

*May 3, 2005*

It is now four months into this year's state legislative season. It has been an extraordinarily busy year with substantial action in each of the three major issue tobacco areas: tobacco prevention funding, excise taxes and smoke free air. A number of states have completed their legislative session, but many remain in session and have yet to make critical decisions

### **Tobacco Prevention and Cessation Funding**

In December the Campaign for Tobacco-Free Kids identified the following states as places it expected significant activity involving efforts to defend or increase existing tobacco related funding: Indiana, Maine, Ohio, Vermont, New Jersey, Oregon, and Colorado.

Additionally in December the Campaign identified the need to monitor the following states for threats and opportunities related to tobacco prevention funding during 2005: Mississippi, Washington, California, New York, New Mexico, Utah, Virginia, Pennsylvania, Nebraska, Wisconsin, Iowa, Maryland, Alaska, Massachusetts, and Montana.

Highlights so far include funding progress in Colorado, Indiana and New York. The situation in Vermont and Massachusetts also look promising for modest increases. The debate continues or has not yet begun in the other states not above

Over the last two years tobacco prevention funding nation wide has been cut by 1/3. As of this May 2005 C-Change meeting, there have been no further cuts to current tobacco prevention funding levels, although there are pending problems in Ohio, Mississippi and Washington State.

In Washington the legislature raided funds from the tobacco trust fund that was to have funded one-half of the program in 2009. Tobacco advocates have asked Governor Christine Gregoire to use her line item veto to reverse this legislative decision. By law she must act prior to the May C-Change meeting date.

In Mississippi, Governor Haley Barbour has filed a lawsuit to challenge the court decision that earmarks \$20 million a year to the Partnership for a Healthy Mississippi to run its tobacco prevention and cessation program. The first court date is scheduled for May 2004. This represents a serious threat to Mississippi's landmark program.

In Vermont, local advocates are currently working to secure an increase of about three percent in funding and prospects look relatively bright as the session their heads into the final two months.

The campaign has just begun in Massachusetts to ramp up funding there from the current 3.5 million to around 11 million as a first step to a return to full funding. For years Massachusetts had one of this nation's most effective tobacco control programs before it was gutted by massive budget cuts that reduced funding for the program from over \$50 million a year at its peak to \$3.5

million. Governor Romney has provided no support for funding for tobacco prevention or cessation so their effort is focused on the Massachusetts legislature. Prospects at this point are unclear.

In New York, the state legislature has adopted a budget agreement that adds about \$5 million to that state's program. While funding remains at only about 50% of the minimum recommended by the CDC, the budget decision this year gives the program its highest level of funding ever.

In California program funding has been cut by about 50% in recent years. We are part of a group exploring a 2006 ballot initiative that would raise the cigarette tax and restore full funding to the signature California program.

We are working with advocates in Oregon to restore funding there as well, and so far prospects look reasonably good, although the session there is expected to last well into the summer.

Indiana may be the most unlikely success story this year. In Indiana the Indiana Tobacco Prevention and Cessation Agency has established itself as one of the leading programs in the country. Over the last few years, its funding has been reduced from around \$35 million to \$10.8 million annually. This year appeared to present perhaps the greatest threat to ITPC funding yet. New Republican Governor, Mitch Daniels, a Republican with a well-established reputation as a budget-cutter and a legislature that switched from Democratic to Republican control, which put a leading opponent of ITPC into a position of power, put the very existence of the tobacco program in jeopardy.

Given this backdrop the Campaign and other public health leaders decided early on that we needed to develop a strategy and build a coalition including new players. The Indiana Academy of Family Physicians agreed to take a lead role; Clarion Health Care, whose CEO is close to the Governor and also active in efforts to make Indianapolis smoke free, agreed to play an active role, and grassroots activists in the faith community mobilized.

The threats were real. The legislature proposed to cut funding for the program and the Governor launched an effort to eliminate the ITPC as an independent organization and to fold it into the department of health where we feared it would be hamstrung. The Campaign and our allies responded immediately. We ran a series of print advertisements early in the year that focused on smoking's cost to Indiana's economy and health, and the role of ITPC in reducing that cost. Contacts were made with the Governor's office and several meetings were held with his staff. ITPC director Karla Sneegas testified before key committees and several faith-based events helped to organize and hold several events designed to promote ITPC, one of which was attended by the Governor's faith coordinator and sent numerous alerts to our Indiana e-champions. This was a classic example of the power of a faith-based initiative.

We have succeeded. Funding for the program has been maintained at current funding levels, and for now at least attempts to move the agency into the health department have been abandoned. This campaign succeeded primarily because of the work of non-traditional allies.

In Ohio, we face yet another attempt to take portions of the annual payment to the Ohio Tobacco Use Prevention Foundation, this time aimed at funding new Medicaid-related programs. It is important to stop these annual raids to ensure that the Foundation can reach CDC minimum in

the next few years, as was the original intent of the legislature when they first dealt with the MSA. We are currently designing a print and radio advertising campaign, and working on possibly hiring an additional lobbyist with strong ties to the Senate leadership. Our message is that instead of raiding tobacco prevention to fund Medicaid, the legislature should raise the cigarette tax and fund both priorities.

In Washington, the legislature has unfortunately dipped into the tobacco prevention account to avoid requiring Medicaid recipients to pay a \$2 co-pay. Although the funds involved would not have been spent until 2009 and the program is still funded through the next biennium, the precedent is a disturbing one and we will be working with our allies in the weeks ahead on a strategy to ensure long-term funding for this program. We are fortunate to have a good Governor, Christine Gregoire, and are hopeful that she will commit to returning the 2009 funds and then fully fund the program into the long-term future. The legislature did enact a 60-cent-per-pack cigarette tax increase, which will help to further reduce smoking rates in Washington, where youth rates have been cut in half already.

Colorado also bears mentioning. Last November the Healthier Colorado Coalition passed a tax initiative that sought to earmark a portion of its funds for tobacco prevention. The initiative required implementing legislation and the governor and others at various times sought to divert the funds away from tobacco control. A major campaign had to be mounted to fight to save the funding and the last week in April, it was announced that an agreement had been reached with the governor to follow the voters' wishes and allocate the appropriate funds for tobacco control program – a major victory after a hard fought battle.

State funding will be a top priority in the years ahead.

### **Cigarette Excise Taxes**

At the beginning of the year the Campaign for Tobacco-Free Kids identified these states as having the greatest potential proactive excise tax opportunities: ME, NH, OH, TX, KY, MS, WI, IA, NC, ND, KS.

And the Campaign agreed to monitor the following states for potential opportunities, given budget situations and other factors: GA, FL, MN, PA, LA, AR, WA, SC, OR.

The importance of continuing to work to increase state tobacco excise taxes was highlighted by the recent report from the CDC that noted that in the last two years the pace at which youth tobacco use is declining has slowed dramatically. The CDC noted that during the period of greatest decline (1997-2002) the actual price of cigarettes rose 80%, but that between 2002 and 2004 the actual price of tobacco products rose by only 4% as the tobacco industry used heavy discounting to offset tobacco tax increases.

As of now, we have two taxes enacted so far – the historic \$.27 increase in Kentucky and a \$.60 increase in Washington. This was the culmination of a three-year effort to increase the tax in Kentucky and while not all that was sought, it is nonetheless a significant achievement and signal to the rest of tobacco country and the nation. The 27-cent-per-pack increase means that as of June 1 the tax in Kentucky will be 30 cents per pack.

In Washington, a 60-cent-per-pack increase has passed the legislature and will be signed by Governor Gregoire, meaning that the Washington tax will be 2.02 per pack, the fourth highest in the country.

At this time, tax increases are still being debated in New Hampshire (28 cents), Ohio (45-75 cents), Texas (60 cents-1.00), Iowa (36 cents), Illinois (75 cents) and North Carolina (45 cents).

In Louisiana, where the legislative session has just begun, the Governor has proposed a 50-cent increase. In Oregon we hope to at least restore the 10-cent increase that was overturned in a referendum (on a much larger overall tax package) last year.

The very active tax campaign in Mississippi failed because of the strong opposition of Governor Barbour. However, Mississippi still has budget problems that will need to be fixed in a Special Session so that the tax could be back on the table.

In Florida and California there are discussions about possible tobacco tax initiatives on the ballot in 2006. A group working to raise funds for cancer research is exploring a proposed 2006 ballot initiative in Florida that would raise the tax by 50 cents per pack and use at least some of the resulting funds for cancer research. Other potential tax ballots for 2006 include Missouri and California.

### **Smoke-free Air**

At the beginning of the year the Campaign viewed the following states and localities as the best possible opportunities for enacting comprehensive smoke-free laws: GA, MD, NJ, NH, NM, VT, WA, MN, Denver, Washington DC, Houston, Atlanta, Austin, Philadelphia and Indianapolis.

In addition, opponents to the Columbus, OH smoke-free law succeeded in putting a measure on the local ballot that would exempt establishments that make at least 65 percent of their revenues from alcohol.

In Philadelphia there has been a campaign to persuade the City Council to enact a comprehensive ordinance. Through the work of the faith community we have gained entrée to the Mayor's office and our communications work has led to the Philadelphia Inquirer editorializing in favor of the ordinance. After many weeks of tortuous negotiations, there is some hope that the ordinance will be approved in the next 60 days.

Wayne County, Michigan recently enacted a strong clean indoor air law after a long effort. The ordinance does not cover restaurants and bars because covering those establishments is preempted by the state, but the county includes several large auto-manufacturing plants, and they will now become smoke-free. Radio ads and strategic assistance were pivotal in pushing this ordinance to enactment.

There have just been ballot initiatives in Columbus, Ohio and Austin, Texas. In Austin the campaign was in favor of a ballot initiative that will extend the current ordinance to all establishments including music clubs. It prevailed in an election held the first week in May by a close but solid majority.

In Columbus, Ohio bar owners were seeking an exemption for bars in the ballot initiative. The public health community stepped in to help the Smoke Free Columbus campaign with polling advice, targeted direct mail and very hands-on strategy assistance. In a surprisingly strong showing the public health community prevailed in the Columbus vote by 12 percentage points. This was an especially important victory because the Cancer Society of Ohio has announced that it plans to take to the voters of the entire state a clean indoor air ballot initiative in the Fall of 2006.

In other local news, there continues to be an aggressive led by the American Cancer Society and the Campaign for Tobacco-Free Kids on Washington, DC. Smoke free legislation has been re-introduced in the City Council even as we pursue a lawsuit to enable us to take the issue to the ballot in 2006 if we don't succeed with the City Council. Our efforts in Washington, DC continue to be stymied by one councilmember in particular, but also by a lack of support by the Council Chairperson and the Mayor.

Statewide efforts this year have thus far yielded varied results. In a stunning development, both houses of the Illinois legislature have passed legislation that repeals the preemption clause in the state's weak smoke-free law. If differences are ironed out in conference committee and the Governor signs the bill, this will be a major boost to tobacco control in one of the country's biggest states.

In Rhode Island the legislature has tightened up its already good law.

A comprehensive law has been enacted in Montana that exempts bars and prohibits local communities from including bars in local ordinances for four years. In Georgia, a statewide bill has passed the legislature and was recently signed by the Governor. The bill has several loopholes but a step forward in Georgia has to be seen as progress and the bill does not preempt local action.

Efforts to enact legislation failed in Utah, New Mexico and Maryland. Comprehensive statewide legislation continues to be debated in Colorado, Vermont and New Jersey.

In Washington, State ACS is leading an effort to gather signatures for a planned November smoke-free ballot initiative. Advocates in Arizona are also in the early planning stages for a 2006 ballot on smoke-free air.

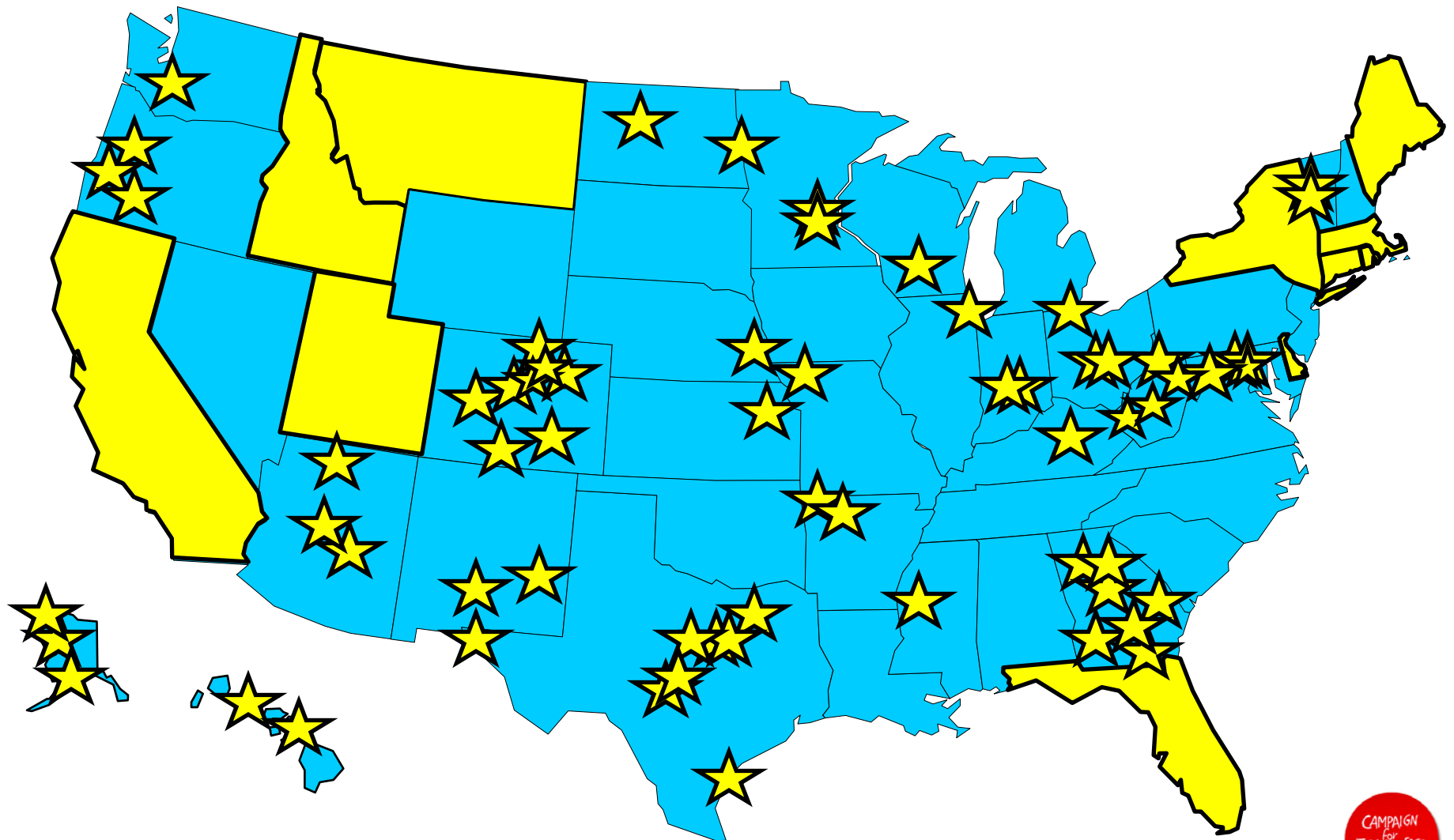
### **Fire Safe Cigarette Legislation**

A small group has been working on state-level legislation to reduce cigarette caused house fires. A law to require cigarettes to meet fire safety standards went into effect in New York last year. While the tobacco companies have complied in New York, they have not altered the fire risk of cigarettes they make in other states. A coordinating group is overseeing an effort to have legislation modeled after the New York legislation in a sufficient number of other states so that the NY standard will become a de facto national standard.

This strategy is also designed to avoid federal legislation because of concern that any federal legislation would be weaker than New York and could preempt state activity in this area.

# SMOKE-FREE LAWS

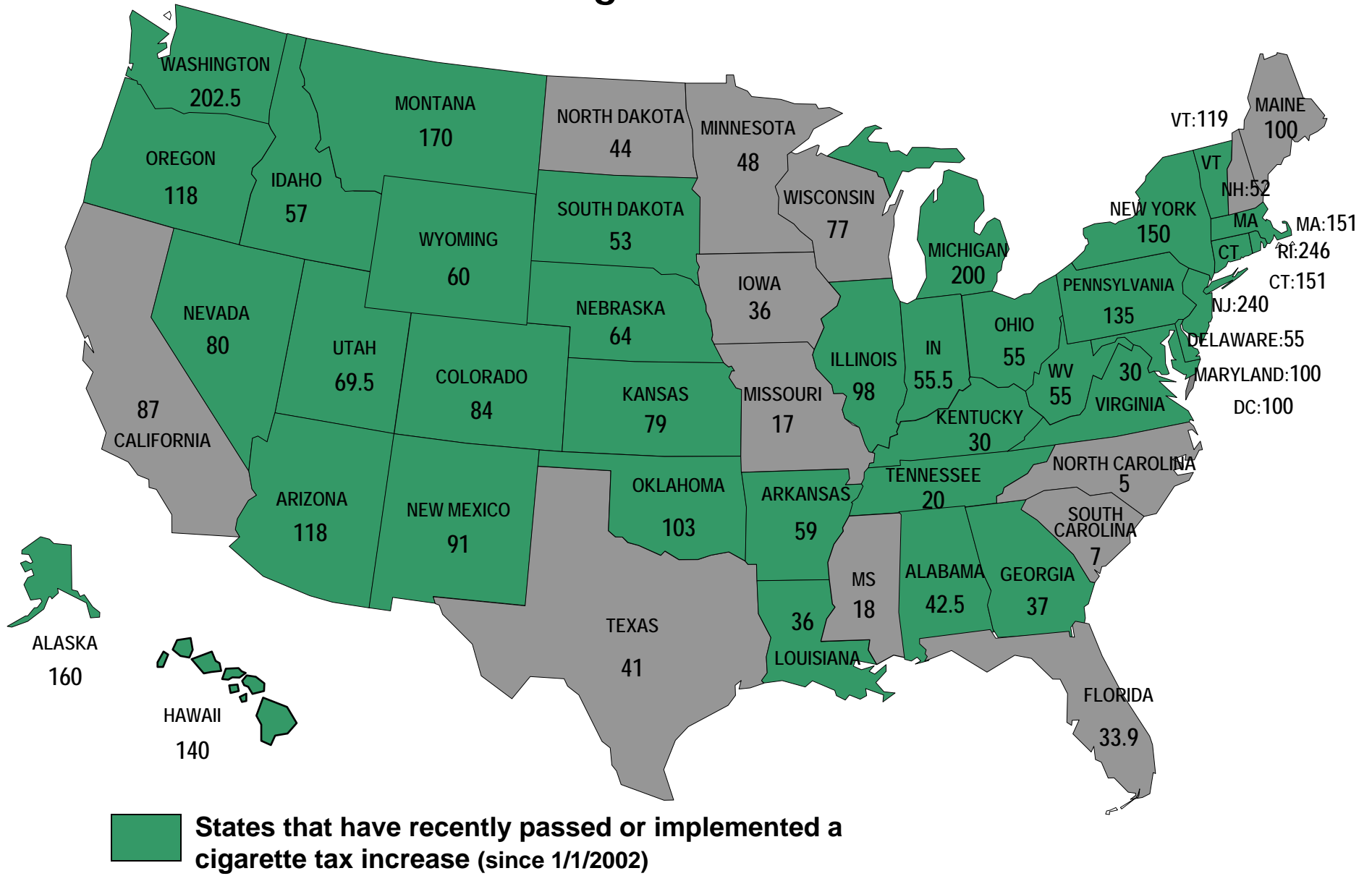
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**Tobacco Control Team "Call to Action"**  
**States Active in Smoke-Free Air Legislation**

<b>State</b>	<b>Issue</b>	<b>Status</b>
Arizona	Ballot plans	Advocates in early planning stages for 2006 ballot
Atlanta	Ordinance efforts	
Austin	Ordinance efforts	Ballot passed in early May includes music clubs
Colorado		Comprehensive legislation continues to be debated
Columbus, OH		Public health partners halt ballot initiative to exempt bars;ACS plans Fall 06 ballot for statewide
Denver	Ordinance efforts	
Georgia	Ordinance efforts	Statewide leg.passed & signed; bill has loopholes however it doesn't pre-empt local ordinance
Houston	Ordinance efforts	
Illinois	Ordinance efforts	Repeals pre-emption clause in weak state law; conference committee negotiating
Indianapolis	Ordinance efforts	
Maryland	Ordinance efforts	Legislation failed
Minnesota	Ordinance efforts	
Montana	Ordinance efforts	State law exempts bars & prohibits local ordinances from including bars for 4 yrs.
New Hampshire	Ordinance efforts	
New Jersey	Ordinance efforts	Comprehensive legislation continues to be debated
New Mexico	Ordinance efforts	Legislation failed
Philadelphia	Ordinance efforts	Faith community engages mayor; hopeful council will pass ordinance; PhI Inquirer supports
Rhode Island	New legislation	Strengthens existing law
Utah		Legislation failed
Vermont	Ordinance efforts	Comprehensive legislation continues to be debated
Washington	Ordinance efforts	ACS leading effort for Nov. 2006 ballot
Washington DC	Ordinance efforts	Leg.re-introduced to council;no support from mayor & council chair; possible ballot issue in 06
Wayne Co., MI		County ordinance passed; state pre-empts bars & restaurants; large auto plants in County

# Recent Cigarette Tax Increases

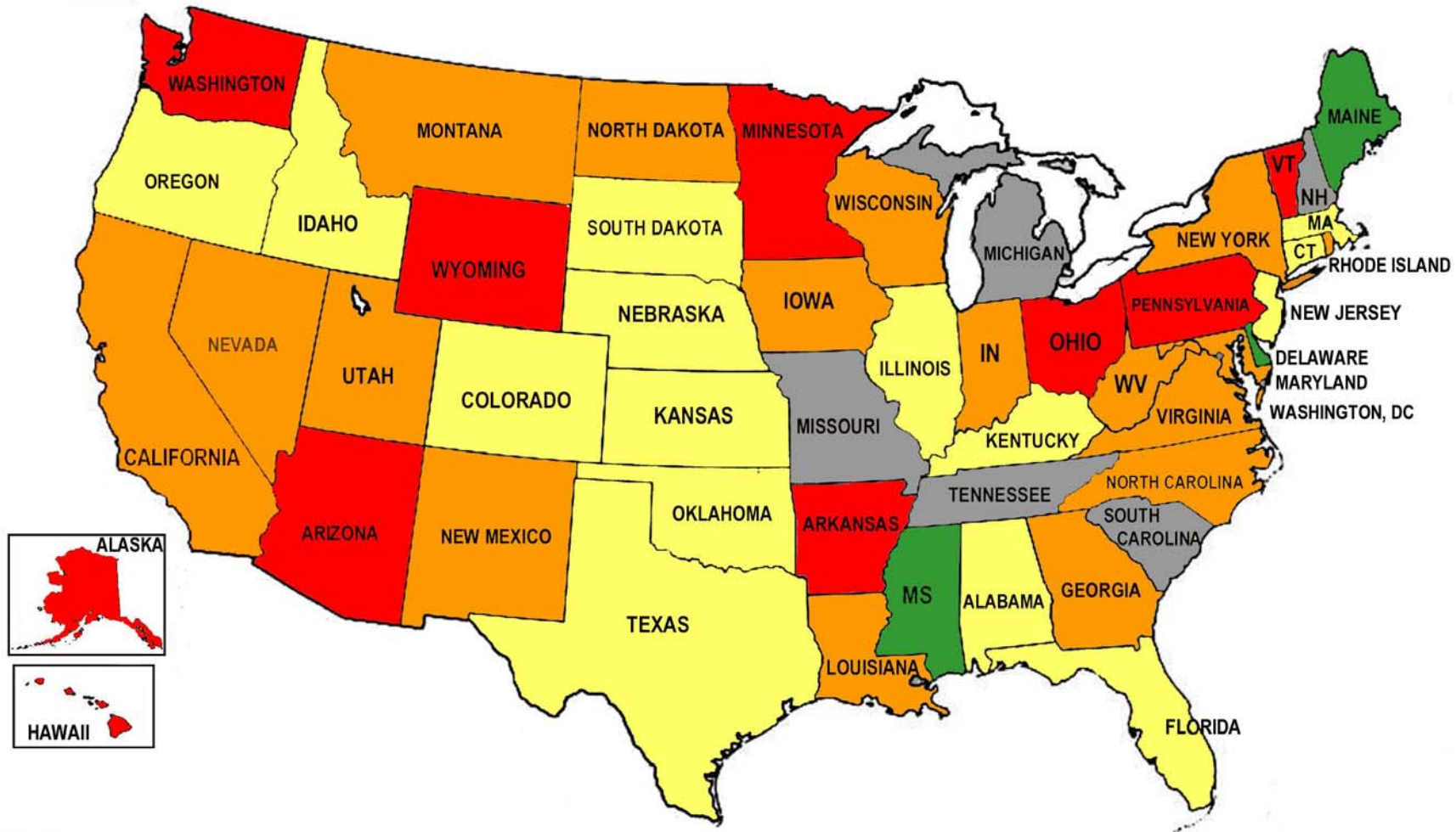





Oregon actually decreased its cigarette tax by 10 cents on 1/1/04.



**Tobacco Control Team "Call to Action"**  
**States Active in Tobacco Excise Tax Increase**

<b>State</b>	<b>Issue</b>	<b>Status</b>
Arkansas	Tax opportunity	
California	Ballot possibility	Potential 2006 tax ballot
Florida	Tax opportunity	Group seeking cancer research \$ considering \$.50 increase some earmarked for CA (ballot possible)
Georgia	Tax opportunity	
Illinois	Tax opportunity	\$.75 being debated
Iowa	Tax opportunity	\$.36 being debated
Kansas	Tax opportunity	
Kentucky	Tax opportunity	Enacted \$.27 tax increase; three year effort (.30 per pack)
Louisiana	Tax opportunity	Gov. proposed \$.50 increases
Maine	Tax opportunity	
Minnesota	Tax opportunity	
Mississippi	Tax opportunity	Active tax campaign failed due to Gov. opposition; budget problems may revive tax issue
Missouri	Ballot possibility	Potential 2006 tax ballot
New Hampshire	Tax opportunity	\$.28 being debated
North Carolina	Tax opportunity	\$.45 being debated
North Dakota	Tax opportunity	
Ohio	Tax opportunity	\$.45-.75 being debated
Oregon	Tax opportunity	Working to restore the \$.10 increase overturned by referendum
Pennsylvania	Tax opportunity	
South Carolina	Tax opportunity	
Texas	Tax opportunity	\$.60-1.00 being debated
Washington	Tax opportunity	\$.60 increase (2.02 per pack) 4th highest
Wisconsin	Tax opportunity	

# Funding for Tobacco Prevention



-  States that have funded tobacco prevention programs at a level that meets the CDC's minimum recommendation.
-  States that have committed substantial funding for tobacco prevention programs (more than 50% of CDC minimum).
-  States that have committed modest amounts for tobacco prevention programs (25% - 50% of CDC minimum).

-  States that have committed minimal amounts for tobacco prevention programs (less than 25% of CDC minimum).
-  States that have committed no tobacco settlement or tobacco tax money for tobacco prevention programs.

**CAMPAIGN** for TOBACCO-FREE Kids

December 2, 2004

**Tobacco Control Team "Call to Action"**  
**States Active in Tobacco Prevention and Cessation Funding**

State	Issue	Status
Alaska	Monitor threat/opportunity	
California	Monitor threat/opportunity	Funding cut about 50% in recent yrs;exploring 2006 ballot to and restore
Colorado	Defend/increase funding	Gov. acquiesces to voter's wishes & allocates \$\$ from tax initiative for tobacco control
Indiana	Defend/increase funding	\$\$ kept due to new faith-based partners, Acad. Family Phys, Clarion Health Care
Iowa	Monitor threat/opportunity	
Maine	Defend/increase funding	
Maryland	Monitor threat/opportunity	
Massachusetts	Monitor threat/opportunity	Prospects unclear; seeking from 3.5M to 11M;no Gov. support
Mississippi	Monitor threat/opportunity	
Mississippi	Funding cuts/problems	Gov.file lawsuit to challenge \$20M/yr. for Healthy MS partnership
Montana	Monitor threat/opportunity	
Nebraska	Monitor threat/opportunity	
New Jersey	Defend/increase funding	
New Mexico	Monitor threat/opportunity	
New York	Monitor threat/opportunity	Funding progress;Leg.adopts \$5M to program (about 50% of CDC recommended)
Ohio	Defend/increase funding	Attempts to take MSA \$ to support Medicaid; working to tob.tax to fund tob. & MA
Ohio	Funding cuts/problems	
Oregon	Defend/increase funding	Prospects promising to restore \$; session lasts through Summer
Pennsylvania	Monitor threat/opportunity	
Utah	Monitor threat/opportunity	
Vermont	Defend/increase funding	Promising; advocates working to secure 3%
Virginia	Monitor threat/opportunity	
Washington	Monitor threat/opportunity	
Washington	Funding cuts/problems	Leg.raided \$ from tob.trust effective 2009; Gov.can line item veto prior to May 19
Wisconsin	Monitor threat/opportunity	