

FUNDING PREVENTION IN CALIFORNIA:

Lessons from Past Efforts to Raise Revenues

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Prevention Institute is a nonprofit, national center dedicated to improving community health and well-being by building momentum for effective primary prevention. Primary prevention means taking action to build resilience and to prevent problems before they occur. The Institute's work is characterized by a strong commitment to community participation and promotion of equitable health outcomes among all social and economic groups. Since its founding in 1997, the organization has focused on injury and violence prevention, traffic safety, health disparities, nutrition and physical activity, and youth development. This, and other Prevention Institute documents, are available at no cost on our website.

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Introduction

The research is clear: where people live, work, and play—the food and physical activity environment—is one of the most important elements determining whether they will be healthy or not. Studies have shown that the vast majority of factors that influence health are related to conditions in the environment and their effect on individual behaviors and safety.¹ Yet many communities are struggling because they are not given a fair chance to be healthy. When neighborhoods don't have clean parks, places to walk, vibrant retail, or healthy food available, everyone's health suffers. Investing in prevention strategies to create healthy communities can result in increased levels of physical activity and improved nutrition, yielding significant savings through reduced health-care costs while also developing much-needed community infrastructure. But establishing neighborhoods, schools, and workplaces that foster health requires upfront resources. Even when economic times are good, and especially when they are not, mustering adequate funds for creating healthy communities is a formidable challenge. The question isn't what works; the question is: how can we pay for what we know will create healthy environments?

In the past, public health advocates have attempted to tax or impose fees on consumer goods or businesses (e.g., tobacco, soda, snack food, alcohol, lead-based product manufacturers, and bottles), to raise revenues for prevention. To understand the lessons of these efforts and determine whether they hold promise in the realm of food and activity, Prevention Institute and Berkeley Media Studies Group have gathered and synthesized information about past

efforts and examined selected news coverage about those efforts.

Recent efforts to implement taxes and fees to fund prevention

Recent state-level attempts at financing prevention programs have often focused on junk food taxes. In 1994, Professor Kelly D. Brownell, director of the Rudd Center for Food Policy and Obesity, popularized the idea when he wrote a *New York Times* op-ed suggesting a tax on unhealthy foods to promote health.² In 2000, an article by Brownell and Jacobson suggested that, rather than a steep tax that may generate large amounts of funding, small taxes on foods high in calories, fat, or sugar may be “more politically feasible and still could generate significant revenues to support health measures.”³ Between 2004 and 2006, states across the U.S. introduced at least 26 pieces of snack or soft-drink tax legislation, many of which were intended to fund health-related programs. None were successfully enacted.^{4*} In April of 2008, Maine successfully passed legislation on a package of tax increases, including a new tax on soft drinks, to finance the state's affordable health insurance plan. Within seven months, however, Maine voters repealed the soft-drink tax.

In California, fees have also been used as a mechanism for raising revenues to fund prevention efforts.

* The following states introduced legislation: in 2004, Georgia, Indiana, Michigan, Nebraska, New Mexico, New York, Oklahoma, South Dakota, Texas, West Virginia; in 2005, Alabama, Arkansas, Maryland, Michigan, Montana, Nebraska, New Mexico, New York, Texas, Washington; in 2006, California, Indiana, Kansas, Maryland, New Mexico, Wisconsin.

A fee differs from a tax in that it typically pays for a specific service or program, rather than acting as a mechanism for raising general government revenues. Regulatory fees, one category of fee, are used to pay for services to counteract an adverse effect caused by business activities. For example, in California, a regulatory fee imposed upon the makers of lead-based products that contribute to environmental lead contamination funds the statewide Child Lead Poisoning Prevention Program (see Appendix A for a detailed description of taxes and fees).

Why we studied past efforts, and why we looked at news coverage

Past efforts to levy taxes or fees offer advocates the opportunity to identify and analyze lessons for future proposals to create funding streams for prevention. In addition, analyzing past news coverage allows advocates to see how policy debates have been framed in the news in the context of such efforts. This brief analyzes six similar cases to levy taxes or fees, and assesses the news coverage of three similar efforts.

What we studied

Prevention Institute and Berkeley Media Studies Group consulted public health advocates with direct experience in campaigns to levy taxes or fees on products or businesses—including tobacco, alcohol, soft drinks, and lead-based product manufacturers—to identify state-level legislative and ballot initiative efforts to study. We chose six cases (see Table 1):

1. Proposition 99, California’s successful ballot initiative that imposed a 25-cent per pack excise tax on cigarettes;
2. Proposition 134, a failed ballot initiative to raise excise taxes on alcoholic beverages within California;
3. California’s successful Childhood Lead Poisoning Prevention Act;

4. California’s short-lived snack tax and its subsequent referendum;
5. Arkansas’ soft-drink excise tax and its failed referendum; and
6. California’s unsuccessful soft-drink excise tax.

We developed case studies for each of the efforts after reviewing relevant legislation or initiatives, related articles or previously developed case studies, news coverage, and interviews with key public health advocates involved in the efforts. From the case studies, we generated a preliminary list of “lessons learned”—including lessons that cut across multiple case studies as well as those that were unique to a specific campaign. From there, we discussed our findings and synthesized the lessons that were most relevant for future efforts to establish a funding stream for prevention within California.

We also analyzed the news coverage of three efforts in California to enact a tax or fee on soda or junk food:

1. California’s short-lived snack tax and its subsequent referendum;
2. California’s unsuccessful soft-drink excise tax; and
3. San Francisco Mayor Gavin Newsom’s December 2007 suggestion that a fee on retailers who sell soda could pay for his “Shape Up San Francisco” program.

We used the Nexis database to search for articles about the first two efforts; for the third, we followed the news coverage prospectively (see Appendix B for a detailed methodology). We will first discuss the lessons learned from the six case studies, followed by the news analysis of the three California efforts.

TABLE 1. Description of taxes included in study

Legislation/ Initiative Title & State	Method and YR of Enactment; Referendum YR (if applicable)	Type of Tax/Fee; Products Subject to Tax/Fee	Use of Revenues	Supporters	Opponents
Proposition 99: “California Tobacco Health Protection Act of 1988” California	1988 ballot initiative	Excise tax; 25-cents per pack of cigarettes	Revenues deposited into the Cigarette and Tobac- co Products Surtax Fund to finance: school and community tobacco pre- vention programs; health care services; tobacco- related research; parks and recreation	Medical associations; environmental groups; education associations	Anti-tax groups; tobacco industry; law enforcement
Proposition 134: “Nickel-a-Drink” California	1990 ballot initiative (failed)	Excise tax; 5-cents on every ounce of alcohol	Emergency trauma; alco- hol treatment and preven- tion; law enforcement; victim’s assistance; mental health	Alcohol policy advocates; injury prevention groups; law enforcement; health care providers; disability advocates	Alcoholic beverage industry; California Teachers Association
Childhood Lead Poisoning Prevention Act of 1991 California	1991 legislation	Regulatory fee; annual fee on architectural coat- ings distributors, motor vehicle fuel distributors, and facilities reporting releases of lead into ambient air in California	California’s Childhood Lead Poisoning Preven- tion Program, which evalu- ates, screens, and pro- vides medically necessary follow-up services, includ- ing environmental abate- ment, for children who are at risk of lead poisoning	Public health advocates; environmentalists; environmental justice groups	Lead- producing industries
AB 2181: California’s Snack Tax California	1991 budget process; a success- ful referendum in 1992 repealed the tax	Sales tax (7¾%); snack foods	General funds	Legislative support during budget process; no organ- ized support dur- ing referendum	Grocers; food manufactures; labor leaders
Arkansas’ Soft-Drink Tax Arkansas	1992 budget process; referen- dum failed when voters re-approved the tax in 1994	Excise tax; soft- drink manufactur- ers, wholesalers, and distributors pay: two dollars (\$2) per gallon of soft drink syrup or simple syrup, and; twenty-one cents (\$0.21) per gallon of bottled soft drink or the powder equivalent	State’s Medicaid program	Health care associations; elderly and disabled advocacy organizations; pharmaceutical companies	Soft drink bottlers
SB 1520: The “California Child Obesity Act” California	2002 legislation (failed)	Excise tax; soft- drink manufactur- ers, wholesalers, and distributors pay: two dollars (\$2) per gallon of soft drink syrup or simple syrup, and; twenty-one cents (\$0.21) per gallon of bottled soft drink or the powder equivalent	Revenues deposited into the California Child Health and Achievement Fund to finance: nutrition and physical activity promotion in schools; community-based obesity prevention programs; oral health; and the Healthy Families Programs	Nutrition and physical activity advocates; medical associations	Food and beverage industry; anti-tax groups

Lessons we learned from past efforts to levy taxes or fees

Focus on what the tax or fee revenue accomplishes, not who it comes from

When speaking in support of a tax or fee, advocates we interviewed suggested emphasizing the programs to be funded by the tax because, if the public values the program, they may be more likely to support the tax. For example, in the case of Arkansas' soft-drink tax, revenues were used to fund Medicaid, a well-known, widely-used program. Because of Medicaid's popularity within the state, tax proponents said they had firm footing on which to argue for the tax and a simple, clear message that focused on the value of the Medicaid program, rather than discussing the tax on the soft-drink industry.

In addition to focusing on popular programs to be funded, advocates of Proposition 134, California's "Nickel-a-Drink" campaign, noted that the relationship between the taxed product and the funded programs may impact public support for the tax. Early on in Prop. 134's campaign, public polling revealed that voters desired a direct relationship between the taxed product and the type of programs to be funded.⁵ Prop. 134 advocates felt that earmarking alcohol tax revenues towards alcohol-related prevention, treatment, and law enforcement programs strengthened public support for the campaign, though the initiative was ultimately unsuccessful.

Build a broad-based coalition

Many advocates underscored the importance of building a strong coalition with a wide variety of members as a central component of campaigning for a tax or fee. When building a coalition, advocates stressed the importance of thinking about the target

audience: who has the power to pass the tax or fee and what sort of groups do they listen to? For example, legislators may be influenced by different individuals and organizations than the public. During the election campaign to repeal Arkansas' soft-drink tax, tax proponents formed The Committee to Preserve the Medicaid Trust Fund, a broad-based coalition that included many influential stakeholders who enjoyed strong public support. The Committee included the state's health care association, elderly and retirement groups, and education associations. In addition to garnering strong public support, these groups were able to organize their own rallies and protests with their membership, in essence creating a grassroots campaign in support of the tax.

Individuals or groups who have direct personal experience with an issue can strengthen a coalition's impact by lending an authentic voice to a public health campaign. While advocacy organizations provide political skill and expertise, individuals paint a picture of what it is like to live with disability, disease, and loss. Alcohol and tobacco policy advocates we interviewed emphasized that, in their experience, the most powerful arguments in support of public health legislation came from children and families directly impacted by alcohol- and tobacco-related diseases (e.g., asthma, car crashes and fatalities).

Anticipate unexpected opponents

When it comes to fees or taxes on consumables, there are some opponents who are easy to anticipate. The industry whose product is under scrutiny will most certainly oppose the tax or fee, as will anti-taxation groups. Product retailers, such as grocers, may also oppose it. Advocates we interviewed, however, emphasized the importance of identifying and analyzing other groups that may unexpectedly find fault, not necessarily with the tax or fee itself, but with some aspect of the way the proposed law is structured. In other words, tax proponents should consider possible unexpected opponents whom they *don't* want as opposition. Our research suggests that

a good time to do this is during drafting of the law and coalition building, when decisions may be made that influence who might oppose the tax. Considering possible opposition early in a legislative or initiative campaign offers the opportunity to develop strategy to prevent or mitigate the impact that an unexpected opponent could have.

California's "Nickel-a-Drink" Initiative offers a good example of this. For the Prop. 134 campaign, decisions about tax-revenue distribution served to define the opposition. Prop. 134's coalition decided to structure the initiative so that tax revenues bypassed the state's general fund, ensuring that earmarked funds would flow directly to health and safety programs.⁶ Because the California Department of Education receives a large proportion of the general fund, the campaign's decision to bypass the general fund prevented education from potentially receiving substantial tax revenues. This made it difficult to recruit the influential California Teachers Association (CTA) into the Prop. 134 coalition. CTA's independence from the Prop. 134 campaign gave the alcohol industry an opportunity to create an alliance with the group, which they did, and that partnership helped to give the alcohol industry the legitimacy it needed to successfully oppose Prop. 134.

Carefully define the products subject to the tax or fee

The experience of California's short-lived snack tax suggests that when drafting an initiative or legislation on food products, items subject to a tax or fee should be clear and specific. California's snack tax legislation defined snack foods as "cookies, crackers (excluding soda, graham, and arrowroot crackers), potato chips, snack cakes or pies, corn or tortilla chips, pretzels, granola snacks, popped popcorn, fabricated chips, and fabricated snacks."⁷ To qualify as a snack food, products had to be sold in ready-to-eat condition, with no further heating or thawing necessary. This definition left a lot of room for interpretation. Following adoption of the tax, the State

RECENT EFFORTS: MAINE'S SHORT-LIVED TAX ON SODA

On April 16, 2008, Maine Governor John Baldacci signed a bill levying a 42-cent-per-gallon excise tax on soda, along with taxes on beer, wine, and paid insurance claims, to fund Maine's Dirigo health insurance program, a public program aimed at achieving universal health coverage throughout the state. On November 4, the tax was repealed via a "People's Veto," Maine's version of a referendum. The tax was never levied.

The experience in Maine reinforces three lessons we identified from the case studies:

- 1. Plan for a referendum.** Efforts to repeal the tax began almost immediately after it was passed.
- 2. Focus on what the tax or fee revenue accomplishes, not who it comes from.** Advocates on both sides of the issue brought the Dirigo Health program into the forefront of the discussion. Unfortunately, repeal supporters used this strategy to repeatedly highlight the program's shortcomings, including its failure to provide as many people with insurance as originally promised (it covered about 13,000, a far cry from the 100,000 the program was supposed to cover).
- 3. Build a broad-based coalition.** The tax supporters' group was too small to compete against the soda industry and other opponents. While the repeal's coalition, Fed Up With Taxes, raised \$3.5 million for the campaign, Health Coverage for Maine, the coalition in support of the tax, raised only \$440,000.

A new lesson has also emerged from this effort. The tax was originally intended as a cigarette tax, but its lack of support forced legislators to change the tax to include soda and alcohol late in the session. Consequently, there was no public hearing. The last-minute manner in which these taxes were passed allowed the opposition to claim that the tax was developed in a secretive and underhanded way without public input. Opponents used this "behind closed doors" idea to distract attention from the health coverage the tax would support. Repeal supporters were able to claim that the issue wasn't the tax itself, but about Mainers having their say.

Board of Equalization—charged with the correct, consistent, and fair administration of taxes—spent several hearings grappling with what constituted a snack food.⁸ Following the hearings, the Board sent food retailers across the state a list of thousands of taxable and non-taxable food items.⁹ Distinguishing between the two proved confusing, as was often pointed out in newspaper articles about the tax. “Small pies are taxed—large pies are not. Granola bars are taxed—whole granola is not. Pretzels are taxed—peanuts are not.”¹⁰ The confusion raised doubts about the feasibility of administering the tax and contributed to its demise.

Plan for a referendum

Three of the six efforts that we studied were passed through the legislature, including California’s Child Lead Poisoning Prevention Act, California’s snack tax, and Arkansas’ soft-drink tax. Both the snack tax and the soda tax were subsequently subject to an industry-led referendum—the California snack tax was repealed while the Arkansas soft-drink tax survived. Through our interviews with advocates experienced in pursuing public health legislation, we learned that it is not enough to focus on getting tax or fee legislation passed; once enacted, advocates must be prepared for a referendum. Because referenda are public campaigns, they require advocates to engage in many of the same activities entailed in building a campaign to support a ballot initiative: coalition building, fundraising, and developing a media strategy—to name a few.

Act as a watchdog

Advocates we interviewed emphasized that when taxes or fees are enacted to fund specific public health programs, it is essential to continually monitor revenues to ensure that they’re directed towards the programs for which they were originally intended. Tobacco prevention advocates noted that an industry may pressure legislators to redirect funds if they think that the public health programs

being funded are discouraging consumption of their products. For years following the passage of Proposition 99, California’s 25-cent per pack excise tax on cigarettes, the tobacco lobby was successful in convincing state legislators to route tobacco prevention and education funds into general health care and treatment, which the industry felt would have less of an effect of discouraging people from initiating tobacco use.¹¹

When the primary goal of a tax or fee is prevention, acting as a watchdog takes on additional importance because success will ultimately be evaluated with regard to the funded programs’ impact on specific health behaviors and outcomes. In this case, while some funds may be directed towards treatment for illness, a focus on investments in primary prevention strategies must be made a priority. If funds are diverted away from prevention efforts, the tax or fee will be less likely to achieve its intended impact and thus more easily attacked by industry opponents.

An additional concern revolves around ensuring that tax or fee revenues are distributed in a way that prioritizes the most affected communities. Often, resources do not make their way into low-income neighborhoods or communities of color despite the fact that these communities are the hardest hit by chronic disease and poor health outcomes. In its 2006–2008 master plan, the Tobacco Education and Research Oversight Committee (TEROC)—the advisory committee charged with overseeing the use of Prop. 99 tobacco tax revenues—noted that, with respect to California’s Tobacco Control Program, “systemic issues continued to contribute to health-related disparities in general, and tobacco-related disparities in particular, such as the need for greater cultural tailoring of programs and further inclusion of priority populations in strategic planning and decision-making processes.”¹²

How the arguments were made

News coverage can have a strong influence on how the public and policy makers interpret and respond to social issues. After deciding which stories to cover, reporters and editors also make choices about how to tell the story. Reporters consider whom to quote, what facts to use, what to leave in, and what to leave out. These decisions shape the story, and consequently, readers' and viewers' understanding of the issue. This is known as news framing.

We analyzed the frames in a sample of newspaper coverage of policy debates around three issues:

1. California's short-lived snack tax and its subsequent referendum (1991);
2. California's unsuccessful soft-drink excise tax (2002); and
3. the suggestion in San Francisco to institute a fee on soda (2007).

The three events generated 350 news and opinion pieces containing 566 frames (articles could express more than one frame). For all three efforts, most of the pieces were from the opinion pages.

Opposition frames appeared four times as often as supporting frames

In every case, most of the arguments were made *against* the tax or fee. Overall, there were 462 appearances of opposing frames and 104 appearances of supporting frames (see Table 2). California's snack tax had only 13 supporting frames and an overwhelming 217 opposing frames. The 2002 soft-drink excise tax had 58 supporting frames and 133 opposing frames. More recently, the 2007 San Francisco soda fee had 33 positive frames and 112 negative frames. Most of the San Francisco soda fee coverage consisted of blog responses to a single article printed about the issue. Blog responses were almost exclusively negative.

TABLE 2. Frequency of supporting and opposition frames in news and opinion coverage of snack and soda taxes*

	1991 Snack Tax	2002 Soda Tax	2007 Soda Fee	Totals
Supporting Frames				
Tax generates money for prevention	2	28	7	37
Soda is bad for health/has no nutritional value	5	10	11	26
Tax will be good for health	5	6	6	17
Obesity costs money	0	7	4	11
Change environments that support obesity	1	3	4	8
Corporations are against health	0	4	1	5
Total Supporting Frames	13	58	33	104
Opposing Frames				
Tax is confusing	93	3	0	96
Taxes are bad	43	30	18	91
Tax is unfair	52	17	8	77
Slippery slope	9	17	36	62
Personal responsibility	5	25	23	53
Obesity is complicated	2	26	13	41
Tax won't work	12	15	7	34
Sketchy link between soda and obesity	1	0	5	6
Flip-flop nutrition	0	0	2	2
Total Opposing Frames	217	133	112	462
Totals Frames Overall	230	191	145	566

*Each frame was counted as many times as it appeared in 350 news or opinion pieces, even if it was mentioned more than once in the same article (N = number of times the frame appeared).

Though all three proposals had opposition, there were differences in the frames that dominated each issue. For the San Francisco soda fee, the “slippery slope” frame, which asserts that the tax is just opening the door to taxing other unhealthy foods or behaviors, was by far the most prominent frame. The general idea that “taxes are bad” no matter what they are for dominated the coverage of the 2002 soft-drink excise tax.

Frames associated with the 1991 snack tax were very different than for the other two issues. Tax frames dominated, particularly frames asserting that the “tax is confusing” or the “tax is unfair.” This may be because this tax was not passed to improve health,

though some articles did mention that as a possibility; instead, it was intended to raise revenue. At the time, California was facing a \$14.3 billion deficit. The snack tax was part of a larger package of tax increases aimed at closing the budget gap. Though health frames appeared 11 times (such as, “true snacks have no appreciable nutritional value”), improving health was not the focus of the bill or the news. Furthermore, the unclear distinctions regarding what was taxable and what was not (as in the slice of pie example mentioned earlier) generated the “tax is confusing” frame which appeared almost exclusively (93 out of 96 appearances) in coverage of this issue.

Descriptions of all the supporting and opposing frames that appeared in the 350 articles are listed below. The frame count in parenthesis indicates the number of times the frame appeared. Any frame could appear multiple times in one article.

Most of the frames supporting taxes or fees on snacks or soda focused on prevention (see Table 3).

Tax generates money for prevention (37):

This frame asserts that the money will be earmarked for obesity prevention programs and will not be put into the general fund, and is therefore a valuable tax. In the case of California’s soft-drink excise tax, the frame often points out that some of the money will be used to allow schools to end their reliance on soda contracts. In the case of the snack tax, proponents of the tax argue that it prevents important social programs from being cut.

Soda is bad for health/has no nutritional value (26):

This frame is used to explain why soda is being taxed, rather than other foods. For the snack tax, the frame focuses on snack foods, not soda.

Tax will be good for health (17):

This frame refers to the fact that the tax might deter soda consumption, or, in the case of the

snack tax, unhealthy snacking. In the case of the 2002 soft-drink excise tax, which directed revenues towards obesity prevention programs, this frame is used to refer to the good health that would result from more obesity prevention efforts.

Obesity costs money (11):

Obesity causes many diseases that cost a lot of money to treat. Proponents of this frame assert that if we don’t do something about the growing problem, costs will only get worse.

We need to change environments that support obesity (8):

This frame asserts that the decks are stacked against health when the environment supports unhealthy habits. Proponents of this frame argue that it is necessary to take measures to fix the environment.

Corporations are against health (5):

Proponents of this frame maintain that corporations are very powerful, and they use their tools to sell their product, whether it’s healthy or not. Their tactics include manipulation, such as taking advantage of schools that need money, and this is why the tax should be supported.

The frames opposing taxes or fees on snacks or soda expressed various dissatisfactions with taxes in general: taxes are confusing, bad, unfair, or just won’t work (see Table 4).

Tax is confusing (96):

Proponents of this frame argue that unclear distinctions are being made between what is taxable and what isn’t, making the bill an “administrative nightmare.” For the snack tax, this frame is often invoked by making silly comparisons between foods that are taxed and very similar foods that aren’t (for example, Saltine crackers vs. Ritz crackers).

Taxes are bad (91):

This frame states that the government is incompetent. Proponents argue that elected officials should be able to run the state without taking money out of our pockets. We pay enough already, they say; we don't need to pay more. This frame is often invoked to suggest that the government needs to cut spending ("go on a diet").

Tax is unfair (77):

Proponents label the tax as unfair because it's regressive and taxes people regardless of whether they're overweight or not. Also, they say it can be unfair to small businesses. Specifically for California's failed soft-drink excise tax, opponents argue it is a "triple tax," because soda is already taxed and bottles have a redemption fee. Also, for snack tax articles in particular, this frame is invoked to suggest that it hurts small businesses because they lack the computer equipment to easily administer the tax.

Slippery slope (62):

This tax is just opening the door to taxing other things—there are many unhealthy foods or behaviors to tax. Proponents of this frame ask: are we going to tax everything one day?

Personal responsibility doesn't need government intrusion (53):

This frame combines the two related ideas that 1) obesity is the result of poor personal choices and 2) the government has become too intrusive and it has no right to legislate health. The ideas are linked because proponents who believe that citizens have the right and responsibility to make their own choices do not believe that the government should be making the choices for them.

Obesity is complicated (41):

This frame underscores the complexity of the obesity problem. It is sometimes used to support efforts to fight obesity, but is also used to argue that singling out soda or snack food to tax is the wrong approach due to the complexity of the problem. Many point to other factors, such as physical activity and individual responsibility, as the real answer to the obesity problem.

Tax won't work (34):

Proponents of this frame argue that kids will drink soda and eat snacks regardless of whether they're taxed or not. Also, proponents believe the snack tax will not generate enough money to make it worthwhile.

Sketchy link between soda or snacks and obesity (6):

Proponents argue that the link between soda and obesity is uncertain and weak at best. They say excess calories make people gain weight, not the type of food or drink.

Flip-flop nutrition (2):

This frame focuses on the fact that nutrition advice is constantly changing (margarine, eggs, chocolate, coffee, etc.). Proponents argue that there's no reason to believe now that soda is unhealthy because tomorrow soda could be considered healthy.

The overwhelming conclusion from the news analysis is that public health advocates will have a serious challenge in framing the benefits of prevention against frequent and forceful expression opposing taxes of any type.

TABLE 3. Soda/Junk Food Reform Frames in California News Coverage, 1991-2007: Supporting Arguments

This framing matrix model was adapted from Charlotte Ryan, *Prime Time Activism*, South End Press, 1991.

PACKAGE	CORE FRAME	CORE POSITION	CATCH-PHRASE
Tax generates money for prevention	The tax will not go into the general fund; it will be used for a good cause: prevention.	With the money generated from the tax, it will be possible to prevent obesity.	“California has many nationally recognized and effective nutrition and physical activity programs; however, they are severely underfunded and unable to reach all of California’s citizens. SB 1520 is one way for both schools and the public health system to answer the rising cry for obesity prevention in California.” ¹³ —Amanda Purcell, letter writer
Soda is bad for health/has no nutritional value	There’s no reason for kids to be drinking soda.	Other “junk food” has at least some nutrition; since soda doesn’t, people should be discouraged from drinking it.	“Unlike some other foods that are unhealthy if consumed in excess, there is nothing in [many soft drinks], nutritionally speaking, that anybody needs.” ¹⁴ —legislative insider
Tax will be good for health	The tax can deter unhealthy habits and provide money for prevention.	Raising the price of soda will discourage people from drinking it.	“Pam Pimentel, chief of a resource center for low-income mothers in Orange County, said the additional cost may deter unhealthy habits. ‘I have teen moms that think it’s a great idea to give babies soda,’ Pimentel said. ‘The additional cost may make people think twice.’” ¹⁵ —Hanh Kim Quach, reporter
Obesity costs money	Obesity causes diseases that cost a lot of money to treat.	It’s a waste of money not to work on obesity prevention.	“According to the American Obesity Association, healthcare costs for obese adults will reach \$238 billion this year with direct costs of more than \$102 million. These figures are projected to double in the next 10 years.” ¹⁶ — <i>The Desert Sun</i>
We need to change environments that support obesity	Personal responsibility is failing in a society filled with insidious marketing.	We need to create an environment that supports health, not obesity.	“You can’t just hold an individual responsible when we’ve created an environment that supports the genetic expression of obesity.” ¹⁸ —Joanne Ikeda
Corporations are against health	Corporations use their power to market their products in inappropriate places, such as schools.	Soda companies take advantage of cash-strapped schools.	“The strategy of soft-drink companies is transparent: Get the kiddies hooked while they’re young and they will be ours for life. Which is why they bribe money-hungry schools with lucrative contracts. Allow them to erect a wall of soft-drink machines and they will shower your coffers with gold.” ¹⁹ —Karen Hershenson, columnist “Huge multinational soda companies woo cash-strapped schools with the promise of money for concession, advertising and pouring rights.” ²⁰ —Dr. Carmen R. Nevarez

METAPHOR	DEPICTIONS	ROOTS	CONSEQUENCES	VALUES
A stitch in time saves nine	Empty playground, broken equipment	Obesity prevention programs are currently underfunded.	Obesity prevention will have funding and schools will be able to stop relying on soda contracts for revenue (SB1520).	Taxes can be good and are necessary for a healthy society.
Liquid candy	Overweight kids drinking soda	The obesity problem is getting worse, and soda makes only negative contributions to the problem.	People will drink less soda, become healthier, and provide money for obesity prevention programs.	Good health for everyone.
Tobacco tax	Babies drinking soda out of bottles	Soda is cheap, and therefore easy to obtain. Raising the price might have an effect on health.	Less soda consumed means a healthier society.	Paternalism; make unhealthy habits harder.
"Fiscal crisis" ¹⁷	Ever-rising costs going unchecked	Treating obesity-related problems costs a lot, and will cost more as more people become obese.	Bankrupt government coffers	Wise use of money/resources.
Toxic environment	Billboards and advertisements showing large portions of junk food	Food companies bombard people with marketing. Schools need money, so they contract with soda companies.	An environment that supports health	Equality; the environment should encourage health for everyone.
Predatory soda companies	Vending machines and marketing in schools	Soda companies are out to make money, any way they can. Since the 1980s, there has been increasing pressure to expand markets and deliver positive quarterly returns.	Companies will continue to push unhealthy products on the public.	Profits above all. Fiduciary responsibility.

TABLE 4. Soda/Junk Food Reform Frames in California News Coverage, 1991-2007: Opposing Arguments

This framing matrix model was adapted from Charlotte Ryan, *Prime Time Activism*, South End Press, 1991.

PACKAGE	CORE FRAME	CORE POSITION	CATCH-PHRASE
Taxes are bad	The government shouldn't have to raise taxes to pay their bills.	We pay too much in taxes already; we don't need more taxes.	"...the supervisor objected because 'it's just another tax for the consumer to have to pay...The state Legislature isn't really interested in the health and welfare of our youth. They're interested in more revenue.'" ²¹ —John Musella, aide to Supervisor Don Knabe
Tax is confusing	No good distinctions between what is taxable and not taxable.	Vendors will have a hard time administering the tax.	"[Brad] Sherman [chairman of the State Board of Equalization] said the proposed tax would be a 'nightmare' to administer because it draws distinctions that are 'incomprehensible and ludicrous.' He said the measure is often so unspecific that tax experts have had to spend hours trying to make 'wafer-thin distinctions between whole pies and snack pies, non-taxable graham crackers and taxable crackers..." ²² —Virginia Ellis, reporter
Tax is unfair	The tax is unfair because: it's regressive, it taxes people regardless of whether they're obese, and soda is already taxed.	Unfair taxes should not be implemented.	"I don't think everybody should pay for a tax for the people who drink so much that it makes them obese." ²³ —Brian Mortensen
Tax won't work	Kids will drink soda anyway; they need more health education and PE, not another tax	The tax will be useless.	"Personally, I don't think a soda tax would matter...Once you get a taste of soda, you like it. It's like smoking. People say that's bad, too, but people don't stop. You can make soda \$5 a bottle, and I'll still buy it." ²⁴ —Kris Singh, college student
Slippery slope	If we start taxing soda, what is the government going to tax next?	There are a lot of unhealthy foods; we can't tax them all.	"Why not tax 'oversized' clothes? Video games? Butter? Air?" —blog response to SF soda fee
Personal responsibility doesn't need government intrusion	People know what's best for themselves, not the government.	The obesity problem is a result of bad personal choices, not other factors.	"Diet clearly would seem a matter best left up to individual choice, not legislative micromanagement. And parents, not politicians, should be the ultimate arbiters of what their children eat and drink." ²⁵ —Chris Weinkopf, columnist
Obesity is complicated	Obesity is a multi-faceted problem, which needs a multi-faceted solution.	Singling out one cause of obesity will not fix the problem.	"Taxing soda and candy bars is tantamount to putting a finger in the dike. The solution to this problem demands a more comprehensive approach." —Mary Crichton-Leaver, letter writer
Sketchy link between soda and obesity	The link between soda and obesity has not been proven.	Soda should not be singled out given the unproven link.	"Soda isn't inherently harmful—it [a study] only states that, in moderation, soda is fine." —blog in response the SF soda fee
Flip-flop nutrition	Nutrition advice changes daily, weekly, monthly; it is inconsistent.	There is no reason right now to believe that soda is bad, given past flip-flops on the issue.	"Remember when coffee was bad for you? Turns out it's the biggest source of anti-oxidants for Americans. Is wine good or bad? How about milk? Wheat germ? Eggs? Get out of the micromanagement of San Franciscans' lives, Newsom. My doctor doesn't even know if these things are bad or good." —blog response to SF soda fee

METAPHOR	DEPICTIONS	ROOTS	CONSEQUENCES	VALUES
Boston Tea Party	Legislators stealing money from Average Joe's wallet	Many people believe in a small government that taxes at minimal rates.	Taxes lowered considerably.	Small government
Byzantine maze	A long line at the cash register while the vendor tries to figure out whether the item is taxed or not	There was no reason put into what would be taxable and what would not be taxable; distinctions were arbitrary.	Vendors will not administer the tax correctly and will therefore not raise as much revenue as predicted.	Feasibility Pragmatism
Triple whammy	A poor person unable to afford a soda	People have a strong sense of fairness and don't like it being violated.	The tax will prevent poor people from buying soda, and will unfairly tax people who are already being taxed.	Fairness
Prohibition	Kids drinking soda.	If kids are going to drink soda anyway, what's the point of the tax?	The tax will not change anything, and the obesity problem will continue to grow.	Perfection (all or nothing)
A door opens to more regulation	Taxes, taxes, and more taxes!	Legislating health will cause more legislation— where do you draw the line?	Taxes on every product and service.	Unfettered marketplace
Nanny state	Government staying out of peoples' lives	In this country, we run our own lives; the government has no place in that process.	People should be allowed to continue to gain weight, if that's their choice.	People have the responsibility and the right to make their own choices
Taxing one item is "putting a finger in the dyke"	Kids sitting around watching TV instead of drinking soda	Obesity is a big problem with many causes, not just soda consumption.	Taxing one item with no effect on obesity rates.	Comprehensive solutions
A dotted line, rather than a solid line	Thin people drinking soda	The link between soda and obesity has only been demonstrated in a few studies; there is no undeniable evidence.	Unfair tax that will not affect obesity rates.	Don't make a big deal out of something that hasn't been proven
Women's Health Initiative	Flip-flop on recommendations for margarine, eggs, chocolate, etc.	Nutrition is complicated and not well understood; hence, the public often does not believe nutrition advice.	In a few years, soda will be declared healthy, and the soda fee would have been useless.	Distrust of science

Conclusion

Many of the lessons learned through our research on past attempts to impose a tax or fee to fund prevention are similar to the lessons of any public health advocacy campaign. For example, the lesson, “focus on what tax or fee revenue accomplishes, rather than who the fee comes from,” can be modified to create the more general lesson, “when framing public health legislation or initiatives, focus on the resulting health benefits, rather than the industry which may be regulated.” The lessons, “build a broad-based coalition” and “anticipate unexpected opponents” also constitute standard best practices in any public health advocacy campaign.

Pursuing a tax or fee on consumer goods or businesses to raise revenue for prevention efforts does, however, require that advocates have specific knowledge about the industry that they will be regulating as well as the laws governing taxes and fees in their state. “Plan for a referendum” and “act as a watchdog” are lessons that become particularly salient in the context of a campaign to raise revenues for prevention. These lessons draw upon past examples in which industry has successfully undermined public health initiatives to levy taxes. “Plan for a referendum” tells us that, following successful passage of a tax or fee through the legislature, public health advocates must be prepared for a public referendum campaign. “Act as a watchdog” refers to the need to continually monitor revenues to ensure that they are directed to the programs for which they were originally intended. In addition to knowing how your opponent will respond to a proposed tax or fee, understanding your state’s laws pertaining to the passage of taxes and fees is essential. A strong understanding of these laws will allow advocates to weigh the strategic benefits and challenges associated with pursuing a tax versus a fee.

Though legal differences exist between taxes and fees, many of the political challenges and arguments in support and opposition will be the same. Public health advocates can turn to news coverage of similar efforts to help anticipate how policy debates related to a proposed tax or fee may be framed in the news. If advocates apply the lessons of past efforts, they may tip the scales successfully towards a dedicated funding stream to improve food and physical activity environments in the future.

Understanding the Key Differences Between Taxes and Fees in California

Under California law, regulatory fees differ from taxes in several critical ways. First, unlike general taxes, fees may not be used for the general revenue of government. Instead, fees must be earmarked to remediate identifiable problems caused by the business operation(s) on which the fee is imposed, and must be used exclusively for mitigation programs. In the case of the Childhood Lead Poisoning Prevention Act, fee revenues raised from manufacturers and other businesses which have previously or are presently contributing significantly to environmental lead contamination are used as the primary source of funding for California's Childhood Lead Poisoning Prevention program (CLPP program). The CLPP program coordinates a number of activities aimed at reducing childhood lead exposure, including funding county-level programs to identify children at risk for lead poisoning, provide them with screening and subsequent case management (e.g., coordinated medical care and testing, assessment of nutritional status and child development, referrals, and environmental investigations and abatement). Annually, approximately \$12 million is collected for county-level programs in California via this fee.³³

A second characteristic which distinguishes fees from taxes is that the total revenues collected from a fee must not exceed the cost of the program designed to mitigate the problem being addressed. In other words, a fee can cover all, but not more than the programmatic and administrative costs associated with mitigating the problem.

A third difference relates to fee apportionment: charges allocated to each fee payer must bear a fair or reasonable relationship to the social or economic burden caused by that fee payer. In other words, a business paying the fee should pay roughly its fair share of the cost of mitigating the problem.

A final distinguishing factor between a fee and a tax is that a fee can be enacted by a simple majority of a legislative body, whereas many taxes require a two-thirds vote.

CALIFORNIA DEFINITIONS

TAX: A tax is a charge on an individual or business that pays for governmental services or facilities that benefit the public broadly.²⁶ There need not be any direct relationship between how much tax a person pays and how much service he or she receives from government. Broadly speaking, taxes are said to be "general" if revenues may be used for any governmental purpose or "special" if revenues must be used for specific purposes.²⁷

FEE: Fees typically pay for a particular service or program benefitting individuals or businesses. There are two major categories of fees:²⁸

- **User fees**, such as state park entrance fees and garbage fees, where the user pays for the cost of a specific service or program.
- **Regulatory fees**, such as land development fees, smog inspection fees, or restaurant health inspection fees, which are born by a particular person or business, often to pay for services that counteract an adverse effect caused by the business against which the fee is imposed.²⁹ There are two requirements of a valid regulatory fee: (1) The amount of the fees must bear a reasonable relationship to the social or economic burden caused by the fee payer; and (2) the fees must be used exclusively for the mitigation program, and the fee assessment must not exceed the costs of the program.³⁰

LEGISLATION: A proposed law introduced into the legislature by a member of the California assembly or senate.

INITIATIVE: Initiatives are the power of the people of California to propose statutes and amendments to the California Constitution (Cal. Const., art. II, Section 8(a)). Generally, any matter that is a proper subject of legislation can become an initiative measure.³¹

REFERENDUM: Pursuant to article II, section 9, of the California Constitution, a referendum is the power of the electors to approve or reject any statute enacted by the Legislature. A referendum cannot be used on urgency statutes, statutes calling elections, or statutes providing for tax levies or appropriations for current expenses of the state. Referenda on the ballot are fairly rare in comparison to initiative measures.³²

These differences illustrate a couple of reasons why fees are an attractive option for funding statewide prevention programs. Fee revenues can be somewhat protected since they can only go toward mitigation programs and can not be diverted to the general fund. Additionally, fees may be easier to pass than taxes, since fewer votes are needed for approval. But in order to impose a fee, a causal link between the business operation and the problem must be established. For example, environmental lead contamination has been strongly associated with childhood lead poisoning, and lead contamination is clearly linked to certain business operations (e.g., lead-based paint manufacturers and gasoline). Advocates will need to consider the evidence when linking certain products or business operations with poor nutrition and/or physical inactivity.

News Analysis Methodology

We conducted two searches of the Nexis database to collect news and opinion coverage of the 1991 snack tax and its subsequent repeal, and of the 2002 Ortiz soda tax. We followed the coverage directly of the 2007 proposal put forward in San Francisco to institute a fee on soda.

1. 2002 Ortiz soda tax (SB 1520). We searched Nexis three times: first using the search term “Ortiz” or “soda” or “soda tax” or “SB 1520” or “soft drink”; then a second time using the term “SB 1520” or “Senate Bill 1520”; and for the third search we used the term “soda tax” or “junk food tax.” All three searches covered articles and opinions that were published from January 1, 2002 through December 31, 2002. Since the bill changed drastically, however, on May 1st, we looked at articles only from January 1 to April 28, 2002. Letters to the editor were counted as distinct articles, and repeated articles were counted once for each time they appeared to account for the increased exposure to the frames they contained. The final sample included 64 articles.

2. 1991 snack tax. We searched Nexis using the search term “AB 2181” or “Proposition 163” or snack tax for articles and opinion published from January 1, 1991 through December 31, 1992, in order to capture the passage of the tax and its sub-

sequent repeal. We disregarded articles if they were simple voter guides that included only brief descriptions of the repeal option or which simply recommended “yes” or “no” to Proposition 163 (the repeal proposition) without further explanation. We included voter guides in our analysis when opinions were included. We also disregarded articles if they focused almost exclusively on voter apathy, mentioning Proposition 163 as a brief example. The final sample consisted of 109 articles.

3. 2007 proposed San Francisco soda fee. Coverage of this issue began with a *San Francisco Chronicle* column by Matier and Ross (December 17, 2007). An editorial, two letters to the editor, and a political cartoon were published after the proposed fee was discussed in this original column, as well as a California Healthline posting. Additionally, 167 blog responses were posted online in response to the Matier and Ross column. Other coverage included a *New York Times* article, a *Los Angeles Times* article (with an associated California Healthline story), and a *San Jose Mercury News* article. The final sample thus consisted of 177 items.

We read small subsets of articles from all three samples to generate a list of common frames. We refined and further defined the frames, and then reread all articles, tallying when the frames appeared.

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