

California Cancer Research Act

June 2011

Board Action:

OPPOSE

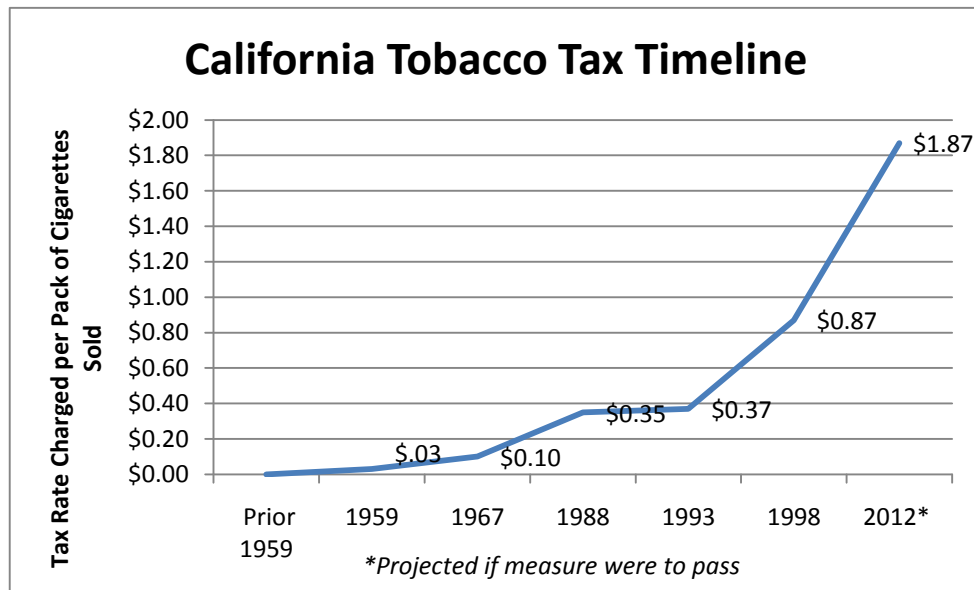
Rationale

Revenue generated from this proposed excise tax may not be enough to meet the financial obligations of the new programs that would be established by this measure. Funding for both Proposition 10 and Proposition 99 has declined substantially since their inception and now require backfill funding. It is estimated that \$75 million of the revenue from the Cancer Research Act would go toward backfill funding for previously approved programs in its first full fiscal year and would be expected to increase every year thereafter. Further, this measure would create a new level of state bureaucracy with little oversight over how the funds are allocated and lack of control by any other California government entity to oversee the expenditure of the funds. SDCTA has historically been opposed to this type of “ballot box budgeting” as it ties the hands of the legislature to make decisions. This is a regressive tax – it would impose the greatest burden on those earning the least amount of income. California should not put itself in a position to potentially add to its ongoing budget deficit at a time when the state ranks as the second-lowest consumer of tobacco per capita in the U.S.

Background

California currently imposes \$0.87 per pack excise tax on cigarettes (with an equivalent tax on other types of tobacco products) which is levied on cigarette distributors who supply cigarettes to retail stores. The California Legislative Analyst’s Office breaks down the current tax as follows:

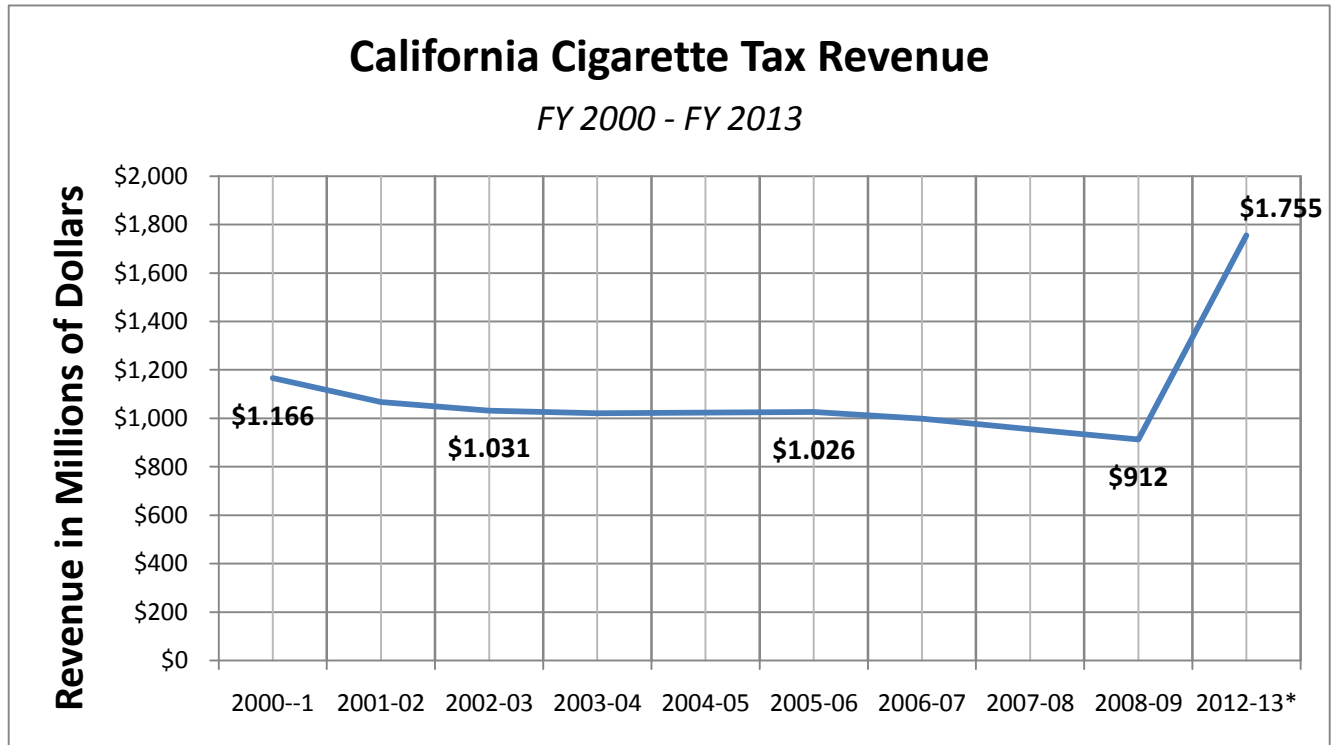
- Three cents per pack for the state’s General Fund, enacted in 1959.
- Seven cents per pack for the state’s General Fund, enacted in 1967.
- Twenty-five cents per pack pursuant to the Tobacco Tax and Health Protection Act. This initiative, enacted by the voters as *Proposition 99* in 1988, increased the cigarette tax by 25 cents per pack. Revenues are allocated toward tobacco education and use prevention efforts, tobacco-related disease research programs, and health care services for low-income uninsured persons, as well as for environmental protection and recreational resources.
- Two cents per pack approved by the Legislature and Governor in 1993 to create the Breast Cancer Fund, which supports research efforts related to breast cancer and breast cancer screening programs for uninsured women.
- Fifty cents per pack pursuant to the California Children and Families First Act of 1998. This measure, enacted by the voters that year as *Proposition 10*, supports early childhood development programs.



History of CA Tobacco Tax¹

Year	Increase	Total	Legislation	Purpose
Prior 1959	-	\$0.00		
1959	\$0.03	\$0.03	July 1, 1959 floor Stock tax	General Revenue
1967	\$0.07	\$0.10	August 1 \$0.04 floor stock tax & October 1 \$0.03	General Revenue
1988	\$0.25	\$0.35	Proposition 99: Tobacco Tax and Health Protection Act	Programs, health-care services for uninsured patients
1993	\$0.02	\$0.37	California Breast Cancer Act	Breast cancer research
1998	\$0.50	\$0.87	Proposition 10: California Children and Families First Act	Early childhood development programs
2012	\$1	\$1.87	California Cancer Research Act* (If Measure Passes)	(Cancer Research Fund)

¹ Information taken for LAO analysis of Prop 86 and www.leginfo.ca.gov 4/22/11



Source: California State Board of Equalization

According to the California State Board of Equalization, cigarette revenue has declined in the last ten years topping out at \$1.166 billion during FY 1999-2000 and declining to \$912 million in FY 2008-09. Passage of the California Cancer Research Act would double the projected revenue for FY 2012-13.²

California's tax rate on tobacco products of \$0.87 per pack of cigarettes ranks California as the 32nd lowest tax rate in the nation. The national average is \$1.34 per pack.³

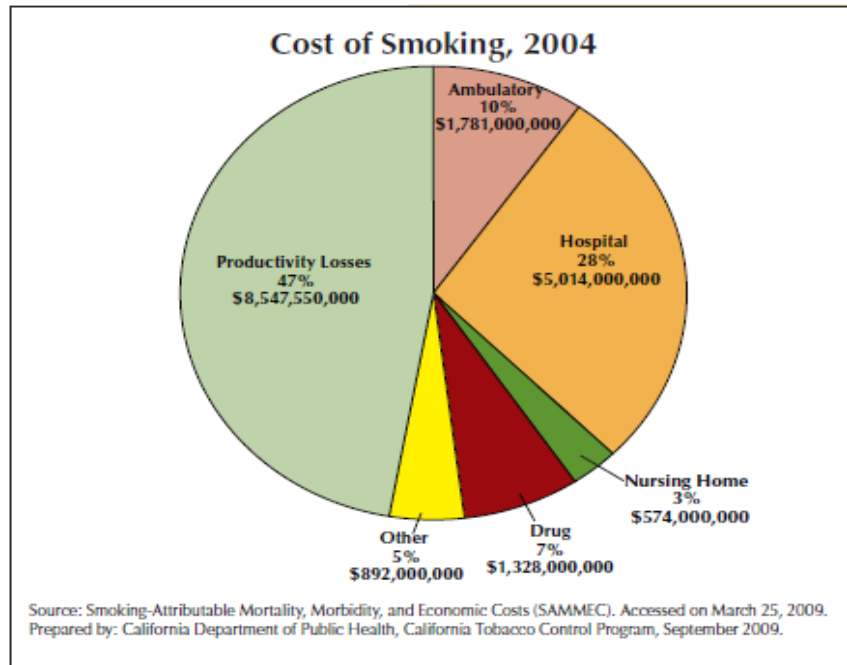
Smoking Prevalence and the Cost of Smoking

In 2004, the U.S. Centers for Disease Control and Prevention (CDC) estimated that the total health-related costs attributed to smoking in California amounted to over \$9 billion. In addition, they estimated that productivity losses due to smoking-attributed early death or illnesses were estimated to be \$8.5 billion in California from 2000-2004.⁴ The agency also ranks California as the 2nd lowest state in terms of adult prevalence of smoking – an average of 14% of adults in California smoke, compared to the national average of 18.4%.

² Most updated data available at <http://www.boe.ca.gov/annual/statindex.htm>. Cigarette Tax Table 30A. Accessed 3/12/11.

³ "Tobacco Control State Highlights 2010: California." Centers for Disease Control and Prevention. Accessed 6/1/2011. Available: http://www.cdc.gov/tobacco/data_statistics/state_data/state_highlights/2010/states/california/longdesc/index.htm.

⁴ State Tobacco Activities Tracking and Evaluation System. Centers for Disease Control and Prevention. Accessed 6/1/2011. Available: <http://apps.nccd.cdc.gov/statesystem/HighlightReport/HighlightReport.aspx?FromHomePage=Y&StateName=California&StateId=CA>.



An estimated 972 million packs of cigarettes were sold in California in 2009, down from 2.8 billion sold in 1980.⁵

Tobacco Control

California has one of the most effective tobacco control programs in the U.S. The California Tobacco Control Program (CTCP) was established in 1989 using a portion of the tax revenues generated from the Tobacco Tax and Health Protection Act, *Proposition 99*. With an annual budget of roughly \$100 million, the CTCP became the largest comprehensive tobacco control program in the world.⁶

Effectiveness

Between 1988, when Proposition 99 was passed, and 2008, adult smoking rates declined by more than 40%, from 22.7% to 13.3%. As smoking rates declined, mortality and morbidity rates for smoking-related diseases have also declined. The California Department of Public Health reports the following statistics regarding cancer-related illness:⁷

- From 1988 to 2005, lung cancer incidences declined from 70.0 to 53.9 per 100,000 in California.
- Death rates related to chronic lung diseases decreased from 11.5 to 4.5 per 100,000 from 1988 to 2005.

⁵ California State Board of Equalization. "Cigarette Taxes, Prices, and Sales". Accessed 6/1/2011. Available: http://www.boe.ca.gov/news/cigarette_price_effects_d2.pdf.

⁶ Miller, L., Max, W., Sung, H., Rice, D., Zaretsky, M. "Evaluation of the Economic Impact of California's Tobacco Control Program: A Dynamic Model Approach." January 8, 2010. Available: http://tobaccocontrol.bmj.com/content/19/Suppl_1/i68.full.

⁷ "Health and Economic Consequences". California Department of Public Health. Accessed 6/1/2011. Available: http://www.cdph.ca.gov/programs/tobacco/Documents/CTCPAdultSmoking_10.pdf.

Expenditures on Tobacco Education and Cessation

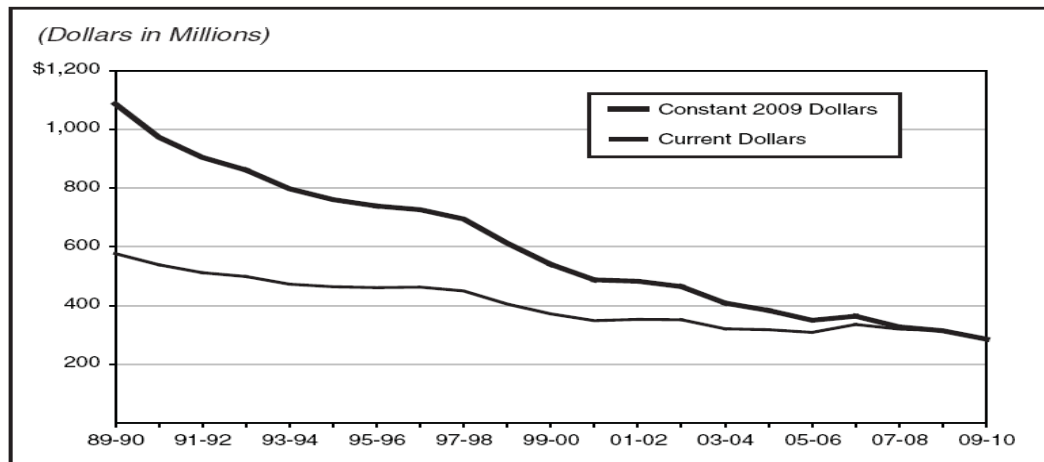
The CDCP recommends that California spend \$441.9 million a year to effectively prevent youth smoking and administer successful smoking cessation programs.⁸ In FY 2008-09, California allocated \$93.3 million for tobacco prevention and cessation.⁹ This is about 21.0% of the CDC's funding recommendation.

History of SDCTA Positions on Tobacco Taxes

Proposition 99

Proposition 99, which was passed in November 1988, imposed an additional 1.25¢ on each cigarette distributed, or \$0.25 per pack. SDCTA opposed this ballot measure, stating: “*This proposition is inconsistent with sound fiscal and budgetary policy. Such a practice builds rigidity into public financing and allots too little or too much revenue to a specific program or service.*”¹⁰ Since 1989, funding levels have dropped by 66% due to the statewide reduction in tobacco consumption.¹¹

Proposition 99 Revenue Declining



Source: California Legislative Analyst's Office

Proposition 10

SDCTA opposed Proposition 10 in November 1998. Proposition 10 imposed a tobacco tax increase of 50¢ to create state and county commissions to establish early childhood development

⁸ “Best Practices for Tobacco Control Programs”. Centers for Disease Control and Prevention. October 2007. Available: http://www.cdc.gov/tobacco/stateandcommunity/best_practices/pdfs/2007/BestPractices_Complete.pdf.

⁹ “Toward a Tobacco Free California: Master Plan of the Tobacco Education and Research Oversight Committee”. January 2009. Available: <http://www.cdph.ca.gov/services/boards/teroc/Documents/TEROCMasterPlan09-11.pdf>.

¹⁰ SDCTA Analysis of Proposition 99.

¹¹ “Proposition 99 Overview”. California Legislative Analyst's Office. February 8, 2010. Available: http://www.lao.ca.gov/handouts/Health/2010/Proposition_99_02_08_10.pdf.

and smoking prevention programs. SDCTA argued that Proposition 10 “*creates another massive bureaucracy with a new State Commission and 58 separate County Commissioners.*”¹² [There is] no oversight mechanism to control how millions of new tax dollars would be spent.” Proposition 10 was passed with 50.50% of the vote. The tax went into effect on January 1, 1999.

Proposition 86

Proposition 86, known as the *Tobacco Tax Act of 2006*, proposed increasing the cigarette tax by \$2.60 per pack in order to generate approximately \$1.4 billion annually. SDCTA took a neutral position on Proposition 86; it was defeated in November 2006 with 51% voting against the measure.

Proposal

The California Cancer Research Act would increase the excise tax on Tobacco by \$1 per pack of cigarettes and impose an equivalent amount on other tobacco products effective 90 days after its passage. The measure qualified for the June 2012 statewide ballot after receiving over 600,000 signatures. The proposal is being led by a coalition including the American Cancer Society, American Lung Association in California, American Heart Association, Campaign for Tobacco Free Kids, Stand up To Cancer, and Livestrong. The revenues from the tax would be used to fund the following:¹³

1. Grants and loans for biomedical, epidemiological, behavioral, health service, and other research in California to enhance the state of medical knowledge regarding lung cancer and other types of cancer, cardiovascular disease, emphysema and other tobacco-related illnesses.
2. Creation, staffing and equipping of California research facilities engaged in biomedical, epidemiological, behavioral, health services and other research whose primary focus is to identify and refine promising prevention, early detections, treatments, complementary treatments and potential cures of lung cancer and other types of cancer, cardiovascular disease, emphysema and other tobacco related diseases.
3. Increased efforts to reduce tobacco use in the State and prevent children from becoming addicted users.

Allocation

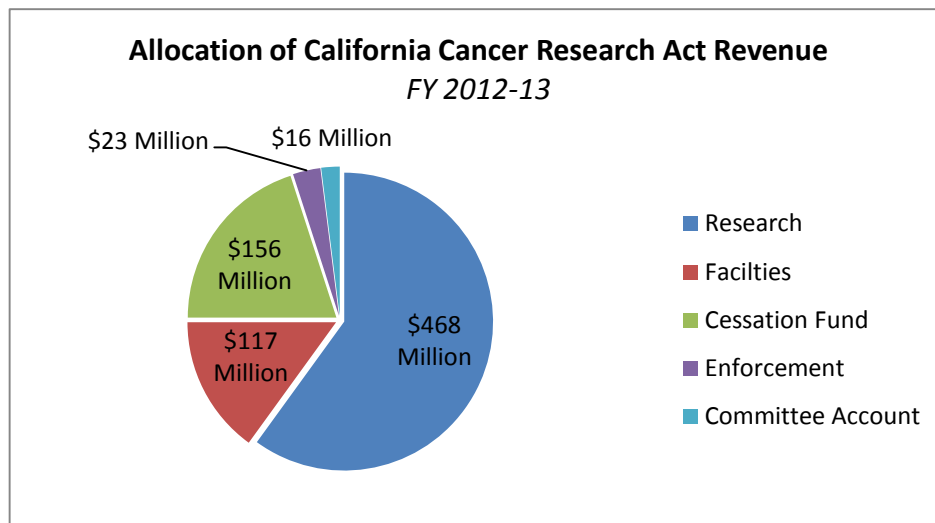
According to the California Legislative Analyst’s Office, the new tax would raise approximately \$850 million in the first full fiscal year of implementation. Revenue from the increased tobacco tax would be deposited in a new special fund, the California Cancer Research and Life Sciences Innovation Trust Fund. A nine-member Citizens Oversight Committee would allocate the funds to cancer and tobacco-related diseases research. The committee would consist of appointed Cancer Center Directors, University of California chancellors, and representatives of disease

¹² SDCTA Prop. 10 Analysis

¹³ Title and Summary of the California Cancer Research Act. December 7, 2009. Available: http://ag.ca.gov/cms_attachments/initiatives/pdfs/i895_initiative_09-0097.pdf

advocacy organizations.¹⁴ The trust fund would distribute funds disproportionately to five “Hope funds”:

- *Hope 2010 Research Fund.* Sixty percent of the funds would be used to provide grants and loans to support research on prevention, diagnosis, treatment, and potential cures for tobacco-related diseases such as cancer and heart disease.
- *Hope 2010 Facilities Fund.* Fifteen percent would be used to provide grants and loans to build and lease facilities and provide capital equipment for research on tobacco-related diseases.
- *Hope 2010 Smoking Cessation Fund.* Twenty percent would be used for tobacco prevention and cessation programs administered by the California Department of Public Health (DPH) and the California Department of Education.
- *Hope 2010 Law Enforcement Fund.* Three percent would be allocated to state agencies to support law enforcement efforts to reduce smuggling, tobacco tax evasion, illegal sales of tobacco to minors, and to otherwise improve enforcement of existing law.
- *Hope 2010 Committee Account.* Two percent would be deposited into an account that would be used to pay the costs of tax collection and expenses of administering the measure.



Backfill

Part of the revenue would be used to “backfill” programs created by Propositions 99 and 10. The intent of the backfill is to keep the funding levels for Proposition 99 programs from declining any more than they would have decreased without the additional tax increase. It is estimated that \$75 million of the funds would go to maintaining these programs in the first full fiscal year.¹⁵

¹⁴ Note: Four members of committee would be appointed by the Governor, two appointed by the director of the California Department of Public Health, and three would be Chancellors from each of the UC California Institute for Quantitative Biological Research.

¹⁵ LAO Analysis of Cancer Research Act. Available: <http://www.lao.ca.gov/ballot/2009/090811.aspx>

The California Cancer Research Oversight Committee would be comprised of:

- Three University of California chancellors (Berkeley, San Francisco and Santa Cruz)
- Three members selected from among Cancer Center Directors of National Cancer Institute designated cancer centers located within the State of California and appointed by the Governor
- One member affiliated with a California Academic Medical Center who is a practicing physician with expertise in the prevention, treatment or research of cardiovascular disease and appointed by the Governor
- Two members selected from among California representatives of California or national disease advocacy groups whose focus is tobacco-related illness, and at least one of whom has been treated for a tobacco related illness and appointed by Director of California Department of Public Health

Policy Discussion

Backfill Funding

If passed, this excise tax increase is projected to raise less and less revenue every year, due to the expected decrease in tobacco consumption. The decline in consumption of tobacco products caused by this measure would similarly reduce revenues from the existing tobacco taxes imposed by Proposition 10 and Proposition 99. The measure ensures, however, that revenues for the existing tobacco taxes do not decline due to lower cigarette consumption. As a result there is built-in backfill funding which is estimated to amount in \$75 million during the first full fiscal year and expected to increase every year thereafter.¹⁶

Backfill funding is explained under Section 130105(c) of the Health and Safety Code. A provision in Proposition 10 requires the Board of Equalization to determine the effect of Proposition 10 on the consumption of cigarettes and tobacco products. It then directs a transfer of funds to Proposition 99 and breast cancer programs to make up for revenue losses to those programs resulting from consumption changes triggered by Proposition 10. The intent of the backfill is to keep the funding levels and breast cancer programs from declining any more than they would have decreased without the Proposition 10 tax increase. These determinations do not affect the amount of taxes paid by taxpayers.¹⁷

Yearly variation in backfill is to be expected because determinations are not simply linear trends. Rather, they are the result of multiple variables including population, tax-paid distributions, cigarette prices, federal and state excise taxes and the California consumer price index.

Effects on Local Sales Tax Revenues

Sales taxes are levied on the final price of cigarettes and other tobacco products, including all excise taxes. The higher price of cigarettes resulting from the new excise tax, therefore, would

¹⁶ Analysis of Cancer Research Act by the LAO <http://www.lao.ca.gov/ballot/2009/090811.aspx>

¹⁷ Fitz, Joe. "Effects of Proposition 10 on Cigarette and Tobacco Products Consumption – Backfill Determination." November 1, 2010. Available: http://www.boe.ca.gov/meetings/pdf/hearingsummaries/P4_1_Prop10_backfill_memo.pdf.

increase state General Fund revenues. The LAO estimates that the increased price of cigarettes would increase local sales tax revenue by \$10 million¹⁸, due to the increased price on the final sale of cigarettes.

Mechanism to Control New Tax Dollars

Much like Proposition 10 and Proposition 99, the Cancer Research Act would create an entirely new bureaucratic organization which would require annual funding. All of the revenues collected would be allocated by a nine-member committee – no other entity of the California State Government has any control on the allocation of funds.¹⁹

Lack of Clear Objectives

While the proposition states a clear allocation of funds, the initiative lacks any set timeline for achieving its goals. The Cancer Research Act does not specify any clear objective, only a broad purpose of eliminating tobacco use. There is a concern that, in the first few years when the expected revenue is at its peak, the fund would make substantial investments in cancer research and tobacco prevention infrastructure, while lacking a definitive plan to compensate for the assumed revenue decline. There is no clear timeline for its ongoing funding structure.

Arguments in Opposition to the Proposition:

- There is a risk that future funding would not meet past and current expenditures, due to the anticipated yearly decline in tobacco consumption. Expenditures on employees, facilities, and grants could become a state burden. Funds allocated for buildings, administrative costs, tobacco enforcement, smoking cessation programs, and expenditures that have multiple year commitments could become an ongoing burden on California's budget deficit.²⁰
- The nine-person committee would have access to the funding with a limited function for oversight. Taxpayers, the Executive or Legislative branches of California government would have little control over where or how funds are allocated.
- Due to the past decline in tobacco consumption, Proposition 99 health programs are now unsustainable and do not support current expenditures. Any new tax levied against cigarettes must pay into a backfill for lost Proposition 99 revenue. The Cancer Act would undoubtedly decrease revenue for Proposition 99 every year, thus increasing the backfill requirements.²¹
- An increased tax on tobacco may increase crime and smuggling.
- This is a regressive tax, where the highest burden would be placed on those earning the lowest income.

¹⁸ LAO Analysis of Cancer Research Act. Available: <http://www.lao.ca.gov/ballot/2009/090811.aspx>

¹⁹ Cancer Research Act Analysis by LAO, <http://www.lao.ca.gov/ballot/2009/090811.aspx> Under fiscal Effects

²⁰ Fact Sheet, <http://www.stopoutofcontrolspending.com/>

²¹ Cancer Research Act Analysis by LAO, <http://www.lao.ca.gov/ballot/2009/090811.aspx> Under fiscal Effects

Arguments in Support of the Proposition:

- Californians for a Cure projects a 13.7 percent drop in youth smoking with the rate increase.²²
- 228,700 California youths might be prevented from becoming addicted adult smokers.²³
- Californians for a Cure projects that 22,300 smoking-affected births could be avoided in the first five years after enactment.²⁴
- Californians for a Cure projects a \$5.1 billion of long-term health savings.²⁵
- According to a 2008 study by the California Tobacco Control Program, 77.8% of people surveyed supported an additional tax on cigarette packs, and about half supported an increase of \$1 or more per pack.²⁶
- The initiative would invest millions into infrastructure, research institutions and universities that would create jobs in the State's science, biotech, and research industries.

Opponents²⁷

- Taxpayers Against Out-of-Control Spending
- Tobacco companies R.J. Reynolds and Philip Morris USA
- The California Taxpayers Association & the Howard Jarvis Taxpayers Association have indicated that they are likely to oppose the measure.

Supporters²⁸

Organizations in support of the measure include²⁹:

American Cancer Society, Lance Armstrong, American Heart Association/American Stroke Association, American Lung Association in California, Campaign for Tobacco Free Kids, Susan G. Komen for the Cure, California Affiliate Collaborative, Breathe California, Founder of the Breast Cancer Stamp, UCLA, Asian & Pacific Islander American Health Forum, Lung Cancer Alliance, California Thoracic Society, San Francisco African American Tobacco Free Project, Association of Northern California Oncologists, Tobacco Education and Research Oversight Committee, Americans for Nonsmokers' Rights, and the Cancer Prevention Institute of California.

²² Statistics taken from the Californiansforacure.org CCRA Statistics Sheet
http://www.californiansforacure.org/facts/mission/?_c=zqstbpezge7pi2i pg. 1

²³ Ibid

²⁴ Ibid

²⁵ Ibid

²⁶ http://www.cdph.ca.gov/programs/tobacco/Documents/CDPH_CTS2008%20summary%20report_final.pdf pg. 10

²⁷ [http://ballotpedia.org/wiki/index.php/California_Tobacco_Tax_for_Cancer_Research_Act_\(February_2012\)](http://ballotpedia.org/wiki/index.php/California_Tobacco_Tax_for_Cancer_Research_Act_(February_2012))

²⁸ Californians for the Cure Supporters, http://www.californiansforacure.org/endorsements?_c=zqstbpezge7pi2i

²⁹ Note: this list is not exhaustive.