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California's Proposition 99: Pork Barrel for Anti-Smoking Groups

By Dr. Thomas J. DiLorenzo

Editor's note: In 1988, California voters approved Proposition 99, a "sin tax" on tobacco that has raised some \$600 million annually for medical research, anti-smoking education, and other purposes. As this issue goes to print, the California state legislature is reauthorizing the tax, which expired July 1. A legislative conference committee is now ironing out differences in how the money should be spent.

Thomas J. DiLorenzo examines how the medical establishment and anti-smoking groups have been fighting over the distribution of Proposition 99 funds "almost from the day [the money] became available, "and how revenues are being used in ways that voters never intended.

Would it be fair to tax the Democratic Party and give the money to the Republican National Committee? Or to tax labor unions to promote laws that are biases against workers? Or to tax Planned Parenthood to support anti-abortion groups, or vice versa?

Apparently, a large and growing number of nonprofit organizations, as well as numerous state legislatures, believe so. Special "sin" taxes are being imposed by state and local government to fund propaganda campaigns that promote government-approved lifestyles. Led by such politicians as Sen. Ted Kennedy (D-MA) and Rep. Henry Waxman (D-CA), nonprofit political activists are seeking to force Americans to adopt their own version of "clean living."

These activists, who might best be described as Neo-Puritans, believe that most Americans are unable to make everyday decisions for themselves, such as what to eat and drink and whether nor not to smoke, and that the government should force them to adopt "healthy" behaviors. According to Glenn Barr of Americans for Nonsmokers' Rights (ANR), a collation of California anti-smoking groups, "We will never know how many smokers' lives we prolong... when we force them to do the right thing for themselves..." ¹

The anti -smoking crusade that has intensified in the last few years is especially fanatical in its moral denunciation of smokers, whom it increasingly treats as social outcasts. Economist James Buchanan captures the essence of activist' mindset with the phrase "meddlesome preferences," whereby "the... elitist, who somehow things that his or her own preferences are 'superior to,' 'better than, ' or 'more correct' than those of other, [tries] to control the behavior of everyone else, while holding fast to his or her own liberty to do as he or she pleases." ²

The danger of this view, economist Ludwig von Mises once said, is that "... once the principle is admitted that is the duty of government to protect the individual from his own foolishness, no serious objections can be raised against further encroachments... And why limit the government's benevolent providence to the protection of the individual's body only? Is not the harm a man can inflict on his mind and soul even more disastrous than any bodily evils? Why not prevent him from reading bad books and seeing bad plays, from looking at bad paintings and statues and from hearing bad music...? If one abolishes man's freedom to determine his own consumption, one takes all freedoms away. The naive advocates of government interference with consumption... unwillingly support the cause of censorship, inquisition, intolerance, and the persecution of dissenters." ³

For ten years Capital Research Center has documented how increasing numbers of nonprofits are working to restrict

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Americans' rights and freedoms. The recent passage of California's Proposition 99, which provides tax money to nonprofits seeking to end smoking, offers another example of this disturbing trend.

Capturing Tax Revenue

In 1987 the American Cancer Society (ACS), American Lung Association (ALA), American Heart Association (AHA), and California Medical Association (CMA) formed a coalition to triple the state's cigarette tax. Expected to raise over \$500 million annually, much of the revenue would supposedly go to these organizations for research, medical care, and anti-smoking education campaigns.

The coalition had a major stake in the money the tax would generate, but as "nonprofit" organizations they had reasons to deny it. Jay D. Michael, a CMA lobbyist, said that "the principal reason [for the tax] is not to raise money. The principal reason is to stop smoking...[I]f a tax were imposed and it raised nothing, we would be delighted that would mean nobody would be buying cigarettes." ⁴

The facts, however, speak differently. In 1979 California voters passed Proposition 4, a constitutional amendment that limited state spending. Under its provisions, if the state reached its spending limit, tax revenues would be refunded to taxpayers, smokers and nonsmokers alike. The ACS, ALA, AHA, and CMA would receive nothing, even though a decrease in smoking which the coalition claimed was its only concern would still result from the cigarette tax.

To protect themselves against the loss of tax revenue, the coalition pushed for a statewide referendum, Proposition 99, to change the state constitution so that the spending limit would not apply. According to state assemblyman Lloyd Connelly (D-Sacramento), the coalition's legislative liaison, this strategy was adopted because of the "the so-called Gann spending limit passed by voters in 1979," Without a constitutional amendment, "the legislature could be forced to refund the tax if the state [reached] its spending limit." ⁵

Thus, the *main* objective of the coalition was not to discourage smoking, but to capture tax revenue. expecting a windfall of tens of millions of dollars, the coalition reportedly spent over \$400,000 lobbying for Proposition 99. "It's the biggest project the American Cancer Society has ever undertaken in terms of staff commitment," said an ACS spokesman. ⁶

Proposition 99 passed in November 1988 by a 58 to 42 percent margin, increasing the

state's cigarette tax from 10 to 35 cents. A new 42 percent tax was also imposed on non-cigarette tobacco items. Six accounts were created to disburse the funds:

- Anti-tobacco education in schools and communities (20 percent);
- Hospital treatment of indigent patients (35 percent);
- Physician treatment of indigent patients (10 percent);
- Research on tobacco-related diseases (5 percent);
- "Environmental concerns" (5 percent);
- Not allocated, to be applied to the above categories (25 percent).

The Fighting Begins

The California Medical Association has been battling other coalition members over its "fair share" of the money almost from the day it became available. The CMA initially worried that revenues targeted for health care for the uninsured might be substituted for the state-funded Medi-Cal insurance program that pays medical bills for the poor. If this occurred, doctors' fees would remain the same, and the medical profession would realize no net financial gain from Proposition 99. ⁷

The CMA immediately began lobbying for a greater share of the funds, much to the consternation of the health charities, which accused the CMA of trying to "undermine Proposition 99." CMA president William G. Plested III candidly told legislators that his organization and the health charities were "fighting for this money like jackals over a carcass." ⁸

More recently, Americans for Nonsmokers' Rights sued Governor Pete Wilson for "illegally diverting" more than \$165 million that allegedly was for nonprofit health education programs, but was "improperly used for health screening and immunizations of poor children and for prenatal care for poor women who are pregnant."⁹ Apparently for ANR, increased funding for political activist groups is more important than programs that help poor women and children. Interestingly, ANR president Stanton Glantz (also a professor at the University of California at San Francisco) is one of the largest recipients of Proposition 99-funded research grants.

Many of the nonprofits receiving Proposition 99 funds were never involved in health issues before the money became available. A recent "public service" and that ran in several California newspapers read, "Are you involved in a nonprofit program looking for money? If your work can incorporate tobacco prevention, there may be funding available..." ¹⁰ It

urged nonprofits to contact their local health department to apply for funds, and listed several programs already funded, including a "teen theatre program" with an anti-smoking message and a "Bingo game in Spanish." Grants were also available to "protect, restore, [and enhance] fish, waterfowl, and other wildlife habitat areas" and to "improve or maintain state and local park and recreation sources.

Big Bureaucratic Bucks

Proposition 99 revenues support a growing network of state health officials, university researchers, and nonprofit political activists. Funds have been used to create ten regional, tax-funded coalitions that award grants to "subcontractors," mostly nonprofits, that seek

to build anti-smoking sentiment through the use of newspapers, radio, and television. In addition, each of the 58 counties in California, along with major cities, has a "Local Lead Agency" that solicits grant proposals and awards funds.

Employees of a public relations firm working for more restrictive smoking ordinances recently received the following salaries through Proposition 99 revenues: ¹¹

- Project Director, \$265/hr;
- Political Director, 145/hr;
- Legislative Manager 345/hr;
- Communications Director, 150/hr;
- Research Manager, 160/hr;
- Media Manager, 110/hr.

At least some nonprofits and local government agencies have used Proposition 99 funds to pay the salaries of employees not working on tobacco-related issues. The treasurer of the Sacramento NAACP recently admitted that a \$159,000 grant from the state health department was not used for tobacco education, as it was supposed to be, but "had been spent instead on salaries for other branch employees and other expenses." ¹²

Anti-Smoking Education: Any Effect?

Tobacco Use in California, a survey of the smoking habits of Californians published by the California Department of Health Services and the University of California at San Diego, says that the "the hazard of smoking is widely acknowledged; 84% of California smokers agree that smoking harms their own health. This acknowledgment is, if anything, somewhat stronger among black and Hispanic smokers..." ¹³

This raises a fundamental question: If virtually everyone already knows that smoking is unhealthy, why should millions of taxpayers' dollars be used for anti-smoking education? What can activists possible teach the public that it does not already know? Further examination of how Proposition 99 funds are being used suggests that California's anti-smoking campaign has little to do with education and everything to do with forcing people to engage in preferred behaviors.

Proposition 99 showers California public schools with money under the state Department of Education's "Healthy Kids, Healthy California" program. Some \$150 million has been allocated to teach students to be non-smokers. So far, the program has given students and parents gifts in return for student's promise not to smoke. According to the Stanislaus County Tobacco Control Education Incentive Plan, "incentives such as pack, stroller or gift certificate of comparable value will be awarded to quitters who stay quit 3 months from the end of the cessation class. Their word will be taken as validity of quit status." ¹⁴

Since little, if any, effort is made to verify whether students have quit, the program is essentially a giant giveaway of taxpayers' money. Gifts to students and their parents have included diapers, baby clothes, movie tickets, T-shirts, compact discs, radios, sports equipment, bathroom scales, gift certificates, money for baby showers, and lottery tickets. In Stanislaus county "half of the people joining said that the lottery was an important reason for joining the program." ¹⁵

Proposition 99 funds have also been used to throw parties. The Hanford, California school system sponsored "a pool party for 13- to 19-year-olds....Free food, drinks, and deejay music [were] provided by the King's County Health Department, which used Proposition 99 money to sponsor the six-day event. The beach balls, Frisbees, buttons and magnets that

were given to children this week were also paid for using Proposition 99 money...." ¹⁶ At other festivals, "outrageous stunt" contests have awarded prizes to whomever performs the weirdest feat to persuade a loved one to stop smoking. Past winners include a girl who ate a can of dog food.

The Martinez, California school district used Proposition 99 funds to pay for a trip to Yosemite National Park. "Spring is in the air, flowers are blooming and the days are getting longer. It's time to pack up the baby, put on your walking shoes, and get ready for a great day strolling around Yosemite Nation Park," read an advertisement for the "Breathe Easy, Smoke Free Walk." Everyone participating including smokers had his park entrance fee paid and was given "a free alpenlite belted pouch with water bottle and a box lunch." ¹⁷

Despite the millions of dollars already spent, a survey by the

California Department of Health Services "did not indicate a decline in adolescent smoking between 1990 and 1992." ¹⁸ Further, as one local newspaper noted, such programs may actually encourage smoking: "With smoldering cigarettes balanced between their fingers, groups of teenagers...scoffed at the state's recent move to pump up anti-smoking campaigns. They say ads, pro or con, don't influence their behavior at all they're going to smoke no matter what." "I've been smoking since I was fourteen," said one teen, and "I don't even look at the ads." ¹⁹ By making tobacco even less socially acceptable, Proposition 99 may well *encourage* smoking among more rebellious teens.

Students as Political Pawns

Last year, Calaveras County parents were infuriated when a survey of teens' views on family, school, drugs, and sex was given by the county government "Teen Health Care Task Force." The Proposition 99-funded task force was composed of the local chapter of the American Association of University Women, the Calaveras County Probation and Sheriff's departments, and Planned Parenthood of San Joaquin County. Only a third of parents gave their consent for the survey, and many denounced it is inappropriate, "demeaning and invasion of family privacy" since it included "26 direct and specific questions on the subject of sexual activity, promiscuity, abuse, contraceptive use, etc. and at least 24 probes into personal and private family relationships." ²⁰

The apparent purpose of the survey was to secure more state funds: "before the state could be persuaded to provide money for teen services, a survey of teens was necessary to prove a need and identify what is lacking," said a member of the task force. Funds were not intended for anti-smoking education but for "free condoms or school-based health clinics that would provide contraceptives or abortions." ²¹

The *San Francisco Chronicle* recently reported that the Novato, California Police Department denounced a vigilante sting operation by an anti-smoking group that used a 16-year-old girl to buy cigarettes at stores in Novato to highlight the illegal sale of cigarettes to minors. Another Proposition 99-funded group, Stop Tobacco Access for Minors (STAMP), has since 1988 conducted over 100 such operations in the North Bay area. The local police chief complained that teenagers are "out breaking the law to prove a point, and that's vigilantism.... What are they going to do next, put drunk drivers out on the road to see if they're caught?" STAMP has defended its actions as "merchant education," saying that "This was technically illegal, but there are a lot of people out there who support what we're doing." ²²

Political Advocacy

Proposition 99 forbids the use of funds "to promote partisan politics or candidates," or "to promote the passage of any law, including public ordinances and regulations." ²³ But as soon as some \$600 million a year became available, activists began spending the money on political organizing and lobbying to further restrict smoking.

According to one local newspaper, "When voters approved Proposition 99, many people didn't realize the funds would be used to pass laws restricting smoking. According to the proposition, the funds are earmarked for health research and education, to offset medical costs relating to tobacco users, and to contribute to natural resources.... But employees from the Butte County Tobacco Education Project have lobbied heavily for more restrictive smoking laws throughout the count." ²⁴

The Tobacco Control Coalition of Contra Costa County recently published minutes from a public meeting, in which it said, "It is the intention of the State that community tobacco coalitions become involved in the implementation of policy change at the local level. The Contra Costa Coalition will play a crucial role in mobilizing community support for the... model ordinance developed by the City./County Relations Committee." ²⁵

The Sacramento County environmental Management Department recently spent over \$3,000 to mail out flyers along with utility bills that read "local smoking laws are helping you. Choose a smoke-free Sacramento." The department also helped pushed (sic) "Measure G," an anti-smoking ordinance. When a county supervisorial candidate protested the department said the flyers were "an educational service." ²⁶

A three-day, September 1992 "Revolt Against Tobacco" conference in Los Angeles, which brought together leading anti-smoking activists, focused entirely on anti-smoking political strategies. ²⁷ Barbara Wells, former director of communications and government affairs for the Los Angeles County ALA and current director of the Proposition 99-funded

tobacco control program of the San Luis Obispo County Health Department described how a coalition including the ACS, ALA, AHA, and ANR passed a "100% no-smoking in Beverly Hills" ordinance. She also explained that when critics in Butte County charged that Proposition 99 funds were being used for political advocacy, anti-smoking activists insisted that they were promoting "education." In the next sentence, she said, "some of the strengths we had up there [Butte County] were...a very strong grass roots committee working for the ordinance. We...had a politically active community."

Paul Neprath of the ALA advised activists to "build coalitions.... Get your [city] council people before you go to a vote. Count your noses before you walk into any council meeting.... Know exactly where your votes are gonna come from." He also advised groups to associate themselves with ACS, ALA, and AHA "whenever you go before the cameras, because the public trusts them" When asked by one participant how an ALA program spent \$65,000 in Proposition 99 money in just a few weeks, he explained, "We spent it on campaign expenses, law firms, blah, blah, a lot of different stuff." When pressed further, he simply changed the subject.

Joan Twist, director of the California Healthy Cities Project, explained how "when Prop 99 monies came through... we had our own tobacco control coalition within the city of Long Beach" which "had at the very top it [its] list to revise our current city ordinance" to ban smoking in all restaurants and work places. Because of this experience, "our coalition members all increased their skills in advocacy."

A few "big guns" from national anti-smoking groups were also on hand to add their perspective. Debra McClellan, the anti-tobacco coordinator for the American Public Health Association in Washington, D.C., was introduced as someone who "manages the Association's scientific and policy activities concerning tobacco control," which entails "designing advocacy efforts" and "building local, state, national and international coalitions." She told the audience, "It is time for tobacco control to truly become political."

"Taking All Freedoms Away"

Anti-smoking activists' stated objective is to achieve a "smoke-free society." Most likely, however, they see this achievement merely as a steppingstone to restricting and outlawing other kinds of behavior. As ANR co-director Julia Carol recently told the *Washington Post*, if tobacco "magically disappeared," she would "simply move on to other causes."²⁸ In just the last few weeks, nonprofit activists groups have issued reports alleging that hot dogs, pop corn, and golf courses are dangerous.

As Ludwig von Mises warned, "If one abolishes man's freedom to determine his own consumption, one takes all freedoms away." If California's Proposition 99 establishes a trend, Americans can expect to see more tax-funded nonprofits gradually whittling away our longstanding rights and freedoms.

Notes

1. Quote taken from a written transcript of a three-day conference entitled "Revolt Against Tobacco." held in Los Angeles in September 1992. The text is available from the author.
2. James M. Buchanan, "Politics and Meddlesome Preferences," in Robert Tollison, ed., *Clearing the Air: Perspectives on Tobacco Smoke* (Lexington, MA: D.C. Health, 1988).
3. Ludwig von Mises, *Human Action: A Treatise on Economics*, 3rd ed. (Chicago: Henry Regnery, 1966), pp. 733-34.
4. Richard Paddock, "Health Care Groups Join to Push Cigarette Tax Hike," *Los Angeles Times*, February 2, 1987, cited in James T. Bennett, *Health Research Charities: Image and Reality* (Washington, DC: Capital Research Center, 1990).
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6. Daniel Carson, "Campaign Laws Clouded by Taxpayer Subsidies for Prop. 99 cigarette Tax Initiative," *San Diego Union*, October 17, 1988.
7. As discussed in Bennett, *Health Research Charities: Image and Reality*.
8. Ken Hoover, "Health Groups Squabble for Tobacco Tax Funds," United Press International, July 31, 1989, cited in Bennett.
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10. "Tobacco Prevention," *Mammoth Lakes Weekly*, February 18, 1993, p. 53.

11. Grant Proposal to City and County of San Francisco Tobacco Control Project by the GCA Group, January 13, 1992, obtained through state Freedom of Information Act request.
12. Robert D. Davila. "NAACP Hit by Financial Allegations," *Sacramento Bee*, February 4, 1993, p. B1.
13. University of California at San Diego, *Tobacco Use in California 1990* (San Diego: University of California at San Diego, 1990), p. 1
14. Stanislaus County Tobacco Control education Incentive Plan, 1990-92, Stanislaus County, California.
15. *Ibid.*
16. T. S. Hele, "pool Program Quenching Smoking Finishes Tonight, " *Hanford Sentinel*, August 22, 1992, p. 1
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18. California Department of Health Services, *Tobacco Use in California 1992* (San Diego: University of California, San Diego, 1992).
19. Angela Hill, "Teen Smokers Say Ad Blitz Won't Make Any Difference," *Tri-Valley Herald* (Danville, CA) February 24, 1993, p. 1.
20. "parents Want Sex Survey Kept Off Calaveras County Campuses." Gannett News Service, January 8, 1993.
21. *Ibid.*
22. Kate Taylor, "use of Teenager in Cigarette-Buying Sting Upsets Novato Police," *San Francisco Chronicle*, January 11, 1994, p. A18.
23. Santa Clara County, Ca. Tobacco Control Plan grant announcement, 1993. This is stated in the law, and is in local government written announcements of available grants.
24. Linda Mellink, "is It Education or Lobbying?" *Paradise Post*, March 17, 1992.
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26. Steve Sebellus, "Costa Says County Using Public Funds in Campaign," *Sacramento Union*, May 22, 1992.
27. All quotes from "Revolt Against Tobacco" conference.
28. John Schwartz, "California Activists' Success Ignites a Not-So-Slow Burn," *Washington Post*, May 30, 1994, p. 1.

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