increasing the cigarette tax, though most General Assembly members opposed any sort of tax increase.<sup>633</sup> The Senate's budget proposal for the 2006-2007 biennial budget briefly included a 19 cent cigarette tax increase to mitigate the budget deficit, but the Legislature abandoned this plan in Conference Committee, instead favoring cuts to education and Medicaid and a cap on property tax relief. The result was a tenuously balanced budget with the general understanding that the deficit would resurface. Most legislators remained adamantly opposed to tax increases, so much so that many legislators signed pledges expressing that they would not vote for new taxes.<sup>634, 635</sup>

### ***2006 Efforts: The Beginnings of the Healthy Indiana Plan***

In his State of the State speech on January 11, 2006, Governor Daniels called for an increase to the cigarette tax by at least 25 cents.<sup>636</sup> Daniels introduced the plan to coincide with his newly created INShape Indiana program, a program to increase Indiana residents' health by improving nutrition, encouraging exercise and promoting smoking cessation.<sup>637</sup> Daniels presented the tax as a tool for deterring youth smoking, but did not propose how to use the resulting revenue.<sup>638</sup> In his speech, he said, "All the evidence shows that the most effective way to deter young smokers is at the cash register. I ask this Assembly to raise Indiana's lowest-in-the-Midwest cigarette tax by at least 25 cents a pack." Indiana, at this time was ranked as having the seventh highest adult smoking rates in the United States. An increase of 25 cents would have put Indiana's cigarette tax at 80.5 cents, a significant boost but still lower than all its neighboring states except Kentucky.<sup>638</sup> This tax would have raised \$115 million to \$150 million and would have helped to offset the unbalanced biennial budget that passed the year before. Legislators were taken off guard by the proposal and were skeptical of increasing taxes without a spending proposal for the revenue.

Almost immediately, the tobacco industry's anti-tobacco tax rhetoric emerged in the media. Grant Monahan, Indiana Retail Council President, vocally warned tobacco retailers that a cigarette tax increase would send all of their business across the border to Kentucky where the tax was only 30 cents.<sup>639</sup> These were the same arguments used by the tobacco industry and its front groups to argue against proposed cigarette tax increases.

### ***Tobacco Control Advocates Get Involved***

Tobacco control advocates strongly supported increasing the cigarette tax and took Daniels' request for an increase of at least 25 cents as their cue to get involved. While supporting the Governor's proposal, the tobacco control advocates wanted a larger tax increase began talking to the Governor, his staff and legislators about the benefits of an even higher tax.<sup>133</sup> On January 18, Karla Sneegas, ITPC Executive Director, Dr. Kevin Burke, Indiana State Medical

Association President and Dr. Judith Monroe, State Health Commissioner, held a press conference in the Indiana State Capitol Rotunda to call on legislators to support the Governor's proposed cigarette tax increase of at least 25 cents. Members of the Voice Youth Advisory Board also participated, saying that fewer of their friends would buy cigarettes if the price was increased.<sup>640</sup>

Rep. Charlie Brown (D-Gary), a frequent tobacco control champion in the General Assembly and House Public Health Committee ranking minority member, favored a cigarette tax increase because of its positive health implications but did not to support the proposal because it had no clear spending plan attached.<sup>641</sup> The House Public Health Committee amended a bill, adding the proposed tax, but it failed to pass, effectively killing the proposal for the year.<sup>642</sup>

Meanwhile, the American Lung Association's in its 2006 State of Tobacco Control Report Card gave Indiana three F's and a D for its level of commitment to tobacco control. Indiana received failing ratings for tobacco prevention and control spending, smokefree air and its youth access laws and a D for its 55.5 cent cigarette tax.<sup>643</sup>

### **The Second Push: The Ramp Up For the Healthy Indiana Plan**

In summer 2006, Governor Daniels remained adamant about passing a cigarette tax increase and made it clear that he would be returning with another plan in the 2007 session. Daniels learned from the previous session's failures and, from the outset, stated that his newly proposed tax increase would generate revenue for a state funded health program, though details were not revealed until the fall.<sup>644</sup> One of the primary impediments to Daniels' proposal in the previous session was not establishing a dedicated funding purpose for a tax increase. Legislators did not want to raise taxes simply to add to the General Fund.

Daniels unveiled his cigarette tax plan on November 17, 2006 as a program to provide 120,000 uninsured, low-income adults with health insurance, which Daniels dubbed the Healthy Indiana Plan (HIP). If legislators moved forward with a 50 cent tax increase, under Daniels's proposal, it would provide insurance for 200,000 additional people. (Adults who earned 200 percent or less of the federally established poverty level would be eligible under Daniels' initial plan.) In addition, Daniels' plan included increasing ITPC's annual budget by \$24 million, bringing it back up to CDC recommended levels.<sup>645, 646</sup>

The November 2006 elections shifted the political balance in the General Assembly giving the Democrats control of the House. Governor Daniels would have to make his tax initiative a bipartisan endeavor to enact it. Response to the plan was mixed. While most legislators favored providing health insurance to Indiana's low-income population, the usual issues of funding emerged. Tax increases were never a popular issue among legislators or their constituents. While he did not support the plan outright, Democratic House Speaker Patrick Bauer (D-South Bend) said that it was at least a step in the right direction for a program that needed to be implemented. Other legislators, like Senator Robert Meeks (R-LaGrange), Senate Appropriations Committee Chair, balked at the idea of a tax, surmising that it was little more than any other tax, noting its regressive qualities and doubting the potential effects on smoking rates in the state. Likewise, Representative Jeff Espich (R-Uniondale) and Senator Luke Kenley

(R-Noblesville), Senate Tax Committee Chair, were wary of a tax increase for the purposes of expanding government, while at the same time criticizing the Governor's proposal because it was not large enough to insure everyone who needed it.<sup>647</sup>

### ***Activities of the Tobacco Control Advocates***

From the start, tobacco control advocates and ITPC mobilized to support the Governor's plan, beginning with a press conference soon after Daniels' announcement. ITPC sent action alerts to its local partnerships, minority partnerships, statewide partners and the Voice coalition to support the Governor's plan. The action plan asked local coalitions to send news alerts to local newspapers, other media outlets, key community organizations and public officials, alerting them to the proposal and the reasons for supporting the plan. An emphasis was placed not only on the increased cigarette tax, but also on the proposal to restore funding of ITPC to CDC recommended levels. ITPC also requested that its partners secure editorials in statewide and local newspapers to support the proposal and set up meetings with local newspaper editors to educate them about the plan to increase the likelihood of positive media coverage for the plan as it moved forward. ITPC also asked its partners to continue contacting and meeting with legislators in order to show public support for a cigarette tax increase and the restoration of ITPC funding.<sup>648</sup>

Admiral Kenneth Moritsugu, acting U.S. Surgeon General, appeared at Indiana University in Bloomington in November where Moritsugu praised Daniels for his proposal to increase the cigarette tax to expand health care.<sup>649</sup> By December, a series of guest editorials were published throughout the state from state officials supporting the Governor's plan. Karla Sneegas had at least one guest editorial in the Fort Wayne *News Sentinel* which highlighted Indiana's high smoking rates and the health and economic benefits that would come from increasing the tax and restoring funding to ITPC.<sup>650</sup> Mitch Roob, Indiana Family and Social Services Administration Secretary, wrote several guest editorials which were published throughout Indiana which discussed the importance of the Governor's plan.<sup>651</sup>

In November 2006 the Indiana University Center for Urban Policy and the Environment released a report funded by the Lily Endowment, Inc., which argued that even a 25 cent a cigarette tax increase would decrease cigarette consumption and healthcare expenditures by the state and increase workplace productivity.<sup>652</sup> Tobacco control advocates entered the 2006 Legislative Session organized and with a high level of media coverage supporting them.

### ***Hoosiers for a Healthier Indiana***

A coalition of advocates that supported the cigarette tax increase came together under the name "Hoosiers for a Healthier Indiana" in 2006. Not all of the groups had any background working with tobacco control issues, but funding health insurance drew broad support. While Daniels proposed at least a 25 cent tax increase, Hoosiers for a Healthier Indiana was supporting a \$1 tax increase.<sup>653</sup> Knowing that it was unlikely that they would get \$1, the advocates set the goal higher than Daniels' proposal in hopes of setting the tax as high as possible.<sup>654</sup> While the coalition consisted of many groups, the core working group was made up organizations with a long history of involvement in tobacco control (Table 38), including ACS, AHA, CTFK, Indiana

Academy of Family Physicians, the Hoosier Faith and Health Coalition (a group of religious leaders), physicians and other medical providers throughout the state that organized in 2004 to advocate for stronger tobacco control policies and programs, Indiana Minority Health Coalition and ITPC, which served in an advisory capacity.<sup>655</sup>

In January 2007, ACS, AHA, ALA, and CTFK commissioned Public Opinion Strategies and The Mellman Group to poll Indiana voters on a cigarette tax to fund healthcare. The poll was conducted before any bill was introduced to the General Assembly and found that 62 percent of Indiana voters favored an increase of the state’s cigarette tax by \$1 if the revenue went to fund health and smoking prevention. Moreover, 82 percent of voters felt that it was important to dedicate revenue raised from a cigarette tax increase to fund tobacco prevention programs and 46 percent of voters said that they would definitely vote for a legislator who supported a \$1 cigarette tax increase with 35 percent being indifferent.<sup>657, 658</sup> Tobacco control advocates used this poll to educate legislators on the importance of a higher cigarette tax and to mollify some of the potential political dangers legislators perceived in supporting a cigarette tax.<sup>659</sup>

<b>Table 38: Hoosiers For a Healthier Indiana Member Organizations, 2007<sup>656</sup></b>
American Cancer Society
American Heart Association
Campaign for Tobacco-Free Kids
Church Women United
Clarian Tobacco Control Center
Indiana Academy of Family Physicians
Indiana Area United Methodist Church
Indiana Black Expo
Indiana Catholic Conference
Indiana Minority Health Coalition
Indiana Latino Institute
Indiana Tobacco Prevention & Cessation (Advisory)
Marion County Health Department
North United Methodist Church
Smoke Free Hendricks County
Smokefree Indiana
Tobacco Free Boone County

## **The Health Indiana Plan is Introduced**

### ***SB 503***

Senators Patricia Miller (R-Indianapolis) and Vi Simpson (D-Ellettsville) introduced Daniels’ program as SB 503, the “Healthier Indiana Insurance Program” (HIP), on January 23, 2007. As Daniels proposed, it provided health insurance to adults making less than 200 percent of the federal income poverty level on a first come, first served basis, creating health care savings accounts of \$1,100 for the participating low-income individuals to contribute to and provided an unspecified amount of additional funding for tobacco use prevention and cessation programs.<sup>660</sup> SB 503, however, did not contained a method for raising the funds; the cigarette tax had to come from the House (Table 39).<sup>661</sup>

The bill went to the Senate Committee on Health and Provider Services and then to the Senate Appropriations Committee where it passed without opposition. On the Senate floor, SB 503 was amended to create a trust fund for the proposed program (which would have made it so that money allocated to the HIP could not be diverted)<sup>662</sup> and sent the bill to the House. The biggest question remained where the money would come from and which party would introduce the cigarette tax.

	Governor's Healthier Indiana Plan	SB 503 - Introduced (01/23/2007)	SB 503 - Amended in Conference Committee (04/29/2007)	HB 1008 – Introduced (01/17/2007)	HB 1008 – Amended (02/15/2007)	HB 1678 – Introduced (01/23/2007)	HEA - 1678 Passed (05/10/2007)
Funding Source	Yes	N/A	No	Yes	Yes	No	Yes
Cigarette Tax	At Least 25 cents	N/A	N/A	54.5 cents	25 cents	No	44 cents
ITPC Funding	24 million	Yes – No amount	No	No	No	No	\$2.4 million
Other Tobacco-related Provisions			Commissioned efficacy study of ITPC to possibly transfer program to ISDH. Contained Rep. Turner's clean indoor air amendment which was removed.				

***HB 1008: A Funding Plan for Health Insurance***

Meanwhile in the House, on January 17, Rep. Charlie Brown (D-Gary) introduced HB 1008, another health-related bill to increase low-income citizens' access to Medicaid funded by a cigarette tax. Brown had previously publicly supported a \$1 increase to the cigarette tax to fund comprehensive health insurance.<sup>663</sup> HB 1008 would have increased the cigarette tax increase by 54.5 cents and could have functioned as the companion funding arm of SB 503. This increase would have put Indiana's cigarette tax at \$1.10 per pack, generating a total of an estimated \$253.7 million and \$256.8 million for FY 2008 and FY 2009.<sup>664</sup> It was amended in committee to include Brown's version of the health insurance program, similar in many respects to the Senate version. HB 1008 would extend health insurance coverage to low income children as well, boosting the existing Children's Health Insurance Program, or CHIP. HB 1008 passed in committee unanimously.<sup>665</sup>

The bill was referred to the House Ways and Means Committee, which amended it to cut the cigarette tax to 25 cents, reflecting Governor Daniels' original plan. The Democrats controlled the House by a narrow margin of two seats (D-51, R-49) but proposals that included tax increases were never popular and many Democrats were expected to oppose it.<sup>666</sup> Passing the proposal would require bipartisan support, which ostensibly is the reason for the Democrat-controlled Ways and Means Committee reducing the tax provision to Republican Daniel's proposed 25 cents. They hoped that the bill might attract more support from Republican legislators siding with their Republican governor. The Ways and Means Committee passed the bill 12-11.<sup>666</sup> Representative Tim Brown (R-Crawfordsville) joined as a co-author to the bill, providing more political investment from both sides of the aisle.



When HB 1008 reached the House floor, however, it was rejected by a bipartisan 52-44 vote.<sup>667</sup> Brown explained in the media that the proposal failed because Governor Daniels did not work closely enough with House Republicans who were opposed to a cigarette tax increase, especially to fund health care. Some House Republicans argued (hypocritically) that the MSA payments that the state received were to go to healthcare, but that the state had diverted it to other programs.<sup>668</sup>

Despite the death of Brown's cigarette tax plan, the Healthy Indiana Plan remained alive. The program's substance, SB 503, was still making its way through the House, albeit without a funding source. It was assigned to the House Public Health Committee and that committee's chair, Rep. Charlie Brown, joined as a House co-sponsor. Reps. Tim Brown (R- Crawfordsville), Craig Fry (D- Mishawaka) and David Orentlicher (D-Indianapolis) signed on as well to show bipartisan support for the measure. The Public Health Committee voted "Do Pass" 11-1 on April 5, 2007 and sent the bill to the House floor for consideration.<sup>669</sup>

### ***Supporters and Dissenters***

Rallies and counter-rallies ensued following the defeat of HB 1008. On March 12, Hoosiers for a Healthier Indiana held a rally at the statehouse attended by four hundred cigarette tax increase and HIP supporters. Governor Daniels had called for supporters to speak out and ask legislators to pass HIP and a funding component. Daniels attended the rally as the keynote speaker.<sup>9, 670</sup> Two days later, on March 14, an anti-cigarette tax rally was held at the statehouse to deliver petitions to Governor Daniels and speak out against the cigarette tax. As reported by the Associated Press, these protesters came from southern Indiana where a border was shared with Kentucky. Kentucky's significantly lower cigarette tax was considered a threat by southern Indiana business owners who feared a loss of business across the southern border. It is unknown who organized the rally. Additionally, websites such as [www.blockthetax.com](http://www.blockthetax.com) were created by anti-cigarette tax campaigners in efforts to reach out to others.<sup>671, 672</sup> They used the same arguments that the Tax Equity Coalition, funded by the tobacco industry, the hospitality industry and other tobacco industry allies, used in 1993.

### ***Rep. Turner's Clean Indoor Air Amendment***

Once SB 503 reached the House floor, Republican Representative P. Eric Turner (R-Marion) introduced an amendment that would have added a provision to the bill to restrict smoking in certain places:

- (a) A person may not smoke in an enclosed public place, a sports arena, or an enclosed place of employment.
- (b) This section does not apply to a private residence that is not used as a licensed child care facility, retail tobacco stores, bars, public areas rented or leased for private functions, separate enclosed areas of truck stops that are not accessible to persons less than twenty-one (21) years of age, or an area that is not accessible to the public that is part of an owner operated business that has no employees other than the owner.<sup>673</sup>

This amendment would have significantly strengthened the state law that only required non-smoking sections in government owned buildings with other mild provisions for restaurants and

retail stores. However, language that allowed smoking in locations not permitting minors to enter was a common tactic used by the tobacco industry that allowed businesses to decide whether they would allow smoking or not. The only opposition Turner met on the floor was from Rep. Scott Pelath (D-Michigan City) who argued that the amendment was not germane to the rest of the bill. After a vote, the amendment passed by a huge margin, 60-35.<sup>674</sup>

The amendment, although considered by tobacco control advocates to be a genuine good faith attempt by Rep. Turner to promote tobacco control policies, was at the same time dangerous.<sup>168, 653</sup> The amendment was not comprehensive in what would be covered. The language was not “clean” in that it vaguely regulated smoking in public places without defining “public place” or assigning a specific agency to enforce the law, making the implementation of such restrictions impossible. Rep. Turner accepted \$4,600 in campaign contributions from the tobacco industry between 1994 and 2008. This was a substantial amount of money and \$2,900 of this was accepted in the 2007-2008 election cycle, indicating the possibility that the tobacco industry influenced Turner to try to push through a weak clean indoor air amendment.

Hoosiers for a Healthier Indiana at that moment was focused on passing the tobacco tax, not a clean indoor air law. They were concerned that Turner’s weak amendment was going to pass, especially after it passed the House with little opposition. (The fact that it passed with such lopsided support suggests that the industry may have been involved behind the scenes though we do not have evidence of this). Hoping to preserve the Healthy Indiana Plan tax provision that had come so far through the legislative process, Hoosiers for a Healthier Indiana began working closely with Governor Daniels’ office to educate the administration on the coalition’s position regarding permissible smokefree legislation. The coalition explained to Daniels’ office that they would kill the bill containing the cigarette tax if doing so was necessary to stop Turner’s amendment.<sup>133</sup>

Governor Daniels was primarily concerned with the cigarette tax to fund his health insurance plan, not clean indoor air, and the idea of the health advocates publicly asking to have the plan killed was threatening to one of his primary legislative agendas of 2007.<sup>133</sup> In an interview in 2009, Patricia Ells, then lobbyist for ACS, felt that Turner’s interest in smokefree air policy was genuine.<sup>168</sup> It was reported that after the bill passed to the Senate, Turner himself requested that the provision be removed so it would not interfere passing the health bill.<sup>675</sup> However, Turner only agreed to allow his amendment to be removed in Conference Committee if there was going to be a serious discussion for a smokefree air bill as part of an interim study session. (Interim study sessions met to discuss specific issues and recommended policy to be introduced in the regular legislative session). The result was that the amendment was removed and smokefree air was considered that fall in an interim study session by the Health Finance Commission.<sup>168</sup> The Commission ultimately recommended the language used in the Indianapolis-Marion County’s 2005 ordinance which contained many exemptions. SB 503 was returned to the Senate with the House amendments and conferees were appointed for Conference Committee on April 12, 2007. However, it still lacked a funding mechanism, which constitutionally had to originate in the House.

### ***SB 503 in Conference Committee***

The Conference Committee substantially changed SB 503. The Healthier Indiana Insurance Program language was removed from the bill, deferring to the final result of the Healthy Indiana Plan in the House. Instead of creating programs, the Conference Committee geared the bill more towards analyzing the best ways for implementing health insurance and other departmental evaluations. Most notable for the purposes of this report was the mandatory efficacy evaluation of ITPC that was included in the final version of SB 503. The committee report specified that “the health finance commission ... shall, during the 2007 legislative interim, study the following concerning the Indiana tobacco use prevention and cessation program: (1) The effectiveness of the program. (2) Whether the program should be transferred to the state department of health.”<sup>676</sup>

Like the Conference Committee finalizing HB 1678, the House version of HIP, the SB 503 Conference Committee consisted of Reps. Charlie Brown (D-Gary) and Tim Brown (R-Crawfordsville), and Sens. Vi Simpson (D-Ellettsville) and Patricia Miller (R-Indianapolis). In a 2009 interview Rep. Brown explained, “it's been mainly Republican House and Senate members that have been saying that this entity's [ITPC] been around for years, and we don't see the positive impact of this. I mean, just some people really had it in for the ITPC concept.” According to Brown, there was a great deal of pressure from these opposing Republican legislators who wanted to discuss ITPC and consider making changes to the program.<sup>38</sup> This was the first time that the General Assembly seriously considered dissolving ITPC and shifting its responsibilities into ISDH; it is unclear which specific legislators proposed this. (The Health Finance Commission heard testimony on moving ITPC's programs into ISDH but made no recommendation to the General Assembly.<sup>677</sup>) SB 503 was approved in Conference Committee and signed by Governor Daniels on May 10, 2007.

### ***HB 1678: Funding for HIP***

Rep. Charlie Brown earlier in the session had introduced HB 1678 which, in its original form, only regulated what sort of institution could call itself a hospital. The strategy was that if HB 1008 did not survive, HB 1678 could serve as the vehicle for funding HIP. Originating in the House, HB 1678 could contain a tax or other revenue-generating provision. HB 1678 changed very little as it moved through the General Assembly and arrived in Conference Committee as a strong potential vehicle for HIP.<sup>38, 133</sup>

Many of the provisions of HIP that were in SB 503 were amended into HB 1678 along with a 44 cent cigarette tax increase to fund the program. In a 2009 interview Rep. Brown explained that Sen. David Long (R-Fort Wayne), the Senate President Pro Tempore, agreed to a 44 cent increase because it would place the tax at 99.5 cents per pack which was below \$1. Long felt that increasing the tax above \$1 would have been politically unpopular, but was supportive of a tax increase of more than the original 25 cent minimum that Governor Daniels had asked for because a higher tax would allow the program to fund insurance coverage for more people.<sup>38</sup> HB 1678 was signed by its conferees, passed by both houses; Governor Daniels signed it on May 10, 2007.

Among the provisions of the enrolled act were many of Daniel's original specifications for the Healthy Indiana Plan (Table 40). The Indiana Check-Up Plan and the Indiana Check-Up Plan Trust Fund were established to fund the Indiana Comprehensive Health Insurance Association to provide health insurance to high risk individuals. It also was to fund some tobacco cessation services though information regarding these services is unknown. Continuous funding for children receiving benefits from CHIP was extended to guarantee children with coverage until they were three years old. Enrollees were required to make payments up to \$1,100 into a health care savings account or "POWER" account which would be used to pay for healthcare expenditures. The Indiana State Department of Health was given \$11 million for child immunization programs.

The Indiana Tobacco Prevention and Cessation Fund received funding as well though it was not the \$24 million Daniels originally proposed. The ITPC Trust Fund was given \$1.2 million of the cigarette tax revenue annually "for the purpose of tobacco education, prevention, and use control."<sup>678</sup> The ITPC Executive Board was allocated an additional \$1.2 million annually though this money was not required to be transferred to the ITPC Trust Fund and therefore was not protected from being re-routed by the State Board of Finance.

Additionally, as part of budget bill HB 1001, the ITPC Executive Board was allocated \$15 million from the MSA Fund for fiscal years 2008 and 2009, an increase of almost \$5 million from the \$10.1 million the Board received in FY 2006 and 2007 (Table 29). In a 2009 interview, Melissa Lewis explained that the increase was a result of the work that ITPC and Hoosiers for a Healthier Indiana put into mobilizing its members to pass the tax to fund HIP.<sup>9, 133</sup>

Governor Daniels signed HB 1678 into law May 10, 2007, increasing the statewide cigarette tax by 44 cents, to 99.5 cents, estimated to generate an additional \$187 million in 2008 and \$206.5 million in 2009.<sup>679</sup> (Though it was not discussed in the media and ostensibly passed without much debate, a provision in the state's FY 2008-2009 biennial budget included an increase from 18 percent to 24 percent on the wholesale price of other tobacco products.)

Tobacco control programs did not receive the full \$24 million Daniels was pushing for initially, which would have put ITPC funding back at the CDC recommended levels. The \$1.2 million ITPC reported receiving from the tax was significant, however, in that it provided funding for the statewide Indiana Tobacco Quitline, which had just recently been launched in 2006 with the assistance of a CDC grant. However, in FY 2009, most of this funding was diverted ITPC and used by the state for unknown purposes.<sup>12</sup>

The Healthy Indiana Plan was considered a success at the time, though the state struggled to implement the program in the years that followed, with only around 45,000 people enrolled in the program that had a capacity to enroll up to 140,000.<sup>38, 467</sup> (With the 2010 passage of the federal Patient Protection and Affordable Care Act, Governor Daniels announced that HIP was suspended because it was being "annihilated" by the federal law.<sup>680</sup>) As of August 2010, Indiana's cigarette tax was 45.5¢ below the national average of \$1.45/pack.<sup>681</sup>

<b>Table 40: Allocations made by HEA 1678 - Healthy Indiana Plan</b>			
<i>Percent Allocation</i>	<i>Specific funding (in millions)</i>	<i>Allocation</i>	<i>Frequency of allocation</i>
4.22%	\$8.3**	Cigarette Tax Fund	As taxes, registration fees, fines, or penalties are collected.
0.60%	\$1.2**	Mental Health Centers Fund	As taxes, registration fees, fines, or penalties are collected.
53.68%	\$105.6**	State General Fund	As taxes, registration fees, fines, or penalties are collected.
5.43%	\$10.7**	Pension Relief Fund	As taxes, registration fees, fines, or penalties are collected.
27.05%	\$53.2**	Indiana check-up plan trust fund	As taxes, registration fees, fines, or penalties are collected.
2.46%	\$4.8**	State General Fund	As taxes, registration fees, fines, or penalties are collected.
4.10%	\$8.1**	State General Fund	As taxes, registration fees, fines, or penalties are collected.
2.46%	\$4.8**	State General Fund	As taxes, registration fees, fines, or penalties are collected.
Annual	\$1,200,000	ITPC Trust Fund	Annually*
Annual	\$1,200,000	ITPC Executive Board	Annually*
One time	\$11,000,000	Indiana State Department of Health	FY 2007 - 2009
<b>Note:</b>			
*The FY 2009 ITPC Annual report shows that all or portions of these funds were reverted after the first year.			
**Approximations based on the average estimated cigarette tax revenue for 2008 and 2009 and the percentage of revenue dedicated in the legislation			

### **Conclusions**

Cigarette taxes were on the state agenda several times between 2005 and 2007. Gov. Daniels was open to the idea of a cigarette tax increase but did not publicly support an increase to the cigarette tax until 2006. However, because the 2006 proposal contained no spending purpose, legislators would not support it. Tax increases were not ever politically popular, and legislators did not often want to raise taxes without a good purpose to justify their decisions. Prior to the 2007 legislative session, Daniels unveiled the Healthy Indiana Plan which was intended to provide health insurance to low income residents of Indiana funded through a cigarette tax increase of at least 25 cents. Through several bill incarnations, the plan eventually passed the General Assembly as HB 1678. In doing so, however, tobacco control advocates were not able to protect the substantial funding for ITPC that Gov. Daniels originally proposed; the SB 503 Conference Committee report also laid the foundation for future attacks on ITPC.

### **Further Budget Cuts: ITPC Budget Slashed Again in 2009 Budget**

Following the Healthy Indiana Plan's success in 2007, ITPC was allocated an annual \$15 million from the MSA Fund for FY 2008 and 2009 and an annual \$1.2 million from the 2007 increase to the tobacco tax. (ITPC only received this \$1.2 million once, in FY 2008. In FY 2009

it was reverted back to the General Fund<sup>10, 12</sup>). Going into the 2009 legislative session, ITPC and tobacco control advocates were confident that, although the state was in the midst of an economic downturn, the agency's funding would not be cut again.<sup>133</sup> In efforts to comply with a request from the Governor's office to agencies to make 10 percent reductions in budget proposals, ITPC requested \$14.5 million which would have been a decrease of 10 percent from the \$16.2 million ITPC received in FY 2008. Both the House and the Senate appropriated the \$14.5 million, which survived through Conference Committee without amendments in the regular session. However, the General Assembly was unable to pass the budget bill during the regular session and Governor Daniels' called a Special Session to begin meeting on June 11, 2009 in order to pass the biennial budget in HB 1001 (SS).<sup>682</sup>

When HB 1001 (SS) was introduced, ITPC was once again budgeted \$14.5 million annually for two years.<sup>683</sup> The bill survived the House without changes, but in the Senate, the Appropriations Committee slashed the budget to \$10.9 million and passed it with an 8-4 vote.<sup>684</sup> The Senate Appropriations Committee was chaired by Sen. Luke Kenley (R-Noblesville, Policy Score 2.4) who received \$7,650 in tobacco industry campaign contributions between 1994 and 2008. The Committee also added a requirement that 75 percent of ITPC funding be granted to local communities with programs designed to reduce smoking. ITPC, in its 2009 Annual Report, said that this requirement for program spending limited the agency's ability to promote other important programs like the statewide media campaign.<sup>12</sup> In total, ITPC received a 33 percent budget cut for the FY 2010 2011 biennium.

While tobacco control advocates were expecting decreases similar to other statewide budget cuts, they were not anticipating such a sharp reduction.<sup>133</sup> The advocates attempted to communicate to legislators and the Governor's office how these reductions would affect communities that were receiving ITPC grants and also asked their local groups to contact their senators and representatives. However, the advocates were unable to restore the cuts before the budget passed on June 30, 2009.<sup>685</sup> ITPC's funding, after only two years, was slashed again to FY 2004 levels. The CDC recommended that Indiana spend \$78.8 million on tobacco control programming; these budget cuts placed Indiana's allocation at just 14 percent of the CDC recommended level (Figure 24).

While ITPC's budget was cut from \$15.0 million for FY 2009 to \$10.9 million annually for FY 2010 and FY 2011, non-tobacco programs run by the state Department of Health saw their increased funding. These programs received \$44.1 million of MSA money in FY 2009, \$48.5 million for FY 2010 and \$51.0 million for FY 2011.<sup>12</sup> The cumulative effect of these funding changes was a major shift of MSA money away from tobacco specific programs.

## **POST-MSA STATEWIDE CLEAN INDOOR AIR ATTEMPTS**

### **Formation of the Indiana Campaign for Smokefree Air**

Rep. Eric Turner's (R-Marion) Clean Indoor Air amendment to SB 503 during the Healthy Indiana Plan's passage in 2007 came as an unexpected addition to the cigarette tax provisions in the bill. Tobacco control advocates were not formally organized in 2007 for a clean indoor air campaign at the statewide level because their attention was focused on the many local

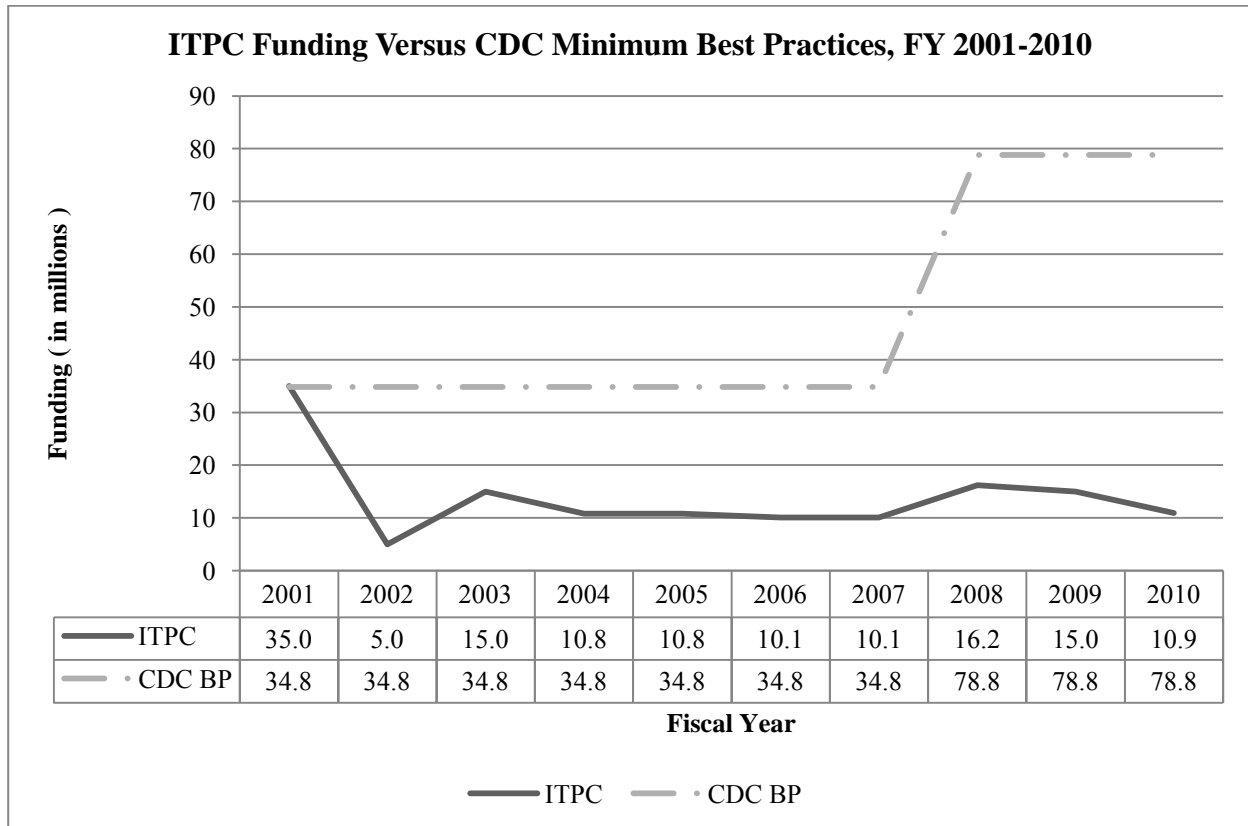


Figure 24: ITPC Funding Versus CDC Best Practices Recommendations<sup>1-12</sup>

clean indoor air policies being passed. Even more unexpected, perhaps, was the level of attention that a clean indoor air law received in the House. Even though the provisions were weak and unenforceable, tobacco control advocates interpreted the discussion among policy makers that the Turner Amendment provoked as evidence that there was support among many legislators for the passage of stronger state clean indoor air legislation. They were encouraged by the fact that in removing the amendment from SB 503, the Conference Committee called for the Health Finance Commission’s interim study of clean indoor air legislation following the 2007 Legislative Session. Recommendations for legislation from interim study commissions were often introduced verbatim in the following legislative session so it was therefore a critical point for advocates to be involved in the process.<sup>168</sup>

The Indiana Campaign for Smokefree Air (ICSA) emerged in summer 2007 as a new statewide coalition when it became apparent to tobacco control advocates that that Rep. Charlie Brown (D-Gary) and the General Assembly were going to introduce a Clean Indoor Air bill with or without them. Melissa Lewis, Director of the Indiana Academy of Family Physicians Foundation, recalled in a 2009 interview, “We really pulled together ICSA when we did because we knew we needed to get organized so that we didn't end up with something ... bad.”<sup>133</sup> As before, ACS, AHA, IAFP and CTFK were the lead groups galvanizing the coalition (Table 41). ALA, which had been recently absent from the tobacco control policy arena, started to re-engage after its national office made tobacco control policy a higher priority for the organization. ITPC was also an active coalition partner but only in an advisory capacity.

When the coalition formed in 2007, all ICOSA partners signed the same deal breaker agreement they agreed on for local ordinances in 2006 (based on the *Fundamentals of Smokefree Air Policy Development for Hoosier Communities*<sup>542</sup>). As discussed above, the deal breakers were an instructional tool for advocates trying to pass smokefree air policy. Signatory organizations agreed to support only comprehensive ordinance proposals that included public places and workplaces (with minimal exemptions). *Fundamentals* called for comprehensive smokefree workplaces and advised advocates to “walk away” from weak, non-comprehensive bills rather than allow exemption-riddled legislation to pass simply for the purposes of getting something enacted.

### 2007 Health Finance Commission

The 2007 Health Finance Commission was chaired by Sen. Patricia Miller (R-Indianapolis, Policy Score: 6.2) with Rep. Charlie Brown (D-Gary, Policy Score: 8.8) serving as Vice-Chairperson. Both Miller and Brown, along with Rep. Peggy Welch (D-Bloomington, Policy Score: 9.8) and Sen. Vaneta Becker (R-Evansville, Policy Score 8.2) among others on the Commission, were longtime tobacco control champions in the General Assembly. Brown was especially eager to strengthen the statewide Clean Indoor Air law.

Among those testifying before the Commission were Danielle Patterson, Senior Director of Advocacy of the American Heart Association in Indiana, Cathy Calloway of the National Government Relations Department of the American Cancer Society, Bruce Hetrick, a public relations specialist who emerged in 2005 as a smokefree advocate in the campaign that passed the Indianapolis-Marion County ordinance, Dr. Terrell Zollinger of Indiana University, Debra Salefski, a radiation therapist and Cassy Denny, a student, all of whom advocated for the passage of smokefree legislation that would protect all residents of Indiana. State Health Commissioner Judith Monroe also testified in support of statewide smokefree regulations of public places.<sup>687</sup> ICOSA was still in its initial organizing phase and its members’ testimonies made up the majority of the coalition’s involvement in the Commission’s hearing.<sup>659</sup> The minutes from the Health Finance Commission do not list any testimony opposing a strong smokefree law covering all public places.<sup>687</sup>

<b>Table 41:</b> Indiana Campaign for Smokefree Air Partner Organizations, as of 2010 <sup>686</sup>
American Cancer Society, Great Lakes Division
American Heart Association
American Lung Association of Indiana
Americans for Nonsmokers’ Rights
Campaign for Tobacco-Free Kids
Coalition for Advanced Practice Nurses
Clarian Health
Hoosier Faith & Health Coalition
Indiana Academy of Family Physicians
Indiana Black Expo
Indiana Cancer Consortium
Indiana Chapter of the American Academy of Pediatrics
Indiana Dental Association
Indiana Dietetic Association
Indiana Hospital Association
Indiana Hospice & Palliative Care Association
Indiana Latino Institute
Indiana Minority Health Coalition
Indiana Perinatal Network
Indiana Public Health Association
Indiana Rural Health Association
Indiana Society for Public Health Education
Indiana State Medical Association
Indiana Tobacco Prevention & Cessation
March of Dimes
Mental Health America of Indiana



As discussed above, Indianapolis-Marion County's Clean Indoor Air ordinance, which passed in 2005 and was implemented in 2006, contained many exemptions, most notably for bars and private membership clubs; advocates worried that it would be the model for a statewide law. The Commission was unwilling to commit to comprehensive language, but still wanted to give a recommendation to the General Assembly, and settled on language similar to the Indianapolis-Marion County ordinance.<sup>688, 689</sup> Moreover, Sen. Vaneta Becker, who accepted \$600 in campaign contributions from the tobacco industry between 1994 and 2008 (a small amount), proposed a last minute amendment<sup>659</sup> to exempt casinos and racetracks (Indiana's primary gaming facilities) from the proposed bill.<sup>687</sup> The Commission accepted Becker's amendment and passed a recommendation to the General Assembly with a 13-0 vote on November 1, 2007 which was introduced as HB 1057 in the 2008 Session (discussed below) (Table 42).<sup>677</sup>

ACS lobbyist Patricia Ells recalled in 2009 that the added exemption for casinos and its support from legislators such as Rep. Brown and Sens. Becker and Miller (R-Indianapolis), who were thought to be in support of a comprehensive law, showed tobacco control advocates how difficult it would be to get a law passed without any exemptions.<sup>168</sup> Advocates had hoped for more time to strengthen the Indianapolis-Marion County ordinance and to pass more local ordinances throughout the state before attempting to pass a statewide law. They felt that a stronger display of local support for comprehensive smokefree legislation would have given them more leverage in advocating for a strong statewide law. However, Sen. Miller and Rep. Brown, who were leading the Commission, wanted the Commission to recommend a specific bill to the General Assembly before the session convened in January 2008 to ensure that the General Assembly considered a clean indoor air bill in 2008.<sup>168, 653</sup>

### ***A Clean Indoor Air Bill: HB 1057***

Rep. Charlie Brown introduced HB 1057 on January 8, 2008, to prohibit smoking in public places and enclosed workplaces that followed the language prepared by the Health Finance Commission. HB 1057 exempted bars, private clubs, horse racing facilities and riverboats (the majority of licensed casinos in the state as of 2010) and a number of other locations (Table 42).<sup>690</sup> Enforcement responsibility was not specified.

During the months leading up to the 2008 legislative session, ICSA mobilized its members in House Public Health Committee members' districts to contact their representatives and ask them to support comprehensive legislation.

Tobacco control advocates were unable to get HB 1057 heard in the House Public Health Committee chaired by Rep. Brown.<sup>653</sup> House Speaker B. Patrick Bauer (D-South Bend, Policy Score: 3.0) who accepted \$12,750 in campaign contributions, assigned HB 1057 to the House Public Policy Committee, chaired by Rep. Trent Van Haaften (D-Mount Vernon, Policy Score: 2.0), a Committee and chairman unsympathetic to tobacco control and favorable to gaming interests.<sup>133, 653</sup> (Van Haaften only accepted \$500 in campaign contributions from the tobacco industry between 1994 and 2008.) When it was clear that the bill would be going to the House Public Policy Committee instead, ICSA switched to focus on mobilizing its member base that resided in Public Policy Committee members' districts. ICSA members also wrote letters to the editors of newspapers in Public Policy Committee members' districts.<sup>659</sup>

<b>Table 42: Provisions of HB 1057 versus the current state clean indoor air law</b>	
<i>Indiana's current law (as of 2008)</i>	<i>HB 1057</i>
<i>Smoking prohibited in:</i>	<i>Smoking prohibited in:</i>
Designated non-smoking sections of:	Public Places
(A) Government buildings	Enclosed workplaces
(B) Restaurants	Vehicles of the state
(C) Retail area of grocery or drug store	
School buses	
	<i>Exempted:</i>
	Private residences
	Family owned and operated business
	(A) that does not allow public access; and
	(B) in which all the employees are related to the owner of the business.
	20% of the rooms in hotels/motels
	Tobacco retail stores
	Bars
	Private or semiprivate room of a health facility or other long term care facility
	Private clubs
	Bowling alleys
	Gaming facilities:
	(A) Pari-mutuel horse racing facilities
	(B) Riverboat casinos
<i>Enforcement</i>	<i>Enforcement</i>
Prosecuting attorney	None specified

To the tobacco control advocates' surprise, Chairman Van Haaften decided to give HB 1057 a committee hearing and allow public testimony. On the morning of the hearing, tobacco control advocates and opponents filled the room. The hearing was to last 90 minutes and deal with several different bills. Bruce Hetrick recalled the Committee waiting until the last minutes of the hearing for any discussion and testimony on HB 1057, which the health advocates saw as an effort to avoid giving the proposal a fair hearing. Hetrick explained in a 2009 interview:

They called the first witness, which was me. And at about 10:29, I got on, and I started into my late wife's story ... I was about one minute into it, in talking about her death and he said, you know, "Mr. Hetrick, I'm sorry to interrupt, but we're out of time for this year, and so we're not going to take any action on this bill, and we're done." And so I'm sitting there with doctors, nurses, scientists, family members, bar owners, etcetera, all these people who have travelled from all over the state, some driven three, four hours, five hours ... and none of them got to say a word, and it was done for the year. That was it because the committee didn't take any action by the deadline.<sup>529</sup>

Van Haaften may have placed the bill on the committee's agenda knowing that it was an issue that the public and media were following, but refused to give it a long hearing during a short session already dominated by contentious property tax relief legislation. Van Haaften promised to give it a full hearing the next year if the proposal was sent to the Public Policy Committee again.<sup>529</sup> Some advocates thought that the perfunctory hearing was an attempt to get rid of the proposal for the year (which was an election year), knowing that the issue would likely come up again and could be dealt with at a less politically vulnerable time.<sup>654</sup> Rep. Brown promised to return the following year with another bill.<sup>691</sup>

## **Smokefree Law: 2009**

### *ICSA Advocates Gear Up*

Between the 2008 and 2009 legislative sessions ICSA organized more cohesively and strengthened the coalition's ability to generate grassroots support. Through their work within the legislature, advocates knew that Rep. Charlie Brown (D-Gary) would be returning with legislation in 2009 with or without them and that it was in their interest to be organized and ready to educate legislators on the importance of having a comprehensive law.<sup>133</sup> Brown also announced that he planned to introduce a comprehensive bill with no exemptions.<sup>132, 168</sup>

During summer 2008, ICSA held four town hall meetings throughout the state (Rep. Brown attended one) to get public input and generate support. The coalition hosted several press conferences at the capitol building over the inter-session period to garner publicity for smokefree air policies. The coalition hired external pollsters to measure the level of public support for a statewide smokefree law which showed 59 percent support for a comprehensive law.<sup>659</sup>

While ICSA wanted Brown's bill to be heard in the Public Health Committee, they expected that it would be sent to the House Public Policy Committee again. As in 2008, ICSA mobilized its members in Public Policy Committee legislators' districts. However, having learned from the previous year, advocates were able to start early in the Public Policy Committee members' districts and not waste time in Public Health Committee members' districts. The coalition recognized that, although Rep. Brown planned to introduce a comprehensive bill, the casino lobby was powerful in the General Assembly, making it difficult for a comprehensive bill to pass the House in one piece.

When asked why his clean indoor air bills were always sent to the Public Policy Committee, which was notoriously favorable to business interests, Brown explained in a 2009 interview that:

The Speaker [Rep. B. Patrick Bauer (D-South Bend)] has the prerogative to assign these bills to the committees that he thinks are appropriate. I had raised the question, „Why does it become more of a public policy issue than it is a health issue? Why don't you assign it to my committee?' And, you know, once more it's a matter of who gets the Speaker's ear ... 'cause he knew for sure that if it was assigned to my committee [Public Health], it's going to come out in the form that I introduced it. But then there were a lot of other interests, mainly the

restaurants, and taverns and so forth, that did not want this to occur, and that's why it was assigned to Public Policy where they made some major changes in the legislation.<sup>38</sup>

Indeed, Speaker Bauer has played a major role in deflecting attempts to pass a state level smokefree air law in Indiana several times, always insisting that the bill be heard in the hostile House Public Policy Committee, and in 2010, refusing to allow a bill to be heard unless it was introduced with casino exemptions already included. Bauer received a policy score rating of 3, favorable to the tobacco industry, and accepted \$12,750 between 1994 and 2008 in campaign contributions, the most of any legislator in those years.

ICSA met with House Public Health Committee members and began building Senate allies in case the bill needed to be strengthened once it moved to the Senate. Tobacco control advocates began working closely with the General Assembly's Women's Caucus, a group that included Senators Patricia Miller (R-Indianapolis), Beverly Gard (R-Greenfield) and Connie Lawson (R-Danville) who were longtime tobacco control supporters and could be influential champions once Rep. Brown's bill advanced to the Senate.<sup>168</sup>

ICSA established several specialized advocacy committees. The Steering Committee, chaired by ACS lobbyist Patricia Ellis (Table 43), was most intimately involved in ICSA's day-to-day efforts and responsible for last minute coalition decisions. While it had not been active in earlier years, ALA, responding to directives from its national office, established smokefree air as its primary organizational issue shortly after ICSA formed, and joined the Steering Committee. (ITPC was a member in an advisory role.) The ICSA Lobby Committee consisted of the coalition member organizations that were registered with the Indiana Lobby Registration Commission. ACS, AHA, CTFK, Indiana Academy of Family Physicians (IAFP), Indiana State Medical Association (ISMA) and the Indiana Hospital Association (IHA) were the primary lobbying organizations. The coalition also formed a Media Committee and a Grassroots Committee to mobilize coalition member groups' membership bases.

**HB 1213**

As promised, Rep. Charlie Brown introduced HB 1213 in 2009 which would have made public places, enclosed places of employment, and vehicles owned or operated by the state when the vehicle was being used for government function smokefree. Reps. P. Eric Turner (R-Marion) and Peggy Welch (D-Bloomington) joined Brown as bipartisan co-authors. It was to be enforced by the Indiana Alcohol and Tobacco Commission (ATC) instead of by the Indiana State Health Department. Tobacco control advocates wanted the enforcement agency to be ISDH because of its history as an inspection agency and its mission to preserve public health<sup>596, 654</sup> and because local health departments were already implementing local laws throughout the state and had established relationships

<b>Table 43: ICSA Steering Committee, 2009<sup>168</sup></b>
American Cancer Society
American Heart Association
American Lung Association of Indiana
Campaign for Tobacco-Free Kids
Indiana Academy of Family Physicians
Indiana Latino Institute
Indiana Minority Health Coalition
Indiana Tobacco Prevention and Cessation Agency (ITPC)*
*ITPC only a member in an advisory capacity

with the state Department of Health. ATC, the agency that enforced tobacco sales laws, would have had to increase staff to enforce the clean indoor air law and would need to reorganize and adjust to new responsibilities, making a smooth transition to a stronger law more difficult.<sup>692</sup> Rather than using the model language that the coalition supported,<sup>168, 653</sup> Brown relied heavily on Indiana's Legislative Services Agency (LSA) to draft the language.<sup>659</sup> LSA made ATC the enforcement because of its consistent working relationship with places that serve alcohol which would be smokefree.<sup>659</sup> Tobacco control advocates felt that the language of HB 1213, although comprehensive on the surface, was vague and left room for interpretation regarding locations actually covered.

As in 2008, the Speaker assigned HB 1213 to the House Public Policy Committee, not the Public Health Committee despite Brown's request that the bill go to the Public Health Committee. This assignment created difficulties for the proposal from the start. Unlike 2008, however, House Public Policy Committee Chair Trent Van Haaften held a full hearing for the bill with testimony from the bill's advocates and opponents.<sup>693</sup>

Tobacco industry allies speaking against the bill included Indiana Licensed Beverage Association (ILBA) Executive Director Brad Klopfenstein and small bar owners ILBA organized. (In fall 2009, Klopfenstein led a Libertarian-organized group and publicly advocated against a major smokefree proposal heard by the Indianapolis-Marion County City-County Council (discussed earlier).<sup>17, 694, 695</sup>) The Indiana Chamber of Commerce also opposed the bill.<sup>133</sup>

The Casino Association of Indiana, which as of 2009 represented 12 of 13 Indiana's gaming sites, testified against HB 1213. The tobacco industry, since the 1990s, has worked to develop relationships with the casino industry to support its opposition to smokefree laws.<sup>131</sup> Mike Smith, Casino Association of Indiana President argued the smoking restrictions on casinos would drastically cut into revenues and would decrease one of the state's major tax revenue generators. Lobbyists from several casinos were also present and spoke at the hearing, and, along with ILBA, made up the most vocal opponents of smokefree legislation in 2009.<sup>693</sup> Although Indiana state law restricted casinos from making campaign contributions to candidates, there were no restrictions on lobbying expenditures. The casino industry spent more than \$3.6 million lobbying in Indiana between May 1, 2007 and April 30, 2009.<sup>56, 130</sup>

Governor Daniels did not play an active role in the debate. While he earlier expressed his preference for local smoking measures versus a statewide law, by February 2009 he said that he would sign a statewide smoking law if the legislature passed one.<sup>696</sup> When HB 1213 emerged from House Public Policy Committee on February 12, 2009 on a 7-5 vote,<sup>697</sup> it still covered public places and workplaces, but included exemptions introduced by Rep. Van Haaften,<sup>654</sup> most notably for bars and gaming facilities (Table 44).

Even more important, on top of the exemptions the committee added preemption to HB 1213 that would have stopped local smokefree air ordinance activity. The amended bill stated: "An ordinance of a county, city, town, or other governmental unit that restricts smoking in a public place and that is: (1) more restrictive than this chapter; and (2) adopted after December 31, 2009; is preempted by this chapter."<sup>697</sup> The preemption and significant exemptions (including

casinos) were unacceptable to ICSA which had comprehensive deal breakers that called for resisting preemption at all cost, even if it meant requesting the proposed bill be killed.<sup>542</sup>

### ***What the Indiana Campaign for Smokefree Air Was Doing***

#### *Fix it or Nix it*

With preemption and the exemptions for casinos and bars, ICSA opposed HB 1213; they wanted to either strengthen it or kill it. ICSA continued to use the media and public relations to promote a comprehensive law with no exemptions. The coalition met with editorial boards of state newspapers to establish media endorsements of a comprehensive law. The coalition also hired Hetrick Communications to assist in focusing its message around not only fighting for a comprehensive law, but asking for the legislature to kill HB 1213 if it could not be strengthened. Bruce Hetrick, Chairman and CEO of Hetrick Communications, ICSA volunteer and board member of Americans for Nonsmokers' Rights, coined the phrase "Fix It Or Nix It" which became the coalition's slogan toward the legislative session's end.<sup>133, 529, 698</sup>

#### *ICSA Advocacy Materials*

In January 2009, Purdue University and Roswell Park Cancer Institute released another study monitoring the level of toxic air contaminants in 11 Indiana casinos (conducted April - May, 2008).<sup>699</sup> IAFP commissioned the study through grants awarded by the American Nonsmokers' Rights Foundation and the Robert Wood Johnson Foundation. The study reported that levels of fine particle air pollution in each facility were "very unhealthy" when compared to U.S. Environmental Protection Agency standards. Average levels of fine particle pollution were 14 times higher than levels measured in outdoor air. This study echoed ICSA's message that "no worker should have to choose between their health and their job" and received substantial positive press coverage.<sup>700-702</sup>

ICSA released a new poll in February 2009 conducted by Public Opinion Strategies and The Mellman Group that showed that 64 percent of Indiana voters supported a statewide law prohibiting smoking "in indoor public places, including workplaces, public buildings, offices, casinos, restaurants and bars."<sup>703</sup> These poll results generated positive media coverage.<sup>653, 704</sup>

In March 2009, Eric R. Wright, Ph.D., Director of the Indiana University Center for Health Policy, released *The Economic Impact of Smoke-Free Policies on Business and Health*<sup>586</sup> which, through the use of several case studies, presented the economic benefits of clean indoor air regulations. The study cited Fort Wayne and Plainfield economic improvements after their local ordinances passed. (Smoke Free Indy also used Wright's study during its 2009 campaign to strengthen the Indianapolis-Marion County clean indoor air ordinance.) This study received substantial media coverage and countered the arguments of impending economic collapse threatened by the tobacco industry for decades.<sup>705</sup>

### ***HB 1213 on the House Floor***

Reportedly, many legislators were upset by the preemptive language because they were concerned about the prospect of taking away the control of localities to pass ordinances and set stronger limitations on smoking.<sup>133</sup> On the House floor, an amendment from Rep. Peggy Welch successfully removed preemption from HB 1213, a significant positive step, though the exemptions remained (Table 44). HB 1213 passed the House with a 70-26 vote and moved to the Senate. ICSA's goal became to get the Senate to remove the exemptions or find another bill to serve as their vehicle for a smokefree law.

### ***HB 1213 in the Senate***

In addition to HB 1213, there were two clean indoor air bills introduced in the Senate: SB 282 by Sen. Sue Errington (D-Muncie), and SB 399 by Senator Gary Dillon (R-Columbia). Both were referred to the Senate Committee on Commerce, Public Policy & Interstate Cooperation. Both bills prohibited smoking in public places and places of employment. SB 399 and SB 282 had exemptions for retail tobacco stores, and several additional minor locations and SB 399 also allowed smoking under specific circumstances in health facilities. ICSA followed both SB 282 and SB 399, though they were not expected to gain traction. Both bills died in committee.

ICSA considered HB 1213 dangerous because its exemptions would have left many people unprotected from secondhand smoke and because states have a poor record of returning in the short term to strengthen weak laws. (Americans for Nonsmokers' Rights, which tracks and advocates for smokefree air laws throughout the U.S., found that it takes on average seventeen years for states that passed laws with exemptions to strengthen the original law.<sup>706</sup>) Indeed, Indiana had passed its first statewide "clean indoor air law," which required nonsmoking sections in government buildings, health facilities, and state education facilities 22 years earlier in 1987, and it remained nearly identical in 2009, having been changed minimally. While HB 1213 would have substantially expanded coverage of the state law, ICSA was committed to a comprehensive law or nothing.

HB 1213 went to the Senate Committee on Commerce, Public Policy and Interstate Cooperation, chaired by Sen. Ron Alting (R-Lafayette, Policy Score: 4.4), who accepted \$1,150 in campaign contributions from 1994 to 2008. The bill was co-sponsored by Sens. Dillon, Errington and Charbonneau (R-Valparaiso). ICSA lobbyists met with Committee Chairman Alting and the other committee members in attempts to get casinos and bars added back into the bill. Strengthening the bill required 6 votes in the 11 member Committee. In meetings with Sen. Alting, ICSA lobbyists requested that, if it was clear the 6 votes were not there, Alting not schedule the bill for a hearing, effectively taking the bill out of consideration. Sen. Alting agreed, and when the time came to schedule the bill for a committee hearing, only 5 out of 11 votes reported that they would vote to strengthen the bill. Sen. Alting honored his discussions with ICSA and did not schedule the bill for a hearing.<sup>168, 529</sup>

Having been unable to repair the bill, ICSA successfully killed HB 1213 though the issue was not dead for the session; Rep. Brown wanted to move forward with a statewide law and would attempt to insert language into another bill in Conference Committee.<sup>133, 168</sup>

Table 44: Provisions of HB 1213 versus then current state clean indoor air law																							
Law/Proposal	Date	Locations prohibiting smoking										Enforcement											
Indiana's current state law (as of 2009)		Public Places	*	Enclosed workplaces	*	Government buildings	*	Restaurants	*	Bars	Private clubs	Health facilities	Grocery and drug stores	Public schools and universities	Riverboat casinos	Parl-mutuel racing	Hotels and motels	Private residences	School buses	Prosecuting attorney	Alcohol Tobacco Commission	Preemption of local ordinances	
HB 1213 (Introduced)	1/16/2009	✓		✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
HB 1213 (Amended in House Public Policy Committee)	2/12/2009	**	**	**	✓	✓	✓	✓				✓	✓	✓	✓	✓	✓	✓	✓			✓	
HB 1213 (Amended on House Floor)	2/17/2009	**	**	**	✓	✓	✓	✓				✓	✓	✓	✓	✓	✓	✓	✓				
<b>Note:</b>																							
*Requires nonsmoking section																							
**Not comprehensive. Allowed for exemptions																							
✓100% Comprehensive Coverage																							



### *Disagreement within the Coalition*

The deal breakers agreement committed ICSA members to “walk away” from weak bills that jeopardized the coalition’s ultimate goal of making Indiana 100% smokefree.<sup>542</sup> From the beginning, the coalition agreed only to support a comprehensive bill covering public places and workplaces and including bars and casinos. Preparing for the possibility that HB 1213 could not be strengthened in the Senate Committee, ICSA held internal meetings in efforts to make a collective decision regarding worst-case scenario protocols.

Rep. Brown, although a full supporter of a comprehensive law from the beginning of the session, did not believe that full coverage could be obtained and wanted to move forward with a bill with exemptions. In a 2009 interview, Melissa Lewis, Director of the Indiana Academy of Family Physicians Foundation, recalled that toward the end of the session, Rep. Brown told ICSA lobbyists that it might be possible to reinstate smokefree protection for bars but that casinos would not be possible.<sup>133</sup> Before Conference Committee hearings began, ICSA collectively agreed that they still wanted a comprehensive law covering public places and workplaces, including casinos. Rep. Brown inserted language that included casino (but not bar) exemptions into the Conference Committee Report of a mental health bill he authored during the session. While at a Conference Committee hearing, ICSA Steering Committee Chair and ACS lobbyist Patricia Ells spoke for the coalition and asked for either comprehensive language or for the Committee to remove the smoking restriction language entirely.<sup>654</sup>

After the first Conference Committee hearing there was disagreement within ICSA regarding whether the coalition should wait for a comprehensive law or continue supporting the bill with a casino exemption. The health care providers in the coalition, Indiana Hospital Association (IHA), Indiana State Medical Association (ISMA) and Indiana Academy of Family Physicians, supported following Rep. Brown’s lead and moving forward with his clean indoor air language, while the other organizations were still resigned to requesting that the bill be fixed or killed.<sup>133, 168</sup> There was no break within ICSA as each group deferred to the coalition’s collective decision, which, for the moment, remained committed to a comprehensive law or nothing.<sup>707</sup>

ICSA had diverse membership and, for most groups, tobacco control was not their primary focus. The health care provider groups focused on a wide array of policy issues usually heard in the House Public Health Committee, chaired by Rep. Brown. These groups worked with Brown on many issues important to their organizations and without his support, would have had difficulty getting their bills heard in committee.

ISMA and IHA maintained that the decision to support Brown was pragmatic because it would result in a law substantially stronger than the current state law. Nearly all advocates agreed that the influence of the casino lobby at the statehouse made passing a comprehensive law with no exemptions difficult to accomplish. The economy was in deep recession and the threat of decreased casino revenue had a significant impact on many legislators.<sup>708</sup> Also at the root of the difference of opinion, however, were differing organizational priorities. Brian Tabor, Vice President of Government Relations for IHA explained:

Some of the larger groups, some of the medical, healthcare, trade industry groups that are supportive of the coalition ... were all more open to something that would have had limited exemptions in order to get something passed that is better than what we have today in Indiana. I think we were all more open to that ... We all tend to have a lot of issues going on over there and are constantly negotiating on all of them, as opposed to ... being more single-issue, which is what the coalition is about.<sup>707</sup>

In the Session's last moments, when the Conference Committee was nearing the end of its consideration of the smokefree language, most of ICSA's members changed positions. ICSA decided that it would not support the bill with casino exemptions but, at the same time, would not actively oppose the bill. This was a decision made by most of the organizations in ICSA, including ACS and AHA, and was communicated to legislators like Sen. Alting.<sup>168</sup>

### ***The Final Result***

Brown's Conference Committee language died. Conference Committees consist of two House and two Senate members appointed by the General Assembly leadership. For a Conference Committee report to pass, all four conferees must agree and sign the Conference Committee report. The Senate Republican Caucus asked conferee Sen. Connie Lawson not to sign the Conference Committee Report, explaining to advocates afterward that the decision was made by the caucus to uphold Chairman Alting's decision to refuse the bill's hearing when it was in Senate committee.<sup>168, 659</sup>

ICSA tobacco control advocates believed that Rep. Brown was committed to a comprehensive law and, based on a 2009 interview with Brown for this report, Brown's public comments, and interviews with tobacco control lobbyists working with Brown, it seems clear that he did want a comprehensive law. Nevertheless, ICSA remained firm on their deal breakers and would not compromise on casino exemptions until the session's end, which was too late.<sup>168</sup> Brown was willing to move forward with a bill that he thought represented substantial progress by requiring public places and workplaces to be 100% smokefree and believed that it was worth accepting exemptions for gaming facilities. In public comments and in a 2009 interview, Brown emphasized that major legislation such as the statewide clean indoor air law could only be passed incrementally.<sup>38</sup> Brown maintained that "The General Assembly is about the friendly art of compromise" and that "The worst enemy is the advocates" for demanding no exemptions.<sup>709</sup>

Gaming generates the third highest tax revenue in Indiana, behind income and property taxes,<sup>38</sup> and brought in almost \$900 million in 2009.<sup>710</sup> In times of severe economic recession, such as 2009, predictions of decreases to this revenue were likely influential in legislators' decisions. Brown, in particular, was the author of legislation in 1993 that legalized riverboat gambling in Indiana and his District 3 was in the northern sections of Lake and Porter Counties that stretched across the northwest corner of Indiana along Lake Michigan, and significantly, contained two casinos.<sup>711</sup> Brown's support of casinos was also clear in 2010 when the City of Gary in his district began considering a clean indoor air ordinance. From the beginning of the discussion, Brown argued that any Gary ordinance passed should exempt casinos until the state passed a comprehensive law. When asked whether Gary should prohibit smoking in casinos, Brown told reporters, "I think that would be grossly unfair ... I would think that that would mean

they [Majestic Star Casinos] would be losing more business. That's why, until we can do it statewide, I would think that the City Council would exempt the gaming facilities.”<sup>712</sup> Brown’s statement suggests that the arguments that smokefree laws lead to decreased casino revenue were a motivator for him in agreeing to exemptions.

Additionally, in 2009, a working paper written by Michael Pakko (former Federal Reserve Bank of St. Louis employee and former St. Louis County Libertarian Party Chairman) cited in the Legislative Services Agency’s (LSA) fiscal impact statement for HB 1213, warned that smoking restrictions in casinos would lead to significant decreases in casino revenue.<sup>692</sup> Despite tobacco advocates’ presentation to LSA of peer-reviewed data that showed that smokefree laws did not have an impact on casino revenue, the LSA did not include these data in the impact statement, damaging tobacco control advocates attempts to pass a comprehensive law.<sup>713</sup> Amanda Estridge, ACS’s Indiana State Government Relations Program Manager, said in a 2010 interview that ACS and the rest of ICSA believed that the LSA was not always using the best available research in compiling its reports.<sup>714</sup>

Gaming lobbyists and casino personnel have often claimed that 50 percent of gamblers were smokers.<sup>715</sup> Studies of Nevada casinos have shown that smoking populations among casino patrons reflect the general public’s smoking population should, therefore, be treated no differently than any other hospitality establishment.<sup>716</sup> A 2009 report issued by the National Institute for Occupational Safety and Health (NIOSH) recommended that tobacco be eliminated from casinos because of the significant health effects of secondhand smoke on nonsmokers, especially casino workers.<sup>717</sup> The National Council of Legislators from Gaming States (NCLGS), passed a resolution in January 2009 supporting 100 percent smokefree gaming venues.<sup>718</sup> (Indiana, as of August 2010, was not a member of NCLGS.) None of this information was included in the HB 1213 fiscal impact statement.

## **2010: Another Attempt to Pass a Statewide Clean Indoor Air**

The 2009 Legislative Session ended with the tobacco control coalition, ICSA and Rep. Charlie Brown in a publicly visible divide, with Brown quoted in the media saying that the advocates were his worst enemy in the campaign.<sup>575</sup> Despite their strained relationship, ICSA and Brown both had every intention of returning with another smokefree air bill in the 2010. In a summer 2009 meeting with AHA Senior Advocacy Director Danielle Patterson and a lobbyist from the ISMA, Brown said that he would be introducing a clean indoor air bill, but that House Speaker B. Patrick Bauer (D-South Bend) would only allow a bill to be heard that was introduced with casino exemptions already included. Bauer said that there had already been enough time spent on casino testimony and that the state was not ready for smokefree casinos.<sup>713</sup> Bauer wanted casinos exempted to avoid what he considered to be the inevitable exemption that the casino industry would push for. Brown was also quoted in the media concurring with Bauer, saying that casino exemptions were necessary to keep the powerful gambling lobbyists from “killing the bill.”<sup>719</sup>

Meanwhile, following the 2009 legislative session’s end, many state level tobacco control advocates had been occupied with the Smoke Free Indy campaign to expand the Indianapolis-Marion County ordinance to cover bars, private clubs and other locations exempted from the

2005 ordinance. Tobacco control advocates hoped that Indianapolis-Marion County's ordinance would pass and pressure the General Assembly to follow and pass a strong smokefree air law covering public places and workplaces without exemptions. However, the Indianapolis-Marion County ordinance was tabled and did not pass in time to put pressure on the state. ICSA had little time to regroup and to plan for the statewide clean indoor air bill Brown was going to introduce in 2010.<sup>610</sup> The coalition did not want to move forward with a bill in 2010 that contained exemptions for casinos; ICSA only wanted a comprehensive bill, but Brown was intent on moving forward with the bill without casinos.<sup>596</sup>

### ***HB 1131 is Introduced with Casinos Exempted***

Rep. Brown introduced HB 1131 on January 7, 2010 prohibiting smoking in public places and enclosed workplaces, including restaurants and bars, (Table 45) but exempting horse racing facilities, riverboats (riverboat casinos), and any other facility with a gambling game license under IC 4-35-5. HB 1131 again assigned the law's enforcement to the Alcohol and Tobacco Commission (ATC) which had insufficient infrastructure. Brown's repeated use of ATC as the enforcement agency for the clean indoor air bill made tobacco control advocates question whether ICSA had communicated effectively to Brown that the preferred enforcement agency was the Indiana State Department of Health.<sup>596, 720</sup>

HB 1131, as in the two preceding years, was assigned to the House Public Policy Committee chaired by Rep. Trent Van Haften. This time the Committee passed it unchanged after Van Haften did not allow any amendments.<sup>721</sup> The committee hearing allowed tobacco control advocates an opportunity to speak in support of a comprehensive bill that would cover all workers including employees of casinos. While in 2009 there was a strong visible opposition launched by the casino industry, there was not a large amount of visible casino opposition to HB 1131, likely because the bill was introduced with casino exemptions. There was, however, vocal opposition from retail and hospitality groups such as the Indiana Licensed Beverage Association.<sup>610</sup>

At the beginning of the session, ICSA also supported two smokefree bills introduced in the Senate; SB 233, introduced by Sen. Gary Dillon (R-Columbia) and SB 95, introduced by Sen. Sue Errington (D-Muncie). The bills did not include casino exemptions, and could have been the smokefree vehicle if HB 1131 stalled but neither received committee hearings. Like in the years preceding, the General Assembly accepted Rep. Brown's bill as the dominant piece of clean indoor air legislation for the session.

In its second reading on the House Floor, several amendments were introduced to severely weaken HB 1131. The first amendment was from Rep. Brown, which added preemption language of local restrictions on casinos and the other gaming facilities.<sup>722</sup> Surprisingly, tobacco control advocates did not see Brown's preemption amendment as an attempt to further weaken the bill. Melissa Lewis of the Indiana Academy of Family Physicians believed that Brown did not see the preemption provision's harm because it would keep the bill moving through the House, and most other public places and enclosed workplaces would have been covered. Danielle Patterson of AHA agreed, saying that Brown likely introduced the preemption of local gaming facilities to appease gaming interests and House Republicans and to keep the bill moving

Table 45: Provisions of HB 1131 versus then current state clean indoor air law		Locations prohibiting smoking																	
Proposal	Date	Public Places	Enclosed workplaces	Vehicles owned, leased, or operated by the state	Government buildings	Restaurants	Bars	Private clubs	Health facilities	Grocery and drug stores	Public schools and universities	Riverboat casinos	Pari-mutuel racing	Family-owned business (all employees are family and business not open to the public)	Tobacco Businesses	Prosecuting Attorney	Indiana State Department of Health	Alcohol Tobacco Commission	Preemption of local gaming facilities
Indiana's current state law (2010)					*	*			*	*	*								
HB 1131 (Introduced)	1/7/2010	**	**	✓	✓	✓	✓	✓	✓	✓	✓			✓	✓			✓	
HB 1131 (Amended on House Floor)	1/25/2010	**	**	✓	✓	✓			✓	✓	✓							✓	✓
SB 175 (Amended on House Floor)	2/24/2010	**	**	✓	✓	✓	✓	✓	✓	✓	✓			✓	✓			✓	

**Note:**  
 \*Requires nonsmoking section  
 \*\*Not comprehensive. Allowed for exemptions  
 ✓ 100% Comprehensive Coverage

with the hope that it could be strengthened in the Senate.<sup>596, 659, 713</sup> Regardless of Brown's intent, ICSA adamantly opposed preemption of any kind as required by their deal breakers,<sup>544</sup> but the amendment prevailed.

Rep. Dennis Tyler (D-Muncie) also introduced an amendment that added exemptions for bars and taverns that held beer, liquor or wine retailer permits, allowed no one under the age of 21 to enter or to be employed, and were not located within a business in which smokers would be restricted by the bill, such as a restaurant.<sup>723</sup> The amendment was approved with a 52-42 vote. Rep. Edward Clere (R-New Albany) also introduced an amendment to exempt tobacco stores from HB 1131, which passed with a 54-38 vote.<sup>724</sup> Other amendments exempted private fraternal clubs and family owned and operated businesses with only family members as employees.<sup>725, 726</sup> These amendments made HB 1131 similar to the 2009 bill (HB 1213) after it was amended in the House Public Policy Committee. Following these amendments, Rep. Brown temporarily withdrew HB 1131 from House floor consideration on January 25, 2010.<sup>727</sup>

In Indiana there is a mid-session deadline by which a bill must be passed from its originating chamber to continue being considered. Brown allowed HB 1131 to be read for a third time in the House on February 2, 2010, in hopes that it would be strengthened in the Senate; the bill passed from the House with a 73-26 vote.<sup>728</sup>

Senate President Pro-Tempore David Long (R-Fort Wayne) was widely quoted in the media saying that HB 1131 had little chance of passing, that he instead favored local ordinances, and that the Senate was not ready to consider issues of smoking restrictions that year.<sup>719, 729</sup> Long felt that an interim study session should again consider the issue of smokefree air. Although tobacco control advocates argued that an interim study session was conducted in 2007, Long was not President Pro Tempore at the time, and said that he wanted a study session to consider the issue again.<sup>713</sup> As in 2009, the bill was assigned to the Senate Commerce, Public Policy and Interstate Cooperation Committee, chaired by Sen. Ron Altig (R-Lafayette), who had been an ally of advocates in 2009. But with President Pro-Tempore Long in opposition, the bill was not scheduled for a hearing and died.

### ***Activities of the Indiana Campaign for Smokefree Air Coalition***

ICSA launched a statewide letter-to-the-editor campaign to mobilize tobacco control supporters to press the Senate to give HB 1131 a hearing and remove its exemptions.<sup>719</sup> While in other years the advocates utilized town hall meetings and other media generating events to show the public's support for legislation, ICSA's 2010 efforts were devoted to working directly with legislators. Rather than a strategic decision, they followed this path because of insufficient staff to organize events and a lack of time before the session to accomplish anything by holding large public events. (Advocates had prioritized the Indianapolis-Marion County's ordinance which kept them busy until the start of the General Assembly's Session.<sup>610</sup>) This lack of activity was also a result of ambivalent feelings regarding the bill. While the bill had been severely weakened, the majority of ICSA Steering Committee understood that because Senate President Pro Tempore Long was opposed to the Senate's consideration of the bill that it was not going to survive.<sup>596</sup>

ICSA did not want to send mixed signals to legislators by both supporting and fighting the bill simultaneously. IAFP's Melissa Lewis recalled in a 2010 interview that the coalition wanted to be clear that it was supportive of HB 1131 being heard, but only if it was going to be strengthened.<sup>596</sup> ACS actively supported the House's passage of HB 1131 with the intent that Sen. Gary Dillon (R-Columbia, Policy Score: 8.6), a smokefree champion, would attempt to make the bill comprehensive in the Senate.<sup>714</sup> ACS lobbied the Senate leadership to give hearings to a clean indoor air bill and mobilized its members to contact legislators and ask for a comprehensive law despite hesitancy from the rest of ICSA to move forward with the weak bill.

The pharmaceutical company Pfizer offered to pay for some of ICSA's public relations expenses during the 2010 campaign. (Pfizer sells Chantix, a smoking cessation drug<sup>730</sup>) Pfizer paid its public relations firm Peritus Advertising to handle press conferences and press releases for ICSA to support a clean indoor air law. The messages written for ICSA's press releases by Peritus focused on the fact that smokefree laws led to decreases in smoking rates, whereas ICSA more often chose to use messages that dealt with the right, especially among workers, not to be forced to breathe secondhand smoke in the workplace. The relationship between ICSA and Peritus was contentious over messaging content.<sup>596</sup>

On February 15, after HB 1131 moved to the Senate, Peritus organized a press conference where ACS and Rep. Brown spoke for the bill.<sup>729</sup> Other organizations in ICSA were not informed about the press conference until after it took place.<sup>596</sup> Amanda Estridge, Indiana State Government Relations Program Manager for ACS said in a 2010 interview that ACS wanted to hold a press conference to urge the Senate to give the clean indoor air bill a hearing. Estridge explained that ICSA did not agree on whether to hold a press conference and attributed its hesitancy to the fact that only several organizations in ICSA, AHA and ACS, had strong working relationships with Rep. Brown because they had lobbyists. Estridge said, "I think that because they [other members of ICSA] hadn't talked to Representative Brown, I think that they felt like doing a press conference and urging the Senate [to support the bill] might upset Representative Brown, but in fact it didn't. He was very supportive ... they just felt they wanted to tiptoe and that's not our [ACS's] way of playing the game."<sup>714</sup> Other ICSA groups, mainly those representing health care interests, including IAFP, IHA and ISMA, were hesitant to oppose Rep. Brown who had decided to continue supporting the weakened bill and to hope that it could be strengthened in the Senate. This hesitancy contributed to the rest of ICSA's members decision to remain passive on HB 1131.<sup>596</sup> Nevertheless, HB 1131 did not receive a hearing in the Senate Committee because of Sen. Long's opposition.

In late February, the Indianapolis Convention and Visitors Association and other tourism and convention officials came out publicly in support of the statewide smokefree law, arguing that the Indiana's smoking policies were putting the state's revenue from conventions and conferences at great risk. This support was covered positively in the media.<sup>731</sup>

### ***SB 175 Becomes the Clean Indoor Air Bill***

In an effort by Brown to revive the clean indoor air issue, the House amended SB 175, which, as introduced, was a cornucopia of various health issues, to include the original HB 1131 clean indoor air language (casino exemptions but without preemption). The House passed the

amended Senate bill by 54-44 and returned it to the Senate for concurrence. Several House Republicans who previously opposed a clean indoor air law switched sides and voted to pass the bill.<sup>659</sup>

With SB 175's return from the House, the Senate dissented on the House amendments and conferees were designated from both chambers for a Conference Committee consisting of Reps. Charlie Brown and P. Eric Turner (R-Marion) and Sens. Patricia Miller (R-Indianapolis) and Sue Errington (D-Muncie), all of whom had a history of supporting strong tobacco control legislation.

ICSA's lobbyists had worked with legislators on SB 175, but by the time it was in Conference Committee, the tobacco control advocates were primarily concerned with avoiding additional exemptions.<sup>596</sup> While in 2009 disagreement within the coalition emerged gradually and accelerated towards the session's end, advocates were less committed to obtaining a 100% comprehensive law in 2010 because it contained casino exemptions from the beginning. In 2010, Danielle Patterson explained that Rep. Brown was going to move forward with clean indoor air with or without them and, though he said that he did not want casino exemptions included, he was committed to moving forward with a bill with casino exemptions in order to pass a law. This overwhelming pressure to include casino exemptions led tobacco control advocates to give in on the issue of casinos.<sup>713</sup>

In a meeting during the Conference Committee consideration of SB 175, the ICSA Steering Committee reviewed the coalition's deal breaker agreements and discussed the casino exemptions. In 2010, similar to 2009, ICSA agreed that it would not support the casino exemptions in SB 175 but that it would not oppose them. ICSA would continue to try to get the strongest bill possible and to make it clear to legislators that it was not too late to pass a comprehensive law.<sup>713</sup> ICSA's lobbyists, in discussions with Rep. Brown and possibly other legislators, communicated the coalition's decision to not actively oppose the bill containing casino exemptions in an effort to get a law passed.<sup>596, 714</sup>

The Senate Republicans remained opposed to passing the bill because it did not include enough exemptions and because the Senate Republican leadership believed that the law would harm the state's economy.<sup>732</sup> With Senate Pro Tempore David Long opposing the bill, the Senate Republican caucus did not even consider the clean indoor air issue and the Conference Committee removed Brown's language from SB 175.<sup>713, 714</sup>

### ***Conclusions***

Rep. P. Eric Turner's 2007 clean indoor air amendment to the Healthy Indiana Plan was the impetus for clean indoor air activity in the statehouse in the successive three years, but there was already a great deal of interest among certain legislators and tobacco control advocates. Rep. Charlie Brown, House Public Health Committee Chair, led the effort in the House. At the 2009 legislative session's end, Brown favored allowing exemptions for casinos and improving the law incrementally. Part of Brown's position on allowing casinos to continue to have smoking can be attributed to the desire of legislative leadership to allow casino exemptions. In 2010, Speaker Bauer would not allow a bill to be heard unless it was introduced with casino exemptions. Rep.



Brown and Speaker Bauer arranged this exemption in advance, possibly because Brown legitimately did not feel that a comprehensive smokefree air bill including casinos was politically possible. Also, Brown had two casinos in his district and was, as a result, likely to be inherently supportive of casinos.

Understanding the difficulty of revisiting laws and strengthen them later, ICSA, which signed deal breaker agreements to support only comprehensive smokefree laws, advocated in each session between 2008 and 2010 for a comprehensive law covering public places and workplaces with no exemptions. The clean indoor air bill did not receive real consideration in 2008, which allowed tobacco control advocates an opportunity to organize and mobilize supporters to provide testimonies, letter writing campaigns and phone calls to legislators. The coalition, facing other priorities at times, such as the 2009 proposed ordinance to make Indianapolis-Marion County smokefree, was not adequately prepared for the 2010 campaign.

In both 2009 and 2010, facing casino exemptions at different times in the session, ICSA had internal discussions on whether to continue supporting only a comprehensive law to passively support a bill with casino exemptions but to not actively oppose it. The coalition's position was shared with legislators as it revisited the issue in the legislative session between 2009 and 2010, conceivably weakening the coalition's position among legislators. The coalition did not always work together and, at times, acted in a conflicting manner. In 2009, ICSA waited too long in the session to accept a smokefree bill covering everything except casinos, a bill that Rep. Brown believed to be the strongest law possible. The coalition passively switched positions during Conference Committee but the opportunity to accept the bill had passed. In 2010, ICSA elected to remain passive and allow the Senate to kill HB 1131 by refusing to hear it. ACS, however, held a press conference independently with Rep. Charlie Brown, where they urged the Senate to give the bill a hearing and to strengthen it. Also, the health provider groups IAFP, IHA and ISMA were more supportive of the directions that Rep. Brown wanted to take on smokefree air, likely because he chaired the Public Health Committee, and they required his support for other legislation. Each of these factors likely has contributed to the continued inability of ICSA to pass a comprehensive law.

## **THE IMPACT OF ITPC, 2000-2009**

Indiana continued to make progress with tobacco control despite several rounds of budget cuts. In 2005, five years after ITPC adopted its 2005 objectives, it had either achieved or made progress on most of its goals. In 2006, ITPC placed its 19 original objectives under six broad categories: 1) decrease Indiana youth smoking rates; 2) increase proportion of Hoosiers not exposed to secondhand smoke; 3) decrease Indiana adult smoking rates; 4) increase anti-tobacco knowledge, attitudes and beliefs necessary for smoking behavior change to occur; 5) increase Indiana's tobacco tax to reduce adult smoking and prevent youth smoking; 6) maintain state and local infrastructure necessary to lower tobacco use rates.<sup>8</sup>

When the ITPC Executive Board adopted its 2015 goals in 2009, the categories addressing increases to the state's tobacco tax and increasing anti-tobacco knowledge, attitudes and beliefs, were eliminated and ITPC merged them into the four remaining categories, leaving

four priority areas to address by 2015: Youth smoking rates, exposure of secondhand smoke, adult smoking rates, state and local infrastructure.<sup>733</sup>

### Youth Smoking

ITPC’s Indiana’s Youth Tobacco Survey (YTS) found declining high school smoking rates from 23.2 percent in 2006 to 18.3 percent in 2008 (a relative decreased of 21.1 percent) and middle school smoking rates from 7.7 percent in 2006 to 4.1 percent in 2008 (relative decrease of 46.7 percent) (Figure 2) (Table 46).<sup>12, 28</sup> Between 2000 and 2008, smoking rates decreased among high school students by 42 percent and among middle school students by 58 percent.<sup>12</sup>

<b>Table 46: Indiana youth smoking rates</b> <sup>7-11, 733</sup>						
2000-2001	2002-2003	2004-2005	2006-2007	2008-2009	2014-2015 (Goals)	Source
Smoking among middle school youth						
9.8%	10%	7.8%	7.7%	4.1%	Maintain below 5%	YTS
Smoking among high school youth						
31.6%	20.4%	21.3%	23.2%	18.3%	17%	YTS
"Frequent smoking" among high school youth (reported smoking on 20-30 days in past 30 days)						
17.1%	11.1%	10.9%	11.7%	8.7%	5%	YTS
Noncompliance rate of tobacco sales to youth						
N/A	18.9%	13.2%	10.5%	5.6% (2009)	N/A	Indiana Prevention Resource Center
School districts with tobacco-free campus policies (proportion)						
N/A	N/A	35%	53%	65%	85%	ITPC Policy Tracking

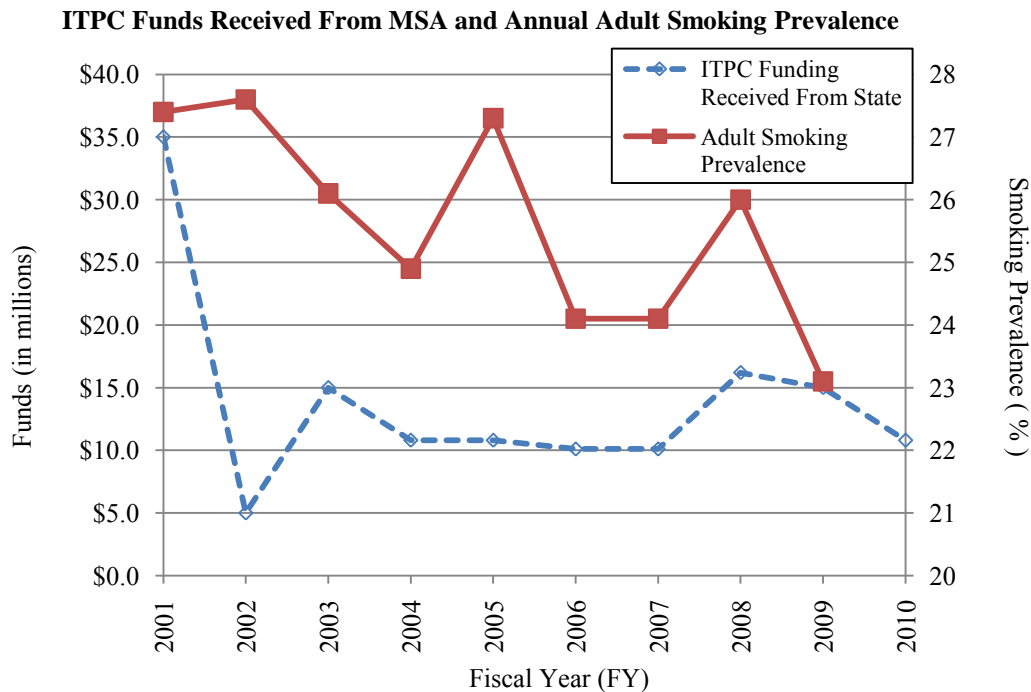
### Adult Smoking

Indiana has had historically high adult smoking rates when compared with the U.S. national average. However, CDC reported that smoking prevalence in Indiana declined from 26.0 percent to 23.1 percent from 2008 to 2009. The 2009 national prevalence was 17.9 percent (Figure 1 and Table 47).<sup>22, 33</sup> Adult smoking prevalence fluctuated from FY 2001, when ITPC was first funded, and FY 2010. Most decreases in adult prevalence rates coincided with the program’s creation in FY 2001, increases to ITPC’s funding (2008) and increases to the state’s cigarette tax (2002 and 2007) (Figure 25).

ITPC also collected data with its Adult Tobacco Survey (ATS) which in 2006 placed smoking rates at 19.9 percent, 4.2 percentage points below the 2006 BRFSS. Results analyzed by independent contractor RTI International concluded that ATS figures may be low due to the ever increasing difficulty of reaching the 18-24 year old age group which usually had the highest prevalence of active adult smokers, because they increasingly did not have landline telephones.<sup>734</sup> The 2006-2007 National Survey on Drug Use and Health (NSDUH) conducted by the U.S. Substance Abuse and Mental Health Services Administration, found that 43.2 percent of 18-25 year old adults in Indiana were current smokers compared to 36.2 percent nationwide.<sup>735</sup> <sup>736</sup> These data show that adults in Indiana still smoked at high levels when compared to the U.S. average.

**Table 47: Indiana adult smoking rates**<sup>7-11, 22, 33, 733</sup>

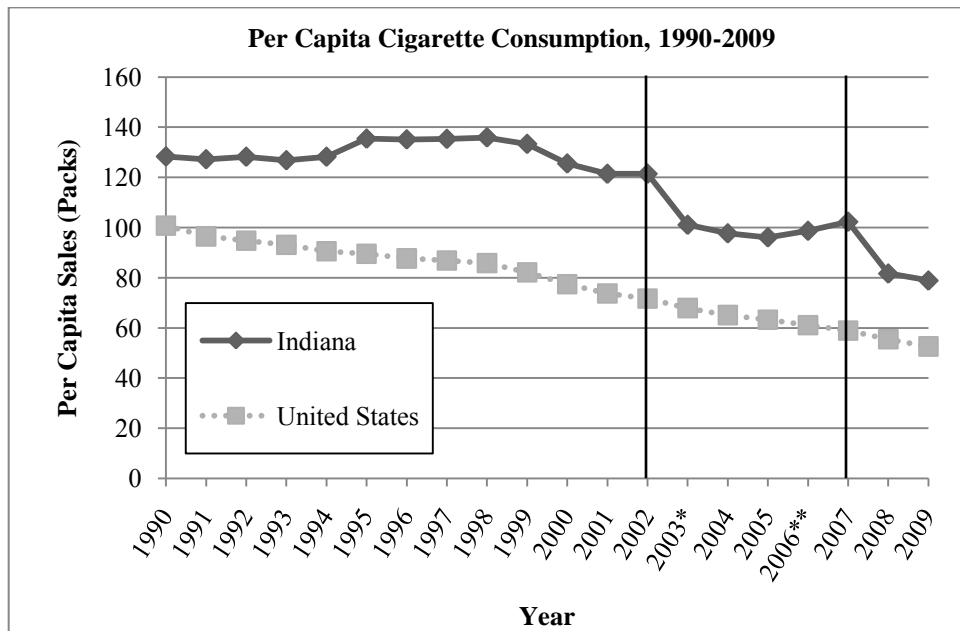
2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2014-2015 (Goals)	Source
Smoking rate among all adults											
26.9%	27.4%	27.6%	26.1%	24.9%	27.3%	24.1%	24.1%	26.0%	23.1%	18.0%	BRFSS
Smoking rates among young adults (18-24)											
37.4%	35.8%	37.6%	32.1%	28.2%	39.0%	34.6%	29.8%	41.1%	25.6%	26%	BRFSS
Smoking among Pregnant Women											
21%		19%		18%		17.3%		N/A		12%	Natality Report
Smoking among African Americans											
24.7%	26.5%	28.1%	31.8	27.6	36.8	27.1	23.3	33.4	31.7	20%	BRFSS
Smoking among Latinos											
22.5	28.9	24.6	27.2	23.0%	33.3	23.3	25.1	39%	23.2	20%	BRFSS
Indiana Tobacco Quitline call volume (number of calls)											
N/A	N/A	N/A	N/A	N/A	N/A	3,500	3,568	~9000	21,000	119,300	Indiana Tobacco Quitline
Percent of smokers reporting attempts to quit smoking											
		48.5%		47.6%		38.4%		49.9%		65%	ATS
Proportion of smokers that report intentions to quit smoking in the next 30 days											
		24.6%		24.1%		35%		23%		50%	ATS
Awareness of the Indiana State Quitline and its services											
		N/A		N/A		29%		49%		67%	ATS



**Figure 25: Funds Transferred to ITPC from the Indiana Tobacco Master Settlement Agreement Fund and Adult Smoking Prevalence Rates Reported by BRFSS**<sup>22</sup>

## Per Capita Cigarette Sales

Between 1990 and 2009 Indiana consistently consumed more cigarettes per capita than the U.S. national average. National per capita cigarette sales steadily decreased while Indiana experienced periodic resurgences of per capita sales. However, Indiana did see an overall decline between 1990 and 2009 with cigarette sales decreasing from 128.3 packs per capita to 78.9 packs per capita,<sup>15</sup> and experiencing sudden drops which appear to have been related to tobacco control efforts like the 1998 Master Settlement Agreement and state tax cigarette tax in 2002 and 2007 (Figure 26) as well as ITPC-coordinated programs.



**Figure 26:** Per Capita Cigarette Sales in Indiana and the United States<sup>15</sup>

**Note:**

Vertical lines indicate years that Indiana's cigarette tax increased

\*By 2003 all of Indiana's 92 counties had an ITPC-funded tobacco control coalition.

\*\*In 2006, the state launched Indiana Tobacco Quitline.

ITPC and the statewide tobacco control coalition were heavily involved in increasing the state cigarette tax from 15.5 cents to 55.5 cents per pack in 2002 and to 99.5 cents in 2007 as part of Governor Daniels' push for the Healthy Indiana Plan. After the 2007 increase, per capita cigarette consumption in Indiana fell substantially from 102.3 packs per capita in 2007 to 78.9 packs per capita in 2009.<sup>15</sup> Overall, between 2000 and 2009, Indiana's per capita cigarette consumption decreased by 37 percent, a greater decrease than the national average decrease of 32 percent during the same period.<sup>15</sup>

These declines in cigarette consumption coincided with the creation and funding of ITPC at CDC-recommended levels and resulting increases in tobacco control funding and program activity throughout the state. By March 2002, ITPC launched *whitelies.tv*, its new statewide media and public information campaign. Additionally, beginning in 2002, ITPC began funding local coalitions, and, by 2003, each of Indiana's 92 counties had an ITPC-funded tobacco control

coalition which provided an organized local movement for tobacco control never before experienced in Indiana. This increased activity on tobacco control issues throughout the state likely contributed to the decreases in cigarette consumption that took place in 2002. In 2006, Smokefree Indiana launched the Indiana Tobacco Quitline to provide cessation counseling free of charge, which coincided with the decreases in cigarette consumption that began in 2007. ITPC assumed leadership of the Quitline when Smokefree Indiana dissolved in 2008.

### ***Exposure to Secondhand Smoke***

Beginning in 2005, there was a flood of new local smokefree ordinances spearheaded by local tobacco control coalitions that did not exist until ITPC’s community and minority-based grants were made available. By prioritizing community-based tobacco control advocacy and by funding each of Indiana’s 92 counties, ITPC provided the resources (funding, regional director support, strategy sessions) to local coalitions and statewide partners that advocated for the passage of local laws to protect Indiana residents. Between 2000 and 2009, the percentage of Indiana residents that were covered by a strong, comprehensive law increased from 0 to 30.4 percent (Table 48). This surge of success at the local level protected many more people in Indiana and was likely inspired by the 2005 Indianapolis-Marion County clean indoor air ordinance’s passage. However, while this increase in coverage was positive, many of the ordinances that passed between 2005 and 2006 contained similar exemptions to those in the 2005 Indianapolis-Marion County ordinance. With the 2006 adoption of the *Fundamentals of Smokefree Air Policy Development for Hoosier Communities* by statewide tobacco control partners, which ITPC advised, the quality of ordinances improved and more often included bars and private clubs. The momentum of ordinances seemed to slow in 2009 when only two ordinances passed, only one of which (Franklin) was a comprehensive ordinance covering public places and workplaces without exemptions for bars or private clubs. In 2010, no comprehensive local ordinances passed as of September.

<b>Table 48:</b> Proportion of Hoosiers not exposed to secondhand smoke <sup>733</sup>						
2000-2001	2002-2003	2004-2005	2006-2007	2008-2009	2014-2015 (Goals)	Source
Percent of the population protected by an effective smokefree air law (Including workplaces and/or restaurants and/or bars)						
0%	1.1%	1.1%	27.6%	30.4%	100%	ITPC Policy Tracking
Percent of the population protected by a <i>comprehensive</i> smokefree air law (Including all workplaces, restaurants, bars, membership clubs and entertainment venues and casinos)						
0%	0%	1.1%	5.8%	8.5%	100%	ITPC Policy Tracking
Proportion of adults protected from indoor secondhand smoke at the workplace						
N/A	78.2%	80.4%	86.7%	88.5%	95%	ATS
Proportion of households that report a smokefree home						
N/A	28.5%	41.7%	54.5%	55.1%	70%	ATS
Proportion of youth not exposed to indoor secondhand smoke indoors						
<i>Middle School</i>						
40.2%	36.6%	38.7%	39%	49.7%	48%	YTS
<i>High School</i>						
24.8%	29%	33.8%	31%	37.8%	40%	YTS
Support for tobacco free policies in public places and work places						
N/A	74%	71.5%	76.5%	74.3%	87%	ATS

ITPC and its statewide partners and local coalitions also worked with schools, hospitals and other institutions throughout Indiana to advocate for voluntary smokefree policies.<sup>9</sup> School campus and hospital voluntary smokefree policies increased as well in localities without comprehensive smokefree laws; by 2009, school districts in 43 of Indiana’s 92 counties had 100 percent tobacco-free campuses. Thirty seven counties had only portions of their school districts with tobacco free campuses while 12 counties did not have any tobacco-free campuses. Forty-seven college and university campuses in Indiana have implemented tobacco free policies. From 2004 to 2010, 126 hospitals and health care facilities made their campuses 100 percent smokefree. Additionally, 30 out of 35 critical access hospitals implemented 100 percent tobacco-free hospital grounds policies.<sup>733</sup>

**Local Infrastructure**

ITPC’s Executive Board, despite funding cuts, remained committed to protecting local community-based coalition funding, which remained the agency’s primary grant recipients. The result was the survival of tobacco control coalitions throughout the state, which would have withered without the allocation of ITPC’s MSA funds. Nevertheless, ITPC was forced to decrease the amount of its grants and could no longer afford to fund coalitions in every county. As a result, some counties lost some of the local momentum that was present when ITPC was formed and fully funded at CDC-recommended levels. In FY 2010 and 2011, only 70% of Indiana’s counties will have an active tobacco control community coalition, whereas 100 percent of Indiana’s counties previously had coalitions (Table 49). Also, of the 29 counties eligible for receiving a minority-based coalition grant, only 28 percent will receive a grant from FY 2010 to FY 2011 whereas 86 percent of eligible counties received a grant from FY 2004 to FY 2005.<sup>733</sup>

<b>Table 49: State and local infrastructure</b> <sup>733</sup>						
2000-2001	2002-2003	2004-2005	2006-2007	2008-2009	2014-2015 (Goals)	Source
Percent of counties with a community-based tobacco control coalition						
100%	100%	100%	96%	92% (70% in 2010-2011)	100%	ITPC
Proportion of eligible counties with a minority-based tobacco control coalition						
N/A	70%	86%	55%	34% (28% in 2010-2011)	75%	ITPC
Health communication spending (per capita)						
N/A	\$1.14	\$0.86	\$0.27	\$0.31	\$1.83	ITPC
Proportion of local and state grantees that receive training to implement evidence based tobacco control interventions						
100%	100%	100%	100%	100%	100%	ITPC

**Reasons for Success and Difficulties**

Much of ITPC’s success grew from its ability to create a network of organizations and other agencies that implemented effective programs. A study conducted by the Washington University Saint Louis’s Center for Tobacco Policy Research in 2004 commissioned by CDC and the American Legacy Foundation found that tobacco control advocates in Indiana felt that the state tobacco control network was highly connected and consisted of mostly “very productive” relationships. ITPC was consistently considered the most influential organization in the tobacco control network.<sup>737</sup>

Despite the ITPC Executive Board's attempts to continue local funding, with significant funding decreases from the state, it was forced to cut its local grants. In FY 2009, ITPC spent \$5.5 million on its local, community-based partnerships and \$1.5 million on its minority-based partnerships, compared to the \$7.4 million on community-based partnerships and \$2.1 million on minority-based partnerships in FY 2003 (Table 29).<sup>5, 12</sup> Community-based grants dropped as low as \$ 4.1 million in FY 2006.<sup>8</sup>

These funding cuts limited the work of local tobacco control advocates that depended on ITPC funding to pay for expenses ranging from advertisements and public opinion polls to staff and travel. These cuts were an impediment to local advocacy work but also to tobacco control advocacy efforts at the statewide level (including smokefree air). The passage of local smokefree laws serves as an indicator to legislators that their communities support tobacco control policies. Patricia Ells, former ACS lobbyist noted in a 2009 interview that statewide legislators who resided in districts with comprehensive ordinances were more likely to support statewide smokefree laws.<sup>168</sup> The decreases in local funding that ITPC was forced to make coincided with the decline in the passage of local smokefree policies and may be a major contributing factor. By continuing to fund and collaborate with localities, ITPC and its partners would be able to continue building a grassroots base of support for both local and statewide smokefree laws and sustain strong public support around the state for comprehensive policies. This local support may be the key to finally passing a comprehensive statewide smokefree law.

ITPC also decreased funding to its statewide public education media campaign following decreases in funding from the state. ITPC spent \$6.5 million on advertising and public education in FY 2003 but only \$2.1 million in FY 2009. This decrease affected the statewide media campaign, *Whitelies.tv*, which had 75.5 percent confirmed awareness in FY 2003 from Indiana residents prior to cuts but only 14 percent confirmed awareness by FY 2007.<sup>10</sup> According to CDC's *Best Practices*,<sup>2</sup> media advertisements should reach 75-85 percent of the target audience.

In contrast to youth smoking prevalence, adult prevalence has remained stable, although per capita consumption has dropped. This decline in consumption means that while many adults in Indiana continue to report themselves to be smokers, they are smoking fewer cigarettes. This failure to reduce adult smoking prevalence probably is the result of the combination of prioritizing youth in many activities and funding decreases for community programs and statewide public education in response to reductions in MSA funding from the state. A program's success is directly connected with the amount and consistency of funding and funding cuts can slow or reverse the progress of a tobacco control program.<sup>738-741</sup>

In winter 2010, the ITPC Executive Board asked CDC to evaluate Indiana's state tobacco control program to show to legislators that the program, as created, was effective. In a letter to Dr. Stephen Jay, representative of the Indiana State Medical Association on the ITPC Executive Board, on March 3, 2010, Christopher Benjamin, Deputy Branch Chief of Program Services for the CDC's Office on Smoking and Health, emphasized the significant progress made by ITPC since its creation. Benjamin noted the impressive decline in smoking among Indiana's youth and the successes in enacting eleven comprehensive local smokefree laws since the program's inception.<sup>742</sup>

In addition to explaining CDC's position that ITPC was an effective program, Benjamin wrote that "Accelerated decreases in smoking rates and health care costs could be substantially greater if Indiana made the CDC recommended investment of only \$12.46 per capita."<sup>742</sup> As of 2010, ITPC was funded at only 14 percent of the \$78.8 million that CDC recommended for Indiana's annual funding. Evidence from other states<sup>738-740, 743, 744</sup> has demonstrated that cuts to tobacco control programs result in more tobacco use as well as increases in associated medical care costs, avoidable disease and death.<sup>741</sup>

## **THREATS TO THE ITPC EXECUTIVE BOARD**

While the General Assembly considered dissolving the Indiana Tobacco Use Prevention and Cessation Executive Board and ITPC several times after creating them in 2000, the attacks reached unprecedented levels in 2010 when Senate Appropriations Committee Chair Luke Kenley (R-Noblesville, Policy Score: 2.4) introduced SB 298 to dissolve the ITPC Executive Board buried in an administrative bill dealing with several seemingly unrelated issues. There was no public disclosure prior to introducing SB 298; the ITPC Executive Board was not consulted or informed that this bill would be introduced.<sup>172</sup>

### ***SB 298 is Introduced***

SB 298 would have created a public employee retirement fund management system, including the Public Employees' Retirement Fund (PERF) and the Teachers' Retirement Fund (TRF), removed restrictions on the practices of a psychiatric hospital in Evansville, removed restrictions on the Department of Natural Resources' practices regarding selling and planting nursery plants and wildflower seeds, and -- sandwiched between these provisions -- abolished the independent ITPC Executive Board. In addition to abolishing the ITPC Executive Board, SB 298 stated that: "(1) all assets, obligations, powers, and duties of the executive board are transferred to the state department of health; and (2) all appropriations made to the Indiana tobacco use prevention and cessation executive board are transferred to the state department of health and are considered appropriations made to the state department of health."<sup>745</sup> This transfer included the ITPC Trust Fund, which was controlled by the independent ITPC Executive Board to insulate the program from political interference.

Kenley authored the bill at Governor Daniels' request.<sup>746</sup> In his State of the State Address on January 19, 2010, Daniels mentioned that he hoped to save money by merging the PERF and TRF retirement funds, not abolishing the ITPC Executive Board.<sup>747</sup> States that have dissolved or transferred their independent tobacco control programs into their state health departments have historically raided funds and been left with ineffective programs.<sup>284, 329, 448, 449, 503, 748</sup>

Kenley presented dissolving the volunteer ITPC Executive Board and moving the tobacco control program into ISDH as a money-saving venture, not an attempt to derail or compromise the program. However, the administrative costs, salaries and benefits for maintaining ITPC's 14 person staff, according the state's Legislative Services Agency (LSA), was \$1.1 million during FY 2009, a tiny fraction of the \$895 million budget shortfall in expected revenue that dissolving the ITPC Executive Board was purported to help balance.<sup>749</sup> Any actual "savings" would be even smaller because staff would still be required to run the tobacco control program if it was moved to the Department of Health. Rather than acknowledging this point,



LSA simply wrote that the amount of money saved would depend on decisions made by ISDH administrators.<sup>749</sup>

2007 CDC *Best Practices*<sup>2</sup> noted that an effective tobacco control program required an experienced administrative staff for “program sustainability, efficacy, and efficiency. CDC also explained, “Sufficient capacity enables programs to plan their strategic efforts, provide strong leadership, and foster collaboration among the state and local tobacco control community. An adequate number of skilled staff is also necessary to provide or facilitate program oversight, technical assistance, and training.”<sup>2</sup> In 2010, ISDH had little-to-no programming devoted expressly to tobacco control. After Sen. Kenley introduced SB 298, an ISDH spokesperson told the *Indianapolis Star* that ISDH was surprised by the proposal and had no position on the issue.<sup>750</sup> Perhaps most importantly, however, the ITPC Trust Fund’s transfer to ISDH would have removed the oversight safeguard provided by the independent and experienced Executive Board and instead, placed the fund at the disposal of ISDH which was less insulated from political pressure.

Dr. Judith Monroe, Indiana State Health Commissioner under Daniels’ administration (2005-2010), was in the unique position of working directly for the Governor while serving as the Chair of ITPC’s Executive Board. (Monroe appointed her Chair in 2005 when he entered office.) Other Executive Board members contested Monroe’s appointment, arguing that the statute (IC 4-12-4-4) directed the Governor to appoint the Executive Board Chair from amongst the eleven at-large members and not from the ex-officio members (which included the Commissioner of Health).<sup>172, 429, 751</sup> In an interview for this report in November 2009, Dr. Monroe said that she and the Governor had not spoken recently on the issue of dissolving ITPC and moving tobacco control into ISDH but that she would be supportive of it, believing that it would allow an integration of programmatic efforts with other health programs.<sup>42</sup> (Monroe was Commissioner of Health in 2007 when the General Assembly’s Health Finance Commission considered transferring ITPC into ISDH.)

### ***Advocates Mobilize: If it Ain’t Broke, Don’t Fix it***

Statewide tobacco control advocates activated the Campaign for a Tobacco Free Indiana (TFI), formed in 2004 by many of the same partner organizations as ICSA (Figure 27). TFI was created to focus on preserving ITPC in the form SEA 108 established.<sup>133</sup> TFI’s membership varied for each campaign because the participating organizations’ policy priorities fluctuated and directives from their leadership often changed (Table 50). In 2010, the primary leadership came from the Campaign for Tobacco-Free Kids (CTFK) represented by Kevin O’Flaherty and Tim Filler (Filler was a consultant who performed contract work for CTFK, ITPC and RWJF), who chaired TFI. Other active organizations instrumental in strategizing and mobilizing grassroots support included the Indiana Academy of Family Physicians, American Lung Association and the Indiana Black Expo. The American Heart Association focused on smokefree air and was not active in TFI in 2010, nor was the American Cancer Society.<sup>133, 713, 714</sup>



While the Senate was beginning to consider SB 298, TFI leadership used email listserves to mobilize an extensive network of tobacco control advocates throughout the state to pressure House and Senate members and Governor Daniels to leave the program alone.

Community-based advocates were encouraged to attend their Representatives' Third House Meetings (public meetings between Legislators and their communities) and other public forums elected officials hosted to ask that the language abolishing the ITPC Executive Board to be removed from SB 298.

Filler was quoted in the media explaining TFI's position: "If it's not broken, why do we need to fix it?"<sup>746</sup> This sentiment was used throughout the campaign in educational advocacy literature in which the coalition argued that ITPC was effective and that, not only would moving its responsibilities into ISDH not provide benefits, but that it would place the acclaimed tobacco control program in jeopardy. TFI argued that ISDH was not staffed to implement the programmatic elements ITPC established and as a result, would be unable to effectively re-create what ITPC had accomplished over the preceding ten years.<sup>19, 753</sup> CTFK's Kevin O'Flaherty told the press that the ITPC provisions in SB 298 were a "lose-lose for tobacco control in Indiana."<sup>754</sup> O'Flaherty explained that one of two things would happen: ISDH would have to hire new employees to do the job ITPC was already doing, or ISDH would not hire employees to implement the tobacco control programming and the work would not get done.<sup>754</sup>

TFI, along with ITPC Executive Board members, formed relationships with the media, meeting with editorial boards to educate newspaper leadership on the provisions of SB 298 and what that would mean for the state's tobacco control programming.<sup>172</sup> As a result, the coalition received positive coverage from newspapers around Indiana, bringing public attention to the Senate bill and generating editorials and opinion pieces, nearly all of which called for preserving ITPC. The Indiana Cancer Consortium (ICC), a statewide advocacy network of organizations devoted to educating the public and policy makers about cancer issues, also joined the campaign and passed a resolution asking the state legislature to leave ITPC in its current independent form.<sup>755</sup>

***SB 298 Goes to Committee and then to the Full Senate***

SB 298 was assigned to the Senate Appropriations Committee chaired by Sen. Kenley, the bill's author. Kenley received \$7,650 in campaign contributions from the tobacco industry

<b>Table 50:</b> Campaign for a Tobacco-Free Indiana Membership, 2004-2010 <sup>752</sup>
American Cancer Society, Great Lakes Division*
American Heart Association*
American Lung Association of Indiana
Campaign for Tobacco-Free Kids
Clarian Health
Hoosier Faith & Health Coalition
Indiana Academy of Family Physicians
Indiana Black Expo
Indiana Dental Association
Indiana Hospital Association
Indiana Latino Institute
Indiana Public Health Association
Indiana Rural Health Association
Indiana State Medical Association
Local Community Partner Representation (Member of a community coalition)
March of Dimes Indiana
Smokefree Indiana
*ACS and AHA were not active in the 2010 effort to defend ITPC

between 1994 and 2008. The Senator insisted in a column in the *Indiana Business Journal* that because ISDH already performed the same functions as ITPC, consolidation of ITPC within ISDH would bring greater efficiency and program performance.<sup>756</sup> (As noted earlier, ISDH had none of the same programs as ITPC.) Kenley also said that, “a number of safeguards are in the statute to insure the proper use of funds.” (There were no provisions in SB 298 to establish a minimum level of tobacco control funding.<sup>745</sup>)

Kenley later took issue with Tim Filler, who wrote in an email to TFI’s members that the provision abolishing ITPC was “quietly” slipped into SB 298. Kenley argued that the provision was present at the bill’s introduction and that the committee hearing was posted for public discussion. Kenley emailed Filler asking him to set the record straight among his email recipients. Filler responded with an email to Kenley and the TFI membership explaining that from the tobacco control advocates’ perspective, the provision was quietly slipped into the bill because there had been no consultation or any notification to the tobacco control community that such a large change was being proposed.<sup>757, 758</sup> SB 298 passed the committee without any relevant amendments on January 19, 2010.<sup>759</sup>

TFI mobilized its members to call key Senate members throughout the process and applied consistent pressure so Senators were aware of strong opposition to the proposal. The second reading of SB 298 was scheduled several times, but Sen. Kenley did not call for its reading, perhaps because of calls from constituents to their Senators. The large number of high quality editorials, newspaper articles, and television and radio reports also helped the tobacco control advocates put pressure on legislators.

Sen. Karen Tallian (D-Portage, Policy Score: 5.6), who received \$300 in campaign contributions between 1994 and 2008, introduced a floor amendment during Senate’s second reading to remove the language in SB 298 pertaining to ITPC and delivered an impassioned speech supporting the agency.<sup>760</sup> Sens. Vi Simpson (D-Ellettsville), Sue Errington (D-Muncie), and Tim Lanane (D-Anderson) supported Tallian’s amendment with powerful speeches.<sup>761, 762</sup> However, the amendment failed a voice vote and SB 298 passed a third reading on February 2, 2010, 36-18, and was sent to the House.

### ***The Governor Interferes with the ITPC Executive Board***

After SB 298 passed the Senate, several Board Members asked Dr. Judith Monroe to call an emergency ITPC Executive Board meeting, something only she could do. Monroe was out of town and could not attend but called the meeting for board members that were available. On February 4, the Executive Board held an emergency meeting to discuss SB 298 and develop a public position. Eleven voting members were required for a quorum to take official action; only ten were present.

At the meeting, several Board members, including Dr. Stephen Jay, Dr. Robert Keen, and Dr. Richard Feldman, spoke of ITPC’s history and major accomplishments. They emphasized challenges faced over the previous 10 years and on the importance of ITPC’s independent structure. Feldman discussed his time as Commissioner of Health when the tobacco control

program was created and noted the significance of the independent agency which was more insulated from outside influences like politics and the tobacco industry.<sup>451, 763</sup>

Feldman circulated a letter for the Board to send to Gov. Daniels and the General Assembly for approval. The letter highlighted ITPC's accomplishments, the significance of having a volunteer board of public health experts, the threats posed by the tobacco industry which consistently attempted to divert funding away from tobacco control programs, and the history of ineffectiveness often found among tobacco control programs in state health departments. The letter discussed how moving the tobacco control program into ISDH would lead to the elimination of necessary staff levels, which would inevitably lead to the program's destruction.<sup>764</sup> The ITPC Executive Board was given the power under IC 4-12-4-9 to "recommend legislation to the governor and general assembly; and do any and all acts and things necessary, proper, or convenient to carry out this article."<sup>446</sup> Not having a quorum, however, the Board Members could not act on the letter but reviewed it and postponed Board action until the next meeting which was scheduled for February 18, 2010.<sup>763</sup>

The following morning, on February 5, Andrew Norris, Governor Daniels' Director of Intergovernmental Affairs, called Feldman and told him that the Governor was removing Feldman from the ITPC Executive Board.<sup>763</sup> (Feldman's four year appointment had expired and he was continuing to serve until replaced or reappointed, which was not unusual for Board members.) Daniels' prior involvement with the ITPC Executive Board had been minimal until that action.<sup>42</sup> (The Governor also removed Pat Rios, a member who reportedly was inactive and rarely attended Board meetings, as part of the same action.<sup>429</sup>) Feldman was historically outspoken and critical of health issues in Indiana, particularly tobacco, and frequently wrote opinion-editorials in the *Indianapolis Star*. Feldman had publicly criticized Governor Daniels' INShape Indiana program, funded from MSA money allocated to ITPC for tobacco control. (ITPC had an ongoing agreement with ISDH to provide funding for INShape Indiana.) Feldman called INShape "cheerleading" and a poorly funded, ineffective program in an October 2009 interview for this report.<sup>429, 451, 496, 763</sup>

Early in his role as governor, Daniels (who received \$49,500 in campaign contributions from the tobacco industry between 1994 and 2008) appeared to be a strong advocate of tobacco control policies and programming. In 2005, upon entering office, Daniels, through executive order, broadened the smoking restrictions at the statehouse and government buildings to make them smokefree.<sup>38</sup> Daniels led the Healthy Indiana Plan (HIP) campaign to increase Indiana's cigarette tax in 2007 and advocated for some of the funding to go to ITPC for tobacco programming. The ITPC Executive Board allocated it to the state's Quitline for cessation. In his 2007 State of the State Address, Daniels advocated for restoring tobacco control funding; he said, "we can and must do more. Back when state government was struggling with deficits, our tobacco reduction programs were cut by two-thirds. They should be restored, to levels where they can be fully effective."<sup>765</sup> Nevertheless, the language in SB 298 provided no safeguards for the preservation of the ITPC's Board's responsibilities, activities or assets. We do not know what accounted for the Governor's change in position. (Personnel in the Governor's office did not respond to repeated requests for interviews.)

### ***SB 298 in the House Ways and Means Committee***

In the House, SB 298 was assigned to the Ways and Means Committee, chaired by Rep. William Crawford (D-Indianapolis), an ITPC and tobacco control supporter. In committee, the opportunity for public comment drew 45 supporters of ITPC. The only speakers supporting abolishing the ITPC Executive Board were Sen. Kenley and Chris Ruhl, Indiana's Budget Director, who reiterated the potential saving of \$1.1 million by eliminating all of ITPC's staff. The testimony lasted for two and a half hours, but Rep. Crawford did not call for a vote. Crawford's decision to not call for a vote effectively killed SB 298. However, tobacco control advocates expected the original language to re-emerge in Conference Committee because the language had crossed chambers and therefore could be included in the Conference Committee bill.<sup>168, 766</sup>

The language of SB 298 was indeed still alive and was revived toward the legislative session's end, on March 2, 2010, as part of the debate on the state's budget problems stemming from a shortage of tax receipts; Indiana collected \$895 million less than expected in tax receipts during the fiscal year's first eight months. Governor Daniels used this announcement as an opportunity to revive his attempt to move ITPC into ISDH.<sup>767</sup>

The session lingered due to disagreements in the legislature on a variety of other issues, which perpetuated the threat that the ITPC language would be inserted into another Conference Committee bill. However, the language dissolving the ITPC Executive Board did not appear in the Conference Committee report of any bill in the 2010 Legislative Session. TFI and its team of passionate, well-organized advocates displayed their ability to use multiple methods of advocacy. In addition to a huge outcry from the public and ITPC's community coalitions, TFI's nurturing of relationships with legislators and the early use of the media which allowed the tobacco control advocates to maintain an effective presence throughout the legislative session.<sup>768</sup>

### **CONCLUSIONS AND RECOMMENDATIONS**

While Indiana had individual tobacco control advocates as early as the mid-1970s, their political activity was disorganized and uncoordinated. Most early advocates were physicians or researchers from the state's universities and advocated alongside national public health groups, most notably the American Cancer Society and the American Lung Association. However, there was no organized movement equipped to mobilize a body of grassroots advocates or lead a campaign by modern standards. Clean indoor air and cigarette tax proposals originated spontaneously with interested legislators but none passed the General Assembly because of tobacco industry opposition and the industry's growing network of ally organizations and industries.

Advocates formed Indiana's first tobacco control coalition unique in 1986 called the Indiana Campaign for a Tobacco-Free Society. In 1987, Indiana passed three state tobacco control laws, one restricting smoking in government buildings to smoking sections, one increasing the cigarette tax from 10.5 to 15.5 cents per pack, and one increasing legal purchase age for tobacco from 16 to 18. This beginning of policy movement reflected changing public opinion regarding smoking, inspired in part by the seminal 1986 U.S. Surgeon General's

Report<sup>116</sup> on secondhand smoke. While the new tobacco control coalition contributed to the clean indoor air law's passage, the coalition was only loosely organized, had no structure and no funding source, which made it difficult to hold it together.

Between 1991 and 1999, Indiana's participation in NCI's ASSIST project provided Indiana with its first funded tobacco control program which allowed advocates the opportunity to learn about organizing and running grassroots advocacy campaigns. Indiana had never funded tobacco control programming before. Even though Indiana State Health Department applied for the ASSIST grant, state officials were not receptive to the ASSIST program, and State Health Commissioner John (Chris) Bailey was opposed to the program. ASSIST's leadership was forced to contract out the project management to Ball State University to give it the freedom to function with less political interference.

ASSIST had limited policy success in Indiana. Its biggest failure was the inability of its advocates to defeat the tobacco industry-supported legislation that established local preemption of laws to restrict the sale, distribution or display of tobacco products. Its greatest success was the northeast coalition's passage of Fort Wayne's 1998 clean indoor air ordinance which provided some coverage for enclosed public places and restaurants. Not only was Fort Wayne the strongest local ordinance up to that point, but it represented significant strides forward in tobacco control advocacy, which was beginning to progress to a higher level of sophistication in the late 1990s.

In 1998, led by Attorney General Jeffrey A. Modisett, Indiana signed the Master Settlement Agreement with the tobacco industry which provided a sudden windfall of money to the state expected to total over \$4 billion over the first 25 years. In 2000, in an uncharacteristic move by the state (which had not historically focused on public health issues), Indiana became a national leader in tobacco control when the General Assembly created the Indiana Tobacco Prevention and Cessation Agency (ITPC), an agency independent of the State Department of Health. Altria/Philip Morris hoped that it could use its political connections to influence the ITPC Executive Board's appointments and agenda, but failed. Governor Frank O'Bannon appointed a strong board of committed and competent tobacco control experts, who developed and implemented the "Hoosier Model" a comprehensive tobacco control program.<sup>3</sup>

The General Assembly initially funded ITPC at CDC-recommended levels (\$35 million) which allowed the new agency to launch a statewide assault on tobacco with a strong focus on local communities and youth tobacco use. The program resulted in a precipitous decline in youth tobacco use. Between 2000 (when the General Assembly created ITPC) and 2008, high school student smoking prevalence dropped by 42 percent and middle school smoking rates by 58 percent.<sup>28</sup> Indiana's adult smoking prevalence did not consistently decline beyond national trends after 2000, when ITPC was created, although per capita consumption did. Indiana's total per capita cigarette consumption decreased 37 percent between 2000 and 2009, faster than the national decline of 32 percent. The failure to reduce adult prevalence may have been the result of ITPC's decision to prioritize youth prevention when resources were cut.

The state witnessed the passage of 38 local smokefree ordinances after ITPC started funding the formation of tobacco control coalitions in each of Indiana's 92 counties. The success at passing the 2005 Indianapolis-Marion County clean indoor air ordinance which covered public places and workplaces, including restaurants but not bars or private clubs, encouraged passage of many of these ordinances, many of which copied the Indianapolis-Marion County provisions, including the exemptions. In 2007, after advocates signed a deal breaker agreement committing to only accepting comprehensive laws, many of the subsequent ordinances covered bars and some covered private clubs.

Advocates hoped that their local successes would encourage the General Assembly to pass a comprehensive state law. In 2009, advocates came close to winning a state law covering workplaces and public places including restaurants and bars, but not gaming facilities. The Indiana Campaign for Smokefree Air initially stuck to its agreed-upon deal breakers and said they would only accept a comprehensive law for all public places and workplaces with no exemptions – including casinos; without this 100% coverage, they said they wanted the bill killed. The coalition later modified its position when the bill was in conference committee and passively accepted the casino exemptions. By that point, however, it was too late and the bill died.

Tobacco control advocates made a mistake in being so inflexible. The bill did not include preemption or other pro-industry provisions (such as allowing for ventilated smoking areas or hours of operation provisions). They missed an opportunity to pass a strong law (by national standards at the time), which would have created a situation where casinos could continue to have been addressed through local ordinances or revisiting the issue at the state legislature a few years later.

Despite this failure at the state level, Indiana tobacco control advocates remain well positioned to continue working at the local level. This progress was probably inhibited, however, by the reduced in funding to local coalitions that ITPC has been forced to make following its own funding cuts. Equally important, tobacco control advocates made a mistake in considering strengthening the Indianapolis-Marion County (the capital) ordinance to be a missing link necessary for future successes in the General Assembly and a prerequisite for passing strong local ordinances in other localities. Where there is no question that such a success in Indianapolis-Marion County would have helped elsewhere, given the strong political opposition there, they probably would have been better to seek victories elsewhere. In many other states, successes in smaller localities was used to leverage the passage of ordinances in bigger cities (like the state capital) and in the statehouse. Tobacco control advocates should reinvigorate local efforts throughout the state and not wait for a success in Indianapolis-Marion County (or at the state level).

In addition to seeking localities where there are strong local coalitions and supportive local legislators, advocates should consider focusing on passing ordinances in the districts of Representatives and Senators who are strongly opposed to smokefree air policies as a strategy for building support for a statewide smokefree law. Advocates in Virginia were able to gain the support of an obstinate House Speaker by mobilizing advocates in his district and targeting him directly<sup>37</sup> which could be an effective strategy in Indiana. ITPC suffered severe funding cuts

during the 2003 Legislative Session which were substantially larger than cuts to other non-tobacco programs being funded with MSA money. (Indeed, some of the non-tobacco programs saw their funding increase.) Despite strong advocacy from the public health community, as of 2010 these cuts had not been restored, and ITPC was funded at only 14 percent of the CDC recommended level. These cuts forced ITPC to scale back its media campaign and cut its extensive community-based coalitions.<sup>12</sup> Not surprisingly, as in other states,<sup>738-741, 743, 744</sup> these cuts have been accompanied by reduced program effectiveness, meaning more people are smoking (and using other tobacco products more) than would have been the case had the ITPC's effective programs remained intact. The result has been higher levels of tobacco consumption with the associated tobacco-induced disease and attendant health care costs – as well as higher tobacco company sales and profits.

Some in the public health advocacy community saw these cuts as retribution for the tobacco control advocates' vigorous and appropriate opposition to Governor O'Bannon's efforts to securitize the MSA funds, which would have reduced the pool of money available to support ITPC. While this possibility cannot be excluded, the fact remains that tobacco control programs all over the country have suffered similar severe budget cuts (with attendant benefits to the tobacco industry) using a wide range of justifications, tailored to local conditions.<sup>329, 448, 460, 739</sup> Indiana advocates should continue to use ITPC's strong record of accomplishment, together with the evidence that high quality tobacco control programs not only reduce smoking, but short-term health costs<sup>741, 769, 770</sup> to continue aggressive advocacy to rebuild the program.

The General Assembly acted prudently when it established ITPC as an independent agency in an effort to insulate it from political interference and make it more likely that it would implement the most effective evidence-based tobacco control interventions. ITPC realized this promise in its early years, became a national model, and achieved strong positive results in terms of public health. The agency's independence has come under periodic attack, as have similar independent agencies in other states, including Ohio, Mississippi and Minnesota,<sup>284, 329, 448, 449, 748</sup> which were severely undermined by political interference as elected officials worked to reduce their effectiveness or dissolve them altogether. Ohio's tobacco control program has stalled in years since as the foundation and the American Legacy Foundation have sued the state in attempts to recover the tobacco control funds.<sup>771</sup> Mississippi's annual \$20 million allocation to its independent partnership was raided, with the courts' support, shutting down nearly all of the state's tobacco control programming in 2006. \$8 million was provided to the Mississippi State Department of Health in 2007, far less than CDC-recommended funding. In 2008, Mississippi's adult smoking rate increased for the first time since 1994.<sup>503, 748</sup> Minnesota's attorney general, attempted to dissolve the Minnesota Partnership for Action Against Tobacco and move its funds for use by the Minnesota Department of Health. Though unsuccessful at dissolving the program, the attorney general was able to divert the program's focus so that it primarily addressed tobacco cessation, an ineffective use of funds.<sup>284, 329</sup> The ITPC Executive Board and the state network of tobacco control advocates were right to organize and fight for maintaining the independent program and should continue to do so in the future.

Despite these difficulties, Indiana continues to have great potential to re-emerge as a leader in tobacco control. If Indiana's elected officials fund ITPC at CDC-recommended levels, maintain its independence and allow ITPC the freedom to implement evidence-based best



practice tobacco control interventions, Indiana will experience greater reductions in smoking rates across all age groups. If advocates can restore full funding and ITPC broadens its program to reintegrate adults it will likely yield rapid decreases in health care costs and other economic losses stemming from tobacco-related illnesses<sup>741</sup> and so contribute not only to the physical health of Hoosiers, but also the fiscal health of Indiana's government and businesses.

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## **APPENDICES**

**Appendix A: Tobacco Industry Expenditures on General Assembly Lobbying, 2000-2009**

**Appendix B: Tobacco Industry Campaign Contributions by Candidate, 1994-2008**

**Appendix C: Tobacco Industry Campaign Contributions by Contributor, 1994-2008**

**Appendix D: Tobacco Industry Contributions to Political Party Organizations, 1994-2008**

**Appendix E: Legislative Policy Scores, 116th General Assembly, 2009-2010**

**Appendix A: Tobacco Industry Expenditures on General Assembly Lobbying, 2000-2009**

Principle	Lobbyists	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Altria/Philip Morris	Baker & Daniels; Derek Crawford; Marianne Kiely Baker & Daniels; Timothy L Holston	\$175,876	\$158,307	\$177,715	\$100,600	\$121,843	\$110,442	\$67,629	\$131,771	\$175,611	\$69,249
										<b>TOTAL</b>	<b>\$1,289,043</b>
Brown & Williamson	Mike Phillips, Jeff Phillips (Phillips & Phillips); Poinsett J. Bradley Fox; Mike Phillips, Jeff Phillips (Phillips & Phillips); Stacy Rutherford; Executive Communications; BoseTreacy J. Bradley Fox; Mike Phillips, Jeff Phillips (Phillips & Phillips); Jim Purucker	\$81,450	\$104,739	\$87,326	\$141,867	\$0					
										<b>TOTAL</b>	<b>\$415,382</b>
Cigar Association of America	Treacy Boyle Advocacy Group; BoseTreacy Associates, LLC Stewart & Irwin, P.C.; Fred Garver	\$33,100	\$33,100	\$33,197	\$26,350	\$27,750	\$37,855	\$29,500	\$41,210	\$42,000	\$31,645
										<b>TOTAL</b>	<b>\$335,707</b>
Lorillard	Thomas E. Fruechtenicht Mike Phillips (Phillips & Phillips) Bose Treacy & Associates LLC Bose Public Affairs Group	\$34,574	\$32,040	\$35,793	\$72,517	\$72,100	\$72,000	\$36,000	\$32,453	\$31,494	\$29,172
										<b>TOTAL</b>	<b>\$448,144</b>
Reynolds American	Phillips & Phillips; Mahern & Associates Phillips & Phillips; Mahern & Associates; Executive Communications, Inc.			\$99,597						\$180,879	\$115,716

Principle	Lobbyists	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
										TOTAL	\$396,192
	Johnson, Smith, Pence & Heath, LLP	\$62,352									
	Ice Miller, LLP; Johnson, Smith, Pence & Heath, LLP		\$61,799								
	Ice Miller, LLP			\$70,857	\$27,112						
	Ice Miller, LLP; Phillips & Phillips					\$124,885					
	Executive Communications, Inc.; Ice Miller, LLP; J. Bradley Fox						\$130,926				
RJ Reynolds	Executive Communications, Inc.; Ice Miller, LLP							\$46,328			
								\$59,047			
										TOTAL	\$583,306
Smokeless Tobacco Council	Nelson J. Becker	\$35,100	\$35,100	\$35,100							
	Thomas E. Fruechtenicht				\$6,400						
										TOTAL	\$111,700
US	Brian J. Fojtik										\$53,525
Smokeless Tobacco	SDS Group Limited	\$37,530	\$40,487	\$40,441	\$36,688	\$37,577	\$50,965	\$26,100		\$53,425	
	Markt Group, Inc.; SDS Group								\$73,050		
										TOTAL	\$449,788
										2000-2009 TOTAL	\$4,029,262
Bose Public Affairs Group (Also known as BoseTreacy Associates LLC) is the merger of lobbying groups Bose McKinney & Evans LLP and the Treacy-Boyle Advocacy Group in September of 2000. Each group retains its original name at times. Thomas E. Fruechtenicht and John V. Barnett joined Bose Public Affairs Group in 2004 with the merger of BoseTreacy Associates LLC and Fruechtenicht & Barnett.											

Appendix B: Tobacco Industry Campaign Contributions by Candidate, 1994-2008									
Candidate	Party	Office	District	Year	Contributor	Amount	Total By Year		
ALDERMAN, ROBERT K	R	H	83	1996	RJ REYNOLDS	\$500	1996 Total		\$800
					TOBACCO INSTITUTE	\$300	1996 Total		\$800
				1998	ALTRIA/PM	\$250	1998 Total		\$450
					TOBACCO INSTITUTE	\$200	1998 Total		\$450
				2000	ALTRIA/PM	\$150	2000 Total		\$550
					LORILLARD	\$200	2000 Total		\$550
					RJ REYNOLDS	\$200	2000 Total		\$550
ALEXA, WILLIAME				2002	ALTRIA/PM	\$300	2002 Total		\$300
					Sum Total 1994-2008		Sum Total 1994-2008		\$2,100
	D	S	5	2000	ALTRIA/PM	\$400	2000 Total		\$800
					BROWN & WILLIAMSON	\$400	2000 Total		\$800
ALTING, RONNIE J	R	S	22	2000	ALTRIA/PM	\$400	2000 Total		\$400
				2002	LORILLARD	\$250	2002 Total		\$250
				2008	LORILLARD	\$500	2008 Total		\$500
					Sum Total 1994-2008		Sum Total 1994-2008		\$1,150
ANTICH, ROSE ANN	D	S	4	1994	ALTRIA/PM	\$400	1994 Total		\$400
				1998	ALTRIA/PM	\$200	1998 Total		\$400
					TOBACCO INSTITUTE	\$200	1998 Total		\$400
				2000	ALTRIA/PM	\$100	2000 Total		\$100
				2002	ALTRIA/PM	\$500	2002 Total		\$500
ATTERHOLT, JAMES DOUGLAS					Sum Total 1994-2008		Sum Total 1994-2008		\$1,400
	R	H	86	2000	ALTRIA/PM	\$100	2000 Total		\$100
				2002	KING RICHARDS CIGAR	\$250	2002 Total		\$250
					Sum Total 1994-2008		Sum Total 1994-2008		\$350
AUSTIN, TERRI J	D	H	36	2004	RJ REYNOLDS	\$250	2004 Total		\$250
				2006	ALTRIA/PM	\$200	2006 Total		\$200
				2008	ALTRIA/PM	\$300	2008 Total		\$300
					Sum Total 1994-2008		Sum Total 1994-2008		\$750
BAILEY, WILLIAM W	D	H	66	1998	ALTRIA/PM	\$250	1998 Total		\$450
					TOBACCO INSTITUTE	\$200	1998 Total		\$450
				2000	ALTRIA/PM	\$100	2000 Total		\$100
					Sum Total 1994-2008		Sum Total 1994-2008		\$550
BALES, JERRY F	R	H	60	1994	US SMOKELESS TOBACCO	\$300	1994 Total		\$300
				1996	US SMOKELESS TOBACCO	\$150	1996 Total		\$150
					Sum Total 1994-2008		Sum Total 1994-2008		\$450

Candidate	Party	Office	District	Year	Contributor	Amount	Total By Year
				1998	KING RICHARDS CIGAR	\$500	1998 Total \$500
				Sum Total 1994-2008			\$950
BATTLES, KREG	D	H	64	2008	ALTRIA/PM	\$300	2008 Total \$300
					RJ REYNOLDS	\$250	2008 Total \$550
				Sum Total 1994-2008			\$550
BAUER, B PATRICK	D	H	6	1994	RJ REYNOLDS	\$400	1994 Total \$600
					TOBACCO INSTITUTE	\$200	
				1996	RJ REYNOLDS	\$200	1996 Total \$350
					TOBACCO INSTITUTE	\$150	
				1998	ALTRIA/PM	\$300	1998 Total \$300
				2000	ALTRIA/PM	\$500	
					LORILLARD	\$200	2000 Total \$700
				2002	BROWN & WILLIAMSON	\$500	2002 Total \$500
				2004	ALTRIA/PM	\$2,000	
					BROWN & WILLIAMSON	\$1,000	
					LORILLARD	\$900	
					RJ REYNOLDS	\$1,000	2004 Total \$4,900
				2006	ALTRIA/PM	\$1,500	
					LORILLARD	\$400	2006 Total \$1,900
				2008	RJ REYNOLDS	\$2,500	
					US SMOKELESS TOBACCO	\$1,000	2008 Total \$3,500
				Sum Total 1994-2008			\$12,750
BECKER, VANETA	R	S	50	2008	ALTRIA/PM	\$600	2008 Total \$600
BEHNING, ROBERT W	R	H	91	1998	ALTRIA/PM	\$200	1998 Total \$850
					KING RICHARDS CIGAR	\$550	
					TOBACCO INSTITUTE	\$100	
				2000	ALTRIA/PM	\$200	2000 Total \$400
				2002	KING RICHARDS CIGAR	\$200	2002 Total \$200
				2004	ALTRIA/PM	\$200	
				2004	RJ REYNOLDS	\$250	2004 Total \$450
				Sum Total 1994-2008			\$1,900
BELL, MATTHEW	R	H	83	2006	RJ REYNOLDS	\$200	2006 Total \$200
				2008	LORILLARD	\$500	2008 Total \$500
BISCHOFF, ROBERT J	D	H	68	1994	RJ REYNOLDS	\$150	1994 Total \$150

Candidate	Party	Office	District	Year	Contributor	Amount	Total By Year
				1998	RJ REYNOLDS	\$250	1998 Total \$250
				2000	ALTRIA/PM	\$100	2000 Total \$100
				2000	BROWN & WILLIAMSON	\$200	2000 Total \$200
				2000	KING RICHARDS CIGAR	\$500	2000 Total \$500
				2002	ALTRIA/PM	\$200	2002 Total \$200
				2002	BROWN & WILLIAMSON	\$100	2002 Total \$100
				2008	RJ REYNOLDS	\$250	2008 Total \$250
							Sum Total 1994-2008 \$1,750
BLADE, MARK	D	S	38	2000	ALTRIA/PM	\$400	2000 Total \$400
				2000			Sum Total 1994-2008 \$400
BODIKER SR, RICHARD WILLIAM	D	H	56	1996	TOBACCO INSTITUTE	\$100	1996 Total \$100
				1998	KING RICHARDS CIGAR	\$500	1998 Total \$500
				2000	ALTRIA/PM	\$200	
					KING RICHARDS CIGAR	\$300	2000 Total \$500
							Sum Total 1994-2008 \$1,100
BOOTS, PHILLIP L	R	S	23	2008	ALTRIA/PM	\$600	2008 Total \$600
							Sum Total 1994-2008 \$600
BORDERS, BRUCE ALAN	R	H	45	2006	ALTRIA/PM	\$200	
					RJ REYNOLDS	\$450	2006 Total \$650
				2008	RJ REYNOLDS	\$250	2008 Total \$250
							Sum Total 1994-2008 \$900
BORST, LAWRENCE M	R	S	36	1996	ALTRIA/PM	\$700	
					BROWN & WILLIAMSON	\$250	
					RJ REYNOLDS	\$1,000	
					TOBACCO INSTITUTE	\$200	1996 Total \$2,150
				1998	RJ REYNOLDS	\$300	1998 Total \$300
				2000	BROWN & WILLIAMSON	\$1,500	
					LORILLARD	\$200	
					RJ REYNOLDS	\$1,500	
					US SMOKELESS TOBACCO	\$500	2000 Total \$3,700
				2002	BROWN & WILLIAMSON	\$900	2002 Total \$900
				2004	ALTRIA/PM	\$1,500	
					BROWN & WILLIAMSON	\$300	
					LORILLARD	\$500	2004 Total \$2,300
							Sum Total 1994-2008 \$9,350
BOSMA, BRIAN C	R	H	88	1998	BROWN & WILLIAMSON	\$200	1998 Total \$200
				2002	ALTRIA/PM	\$400	

Candidate	Party	Office	District	Year	Contributor	Amount	Total By Year	
BOTTORFF, JAMES L	D	H	71	1998	BROWN & WILLIAMSON	\$100	1998 Total \$200	
					KING RICHARDS CIGAR	\$150		
					RJ REYNOLDS	\$500		
					2004 LORILLARD	\$900		
					2006 ALTRIA/PM	\$1,500		
					LORILLARD	\$750		
					US SMOKELESS TOBACCO	\$2,000		
					2008 US SMOKELESS TOBACCO	\$1,000		
					Sum Total 1994-2008	\$7,500		
					1998 Total	\$200		
BRAY, RICHARD D	R	S	37	1996	ALTRIA/PM	\$150	1996 Total \$150	
					1998	TOBACCO INSTITUTE	\$100	1998 Total \$100
					Sum Total 1994-2008	\$250		
					2002	LORILLARD	\$200	2000 Total \$1,300
						US SMOKELESS TOBACCO	\$400	2002 Total \$200
						LORILLARD	\$200	Sum Total 1994-2008 \$1,700
BREAUX, JEAN	D	S	34	2008	LORILLARD	\$500	2008 Total \$500	
					Sum Total 1994-2008	\$500		
					2006	ALTRIA/PM	\$200	2006 Total \$850
						RJ REYNOLDS	\$650	Sum Total 1994-2008 \$850
BROWN, CHARLIE	D	H	3	1994	ALTRIA/PM	\$200	1994 Total \$200	
					1998	ALTRIA/PM	\$150	1998 Total \$150
					2000	ALTRIA/PM	\$350	2000 Total \$550
					LORILLARD	\$200	2002 Total \$400	
					2002	ALTRIA/PM	\$400	2004 Total \$400
					2004	ALTRIA/PM	\$400	2006 Total \$200
					2006	ALTRIA/PM	\$200	Sum Total 1994-2008 \$1,900
					Sum Total 1994-2008	\$1,900		
BROWN, TIM	R	H	41	2006	ALTRIA/PM	\$200	2006 Total \$200	
					Sum Total 1994-2008	\$200		
BUCK, JAMES R	R	H	38	2008	RJ REYNOLDS	\$250	2008 Total \$250	
					Sum Total 1994-2008	\$250		
BUELL, LAWRENCE	R	H	89	2000	KING RICHARDS CIGAR	\$300	2000 Total \$300	
					Sum Total 1994-2008	\$300		

Candidate	Party	Office	District	Year	Contributor	Amount	Total By Year
BURTON, WOODY	R	H	58	1998	KING RICHARDS CIGAR	\$500	Sum Total 1994-2008 \$300
				2002	KING RICHARDS CIGAR	\$1,250	1998 Total \$500
				2004	KING RICHARDS CIGAR	\$1,600	2002 Total \$1,250
							2004 Total \$1,600
							Sum Total 1994-2008 \$3,350
CARTER, STEPHEN	R	AG	SW	2000	KING RICHARDS CIGAR	\$500	2000 Total \$500
				2004	KING RICHARDS CIGAR	\$1,000	2004 Total \$1,000
							Sum Total 1994-2008 \$1,500
CHEATHAM, DAVID	D	H	69	2008	RJ REYNOLDS	\$250	2008 Total \$250
							Sum Total 1994-2008 \$250
CHERRY, ROBERT W	R	H	53	2000	RJ REYNOLDS	\$150	2000 Total \$150
				2002	KING RICHARDS CIGAR	\$400	2002 Total \$400
				2006	ALTRIA/PM	\$300	2006 Total \$300
							Sum Total 1994-2008 \$850
CHOWNING, ALAN B	D	H	45	2004	ALTRIA/PM	\$400	2004 Total \$650
					RJ REYNOLDS	\$250	Sum Total 1994-2008 \$650
CLARK, JAMES MURRAY	R	S	29	1998	ALTRIA/PM	\$400	1998 Total \$400
				2000	ALTRIA/PM	\$300	2000 Total \$300
				2002	ALTRIA/PM	\$300	2002 Total \$300
					KING RICHARDS CIGAR	\$250	2002 Total \$550
				2004	LORILLARD	\$550	2004 Total \$550
							Sum Total 1994-2008 \$1,800
COCHRAN, WILLIAM C	D	H	72	1998	ALTRIA/PM	\$100	1998 Total \$250
					RJ REYNOLDS	\$150	2000 Total \$100
				2000	ALTRIA/PM	\$100	2002 Total \$100
				2002	ALTRIA/PM	\$100	2002 Total \$100
				2008	ALTRIA/PM	\$200	2008 Total \$200
							Sum Total 1994-2008 \$650
CRAWFORD, WILLIAM A	D	H	98	1998	ALTRIA/PM	\$200	1998 Total \$200
				2000	ALTRIA/PM	\$200	2000 Total \$200
				2002	ALTRIA/PM	\$200	2002 Total \$700
					BROWN & WILLIAMSON	\$500	2002 Total \$700
				2004	ALTRIA/PM	\$200	2004 Total \$700
					LORILLARD	\$500	2004 Total \$700
				2006	LORILLARD	\$400	2006 Total \$400
							Sum Total 1994-2008 \$2,200



Candidate	Party	Office	District	Year	Contributor	Amount	Total By Year
CRAYCRAFT JR, ALLIE V	D	S	26	1998	ALTRIA/PM	\$200	1998 Total \$200
				2002	ALTRIA/PM	\$200	2002 Total \$200
							Sum Total 1994-2008 \$400
CROOKS, DAVE	D	H	63	1998	RJ REYNOLDS	\$150	1998 Total \$150
				2000	ALTRIA/PM	\$100	2000 Total \$100
				2002	ALTRIA/PM	\$300	
				BROWN & WILLIAMSON		\$100	
				LORILLARD		\$200	2002 Total \$600
			Sum Total 1994-2008 \$850				
CROSBY, SUSAN RAY	D	H	44	1998	RJ REYNOLDS	\$250	1998 Total \$250
				2000	ALTRIA/PM	\$300	2000 Total \$300
				2002	ALTRIA/PM	\$150	2002 Total \$150
			Sum Total 1994-2008 \$700				
DANIELS, MITCH	R	G	SW	2004	ALTRIA/PM	\$16,000	
				BROWN & WILLIAMSON		\$2,500	
				KING RICHARDS CIGAR		\$7,000	
				LORILLARD		\$5,000	
				RJ REYNOLDS		\$2,000	2004 Total \$33,500
				US SMOKELESS TOBACCO		\$1,000	
				2006	ALTRIA/PM	\$5,000	2006 Total \$10,000
				LORILLARD		\$5,000	
				2008	US SMOKELESS TOBACCO	\$6,000	2008 Total \$6,000
							Sum Total 1994-2008 \$49,500
DAVIS, BILL J	R	H	33	2006	ALTRIA/PM	\$200	
				RJ REYNOLDS		\$450	2006 Total \$650
				2008	ALTRIA/PM	\$200	
				RJ REYNOLDS		\$250	2008 Total \$450
			Sum Total 1994-2008 \$1,100				
DAVIS, JAMES L	R	H	28	1994	ALTRIA/PM	\$150	1994 Total \$150
				1996	ALTRIA/PM	\$250	1996 Total \$250
				RJ REYNOLDS		\$250	1996 Total \$250
				TOBACCO INSTITUTE		\$300	1996 Total \$800
				TOBACCO INSTITUTE		\$100	1998 Total \$100
			Sum Total 1994-2008 \$1,050				
DELPH, MIKE	R	S	29	2006	ALTRIA/PM	\$200	2006 Total \$200
				2008	ALTRIA/PM	\$600	2008 Total \$600
							Sum Total 1994-2008 \$800

Candidate	Party	Office	District	Year	Contributor	Amount	Total By Year
DEMPSEY, SANDRA	R	S	1	1998	ALTRIA/PM	\$250	
					CERESTAR USA	\$200	
					INDIANAS LAST		
					CIGARETTE SALES	\$200	
					RJ REYNOLDS	\$300	1998 Total \$950 Sum Total 1994-2008 \$950
DENBO, JERRY L	D	H	62	1996	US SMOKELESS TOBACCO	\$100	1996 Total \$100
				1998	ALTRIA/PM	\$150	1998 Total \$150
							Sum Total 1994-2008 \$250
DOBIS, CHESTER F	D	H	13	1996	TOBACCO INSTITUTE	\$150	1996 Total \$150
				1998	ALTRIA/PM	\$100	1998 Total \$100
				2000	ALTRIA/PM	\$200	2000 Total \$200
				2002	ALTRIA/PM	\$100	2002 Total \$100
							Sum Total 1994-2008 \$550
DOLL, MAURICE E (MORRIE)	D	S	39	1994	ALTRIA/PM	\$200	1994 Total \$200
							Sum Total 1994-2008 \$200
DUNCAN, CLEO	R	H	67	1998	TOBACCO INSTITUTE	\$100	1998 Total \$100
				2002	ALTRIA/PM	\$100	2002 Total \$100
							Sum Total 1994-2008 \$200
ESPICH, JEFF	R	H	82	1994	RJ REYNOLDS	\$150	
					TOBACCO INSTITUTE	\$200	1994 Total \$350
				1996	ALTRIA/PM	\$300	1996 Total \$300
				1998	ALTRIA/PM	\$250	
					BROWN & WILLIAMSON	\$200	
					RJ REYNOLDS	\$575	
					TOBACCO INSTITUTE	\$250	1998 Total \$1,275
				2000	ALTRIA/PM	\$300	
					LORILLARD	\$200	2000 Total \$500
				2002	ALTRIA/PM	\$400	
					BROWN & WILLIAMSON	\$100	
					LORILLARD	\$200	2002 Total \$700
				2004	ALTRIA/PM	\$250	
					LORILLARD	\$1,000	
					RJ REYNOLDS	\$250	2004 Total \$1,500
				2006	ALTRIA/PM	\$300	
	LORILLARD	\$750	2006 Total \$1,050				
			2008 ALTRIA/PM \$600				

Candidate	Party	Office	District	Year	Contributor	Amount	Total By Year
					LORILLARD	\$500	
					RJ REYNOLDS	\$500	2008 Total \$1,600 Sum Total 1994-2008 \$7,275
FESKO, TIMOTHY	R	H	15	1998	ALTRIA/PM	\$150	1998 Total \$150 Sum Total 1994-2008 \$150
FOLEY, RALPH M	R	H	47	1998	ALTRIA/PM	\$100	1998 Total \$100 Sum Total 1994-2008 \$100
FRENZ, JOHN GREGORY	D	H	64	1996	RJ REYNOLDS	\$150	1996 Total \$150
				1998	RJ REYNOLDS	\$400	1998 Total \$400
				1998	US SMOKELESS TOBACCO	\$100	1998 Total \$500 Sum Total 1994-2008 \$650
FRIEND, WILLIAM C	R	H	23	1998	RJ REYNOLDS	\$114	
					US SMOKELESS TOBACCO	\$100	1998 Total \$214
				2006	LORILLARD	\$400	
					US SMOKELESS TOBACCO	\$500	2006 Total \$900 Sum Total 1994-2008 \$1,114
FRIZZELL, DAVID N	R	H	93	1998	KING RICHARDS CIGAR	\$400	1998 Total \$400
				2000	KING RICHARDS CIGAR	\$200	2000 Total \$200
				2002	KING RICHARDS CIGAR	\$200	2002 Total \$200
				2004	ALTRIA/PM	\$200	
					RJ REYNOLDS	\$250	2004 Total \$450
				2006	ALTRIA/PM	\$400	2006 Total \$400
				2008	ALTRIA/PM	\$600	
					US SMOKELESS TOBACCO	\$500	2008 Total \$1,100 Sum Total 1994-2008 \$2,750
FRY, CRAIG R	D	H	5	2008	ALTRIA/PM	\$400	
					RJ REYNOLDS	\$250	2008 Total \$650 Sum Total 1994-2008 \$650
GARD, BEVERLY J	R	S	28	1996	ALTRIA/PM	\$250	1996 Total \$250 Sum Total 1994-2008 \$250
GARTON, ROBERT D	R	S	41	1994	ALTRIA/PM	\$250	
					RJ REYNOLDS	\$700	
					TOBACCO INSTITUTE	\$200	1994 Total \$1,150
				1998	ALTRIA/PM	\$700	
					BROWN & WILLIAMSON	\$400	
					RJ REYNOLDS	\$500	
					TOBACCO INSTITUTE	\$350	1998 Total \$1,950

Candidate	Party	Office	District	Year	Contributor	Amount	Total By Year
GIAQUINTA, PHIL	D	H	80	2000	ALTRIA/PM	\$800	2000 Total Sum Total 1994-2008
					BROWN & WILLIAMSON	\$500	
					LORILLARD	\$200	
					SMOKELESS TOBACCO COUNCIL	\$500	
					US SMOKELESS TOBACCO	\$400	
					ALTRIA/PM	\$500	
					BROWN & WILLIAMSON	\$900	
					ALTRIA/PM	\$1,000	
					US SMOKELESS TOBACCO	\$1,500	
					2006	ALTRIA/PM	
GILROY, SUE ANNE	R	SS	SW	1998	KING RICHARDS CIGAR	\$2,000	1998 Total
					Sum Total 1994-2008	\$2,000	
GOBLE, EDWARDE	D	H	67	1994	RJ REYNOLDS	\$150	1994 Total Sum Total 1994-2008
					TOBACCO INSTITUTE	\$150	
					US SMOKELESS TOBACCO	\$150	
					Sum Total 1994-2008	\$450	
GOODIN, TERRY	D	H	66	2002	BROWN & WILLIAMSON	\$100	2002 Total
					ALTRIA/PM	\$500	
				2008	Sum Total 1994-2008	\$600	
					1994 Total	\$150	
GREGG, JOHN R	D	H	45	1994	RJ REYNOLDS	\$150	1994 Total
					ALTRIA/PM	\$500	
					TOBACCO INSTITUTE	\$350	
					ALTRIA/PM	\$800	
					BROWN & WILLIAMSON	\$200	
					TOBACCO INSTITUTE	\$200	
					ALTRIA/PM	\$1,000	
					BROWN & WILLIAMSON	\$1,000	
					LORILLARD	\$200	
					RJ REYNOLDS	\$1,500	
SMOKELESS TOBACCO COUNCIL					US SMOKELESS TOBACCO	\$500	1996 Total
					US SMOKELESS TOBACCO	\$800	
					ALTRIA/PM	\$500	
					Sum Total 1994-2008	\$5,000	
2002	BROWN & WILLIAMSON	\$300	2002 Total				
	Sum Total 1994-2008	\$800					

Candidate	Party	Office	District	Year	Contributor	Amount	Total By Year
GRUBB, FLOYD DALE	D	H	42	1994	RJ REYNOLDS	\$150	Sum Total 1994-2008 \$8,000
				1996	ALTRIA/PM	\$300	1994 Total \$150
					TOBACCO INSTITUTE	\$350	
					US SMOKELESS TOBACCO	\$125	1996 Total \$775
				1998	ALTRIA/PM	\$200	
					BROWN & WILLIAMSON	\$200	
					RJ REYNOLDS	\$650	
					TOBACCO INSTITUTE	\$250	
					US SMOKELESS TOBACCO	\$200	1998 Total \$1,500
					ALTRIA/PM	\$300	
GULLING, NICK	R	H	53	1996	RJ REYNOLDS	\$250	Sum Total 1994-2008 \$3,275
							1996 Total \$250
							Sum Total 1994-2008 \$250
				1998	ALTRIA/PM	\$100	1998 Total \$100
				2000	ALTRIA/PM	\$200	2000 Total \$200
HARRIS, EARL L	D	H	2	2002	ALTRIA/PM	\$150	2002 Total \$150
							Sum Total 1994-2008 \$450
HARRIS, TIMOTHY W	R	H	31	2006	ALTRIA/PM	\$200	
					RJ REYNOLDS	\$450	2006 Total \$650
					ALTRIA/PM	\$400	
				2008	RJ REYNOLDS	\$250	2008 Total \$650
							Sum Total 1994-2008 \$1,300
							1994 Total \$200
HARRISON, JOSEPH W	R	S	23	1994	TOBACCO INSTITUTE	\$200	
				1998	ALTRIA/PM	\$600	
					BROWN & WILLIAMSON	\$200	
					RJ REYNOLDS	\$1,000	
					TOBACCO INSTITUTE	\$400	
					US SMOKELESS TOBACCO	\$200	1998 Total \$2,400
				2000	ALTRIA/PM	\$400	
					LORILLARD	\$200	
					US SMOKELESS TOBACCO	\$550	2000 Total \$1,150
				2002	ALTRIA/PM	\$800	2002 Total \$800

Candidate	Party	Office	District	Year	Contributor	Amount	Total By Year
HAYES, ROBERT E	D	H	59	1994	TOBACCO INSTITUTE	\$150	Sum Total 1994-2008 \$4,550 1994 Total \$150 Sum Total 1994-2008 \$150
HEEKE, DENNIS H	D	H	73	1994	ALTRIA/PM	\$200	1994 Total \$350
					RJ REYNOLDS	\$150	
				1996	ALTRIA/PM	\$100	
					TOBACCO INSTITUTE	\$150	1996 Total \$250 Sum Total 1994-2008 \$600
HELLMANN, ROBERT F	D	S	38	1998	TOBACCO INSTITUTE	\$150	1998 Total \$150 Sum Total 1994-2008 \$150
HERNDON, C MICHAEL	R	H	57	2000	KING RICHARDS CIGAR	\$600	2000 Total \$600 Sum Total 1994-2008 \$600
HERRELL, RON	D	H	30	2008	RJ REYNOLDS	\$250	2008 Total \$250 Sum Total 1994-2008 \$250
HERSHMAN, BRANDT	R	S	7	2008	ALTRIA/PM	\$300	2008 Total \$300 Sum Total 1994-2008 \$300
HINKLE, PHILLIP D	R	H	92	2000	KING RICHARDS CIGAR	\$300	2000 Total \$300
				2008	RJ REYNOLDS	\$250	2008 Total \$250 Sum Total 1994-2008 \$550
HOFFMAN, ROBERT A	R	H	55	1998	ALTRIA/PM	\$150	1998 Total \$150
				2000	BROWN & WILLIAMSON	\$200	2000 Total \$200
							Sum Total 1994-2008 \$350
HOWARD, GLENN L	D	S	33	1996	TOBACCO INSTITUTE	\$150	1996 Total \$150
				2000	ALTRIA/PM	\$400	2000 Total \$400
				2004	LORILLARD	\$250	2004 Total \$250
							Sum Total 1994-2008 \$800
HUME, LINDEL O	D	S	48	1998	TOBACCO INSTITUTE	\$200	1998 Total \$200
				2000	ALTRIA/PM	\$400	
					BROWN & WILLIAMSON	\$200	2000 Total \$600
				2002	ALTRIA/PM	\$200	2002 Total \$200
				2006	ALTRIA/PM	\$200	2006 Total \$200
				2008	ALTRIA/PM	\$300	2008 Total \$300
							Sum Total 1994-2008 \$1,500
IRSAY, NANCY C	R	H	39	1998	KING RICHARDS CIGAR	\$500	1998 Total \$500 Sum Total 1994-2008 \$500
JACKMAN, ROBERT N	R	S	42	1998	TOBACCO INSTITUTE	\$100	1998 Total \$100
				2000	BROWN & WILLIAMSON	\$200	2000 Total \$200

Candidate	Party	Office	District	Year	Contributor	Amount	Total By Year
					LORILLARD	\$100	2000 Total \$300 Sum Total 1994-2008 \$400
JOHNSON, STEVEN R	R	S	21	1994	ALTRIA/PM	\$250	
					RJ REYNOLDS	\$450	
					TOBACCO INSTITUTE	\$200	1994 Total \$900
				1998	ALTRIA/PM	\$150	1998 Total \$150
				2000	ALTRIA/PM	\$400	2000 Total \$400
				2002	ALTRIA/PM	\$300	2002 Total \$300
							Sum Total 1994-2008 \$1,750
KEELER, JOHN S	R	H	86	1994	TOBACCO INSTITUTE	\$200	1994 Total \$200
				1996	ALTRIA/PM	\$150	
					TOBACCO INSTITUTE	\$100	1996 Total \$250
				1998	TOBACCO INSTITUTE	\$100	1998 Total \$100
							Sum Total 1994-2008 \$550
KENLEY, LUKE	R	S	20	1996	ALTRIA/PM	\$350	
					RJ REYNOLDS	\$250	1996 Total \$600
				1998	RJ REYNOLDS	\$250	1998 Total \$250
				2004	LORILLARD	\$300	
					RJ REYNOLDS	\$1,000	2004 Total \$1,300
				2006	ALTRIA/PM	\$800	
					LORILLARD	\$900	
					RJ REYNOLDS	\$700	2006 Total \$2,400
				2008	ALTRIA/PM	\$600	
					US SMOKELESS TOBACCO	\$2,500	2008 Total \$3,100
							Sum Total 1994-2008 \$7,650
KERNAN, JOSEPH E	D	G	SW	2002	ALTRIA/PM	\$6,500	
					BROWN & WILLIAMSON	\$2,000	2002 Total \$8,500
				2004	ALTRIA/PM	\$14,000	
					BROWN & WILLIAMSON	\$2,500	2004 Total \$16,500
							Sum Total 1994-2008 \$25,000
KNOLLMAN, TOM	R	H	55	2008	RJ REYNOLDS	\$250	2008 Total \$250
							Sum Total 1994-2008 \$250
KOCH, ERIC A	R	H	65	2008	ALTRIA/PM	\$200	
					RJ REYNOLDS	\$300	2008 Total \$500
							Sum Total 1994-2008 \$500
KROMKOWSKI, THOMAS	D	H	7	2004	SMOKELESS TOBACCO COUNCIL	\$100	2004 Total \$100

Candidate	Party	Office	District	Year	Contributor	Amount	Total By Year
KRUZAN, MARK	D	H	61	1994	ALTRIA/PM	\$200	Sum Total 1994-2008 \$100
				1996	ALTRIA/PM	\$100	1994 Total \$200
				2000	ALTRIA/PM	\$150	1996 Total \$100
							2000 Total \$150
							Sum Total 1994-2008 \$450
KUZMAN, ROBERT D	D	H	19	2000	ALTRIA/PM	\$600	
					BROWN & WILLIAMSON	\$250	
					LORILLARD	\$200	2000 Total \$1,050
				2002	ALTRIA/PM	\$500	2002 Total \$500
				2004	ALTRIA/PM	\$500	
					RJ REYNOLDS	\$500	2004 Total \$1,000
				2006	ALTRIA/PM	\$200	
					SMOKE SHOP V	\$300	
					SMOKE SHOP VI	\$300	2006 Total \$800
							Sum Total 1994-2008 \$3,350
LANDSKE, DOROTHY SUZANNE (SUE)	R	S	6	1994	ALTRIA/PM	\$250	
					RJ REYNOLDS	\$450	1994 Total \$700
				1998	ALTRIA/PM	\$250	1998 Total \$250
				2000	ALTRIA/PM	\$400	2000 Total \$400
				2006	ALTRIA/PM	\$300	2006 Total \$300
						Sum Total 1994-2008 \$1,650	
LAPLANTE, R BROOKS	R	H	46	2004	ALTRIA/PM	\$200	
					RJ REYNOLDS	\$250	2004 Total \$450
							Sum Total 1994-2008 \$450
LAWSON, LINDA C	D	H	1	2008	ALTRIA/PM	\$200	2008 Total \$200
LEONARD, DAN J	R	H	50	2008	RJ REYNOLDS	\$250	Sum Total 1994-2008 \$250
LEUCK, CLAIRE M	D	H	25	1994	RJ REYNOLDS	\$150	Sum Total 1994-2008 \$150
LEWIS JR, JAMES A	D	S	45	1994	ALTRIA/PM	\$250	
					RJ REYNOLDS	\$450	
					TOBACCO INSTITUTE	\$200	1994 Total \$900
				1998	ALTRIA/PM	\$200	
					BROWN & WILLIAMSON	\$200	
							KING RICHARDS CIGAR \$600



Candidate	Party	Office	District	Year	Contributor	Amount	Total By Year	
LIGGETT, RONALD D					RJ REYNOLDS	\$550		
					TOBACCO INSTITUTE	\$400		
					US SMOKELESS TOBACCO	\$100	1998 Total	
				2000	ALTRIA/PM	\$400		
					BROWN & WILLIAMSON	\$400		
					LORILLARD	\$200		
					US SMOKELESS TOBACCO	\$250	2000 Total	
				2002	ALTRIA/PM	\$600		
					BROWN & WILLIAMSON	\$100		
					KING RICHARDS CIGAR	\$250	2002 Total	
				2004	BROWN & WILLIAMSON	\$300		
					LORILLARD	\$250		
					RJ REYNOLDS	\$250		
				SMOKELESS TOBACCO				
				COUNCIL	\$100	2004 Total		
			2006	ALTRIA/PM	\$200			
				RJ REYNOLDS	\$300	2006 Total		
						Sum Total 1994-2008		
						\$6,550		
LINDER, JEFFREY M	D	H	33	1998	ALTRIA/PM	\$100		
					US SMOKELESS TOBACCO	\$100	1998 Total	
				2000	ALTRIA/PM	\$200	2000 Total	
							Sum Total 1994-2008	
							\$400	
	LINDR, JEFFREY M	R	H	57	1994	ALTRIA/PM	\$200	
						RJ REYNOLDS	\$200	
						TOBACCO INSTITUTE	\$200	1994 Total
					1996	ALTRIA/PM	\$550	
						RJ REYNOLDS	\$750	
						TOBACCO INSTITUTE	\$400	1996 Total
					1998	ALTRIA/PM	\$450	
						RJ REYNOLDS	\$650	
					TOBACCO INSTITUTE	\$350		
					US SMOKELESS TOBACCO	\$100	1998 Total	
				2000	ALTRIA/PM	\$150	2000 Total	
							Sum Total 1994-2008	
							\$4,000	
LOHR, DAVID L	R	H	46	1996	US SMOKELESS TOBACCO	\$250	1996 Total	
							Sum Total 1994-2008	
							\$250	
LONG, DAVID C	R	S	16	1996	RJ REYNOLDS	\$250	1996 Total	
							\$250	

Candidate	Party	Office	District	Year	Contributor	Amount	Total By Year
LUTZ, L JACK	R	H	36	1998	KING RICHARDS CIGAR	\$200	1998 Total \$200
				2000	ALTRIA/PM	\$200	2000 Total \$200
				2004	ALTRIA/PM	\$500	2004 Total \$500
				2006	ALTRIA/PM	\$800	
					LORILLARD	\$650	
					RJ REYNOLDS	\$300	2006 Total \$1,750
				2008	ALTRIA/PM	\$800	2008 Total \$800
							Sum Total 1994-2008 \$3,700
				1994	US SMOKELESS TOBACCO	\$150	1994 Total \$150
				1996	RJ REYNOLDS	\$250	
					TOBACCO INSTITUTE	\$150	
					US SMOKELESS TOBACCO	\$150	1996 Total \$550
				LUTZ, LARRY E	D	H	76
2000	ALTRIA/PM	\$350	2000 Total \$350				
2002	ALTRIA/PM	\$200	2002 Total \$200				
1996	US SMOKELESS TOBACCO	\$100	1996 Total \$100				
1998	ALTRIA/PM	\$250					
	BROWN & WILLIAMSON	\$200					
	RJ REYNOLDS	\$200					
	TOBACCO INSTITUTE	\$100	1998 Total \$750				
2000	ALTRIA/PM	\$350	2000 Total \$350				
2002	ALTRIA/PM	\$200	2002 Total \$200				
2004	ALTRIA/PM	\$400	2004 Total \$650				
2006	ALTRIA/PM	\$200	2006 Total \$200				
			Sum Total 1994-2008 \$3,850				

Candidate	Party	Office	District	Year	Contributor	Amount	Total By Year	
LYTLE, MARK T L	D	H	69	2004	SMOKELESS TOBACCO	\$100	2004 Total \$100	
					COUNCIL		Sum Total 1994-2008 \$1,500	
				1994	ALTRIA/PM	\$200	1994 Total \$700	
					RJ REYNOLDS	\$150		
					TOBACCO INSTITUTE	\$150		
					US SMOKELESS TOBACCO	\$200		
					ALTRIA/PM	\$200		
					RJ REYNOLDS	\$200		
					TOBACCO INSTITUTE	\$300		
					US SMOKELESS TOBACCO	\$150		
					ALTRIA/PM	\$500		
					BROWN & WILLIAMSON	\$200		
				1996	RJ REYNOLDS	\$500	1996 Total \$850	
					TOBACCO INSTITUTE	\$400		
					US SMOKELESS TOBACCO	\$100		
					ALTRIA/PM	\$500		
					BROWN & WILLIAMSON	\$450		
					LORILLARD	\$250		
					RJ REYNOLDS	\$250		
					SMOKELESS TOBACCO	\$250		
2000	COUNCIL	\$250	1998 Total \$1,700					
	US SMOKELESS TOBACCO	\$650						
	ALTRIA/PM	\$550						
	BROWN & WILLIAMSON	\$100						
	LORILLARD	\$200						
	RJ REYNOLDS	\$500						
	ALTRIA/PM	\$450						
	BROWN & WILLIAMSON	\$500						
	LORILLARD	\$250						
	RJ REYNOLDS	\$250						
2002	SMOKELESS TOBACCO	\$250	2002 Total \$1,350					
	COUNCIL	\$250						
	US SMOKELESS TOBACCO	\$650						
	ALTRIA/PM	\$550						
	BROWN & WILLIAMSON	\$100						
	LORILLARD	\$200						
	RJ REYNOLDS	\$500						
	ALTRIA/PM	\$450						
	BROWN & WILLIAMSON	\$500						
	LORILLARD	\$250						
2004	RJ REYNOLDS	\$250	2004 Total \$1,550					
	SMOKELESS TOBACCO	\$250						
	COUNCIL	\$100						
	Sum Total 1994-2008 \$8,500							
	1994 Total \$200							
	Sum Total 1994-2008 \$200							
	MACKLIN, LARRY D	D		S	19	1994 TOBACCO INSTITUTE	\$200	
	MAHERN, EDMUND M	D		H	97	2000 ALTRIA/PM	\$350	

Candidate	Party	Office	District	Year	Contributor	Amount	Total By Year
MANNWEILER, PAUL S				2002	BROWN & WILLIAMSON	\$450	2000 Total
					ALTRIA/PM	\$200	
					BROWN & WILLIAMSON	\$500	
					LORILLARD	\$200	2002 Total
				2004	ALTRIA/PM	\$500	
					LORILLARD	\$250	
					RJ REYNOLDS	\$250	
					SMOKELESS TOBACCO		
					COUNCIL	\$100	2004 Total
				2006	ALTRIA/PM	\$200	
					LORILLARD	\$250	2006 Total
							Sum Total 1994-2008
							\$3,250
MANNWEILER, PAUL S	R	H	87	1994	ALTRIA/PM	\$250	
					RJ REYNOLDS	\$750	
					TOBACCO INSTITUTE	\$200	1994 Total
				1996	ALTRIA/PM	\$1,000	
					TOBACCO INSTITUTE	\$350	1996 Total
				1998	ALTRIA/PM	\$750	
					BROWN & WILLIAMSON	\$200	
					KING RICHARDS CIGAR	\$2,000	
					RJ REYNOLDS	\$114	
					TOBACCO INSTITUTE	\$150	
					US SMOKELESS TOBACCO	\$306	1998 Total
				2000	ALTRIA/PM	\$800	
					KING RICHARDS CIGAR	\$750	
					LORILLARD	\$200	
					RJ REYNOLDS	\$250	
					SMOKELESS TOBACCO		
					COUNCIL	\$700	
				US SMOKELESS TOBACCO	\$750	2000 Total	
			2002	ALTRIA/PM	\$200	2002 Total	
						Sum Total 1994-2008	
						\$9,720	
MARENDT, CANDY	R	H	94	1998	KING RICHARDS CIGAR	\$200	1998 Total
							Sum Total 1994-2008
							\$200
MAYS, CAROLENE	D	H	94	2004	ALTRIA/PM	\$400	2004 Total
				2006	ALTRIA/PM	\$200	
					LORILLARD	\$250	2006 Total
							\$450

Candidate	Party	Office	District	Year	Contributor	Amount	Total By Year
							Sum Total 1994-2008 \$850
MCCLAIN, RICHARD	R	H	24	2000	SMOKELESS TOBACCO COUNCIL	\$250	2000 Total \$250
				2002	KING RICHARDS CIGAR	\$150	2002 Total \$150
							Sum Total 1994-2008 \$400
MCCONNELL, RICHARD L (RICK)	D	H	64	1994	ALTRIA/PM	\$200	
					RJ REYNOLDS	\$150	
					US SMOKELESS TOBACCO	\$150	1994 Total \$500
							Sum Total 1994-2008 \$500
MCINTOSH, DAVID	R	G	SW	2000	BROWN & WILLIAMSON	\$5,000	2000 Total \$5,000
				2000	KING RICHARDS CIGAR	\$8,135	2000 Total \$8,135
				2000	LORILLARD	\$5,000	2000 Total \$18,135
							Sum Total 1994-2008 \$18,135
MEEKS, CHARLES B (BUD)	R	S	14	1998	ALTRIA/PM	\$200	
					KING RICHARDS CIGAR	\$100	
					TOBACCO INSTITUTE	\$150	1998 Total \$450
							Sum Total 1994-2008 \$450
MEEKS, ROBERT L	R	S	13	1996	ALTRIA/PM	\$150	
					RJ REYNOLDS	\$500	
					TOBACCO INSTITUTE	\$350	1996 Total \$1,000
				2000	ALTRIA/PM	\$600	
					BROWN & WILLIAMSON	\$500	
					LORILLARD	\$200	
					RJ REYNOLDS	\$250	2000 Total \$1,550
				2002	BROWN & WILLIAMSON	\$1,000	
					KING RICHARDS CIGAR	\$400	2002 Total \$1,400
				2004	ALTRIA/PM	\$500	
					BROWN & WILLIAMSON	\$400	
					LORILLARD	\$650	
					RJ REYNOLDS	\$1,000	
				SMOKELESS TOBACCO COUNCIL	\$100		
				US SMOKELESS TOBACCO	\$1,140	2004 Total \$3,790	
			2006	ALTRIA/PM	\$1,500		
				LORILLARD	\$500		
				RJ REYNOLDS	\$900		
				US SMOKELESS TOBACCO	\$1,500	2006 Total \$4,400	

Candidate	Party	Office	District	Year	Contributor	Amount	Total By Year
				2008	ALTRIA/PM	\$300	2008 Total \$300
							Sum Total 1994-2008 \$12,440
MERRITT JR, JAMES W	R	S	31	1998	ALTRIA/PM	\$250	1998 Total \$250
				2000	ALTRIA/PM	\$150	
					BROWN & WILLIAMSON	\$200	2000 Total \$350
				2002	ALTRIA/PM	\$200	2002 Total \$200
				2006	ALTRIA/PM	\$600	
					LORILLARD	\$350	
					US SMOKELESS TOBACCO	\$500	2006 Total \$1,450
				2008	LORILLARD	\$500	2008 Total \$500
							Sum Total 1994-2008 \$2,750
MILLER, PATRICIA	R	S	32	2004	ALTRIA/PM	\$1,000	2004 Total \$1,000
							Sum Total 1994-2008 \$1,000
MILLS, MORRIS H	R	S	35	1996	ALTRIA/PM	\$250	1996 Total \$250
							Sum Total 1994-2008 \$250
MISHLER, RYAN D	R	S	9	2006	ALTRIA/PM	\$200	2006 Total \$200
				2008	ALTRIA/PM	\$600	2008 Total \$600
							Sum Total 1994-2008 \$800
MOSES, WIN	D	H	81	2000	ALTRIA/PM	\$100	
					SMOKELESS TOBACCO		
					COUNCIL	\$250	2000 Total \$350
							Sum Total 1994-2008 \$350
MRVAN JR, FRANK	D	S	1	1994	TOBACCO INSTITUTE	\$200	1994 Total \$200
				1998	CERESTAR USA	\$300	1998 Total \$300
				2000	ALTRIA/PM	\$400	
				2000	BROWN & WILLIAMSON	\$350	2000 Total \$750
				2002	ALTRIA/PM	\$200	
					BROWN & WILLIAMSON	\$100	2002 Total \$300
				2006	ALTRIA/PM	\$300	2006 Total \$300
							Sum Total 1994-2008 \$1,850
MUNSON, BRUCE	R	H	35	2000	KING RICHARDS CIGAR	\$300	2000 Total \$300
							Sum Total 1994-2008 \$300
MURPHY, MICHAEL B	R	H	90	2000	ALTRIA/PM	\$100	2000 Total \$100
				2002	ALTRIA/PM	\$150	2002 Total \$150
				2004	ALTRIA/PM	\$200	2004 Total \$200
							Sum Total 1994-2008 \$450
NASS, CONNIE KAY	R	AUD	SW	1998	KING RICHARDS CIGAR	\$500	1998 Total \$500

Candidate	Party	Office	District	Year	Contributor	Amount	Total By Year	
NEESE, TIMOTHY	R	H	48	2002	KING RICHARDS CIGAR	\$250	Sum Total 1994-2008 \$500	
							2002 Total \$250	
							Sum Total 1994-2008 \$250	
NIEZGODSKI, DAVID L	D	H	7	2008	RJ REYNOLDS	\$250	2008 Total \$250	
							Sum Total 1994-2008 \$250	
NUGENT, JOHNNY	R	S	43	1994	ALTRIA/PM	\$250	1994 Total \$1,000	
					RJ REYNOLDS	\$300		
					TOBACCO INSTITUTE	\$200		
					US SMOKELESS TOBACCO	\$250		
				1998	ALTRIA/PM	\$150		
					BROWN & WILLIAMSON	\$400		
					TOBACCO INSTITUTE	\$350		
				2000	ALTRIA/PM	\$400		
					BROWN & WILLIAMSON	\$200		
					LORILLARD	\$700		
					ALTRIA/PM	\$200		
				2002	BROWN & WILLIAMSON	\$100		
					LORILLARD	\$250		
				2006	ALTRIA/PM	\$500		
					RJ REYNOLDS	\$600		
						2000 Total \$1,300		
						2002 Total \$550		
						2006 Total \$1,100		
						Sum Total 1994-2008 \$4,850		
OBANNON, FRANK L	D	G	SW	1998	ALTRIA/PM	\$4,000	1998 Total \$15,850	
					BROWN & WILLIAMSON	\$2,000		
					CERESTAR USA	\$350		
					RJ REYNOLDS	\$4,500		
					TOBACCO INSTITUTE	\$5,000		
				2000	KING RICHARDS CIGAR	\$150		
								2000 Total \$150
								Sum Total 1994-2008 \$16,000
								1998 Total \$200
								Sum Total 1994-2008 \$200
ODAY, JOSEPH F	D	S	49	1998	BROWN & WILLIAMSON	\$200	2002 Total \$300	
							2002 Total \$300	
							2004 Total \$250	
							2006 Total \$500	
							2008 Total \$200	
OXLEY, DENNIE	D	LTG	SW	2008	ALTRIA/PM	\$2,800	2008 Total \$3,000	
							2008 Total \$3,000	
							Sum Total 1994-2008 \$4,050	

Candidate	Party	Office	District	Year	Contributor	Amount	Total By Year
PAUL, ALLEN E	R	S	27	1994	RJ REYNOLDS	\$250	1994 Total \$450
					TOBACCO INSTITUTE	\$200	
				1998	ALTRIA/PM	\$250	
					TOBACCO INSTITUTE	\$100	
				2000	ALTRIA/PM	\$400	
					BROWN & WILLIAMSON	\$200	
				2002	ALTRIA/PM	\$700	
	BROWN & WILLIAMSON	\$100	2002 Total \$1,050				
			2006	ALTRIA/PM	\$300	2006 Total \$300	
						Sum Total 1994-2008 \$2,750	
PELATH, SCOTT D	D	H	9	2004	BROWN & WILLIAMSON	\$500	2004 Total \$900
					LORILLARD	\$400	
				2008	ALTRIA/PM	\$600	
PHILLIPS, MICHAEL KEITH	D	H	74	1994	ALTRIA/PM	\$200	1994 Total \$400
				1994	RJ REYNOLDS	\$200	1994 Total \$400
							Sum Total 1994-2008 \$400
POND, PHYLLIS J	R	H	85	2002	KING RICHARDS CIGAR	\$200	2002 Total \$200
							Sum Total 1994-2008 \$200
PORTER, GREGORY W	D	H	96	2004	ALTRIA/PM	\$400	2004 Total \$400
				2006	ALTRIA/PM	\$400	2006 Total \$400
				2008	ALTRIA/PM	\$400	2008 Total \$400
							Sum Total 1994-2008 \$1,200
RANDOLPH, LONNIE MARCUS	D	S	2	1996	TOBACCO INSTITUTE	\$350	1996 Total \$350
							Sum Total 1994-2008 \$350
RICHARDSON, KATHY KREAG	R	H	29	1998	TOBACCO INSTITUTE	\$200	1998 Total \$200
							Sum Total 1994-2008 \$200
ROBERTSON, PAUL J	D	H	70	1998	TOBACCO INSTITUTE	\$200	1998 Total \$200
				2000	ALTRIA/PM	\$150	2000 Total \$150
				2002	ALTRIA/PM	\$250	
					BROWN & WILLIAMSON	\$100	
					LORILLARD	\$200	2002 Total \$550
				2008	ALTRIA/PM	\$400	
					RJ REYNOLDS	\$250	2008 Total \$650
				Sum Total 1994-2008 \$1,550			
ROGERS, EARLINE S	D	S	3	1996	TOBACCO INSTITUTE	\$350	1996 Total \$350



Candidate	Party	Office	District	Year	Contributor	Amount	Total By Year
ROKITA, THEODORE (TODD) E	R	SS	SW	1998	RJ REYNOLDS	\$300	1998 Total \$650
					TOBACCO INSTITUTE	\$350	
				2000	ALTRIA/PM	\$200	
					LORILLARD	\$200	
					SMOKELESS TOBACCO COUNCIL	\$250	
				2004	ALTRIA/PM	\$500	
					RJ REYNOLDS	\$500	
						\$1,000	
						\$2,650	
						Sum Total 1994-2008	
ROTH, PAMELA	R	H	19	2002	CROWN TOBACCO INC	\$500	2002 Total \$500
							Sum Total 1994-2008 \$500
RUPPEL, WILLIAM J	R	H	22	2000	BROWN & WILLIAMSON	\$200	2000 Total \$200
				2002	KING RICHARDS CIGAR	\$175	2002 Total \$175
				2008	RJ REYNOLDS	\$250	2008 Total \$250
							Sum Total 1994-2008 \$625
SAUNDERS, THOMAS E	R	H	54	1998	US SMOKELESS TOBACCO	\$100	1998 Total \$100
				2008	RJ REYNOLDS	\$250	2008 Total \$250
SCHOLER, SUE	R	H	26	2000	LORILLARD	\$200	2000 Total \$200
							Sum Total 1994-2008 \$200
SCHULTZ, RAYMOND C	R	H	97	1998	KING RICHARDS CIGAR	\$200	1998 Total \$200
							Sum Total 1994-2008 \$200
SERVER, GREGORY D	R	S	50	2000	ALTRIA/PM	\$400	2000 Total \$400
				2002	BROWN & WILLIAMSON	\$100	
					LORILLARD	\$500	
							2002 Total \$600
						Sum Total 1994-2008 \$1,000	
SIMPSON, VI	D	S	40	1996	ALTRIA/PM	\$150	1996 Total \$150
				2000	ALTRIA/PM	\$300	2000 Total \$300
				2002	BROWN & WILLIAMSON	\$400	2002 Total \$400
				2004	RJ REYNOLDS	\$2,500	2004 Total \$2,500
				2006	ALTRIA/PM	\$300	
				2008	RJ REYNOLDS	\$300	2006 Total \$600
						2008 Total \$300	
						Sum Total 1994-2008 \$4,250	

Candidate	Party	Office	District	Year	Contributor	Amount	Total By Year
SIPES, CONNIE	D	S	46	1998	BROWN & WILLIAMSON	\$200	1998 Total
				2000	ALTRIA/PM	\$150	
					BROWN & WILLIAMSON	\$200	2000 Total
				2002	ALTRIA/PM	\$200	2002 Total
				2006	ALTRIA/PM	\$500	2006 Total
						\$1,250	Sum Total 1994-2008
SKILLMAN, BECKY	R	S	44	1996	ALTRIA/PM	\$150	1996 Total
				2000	BROWN & WILLIAMSON	\$150	
					LORILLARD	\$100	
					SMOKELESS TOBACCO	\$250	2000 Total
				2004	ALTRIA/PM	\$1,000	2004 Total
						\$1,650	Sum Total 1994-2008
SKINNER, TIMOTHY D	D	S	38	2008	ALTRIA/PM	\$300	2008 Total
							\$300
SMITH JR, SAMUEL	D	S	2	2000	ALTRIA/PM	\$400	2000 Total
							\$400
SMITH, JOHN	R	H	30	2006	RJ REYNOLDS	\$450	2006 Total
							\$450
SMITH, KATHY	D	S	46	1994	TOBACCO INSTITUTE	\$200	1994 Total
							\$200
SMITH, MICHAEL D	R	H	16	1996	RJ REYNOLDS	\$250	1996 Total
				1998	ALTRIA/PM	\$100	1998 Total
							\$350
SMITH, VERNON G	D	H	14	1998	ALTRIA/PM	\$100	1998 Total
				2000	ALTRIA/PM	\$200	2000 Total
							\$300
STEELE, BRENT	R	H	65		SMOKELESS TOBACCO		
				2000	COUNCIL	\$250	2000 Total
				2006	ALTRIA/PM	\$200	
					RJ REYNOLDS	\$300	2006 Total
				2008	ALTRIA/PM	\$600	2008 Total
						\$1,100	Sum Total 1994-2008
STEVENSON, DAN	D	H	11	2004	RJ REYNOLDS	\$250	2004 Total
							\$250
STILWELL, RUSSELL	D	H	74	2000	BROWN & WILLIAMSON	\$200	2000 Total
							\$200

Candidate	Party	Office	District	Year	Contributor	Amount	Total By Year
				2002	BROWN & WILLIAMSON	\$500	2002 Total
					LORILLARD	\$200	
				2004	BROWN & WILLIAMSON	\$250	2004 Total
				2006	ALTRIA/PM	\$200	2006 Total
				2008	ALTRIA/PM	\$600	
					RJ REYNOLDS	\$500	2008 Total
							Sum Total 1994-2008
STURTZ, W DALE	D	H	52	1994	TOBACCO INSTITUTE	\$150	1994 Total
				1998	BROWN & WILLIAMSON	\$200	1998 Total
				2002	ALTRIA/PM	\$100	2002 Total
							Sum Total 1994-2008
STUTZMAN, MARLIN A	R	H	52	2008	RJ REYNOLDS	\$250	2008 Total
							Sum Total 1994-2008
SUMMERS, VANESSA J	D	H	99	1998	ALTRIA/PM	\$150	1998 Total
				2000	ALTRIA/PM	\$500	
					RJ REYNOLDS	\$150	2000 Total
				2002	ALTRIA/PM	\$150	2002 Total
							Sum Total 1994-2008
SUTTON, MYRON M	D	H	15	2008	SMOKE SHOP V	\$500	2008 Total
							Sum Total 1994-2008
TALLIAN, KAREN	D	S	4	2008	ALTRIA/PM	\$300	2008 Total
							Sum Total 1994-2008
TAYLOR, GREG	D	S	33	2008	ALTRIA/PM	\$300	2008 Total
							Sum Total 1994-2008
THOMPSON, JEFFREY A	R	H	28	2002	KING RICHARDS CIGAR	\$200	2002 Total
				2008	RJ REYNOLDS	\$250	2008 Total
							Sum Total 1994-2008
THOMPSON, JILL LONG	D	G	SW	2008	RJ REYNOLDS	\$2,500	2008 Total
							Sum Total 1994-2008
TINCHER, VERN	D	H	46	2008	RJ REYNOLDS	\$250	2008 Total
							Sum Total 1994-2008
TORR, GERALD R (JERRY)	R	H	39	1998	ALTRIA/PM	\$200	
					KING RICHARDS CIGAR	\$5,500	1998 Total
				2000	BROWN & WILLIAMSON	\$200	
				2004	KING RICHARDS CIGAR	\$250	2000 Total
					RJ REYNOLDS	\$250	

Candidate	Party	Office	District	Year	Contributor	Amount	Total By Year
					SMOKELESS TOBACCO COUNCIL	\$100	2004 Total \$350 Sum Total 1994-2008 \$6,500
TURNER, P ERIC	R	H	32	2000	KING RICHARDS CIGAR	\$300	2000 Total \$300
				2006	ALTRIA/PM	\$200	
					LORILLARD	\$300	
					RJ REYNOLDS	\$1,400	
					US SMOKELESS TOBACCO	\$1,000	2006 Total \$2,900
				2008	ALTRIA/PM	\$600	
					RJ REYNOLDS	\$300	
					US SMOKELESS TOBACCO	\$500	2008 Total \$1,400
							Sum Total 1994-2008 \$4,600
TURPIN, SAMUEL R	R	H	40	1994	ALTRIA/PM	\$200	
					RJ REYNOLDS	\$200	
					TOBACCO INSTITUTE	\$200	
					US SMOKELESS TOBACCO	\$300	1994 Total \$900
							Sum Total 1994-2008 \$900
VAN HAAFTEN, TRENT	D	H	76	2008	LORILLARD	\$500	2008 Total \$500
							Sum Total 1994-2008 \$500
VANDENBURGH, ROCHELLE (SHELL)	D	H	19	2008	MUNSTER SMOKE SHOP	\$200	
					SMOKE SHOP V	\$200	2008 Total \$400
							Sum Total 1994-2008 \$400
WALORSKI, JACKIE	R	H	21	2006	ALTRIA/PM	\$200	
					RJ REYNOLDS	\$200	2006 Total \$400
				2008	ALTRIA/PM	\$400	
					RJ REYNOLDS	\$250	2008 Total \$650
							Sum Total 1994-2008 \$1,050
WATERMAN, JOHN MARTIN	R	S	39	1998	ALTRIA/PM	\$200	
					US SMOKELESS TOBACCO	\$100	1998 Total \$300
				2002	ALTRIA/PM	\$200	
					BROWN & WILLIAMSON	\$100	
					LORILLARD	\$250	2002 Total \$550
							Sum Total 1994-2008 \$850
WEATHERWAX, THOMAS K	R	S	18	1996	ALTRIA/PM	\$200	
					RJ REYNOLDS	\$250	1996 Total \$450
				2000	ALTRIA/PM	\$200	2000 Total \$200

Candidate	Party	Office	District	Year	Contributor	Amount	Total By Year				
WEINZAPFEL, JONATHAN DAVID	D	H	76	2004	BROWN & WILLIAMSON	\$500	2004 Total				
				2006	ALTRIA/PM	\$800					
					LORILLARD	\$600					
					RJ REYNOLDS	\$300	2006 Total				
						\$1,700					
						\$2,850					
WHEELER, HAROLD H (POTCH)	R	S	17	2000	ALTRIA/PM	\$200	2000 Total				
				1994	ALTRIA/PM	\$150					
					RJ REYNOLDS	\$200					
				1998	ALTRIA/PM	\$450	1994 Total				
					BROWN & WILLIAMSON	\$200					
					KING RICHARDS CIGAR	\$1,000					
					RJ REYNOLDS	\$300					
					TOBACCO INSTITUTE	\$200					
					US SMOKELESS TOBACCO	\$200	1998 Total				
										\$2,350	
						\$2,700					
WHETSTONE, MATTHEW D	R	H	40	2000	ALTRIA/PM	\$300					
					BROWN & WILLIAMSON	\$200					
					KING RICHARDS CIGAR	\$300					
				2002	ALTRIA/PM	\$350	2000 Total				
					BROWN & WILLIAMSON	\$100					
					KING RICHARDS CIGAR	\$450					
				2004	RJ REYNOLDS	\$250	2002 Total				
										\$900	
										\$250	
										\$1,950	
WOLF, KATIE L	D	S	7	1996	RJ REYNOLDS	\$200	1996 Total				
								\$200			
WOLKINS, DAVID A	R	H	18	1996	US SMOKELESS TOBACCO	\$125	1996 Total				
				1998	KING RICHARDS CIGAR	\$1,000	1998 Total				
				2002	KING RICHARDS CIGAR	\$475	2002 Total				
										\$475	
						\$1,600					
WOODRUFF, TROY	R	H	64	2006	ALTRIA/PM	\$200					
					RJ REYNOLDS	\$450	2006 Total				
						\$650					
WYSS, THOMAS J	R	S	15	1998	ALTRIA/PM	\$300	1998 Total				
								\$300			
						\$650					
YOUNG JR, RICHARD D	D	S	47	1994	ALTRIA/PM	\$200	1994 Total				
					RJ REYNOLDS	\$200	Sum Total 1994-2008				
						\$300					
						\$300					

Candidate	Party	Office	District	Year	Contributor	Amount	Total By Year
				1998	TOBACCO INSTITUTE	\$200	1994 Total
					ALTRIA/PM	\$600	\$600
					BROWN & WILLIAMSON	\$200	
					RJ REYNOLDS	\$250	1998 Total
				2000	ALTRIA/PM	\$300	\$1,050
					BROWN & WILLIAMSON	\$350	2000 Total
				2002	ALTRIA/PM	\$300	\$650
					BROWN & WILLIAMSON	\$100	2002 Total
				2004	BROWN & WILLIAMSON	\$300	\$400
					RJ REYNOLDS	\$250	2004 Total
				2006	US SMOKELESS TOBACCO	\$500	2006 Total
							Sum Total 1994-2008
YOUNG, R MICHAEL	R	S	35	1998	ALTRIA/PM	\$100	\$3,750
					KING RICHARDS CIGAR	\$300	1998 Total
				2000	BROWN & WILLIAMSON	\$150	\$400
					KING RICHARDS CIGAR	\$500	2000 Total
				2002	ALTRIA/PM	\$200	\$650
					KING RICHARDS CIGAR	\$1,200	2002 Total
				2004	KING RICHARDS CIGAR	\$1,500	\$1,400
				2008	ALTRIA/PM	\$300	2004 Total
							2008 Total
							Sum Total 1994-2008
YOUNT, DA VID BRADLEY	R	H	59	2000	ALTRIA/PM	\$100	\$4,250
							2000 Total
							Sum Total 1994-2008
ZAKAS, JOSEPH C	R	S	11	2002	ALTRIA/PM	\$300	\$100
							2002 Total
							Sum Total 1994-2008
							\$300
							\$300

Appendix C: Tobacco Industry Campaign Contributions by Contributor, 1994-2008							
Contributor	Year	Recipients	Party	Office	District	Amount	Total By Year
ALTRIA/ PHILIP MORRIS	1994	ANTICH, ROSE ANN	D	S	4	\$400	
		BROWN, CHARLIE	D	H	3	\$200	
		DAVIS, JAMES L	R	H	28	\$150	
		DOLL, MAURICE E (MORRIE)	D	S	39	\$200	
		GARTON, ROBERT D	R	S	41	\$250	
		HEEKE, DENNIS H	D	H	73	\$200	
		JOHNSON, STEVEN R	R	S	21	\$250	
		KRUZAN, MARK	D	H	61	\$200	
		LANDSKE, DOROTHY SUZANNE (SUE)	R	S	6	\$250	
		LEWIS JR, JAMES A	D	S	45	\$250	
		LINDER, JEFFREY M	R	H	57	\$200	
		LYTLE, MARK L	D	H	69	\$200	
		MANNWEILER, PAUL S	R	H	87	\$250	
		MCCONNELL, RICHARD L (RICK)	D	H	64	\$200	
		NUGENT, JOHNNY	R	S	43	\$250	
		PHILLIPS, MICHAEL KEITH	D	H	74	\$200	
		TURPIN, SAMUEL R	R	H	40	\$200	
		WHEELER, HAROLD H (POTCH)	R	S	17	\$150	1994 ALTRIA/PM
		YOUNG JR, RICHARD D	D	S	47	\$200	TOTAL \$4,200
	1996	BORST, LAWRENCE M	R	S	36	\$700	
		BRAY, RICHARD D	R	S	37	\$150	
		DAVIS, JAMES L	R	H	28	\$250	
		ESPICH, JEFF	R	H	82	\$300	
		GARD, BEVERLY J	R	S	28	\$250	
		GREGG, JOHN R	D	H	45	\$500	

Contributor	Year	Recipients	Party	Office	District	Amount	Total By Year
		GRUBB, FLOYD DALE	D	H	42	\$300	
		HEEKE, DENNIS H	D	H	73	\$100	
		KEELER, JOHN S	R	H	86	\$150	
		KENLEY, LUKE	R	S	20	\$350	
		KRUZAN, MARK	D	H	61	\$100	
		LINDER, JEFFREY M	R	H	57	\$550	
		LYTLE, MARK L	D	H	69	\$200	
		MANNWEILER, PAUL S	R	H	87	\$1,000	
		MEEKS, ROBERT L	R	S	13	\$150	
		MILLS, MORRIS H	R	S	35	\$250	
		SIMPSON, VI	D	S	40	\$150	
		SKILLMAN, BECKY	R	S	44	\$150	1996 ALTRIA/PM
		WEATHERWAX, THOMAS K	R	S	18	\$200	TOTAL \$5,800
1998							
		ALDERMAN, ROBERT K	R	H	83	\$250	
		ANTICH, ROSE ANN	D	S	4	\$200	
		BAILEY, WILLIAM W	D	H	66	\$250	
		BAUER, B PATRICK	D	H	6	\$300	
		BEHNING, ROBERT W	R	H	91	\$200	
		BOTTORFF, JAMES L	D	H	71	\$200	
		BROWN, CHARLIE	D	H	3	\$150	
		CLARK, JAMES MURRAY	R	S	29	\$400	
		COCHRAN, WILLIAM C	D	H	72	\$100	
		CRAWFORD, WILLIAM A	D	H	98	\$200	
		CRAYCRAFT JR, ALLIE V	D	S	26	\$200	
		DEMPSEY, SANDRA	R	S	1	\$250	
		DENBO, JERRY L	D	H	62	\$150	
		DOBIS, CHESTER F	D	H	13	\$100	
		ESPICH, JEFF	R	H	82	\$250	
		FESKO, TIMOTHY	R	H	15	\$150	
		FOLEY, RALPH M	R	H	47	\$100	



Contributor	Year	Recipients	Party	Office	District	Amount	Total By Year
GARTON, ROBERT D			R	S	41	\$700	
GREGG, JOHN R			D	H	45	\$800	
GRUBB, FLOYD DALE			D	H	42	\$200	
HARRIS, EARL L			D	H	2	\$100	
HARRISON, JOSEPH W			R	S	23	\$600	
HOFFMAN, ROBERT A			R	H	55	\$150	
JOHNSON, STEVEN R			R	S	21	\$150	
LANDSKE, DOROTHY SUZANNE (SUE)			R	S	6	\$250	
LEWIS JR, JAMES A			D	S	45	\$200	
LIGGETT, RONALD D			D	H	33	\$100	
LINDER, JEFFREY M			R	H	57	\$450	
LUTZ, LARRY E			D	H	76	\$250	
LYTLE, MARK L			D	H	69	\$500	
MANNWEILER, PAUL S			R	H	87	\$750	
MEEKS, CHARLES B (BUD)			R	S	14	\$200	
MERRITT JR, JAMES W			R	S	31	\$250	
NUGENT, JOHNNY			R	S	43	\$150	
OBANNON, FRANK L			D	G	SW	\$4,000	
PAUL, ALLEN E			R	S	27	\$250	
SMITH, MICHAEL D			R	H	16	\$100	
SMITH, VERNON G			D	H	14	\$100	
SUMMERS, VANESSA J			D	H	99	\$150	
TORR, GERALD R (JERRY)			R	H	39	\$200	
WATERMAN, JOHN MARTIN			R	S	39	\$200	
WHEELER, HAROLD H (POTCH)			R	S	17	\$450	
WYSS, THOMAS J			R	S	15	\$300	
YOUNG JR, RICHARD D			D	S	47	\$600	1998 ALTRIA/PM
YOUNG, R MICHAEL			R	H	92	\$100	TOTAL
2000 ALDERMAN, ROBERT K			R	H	83	\$150	\$15,700

Contributor	Year	Recipients	Party	Office	District	Amount	Total By Year
ALEXA, WILLIAM E			D	S	5	\$400	
ALTING, RONNIE J			R	S	22	\$400	
ANTICH, ROSE ANN			D	S	4	\$100	
ATTERHOLT, JAMES DOUGLAS			R	H	86	\$100	
BAILEY, WILLIAM W			D	H	66	\$100	
BAUER, B PATRICK			D	H	6	\$500	
BEHNING, ROBERT W			R	H	91	\$200	
BISCHOFF, ROBERT J			D	H	68	\$100	
BLADE, MARK			D	S	38	\$400	
BODIKER SR, RICHARD WILLIAM			D	H	56	\$200	
BOTTORFF, JAMES L			D	H	71	\$250	
BROWN, CHARLIE			D	H	3	\$350	
CLARK, JAMES MURRAY			R	LTG	SW	\$300	
COCHRAN, WILLIAM C			D	H	72	\$100	
CRAWFORD, WILLIAM A			D	H	98	\$200	
CROOKS, DAVE			D	H	63	\$100	
CROSBY, SUSAN RAY			D	H	44	\$300	
DOBIS, CHESTER F			D	H	13	\$200	
ESPICH, JEFF			R	H	82	\$300	
GARTON, ROBERT D			R	S	41	\$800	
GREGG, JOHN R			D	H	45	\$1,000	
GRUBB, FLOYD DALE			D	H	42	\$300	
HARRIS, EARL L			D	H	2	\$200	
HARRISON, JOSEPH W			R	S	23	\$400	
HOWARD, GLENN L			D	S	33	\$400	
HUME, LINDEL O			D	S	48	\$400	
JOHNSON, STEVEN R			R	S	21	\$400	
KRUZAN, MARK			D	H	61	\$150	
KUZMAN, ROBERT D			D	H	19	\$600	

Contributor	Year	Recipients	Party	Office	District	Amount	Total By Year
		LANDSKE, DOROTHY SUZANNE (SUE)	R	S	6	\$400	
		LEWIS JR, JAMES A	D	S	45	\$400	
		LIGGETT, RONALD D	D	H	33	\$200	
		LINDER, JEFFREY M	R	H	57	\$150	
		LONG, DAVID C	R	S	16	\$200	
		LUTZ, L JACK	R	H	36	\$200	
		LUTZ, LARRY E	D	S	49	\$350	
		LYTLE, MARKT L	D	H	69	\$500	
		MAHERN, EDMUND M	D	H	97	\$350	
		MANNWEILER, PAUL S	R	H	87	\$800	
		MEEKS, ROBERT L	R	S	13	\$600	
		MERRITT JR, JAMES W	R	S	31	\$150	
		MOSES, WIN	D	H	81	\$100	
		MRVAN JR, FRANK	D	S	1	\$400	
		MURPHY, MICHAEL B	R	H	90	\$100	
		NUGENT, JOHNNY	R	S	43	\$400	
		PAUL, ALLEN E	R	S	27	\$400	
		PORTER, GREGORY W	D	H	96	\$0	
		ROBERTSON, PAUL J	D	H	70	\$150	
		ROGERS, EARLINE S	D	S	3	\$200	
		SERVER, GREGORY D	R	S	50	\$400	
		SIMPSON, VI	D	S	40	\$300	
		SIPES, CONNIE	D	S	46	\$150	
		SMITH JR, SAMUEL	D	S	2	\$400	
		SMITH, VERNON G	D	H	14	\$200	
		SUMMERS, VENESSA J	D	H	99	\$500	
		WEATHERWAX, THOMAS K	R	S	18	\$200	
		WEINZAPFEL, JONATHAN DAVID	D	H	76	\$200	

Contributor	Year	Recipients	Party	Office	District	Amount	Total By Year
		WHETSTONE, MATTHEW D	R	H	40	\$300	
		YOUNG JR, RICHARD D	D	S	47	\$300	2000 ALTRIA/PM
		YOUNT, DAVID BRADLEY	R	H	59	\$100	TOTAL \$18,500
2002							
		ALDERMAN, ROBERT K	R	H	83	\$300	
		ANTICH, ROSE ANN	D	S	4	\$500	
		BISCHOFF, ROBERT J	D	H	68	\$200	
		BOSMA, BRIAN C	R	H	88	\$400	
		BROWN, CHARLIE	D	H	3	\$400	
		CLARK, JAMES MURRAY	R	S	29	\$300	
		COCHRAN, WILLIAM C	D	H	72	\$100	
		CRAWFORD, WILLIAM A	D	H	98	\$200	
		CRAYCRAFT JR, ALLIE V	D	S	26	\$200	
		CROOKS, DAVE	D	H	63	\$300	
		CROSBY, SUSAN RAY	D	H	44	\$150	
		DOBIS, CHESTER F	D	H	13	\$100	
		DUNCAN, CLEO	R	H	67	\$100	
		ESPICH, JEFF	R	H	82	\$400	
		GARTON, ROBERT D	R	S	41	\$500	
		GREGG, JOHN R	D	H	45	\$500	
		HARRIS, EARL L	D	H	2	\$150	
		HARRISON, JOSEPH W	R	S	23	\$800	
		HUME, LINDEL O	D	S	48	\$200	
		JOHNSON, STEVEN R	R	S	21	\$300	
		KERNAN, JOSEPH E	D	LTG	SW	\$6,500	
		KUZMAN, ROBERT D	D	H	19	\$500	
		LEWIS JR, JAMES A	D	S	45	\$600	
		LUTZ, L JACK	R	H	35	\$200	
		LUTZ, LARRY E	D	S	49	\$200	
		LYTLE, MARKT L	D	H	69	\$550	
		MAHERN, EDMUND M	D	H	97	\$200	

Contributor	Year	Recipients	Party	Office	District	Amount	Total By Year
MANNWEILER, PAUL S			R	H	87	\$200	
MERRITT JR, JAMES W			R	S	31	\$200	
MRVAN JR, FRANK			D	S	1	\$200	
MURPHY, MICHAEL B			R	H	90	\$150	
NUGENT, JOHNNY			R	S	43	\$200	
PAUL, ALLEN E			R	S	27	\$700	
ROBERTSON, PAUL J			D	H	70	\$250	
SIPES, CONNIE			D	S	46	\$200	
STURTZ, W DALE			D	H	52	\$100	
SUMMERS, VANESSA J			D	H	99	\$150	
WATERMAN, JOHN MARTIN			R	S	39	\$200	
WHETSTONE, MATTHEW D			R	H	40	\$350	
YOUNG JR, RICHARD D			D	S	47	\$300	
YOUNG, R MICHAEL			R	S	35	\$200	2002 ALTRIA/PM
ZAKAS, JOSEPH C			R	S	11	\$300	TOTAL \$18,550
2004 BAUER, B PATRICK							
BEHNING, ROBERT W			R	H	91	\$200	
BORST, LAWRENCE M			R	S	36	\$1,500	
BROWN, CHARLIE			D	H	3	\$400	
CHOWNING, ALAN B			D	H	45	\$400	
CRAWFORD, WILLIAM A			D	H	98	\$200	
DANIELS, MITCH			R	G	SW	\$16,000	
ESPICH, JEFF			R	H	82	\$250	
FRIZZELL, DAVID N			R	H	93	\$200	
KERNAN, JOSEPH E			D	G	SW	\$14,000	
KUZMAN, ROBERT D			D	H	19	\$500	
LAPLANTE, R BROOKS			R	H	46	\$200	
LONG, DAVID C			R	S	16	\$500	
LUTZ, L JACK			R	H	35	\$400	
LYTLE, MARKT L			D	H	69	\$450	

Contributor	Year	Recipients	Party	Office	District	Amount	Total By Year
MAHERN, EDMUND M			D	H	97	\$500	
MAYS, CAROLENE			D	H	94	\$400	
MEEKS, ROBERT L			R	S	13	\$500	
MILLER, PATRICIA			R	S	32	\$1,000	
MURPHY, MICHAEL B			R	H	90	\$200	
PORTER, GREGORY W			D	H	96	\$400	
ROGERS, EARLINE S			D	S	3	\$500	2004 ALTRIA/PM
SKILLMAN, BECKY			R	S	44	\$1,000	TOTAL \$41,700
2006							
AUSTIN, TERRI J			D	H	36	\$200	
BAUER, B PATRICK			D	H	6	\$1,500	
BORDERS, BRUCE ALAN			R	H	45	\$200	
BOSMA, BRIAN C			R	H	88	\$1,500	
BRIGHT, BILLY			R	H	69	\$200	
BROWN, CHARLIE			D	H	3	\$200	
BROWN, TIM			R	H	41	\$200	
CHERRY, ROBERT W			R	H	53	\$300	
DANIELS, MITCH			R	G	SW	\$5,000	
DAVIS, BILL J			R	H	33	\$200	
DELPH, MIKE			R	S	29	\$200	
ESPICH, JEFF			R	H	82	\$300	
FRIZZELL, DAVID N			R	H	93	\$400	
GARTON, ROBERT D			R	S	41	\$1,000	
HARRIS, TIMOTHY W			R	H	31	\$200	
HUME, LINDEL O			D	S	48	\$200	
KENLEY, LUKE			R	S	20	\$800	
KUZMAN, ROBERT D			D	H	19	\$200	
LANDSKE, DOROTHY SUZANNE (SUE)			R	S	6	\$300	
LEWIS JR, JAMES A			D	S	45	\$200	
LONG, DAVID C			R	S	16	\$800	

Contributor	Year	Recipients	Party	Office	District	Amount	Total By Year
LUTZ, L JACK			R	H	35	\$200	
MAHERN, EDMUND M			D	H	97	\$200	
MAYS, CAROLENE			D	H	94	\$200	
MEEKS, ROBERT L			R	S	13	\$1,500	
MERRITT JR, JAMES W			R	S	31	\$600	
MISHLER, RYAN D			R	S	9	\$200	
MRVAN JR, FRANK			D	S	1	\$300	
NUGENT, JOHNNY			R	S	43	\$500	
PAUL, ALLEN E			R	S	27	\$300	
PORTER, GREGORY W			D	H	96	\$400	
ROKITA, THEODORE (TODD) E			R	SS	SW	\$2,000	
SIMPSON, VI			D	S	40	\$300	
SIPES, CONNIE			D	S	46	\$500	
STEELE, BRENT			R	S	44	\$200	
STILWELL, RUSSELL			D	H	74	\$200	
TURNER, PERIC			R	H	32	\$200	
WALORSKI, JACKIE			R	H	21	\$200	
WEATHERWAX, THOMAS K			R	S	18	\$800	2006 ALTRIA/PM
WOODRUFF, TROY			R	H	64	\$200	TOTAL \$23,100
2008							
AUSTIN, TERRI J			D	H	36	\$300	
BATTLES, KREG			D	H	64	\$300	
BECKER, VANETA			R	S	50	\$600	
BOOTS, PHILLIP L			R	S	23	\$600	
COCHRAN, WILLIAM C			D	H	72	\$200	
DAVIS, BILL J			R	H	33	\$200	
DELPH, MIKE			R	S	29	\$600	
ESPICH, JEFF			R	H	82	\$600	
FRIZZELL, DAVID N			R	H	93	\$600	
FRY, CRAIG R			D	H	5	\$400	
GOODIN, TERRY			D	H	66	\$500	

Contributor	Year	Recipients	Party	Office	District	Amount	Total By Year	
		HARRIS, TIMOTHY W	R	H	31	\$400		
		HERSHMAN, BRANDT	R	S	7	\$300		
		HUME, LINDEL O	D	S	48	\$300		
		KENLEY, LUKE	R	S	20	\$600		
		KOCH, ERIC A	R	H	65	\$200		
		LAWSON, LINDA C	D	H	1	\$200		
		LONG, DAVID C	R	S	16	\$800		
		MEEKS, ROBERT L	R	S	13	\$300		
		MISHLER, RYAN D	R	S	9	\$600		
		OXLEY, DENNIE	D	LTG	SW	\$200		
		PELATH, SCOTT D	D	H	9	\$600		
		PORTER, GREGORY W	D	H	96	\$400		
		ROBERTSON, PAUL J	D	H	70	\$400		
		ROKITA, THEODORE (TODD) E	R	SS	SW	\$1,000		
		SIMPSON, VI	D	S	40	\$300		
		SKINNER, TIMOTHY D	D	S	38	\$300		
		STEELE, BRENT	R	S	44	\$600		
		STILWELL, RUSSELL	D	H	74	\$600		
		TALLIAN, KAREN	D	S	4	\$300		
		TAYLOR, GREG	D	S	33	\$300		
		TURNER, PERIC	R	H	32	\$600		
		WALORSKI, JACKIE	R	H	21	\$400	2008 ALTRIA/PM	
		YOUNG, R MICHAEL	R	S	35	\$300	TOTAL \$14,900	
<b>1994-2008 ALTRIA/PM</b>							<b>TOTAL</b>	<b>\$142,450</b>
<hr/>								
<b>BROWN &amp; WILLIAMSON</b>	1996 BORST, LAWRENCE M		R	S	36	\$250	1996 BROWN & WILLIAMSON TOTAL \$250	
	1998 BOSMA, BRIAN C		R	H	88	\$200		



Contributor	Year	Recipients	Party	Office	District	Amount	Total By Year
ESPICH, JEFF			R	H	82	\$200	
GARTON, ROBERT D			R	S	41	\$400	
GREGG, JOHN R			D	H	45	\$200	
GRUBB, FLOYD DALE			D	H	42	\$200	
HARRISON, JOSEPH W			R	S	23	\$200	
LEWIS JR, JAMES A			D	S	45	\$200	
LUTZ, L JACK			R	H	36	\$200	
LUTZ, LARRY E			D	H	76	\$200	
LYTLE, MARKT L			D	H	69	\$200	
MANNWEILER, PAUL S			R	H	87	\$200	
NUGENT, JOHNNY			R	S	43	\$400	
OBANNON, FRANK L			D	G	SW	\$2,000	
ODAY, JOSEPH F			D	S	49	\$200	
SIPES, CONNIE			D	S	46	\$200	
STURTZ, W DALE			D	H	52	\$200	
WHEELER, HAROLD H (POTCH)			R	S	17	\$200	1998 BROWN &
YOUNG JR, RICHARD D			D	S	47	\$200	WILLIAMSON TOTAL \$5,800
2000 ALEXA, WILLIAM E			D	S	5	\$400	
BISCHOFF, ROBERT J			D	H	68	\$200	
BORST, LAWRENCE M			R	S	36	\$1,500	
BOTTORFF, JAMES L			D	H	71	\$450	
GARTON, ROBERT D			R	S	41	\$500	
GREGG, JOHN R			D	H	45	\$1,000	
HOFFMAN, ROBERT A			R	H	55	\$200	
HUME, LINDEL O			D	S	48	\$200	
JACKMAN, ROBERT N			R	S	42	\$200	
KUZMAN, ROBERT D			D	H	19	\$250	
LEWIS JR, JAMES A			D	S	45	\$400	
LUTZ, L JACK			R	H	36	\$200	
LYTLE, MARKT L			D	H	69	\$450	

Contributor	Year	Recipients	Party	Office	District	Amount	Total By Year
MAHERN, EDMUND M			D	H	97	\$450	
MCINTOSH, DAVID			R	G	SW	\$5,000	
MEEKS, ROBERT L			R	S	13	\$500	
MERRITT JR, JAMES W			R	S	31	\$200	
MRVAN JR, FRANK			D	S	1	\$350	
NUGENT, JOHNNY			R	S	43	\$200	
PAUL, ALLEN E			R	S	27	\$200	
RUPPEL, WILLIAM J			R	H	22	\$200	
SIPES, CONNIE			D	S	46	\$200	
SKILLMAN, BECKY			R	S	44	\$150	
STILWELL, RUSSELL			D	H	74	\$200	
TORR, GERALD R (JERRY)			R	H	39	\$200	
WHETSTONE, MATTHEW D			R	H	40	\$200	
YOUNG JR, RICHARD D			D	S	47	\$350	
YOUNG, R MICHAEL			R	S	35	\$150	2000 BROWN & WILLIAMSON TOTAL \$14,500
2002 BAUER, B PATRICK							
BISCHOFF, ROBERT J			D	H	6	\$500	
BORST, LAWRENCE M			R	S	68	\$100	
BOSMA, BRIAN C			R	H	36	\$900	
CRAWFORD, WILLIAM A			D	H	88	\$100	
CROOKS, DAVE			D	H	98	\$500	
ESPICH, JEFF			R	H	63	\$100	
GARTON, ROBERT D			R	S	82	\$100	
GOODIN, TERRY			D	H	41	\$900	
GREGG, JOHN R			D	H	66	\$100	
KERNAN, JOSEPH E			D	LTG	45	\$300	
LEWIS JR, JAMES A			D	S	SW	\$2,000	
LUTZ, L JACK			R	H	45	\$100	
LYTLE, MARKT L			D	H	35	\$100	
MAHERN, EDMUND M			D	H	69	\$100	
			D	H	97	\$500	

Contributor	Year	Recipients	Party	Office	District	Amount	Total By Year
		MEEKS, ROBERT L	R	S	13	\$1,000	
		MRVAN JR, FRANK	D	S	1	\$100	
		NUGENT, JOHNNY	R	S	43	\$100	
		OXLEY, DENNIE	D	H	73	\$100	
		PAUL, ALLEN E	R	S	27	\$100	
		ROBERTSON, PAUL J	D	H	70	\$100	
		SERVER, GREGORY D	R	S	50	\$100	
		SIMPSON, VI	D	S	40	\$400	
		STILWELL, RUSSELL	D	H	74	\$500	
		WATERMAN, JOHN MARTIN	R	S	39	\$100	
		WHETSTONE, MATTHEW D	R	H	40	\$100	2002 BROWN &
		YOUNG JR, RICHARD D	D	S	47	\$100	WILLIAMSON TOTAL \$9,200
	2004	BAUER, B PATRICK	D	H	6	\$1,000	
		BORST, LAWRENCE M	R	S	36	\$300	
		DANIELS, MITCH	R	G	SW	\$2,500	
		KERNAN, JOSEPH E	D	G	SW	\$2,500	
		LEWIS JR, JAMES A	D	S	45	\$300	
		LYTLE, MARK T L	D	H	69	\$500	
		MEEKS, ROBERT L	R	S	13	\$400	
		OXLEY, DENNIE	D	H	73	\$250	
		PELATH, SCOTT D	D	H	9	\$500	
		STILWELL, RUSSELL	D	H	74	\$250	
		WEATHERWAX, THOMAS K	R	S	18	\$500	2004 BROWN &
		YOUNG JR, RICHARD D	D	S	47	\$300	WILLIAMSON TOTAL \$9,300
							<b>1994-2008 BROWN &amp; WILLIAMSON TOTAL \$39,050</b>
<b>CERESTAR</b>							
<b>USA</b>	1998	DEMPSEY, SANDRA	R	S	1	\$200	

Contributor	Year	Recipients	Party	Office	District	Amount	Total By Year
		MRVAN JR, FRANK	D	S	1	\$300	1998 CERESTAR USA
		OBANNON, FRANK L	D	G	SW	\$350	TOTAL
							\$850
							<b>1994-2008 CERESTAR</b>
							<b>USA TOTAL</b>
							<b>\$850</b>
<b>CROWN</b>							2002 CROWN
<b>TOBACCO INC.</b>	2002	ROTH, PAMELA	R	H	19	\$500	TOBACCO TOTAL
							\$500
							<b>1994-2008 CROWN</b>
							<b>TOBACCO INC.,</b>
							<b>TOTAL</b>
							<b>\$500</b>
<b>INDIANA'S</b>							
<b>LAST</b>							1998 INDIANA'S LAST
<b>CIGARETTE</b>							CIGARETTE SALES
<b>SALES</b>	1998	DEMPSEY, SANDRA	R	S	1	\$200	TOTAL
							\$200
							<b>1994-2008 INDIANA'S</b>
							<b>LAST CIGARETTE</b>
							<b>SALES TOTAL</b>
							<b>\$200</b>
<b>KING</b>							
<b>RICHARDS</b>							
<b>CIGAR</b>	1998	BALES, JERRY F	R	H	60	\$500	
		BEHNING, ROBERT W	R	H	91	\$550	
		BODIKER SR, RICHARD WILLIAM	D	H	56	\$500	
		BURTON, WOODY	R	H	58	\$500	
		FRIZZELL, DAVID N	R	H	93	\$400	

Contributor	Year	Recipients	Party	Office	District	Amount	Total By Year
GILROY, SUE ANNE			R	SS	SW	\$2,000	
IRSA, NANCY C			R	H	39	\$500	
LEWIS JR, JAMES A			D	S	45	\$600	
LONG, DAVID C			R	S	16	\$200	
MANNWEILER, PAUL S			R	H	87	\$2,000	
MARENDT, CANDY			R	H	94	\$200	
MEEKS, CHARLES B (BUD)			R	S	14	\$100	
NASS, CONNIE KAY			R	AUD	SW	\$500	
SCHULTZ, RAYMOND C			R	H	97	\$200	
TORR, GERALD R (JERRY)			R	H	39	\$5,500	
WHEELER, HAROLD H (POTCH)			R	S	17	\$1,000	
WOLKINS, DAVID A			R	H	18	\$1,000	1998 KING RICHARDS
YOUNG, R MICHAEL			R	H	92	\$300	CIGAR TOTAL \$16,550
2000 BEHNING, ROBERT W			R	H	91	\$200	
BISCHOFF, ROBERT J			D	H	68	\$500	
BODIKER SR, RICHARD WILLIAM			D	H	56	\$300	
BUELL, LAWRENCE			R	H	89	\$300	
CARTER, STEPHEN			R	AG	SW	\$500	
FRIZZELL, DAVID N			R	H	93	\$200	
HERNDON, C MICHAEL			R	H	57	\$600	
HINKLE, PHILLIP D			R	H	92	\$300	
LUTZ, L JACK			R	H	36	\$300	
MANNWEILER, PAUL S			R	H	87	\$750	
MCINTOSH, DAVID			R	G	SW	\$8,135	
MUNSON, BRUCE			R	H	35	\$300	
OBANNON, FRANK L			D	G	SW	\$150	
TORR, GERALD R (JERRY)			R	H	39	\$250	
TURNER, P ERIC			R	H	32	\$300	
WHETSTONE, MATTHEW D			R	H	40	\$300	2000 KING RICHARDS

Contributor	Year	Recipients	Party	Office	District	Amount	Total By Year
	2002	YOUNG, R MICHAEL	R	S	35	\$500	CIGAR TOTAL \$13,885
		ATTERHOLT, JAMES DOUGLAS	R	H	86	\$250	
		BEHNING, ROBERT W	R	H	91	\$200	
		BOSMA, BRIAN C	R	H	88	\$150	
		BURTON, WOODY	R	H	58	\$1,250	
		CHERRY, ROBERT W	R	H	53	\$400	
		CLARK, JAMES MURRAY	R	S	29	\$250	
		FRIZZELL, DAVID N	R	H	93	\$200	
		LEWIS JR, JAMES A	D	S	45	\$250	
		LUTZ, L JACK	R	H	35	\$250	
		MCCLAIN, RICHARD	R	H	24	\$150	
		MEEKS, ROBERT L	R	S	13	\$400	
		NEESE, TIMOTHY	R	H	48	\$250	
		POND, PHYLLIS J	R	H	85	\$200	
		RUPPEL, WILLIAM J	R	H	22	\$175	
		THOMPSON, JEFFREY A	R	H	28	\$200	
		WHETSTONE, MATTHEW D	R	H	40	\$450	
		WOLKINS, DAVID A	R	H	18	\$475	2002 KING RICHARDS
		YOUNG, R MICHAEL	R	S	35	\$1,200	CIGAR TOTAL \$6,700
	2004	BURTON, WOODY	R	H	58	\$1,600	
		CARTER, STEPHEN	R	AG	SW	\$1,000	
		DANIELS, MITCH	R	G	SW	\$7,000	2004 KING RICHARDS
		YOUNG, R MICHAEL	R	S	35	\$1,500	CIGAR TOTAL \$11,100
							<b>RICHARDS CIGAR TOTAL \$48,235</b>
<b>LORILLARD</b>	2000	ALDERMAN, ROBERT K	R	H	83	\$200	
		BAUER, B PATRICK	D	H	6	\$200	
		BORST, LAWRENCE M	R	S	36	\$200	
		BOTTORFF, JAMES L	D	H	71	\$200	

Contributor	Year	Recipients	Party	Office	District	Amount	Total By Year
BROWN, CHARLIE			D	H	3	\$200	
ESPICH, JEFF			R	H	82	\$200	
GARTON, ROBERT D			R	S	41	\$200	
GREGG, JOHN R			D	H	45	\$200	
GRUBB, FLOYD DALE			D	H	42	\$200	
HARRISON, JOSEPH W			R	S	23	\$200	
JACKMAN, ROBERT N			R	S	42	\$100	
KUZMAN, ROBERT D			D	H	19	\$200	
LEWIS JR, JAMES A			D	S	45	\$200	
LUTZ, L JACK			R	H	36	\$200	
LYTLE, MARKT L			D	H	69	\$250	
MANNWEILER, PAUL S			R	H	87	\$200	
MCINTOSH, DAVID			R	G	SW	\$5,000	
MEEKS, ROBERT L			R	S	13	\$200	
NUGENT, JOHNNY			R	S	43	\$700	
ROGERS, EARLINE S			D	S	3	\$200	
SCHOLER, SUE			R	H	26	\$200	2000 LORILLARD
SKILLMAN, BECKY			R	S	44	\$100	TOTAL \$9,550
2002							
ALTING, RONNIE J			R	S	22	\$250	
BOTTORFF, JAMES L			D	H	71	\$200	
CROOKS, DAVE			D	H	63	\$200	
ESPICH, JEFF			R	H	82	\$200	
LUTZ, L JACK			R	H	35	\$200	
LYTLE, MARKT L			D	H	69	\$200	
MAHERN, EDMUND M			D	H	97	\$200	
NUGENT, JOHNNY			R	S	43	\$250	
OXLEY, DENNIE			D	H	73	\$200	
PAUL, ALLEN E			R	S	27	\$250	
ROBERTSON, PAUL J			D	H	70	\$200	
SERVER, GREGORY D			R	S	50	\$500	

Contributor	Year	Recipients	Party	Office	District	Amount	Total By Year
		STILWELL, RUSSELL	D	H	74	\$200	2002 LORILLARD
		WATERMAN, JOHN MARTIN	R	S	39	\$250	TOTAL \$3,300
2004	BAUER, B PATRICK		D	H	6	\$900	
	BORST, LAWRENCE M		R	S	36	\$500	
	BOSMA, BRIAN C		R	H	88	\$900	
	CLARK, JAMES MURRAY		R	S	29	\$550	
	CRAWFORD, WILLIAM A		D	H	98	\$500	
	DANIELS, MITCH		R	G	SW	\$5,000	
	ESPICH, JEFF		R	H	82	\$1,000	
	HOWARD, GLENN L		D	S	33	\$250	
	KENLEY, LUKE		R	S	20	\$300	
	LEWIS JR, JAMES A		D	S	45	\$250	
	LYTLE, MARK T L		D	H	69	\$250	
	MAHERN, EDMUND M		D	H	97	\$250	
	MEEKS, ROBERT L		R	S	13	\$650	2004 LORILLARD
	PELATH, SCOTT D		D	H	9	\$400	TOTAL \$11,700
2006	BAUER, B PATRICK		D	H	6	\$400	
	BOSMA, BRIAN C		R	H	88	\$750	
	CRAWFORD, WILLIAM A		D	H	98	\$400	
	DANIELS, MITCH		R	G	SW	\$5,000	
	ESPICH, JEFF		R	H	82	\$750	
	FRIEND, WILLIAM C		R	H	23	\$400	
	KENLEY, LUKE		R	S	20	\$900	
	LONG, DAVID C		R	S	16	\$650	
	MAHERN, EDMUND M		D	H	97	\$250	
	MAYS, CAROLENE		D	H	94	\$250	
	MEEKS, ROBERT L		R	S	13	\$500	
	MERRITT JR, JAMES W		R	S	31	\$350	
	OXLEY, DENNIE		D	H	73	\$500	
	TURNER, P ERIC		R	H	32	\$300	2006 LORILLARD



Contributor	Year	Recipients	Party	Office	District	Amount	Total By Year
	2008	WEATHERWAX, THOMAS K	R	S	18	\$600	TOTAL \$12,000
		ALTING, RONNIE J	R	S	22	\$500	
		BELL, MATTHEW	R	H	83	\$500	
		BREAUX, JEAN	D	S	34	\$500	
		ESPICH, JEFF	R	H	82	\$500	
		GIAQUINTA, PHIL	D	H	80	\$500	
		MERRITT JR, JAMES W	R	S	31	\$500	
		STEELE, BRENT	R	S	44	\$500	2008 LORILLARD
		VAN HAAFTEN, TRENT	D	H	76	\$500	TOTAL \$4,000
							<b>1994-2008 LORILLARD</b>
							<b>TOTAL \$40,550</b>
<b>MUNSTER</b>	2008	VANDENBURGH, ROCHELLE	D	H	19	\$200	2008 MUNSTER
<b>SMOKE SHOP</b>		(SHELLI)					SMOKE SHOP TOTAL \$200
							<b>1994-2008 MUNSTER</b>
							<b>SMOKE SHOP TOTAL \$200</b>
<b>RJ REYNOLDS</b>	1994	BAUER, B PATRICK	D	H	6	\$400	
		BISCHOFF, ROBERT J	D	H	68	\$150	
		ESPICH, JEFF	R	H	82	\$150	
		GARTON, ROBERT D	R	S	41	\$700	
		GOBLE, EDWARD E	D	H	67	\$150	
		GREGG, JOHN R	D	H	45	\$150	
		GRUBB, FLOYD DALE	D	H	42	\$150	
		HEEKE, DENNIS H	D	H	73	\$150	
		JOHNSON, STEVEN R	R	S	21	\$450	
		LANDSKE, DOROTHY SUZANNE					
		(SUE)	R	S	6	\$450	

Contributor	Year	Recipients	Party	Office	District	Amount	Total By Year
		LEUCK, CLAIRE M	D	H	25	\$150	
		LEWIS JR, JAMES A	D	S	45	\$450	
		LINDER, JEFFREY M	R	H	57	\$200	
		LYTLE, MARKT L	D	H	69	\$150	
		MANNWEILER, PAUL S	R	H	87	\$750	
		MCCONNELL, RICHARD L (RICK)	D	H	64	\$150	
		NUGENT, JOHNNY	R	S	43	\$300	
		PAUL, ALLEN E	R	S	27	\$250	
		PHILLIPS, MICHAEL KEITH	D	H	74	\$200	
		TURPIN, SAMUEL R	R	H	40	\$200	
		WHEELER, HAROLD H (POTCH)	R	S	17	\$200	1994 RJ REYNOLDS
		YOUNG JR, RICHARD D	D	S	47	\$200	TOTAL \$6,100
	1996	ALDERMAN, ROBERT K	R	H	83	\$500	
		BAUER, B PATRICK	D	H	6	\$200	
		BORST, LAWRENCE M	R	S	36	\$1,000	
		DAVIS, JAMES L	R	H	28	\$250	
		FRENZ, JOHN GREGORY	D	H	64	\$150	
		GULLING, NICK	R	H	53	\$250	
		KENLEY, LUKE	R	S	20	\$250	
		LINDER, JEFFREY M	R	H	57	\$750	
		LONG, DAVID C	R	S	16	\$250	
		LUTZ, L JACK	R	H	36	\$250	
		LYTLE, MARKT L	D	H	69	\$200	
		MEEKS, ROBERT L	R	S	13	\$500	
		SMITH, MICHAEL D	R	H	16	\$250	
		WEATHERWAX, THOMAS K	R	S	18	\$250	1996 RJ REYNOLDS
		WOLF, KATIE L	D	S	7	\$200	TOTAL \$5,250
	1998	BISCHOFF, ROBERT J	D	H	68	\$250	
		BORST, LAWRENCE M	R	S	36	\$300	

Contributor	Year	Recipients	Party	Office	District	Amount	Total By Year
		COCHRAN, WILLIAM C	D	H	72	\$150	
		CROOKS, DAVE	D	H	63	\$150	
		CROSBY, SUSAN RAY	D	H	44	\$250	
		DEMPSEY, SANDRA	R	S	1	\$300	
		ESPICH, JEFF	R	H	82	\$575	
		FRENZ, JOHN GREGORY	D	H	64	\$400	
		FRIEND, WILLIAM C	R	H	23	\$114	
		GARTON, ROBERT D	R	S	41	\$500	
		GRUBB, FLOYD DALE	D	H	42	\$650	
		HARRISON, JOSEPH W	R	S	23	\$1,000	
		KENLEY, LUKE	R	S	20	\$250	
		LEWIS JR, JAMES A	D	S	45	\$550	
		LINDER, JEFFREY M	R	H	57	\$650	
		LUTZ, LARRY E	D	H	76	\$200	
		LYTLE, MARKT L	D	H	69	\$500	
		MANNWEILER, PAUL S	R	H	87	\$114	
		OBANNON, FRANK L	D	G	SW	\$4,500	
		ROGERS, EARLINE S	D	S	3	\$300	
		WHEELER, HAROLD H (POTCH)	R	S	17	\$300	1998 RJ REYNOLDS
		YOUNG JR, RICHARD D	D	S	47	\$250	TOTAL \$12,253
2000		ALDERMAN, ROBERT K	R	H	83	\$200	
		BORST, LAWRENCE M	R	S	36	\$1,500	
		CHERRY, ROBERT W	R	H	53	\$150	
		GREGG, JOHN R	D	H	45	\$1,500	
		GRUBB, FLOYD DALE	D	H	42	\$250	
		LYTLE, MARKT L	D	H	69	\$250	
		MANNWEILER, PAUL S	R	H	87	\$250	
		MEEKS, ROBERT L	R	S	13	\$250	2000 RJ REYNOLDS
		SUMMERS, VENESSA J	D	H	99	\$150	TOTAL \$4,500
2002		BOSMA, BRIAN C	R	H	88	\$500	2002 RJ REYNOLDS

Contributor	Year	Recipients	Party	Office	District	Amount	Total By Year
			D	H	69	\$500	TOTAL
	2004	LYTLE, MARK T L	D	H	36	\$250	
		AUSTIN, TERRI J	D	H	6	\$1,000	
		BAUER, B PATRICK	R	H	91	\$250	
		BEHNING, ROBERT W	D	H	45	\$250	
		CHOWNING, ALAN B	R	G	SW	\$2,000	
		DANIELS, MITCH	R	H	82	\$250	
		ESPICH, JEFF	R	H	93	\$250	
		FRIZZELL, DAVID N	R	S	20	\$1,000	
		KENLEY, LUKE	D	H	19	\$500	
		KUZMAN, ROBERT D	R	H	46	\$250	
		LAPLANTE, R BROOKS	D	S	45	\$250	
		LEWIS JR, JAMES A	R	H	35	\$250	
		LUTZ, L JACK	D	H	69	\$250	
		LYTLE, MARK T L	D	H	97	\$250	
		MAHERN, EDMUND M	R	S	13	\$1,000	
		MEEKS, ROBERT L	D	S	3	\$500	
		ROGERS, EARLINE S	D	S	40	\$2,500	
		SIMPSON, VI	D	H	11	\$250	
		STEVENSON, DAN	R	H	39	\$250	
		TORR, GERALD R (JERRY)	R	H	40	\$250	2004 RJ REYNOLDS
		WHETSTONE, MATTHEW D	D	S	47	\$250	TOTAL
		YOUNG JR, RICHARD D	R	H	83	\$200	
	2006	BELL, MATTHEW	R	H	45	\$450	
		BORDERS, BRUCE ALAN	R	H	69	\$650	
		BRIGHT, BILLY	R	H	33	\$450	
		DAVIS, BILL J	R	H	31	\$450	
		HARRIS, TIMOTHY W	R	S	20	\$700	
		KENLEY, LUKE	D	S	45	\$300	
		LEWIS JR, JAMES A	R	S	16	\$300	
		LONG, DAVID C					\$12,000

Contributor	Year	Recipients	Party	Office	District	Amount	Total By Year
MEEKS, ROBERT L			R	S	13	\$900	
NUGENT, JOHNNY			R	S	43	\$600	
SIMPSON, VI			D	S	40	\$300	
SMITH, JOHN			R	H	30	\$450	
STEELE, BRENT			R	S	44	\$300	
TURNER, PERIC			R	H	32	\$1,400	
WALORSKI, JACKIE			R	H	21	\$200	
WEATHERWAX, THOMAS K			R	S	18	\$300	2006 RJ REYNOLDS
WOODRUFF, TROY			R	H	64	\$450	TOTAL
							\$8,400
2008 BATTLES, KREG			D	H	64	\$250	
BAUER, B PATRICK			D	H	6	\$2,500	
BISCHOFF, ROBERT J			D	H	68	\$250	
BORDERS, BRUCE ALAN			R	H	45	\$250	
BUCK, JAMES R			R	H	38	\$250	
CHEATHAM, DAVID			D	H	69	\$250	
DAVIS, BILL J			R	H	33	\$250	
ESPICH, JEFF			R	H	82	\$500	
FRY, CRAIG R			D	H	5	\$250	
HARRIS, TIMOTHY W			R	H	31	\$250	
HERRELL, RON			D	H	30	\$250	
HINKLE, PHILLIP D			R	H	92	\$250	
KNOLLMAN, TOM			R	H	55	\$250	
KOCH, ERIC A			R	H	65	\$300	
LEONARD, DAN J			R	H	50	\$250	
NIEZGODSKI, DAVID L			D	H	7	\$250	
OXLEY, DENNIE			D	LTG	SW	\$2,800	
ROBERTSON, PAUL J			D	H	70	\$250	
RUPPEL, WILLIAM J			R	H	22	\$250	
SAUNDERS, THOMAS E			R	H	54	\$250	
STILWELL, RUSSELL			D	H	74	\$500	

Contributor	Year	Recipients	Party	Office	District	Amount	Total By Year
		STUTZMAN, MARLIN A	R	H	52	\$250	
		THOMPSON, JEFFREY A	R	H	28	\$250	
		THOMPSON, JILL LONG	D	G	SW	\$2,500	
		TINCHER, VERN	D	H	46	\$250	
		TURNER, PERIC	R	H	32	\$300	2008 RJ REYNOLDS
		WALORSKI, JACKIE	R	H	21	\$250	TOTAL \$14,400
							<b>1994-2008 RJ</b>
							<b>REYNOLDS TOTAL \$63,903</b>
<b>SMOKE SHOP</b>							
V	2006	KUZMAN, ROBERT D	D	H	19	\$300	2006 SMOKE SHOP V TOTAL \$300
	2008	SUTTON, MYRON M	D	H	15	\$500	
		VANDENBURGH, ROCHELLE (SHELL)	D	H	19	\$200	2008 SMOKE SHOP V TOTAL \$700
							<b>1994-2008 SMOKE SHOP V TOTAL \$1,000</b>
<b>SMOKE SHOP</b>							
VI	2006	KUZMAN, ROBERT D	D	H	19	\$300	2006 SMOKE SHOP VI TOTAL \$300
							<b>1994-2008 SMOKE SHOP VI TOTAL \$300</b>
<b>SMOKELESS TOBACCO COUNCIL</b>							
	2000	GARTON, ROBERT D	R	S	41	\$500	
		GREGG, JOHN R	D	H	45	\$500	
		LYTLE, MARK T L	D	H	69	\$250	
		MANNWEILER, PAUL S	R	H	87	\$700	
		MCCLAIN, RICHARD	R	H	24	\$250	
		MOSES, WIN	D	H	81	\$250	

Contributor	Year	Recipients	Party	Office	District	Amount	Total By Year
		ROGERS, EARLINE S	D	S	3	\$250	2000 SMOKELESS
		SKILLMAN, BECKY	R	S	44	\$250	TOBACCO COUNCIL
		STEELE, BRENT	R	H	65	\$250	TOTAL
							\$3,200
							2002 SMOKELESS
		2002 LUTZ, L JACK	R	H	35	\$200	TOBACCO COUNCIL
							TOTAL
							\$200
		2004 GRUBB, FLOYD DALE	D	H	42	\$100	
		KROMKOWSKI, THOMAS	D	H	7	\$100	
		LEWIS JR, JAMES A	D	S	45	\$100	
		LUTZ, LARRY E	D	S	49	\$100	
		LYTLE, MARK T L	D	H	69	\$100	
		MAHERN, EDMUND M	D	H	97	\$100	2004 SMOKELESS
		MEEKS, ROBERT L	R	S	13	\$100	TOBACCO COUNCIL
		TORR, GERALD R (JERRY)	R	H	39	\$100	TOTAL
							\$800
							1994-2008
							SMOKELESS
							TOBACCO COUNCIL
							TOTAL
							\$4,200
<b>TOBACCO</b>							
<b>INSTITUTE</b>							
	1994	BAUER, B PATRICK	D	H	6	\$200	
		ESPICH, JEFF	R	H	82	\$200	
		GARTON, ROBERT D	R	S	41	\$200	
		GOBLE, EDWARD E	D	H	67	\$150	
		HARRISON, JOSEPH W	R	S	23	\$200	
		HAYES, ROBERT E	D	H	59	\$150	
		JOHNSON, STEVEN R	R	S	21	\$200	
		KEELER, JOHN S	R	H	86	\$200	
		LEWIS JR, JAMES A	D	S	45	\$200	
		LINDER, JEFFREY M	R	H	57	\$200	
		LYTLE, MARK T L	D	H	69	\$150	

Contributor	Year	Recipients	Party	Office	District	Amount	Total By Year
MACKLIN, LARRY D			D	S	19	\$200	
MANNWEILER, PAUL S			R	H	87	\$200	
MRVAN JR, FRANK			D	S	1	\$200	
NUGENT, JOHNNY			R	S	43	\$200	
PAUL, ALLEN E			R	S	27	\$200	
SMITH, KATHY			D	S	46	\$200	
STURTZ, W DALE			D	H	52	\$150	
TURPIN, SAMUEL R			R	H	40	\$200	1994 TOBACCO
YOUNG JR, RICHARD D			D	S	47	\$200	INSTITUTE TOTAL \$3,800
1996 ALDERMAN, ROBERT K							
BAUER, B PATRICK			D	H	6	\$150	
BODIKER SR, RICHARD WILLIAM							
BORST, LAWRENCE M			R	S	36	\$200	
DAVIS, JAMES L			R	H	28	\$300	
DOBIS, CHESTER F			D	H	13	\$150	
GREGG, JOHN R			D	H	45	\$350	
GRUBB, FLOYD DALE			D	H	42	\$350	
HEEKE, DENNIS H			D	H	73	\$150	
HOWARD, GLENN L			D	S	33	\$150	
KEELER, JOHN S			R	H	86	\$100	
LINDER, JEFFREY M			R	H	57	\$400	
LUTZ, L JACK			R	H	36	\$150	
LYTLE, MARK T L			D	H	69	\$300	
MANNWEILER, PAUL S			R	H	87	\$350	
MEEKS, ROBERT L			R	S	13	\$350	
RANDOLPH, LONNIE MARCUS			D	S	2	\$350	1996 TOBACCO
ROGERS, EARLINE S			D	S	3	\$350	INSTITUTE TOTAL \$4,550
1998 ALDERMAN, ROBERT K							
ANTICH, ROSE ANN			D	S	4	\$200	



Contributor	Year	Recipients	Party	Office	District	Amount	Total By Year
BAILEY, WILLIAM W			D	H	66	\$200	
BEHNING, ROBERT W			R	H	91	\$100	
BRAY, RICHARD D			R	S	37	\$100	
DAVIS, JAMES L			R	H	28	\$100	
DUNCAN, CLEO			R	H	67	\$100	
ESPICH, JEFF			R	H	82	\$250	
GARTON, ROBERT D			R	S	41	\$350	
GREGG, JOHN R			D	H	45	\$200	
GRUBB, FLOYD DALE			D	H	42	\$250	
HARRISON, JOSEPH W			R	S	23	\$400	
HELLMANN, ROBERT F			D	S	38	\$150	
HUME, LINDEL O			D	S	48	\$200	
JACKMAN, ROBERT N			R	S	42	\$100	
KEELER, JOHN S			R	H	86	\$100	
LEWIS JR, JAMES A			D	S	45	\$400	
LINDER, JEFFREY M			R	H	57	\$350	
LUTZ, L JACK			R	H	36	\$150	
LUTZ, LARRY E			D	H	76	\$100	
LYTLE, MARKT L			D	H	69	\$400	
MANNWEILER, PAUL S			R	H	87	\$150	
MEEKS, CHARLES B (BUD)			R	S	14	\$150	
NUGENT, JOHNNY			R	S	43	\$350	
OBANNON, FRANK L			D	G	SW	\$5,000	
PAUL, ALLEN E			R	S	27	\$100	
RICHARDSON, KATHY KREAG			R	H	29	\$200	
ROBERTSON, PAUL J			D	H	70	\$200	
ROGERS, EARLINE S			D	S	3	\$350	1998 TOBACCO
WHEELER, HAROLD H (POTCH)			R	S	17	\$200	INSTITUTE TOTAL \$11,100
							<b>1994-2008 TOBACCO</b>
							<b>INSTITUTE TOTAL \$19,450</b>

Contributor	Year	Recipients	Party	Office	District	Amount	Total By Year		
US SMOKELESS TOBACCO	1994	BALES, JERRY F	R	H	60	\$300			
		GOBLE, EDWARD E	D	H	67	\$150			
		LUTZ, L JACK	R	H	36	\$150			
		LYTLE, MARKT L	D	H	69	\$200			
			MCCONNELL, RICHARD L (RICK)	D	H	64	\$150		
			NUGENT, JOHNNY	R	S	43	\$250	1994 US SMOKELESS	
			TURPIN, SAMUEL R	R	H	40	\$300	TOBACCO TOTAL \$1,500	
	1996	BALES, JERRY F	R	H	60	\$150			
		DENBO, JERRY L	D	H	62	\$100			
		GRUBB, FLOYD DALE	D	H	42	\$125			
		LOHR, DAVID L	R	H	46	\$250			
		LUTZ, L JACK	R	H	36	\$150			
		LUTZ, LARRY E	D	H	76	\$100			
		LYTLE, MARKT L	D	H	69	\$150		1996 US SMOKELESS	
		WOLKINS, DAVID A	R	H	18	\$125		TOBACCO TOTAL \$1,150	
		1998	FRENZ, JOHN GREGORY	D	H	64	\$100		
			FRIEND, WILLIAM C	R	H	23	\$100		
			GRUBB, FLOYD DALE	D	H	42	\$200		
			HARRISON, JOSEPH W	R	S	23	\$200		
LEWIS JR, JAMES A			D	S	45	\$100			
LIGGETT, RONALD D			D	H	33	\$100			
LINDER, JEFFREY M			R	H	57	\$100			
LUTZ, L JACK	R		H	36	\$100				
LYTLE, MARKT L	D		H	69	\$100				
MANNWEILER, PAUL S	R		H	87	\$306				
SAUNDERS, THOMAS E	R	H	54	\$100					

Contributor	Year	Recipients	Party	Office	District	Amount	Total By Year
		WATERMAN, JOHN MARTIN	R	S	39	\$100	1998 US SMOKELESS
		WHEELER, HAROLD H (POTCH)	R	S	17	\$200	TOBACCO TOTAL
		2000 BORST, LAWRENCE M	R	S	36	\$500	
		BOTTORFF, JAMES L	D	H	71	\$400	
		GARTON, ROBERT D	R	S	41	\$400	
		GREGG, JOHN R	D	H	45	\$800	
		HARRISON, JOSEPH W	R	S	23	\$550	
		LEWIS JR, JAMES A	D	S	45	\$250	
		LYTLE, MARK T L	D	H	69	\$650	2000 US SMOKELESS
		MANNWEILER, PAUL S	R	H	87	\$750	TOBACCO TOTAL
		2004 DANIELS, MITCH	R	G	SW	\$1,000	2004 US SMOKELESS
		MEEKS, ROBERT L	R	S	13	\$1,140	TOBACCO TOTAL
		2006 BOSMA, BRIAN C	R	H	88	\$2,000	
		FRIEND, WILLIAM C	R	H	23	\$500	
		GARTON, ROBERT D	R	S	41	\$1,500	
		MEEKS, ROBERT L	R	S	13	\$1,500	
		MERRITT JR, JAMES W	R	S	31	\$500	
		TURNER, PERIC	R	H	32	\$1,000	2006 US SMOKELESS
		YOUNG JR, RICHARD D	D	S	47	\$500	TOBACCO TOTAL
		2008 BAUER, B PATRICK	D	H	6	\$1,000	
		BOSMA, BRIAN C	R	H	88	\$1,000	
		DANIELS, MITCH	R	G	SW	\$6,000	
		FRIZZELL, DAVID N	R	H	93	\$500	
		KENLEY, LUKE	R	S	20	\$2,500	2008 US SMOKELESS
		TURNER, PERIC	R	H	32	\$500	TOBACCO TOTAL
							\$11,500
							<b>1994-2008 US</b>
							<b>SMOKELESS</b>
							<b>TOBACCO TOTAL</b>
							<b>\$29,896</b>

Appendix D: Tobacco Industry Contributions to Political Party Organizations, 1994-2008				
Recipient	Year	Contributor	Amount	
			Total By Year	
<b>REPUBLICAN ORGANIZATIONS</b>				
HOUSE REPUBLICAN CAMPAIGN CMTE OF INDIANA	2000	ALTRIA/PHILIP MORRIS	\$2,000	
		BROWN & WILLIAMSON	\$2,500	
		LORILLARD	\$500	
		2000 Total		\$6,000
	2002	RJ REYNOLDS	\$1,000	
		ALTRIA/PHILIP MORRIS	\$2,000	
		BROWN & WILLIAMSON	\$800	
			\$500	
			\$800	
	2004	RJ REYNOLDS	\$1,000	
		ALTRIA/PHILIP MORRIS	\$2,750	
		BROWN & WILLIAMSON	\$1,000	
			\$2,000	
			\$2,000	
	2006	RJ REYNOLDS	\$2,000	
US SMOKELESS TOBACCO		\$1,500		
ALTRIA/PHILIP MORRIS		\$4,400		
		\$4,000		
		\$2,000		
2008	US SMOKELESS TOBACCO	\$2,000		
	ALTRIA/PHILIP MORRIS	\$3,600		
	RJ REYNOLDS	\$1,000		
		\$1,000		
		\$1,000		
	2008 Total		\$5,600	
	<b>1994-2008 Sum Total</b>		<b>\$38,350</b>	
<b>INDIANA REPUBLICAN PARTY</b>				
2000	ALTRIA/PHILIP MORRIS	\$1,000		
	RJ REYNOLDS	\$2,500		
	2000 Total		\$3,500	
2002	ALTRIA/PHILIP MORRIS	\$3,500		
	RJ REYNOLDS	\$2,000		
	2002 Total		\$5,500	

<b>Recipient</b>	<b>Year</b>	<b>Contributor</b>	<b>Amount</b>	<b>Total By Year</b>	
SENATE MAJORITY CAMPAIGN CMTE OF INDIANA	2004	ALTRIA/PHILIP MORRIS	\$3,500	2004 Total \$6,000	
		LORILLARD	\$2,500	2006 Total \$2,500	
	2006	ALTRIA/PHILIP MORRIS	\$2,500		
	2008	ALTRIA/PHILIP MORRIS	\$10,000		
		US SMOKELESS TOBACCO	\$5,000	2008 Total \$15,000	
				<b>1994-2008 Sum</b>	
				<b>Total</b>	
				<b>\$32,500</b>	
		2000	ALTRIA/PHILIP MORRIS	\$2,000	2000 Total \$2,500
			LORILLARD	\$500	
	2002	ALTRIA/PHILIP MORRIS	\$2,000		
		BROWN & WILLIAMSON	\$800	2002 Total \$2,800	
	2004	ALTRIA/PHILIP MORRIS	\$2,500		
		BROWN & WILLIAMSON	\$1,000		
		LORILLARD	\$1,000		
		RJ REYNOLDS	\$3,000	2004 Total \$7,500	
	2006	ALTRIA/PHILIP MORRIS	\$3,600		
		LORILLARD	\$2,000		
		RJ REYNOLDS	\$1,000		
		US SMOKELESS TOBACCO	\$2,000	2006 Total \$8,600	
	2008	ALTRIA/PHILIP MORRIS	\$4,400		
		LORILLARD	\$1,000		
		RJ REYNOLDS	\$1,000		
		US SMOKELESS TOBACCO	\$4,000	2008 Total \$10,400	
				<b>1994-2008 Sum</b>	
				<b>Total</b>	
				<b>\$31,800</b>	
<b>DEMOCRATIC ORGANIZATIONS</b>					
INDIANA DEMOCRATIC PARTY	2000	ALTRIA/PHILIP MORRIS	\$5,000		
		BROWN & WILLIAMSON	\$5,000		
		LORILLARD	\$1,000		

<b>Recipient</b>	<b>Year</b>	<b>Contributor</b>	<b>Amount</b>	<b>Total By Year</b>
		RJ REYNOLDS	\$1,000	2000 Total \$12,000
	2002	ALTRIA/PHILIP MORRIS	\$2,000	2002 Total \$2,000
	2004	ALTRIA/PHILIP MORRIS	\$500	
		RJ REYNOLDS	\$2,500	2004 Total \$3,000
	2006	ALTRIA/PHILIP MORRIS	\$5,000	2006 Total \$5,000
	2008	ALTRIA/PHILIP MORRIS	\$10,000	2008 Total \$10,000
				<b>1994-2008 Sum</b>
				<b>Total \$32,000</b>
INDIANA HOUSE DEMOCRATIC CAUCUS				
	2000	ALTRIA/PHILIP MORRIS	\$2,000	
		BROWN & WILLIAMSON	\$1,500	
		LORILLARD	\$500	
		RJ REYNOLDS	\$2,000	2000 Total \$6,000
	2002	ALTRIA/PHILIP MORRIS	\$2,000	2002 Total \$2,000
	2004	ALTRIA/PHILIP MORRIS	\$1,250	
		BROWN & WILLIAMSON	\$1,000	
		LORILLARD	\$2,000	
		RJ REYNOLDS	\$1,000	2004 Total \$5,250
	2006	ALTRIA/PHILIP MORRIS	\$3,600	
		MUNSTER SMOKE SHOP	\$100	
		RJ REYNOLDS	\$2,000	
		SMOKE SHOP V	\$300	2006 Total \$6,000
	2008	ALTRIA/PHILIP MORRIS	\$2,800	2008 Total \$3,800
		RJ REYNOLDS	\$1,000	
				<b>1994-2008 Sum</b>
				<b>Total \$23,050</b>
INDIANA SENATE DEMOCRATIC CMTE				
	2000	ALTRIA/PHILIP MORRIS	\$1,000	
	2000	BROWN & WILLIAMSON	\$1,000	

<b>Recipient</b>	<b>Year</b>	<b>Contributor</b>	<b>Amount</b>	<b>Total By Year</b>
	2000	LORILLARD	\$500	2000 Total \$2,500
	2002	KING RICHARDS CIGAR	\$400	2002 Total \$400
	2004	ALTRIA/PHILIP MORRIS	\$500	
	2004	RJ REYNOLDS	\$500	2004 Total \$1,000
	2006	ALTRIA/PHILIP MORRIS	\$3,200	
	2006	RJ REYNOLDS	\$1,500	2006 Total \$4,700
	2008	ALTRIA/PHILIP MORRIS	\$2,800	
	2008	RJ REYNOLDS	\$1,000	2008 Total \$3,800
				<b>1994-2008 Sum Total \$12,400</b>

## Appendix E: Legislative Policy Scores, 116th General Assembly (2009-2010)

Scores were obtained by asking five knowledgeable individuals to anonymously rate each legislator's receptiveness to tobacco control on a scale of 0 to 10, with 0 being extremely pro-tobacco industry and 10 being extremely pro-tobacco control.

### Policy Scores for 2009-2010 House of Representatives

Legislator	Party	District	Policy Score
Austin, Terri	D	36	6.2
Avery, Dennis T.	D	75	8.0
Bardon, Jeb	D	25	5.8
Barnes, John	D	89	6.2
Bartlett, John	D	95	5.4
Battles, Kreg	D	64	4.8
Bauer, B. Patrick	D	6	3.0
Behning, Robert W.	R	91	2.8
Bell, Matt	R	83	3.0
Bischoff, Robert J.	D	68	3.0
Blanton, Sandra	D	62	5.6
Borders, Bruce	R	45	5.0
Borror, Randy L.	R	84	1.4
Bosma, Brian C.	R	88	5.0
Brown, Charlie	D	3	8.8
Brown, Timothy	R	41	6.8
Burton, Woody	R	58	3.2
Reardon, Mara Candelaria	D	12	7.6
Cheatham, Dave	D	69	6.8
Cherry, Bob	R	53	5.0
Clements, Jacqueline	R	38	4.6
Clere, Edward	R	72	5.2
Crawford, William A.	D	98	8.8
Crouch, Suzanne	R	78	5.6
Culver, Wesley	R	49	5.4
Davis, Bill	R	33	4.2
Day, John	D	100	8.0
DeLaney, Edward	D	86	6.0
Dembowski, Nancy	D	17	6.2
Dermody, Thomas	R	20	4.8
Dobis, Chet	D	13	5.2
Dodge, Richard 'Dick'	R	51	6.4
Duncan, Cleo	R	67	6.2
Dvorak, Ryan	D	8	5.2
Eberhart, Sean	R	57	4.8
Espich, Jeff	R	82	2.0
Foley, Ralph M.	R	47	5.0
Friend, William C.	R	23	5.4
Frizzell, David N.	R	93	2.2
Fry, Craig R.	D	5	5.6
GiaQuinta, Phil	D	80	7.8



Goodin, Terry	D	66	5.8
Grubb, F. Dale	D	42	6.0
Gutwein, Douglas L.	R	16	4.6
Harris, Earl L.	D	2	5.2
Herrell, Ron	D	30	5.3
Hinkle, Phillip D.	R	92	3.8
Kersey, Clyde	D	43	5.5
Klinker, Sheila J.	D	27	6.8
Knollman, Thomas	R	55	4.4
Koch, Eric Allen	R	65	4.6
Lawson, Linda	D	1	6.0
Lehe, Don	R	15	6.2
Lehman, Matthew	R	79	4.8
Leonard, Dan	R	50	4.8
Lutz, L. Jack	R	35	2.4
McClain, Richard W.	R	24	4.4
Messmer, Mark	R	63	5.0
Michael, Nancy	D	44	8.2
Moseley, Chuck	D	10	6.8
Moses Jr., Winfield C.	D	81	6.8
Murphy, Michael B.	R	90	6.2
Neese, Tim	R	48	5.0
Niezgodski, David	D	7	5.2
Noe, Cindy	R	87	3.6
Oxley, Dennie	D	73	3.6
Pearson, Joseph	D	31	6.6
Pelath, Scott	D	9	4.4
Pflum, Phil	D	56	4.4
Pierce, Matt	D	61	5.6
Pond, Phyllis J.	R	85	5.6
Porter, Gregory W.	D	96	6.2
Pryor, Cherrish	D	94	6.2
Reske, Scott	D	37	5.8
Richardson, Kathy K.	R	29	6.3
Riecken, Gale	D	77	6.0
Robertson, Paul J.	D	70	3.6
Ruppel, William J.	R	22	4.8
Saunders, Thomas E.	R	54	5.8
Smith, Milo	R	59	4.4
Smith, Vernon G.	D	14	4.8
Soliday, Edmond	R	4	5.4
Stemler, Steve	D	71	6.0
Steuerwald, Greg	R	40	5.2
Stevenson, Dan C.	D	11	5.0
Stilwell, Russ	D	74	3.4
Sullivan, Mary Ann	D	97	7.0
Summers, Vanessa	D	99	4.8
Thompson, Jeff	R	28	4.2
Tincher, Vern	D	46	4.4
Torr, Jerry R.	R	39	0.4

Truitt, Randolph	R	26	5.8
Turner, P. Eric	R	32	7.4
Tyler, Dennis	D	34	5.6
VanDenburgh, Shelli	D	19	5.6
Van Haaften, Trent	D	76	2.0
Walorski, Jackie	R	21	4.2
Welch, Peggy	D	60	9.8
Wolkins, David A.	R	18	4.6
Yard II, David	R	52	5.2
<b><i>Average House of Representatives Policy Score:</i></b>			<b>5.3</b>

### **Policy Scores for 2009-2010 Senate**

<b>Legislator</b>	<b>Party</b>	<b>District</b>	<b>Policy Score</b>
Alting, Ronnie J.	R	22	4.4
Arnold, Jim	D	8	4.6
Becker, Vaneta	R	50	8.2
Boots, Phil	R	23	4.4
Bray, Richard D.	R	37	4.4
Breaux, Jean D.	D	34	6.8
Broden, John	D	10	6.6
Buck, Jim	R	21	3.6
Charbonneau, Ed	R	5	6.4
Deig, Bob	D	49	5.0
Delph, Mike	R	29	2.4
Dillon, Gary Doc	R	17	8.6
Errington, Sue	D	26	9.4
Gard, Beverly J.	R	28	9.6
Head, Randy	R	18	4.6
Hershman, Brandt	R	7	5.4
Holdman, Travis	R	19	5.0
Hume, Lindel O.	D	48	3.5
Kenley, Luke	R	20	2.4
Kruse, Dennis	R	14	5.8
Lanane, Timothy	D	25	5.8
Landske, Sue	R	6	5.8
Lawson, Connie	R	24	7.2
Leising, Jean	R	42	6.8
Lewis, James	D	45	3.6
Long, David C.	R	16	4.4
Merritt Jr., James W.	R	31	5.2
Miller, Patricia L.	R	32	6.2
Mishler, Ryan	R	9	6.4
Mrvan Jr., Frank	D	1	5.8
Nugent, Johnny	R	43	2.6
Paul, Allen E.	R	27	3.6
Randolph, Lonnie	D	2	3.8
Rogers, Earline S.	D	3	6.2
Schneider, Scott	R	30	2.6
Simpson, Vi	D	40	8.6

Sipes, Connie	D	46	6.4
Skinner, Tim	D	38	6.4
Steele, Brent	R	44	3.6
Stutzman, Marlin	R	13	4.6
Tallian, Karen	D	4	5.6
Taylor, Greg	D	33	4.8
Walker, Greg	R	41	4.0
Waltz, Brent	R	36	4.4
Waterman, John W.	R	39	3.2
Wyss, Thomas J.	R	15	7.8
Yoder, Carlin	R	12	5.8
Young, Michael	R	35	3.4
Young Jr., Richard D.	D	47	3.8
Zakas, Joseph C.	R	11	6.0
<b><i>Average Senate Policy Score:</i></b>			<b>5.3</b>