

Popular Votes on Tobacco Tax Increases, 2012–2022

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Abstract

Context: Researchers have examined the campaign strategies, messaging, and outcomes of popular votes on tobacco tax increases from 1998 to 2008, but no study has investigated measures that have appeared since 2008.

Methods: The author uses state newspaper archives, voter pamphlets, academic reports, advocacy websites, and personal interviews to obtain information about the 11 tobacco tax increase ballot measures that appeared from 2012 to 2022.

Findings: The three measures that succeeded during 2012–2022 featured sufficient financial resources, collaboration with influential stakeholders, and early public support. Two of the three successful measures offered significant concessions to the tobacco industry, and both were designed as legislatively referred statutes. Elsewhere, proponents sought unsuccessfully to enact citizen-led initiatives that would allocate revenue to progressive policy priorities. In contrast to previous eras, tobacco industry arguments often centered around antitax and antigovernment rhetoric, which was viewed as especially compelling in conservative states. The industry's success rate was higher than in the past, and it continued to outspend its opponents, sometimes by staggering margins.

Conclusions: Campaign spending and early support remain critical to the success of tobacco tax ballot measures. Big Tobacco can extract significant concessions even in defeat, and direct democracy is an effective but imperfect ally to tobacco control advocates.

Keywords measures, tax, campaign, direct democracy, tobacco policy

In their ongoing efforts to reduce smoking rates and mitigate the harms of tobacco consumption, for decades public health advocates have used the direct democracy process to enact tobacco control measures in the states. Previous scholarship has examined the campaign strategies, messaging,

and outcomes of popular votes on tobacco tax increases from 1998 to 2008, but no such study has investigated measures that have appeared since 2008. This study seeks to fill that gap in the literature, using a variety of sources including newspaper archives, voter pamphlets, advocacy websites, and personal interviews to obtain information about the 11 tobacco tax increase ballot proposals that appeared from 2012 to 2022. The three measures that were successful during that period featured plentiful financial resources, support from influential stakeholders, and robust early public approval, while in other settings antitax and antigovernment rhetoric doomed the passage of even small tax hikes. In contrast to previous eras, several of the 2012–2022 measures purposefully allocated revenue to progressive policy priorities, featured battles between Big Tobacco and “Little Tobacco,” were designed not as citizen initiatives but as legislatively referred statutes, or offered significant concessions to the tobacco industry to blunt its opposition. This analysis concludes with a reflection on the future of direct democracy as a policy-making venue for tobacco control policy.

Why Direct Democracy?

The Tobacco Industry’s Power in State Legislatures

The tobacco industry has historically exerted a tremendous amount of power and influence in state legislatures (Givel and Glantz 2001; Lum, Barnes, and Glantz 2009; Monardi and Glantz 1998). Under the guise of protecting individual freedom of choice or freedom from excessive government taxation and regulation—but, as internal industry documents reveal, with a primary goal of preserving and bolstering sales and profits—the industry has used lobbying tactics, media campaigns, front groups, allies, and contributions to sway state lawmakers (Givel and Glantz 2001; Glantz and Begay 1994; Smith, Savell, and Gilmore 2013).

For decades the tobacco industry achieved great success in blocking clean air legislation, defeating tax increases, and preserving its freedom to advertise and sell its products. However, because of its poor public image, much of the time it has wielded its power “quietly and behind the scenes” (Givel and Glantz 2001: 124). In the past, public health advocates have not enjoyed the financial resources and organizational strength of Big Tobacco (Givel and Glantz 2001). Even when advocates have succeeded in enacting tax increases via the ballot initiative process, the industry has successfully lobbied state legislatures to divert funds away from tobacco control activities (Laposata, Kennedy, and Glantz 2014). In the case of several of the ballot proposals discussed here, antitobacco advocates took

their case directly to voters because their initial efforts failed in the legislative process. For example, when the Montana Senate voted in favor of a \$1.50 per pack tax increase in March 2017, lobbyists “swarmed” the state Capitol, spending more than \$200,000 in the House of Representatives to convince 11 of the 13 Republican bill cosponsors to change their minds; the bill died in a House committee (Volz 2017). Before ballot proposals in 2012 and 2016, antitobacco activists in California unsuccessfully attempted to enact tax increases through the legislative process (Seipel and Calefati 2015). In Colorado, a 2019 tobacco tax bill failed in the state legislature after an influx of lobbying, social media advocacy, and advertising from Big Tobacco firms (Meltzer 2019).

Even before tobacco control advocates turned to the direct democracy process to pursue their policy objectives, they sought redress through the courts. Jacobson and Warner (1999: 775) identify three waves of tobacco litigation, the first two dominated by individuals suing tobacco companies for negligence (largely unsuccessfully) and the third dominated by class-action lawsuits and states’ attempts to recover Medicaid costs for tobacco-related illness, which ultimately culminated in the \$206 billion 1998 Master Settlement Agreement (MSA). The authors evaluate the philosophical and practical consequences of using litigation to shape tobacco policy, concluding that litigation should complement rather than replace conventional legislative and regulatory approaches. Just as public health advocates frustrated with the pace of change in legislative and regulatory systems began to pursue a litigation strategy as early as the 1950s (Jacobson and Warner 1999), they later turned to the ballot initiative process to counteract the tobacco industry’s enormous influence in Congress and state legislatures. Such venue shifting has not led to better outcomes for tobacco tax proponents: while the industry’s involvement has been less transparent, the final outcomes of ballot measure elections have been largely favorable to the industry.

The Tobacco Industry’s History with Direct Democracy

Faced with resounding defeats in state legislative chambers, beginning in the late 1970s tobacco control advocates shifted their attention to state initiative and referendum processes to enact smoking restrictions and tobacco tax increases. In their influential article, Laposata, Kennedy, and Glantz (2014) trace the industry’s efforts to combat this shift in strategy, in particular by attempting to make it more difficult to place initiatives on the ballot and prevent states without the initiative process from acquiring it.

Statewide direct democracy was born at the turn of the 20th century out of Populist and Progressive-era frustration with the corruption and unresponsiveness of state legislatures that were overly beholden to special-interest influence (Cronin 1999). Adherents of the Progressive movement of the early 20th century shared a faith in the capacity of citizens to govern themselves as well as a deep distrust of political organizations, including political parties and state legislatures, and they viewed direct democracy as a strategic tool to help them achieve their policy agenda (Bridges and Kousser 2011). Citizen lawmaking would encourage voters to become more actively engaged in the political process, instilling a sense of civic duty and responsibility. If state legislators proved unable or unwilling to pass popular legislation, citizens should be able to use the initiative as a safety valve, directly proposing and adopting laws to correct legislative oversights (Bowler, Donovan, and Tolbert 1998). The direct democracy literature is rife with debates around whether citizen lawmaking does indeed have educative effects vis-à-vis voter interest, engagement, and turnout, and whether the mechanism that Progressives envisioned as a way of circumventing special-interest influence has in fact been co-opted by wealthy special interests (see, for example, Dyck and Lascher 2020; Gerber 1999; Smith and Tolbert 2004).

Using previously secret tobacco industry documents from the University of California San Francisco Legacy Tobacco Documents Library, Laposata, Kennedy, and Glantz (2014: 539) illustrate how the industry “recognized the threat that direct democracy posed to [its] profits in the 1980s and launched a campaign to limit the use of the process.” After defeating four ballot initiatives to restrict indoor smoking that appeared in California and Florida between 1978 and 1980, the Tobacco Institute, the industry’s political arm, created the National Center for Initiative Review (NCIR), recruited other like-minded industries to join, and began tracking initiative and referendum legislation as well as tobacco-related initiatives on state ballots (Laposata, Kennedy, and Glantz 2014). However, the industry suffered a major defeat when California voters enacted a landmark 25-cent tobacco tax increase in 1988, which led to similar efforts in other states (Hu et al. 1994). In the early 1990s the tobacco industry replaced the disbanded NCIR with a more centralized, proactive organization to defeat tobacco tax increases, called the National Initiative Advisory Team (NIAT). One of its two goals was to make initiative enactment more difficult through such measures as imposing geographic distribution requirements or prohibiting paid signature gatherers—a strategy similar to recent Republican efforts post-*Dobbs v. Jackson* (2022) to make it more difficult to propose and enact ballot measures that would protect abortion rights (Greenberger

2023). The NIAT's second goal was to reduce the tobacco industry's vulnerability to new laws and tobacco taxes created through the initiative process (Laposata, Kennedy, and Glantz 2014). Replicating tactics it had honed in state legislatures, the industry partnered with more progressive, altruistic groups (such as labor unions and teacher organizations) to achieve its goals, including blocking legislation authorizing the initiative and referendum process in New Jersey in 1992. Previously secret documents have revealed that the industry successfully aligned its own policy objectives with those of "philosophically distant" groups by framing excise taxes as unfair and regressive, providing funding to advance groups' broader progressive tax agendas (including through explicitly quid pro quo arrangements), and partnering with labor and other progressive organizations through indirect, less transparent means (Campbell and Balbach 2009: 1189). The industry also worked diligently to form coalitions with African American, Hispanic, and women's leadership groups "to keep these organizations from opposing tobacco industry efforts to target members of these communities for increased cigarette sales and to keep them neutral or in opposition to tobacco control issues" (Laposata, Kennedy, and Glantz 2014: 553; see also Yerger and Malone 2002).

A previously secret Tobacco Institute white paper published in 1992 is particularly instructive in shedding light on how the industry operated behind the scenes to monitor and oppose ballot initiatives and referenda, which were understandably viewed "as a direct threat to the tobacco market, sales and profits" (Givel 2009: 344). The document details several approaches for revising state provisions on initiatives and referenda, including "preventing additional states from acquiring initiative authority" as well as increasing executive and legislative review of initiative proposals and outcomes, narrowing signature gathering time frames, requiring a supermajority for proposed tax increases, and demanding that proponents pay for signature verifications (Givel 2009: 344).

In the mid-1990s, the tobacco industry reconfigured the NIAT as the Ballot Issue National Strategy Team in an effort to reinvigorate stakeholder companies' shared goals of defeating initiatives and changing laws governing statewide direct democracy processes. These ambitious, widespread efforts bore little fruit (one exception was a successful campaign in Florida to require a two-thirds vote for tax increases by initiative) before the MSA of 1998 disbanded the Tobacco Institute. Indeed, an internal tobacco industry document published in 1997 acknowledged that little progress had been made (Tobacco Institute 1997). Despite these limited successes, the industry's actions had a powerful long-term impact on discourse surrounding the direct democracy process, bringing into the mainstream such

proposals as legislative or executive review or involvement, supermajority requirements for initiative passage, and a variety of stricter signature requirements (Laposata, Kennedy, and Glantz 2014).

Literature on Tobacco Control Ballot Measures, 1988–2008

Given the tobacco industry's limited effectiveness in shaping laws governing initiatives and referenda in the states, how much success have tobacco control advocates had in achieving policy change through the direct democracy process? Extant scholarship on ballot measures dealing with tobacco taxes from the late 1980s to the late 2000s underscores the limitations of the tobacco industry's efforts to influence public policy. Nicholl (1998) presents brief case studies of eight tobacco tax initiatives that appeared on state ballots from 1988 to 1998, four of which succeeded and four of which failed. He finds that the probability of success increases with the availability of sufficient financial resources for public health advocates; strong, experienced leadership; and access to public opinion data. Nicholl (1998) concludes that over 10 years and eight campaigns, the tobacco industry outspent initiative backers by a ratio of 8:1. However, he attributes public health defeats not to the magnitude of tobacco industry spending but to the paucity of proponents' spending. As we will see later in the analysis, of the three measures that succeeded from 2012 to 2022, proponents either vastly outspent opponents (Oregon), equaled opponents' spending (Colorado), or were outspent by a ratio of "only" 2:1 (California).

Givel (2009) examines all state tobacco control ballot measures from 1988 to 2006 to determine whether the tobacco industry was able to dominate initiatives and popular referenda. Drawing on data from peer-reviewed articles, industry and health group news releases, state government and election records, media reports, and other sources, Givel (2009) also performs a search and content analysis of a total of 38 previously secret tobacco industry documents housed at the University of California, San Francisco's Legacy Tobacco Documents online repository. He finds that 13 states voted on 29 tobacco control initiatives, 23 (79%) of which were pro-tobacco control, and six (22%) of which were protobacco. Givel (2009: 344) argues that "voting trends indicate that state initiatives were a highly viable and successful approach to enact pro-tobacco control legislation regardless of the ideology of voters." The results suggest, he concludes, that direct democracy retains its populist potential to counter undue corporate influence and power.

In a comprehensive analysis that uses case studies of more than 20 ballot measure campaigns on tobacco taxes from 1998 to 2008, Lum, Barnes, and Glantz (2009) identify two industry arguments that appeared most frequently: first, that the tax increase did not dedicate enough resources to tobacco control, and second, that hospitals and health maintenance organizations would profit from the tax increase. When either of these two arguments were used alone, the tobacco industry lost three out of four elections; but when the two arguments were combined, the tobacco industry *won* three out of four elections. Lum, Barnes, and Glantz (2009) echo Nicholl's (1998) conclusion regarding the importance of early support and professional leadership: a common characteristic of losing campaigns was the failure to effectively mobilize grassroots support and anticipate and prepare for an erosion in support as the election approached. They also concur with Nicholl's (1998) finding that tobacco industry spending alone does not explain the outcome of initiative and referendum elections. Unlike Nicholl (1998), however, Lum, Barnes, and Glantz (2009) find that involvement by health systems and hospital associations does not benefit campaigns to raise tobacco taxes and in fact may have hurt them. Consistent with previous research (Hamilton, Biener, and Rodger 2005), they conclude that tax increase proponents who support devoting a "substantial fraction of the money" to tobacco control activities will fare better than proponents who prioritize funding medical services (Lum, Barnes, and Glantz 2009: 377). Similarly, research by Kagan and Nelson (2001) has found that public perceptions of how tobacco tax revenues will be used exert a significant effect on support for tax increases and that voters are more likely to support tax increases when proceeds are earmarked for antismoking programs.

Finally, another study that investigates state tobacco control initiatives and referenda from 1998 to 2006 finds that 20 of 42 measures deal only with tobacco taxes (Davis et al. 2008). The authors also examine tobacco industry themes that appear in these media campaigns, and they show that the most widely used themes "were that the measures would divert funds from the stated purpose of the proposal . . . and would impose an unfair tax increase" (Davis et al. 2008: 589). Internal tobacco industry documents from the late 1990s similarly noted the potential that "generic antitax attitudes of the electorate" posed for the defeat of tobacco tax ballot measures in Oregon and other states (Voter Consumer Research 1997: 1). Secondary themes over the 1998–2006 period included that the measures would "increase 'big government' and wasteful spending, discriminate against smokers, and increase crime and smuggling" (Davis et al.

2008: 592). The analysis below will reveal that antitax, antigovernment rhetoric was a significant component of anti-tobacco tax advocacy from 2012 to 2022.

While tobacco control advocates have experienced some success in enacting policy change through ballot initiatives, there are also aspects of direct democracy that favor the tobacco industry. Over the nearly 120-year history of direct democracy in the United States, the majority of ballot initiatives have been rejected; Ballotpedia (n.d.) reports an overall success rate of 41% from 1904 to 2022, and many more initiatives fail before they reach the ballot by, for example, not amassing enough signatures (“Initiative Frequency and Success throughout the Decades”). Second, campaign spending has an asymmetrical impact on ballot measure outcomes in that money tends to be more effective in defeating initiatives than in enacting them, and choice fatigue, ballot length, and issue complexity may lead citizens to vote “no” when unsure about a measure’s content or outcomes (Augenblick and Nicholson 2016; Dyck and Pearson-Merkowitz 2019). In addition, ballot measures lack opportunities for amendment, bargaining, and compromise that are a part of the legislative process; voters face an up-or-down, yes-or-no vote, often in contexts with incomplete or uncertain information and few cues to help guide and inform their choices (Bowler and Donovan 1998). In short, the features of the direct democracy process in the United States—including the historical passage rate for ballot measures, the advantages of opposition spending (particularly given the tobacco industry’s vast financial resources), and voters’ status quo bias—conferred important advantages on the industry’s efforts to oppose tax increases. Tellingly, as I discuss below, two of the three successful initiatives that appeared between 2012 and 2022 were legislatively referred, offering opportunities for bargaining and compromise that are typically absent in the direct democracy process. A policy-making tool that was designed to give voice to the masses, curb special interest influence, and circumvent the unresponsiveness of state legislatures has, for some critics, become another venue through which moneyed groups (such as the tobacco industry) can manipulate public opinion to advance their own “narrow-material interests” (Sabato, Larson, and Ernst 2001: 26; Ellis 2002).

Data and Methods

The scholarship on state tobacco control ballot measures that appeared from 1988 to 2008 uses a case-study approach to explore proponents’ and

opponents' key campaign themes and arguments, evaluate the impact of campaign spending, and consider the ultimate reasons for success or failure (Givel 2009; Lum, Barnes, and Glantz 2009; Nicholl 1998). Similarly, I gathered information about the 11 tobacco tax increase ballot measures that appeared from 2012 to 2022 (no such measures appeared during 2008–2012) from a variety of sources including newspaper archives, state voter pamphlets, secretary of state websites, academic reports, Ballotpedia's database, and advocacy websites and social media accounts. In searches for news articles, I used the terms "tobacco tax," "cigarette tax," and specific initiative titles or numbers, and my searches in the Factiva database from late 2021 to mid-2022 encompassed the year before and the year after the measures appeared on the ballot. The number of results obtained varied from a low of 23 hits for South Dakota's Measure 25 in 2018 to a high of 521 hits for California's Proposition 56 in 2016.

After reading everything I could about the measures and identifying key themes, arguments, and narratives through an inductive process, I compiled a list of at least one key opponent and proponent for each measure, typically a spokesperson, communications director, or campaign manager. I searched for contact information for these individuals and reached out to them via email, website contact forms, or LinkedIn. I inquired about their availability for telephone interviews and expressed my interest in campaign materials (such as ads, correspondence, and polling data) not available via other research methods. Using a snowball sampling technique, I was able to identify additional interview subjects. I reached out to all potential interviewees up to three times; in total, I was able to conduct interviews with six opponents and seven supporters. These 13 individuals, who came from six of the seven states where tobacco tax measures were on the ballot, occupied various roles, including outside lobbyists, campaign consultants and managers, nonprofit leaders, and authors of initiated measures themselves. Some are named in the analysis below, while others requested anonymity. Several interviewees shared other materials with me that were useful in my research, including press releases, flyers, reports, internal polling data, television and radio ads, and campaign correspondence. Finally, I also searched the Legacy Tobacco Documents Website for relevant documents using identical search terms to Givel (2009), including "initiative and referendum" and reform, plan, and policy. These searches uncovered only three documents, in contrast to the 38 relevant documents Givel located from the 1998–2006 period.

This study uses a similar data collection and analytical approach as previous scholarship and recognizes the importance of several contextual

factors that distinguish the 2012–2022 period from previous eras. First, while partisan and ideological polarization did not originate in the early 21st century, the past two decades have witnessed an acceleration of ongoing trends featuring two political parties that are ideologically distant from and hostile toward each other, and governing institutions that are mired in conflict and gridlock (Iyengar et al. 2019). Political polarization is not only an elite and national phenomenon but also a mass public and state-level phenomenon; ordinary citizens today exhibit high levels of distrust and antipathy for opposing partisans, and state legislative candidates and lawmakers have also become increasingly polarized (Handan-Nader, Myers, and Hall 2022; Shor and McCarty 2022; NCSL 2018). Similarly, trust in government has been declining since the 1960s but has undergone an especially precipitous drop since the late 2000s (Pew Research Center 2022), coinciding with the period of analysis that is the focus of this study. Declining levels of trust in government are correlated with more negative evaluations of political institutions (witness record-low levels of support for the Supreme Court in recent years) and with reduced support for progressive solutions (such as tobacco tax increases) to public problems (Hetherington 2005). A third contextual factor that we must consider in the period since 2008 is the rise of the Tea Party, the candidacy and presidency of Donald Trump, and the ascendance of right-wing populism. These developments have further hardened partisan polarization, eroded political trust, and intensified concerns about government corruption and overreach, all trends that are amplified by geographic and partisan sorting and greater access to partisan news (Greven 2016). Finally, it is difficult to overstate the extent to which the MSA of 1998 and the exposure of internal tobacco industry documents shaped the policy-making context for tobacco tax ballot measures during 1998–2008. Meanwhile, the period since 2008 has featured no comparable episodes that spotlight the deceit and nefariousness of the tobacco industry.

In short, the features of the modern political era—and the opposing sides' completely different policy-making visions—have significant implications for the current generation of tobacco tax ballot measures. Americans are more deeply and profoundly divided, more distrustful of political institutions, more skeptical of taxes and of government action generally, and perhaps more complacent about tobacco industry deceit compared to previous eras. The case studies in the next section will continue to explore how these factors shaped tobacco tax ballot measures in the 2008–2022 period.

Results

Overview of Ballot Measures

From 2012 to 2022, seven of the 27 states that allow popular votes on initiatives or referenda voted on 11 separate tobacco control measures. Table 1 presents details about these measures gathered from sources including Ballotpedia, Follow the Money (followthemoney.org), and secretary of state websites, including the proposed tax increase amount, percentage of “yes” votes, proponent and opponent spending, the amount of funding dedicated to tobacco control, and where additional revenue was directed. In nearly all of the states discussed in the forthcoming analysis (the exception is North Dakota), ballot activity on tobacco taxes also took place in previous periods.

Proposed per-pack tax increases ranged from a low of 23 cents for a Missouri industry-sponsored measure to a high of \$2.00 in California and Oregon. The amount of revenue allocated to tobacco control ranged from 0% to 20%. Proponents of tax increases targeted additional revenue to several other policy priorities, particularly education and Medicaid expansion. Five measures were defeated with margins of 6 percentage points or less, and opponents outspent proponents in 6 of the 11 contests. Only three of the 11 measures were successful (but each of the three garnered supermajorities of at least 64% of the vote).

Themes for Tobacco Control Advocates: Public Health and Progressive Policy Priorities

Several key factors emerge from the literature as predictors of the outcomes of tobacco tax ballot measures from 1988 to 2008, including sufficient financial resources; experienced leadership and grassroots support; access to public opinion data; and compelling arguments around revenue allocation, the role of health maintenance organizations, and the size and scope of government. While much of the extant literature focuses on tobacco industry rather than antitobacco activists’ campaign rhetoric, my analysis examines key campaign themes on both sides. For example, I find that claims about the deleterious public health impacts of smoking, long a staple of antitobacco advocacy, took a backseat in many states to arguments about the need to raise revenue for important policy priorities. As in the past, prodigious spending by Big Tobacco hampered proponents’ ability to retain public support in the late stages of several campaigns. In states where tobacco tax measures were successful, early support from key constituencies, sufficient financial resources to counter the tobacco

Table 1 Popular Votes on Tobacco Tax Increases, 2012–2022

Year	State and measure	Tax increase amount per pack	% Yes vote	Proponent/opponent spending	Amount allocated to tobacco control	Additional revenue
2012	Missouri Proposition B	73 cents	49%	Proponents: \$2.7M Opponents: \$940K	20%	K-12 public schools; colleges and universities
2012	California Proposition 29	\$1.00	49.77%	Proponents: \$18M Opponents: \$48M	20%	Cancer research; health services
2016	North Dakota Measure 4	\$1.76	38%	Proponents: \$28K Opponents: \$4M	0%	General fund; veterans; community health
2016	Missouri Amendment 3	60 cents	40%	Proponents: \$14M Opponents: \$6M	5%–10%	Early childhood education; hospitals and health facilities
2016	Missouri Proposition A	23 cents	47%	Proponents: \$6M Opponents: \$0	0%	Transportation infrastructure
2016	Colorado Amendment 72	\$1.75	47%	Proponents: \$2M Opponents: \$12M	16%	Health programs; tobacco research; veterans; other priorities
2016	California Proposition 56	\$2.00	64%	Proponents: \$37M Opponents: \$71M	13%	Medicaid expansion
2018	South Dakota Measure 25	\$1.00	45%	Proponents: \$1M Opponents: \$6M	14%, up to \$35M	General fund; technical school funding
2018	Montana I-185	\$2.00	47%	Proponents: \$10M Opponents: \$17.5M	6%	Medicaid expansion
2020	Colorado Proposition EE	\$1.80	68%	Proponents: \$4.7M Opponents: \$4.5M	9%–11%	Early childhood education; K-12 education; housing
2020	Oregon Measure 108	\$2.00	66%	Proponents: \$10.5M Opponents: \$55K	10%	Medicaid expansion

industry’s playbook, and (in two of three cases) legislative involvement and significant compromises with Big Tobacco stakeholders helped pave the path to victory.

Tobacco tax proponents highlighted two primary arguments in their campaigns across the 11 measures in question. First, proponents frequently referenced claims that tobacco taxes are effective at achieving three core public health goals: preventing youth smoking, encouraging adults to quit smoking, and reducing long-term health care costs that result from smoking-related illnesses (State of California 2016; LaCapra 2012; Snodgrass 2012; Romig and Spears 2015; Yes on 108 n.d.). For example, the Raise It for Health North Dakota Coalition sent a letter to potential supporters noting that “our support for raising the tobacco tax is strictly about the health benefits tied to high tobacco prices” and shared an information packet with data on “the proven effects an increased tobacco tax has on youth prevention, adult reduction, potential in health care cost savings, and overall public health” (Johnson, pers. comm., November 2, 2021). Oregon’s Yes on 108 website observed that “taxing vapes and tobacco is a proven approach to reducing smoking and vaping and keeping people from starting in the first place, saving on costs and saving lives” (Yes on 108 n.d.). Campaign manager Elisabeth Shepard noted that arguments about cost savings to health care systems—in particular the state-run Medicaid program—were thought to be particularly compelling “with our more conservative constituencies, which may on the face be tax-averse” (Elisabeth Shepard, pers. comm., October 21, 2021). Amendment 72 supporters in Colorado pointed out that higher prices on tobacco products have historically led to declines in smoking and tobacco use (Mendoza 2016). In the state’s official voter guide, Proposition 56 supporters wrote that the California measure “is about fairness” and “works like a user fee, taxing tobacco to help pay for smoking prevention and healthcare—so smokers pay their fair share for their costs” (State of California 2016). Ned Wigglesworth, a key Proposition 56 strategist, claimed that leading with the argument that “we all pay for the costs of smoking, and you should tax tobacco to pay for . . . the costs of people who smoke”—while somewhat controversial among some activists in the “body parts” groups such as the American Heart Association, American Lung Association, and American Cancer Society—was very effective (Ned Wigglesworth, pers. comm., November 3, 2021).

Alongside public health claims, and even more prominently in many states, advocates argued that revenue from tobacco taxes was desperately needed to shore up state coffers and fund important policy priorities. This is a theme that has not appeared in previous scholarship. Proposition B

campaign chief Misty Snodgrass argued that “in addition to saving lives and reducing current and future health care costs due to smoking, the measure would help Missouri’s workforce infrastructure by enhancing education funding for tomorrow’s workers” (Snodgrass 2012). In North Dakota, after a tobacco tax increase measure failed to even come up for a vote in the state legislature, a veterans’ group sought out a partnership with the Raise It for Health North Dakota coalition to fund needed priorities. Raise It for Health Coalition chairman Dr. Eric Johnson wrote that “though the goal of Measure 4 ultimately is to save lives by reducing and preventing tobacco use, this measure also happens to generate additional dollars. . . . [that] are dedicated to funding strategic, statewide plans to address public health programs and the continued unmet needs of our state’s veterans and North Dakotans struggling with mental illness, substance abuse and chronic disease” (Johnson 2016). For Chris Lehman, a key strategist for California’s failed Proposition 29 in 2012 and the successful Proposition 56 in 2016, the allocation of tobacco tax resources to the state’s underfunded Medicaid program was a critical reason for the 2016 measure’s success. “If you put money toward that,” he told me, “it’s a very unifying thing for health care workers, doctors, nurses, labor unions, hospitals . . . these are usually people who fight each other over a limited supply of health care dollars, and now they were fighting together against the tobacco industry” (Chris Lehman, pers. comm., October 25, 2021). In South Dakota, nine out of 12 social media posts (as well as several dramatic television ads) from Measure 25 proponents highlighted the “train, not drain” message—the idea that revenue for the state’s technical institutes was needed to make tuition more affordable and competitive with neighboring states, keep young people in the state, and ameliorate labor shortages in fields such as construction, health care, and manufacturing. For example, one of the measure’s key supporters was a local electrical contracting company whose chief executive officer was having difficulty filling technical jobs (Nord 2018a). Finally, in Colorado, two of the three arguments that appeared in the state ballot pamphlet in support of Proposition EE cited “needed funding for education” at a time of declining state budgets (State of Colorado 2020: 28–29; Paul 2020). Of course, the drawback of using “sin taxes” to supplement public coffers is that the revenues they generate will almost certainly decline over time, handing opponents a compelling argument about the unsustainability of tobacco taxes as a means of funding ongoing policy priorities (as we will see in states such as Colorado and Montana, below).

Although Amendment 3 in Missouri was ultimately unsuccessful, it represents perhaps the best example of a tobacco tax ballot measure that

was centered around investments in early childhood health and education (Moffitt 2016; Garrett Webb, pers. comm., November 9, 2021). Linda Rallo, executive director of the nonprofit group Raise Your Hands for Kids (RYHFK), began working on the proposal in 2013 with the goal of raising money for early childhood education. “With Missouri being the lowest tobacco tax in the nation,” RYHFK’s Erin Brower noted, “we realized that this is really the last untapped source of funding we could go after” (Campbell 2015). “It was about giving kids the right start, it was all about early childhood education,” Rallo told me. “None of us were getting rich off of this. . . . We were really doing it because we wanted to change the world” (Linda Rallo, pers. comm., October 26, 2021; see also Garrett Webb, pers. comm., November 9, 2021). Amendment 3 was presented as a “reasonable” tax increase (the state had the lowest cigarette tax in the nation, at 17 cents per pack) that prioritized local input and control, created a “transparent lockbox” funding stream, and “invested” in children to create better returns vis-à-vis school performance, graduation rates, and workforce readiness in a state with the 38th worst record for public pre-K funding (Brower, Schmidt, and Rallo 2015; Rallo 2016; Rallo 2017).

The Role of Campaign Spending and Early Support

Why, ultimately, were eight of the 11 tobacco tax increase ballot measures that appeared from 2012 to 2022 unsuccessful, and what lessons can we glean from those defeats? Consistent with the literature, one factor that looms especially large is that in most cases proponents were vastly outspent by the tobacco industry, as seen in table 1. The literature clearly documents that support for tobacco tax increases—indeed, for ballot measures generally—often starts off high but erodes over time (Lum, Barnes, and Glantz 2009). In several of the 2012–2022 campaigns for which data are available, polling revealed exactly this trend: early support dwindled as advocates struggled to raise funds with which to counter tobacco industry money and messaging. The failure of California’s Proposition 29 in 2012 is particularly instructive. Proponents were outspent by a nearly 3:1 margin, and even a late infusion of \$6 million from the American Cancer Society was not enough (Chris Lehman, pers. comm., October 25, 2021). Polling data from March 2012—three months before the election—showed strong support for Proposition 29, but that support dropped steadily in April and May and then precipitously in the two weeks before the election, as a massive advertising campaign “raised doubts about who would oversee revenue raised by Proposition 29, how

it would be spent and whether it would stay in California” (Reuters 2012b). According to a Field Poll report, the fact that voters who had already sent in a mail ballot or were planning to do so before election day supported Proposition 29 by a 10-point margin while those intending to vote at their precinct on election day supported it by just a five-point margin “suggests that the weight of campaign advertising and late decision-making is narrowing the yes side advantage and could have additional effects before all the votes are cast” (Reuters 2012b). “A well-funded opposition can pretty easily raise doubts even when it’s a tax increase that’s relatively popular with voters,” according to the Public Policy Institute of California’s Mark Baldassare (Reuters 2012a). The late campaign drop in support occurred despite the fact that *63% of voters continued to generally support the idea of raising taxes on cigarettes*. But the opposition campaign raised questions about the details of Proposition 29, stoking doubt and exploiting voter distrust in state government (at the time, only 17% of likely voters approved of the job the state legislature was doing) even as the tax increase itself was viewed favorably (Christie 2012; Jim Knox, pers. comm., November 12, 2021).

Similar dynamics took place in other states. The opposition to North Dakota’s Measure 4 outspent proponents by a staggering margin of more than 170 to 1, deploying a multimillion-dollar advertising campaign to mobilize antitax sentiment and erode early support. A December 2015 internal poll found that seven in 10 likely voters (crossing all partisan, ideological, income, and geographic lines) *supported* a \$1.75 tax increase. The messaging that poll respondents found convincing (for example, preventing youth smoking and lowering long-term health care costs) appeared prominently in the campaign, and proponents chose to direct revenue toward policy issues (such as veterans’ and mental health programs) that respondents identified as priorities. Still, none of this was sufficient after the North Dakota Petroleum Marketers and Retail Association became involved, and Measure 4 was defeated overwhelmingly as opponents outspent proponents by a margin of nearly \$4 million. Even in antitax Missouri, multiple polls conducted from 2014 through early 2016 showed that two-thirds of voters supported “a reasonable tax increase to support early childhood programs” (Brower 2016: 4–5; Rallo 2016). Early 2016 polls that campaign consultants shared with me showed that 55%–58% of likely voters supported *the exact language of Amendment 3*, and that more total voters strongly supported the measure (35%–40%) than opposed it (32%) (Mellman Group 2015). Additionally, as voters learned more about the provisions of the measure, support increased to

60%, leading the pollster to conclude that “while initiative campaigns are by their very nature unpredictable, the fact that we begin well over 50%, and support for the initiative increases after voters are given more information, suggests room for growth if we have the resources necessary to fully inform voters about the initiative and its benefits” (Mellman Group 2016: 2). Come election day, the measure garnered only 40% of the vote.

Why did the tobacco tax increases in California (2016), Colorado (2020), and Oregon (2020) succeed where other measures failed? Consistent with Nicholl’s (1998) findings in his study of 1988–1998 ballot measures, a review of available data indicates the importance of strong leadership and sufficient financial resources that helped to *sustain* early public support. Proposition 29 lost by a margin of 1% during a low-turnout midyear election (all other measures considered here appeared on the November ballot), and according to a key campaign strategist, “the moral of [that] story is that you need money and need it early—you can’t let the other side define the race and let it go unanswered” (Chris Lehman, pers. comm., October 25, 2021). In the one unalloyed victory for public health advocates (California’s Proposition 56), antitobacco advocates raised \$35 million (billionaire Tom Steyer was a major donor) to counter nearly \$70 million in opposition spending. The 2020 measure’s proponents built a coalition of doctors, nurses, health care workers, and labor unions under a unifying theme of fully funding the state’s Medicaid program (Chris Lehman, pers. comm., October 25, 2021), which was viewed as a more persuasive argument than directing tobacco tax revenues toward cancer research, as Proposition 29 had done in 2012 (CA4aCure 2012; Ned Wigglesworth, pers. comm., November 3, 2021). Contrary to research that has found that support from hospitals and health maintenance organizations dampens support for tobacco tax increases (Givel 2009; Lum, Barnes, and Glantz 2009), in both California and Oregon health groups were seen as key partners to antitobacco advocates. Proposition 56 was painstakingly drafted over the course of 18 months and was subjected to extensive polling and message testing (Chris Lehman, pers. comm., October 25, 2021). Instead of simply trying to rebut tobacco industry arguments, as they had done in 2012, proponents focused on disseminating their own message widely using a vast campaign war chest (Ned Wigglesworth, pers. comm., November 3, 2021). And while support eroded as the 2012 campaign wore on, support for Proposition 56 in 2016 started out strong and remained robust: a late October Field Poll found 55% in favor, and the measure passed with 64% of the vote (Ballotpedia “California Proposition 56” n.d.; DiCamillo 2016). While Proposition 56 supporters were still outspent in 2016 by a 2:1 margin, they found that “you don’t have to spend as much as the tobacco

industry, but you need enough money to get your message out” (Chris Lehman, pers. comm., October 25, 2021). The raw amount of spending on each side, then, is perhaps a less valid measure of the strength of a campaign than factors such as the spending differential, the timing of when funds are spent, and the messages money is used to disseminate. In other states, proponents were severely underresourced (Nicholson 2016), and measures in states such as Missouri, North Dakota, and South Dakota failed despite valiant efforts to recruit a broad, diverse range of supporters.

A strong coalition of supporters was also a key factor in the success of Oregon’s 2020 tobacco tax increase, according to campaign manager Shepard. Like their counterparts in California, proponents assembled a broad support coalition consisting of nurses, doctors, hospitals, health care systems, Democratic lawmakers, chambers of commerce, community-based organizations, and leaders from marginalized communities who were disproportionately affected by the harms of tobacco use (Elisabeth Shepard, pers. comm., October 21, 2021; Yes on 108). Measure 108 proponents were also “incredibly well-resourced”: even with almost no opposition spending, they raised more than \$10 million under the assumption that Big Tobacco would show up late in the race and pour vast amounts of money into defeating the proposal—but, to their surprise, that never happened. As in California, “that was the whole strategy,” Shepard told me: “put money in early, communicate early, get as many people as possible to our side so when they started hearing oppositional messaging from the tobacco industry their mind was already made up.” She continued, “Every single day we would say, where’s Tobacco, they’re going to show up any day, they’re going to outspend us 2:1, we waited and waited and they never showed up. . . . I have to think they saw the same numbers we did—we had 65% support the whole way. . . . There’s a lot of reasons they probably stayed out. It remains a fascinating mystery to us” (Elisabeth Shepard, pers. comm., October 21, 2021).

Tobacco Industry Opposition: Antitax Rhetoric and Government Accountability

The tobacco industry and its allies mounted a robust response to nearly all of the ballot measures discussed here. Unlike in past eras, when the industry was more selective about which propositions it contested (Lum, Barnes, and Glantz 2009), from 2012 to 2022 the industry was involved in opposing all but one of the proposed measures. Previous scholarship has identified several key tobacco industry arguments around tax measures

that appeared during 1988–2008. Industry forces argued that the proposals did not allocate sufficient resources for tobacco control; that hospitals and HMOs would profit from the tax increases; and that the measures were unfair and would increase big government and wasteful spending (Davis et al. 2008; Lum, Barnes, and Glantz 2009).

In the case of the 11 measures that appeared during 2012–2022, antitax, antigovernment rhetoric was central, particularly in more conservative states including Missouri, North Dakota, and South Dakota. In fact, the only states that enacted tobacco tax increases via the ballot measure process were solidly Democratic enclaves. Committees opposed to the ballot proposals often centered the issue of taxation rather than that of tobacco; some of the campaigns studiously avoided mentioning cigarettes or tobacco at all (O’Neil 2012; Mary Szarmach, pers. comm., November 10, 2021; Jeff Roe, pers. comm., December 9, 2021).¹ Recognizing the resonance such arguments would have in a politically polarized era that witnessed the rise of the Tea Party and the presidency of Donald Trump, opponents framed the campaigns around the size and scope of government, inept and untrustworthy politicians, and greedy special-interest groups. In California, the committee opposed to Proposition 29 criticized the imposition of a \$735 million tax increase when the state’s budget deficit was \$10 billion; opponents of Proposition 56 called it a “tax hike grab by insurance companies and other wealthy special interests” (California Secretary of State 2012; State of California 2016: 53; No on 29 2012). Steve Westra of South Dakotans against Higher Taxes warned that Measure 25 would impose an additional \$35 million in taxes on state voters but lacked “taxpayer protections to ensure funds are spent how South Dakota voters are promised and not diverted to the General Fund or other projects” (Nord 2018b).

According to Ron Leone of the Missouri Petroleum Marketers and Convenience Store Association, a key opponent of Missouri’s Proposition B and Amendment 3, antitax rhetoric is what made nonsmokers care about the tobacco tax initiatives. “Let’s say that 20% of the state are smokers, and let’s assume most of the smokers vote,” Leone speculated. “I still need 30% of the people who don’t smoke to *care* about this. You have to make it personal, you have to make it seem like they’re going to come after their cheeseburgers and Cokes and Cheetos. If you’re going to let the tax police, the social folks, come after one particular product, they’ll come after other

1. Measure 4 supporters in North Dakota even filed a complaint two weeks before the election, claiming that opponents’ omission of the word “tobacco” from campaign materials was misleading and criticizing their portrayal of the measure as a “tax hike” (Nicholson 2016).

things, too” (Ron Leone, pers. comm., October 13, 2021). Similarly, Colorado Amendment 72 opponent Mary Szarmach told me that “we worked hard to try and find a message that resonated when only 17% of your voting population is a user of the product. You need to find a message that resonates as to why maybe a sin-tax type of a tax is not a good way to go” (Mary Szarmach, pers. comm., November 10, 2021). Szarmach attributed the defeat of Amendment 72 to the proponents’ “mistake” of writing the measure as a constitutional amendment, enabling the opposition to foment voter outrage about enshrining a new tax in the state constitution. Leone noted that his group always cited the percentages and not the cents by which the tax would increase: “You don’t say it’s a 34-cent increase; you say it’s an outrageous and unfair tax increase. . . . Then people start thinking, what if there was a 300% increase in my property tax, school tax, motor fuel tax? You tap into that concern and say, if it can happen here it can happen anywhere. I always use the phrase ‘outrageous and unfair’” (Ron Leone, pers. comm., October 13, 2021; Jeff Roe, pers. comm., December 9, 2021). Even though Amendment 3 featured the second-smallest tax increase of the 11 measures considered here, Leone’s group blanketed the state’s convenience stores with flyers and “pump toppers” featuring bright orange messages stating, “A 747% Tax Increase! Enough Is Enough! Vote No on Amendment 3!”

A second, related theme that appeared prominently in the ballot measure campaigns featured concerns about transparency, accountability, and oversight, and how revenue from higher tobacco taxes would be spent (Burke 2012; State of California 2016; Kaminsky 2020; Michels 2016; Nicholson 2016; No on 29 2012). Echoing critics of state lotteries in earlier eras who questioned whether “education lottery” revenue would actually be allocated toward K-12 public education, opponents stoked voters’ distrust in government by warning them that state legislators would redistribute tobacco tax revenues however they saw fit. In some states, such as Missouri, opponents pointed to the implementation of the 1998 MSA as evidence that lawmakers do not feel constrained by instructions on how tax revenue should be spent (Anderson 2016; Bott 2016; Mary Szarmach, pers. comm., November 10, 2021). Indeed, industry arguments that revenue from tobacco tax increases would be diverted or misused might have been persuasive, because such diversions did, in fact, occur in states such as California (Balbach, Traynor, and Glantz 2000), Massachusetts (Heiser and Begay 1997), and South Dakota—and they often occurred as a result of efforts by the tobacco industry itself (Smith, Savell, and Gilmore 2013). One proponent told me that the best arguments against tobacco tax increases “are general distrust of government, that politicians

won't spend the money the way it's being advertised, or they're simply incompetent" (Jim Knox, pers. comm., November 12, 2021). In California, Missouri, North Dakota, South Dakota, and other states, initiative opponents leaned heavily on the argument that the tax increase represented a blank check for government bureaucrats to use or misuse as they saw fit (MacPherson 2016; Povich 2017). California's Proposition 29 opponents produced campaign materials (including a website and television ads) warning that the measure was "a new \$735 million annual tax that creates unaccountable bureaucracy dominated by political appointees" (No on 29 2012). In Colorado, polling and message testing showed that the notion that "state, federal, and local governments love to put [revenue from tobacco taxes] in their black hole . . . resonates with tax-paying citizens" (Mary Szarmach, pers. comm., November 10, 2021). In their rebuttal to the argument in favor of California's Proposition 56, opponents wrote that the measure has "virtually no taxpayer accountability for how health insurance companies and other providers spend the money" and that misuse of the measure's revenues "could lead to massive waste, fraud, and abuse" (State of California 2016: 52).

The concept of fairness was a part of this antitax rhetoric as well. Opponents claimed that higher tobacco taxes (which are already regressive) would have a disproportionate impact on low-income smokers (Kaminsky 2020; Mary Szarmach, pers. comm., November 10, 2021), and they questioned why smokers were charged with footing the bill for important state policy priorities such as early childhood education or Medicaid expansion (Michelle Lyng, pers. comm., December 29, 2021). "Everybody has to pitch in and pay for that," said Mike Rud, chair and president of the North Dakota Petroleum Marketers and Retail Association, "not just 15% of the population" (Povich 2017). The group Montanans against Tax Hikes used its large war chest to fund a massive ad buy late in the campaign warning voters that the tax increase was unfair and unsustainable and that it would not cover the state's rising costs of Medicaid expansion. "If we are truly committed to providing universal preschool," a spokesperson for Colorado's Proposition EE argued, "why it is the responsibility of just 14% of the population?" (Kaminsky 2020). Proponents were "hanging important legislation or programs on declining funds," Szarmach told me (Mary Szarmach, pers. comm., November 10, 2021).

Tobacco Industry Concessions

Unlike in previous eras, several of the ballot measure campaigns from 2012–2022 featured battles between Big Tobacco and "Little Tobacco,"

and two of the three successful measures granted major concessions to the tobacco industry. In Missouri, discount tobacco manufacturers bankrolled the opposition to Proposition B in 2012 and Amendment 3 in 2016 (which received nearly all of its funding from RJ Reynolds), measures that would have eliminated a loophole in state law that exempted small manufacturers from contributing to smoking-related health care expenses incurred by the state Medicaid program as part of the MSA.² The discount manufacturers then poured more than \$5 million into Proposition A in 2016, a failed proposal that would have instituted a 23-cent increase per pack of cigarettes (the smallest of all considered here), with revenues allocated to transportation.

Big Tobacco's strategy of granting concessions on the question of tax increases in exchange for favorable treatment in other areas appeared elsewhere. In Colorado, after the defeat of Amendment 72 in 2016 and the failure of a legislative bill to increase tobacco taxes in late 2019 amid intense industry lobbying, the legislation that led to Proposition EE (HB 1427) was hastily introduced and enacted in the waning days of the 2020 legislative session (Goodland 2019; Paul 2021). According to emails obtained by the *Colorado Sun*, Altria (which owns the Marlboro brand and is heavily invested in the vaping company JUUL) worked behind the scenes to convince the legislature and Governor Jared Polis's office to meet several conditions in exchange for the tobacco giant agreeing not to fight that legislation. One such condition was a minimum-price clause that required a pack of cigarettes to sell for no less than \$7 starting in 2021 (Paul 2021); this was similar to the provision that was anathema to opponents of Missouri's Proposition B and Amendment 3. The agreement would undercut competition from discount cigarette manufacturers, ensuring that Altria would increase its market share and that Polis would not pursue any additional tobacco tax increases for the rest of his term.³ HB 1427 passed along party lines in June 2020, sending Proposition EE to the ballot.

Ratified by a margin of 66% to 34% in 2020, Oregon's Measure 108 generated more than \$13 million in support spending and virtually no

2. When health groups from which they sought financial and operational support insisted on a larger tax increase that Linda Rallo thought would be anathema to antitax voters, Raise Your Hands for Kids instead partnered with RJ Reynolds, which contributed \$13 million in exchange for the inclusion of the "equity" provision eliminating this loophole (Smith 2016; Salter 2016; Linda Rallo, pers. comm., October 26, 2021).

3. These provisions generated controversy similar to what Rallo's group faced in Missouri. Discount manufacturers despise minimum price provisions, but some public health groups support them. For example, Jake Williams, executive director of Healthier Colorado, noted that studies have shown that as tobacco prices increase, use decreases, and minimum pricing provisions blunt the discounting or coupon strategies that large manufacturers use to lower prices and keep people consuming cigarettes at their previous rates of consumption (Luning 2019).

opposition. Proponents argued that strong early polling numbers, more than 300 endorsements from health and business groups, and the decision to target revenue toward the state's Medicaid program suppressed tobacco industry opposition (Ramachandran and Kaiser Health News 2021; Zarkhin 2020). However, questions were raised about whether the tobacco industry agreed not to actively oppose Measure 108 if lawmakers killed a 2019 proposed ban on flavored vaping products. That bill's sponsor, Senator Laurie Monnes Anderson, told reporters that lobbyists with the Oregon Nurses Association and the American Cancer Society indicated that they would not support her measure and pushed her and other lawmakers to instead back a competing tobacco tax bill, the legislatively referred proposal that became Measure 108 (Peel 2019). Monnes reintroduced the flavored vaping ban in February 2020, but it was again dropped after a tobacco industry lobbyist presented legislators with an impact analysis indicating that enacting both the flavored vaping ban and the tobacco tax would cost the state tens of millions of dollars in revenue (Radnovich 2020). We do not have definitive evidence of a quid pro quo connection between the failure of the flavored vaping ban and the tobacco industry's decision not to contest Measure 108. However, it is reasonable to hypothesize that the industry, aware of Measure 108's popularity, decided to wrestle one significant victory (the failure of the vaping ban) from the jaws of defeat (the passage of the tobacco tax) (Ramachandran and Kaiser Health News 2021; Zarkhin 2020).

Discussion and Conclusion

Only three of the 11 tobacco tax increase ballot measures that appeared during 2012–2022 passed; the tobacco industry's rate of victory was 73%. In contrast, eight of the 14 measures that the industry contested during 1998–2007 failed, for a 57% success rate (Lum, Barnes, and Glantz 2009; Nicholl 1998). The tobacco industry has had greater success in achieving its policy goals through the direct democracy process in the past decade than in the two previous decades. In fact, in the period from 2012 to 2022, the industry suffered only one unmitigated defeat (in California in 2016) and was able to extract significant concessions from state legislators in Colorado and possibly Oregon despite the passage of large tax increases in those states in 2020.

What lessons and conclusions can we draw about the campaign strategies, messaging, and outcomes of tobacco tax ballot proposals that appeared during 2012–2022? While the argument about insufficient funding for tobacco control was prominent in the 1998–2008 period,

there is no pattern showing that devoting a larger proportion of revenues to tobacco control efforts had a consistent impact on probability of passage in the past decade. Instead, antitax and antigovernment rhetoric (Davis et al. 2008) played a central role. In contrast to Lum, Barnes, and Glantz's (2009) conclusions, opponents did not emphasize how increased taxes would primarily benefit hospitals and HMOs. In fact, in two of three cases (Oregon and California), backing from hospitals and health groups was viewed as critical to the success of ballot proposals, and in other cases (such as Missouri), health groups declined to support such measures because the tax increases were viewed as being too small (Botkin 2020). Antitobacco advocates in states such as Oregon and Missouri highlighted the need for tobacco revenues to fund core progressive policy objectives including Medicaid expansion and early childhood education (Smith 2016; Paul 2020). In an era of worsening political polarization and in settings where such arguments may be effective, Democrats may find the prospect of tobacco tax ballot measures appealing from both a public health perspective and a partisan politics perspective (Paul 2020).

One additional feature of two of the three successful ballot proposals is worth noting: Oregon's Measure 108 and Colorado's Proposition EE (unlike 2016's failed Amendment 72) were legislatively referred initiative statutes. To Shepard, the way in which Measure 108 was drafted "gives you . . . the ability to say, this measure isn't shady, it went through a public legislative process, a bipartisan process, it was approved by a bipartisan committee. That was an important message for more conservative voters" (Elisabeth Shepard, pers. comm., October 21, 2021). Given the tobacco industry's power in state legislatures and lawmakers' historical reluctance to approve tobacco tax increases (Givel and Glantz 2001), public health advocates might consider using legislatively referred statutes, which are available in 21 states, with greater frequency. Unlike the citizen's initiative, this process grants lawmakers a central role in proposal drafting, does not require costly signature collection, enables legislators to simultaneously claim credit for and pass the buck on raising tobacco taxes (shielding them from the potentially devastating effects of a public vote to raise tobacco taxes), and still leaves the ultimate decision in the hands of state voters.

A major factor at play in the tobacco tax ballot measures during 2012–2022 is voters' stronger antitax mentality (Povich 2017), something that previous research has not fully considered. The political environment of the past decade has featured the rise of Tea Party conservatives, President Donald Trump, and more visceral overall antitax sentiment. Additionally, the defeat of eight of 11 tobacco tax ballot measures occurred against a backdrop of declining trust in government (Pew Research Center 2022).

Voters who are distrustful of government are disinclined to give additional money to their state legislature to spend, even if it is from tobacco taxes (Nagourney 2012). We might also consider the lack of high-profile antitobacco-focusing events in the 2010s, which stands in stark contrast to the events of the 1990s. That decade prominently featured the duplicity of tobacco company executives in the infamous Henry Waxman House subcommittee hearings as well as enormous MSA payouts, publicity surrounding which may have helped to propel the passage of tobacco tax increases in the 1990s and early 2000s (Derthick 2011). Meanwhile, in the 2012–2022 period, such focusing events were absent, opponents' connections to the industry were less transparent, and campaign themes that centered antitax and antigovernment rhetoric resonated with more conservative state electorates. Just as a shift in venue from legislatures to courts in the 1990s was accompanied by a successful framing of tobacco use as part of freedom of choice and individual rights (Jacobson and Warner 1999), in the past decade the tobacco industry's success in the direct democracy process is at least in part attributable to the ability of the industry and its allies to invoke and capitalize on antitax sentiment and distrust in government. The industry has shown a consistent capacity to identify, recognize, and promote effective frames across multiple venues that are suited to different political moods and eras.

Even in defeat, the tobacco industry extracted significant concessions. In Colorado, Altria helped to defeat a more robust version of a tobacco tax in 2019 and then ensured the inclusion of a minimum price provision in 2020's Proposition EE (as well as a commitment from state officials not to pursue additional tobacco tax increases), making it much more difficult for discount cigarette manufacturers to compete. In Oregon, Big Tobacco twice helped defeat a ban on flavored vaping products in the state legislature and then spent nothing on the campaign for Measure 108, which passed overwhelmingly. RJ Reynolds also attempted (unsuccessfully) to manipulate the outcomes of ballot measure elections in Missouri in both 2012 and 2016.

The war that public health advocates have waged against the tobacco industry for the past several decades has taken place in multiple arenas, and even victories for tobacco control advocates have not been without cost. Under certain conditions, Big Tobacco has been willing to tolerate tax increases if it wins on other fronts, such as preventing a ban on flavored vaping products and blocking discount manufacturers from enjoying a price advantage. Similarly, in recent years Big Tobacco has backed "tobacco 21" laws to raise the smoking age, "playing the good guy and supporting weak statewide legislation that adds multiple exemptions,

nullifies tougher local rules and ensures ineffective enforcement” (Whyte and Nañez 2019).

The veto referendum on the 2022 California ballot may represent one of the next iterations of Big Tobacco’s role in the direct democracy process. The measure, which failed by nearly a 2:1 margin, sought to overturn Senate Bill 793, a 2020 ban on the sale of flavored tobacco products. Big Tobacco spent more than \$23 million in support of the veto referendum, which, unlike the tax measures that are the focus of this analysis, represented a proactive attempt to defend industry interests. Had the effort to overturn SB 793 been successful, the tobacco industry may have had a new playbook to draw from in at least some of the 22 other states that allow the veto referendum. Givel (2009: 350) notes that historically the direct democracy process has been viewed as a “very viable alternative to advance state tobacco control policies.” In states that are historically more tobacco friendly than California, we might see the direct democracy process not as a dependable ally for tobacco control advocates, but rather as a policy-making tool that can be strategically deployed to either advance or oppose their interests.

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Acknowledgments

I would like to thank the editors and two anonymous reviewers for their helpful comments and suggestions. This work was supported by the Senator Harry F. Byrd Jr. Distinguished Professorship Program at James Madison University.

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